

(Translated from Russian)

Information from the competent authorities of Belarus regarding the enquiry of 23 October 2024 (ref.: UA BLR 6/2024)

The principle of the rule of law is established in Belarus. The State, all its bodies and officials act within the limits of, and legislative acts are adopted in accordance with, the Constitution.

The Constitution enshrines the equality of all citizens before the law and the right to equal protection of their rights and legitimate interests. Any restriction of individual rights and freedoms is permitted only in cases provided for by law, in the interests of national security, public order, protection of morals, public health, and the rights and freedoms of other persons.

In accordance with the provisions of article 25 of the Constitution, no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. The national legislation of Belarus does not contain discriminatory provisions with respect to women or on the grounds of race, ethnic background, language, origin, property and social status, place of residence, attitude to religion, beliefs or membership of public associations.

The persons mentioned in the joint appeal of the special procedures - [REDACTED], V.D. Babaryka, [REDACTED], E.P. Hnauk, M.A. Kolesnika, V.A. Kulsha, E.N. Lazarchyk, I.A. Losik, O.V. Mayorova, V.V. Matskevich, I.A. Melkher, P.S. Sharenda-Panasiuk, [REDACTED], N.V. Statkevich, V.K. Stefanovic, S.L. Tsikhanouski and M.A. Znak - are currently serving terms of deprivation of liberty, having been convicted of crimes for which the courts of Belarus handed down sentences that have entered into legal force.

Information on the reasons for the respective judgments against the above-mentioned individuals and circumstances in which they were passed was submitted previously in response to requests from the special procedures.

We also wish to inform you that, in accordance with article 112 (1) of the Penalties Enforcement Code, convicted persons sentenced to deprivation of liberty may be subject to punishment for violating the established procedure for serving their sentences; penalties may include a reprimand, deprivation of the right to receive a regular parcel or package, deprivation of a regular long or short visit and, in the case of prisoners detained in a correctional colony or a prison, placement in a punitive isolation cell with or without work or study for a period of up to 15 days.

In accordance with article 113 (11) of the Penalties Enforcement Code, a prisoner against whom a decision has been taken by an official to impose a penalty has the right to appeal to a higher-level official, a procurator or a court. Where there are grounds to do so, the penalty may be set aside or replaced by the official who imposed it, or by a higher-level official so authorized, or set aside by a procurator or a court. An appeal to a court against a decision by an official to impose a penalty must be lodged in conformity with the procedure set out in the Code of Civil Procedure.

The procedure for appealing to the court against decisions of an official to impose a penalty is regulated under section VII of the Code of Civil Procedure.

Under article 358-2 of the Code, a person sentenced to a fixed term of deprivation of liberty may appeal to a court against a penalty imposed on him or her within one month of the date on which he or she became aware of a violation of his or her rights or, if an appeal against the penalty has been made to a higher-level official, from the date on which the appeal was rejected or one month after the date of submission of the appeal to the higher-level official.

Such appeals are considered by the court in the place where the appellant is located (Code of Civil Procedure, art. 358-1).

In accordance with article 69 (1) of the Penalties Enforcement Code, depending on the behaviour and attitude to work of persons sentenced to deprivation of liberty, changes may be made to the type of correctional institution in which, and the custodial regime under which, they are held.

Persons sentenced to deprivation of liberty who maliciously violate the established procedure for serving their sentences may be transferred from a correctional colony for persons serving a sentence of deprivation of liberty for the first time or a correctional colony for persons who have previously served a sentence of deprivation of liberty to a prison, for a period not exceeding 3 years, with the remainder of the sentence to be served in the correctional colony under the custodial regime specified in the court sentence (Code of Civil Procedure, art. 69 (5) (3)).

Changes to the type of correctional institution and the custodial regime are made by the courts upon application by the administration of the institution concerned (Code of Civil Procedure, art. 69 (6)).

In accordance with article 402 (2) of the Code of Criminal Procedure, transfers from a correctional colony to a prison and from a prison to a correctional colony may be authorized pursuant to a ruling or decision by the district or municipal court at the place where the convicted person is serving his or her sentence, irrespective of which court passed the sentence or handed down the relevant ruling or decision.

The procedure for granting visits to prisoners is set out in the Penalties Enforcement Code and regulated in the internal regulations of correctional institutions, approved under Ministry of Internal Affairs resolution No. 174 of 20 October 2000.

Information is provided below on some of the convicted persons who have been subject to penalties.

V.D. Babaryka is serving a sentence of deprivation of liberty in correctional colony No. 1, a facility of the Vitebsk Province office of the Ministry of Internal Affairs Penalties Enforcement Department pursuant to a sentence handed down by the Supreme Court of Belarus on 6 July 2021.

Pursuant to a decision by the warden of correctional colony No. 1 dated 1 May 2022, Mr. Babaryka was subject, for violating the procedure for serving sentences, to a penalty of placement in a punitive isolation cell for a period of 10 days without work.

Mr. Babaryka's lawyer appealed against the ruling to Navapolatsk Municipal Court.

In a decision of 13 May 2022, Navapolatsk Municipal Court upheld the 1 May 2022 decision of the warden of correctional colony No. 1, and the complaint by Mr. Babaryka's lawyer was dismissed.

The procedure for appealing against a court decision that has not entered into legal force is set out in chapter 32 of the Code of Civil Procedure.

Pursuant to article 339 (1) of the Code of Civil Procedure, a decision of a court of first instance that has not entered into legal force may be appealed against by the parties to the case and other persons legally interested in the outcome of the case, as well as by other persons, if the court has ruled on their rights and obligations.

The procurator or deputy procurator has the right to protest against a court decision, regardless of whether he or she participated in the proceedings. Assistant procurators and procurators of the structural subdivisions of the procuratorial authorities may lodge protests against court decisions only in cases in which they participated (Code of Civil Procedure, article 339 (3)).

Pursuant to article 401 of the Code of Civil Procedure, appeals and/or appellate protests against decisions and rulings of district or municipal courts that have not entered into legal force are considered by the civil chamber of the relevant provincial or Minsk municipal court.

Appeals and/or appellate protests against a decision of a court of first instance must be filed and/or brought within 15 days of the date of the decision or delivery of the decision and, on request, its rationale to the person entitled to appeal or protest (Code of Civil Procedure, article 403 (1)).

Mr. Babaryka could have exercised his right to lodge an appeal against the Novopolotsk Municipal Court decision of 13 May 2022, which had not entered into legal force, to the Vitebsk Provincial Court through the Novopolotsk Municipal Court, but he did not make use of that right.

The Novopolotsk Municipal Court decision of 13 May 2022 in respect of Mr. Babaryka came into force on 31 May 2022.

Court rulings that have entered into legal force may be reviewed under the supervisory procedure in accordance with chapter 33 of the Code of Civil Procedure.

Pursuant to article 439 of the Code, protests may be brought under the supervisory procedure by the President or Deputy Presidents of the Supreme Court of Belarus, the presidents of provincial courts and of Minsk municipal court, the Prosecutor General and Deputy Prosecutors General of Belarus, provincial prosecutors and Minsk municipal prosecutors.

Appeals under the supervisory procedure must be filed within one year of the date of entry into legal force of a court ruling (Code of Civil Procedure, art. 436 (4)).

Mr. Babaryka had the right to appeal against the Novopolotsk Municipal Court decision of 13 May 2022, which came into legal force as provided for in the Code of Civil Procedure, but he did not make use of that right.

V.K. Stefanovic was serving a sentence of deprivation of liberty under a reinforced regime in correctional colony No. 15, a facility of the Mahilioŭ Province office of the Ministry of Internal Affairs Penalties Enforcement Department, pursuant to a sentence handed down by the court of Lenin District, Minsk, on 3 March 2023.

By decision of the court of Oktyabrsky District, Mahilioŭ, of 30 October 2024 in respect of an application by the administration of correctional colony No. 15, Mr. Stefanovic was transferred from the colony to a prison, for a period of 3 years, to continue serving his sentence. The basis for the decision was the systematic and malicious violation by Mr. Stefanovic of the established procedure for serving a sentence of deprivation of liberty.

The decision adopted by the court of Oktyabrsky District, Mahilioŭ, on 30 October 2024 in respect of Mr. Stefanovic became enforceable on 30 October 2024.

The cassational procedure for the review of decisions that have become enforceable is regulated under chapter 42 of the Code of Criminal Procedure.

Under article 405 (1) of the Code, convicted persons and persons who have been acquitted, their defence counsel and legal representatives, representatives of deceased accused persons, the defence counsel and legal representatives of persons subject to compulsory measures for reasons of security or medical treatment, and victims and civil claimants or their representatives have the right to appeal under the cassational review procedure against a court sentence, ruling or decision that has become enforceable.

Appeals or protests against sentences, rulings and decisions of district and municipal courts and rulings on appeal of the provincial and Minsk city courts that have become enforceable may be lodged with the presidiums of the provincial and Minsk city courts (Code of Civil Procedure, art. 408 (1) (1)).

Mr. Stefanovic may exercise his right to bring a cassational appeal against the judicial decision to the presidium of the Mahilioŭ Provincial Court, but has not done so to date.

E.P. Hnauk was serving a sentence of deprivation of liberty in correctional colony No. 4, a facility of the Homiel Province office of the Ministry of Internal Affairs Penalties Enforcement Department pursuant to the sentence handed down by the court of Zheleznodorozhny District, Homiel, on 28 April 2023.

On 17 July 2023, Ms. Hnauk appealed to the court of Zheleznodorozhny District, Homiel, against the application of punitive measures against her.

By a ruling of the court of Zheleznodorozhny District, Homiel, on 20 July 2023, Ms. Hnauk's appeal against the application of punitive measures was adjourned, as it did not meet the requirements set forth in article 109 of the Code of Civil Procedure. Specifically, it did not indicate which of the punitive measures imposed on Ms. Hnauk were to be cancelled.

Ms. Hnauk was notified of the need to rectify those shortcomings in the appeal by 31 July 2023, but did not do so within the specified time frame.

The procedure for appealing against a court decision that has not entered into legal force is set out in chapter 32 of the Code of Civil Procedure.

Ms. Hnauk could have appealed against the 20 July 2023 ruling of the court of Zheleznodorozhny District, Homiel, within the time frame specified in the Code, but she did not make use of that right.

The ruling of the court of Zheleznodorozhny District, Homiel, of 20 July 2023 entered into legal force on 5 August 2023.

Court decisions that have entered become enforceable may be reviewed under the supervisory procedure in accordance with chapter 33 of the Code of Civil Procedure.

S.L. Tsihanouski was serving a term of deprivation of liberty under a reinforced regime in correctional colony No. 15, a facility of the Mahilioŭ Province office of the Ministry of Internal Affairs Penalties Enforcement Department, pursuant to a sentence handed down by the Homiel Province Court on 14 December 2021.

By decision of the court of Oktyabrsky District, Mahilioŭ, of 10 August 2022 in respect of an application by the administration of correctional colony No. 15, Mr. Tsihanouski was transferred from the colony to a prison, for a period of 3 years, to continue serving his sentence. The basis for the decision was the systematic and malicious violation by Mr. Tsihanouski of the established procedure for serving a sentence of deprivation of liberty.

The decision adopted by the court of Oktyabrsky District, Mahilioŭ, on 30 October 2024 in respect of Mr. Tsihanouski became enforceable on 10 August 2022.

The cassational procedure for the review of decisions that have become enforceable is regulated under chapter 42 of the Code of Criminal Procedure.

Mr. Tsihanouski may exercise his right to bring a cassational appeal against the judicial decision before the presidium of the Mahilioŭ Provincial Court, but has not done so to date.

By sentence handed down by the Zhodzina Municipal Court on 22 February 2023, Mr. Tsihanouski was found guilty of malicious disobedience of the lawful demands of the administration of a correctional facility implementing punishment in the form of deprivation of liberty in respect of a person serving a sentence in a correctional facility implementing punishment in the form of deprivation of liberty where the person has, within a year, been subject to disciplinary punishment in the form of transfer to prison for violating the regime for serving the sentence, if the person was found guilty of a serious or especially serious offence, as provided for under article 411 (2) of the Criminal Code, and sentenced to deprivation of liberty for a period of 1 year and 6 months.

Under article 73 (1) of the Criminal Code on cumulative sentences, by adding in full the non-executed part of the the sentence handed down by the Homiel Province Court on 14 December 2021 of deprivation of liberty for a term of 14 years, 3 months and 5 days, to the punishment handed down by the Zhodzina Municipal Court on 22 February 2023, Mr. Tsihanouski was subject to a final sentence in the form of deprivation of

liberty for a term of 15 years, 9 months and 5 days, of which 2 years, 5 months and 18 days in prison, and the remaining part in a correctional colony under a strict regime.

The procedure for appealing against a court judgment that has not entered into legal force is set out in chapter 32 of the Code of Civil Procedure.

On appeal by Mr. Tsihanouski and his lawyer, the Minsk Provincial Court reviewed the legality, validity and fairness of the sentence handed down by the Zhodzina Municipal Court on 17 June 2022, which had not yet become enforceable.

In an appellate ruling of 28 April 2023, the criminal division of Minsk Provincial Court upheld the 22 February 2023 ruling of the Zhodzina Municipal Court in respect of Mr. Tsihanouski and dismissed the appeal by Mr. Tsihanouski and his lawyer.

The 22 February 2023 ruling of the Zhodzina Municipal Court in respect of Mr. Tsihanouski entered into legal force on 28 April 2023.

The cassational procedure for the review of sentences that have become final is regulated under chapter 42 of the Code of Criminal Procedure.

Mr. Tsihanouski may exercise his right to bring a cassational appeal against the judicial decision before the presidium of the Mahilioŭ Provincial Court but, to date, has not done so.

Since the change of regime for execution of his sentence ordered by the court of Oktyabrsky District, Mahilioŭ, on 10 August 2022, Mr. Tsihanouski is serving his sentence of deprivation of liberty in correctional facility No. 8 of the Minsk and Minsk Province office of the Ministry of Internal Affairs Penalties Enforcement Department.

For violating the procedure for serving a sentence, Mr. Tsihanouski was subject to punishment by the administration of Prison No. 8, with a reprimand on 14 September 2022, and by decisions of 19 August, 15 September, 11 October and 25 November 2022, with placement in a punitive isolation cell.

Mr. Tsihanouski appealed against the decisions of the administration of Prison No. 8 of 19 August, 14 and 15 September, 11 October and 25 November 2022, imposing punitive measures in the form of placement in a punitive isolation cell.

In rulings adopted on 13 September, 21 October, 11 November and 15 December 2022, the Zhodzina Municipal Court upheld the decisions of the administration of Prison No. 8 of 19 August, 14 and 15 September, 11 October and 25 November 2022, and Mr. Tsihanouski's appeals were dismissed.

The procedure for appealing against a court judgment that has not entered into legal force is set out in chapter 32 of the Code of Civil Procedure.

Mr. Tsihanouski could have exercised the right to file an appeal to the Minsk Provincial Court against the Zhodzina Municipal Court decisions of 13 September, 21 October, 11 November and 15 December 2022, which had not entered into legal force, but he did not make use of that right.

The Zhodzina Municipal Court decisions of 13 September, 21 October, 11 November and 15 December 2022 came into force on 24 October and 9 and 29 November 2022 and 30 January 2023, respectively.

Court rulings that have become enforceable may be reviewed under the supervisory procedure in accordance with chapter 33 of the Code of Civil Procedure.

Mr. Tsihanouski could have exercised the right to file an appeal against the Zhodzina Municipal Court decisions of 13 September, 21 October, 11 November and 15 December 2022, which had entered into legal force, but he did not make use of that right.

Pursuant to decisions of 28 March and 3 April 2023 of the administration of Prison No. 8, Mr. Tsihanouski was subject to punitive measures for violating the procedure for serving his sentence in the form of placement in a punitive isolation cell.

Mr. Tsihanouski appealed against the 28 March and 3 April 2023 decisions of the administration of Prison No. 8 imposing punitive measures in the form of placement in a punitive isolation cell.

However, pursuant to rulings of Zhodzina Municipal Court of 7 April and 5 May 2023, the appeals were adjourned as they did not meet the requirements set out in article 109 of the Code of Civil Procedure. Specifically, they did not indicate the substance of the demands.

Mr. Tsihanouski was notified of the need to rectify that shortcoming in the appeals by 17 April and 19 May 2023, respectively. However, Mr. Tsihanouski did not do so within the specified time frame.

The procedure for appealing against a court decision that has not entered into legal force is set out in chapter 32 of the Code of Civil Procedure.

Mr. Tsihanouski could have appealed against the 7 April and 5 May 2023 rulings of the Zhodzina Municipal Court within the time frame specified in the Code of Civil Procedure, but he did not do so.

The Zhodzina Municipal Court rulings of 7 April and 5 May 2023 became enforceable on 27 April and 23 May 2023, respectively.

Court decisions that have entered into legal force may be reviewed under the supervisory procedure in accordance with chapter 33 of the Code of Civil Procedure.

V.V. Matskevich was serving a sentence of deprivation of liberty under a reinforced regime in correctional colony No. 17, a facility of the Mahilioŭ Province office of the Ministry of Internal Affairs Penalties Enforcement Department, pursuant to a sentence handed down by the Minsk Province Court on 23 June 2022.

By a decision of the Shklou District Court of 13 February 2023, amended in line with a decision of the same court of 27 March 2023, in respect of an application by the administration of correctional colony No. 15, Mr. Matskevich was transferred from the colony to prison to continue serving his sentence for 2 years, 10 months and 21 days. The grounds for the decision was the systematic and malicious violation by Mr. Matskevich of the established procedure for serving a sentence of deprivation of liberty.

The cassational procedure for the review of rulings that have become enforceable is regulated under chapter 42 of the Code of Criminal Procedure.

Mr. Matskevich may exercise his right to bring a cassational appeal against the judicial decision before the presidium of the Mahilioŭ Province Court but has not done so to date.

The procuratorial authorities regularly carry out inspections of institutions in the penal enforcement system. The inspections did not find any violations of the rights and legitimate interests of the above-mentioned persons.

Over the period of 2024, the procuratorial authorities received a few appeals concerning possible violations of the rights of persons held in centres for the isolation of offenders (two in Vitebsk Province, two in Minsk city and one in Hrodna Province), which were forwarded to the regional internal affairs offices for consideration on the merits.

Since 2022, no complaints have been received by the Office of the Procurator General or the offices of the procurators' offices of Vitebsk, Homiel and Mahilioŭ Provinces from [REDACTED], V.D. Babaryka, [REDACTED], E.P. Hnauk, M.A. Kolesnika, V.A. Kulsha, E.N. Lazarchyk, I.A. Losik, O.V. Mayorova, V.V. Matskevich, I.A. Melkher, P.S. Sharenda-Panasiuk, [REDACTED], N.V. Statkevich, V.K. Stefanovic, S.L.

Tsikhanouski and M.A. Znak from remand centres or correctional colonies.

Any allegations of widespread violations of the conditions of detention of citizens in centres for the isolation of offenders and persons serving criminal sentences are thus unfounded.

According to paragraphs 6, 8 and 9 of the Regulations on the procedure for pardoning convicted persons, concerning exemption from criminal liability for persons who have contributed to the discovery of crimes and the elimination of the consequences of their commission, approved pursuant to Presidential Decree No. 250 of 3 December 1994, pardons may be granted on the basis of personal petitions from convicted persons.

Requests for pardon may be submitted by convicted persons through the administration of the correctional institution, which forwards them to the President for consideration.
