

**International Covenant on
Civil and Political Rights**Distr.: General
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Human Rights Committee**Communication No. 1948/2010****Views adopted by the Committee at its 108th session
(8 – 26 July 2013)**

<i>Submitted by:</i>	Denis Turchenyak et al. (represented by counsel, Roman Kisliak)
<i>Alleged victims:</i>	The authors
<i>State party:</i>	Belarus
<i>Date of communication:</i>	21 November 2009 (initial submission)
<i>Document references:</i>	Special Rapporteur's rule 97 decision, transmitted to the State party on 18 May 2010 (not issued in a document form)
<i>Date of adoption of Views:</i>	24 July 2013
<i>Subject matter:</i>	Unfair trial; freedom of expression; peaceful assembly; discrimination
<i>Substantive issues:</i>	Unfair trial; freedom of expression; right to peaceful assembly; discrimination
<i>Procedural issues:</i>	Exhaustion of domestic remedies; level of substantiation of claim
<i>Articles of the Covenant:</i>	14, paragraph 1; 19, paragraph 2; 21 and 26
<i>Articles of the Optional Protocol:</i>	2; 5, paragraph 2 (a) and (b)

Annex

Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political rights (108th session)

concerning

Communication No. 1948/2010*

Submitted by: Denis Turchenyak et al. (represented by counsel, Roman Kisliak)

Alleged victims: The authors

State party: Belarus

Date of communication: 21 November 2009 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 24 July 2013,

Having concluded its consideration of communication No. 1948/2010, submitted to the Human Rights Committee by Mr. Denis Turchenyak et al., under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the authors of the communication and the State party,

Adopts the following:

Views under article 5, paragraph 4, of the Optional Protocol

1. The authors of the communication are Denis Turchenyak, born in 1963, Mrs. Irina Lavrovskaya, born in 1951, Mr. Valery Fominsky, born in 1974 and Mr. Roman Kisliak¹, born in 1975, all Belarusian nationals. They claim to be victims of violations by Belarus of their rights under article 14, paragraph 1; article 19, paragraph 2; article 21 and article 26 of the International Covenant on Civil and Political Rights. The Optional Protocol entered into force for the State party on 30 December 1992.

* The following members of the Committee participated in the examination of the present communication: Mr. Yadh Ben Achour, Mr. Lazhari Bouzid, Ms. Christine Chanet, Mr. Ahmad Amin Fathalla, Mr. Cornelis Flinterman, Mr. Yuji Iwasawa, Mr. Walter Kälin, Ms. Zonke Zanele Majodina, Mr. Kheshoe Parsad Matadeen, Ms. Iulia Antoanela Motoc, Mr. Gerald L. Neuman, Sir Nigel Rodley, Mr. Victor Manuel Rodríguez-Rescia, Mr. Fabián Omar Salvioli, Ms. Anja Seibert-Fohr, Mr. Yuval Shany, Mr. Konstantine Vardzelashvili and Ms. Margo Waterval.

¹ Mr. Kisliak is submitting the communication on his own behalf, and is also acting as counsel for the other three authors.

The facts as submitted by the authors

2.1 On 30 December 2008, the authors filed an application with Brest City Executive Committee requesting to hold, on three consecutive days (15, 16 and 17 January 2009), pickets with the purpose of drawing citizens' attention to the problems that occurred in the course of the preparation of a monument devoted to the 1,000th anniversary of Brest. In the application, they specified that the pickets would be conducted by 10 people, including themselves, from 1 p.m. to 3 p.m., and that the intended location was a pedestrian zone on Gogol Street in Brest.

2.2 The application was reviewed by the Deputy Chair of Brest City Executive Committee, who, on 9 January 2009, issued a decision refusing to allow the conduct of pickets at the stated location. The refusal was based on Brest City Executive Committee's by-law decision No. 1715 of 25 October 2006 ("As regards the determination of a permanent location for the conduct of public gatherings in Brest"), which determines that public gatherings can only be organized in the "Lokomotiv" stadium, in compliance with the provisions of the 1997 Law "On public events in the Republic of Belarus".

2.3 On 10 February 2009, the authors appealed the refusal to Brest Region Executive Committee. On 20 February 2009, they received a reply from the Deputy Chair of Brest Region Executive Committee, rejecting their appeal as being unfounded.

2.4 Also on 10 February 2009, the authors appealed against the refusal of Brest City Executive Committee to the Court of Lenin District of Brest, claiming a violation of their freedom of expression. On 3 March 2009, they supplemented their appeal, claiming that the refusal constituted discrimination against them based on their beliefs. On 4 March 2009, the court rejected their appeal, stating that according to Brest City Executive Committee's Decision No. 1715 of 25 October 2006, with the exception of demonstrations and street processes organized by State authorities, the area designated for holding mass events was the "Lokomotiv" stadium. It considered the decision of Brest City Executive Committee of 9 January 2009 lawful and that it did not violate the authors' rights. The court found the author's claim of discrimination on the grounds of beliefs unjustified, as decisions regarding the location for holding mass events organized by State authorities are approved by Brest City Executive Committee on a case-by-case basis. During the trial, one of the authors requested the court to call in the Chair, the Deputy Chair and another employee of Brest City Executive Committee for questioning in court. The request was dismissed as the court considered that Brest City Executive Committee was already sufficiently and adequately represented before the court.

2.5 On 16 March 2009, the authors filed a cassation appeal with the Brest Regional Court against Lenin District Court of Brest. In the appeal, they maintained that their right to a fair trial was violated by the lower court, as it refused to summon the witnesses requested for questioning. On 9 April 2009, Brest Regional Court rejected the appeal, upholding the lower court's decision.

The complaint

3.1 The authors claim that their right to freedom of expression and the right to peaceful assembly as guaranteed under article 19, paragraph 2, and article 21 of the Covenant have been restricted arbitrarily, since neither the decision of the Deputy Chair of Brest City Executive Committee, nor the decisions of the domestic courts provided any justification as to the reasons for the restriction to hold the pickets, other than the formal application of Decision No. 1715 of 25 October 2006. In particular, the authors claim that the restriction in question was neither justified by reasons of national security nor public safety, public order, the protection of public health or morals, nor was it necessary for the protection of the rights and freedoms of others, and it therefore breaches article 19, paragraph 2, of the

Covenant. They allege that restricting all 300,000 citizens of Brest to conduct mass events to a single location, which, furthermore, is a stadium outside of the city centre and surrounded by a concrete wall, moves all mass events outside the public space, and thus infringes on freedom of expression.

3.2 The authors also claim that the refusal to allow them to conduct pickets outside of the sole location specified in Decision No 1715, amounted to discrimination based on their beliefs, in violation of article 26 of the Covenant, since Brest City Executive Committee had, on numerous occasions, allowed other persons to conduct mass events outside the officially assigned location. In substantiation, they refer to six different instances when the Executive Committee have allowed the holding of such mass events².

3.3 The authors further claim that their right to a fair trial, as guaranteed by article 14, paragraph 1, of the Covenant, was violated, as Lenin District Court of Brest refused to summon three key witnesses who the authors wanted to question. They also maintain that the court's refusal to summon those witnesses indicates that the judge had already sided with the position of the city authorities, and was therefore not impartial in deciding the case.

State party's preliminary observations

4.1 On 8 July 2010, the State party submitted, inter alia, that it "[...] does not find legal grounds for further consideration of these communications". It added that it did not appear from the documentation on file that the Committee had received these communications from individuals, as "it seems obvious" that the communications were prepared by a third party (not individuals), contrary to article 1 of the Optional Protocol to the Covenant. It further requested the Committee to clarify the relationship between the authors of the present communication and the persons indicated by them as contact persons eligible to obtain the confidential information from the Committee on the complaints, as well as to specify which articles of the Optional Protocol to the Covenant regulate the issue of submission by the Committee of the confidential information directly to the individuals and to the third party.

4.2 By note verbale of 10 August 2010, the Committee informed the State party that, inter alia, its Special Rapporteur on New Communications and Interim Measures sees no obstacles to the admissibility of the present communication under article 1 of the Optional Protocol, as it was duly signed by the respective authors and there is nothing in the Optional Protocol to the Covenant, the Committee's rules of procedure or working methods to prevent the authors from indicating an address other than their own for correspondence, if they wished to do so. It further invited the State party to submit its observations on the admissibility and merits of the communication within the established time limits.

4.3 By note verbale of 3 September 2010, the State party notes, inter alia, that "the Belarusian side suspends further consideration of the aforementioned communication(s) till the Committee provides comprehensive response on all issues raised by the State party in its previous submissions. It further notes that it has assumed its obligations under article 1 of the Optional Protocol." The State party took note of the reply of the Special Rapporteur on New Communications and Interim Measures on the absence of any obstacles to the admissibility of the communication under the Optional Protocol, but it considers the reply to be the Special Rapporteur's personal view, which does not and cannot create any legal obligations for the State parties to the Covenant. The State party further notes that it did not raise any issues concerning the addresses for correspondence relating to, inter alia, the

² The six events in question were all organized by the State authorities.

present communication; however, “there were requests to the Committee to clarify the relationship of third parties to the complaint(s) of Mr. Turchenyak (...) and the grounds for the third parties, the persons who are not subject to Belarusian jurisdiction, being listed in the communications as contact persons eligible to obtain confidential information from the Committee”. Finally, the State party “draws the Committee’s attention to the fact that in accordance with article 1 of the Optional Protocol, the State party had recognized the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by the State party of any of the rights set forth in the Covenant, but not from other persons (third parties). The State party did not accept any other obligation under article 1 of the Optional Protocol and therefore it suspends further consideration of, inter alia, the present communication.

4.4 By letter of 28 October 2010, the Chairperson of the Committee informed the State party that inter alia, the present communication was duly signed by the respective authors, who are themselves the alleged victims. Regarding the authors’ decision to designate third parties residing outside of the State party to receive correspondence from the Committee on their behalf, the Chairperson noted that nothing in the Optional Protocol prevents authors from indicating an address other than their own for correspondence or from designating third parties as recipients of the Committee’s correspondence on their behalf. In this regard, the Chairperson highlighted that it has been the Committee’s longstanding practice that authors may designate representatives of their choice who may not necessarily live in the territory of the State party, not only to receive correspondence, but even to represent them before the Committee. Finally, the State party was again invited to submit its observations on admissibility and merits. On 20 December 2010, a first reminder for observations was sent to the State party.

4.5 By note verbale of 6 January 2011, the State party recalled that it has repeatedly expressed its legitimate concerns to the Committee regarding unjustified registration of individual communications. The majority of their concerns relate to the communications which were submitted by individuals who had deliberately not exhausted all available remedies in the State party, including filing an , inter alia, by appeal with the Prosecutor’s Office under the supervisory review procedure against judgements having acquired the force of *res judicata*³.

4.6 The State party further notes that the registration before the Committee of communications submitted by a third party (lawyers, other persons) on behalf of individuals alleging violations of their rights is undoubtedly abuse of the Committee’s mandate, as well as of the right to submit of communications; registration of such communications is in violation of article 3 of the Optional Protocol. In addition, while being a State party to the Optional Protocol to the Covenant and having recognized the Committee’s competence under article 1 thereof, the State party has not consented to the extension of the Committee’s mandate. In this regard, the State party notes the Committee’s “one-sided and broad interpretation [...] of the legal norms of the respective international treaties” and explains that the interpretation of the provisions of the Covenant and the Optional Protocol shall be done strictly in accordance with articles 31, 32 and 33 of the Vienna Convention on the Law of the Treaties. It adds that according to the correct interpretation of article 1 and the preamble of the Optional Protocol to the Covenant, only communications submitted by individuals (and not by their representatives) may be registered by the Committee. Consequently, the State party concludes that it will decline every communication registered before the Committee in violation of the provisions of the aforementioned treaties and that

³ The State party explains that the basis for this requirement is article 2 of the Optional Protocol to the Covenant.

any decision adopted by the Committee in relation to such communications will be considered by the State party as legally invalid.

4.7 On 20 September 2011, a second reminder was sent to the State party with a request to submit its observations on the admissibility and merits of the present case.

4.8 By note verbale of 5 October 2011, the State party submitted that there were no legal grounds for the consideration of the present communication, either on admissibility or merits, as it was registered in violation of article 1 of the Optional Protocol to the Covenant, regardless of the fact that third parties, not subject to the State party's jurisdiction, were involved in the present communication. It reiterates that the registration of communications submitted by a third party (lawyers, other persons) on behalf of individuals claiming a violation of their rights constitutes an abuse of the Committee's mandate and of the right to submit a communication, in violation of article 3 of the Optional Protocol to the Covenant.

4.9 On 25 October 2011, a third and final reminder was sent to the State party with a request to submit its observations on the admissibility and merits of the present case.

4.10 By note verbale of 25 January 2012, the State party reiterated its previous observations and those of 6 January 2011 in particular. It recalled that by adhering to the Optional Protocol it recognizes the Committee's competence under article 1 thereof to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of violation by the State party of any of the rights set forth in the Covenant. Such recognition of competence also extends to other provisions of the Optional Protocol to the Covenant, including those setting up criteria regarding petitioners and admissibility, in particular article 2 and article 5, paragraph 2, of the Optional Protocol. States parties have no obligation under the Optional Protocol to recognize the Committee's rules of procedure nor its interpretation of the provisions of the Optional Protocol. According to the State party, this means that in the context of the complaint procedure, States parties should be guided first and foremost by the provisions of the Optional Protocol and that reference to the Committee's long-standing practice, methods of work and jurisprudence "are not subjects of the Optional Protocol". It further submits that any communication registered in violation of the provisions of the Optional Protocol to the Covenant will be viewed by the State party as incompatible with the Optional Protocol and will be rejected without comments on admissibility or merits. The State party further maintains that decisions taken by the Committee on such "declined communications" will be considered by its authorities as "invalid".

Issues and proceedings before the Committee

The State party's failure to cooperate

5.1 The Committee notes the State party's assertion that there are no legal grounds for the consideration of the authors' communication, insofar as it is registered in violation of the provisions of the Optional Protocol; that it has no obligations regarding recognition of the Committee's rules of procedure nor the Committee's interpretation of the provisions of the Optional Protocol; and that decisions taken by the Committee on the present communication will be considered by its authorities as "invalid". The Committee also notes the State party's observation that registration of communications submitted by a third party (lawyers, other persons) on behalf of individuals claiming a violation of their rights constitutes an abuse of the mandate of the Committee and of the right to submit a communication.

5.2 The Committee recalls that article 39, paragraph 2, of the Covenant empowers it to establish its own rules of procedure, which the States parties have agreed to recognize. The Committee further observes that, by adhering to the Optional Protocol, a State party to the

Covenant recognizes the competence of the Human Rights Committee to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant (preamble and art. 1). The Committee further notes that by denying the right of an individual to be represented by a lawyer (or a designated person) of his/her choice before the Committee, the State party fails to meet its obligations under the Optional Protocol to the Covenant. Implicit in a State's adherence to the Protocol is an undertaking to cooperate with the Committee in good faith so as to permit and enable it to consider such communications, and after examination, to forward its views to the State party and to the individual (art. 5, paras. 1 and 4). It is incompatible with these obligations for a State party to take any action that would prevent or frustrate the Committee in its consideration and examination of a communication and in the expression of its Views.⁴ It is for the Committee to determine whether a communication should be registered. The Committee observes that, by failing to accept the competence of the Committee to determine whether a communication shall be registered and by declaring beforehand that it will not accept the determination of the Committee on the admissibility and on the merits of the communications, the State party violates its obligations under article 1 of the Optional Protocol to the Covenant.⁵

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

6.2 As required under article 5, paragraph 2 (a), of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 With regard to the requirement set out in article 5, paragraph 2 (b), of the Optional Protocol, in the context of the authors' claims under articles 19, paragraph 2 and 21 of the Covenant, the Committee notes that in its submission of 6 January 2011 (see para. 4.5 above), the State party challenged the admissibility of the present communication on the ground of non-exhaustion of domestic remedies, as the authors had not filed a request for supervisory review with the Prosecutor's Office. However, the Committee notes that the State party did not indicate whether the procedure has been successfully applied in cases concerning freedom of expression and the right to peaceful assembly, nor did it specify the number of such cases, if any. The Committee recalls its jurisprudence according to which this kind of procedure for reviewing court decisions that have taken effect does not constitute a remedy that has to be exhausted for the purposes of article 5, paragraph 2 (b), of the Optional Protocol⁶. In the circumstances, the Committee considers that it is not precluded by article 5, paragraph 2 (b), of the Optional Protocol from examining this part of the communication.

6.4. With regard to the authors' claim that their rights under article 14, paragraph 1, of the Covenant have been violated as one of the authors' request to have witnesses summoned for questioning in court was dismissed, the Committee notes that, in essence,

⁴ See, inter alia, communication No. 869/1999, *Piandiong et al. v. the Philippines*, Views adopted on 19 October 2000, para. 5.1.

⁵ See, for example, communication No. 1226/2003, *Korneenko v. Belarus*, Views adopted on 20 July 2012, paras. 8.1 and 8.2.

⁶ See, for example, communications No. 1785/2008, *Olechkevitch v. Belarus*, Views adopted on 18 March 2013, para 7.3; No. 1784/2008, *Schumilin v. Belarus*, Views adopted on 23 July 2012, para. 8.3; No. 1841/2008, *P.L. v. Belarus*, decision of inadmissibility adopted on 26 July 2011, para. 6.2.

the authors' complaint relates to the manner in which national courts have evaluated evidence and what specific evidence was of relevance in the framework of the court trial. The Committee observes that these allegations relate primarily to the evaluation of elements of facts and evidence by the court. It recalls that it is generally up to the courts of a State party to evaluate the facts and evidence in a particular case, unless it can be ascertained that such evaluation was clearly arbitrary or amounted to a denial of justice, or that the court otherwise violated its obligation of independence and impartiality.⁷ The Committee considers that, in the present communication, the authors have failed to demonstrate that the court's conclusions in their case had reached the threshold of arbitrariness in the evaluation of the evidence or amounted to a denial of justice. Accordingly, the Committee considers that the authors have not sufficiently substantiated their allegations under article 14, paragraph 1, of the Covenant, therefore it considers this part of the communication inadmissible under article 2 of the Optional Protocol.

6.5 As to the alleged violations of the authors' rights under article 26 of the Covenant, in the absence of any further pertinent information on file, the Committee considers that this claim is not sufficiently substantiated for purposes of admissibility, and concludes that this part of the communication is also inadmissible under article 2 of the Optional Protocol.

6.6 Finally, the Committee considers that the authors have sufficiently substantiated their remaining claims that raise issues covered by under article 19, paragraph 2, and article 21 of the Covenant for purposes of admissibility. It declares this part of the communication admissible with regard to these provisions of the Covenant and proceeds to its examination on the merits.

Consideration of the merits

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it by the parties, as required under article 5, paragraph 1, of the Optional Protocol.

7.2 The Committee notes the authors' claim that their freedom of expression and assembly has been restricted arbitrarily, since neither the decision of the Deputy Chair of Brest City Executive Committee, nor the decisions of the domestic courts provided any justification as to the reasons for the restriction to hold pickets, other than the formal application of the Executive Committee's Decision No. 1715 of 25 October 2006 which designates a sport complex outside the city centre as the ordinary location for public gatherings in Brest. The authors further claim that consigning mass events to a single location restricts the rights of all 300,000 citizens of Brest to conduct peaceful assemblies as it moves most mass events to an isolated location in a stadium that is surrounded by a concrete wall, and thus arbitrarily limits the rights guaranteed under article 21 of the Covenant.

7.3 The Committee further notes that Decision No. 1715 of Brest City Executive Committee which determines the sport stadium as the sole location for holding mass public events (with the exception of street demonstrations and street processions), and the related decisions of the domestic courts which find the restrictions imposed on the authors to be in conformity with the Law on Mass Events and the Constitution of Belarus, do not provide any justification as to the restriction imposed. In particular, the Committee notes the decision of 9 April 2009 of the Brest Regional Court within cassation proceedings, whereby it concluded that the authors application to hold pickets at the desired location was refused

⁷ See, inter alia, communications No. 1188/2003, *Riedl-Riedenstein et al. v. Germany*, decision of inadmissibility adopted on 2 November 2004, para. 7.3; No. 1138/2002, *Arenz et al. v. Germany*, decision of inadmissibility adopted on 24 March 2004, para. 8.6.

lawfully on the basis of Decision No. 1715 which prescribes that mass events, including pickets, i.e. a possibility to congregating at a specific location with the intent of supporting or disapproving a particular cause, with or without informative materials, are to be held in the Lokomotiv sports stadium.

7.4 The Committee recalls that the right of peaceful assembly, as guaranteed under article 21 of the Covenant, is a fundamental human right that is essential for public expression of one's views and opinions and indispensable in a democratic society. This right entails the possibility of organizing and participating in a peaceful assembly, including the right to a stationary assembly (such as a picket) in a public location. The organizers of an assembly generally have the right to choose a location within sight and sound of their target audience and no restriction to this right is permissible, unless (a) imposed in conformity with the law, and (b) necessary in a democratic society, in the interests of national security or public safety, public order, protection of public health or morals or protection of the rights and freedoms of others. When a State party imposes restrictions with the aim of reconciling an individual's right to assembly and the aforementioned interests of general concern, it should be guided by the objective to facilitate the right, rather than seeking unnecessary or disproportionate limitations to it. The State party is thus under the obligation to justify the limitation of the right protected by article 21 of the Covenant.

7.5 In the present case, a pedestrian zone in the city of Brest was chosen by the authors as the intended location to hold a picket, from 1 p.m. to 3 p.m. on three consecutive days, with the aim of drawing citizens' attention to the issues regarding the erection of a monument devoted to the 1,000th anniversary of Brest, but their request was rejected. In these circumstances and in absence of any explanations from the State party, the Committee finds the decision of the State party's authorities denying the authors' right to assemble peacefully at the public location of their choice to be unjustified. The Committee also notes, based on the material on file, that in their replies to the authors, the national authorities failed to demonstrate how a picket held in the said location would necessarily jeopardize national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. The Committee notes that the thus de facto prohibition of an assembly in any public location in the entire city of Brest, with the exception of the Lokomotiv stadium, unduly limits the right to freedom of assembly. In these circumstances, the Committee concludes that the authors' right under article 21 of the Covenant has been violated.

7.6 The Committee notes the authors' claim that their right to impart information regarding the problems that occurred in the course of the preparation of a monument dedicated to the 1,000th anniversary of Brest is protected under article 19, paragraph 2, of the Covenant. The authors assert that the restriction in question was neither justified by reasons of national security, nor public safety, public order, the protection of public health or morals, and was not necessary for the protection of the rights and freedoms of others, and was therefore a breach of their rights under article 19, paragraph 2, of the Covenant.

7.7 The Committee recalls that article 19, paragraph 3, of the Covenant allows certain restrictions only as provided by law and necessary (a) for the respect of the rights and reputation of others, and (b) for the protection of national security or public order (ordre public) or public health or morals. The Committee refers to its general comment No. 34, which states that freedom of opinion and freedom of expression are indispensable conditions for the full development of the person, and such freedoms are essential for any

society. They constitute the foundation stone for every free and democratic society.⁸ Any restriction on the exercise of such freedoms must conform to the strict tests of necessity and proportionality. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.⁹

7.8 The Committee recalls¹⁰ that it is for the State party to demonstrate that the restrictions on the authors' rights under article 19 were necessary and justified, and that even if, in principle, States parties may introduce a system aimed at reconciling an individual's freedom to impart information and the general interest of maintaining public order in a certain area, such system must not operate in a way that is incompatible with article 19 of the Covenant. The Committee notes that the State party has not submitted any observations on the merits of the present communication. However, the Committee points out that the national authorities refused to allow the authors to hold pickets at the location of their choice and thus restricted their right to impart their concerns regarding the erection of a monument dedicated to the 1,000th anniversary of Brest, solely on the grounds that according to Brest City Executive Committee Decision No. 1715 of 25 October 2006, a particular place has been designated for such mass events. In this regard, the Committee notes that the national authorities have not explained how the restrictions imposed on the authors' rights under article 19 of the Covenant were justified under article 19, paragraph 3, of the Covenant. In the circumstances, and in the absence of any information in this regard from the State party to justify the restriction for purposes of article 19, paragraph 3, of the Covenant, the Committee concludes that the authors' rights under article 19, paragraph 2, of the Covenant have been violated.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the State party has violated the authors' rights under article 19, paragraph 2, and article 21 of the International Covenant on Civil and Political Rights. The Committee reiterates its conclusion that the State party has also breached its obligations under article 1 of the Optional Protocol.

9. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the authors with an effective remedy, including reimbursement of any legal costs incurred by the authors, together with compensation. With a view to ensuring that the rights under article 21 of the Covenant may be fully enjoyed in the State party, the State party should also review the national legislation as it has been applied in the present case. The State party is also under the obligation to take steps to prevent similar violations in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give

⁸ See the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, para. 2, *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 40*, vol. I (A/66/40 (Vol. I)), annex V.

⁹ *Ibid.*, para. 22.

¹⁰ See, for example, communications No. 1830/2008, *Pivonos v. Belarus*, Views adopted on 20 October 2012, para 9.3; No. 1785/2008, *Olechkevitch v. Belarus*, Views adopted on 18 March 2013, para 8.5.

effect to the Committee's Views. The State party is also requested to publish the present Views, and to have them widely disseminated in Belarusian and Russian in the State party.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]
