



Declassified*
AS/Jur (2023) 35
8 December 2023
ajdoc35 2023

Committee on Legal Affairs and Human Rights

Abolition of the death penalty in Council of Europe member and observer states,¹ the Russian Federation, Belarus and countries whose parliaments have co-operation status² – situation report

Revised information note

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1. Introduction

1. Having been appointed General Rapporteur on the abolition of the death penalty at the Committee meeting of 12 December 2022, I have had the honour to continue the outstanding work done by Mr Vladimir Vardanyan (Armenia, EPP/CD), Mr Titus Corlătean (Romania, SOC) Mr Yves Cruchten (Luxemburg, SOC), Ms Meritxell Mateu Pi (Andorra, ALDE), Ms Marietta Karamanli (France, SOC), Ms Marina Schuster (Germany, ALDE), and, before her, Ms Renate Wohlwend (Liechtenstein, EPP/CD).³

2. This document updates the previous information note regarding the development of the situation since December 2021, which was considered at the Committee meeting (held in a hybrid manner) on 7 December 2021.

3. This note will, first, provide a brief overview of the international and European legal framework, and then highlight the current situation in states that have abolished the death penalty only for ordinary crimes, those that provide for the death penalty in their legislation but do not implement it and those that actually do apply it. It refers to Council of Europe member States, former member States (Russian Federation), observer states (the United States of America, Japan and Israel), states whose parliaments hold “partner for democracy” or neighbourhood co-operation status (Kazakhstan)⁴ and Belarus. Since March 2012, the Parliamentary Assembly’s general rapporteurs have issued public statements relating to executions and death sentences in these states or have proposed that the Committee adopt statements condemning capital punishment as contrary to the prohibition of torture, inhuman and degrading treatment. It is an honour for me to continue this work. Accordingly, since I took up my mandate, I have issued several statements, which, *inter alia*, condemned a death sentence that had been issued in Belarus, as well as addressed issues of abolition of the death penalty that occurred in different countries.

* Document declassified by the Committee on 30 November 2023.

¹ Including Israel, whose parliament (the Knesset) has observer status.

² Both the “partners for democracy” (the parliaments of Jordan, Morocco, Kyrgyzstan and the Palestinian National Council) and Kazakhstan (with co-operation status on the basis of a co-operation agreement signed in 2004).

³ See also her report on “The death penalty in Council of Europe member and observer states: a violation of human rights”, [Doc 12456](#), and Assembly [Resolution 1807 \(2011\)](#) on this subject, adopted on 14 April 2011.

⁴ Kazakhstan is in particular a party to several Council of Europe conventions and its parliament signed a co-operation agreement with the Assembly in 2004. For more details on its co-operation with the Council of Europe, see Assembly [Resolution 2193 \(2017\)](#) on the relations of the Council of Europe with Kazakhstan, adopted by the Standing Committee on 24 November 2017 and the document [Neighbourhood Co-operation Priorities for Kazakhstan for the period of 2019-2023](#) adopted by the Committee of Ministers at its 1343rd meeting on 4 April 2019

2. The international and European legal framework and states' practice

4. In international law, Article 6 of the International Covenant on Civil and Political Rights (ICCPR) expressly states that “(e)very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” In paragraph 2, it refers to the requirements to comply with the law of treaties and to observe the procedural guarantees for executions in non-abolitionist states, which may only impose a death sentence “for the most serious crimes”. This penalty “can only be carried out pursuant to a final judgement rendered by a competent court”. The Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, provides for the abolition of the death penalty in all circumstances, even for the most serious crimes or in wartime.⁵ It has been ratified by 90 States. With Armenia's ratification on 18 March 2021, all member States of the Council of Europe have ratified the protocol. However, the Russian Federation which was a member of the Council of Europe between 1996-2022 has not yet adhered to this protocol. Kazakhstan ratified it on 24 March 2022. Moreover, Article 37(a) of the International Convention on the Rights of the Child prohibits capital punishment for persons under 18 years of age. The international community has also adopted numerous instruments that prohibit the use of the death penalty.⁶ For example, according to some resolutions of the UN Economic and Social Council, a pregnant woman, a mother of a young child or a disabled or mentally ill person must not be executed either.⁷ Limitations to the use of the death penalty in wartime are also included in the provisions of international humanitarian law (IHL), in particular two Geneva Conventions: relative to the Treatment of Prisoners of War (Third Geneva Convention) and relative to the Protection of Civilian Persons in Time of War, both adopted on 12 August 1949.⁸ On 10 October 2022, on the occasion of the World Day Against the Death Penalty, the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur on extrajudicial summary or arbitrary executions published a joint declaration addressing the relationship between the death penalty and the absolute prohibition of torture.⁹ On 15 December 2022, the UN General Assembly adopted the 9th resolution on a moratorium on the use of the death penalty, supported by a record 125 votes (2 more than in 2020), including all member States of the Council of Europe, as well as some observer States and States having a cooperative status such as Canada, Mexico, Israel, Jordan, Kazakhstan and Kyrgyzstan.¹⁰

5. At the regional level, the European framework provides more protection. At the Council of Europe, in addition to the right to life guaranteed by Article 2 of the European Convention on Human Rights (“the Convention”), Protocol No. 6 to the Convention, which was signed on 28 April 1983 and came into force on 1 March 1985, abolishes the death penalty in peacetime. It has been ratified by all 46 member States (the Russian Federation only signed it, while still being a member).¹¹ Protocol No. 13, which was signed on 3 May 2002 and came into force on 1 July 2003, abolishes the death penalty in all circumstances. The latter has been signed and ratified by forty-five member States, most recently by Armenia on 19 October 2023. The Russian Federation never signed it, whereas Azerbaijan has signed but not ratified it.¹² Even though the death penalty is not explicitly prohibited in the text of Article 2 of the Convention, developments in the case-law of the European Court of Human Rights (“the Court”), particularly with regard to Article 3 of the Convention, which

⁵ Adopted and proclaimed by the UN General Assembly in resolution 44/128 of 15 December 1989. However, States Parties to the Protocol have the possibility to make a reservation at the time of ratification or accession providing for the application of the death penalty in times of war.

⁶ Universal Declaration of Human Rights of 1948 and eight resolutions of the UN General Assembly: resolution 62/149 (December 2007), resolution 63/168 (December 2008), resolution 65/206 (December 2010), resolution 67/176 (December 2012), resolution 69/186 (December 2014), resolution 71/187 (2016), resolution 73/175 (2018) and resolution 75/183 (2020).

⁷ Resolution 1984/50: Safeguards guaranteeing the protection of the rights of those facing the death penalty, 25 May 1984 – UN Economic and Social Council. Resolution 1989/64: implementation of the safeguards guaranteeing the protection of the rights of those facing the death penalty – UN Economic and Social Council.

⁸ As regards prisoners of war, see Articles 101, 102 and 107 of the Third Geneva Convention, and, as regards, civilians, see Articles 68 and 75 of the Fourth Geneva Convention.

⁹ [UN experts warn of associated torture and cruel punishment](#), OHCHR, 10 October 2022.

¹⁰ The US and Japan voted against, and Morocco abstained.

¹¹ As of 8 November 2023. ETS No. 114; <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=114>.

¹² As of 8 November 2023. ETS No. 187; <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=187>. On Azerbaijan's signature of Protocol No. 13, see: <https://www.coe.int/en/web/abolition-death-penalty/-/azerbaijan-signed-protocol-no.-13-to-the-convention-for-the-protection-of-human-rights-and-fundamental-freedoms-concerning-the-abolition-of-the-death-penalty-in-all-circumstances>. On Armenia's ratification, see: <https://www.coe.int/en/web/abolition-death-penalty/-/the-council-of-europe-welcomes-the-ratification-by-armenia-of-protocol-no.-13-to-the-convention-for-the-protection-of-human-rights-and-fundamental-freedoms-concerning-the-abolition-of-the-death-penalty-in-all-circumstances-ets-no.-187>.

prohibits torture and inhuman or degrading treatment or punishment, show that this penalty has become obsolete and contrary as such to the Convention. Accordingly, in the Court's view, the obligations of the States Parties to the Convention and its protocols also prohibit the extradition or expulsion of individuals to countries where they face the death penalty. Such extradition or expulsion would then constitute a violation of Article 3. It will be recalled that in the *Soering v. the United Kingdom*¹³ judgment of 1989, the Court found a violation in the UK authorities' intention to send the applicant to the United States where there was a risk that he would spend several years on "death row", pending his execution. In the 2005 *Öcalan v. Turkey* judgment,¹⁴ the Court concluded that the application of the death penalty delivered following an unfair trial would be in breach of Article 3 of the Convention and held that the use of the death penalty in peacetime was unacceptable. In the *Al-Saadoon and Mufdhi v. the United Kingdom*¹⁵ judgment of 2010, in the light of the progress made regarding the abolition of the death penalty, the Court concluded for the first time that the death penalty was inhuman or degrading treatment irrespective of the circumstances in which it was delivered or applied (violation of Article 3) and that Article 2 had been amended so as to prohibit the death penalty in all circumstances. Furthermore, in *Al Nashiri v. Poland*¹⁶, concerning the transfer of an alleged terrorist to the United States despite the risk that he could be sentenced to death, the Court found that there had been a violation of Articles 2 and 3 of the Convention in conjunction with Article 1 of Protocol No. 6. In connection with the supervision of the execution of this judgment, the Committee of Ministers urged Poland to ensure that such a sentence was not imposed on him in the United States.¹⁷ Afterwards, the Court delivered similar judgments in many cases such as *Al Nashiri v. Romania*¹⁸, *A.L. (X.W.) v. Russia*¹⁹ and *M.A. and Others v. Bulgaria*²⁰. More recently, the Court has adopted important interim measures, under Rule 39 of the Rules of Court, for three individuals who have been sentenced to death in the context of the Russian full-scale invasion of Ukraine. In the *Saadoune v. Russia and Ukraine*²¹ case, concerning a Moroccan national, member of the Armed Forces of Ukraine who surrendered to the Russian forces during recent hostilities and has since been sentenced to death in the so-called "Donetsk People's Republic", the Court indicated that the Government of the Russian Federation should ensure that the death penalty imposed on the applicant would not be carried out, ensure appropriate conditions of his detention, and provide him with any necessary medical assistance and medication. The same interim measures have been granted by the Court in the *Pinner v. Russia and Ukraine*²² and *Aslin v. Russia and Ukraine*²³ cases concerning two British nationals in the same context.

6. The Committee of Ministers held a thematic discussion on the abolition of the death penalty on 5 April 2023, with the participation of speakers who gave testimonies based on their personal experience. On the same day, it adopted a set of decisions on the abolition of the death penalty. It notably reiterated the Council of Europe's aim to have a death penalty-free zone in Europe and beyond, called on member States to stand firm in their commitment in this respect and encouraged initiatives to promote the global abolition of capital punishment.²⁴ At the 4th Council of Europe Summit held last May in Reykjavik, the Heads of State and Government declared that: "the Council of Europe has played a crucial role to ensure that Europe is a death penalty free-zone and it should pursue the fight against the reintroduction of the death penalty, and in favour of its universal abolition, in all places and in all circumstances". On 27 September 2023, in line with the Reykjavik Summit Declaration, the Committee of Ministers reaffirmed its unequivocal opposition to the death penalty and reiterated the Council of Europe's aim to pursue the fight against its reintroduction and in favour of its universal abolition.²⁵ It also recalled the relevance of the case-law of the Court, particularly in the context of the 21st World Day Against the Death Penalty dedicated to the relationship between the use of the death penalty and torture or other cruel, inhuman, and degrading treatment or punishment.

¹³ Judgment of 7 July 1989, Application No. 14038/88.

¹⁴ Judgment of 12 May 2005, Application No. 46221/99.

¹⁵ Judgment of 2 March 2010, Application No. 61498/08.

¹⁶ *Al Nashiri v. Poland*, Judgment of 24 July 2014, Application No. 28761/11.

¹⁷ See the latest decision of the Committee of Ministers adopted at their 1475th meeting (DH) (19-21 September 2023) CM/Del/Dec(2023)1475/H46-24 and the report by our Committee colleague, Mr Constantinos Efstathiou (Cyprus, SOC), on "The implementation of judgments of the European Court of Human Rights", which discusses this question in detail, [Doc. 15123](#), Section 4.4.

¹⁸ *Al Nashiri v. Romania*, judgment of 31 May 2018, Application No. 33234/12. See also the latest decision of the Committee of Ministers adopted at their 1451st meeting (DH) (6-8 December 2022) CM/Del/Dec(2022)1451/H46-26.

¹⁹ *A.L. (X.W.) v. Russia*, Judgment of 29 October 2015, Application No. 44095/14

²⁰ *M.A. and Others v. Bulgaria*, Judgment of 20 February 2020, Application No. 5115/18.

²¹ *Saadoune v. Russia and Ukraine*, Application No. 28944/22, pending case, Interim measures indicated on 16 June 2022.

²² *Pinner v. Russia and Ukraine*, Application no. 31217/22, pending case, Interim measures indicated on 29 June 2022.

²³ *Aslin v. Russia and Ukraine*, Application No. 31233/22, pending case, Interim measures indicated on 29 June 2022.

²⁴ <https://www.coe.int/en/web/abolition-death-penalty/-/committee-of-ministers-hears-testimony-from-former-death-row-prisoner-during-discussion-on-death-penalty-abolition>. See [CM/Del/Dec\(2023\)1462/4.1](#).

²⁵ See [CM/Del/Dec\(2023\)1476/4.3](#).

7. According to the World Coalition Against the Death Penalty²⁶ there are currently 112 countries that have abolished the death penalty. These include all the Council of Europe member States, along with Assembly observers Canada and Mexico, as well as Kyrgyzstan, whose parliament has Partner for Democracy status with the Assembly, and Kazakhstan. Nine states have abolished the death penalty for ordinary crimes only, including Israel (an Assembly observer), and 23 e provide for the death penalty in their legislation but have not conducted any execution at least for the last 10 years, including Morocco (whose parliament has Partner for Democracy status) and the Russian Federation (former member). This means that, in all, 144 countries (more than two thirds of the world's countries) have abolished the death penalty in law or in practice. Lastly, there are 55 states whose law provides for the death penalty for ordinary crimes and still carry it out (retentionist states), including the US and Japan (both Council of Europe observer states), Jordan Belarus and Palestine (whose legislative council has Partner for Democracy status). 20 countries carried out executions in 2022, including Belarus, Japan, Palestine and the United States. The top five executioners in 2022 were, in descending order: China, Iran, Saudi Arabia, Egypt and the United States. However, important positive steps are being taken across the world on the prohibition of capital punishment. Since January 2017, at least six countries (Guinea, Sierra Leone, Kazakhstan, Papua New Guinea, the Central African Republic and Suriname) have abolished the death penalty for all crimes.²⁷ Equatorial Guinea, Burkina Faso, Zambia and most recently in 2023 Ghana have abolished it for ordinary crimes only, and Chad for terrorist crimes (thus becoming fully abolitionist). The US administration established a temporary moratorium on federal executions in July 2021 and Virginia became the 23rd state to abolish capital punishment on 24 March 2021. Gambia, the Maldives and Sri Lanka continued to observe official moratoriums on executions. Malaysia took steps towards abolishing the mandatory death penalty²⁸, while the Parliament of Indonesia adopted a new criminal code that, once effective in 2026, would allow for the commutation of death sentences after 10 years under certain conditions.

8. According to the Amnesty International report, "Death sentences and Executions 2022",²⁹ published in 2023, at least 883 executions (out of which 13 concerned women, 12 in Iran and 1 in Saudi Arabia) were known to have taken place globally in 2022. The number of executions recorded in 2021 was the highest since 2017. In 2022, the number of known death sentences slightly decreased (from at least 2,052 in 2021 to at least 2,016 in 2022). Three countries (in descending order Iran, Saudi Arabia and Egypt) accounted for 90% of all known executions. Death sentences were handed down in 52 States. At the end of 2022, 28,282 people were known to be under a sentence of death. It should be noted that these figures do not include all the executions carried out in China where data on the use of the death penalty remain classified as a state secret and where thousands of executions were probably carried out in 2022. Neither do they include the exact number of sentences imposed in certain countries, such as Nigeria and Sri Lanka. The methods of executions used in 2022 included beheading, hanging, lethal injections and shooting. Commutations or pardons of death sentences were recorded in 26 States (among others, in Morocco, Kazakhstan and the United States).

9. The death penalty continued to be applied in ways that violated international law and standards in 2022. In Iran, two public executions were recorded; and at least 5 people were executed for crimes that occurred when they were below 18 years of age. People with mental or intellectual disabilities were under sentence of death in several countries, including Iran, Japan and the United States. Moreover, death sentences were imposed after proceedings that did not meet international fair trial standards in numerous countries, including Belarus, China, Egypt, Iran and Singapore. The death penalty was used for crimes that did not involve intentional killing, and therefore did not meet the threshold of "most serious crimes" under Article 6 of the International Covenant on Civil and Political Rights; for instance, for drug-related offences (China, Iran, Saudi Arabia, Singapore, Indonesia, Thailand) and different forms of treason and crimes against the state (Iran, Saudi Arabia).³⁰ In Saudi Arabia, on a single day in March 2022 the authorities carried out the mass execution of 81 people, convicted of a wide range of offences, including terrorism-related. It was reported that some of these men had been convicted of crimes related to their participation in anti-government protests and/or following trials that did not meet fair trial guarantees.³¹ On 29 October 2022, the Islamic Revolution Court in Tehran province charged eight people with crimes carrying the death penalty, namely "waging war against God" or "moharebeh" and "corruption on earth".³² Iran conducted the first known execution in relation to recent

²⁶ <https://worldcoalition.org/document/21st-world-day-facts-and-figures-2023/>, as of 12 June 2023.

²⁷ Four of which (Sierra Leone, Kazakhstan, Papua New Guinea and the Central African Republic) in 2022.

²⁸ [Malaysia and the Politics Behind the Death Penalty: A Tumultuous Relationship. - WCADP \(worldcoalition.org\)](#), 24 October 2022.

²⁹ Amnesty International, Death sentences and executions 2022, May 2023.

³⁰ Ibid, pp. 13-14.

³¹ <https://www.amnesty.org/en/latest/news/2022/03/saudi-arabia-mass-execution-of-81-men-shows-urgent-need-to-abolish-the-death-penalty/>, 15 March 2022. [Comment by UN High Commissioner for Human Rights Michelle Bachelet on the execution of 81 people in Saudi Arabia | OHCHR](#), 14 March 2022.

³² [Iran: Stop sentencing peaceful protesters to death, say UN experts | OHCHR](#), 11 November 2022

anti-government protests (triggered by the death in custody of Mahsa Amini) by hanging a man on 8 December 2022.³³ Other individuals have reportedly been executed, sentenced to death or charged with offences carrying the death penalty in connection with these protests.³⁴ According to the UN Special Rapporteur on the situation of human rights in Iran, there has been an alarming increase in the number of executions, including following unfair trials and after the systemic use of torture. As of 31 July 2023, 419 people had reportedly been executed, including at least 239 for drug-related offences and 10 women.³⁵ According to NGOs, this figure has steadily increased.

3. The situation country by country

3.1. Russian Federation

10. As a Council of Europe member state, the Russian Federation first signed Protocol No. 6 in April 1997. However, the Russian parliament had not yet ratified it when it was excluded from the Council of Europe on 16 March 2022. It never signed Protocol No.13. In 2008, the Russian Federation voted for the UN resolution for a global moratorium on executions. There have been no executions in the country since 1999³⁶. The Russian Constitutional Court has played an active part in the *de facto* abolition of the death penalty in the Russian Federation. First, it prohibited death sentences until jury trials were established throughout the country. In autumn 2009, the Supreme Court asked the Constitutional Court if the introduction of a jury system by Chechnya³⁷ planned for 1 January 2010 meant the end of the moratorium and would therefore enable the resumption of death sentences.³⁸ Subsequently, on 19 November that year, the Constitutional Court decided to extend the moratorium indefinitely on the ground that it was a process that reflected “a trend in international law and was in accordance with the commitments entered into by the Russian Federation”. Following that decision, 697 death sentences were commuted to life imprisonment.³⁹ The Russian Federation voted in favour of the ninth resolution on a moratorium on the use of the death penalty at the UN General Assembly in December 2022.

11. Following the Russian Federation’s full-scale invasion of Ukraine launched on 24 February 2022, Dmitry Medvedev, the country’s Deputy chairman of the Security Council, commented on the suspension of Russia from the Council of Europe and said that this was a “good opportunity to restore a number of important institutions to prevent especially serious crimes, such as the death penalty for the most dangerous criminals.”⁴⁰ At the same time, the President of the Russian Federation’s stance against the return of the capital punishment has not changed.⁴¹ It is known that the Russia-backed separatists in eastern Ukraine do not apply the moratorium on the death penalty.⁴² Besides the above-mentioned death sentences against two British and a Moroccan national, two captured US volunteers also risked facing the death penalty. The Kremlin spokesperson said at the time that the US volunteers involved in the war were not covered by the Geneva Conventions⁴³. It is alleged by legal experts that the death sentences are imposed to discourage foreign volunteers from joining Ukraine’s military.⁴⁴ Some of these foreign volunteers were later released in prisoner exchange deals.

³³ [Iran carries out first known execution over anti-government protests | Iran | The Guardian](https://www.theguardian.com/world/2022/dec/08/iran-carries-out-first-known-execution-over-anti-government-protests), 8 December 2022.

³⁴ <https://www.ohchr.org/en/statements/2023/07/oral-update-sara-hossain-chairperson-independent-international-fact-finding>; <https://news.un.org/en/story/2023/05/1136852>, 19 May 2023.

³⁵ <https://reliefweb.int/report/iran-islamic-republic/report-special-rapporteur-situation-human-rights-islamic-republic-iran-javaid-rehman-a78326-enarruzh>.

³⁶ The Russian Federation introduced a moratorium on executions in August 1996. However, executions were carried out between 1996 and 1999 in the Chechen Republic.

³⁷ The last Russian republic without a system of jury trials.

³⁸ [La Russie s'éloigne de la peine de mort](https://www.lemonde.fr/international/article/2009/11/19/la-russie-s-eloigne-de-la-peine-de-mort_1177117_3218.html), *Le Monde*, 19 November 2009.

³⁹ Amnesty International, *Death sentences and executions 2010*, 28 March 2011, p. 25.

⁴⁰ <https://thebarentsobserver.com/en/security/2022/02/dmitry-medvedev-calls-russia-reintroduce-death-penalty>, 26 February 2022.

⁴¹ [Putin says stance against restoring death penalty remains unchanged - Society & Culture - TASS](https://tass.com/society/1547407) : <https://tass.com/society/1547407>, 7 December 2022.

⁴² <https://ria.ru/20220708/donbass-1801221525.html>

⁴³ [US volunteer fighters captured in Ukraine could face death penalty, says Russia | Ukraine | The Guardian](https://www.theguardian.com/world/2022/jun/21/us-volunteer-fighters-captured-in-ukraine-could-face-death-penalty-says-russia), 21 Jun 2022. They were later released in a prisoner exchange in September 2022.

⁴⁴ <https://www.nytimes.com/2022/06/09/world/europe/ukraine-army-death-sentence-russia.html>

3.2. United States of America

12. The United States ratified the International Covenant on Civil and Political Rights on 8 June 1992, making a reservation to Article 6, which enshrines the right to life, but it has not acceded to the Second Optional Protocol, aiming at the abolition of the death penalty. The United States has had Council of Europe observer status since 1996. Of the 50 US federal states, 23 (plus the District of Columbia) have abolished the death penalty⁴⁵ and five⁴⁶ have official or unofficial moratoriums on executions. In October 2018, the Supreme Court of the state of Washington declared the state's death penalty statute unconstitutional.⁴⁷ Virginia abolished the death penalty for all crimes on 24 March 2021.⁴⁸ Legislators in Ohio have debated the use of capital punishment for nearly a decade and, on 6 September 2023, a bipartisan group of Ohio state representatives reintroduced a bill to abolish the death penalty and replace it with life in prison without parole.⁴⁹ In September 2021, Utah began to assess a bill that would repeal the death penalty; this however failed in the State House Committee in February 2022.⁵⁰ By contrast, Mississippi set a new execution for November 2021, for the first time since 2012,⁵¹ and, in March 2021, the Wyoming State Senate refused to adopt a bill repealing the death penalty.⁵² Most recently, in October 2023, a death penalty repeal bill was voted successfully in a committee of the Pennsylvania House of Representatives.⁵³

13. At the federal level, after a 17-year hiatus, 13 executions were carried out under President Donald Trump's administration between July 2020 and January 2021.⁵⁴

14. The first federal execution took place on 14 July 2020, when Daniel Lewis Lee, convicted for a family murder, was put to death by lethal injection at the federal penitentiary in Terre Haute (Indiana). The execution had been blocked due to legal challenges based on use of the single-drug technique (pentobarbital) and the complications of carrying out the death penalty during a pandemic. The Supreme Court delivered an unsigned 5-to-4 ruling hours before the execution, allowing the single-drug use and upholding former decisions by the Supreme Court and appeals courts which had allowed Mr Lee's execution to proceed, as well as those of Wesley Purkey (convicted for a rape and a murder of a teenager) on 16 July 2020 and Keith Nelson (convicted for a murder of a girl) on 28 August 2020. Dustin Lee Honken, who had been convicted for a murder of two girls by the federal court in Iowa, was put to death on 17 July 2020; he despite the State of Iowa having abolished the death penalty in 1965.⁵⁵ On 26 August 2020, native American Lezmond Mitchell was executed for murders that had occurred on Navajo tribal land (which raised sovereignty concerns related to the Navajo Nation). The Federal Death Penalty Act of 1994 allowed tribal governments to "opt in" to capital punishment, but the Attorney General authorised a capital prosecution against Mitchell even though the Navajo Nation had not only declined to "opt in" but had actively objected. Two more executions took place in September 2020 – William Lecroy, convicted for a murder, was put to death on 22 September 2020, and Christopher Vialva, convicted for a murder of a couple that he had committed at the age of 19, on 24 September. In November 2020, one execution took place (of Orlando Hall, on 19th) and in December 2020 – two (of Brandon Bernard on 10th and of Alfred Bourgeois on 11th). On 13 January 2021, Lisa Montgomery, who had suffered from mental disorders and had been sexually and physically abused by her father, was executed.⁵⁶ The last three executions by the U.S. federal government took place on 13 January 2021 (Lisa Montgomery), 14 January 2021 (Corey Johnson) and 16 January 2021 (Dusting Higgins).⁵⁷ Since the reinstatement of the federal death penalty in 1988, sixteen people have been executed under federal jurisdiction by the United States

⁴⁵ See <https://deathpenaltyinfo.org/states-and-without-death-penalty> (as of 10 November 2023).

⁴⁶ California (since 2019), Oregon (2011), Pennsylvania (2015), Ohio (2020) and Arizona (2023).

⁴⁷ See *State v. Gregory*. The Washington's Supreme Court ruled that the system of death penalty used by the state was arbitrary and racially discriminatory.

⁴⁸ [Virginia governor signs historic bill abolishing death penalty into law](#), CNN, 24 March 2021. See also [statement](#) of 26 March 2021.

⁴⁹ [Advocates Remain Hopeful Ohio Will Abolish The Death Penalty](#), Statehouse News Bureau, 21 September 2021; [Ohio General Assembly Resumes Bipartisan Efforts to Abolish the Death Penalty](#), 12 September 2023.

⁵⁰ [Utah legislature to consider 'repeal and replace' of death penalty](#), Fox 13, 8 September 2021; [Effort to Repeal and Replace Utah's Death Penalty Fails on 6–5 Vote in State House Committee](#), Death Penalty Information Center, 17 February 2022.

⁵¹ [Mississippi preps for 1st execution since 2012](#), Death Penalty Information Center, 25 October 2021.

⁵² [Wyoming State Senate Defeats Bill to Repeal the Death Penalty](#), Death Penalty Information Center, 19 March 2021.

⁵³ [Pennsylvania House Committee Passes Death Penalty Repeal Bill](#), 7 November 2023.

⁵⁴ [US carries out last federal execution before Trump leaves](#), Deutsche Welle, 16 January 2021.

⁵⁵ [Federal Government Executes Corey Johnson, Who was Likely Intellectually Disabled, Without Any Judicial Review of His Eligibility for the Death Penalty](#), Death Penalty Information Center, 14 January 2021.

⁵⁶ [Lisa Montgomery: US executes only woman on federal death row](#), BBC, 13 January 2021. See also [statement](#) of 20 January 2021.

⁵⁷ [Dustin Higgs: Final execution of Trump presidency is carried out](#), BBC, 16 January 2021.

federal government, out of which thirteen in the period between July 2020-January 2021⁵⁸. There are currently 41 inmates on the federal death row.⁵⁹

15. On 1 July 2021, Attorney General Merrick Garland imposed a moratorium on the federal death penalty in order to review the provisions that govern executions.⁶⁰ This step was welcomed by the European Union⁶¹ as well as by my predecessor⁶². Nevertheless, there are still concerns that the moratorium covers only executions and does not extend to death sentences issued by courts, thereby increasing the number of people on death row. This problem is particularly acute in cases where the Department of Justice continued to seek the death penalty despite the moratorium.⁶³

16. Again, according to the Death Penalty Information Center (DPIC), as of 1st of January 2023 a total of 2,331 people were under sentence of death in the United States of America (most of them in California, Florida, Texas, Alabama, North Carolina, Ohio, Pennsylvania and Arizona).⁶⁴ As of November 2023, 21 prisoners have been executed in five states in 2023. 18 prisoners were executed in six states in 2022. 23 executions are scheduled for 2024. The number of death sentences significantly decreased in the last decade: from 83 in 2013 to 21 in 2022.⁶⁵ According to Amnesty International, the decreases can be partly explained by the legal challenges that resulted in the revision of lethal injection protocols or problems faced by states in obtaining substances used in lethal injection procedures as well as delays caused by the Covid-19 pandemic. Since the 1970s, 1581 executions have been carried out in the United States, most executions have been concentrated in a limited number of states, mostly southern States of the country⁶⁶. Texas remains the leading executing state in the country, carrying out 586 of the total number of executions since 1976. Many non-abolitionist states have not carried out an execution for at least ten years (e.g. California, Nevada or South Carolina).

17. According to the Death Penalty Information Center, since July 2010 almost all executions in the United States have been by lethal injection (with the exception of a small number of executions by electrocution). Several states use a mixture of three drugs: an anaesthetic or sedative, a paralysing agent and a drug to stop the heart. However, in the last few years the United States has encountered difficulties in procuring products for this purpose, especially anaesthetics, and has consequently resorted to questionable or even secret products or experimental combinations of substances, such as midazolam (a sedative the real effects or even origin of which are not known), pentobarbital or fentanyl (an opioid used as a pain medication). This difficulty can be partly put down to the fact that some European pharmaceutical groups refuse or no longer are allowed to export products for execution purposes. There are major consequences of this situation: some condemned inmates die in agony over an inordinately long period⁶⁷, with many witness reports of botched executions and cases showing that prison staff are not always qualified to carry out death sentence decisions (see, for example, the cases of, Alva Campbell⁶⁸ or Doy Lee Ham).⁶⁹ In addition, after the release on 5 July 2018 of a revised protocol for lethal injections, 33 death row inmates in Tennessee brought a civil action because of the lack of clarity with regard to the new rules governing executions by means of the controversial use of a mixture of drugs, including midazolam.⁷⁰ Furthermore, some drug companies have even brought legal proceedings

⁵⁸ [Executions Under the Federal Death Penalty | Death Penalty Information Center](#)

⁵⁹ [List of Federal Death Row Prisoners](#), Death Penalty Information Center.

⁶⁰ [Moratorium on federal executions pending review of policies and procedures](#), Attorney General Merrick Garland, 1 July 2021.

⁶¹ [US: Statement by the Spokesperson on halting federal executions](#), EU, 3 July 2021.

⁶² [United States: the rapporteur on the abolition of the death penalty welcomes the announcement of the temporary halt of federal executions](#), 6 July 2021.

⁶³ [Supreme Court considers Boston Marathon bomber death sentence as Biden halts executions](#), Abc News, 13 October, 2021; [Supreme Court Overturns Appeals Court Decision Reversing Death Sentence in Boston Marathon Bombing](#), Death Penalty Information Center, 7 March 2022; [EDITORIALS: The Pittsburgh Post-Gazette Calls on the Justice Department to 'Drop the Death Penalty' in Synagogue Shooting](#), Death Penalty Information Center, 12 April 2023. See however [Federal Government Announces Withdrawal of Intent to Seek Death in North Dakota Case](#), Death Penalty Information Center 22 March 2023.

⁶⁴ [Death row overview](#), Death Penalty Information Center.

⁶⁵ [Facts about the death penalty](#), Death Penalty Information Center.

⁶⁶ [Executions Overview | Death Penalty Information Center](#).

⁶⁷ [Botched executions](#), Death Penalty Information Center.

⁶⁸ See Mr Cruchten [statement](#) of 16 November 2017 on the “failed” execution of Alva Campbell.

⁶⁹ Tracy Connor, [Lawyer describes aborted execution attempt for Doyle Lee Hamm as 'torture'](#), NBC News, 25 February 2018.

⁷⁰ [Tennessee: Inmate's lawyers look for holes in lethal injection rules during penalty challenge](#), 13 July 2018, Death Penalty News.

against states that use their products, including midazolam, in executions.⁷¹ For example, in July 2018, an American drug company brought legal proceedings against the state of Nevada, and, as a result of it, in September 2018, the execution of Scott Raymond Dozier was halted.⁷² Moreover, in July 2021, both Nebraska⁷³ and Nevada⁷⁴ confirmed that they do not have the drugs necessary to execute death row inmates. A six-year-old lawsuit against the lethal-injection protocol in Oklahoma was reactivated in July 2020. The prisoners' complaint was supported by new evidence that the State's intended three-drug method creates "significant risks of pain and suffering", alleged that midazolam failed to render the prisoner insensate and posed "an objectively intolerable risk of substantial harm" that was "sure or very likely to occur" and challenged the training protocols, which were "unclear and incomplete."⁷⁵ However, on 6 June 2022 a federal judge in Oklahoma ruled that that the state's three-drug lethal injection method is constitutional⁷⁶, and a federal appeal courts upheld the judgment in October 2022.⁷⁷ In 2021, an inmate (John Grant) vomited during an execution in Oklahoma, but the Department of Corrections refused to amend its execution protocol.⁷⁸ So far, courts have rejected challenges against the use of midazolam.⁷⁹

18. In 2008, the US Supreme Court ruled lethal injections constitutional; this position was also reaffirmed in the *Glossip v. Gross* judgment of 2015, in which it upheld the use of midazolam.⁸⁰ Some states are trying to get around the shortage of the drug normally used for lethal injections by testing new substances (such as fentanyl, which was used for the first time in a four-drug combination in Nebraska in the execution of Carey Dean Moore).⁸¹ Others are considering other execution methods. Since 2018, Tennessee has re-introduced electrocution as a choice of the prisoner. Similarly, in South Carolina a bill was passed in 2021 in order to change the main method of execution, making electrocution the default method of execution and adding the firing squad as a second alternative. This is being challenged before the Supreme Court of the State.⁸² Utah authorizes the use of the firing squad if lethal injection drugs are unavailable.⁸³ Alabama asked a Tennessee company's assistance to develop a new controversial protocol with nitrogen hypoxia, which deprives the condemned of oxygen.⁸⁴ Mississippi, Alabama and Oklahoma have all authorised such a method of execution.⁸⁵ On the occasion of the 21st World Day Against the Death Penalty, I raised my concerns that this method of execution, considered unacceptable by veterinarians as a form of euthanasia for animals, could potentially contribute to an even greater degree of pain and suffering.⁸⁶ Finally, in June 2021, Arizona revealed its intention to use its refurbished gas chamber for executions, in cases where death row prisoners choose such a method instead of lethal injection.⁸⁷

⁷¹ *Drug companies don't want to be involved in executions, so they're suing to keep their drugs out*, *Washington Post*, 13 August 2018.

⁷² *Nevada delays its first execution in 12 years after a drug company objects*, 12 July 2018, Death Penalty News and *Judge stops Nevada from using drug in execution*, *Las Vegas Review-Journal*, 28 September 2018.

⁷³ *Difficulty accessing lethal injection drugs as Nebraska death row adds new member*, Death Penalty Information Center, 12 July 2021.

⁷⁴ *Nevada's execution drugs expiring as legal battle continues*, Death Penalty Information Center, 4 July 2021.

⁷⁵ *Execution Lawsuits Settle in Arizona and California, as Prisoners Renew Lethal-Injection Protocol Challenge in Oklahoma*, Death Penalty News, 6 August 2020.

⁷⁶ *Oklahoma judge rules against death row inmates in case challenging execution protocol*, NPR, 6 June 2022.

⁷⁷ *Oklahoma death row inmates lose on appeal in challenge to execution protocol*, *The Oklahoman*.

⁷⁸ *Oklahoma won't change its death penalty protocol after execution of John Grant*, Death Penalty Information Center, 31 October 2021.

⁷⁹ *Arkansas Federal Court Rejects Death-Row Prisoners' Challenge to State's Use of Midazolam in Executions*, Death Penalty News, 4 June 2020.

⁸⁰ *Indiana DOC doesn't have the drugs to execute death row inmates*, Associated Press, 19 August 2019.

⁸¹ *Supreme Court Narrowly Upholds Use of Lethal Injection Drug*, Death Penalty Information Center, 29 June 2015.

⁸² *Proposed SC bill would make electrocution main method of execution for death penalty inmates*, WMBF News, 17 January 2019. <https://www.greenvilleonline.com/story/news/2023/01/05/sc-supreme-court-to-decide-legality-of-electric-chair-firing-squad/69780550007/>, 5 January 2023.

⁸³ *Utah Judge Hears Argument in Prisoners' Lawsuit Against Execution Protocol*, 8 November 2023.

⁸⁴ *Sick and Shrouded in Secrecy: Alabama's Contract to Gas Humans to Death*, Counterpunch, 5 November 2019.

⁸⁵ *Alabama | Use of Nitrogen Hypoxia for Executions Could Endanger Spiritual Advisors and Prison Staff in the Execution Chamber*, 1 November 2023. *Alabama Attorney General Seeks Execution with Unprecedented, Untested Method Using Nitrogen Hypoxia | Death Penalty Information Center*, 28 August 2023.

⁸⁶ *'The death penalty is a relic of the past, a barbaric and inhuman practice that has no place in modern society', says PACE General Rapporteur (coe.int)*, 9 October 2023.

⁸⁷ *Arizona botched purchase of gas chamber chemical in effort to resume executions: lawyers*, Death Penalty Information Center, 5 June 2021. <https://news.azpm.org/s/95491-arizona-prisoner-to-die-by-lethal-injection-not-gas-chamber/>, 26 October 2022. <https://deathpenaltyinfo.org/news/arizona-jewish-community-sues-to-bar-state-from-executing-prisoners-with-gas-nazis-used-in-holocaust>, 22 February 2022.

19. The use of the death penalty in the United States also raises concerns with regard to the people executed. Although this is prohibited by international law and the Eighth Amendment to the United States Constitution, the United States has on several occasions executed death row inmates who were likely suffering from a mental disorder. According to some researchers, about one-fourth of people executed in the U.S.A. had a history of being diagnosed with a mental illness.⁸⁸ In particular, one of my predecessors, Mr Cruchten, was extremely shocked by the execution of Charles Morva, who had suffered from a mental disorder, in Virginia on 6 July 2017.⁸⁹ On 9 August 2018, Tennessee executed Billy Ray Irick, who showed signs of mental illness and, according to some witnesses, had not been sufficiently anaesthetised.⁹⁰ In August 2019, Tennessee executed, by electric chair, Stephen West, who had been receiving mental health treatment in prison.⁹¹ On 5 October 2021, Ernest Johnson was executed in Missouri. His execution was carried out despite the foetal alcohol syndrome that had damaged his brain when he was a child and the fact that Pope Francis personally asked for an appeal.⁹² In 2022, Benjamin Cole was executed in Oklahoma despite his diagnosed paranoid schizophrenia⁹³, Clarence Dixon who suffered from the same mental illness was executed in Arizona on 11 May 2022.⁹⁴ On 17 November 2022, Richard Fairchild was executed in Oklahoma although the fact that he was mentally ill and had psychosis was well documented in his prison record.⁹⁵ However, there have been some positive steps. On 26 April 2021, Tennessee lawmakers passed a bill allowing intellectually disabled death row prisoners to challenge their death sentences and the law was signed by the Governor on 11 May 2021, thereby preventing the execution of intellectually disabled Pervis Payne.⁹⁶ A similar law entered into force in Ohio in April 2021 and in Kentucky in 2022.⁹⁷ Similar bills have been registered in states such as Arizona (2023) and Texas (2022).

20. Until the 2005 Supreme Court judgment in *Roper v. Simmons* in 2005,⁹⁸ there had been executions of individuals who were minors at the time of the offences.⁹⁹ In April 2021, Kentucky prosecutors ceased seeking the death penalty sentences for offenders aged below 21 years.¹⁰⁰ However, on 29 November 2022, Kevin Johnson was executed in Missouri despite a history of mental illness and the fact that he was 19 years old at the time of the crime.¹⁰¹ The United States also executes people over 70 years of age¹⁰² women.¹⁰³ and foreign nationals,¹⁰⁴ including those who have not obtained the consular assistance to which they are entitled under the Vienna Convention on Consular Relations of 24 April 1963, which means it is in breach of international law.¹⁰⁵ It will be recalled that in 2004 the International Court of Justice (ICJ), following a lawsuit filed by Mexico,

⁸⁸ [Some Prisoners Executed Despite Mental Illness Diagnosis](#), MedPage Today, 28 October 2018.

⁸⁹ [General Rapporteur condemns execution in Virginia \(coe.int\)](#), 13 July 2017.

⁹⁰ [Tennessee executes Billy Ray Irick](#), *Tennessean*, 10 August 2018; "Tennessee execution: Billy Ray Irick tortured to death, expert says in new filing", eu.tennessean.com, 7 September 2018.

⁹¹ [Tennessee executes Stephen West by electric chair](#), USA Today, 15 August 2019.

⁹² [Ernest Johnson executed despite appeals from Pope Francis and politicians](#), CBS News, 05 October 2021. See also the reaction of the European Union [United States: Statement by the Spokesperson on the execution of Ernest Johnson in the state of Missouri](#), Peter Stano, 07 October 2021.

⁹³ [Benjamin Cole: Oklahoma executes death row inmate for the murder of his 9-month-old daughter](#), CNN, 20 October 2022.

⁹⁴ [Clarence Dixon Executed in Arizona Despite Backlash Over His Mental Illness \(newsweek.com\)](#), 11 May 2022.

⁹⁵ [Oklahoma executes ex-Marine who killed toddler after treating him to final fast-food meal](#), New York Post, 17 November 2022.

⁹⁶ [Tennessee Legislature Passes Bill to Provide Death-Row Prisoners Court Review of Intellectual Disability Claims](#), Death Penalty Information Center, 27 April 2021.

⁹⁷ [Death Penalty Information Center | Second Ohio Prisoner Taken Off Death Row Under New Serious Mental Illness Law](#).

⁹⁸ See <http://www.deathpenaltyinfo.org/u-s-supreme-court-roper-v-simmons-no-03-633>.

⁹⁹ The last person sentenced to death for a crime committed while still a minor was Scott Allen Hain, who was executed on 3 April 2003.

¹⁰⁰ [Kentucky Prosecutors Drop Death Penalty in Cases That Raised Constitutionality of Capital Punishment for Offenders Aged 18–21](#), Death Penalty Information Center, 3 May 2021.

¹⁰¹ [Kevin Johnson execution: 19-year-old asks court to let her watch father's death by injection in Missouri](#), CBS News, 22 November 2022.

¹⁰² See Mr [Cruchten's statement](#) of 20 April 2018, in which he condemned the execution of Walter Leroy Bloody, aged 83, by Alabama after spending 30 years in prison. Moreover, on 26 May 2017 Thomas Arthur, aged 75, was executed in Alabama – <https://www.amnesty.org/en/documents/amr51/6373/2017/en/>. In 2015, Cecil Clayton, aged 74, was executed in Missouri and in 2016 Brandon Jones, aged 72, was executed in Georgia. In February 2019, Texas executed Billie Coble, a 70-year-old man. In November 2022, Murray Hooper, aged 76, was executed in Arizona (<https://deathpenaltyinfo.org/news/arizona-executes-76-year-old-man-after-refusing-dna-and-fingerprint-testing-in-case-with-no-physical-evidence>, 16 November 2022). See the database at <https://deathpenaltyinfo.org/views-executions>.

¹⁰³ 18 women since 1976. The last woman to be executed was Amber McLaughlin (3 January 2023 in Missouri).

¹⁰⁴ The El Salvador national Alfredo Prieto was executed in the United States (on 10 January 2015 in Virginia), despite a request from the Inter-American Commission on Human Rights to halt his execution. Amnesty International 2015, p. 22.

¹⁰⁵ Amnesty International, 2014, p. 18.

ruled against the United States in the *Avena* case¹⁰⁶ for a violation of the Vienna Convention and ordered the United States to carry out a judicial review of the convictions of 52 Mexican nationals. Nevertheless, Texas executed several Mexican nationals who had been deprived of consular protection.¹⁰⁷ For example, despite the calls by the United Nations' special rapporteurs and the Inter-American Commission on Human Rights to stop the execution¹⁰⁸, in November 2018, it executed Robert Moreno Ramos, who probably suffered from a mental disability.¹⁰⁹

21. Furthermore, prisoners remain on death row for a very long period after being sentenced to death. In 2023, eleven inmates (out of 21) were executed after at least 20 years spent on death row, out of whom six had spent more than 30 years there.¹¹⁰ According to the death penalty review conducted by the Department of Justice Bureau of Justice Statistics in June 2021, the average time on death row is 18.7 years.¹¹¹ The time that US prisoners spend on death row has increased in recent years and raises concerns. The so-called "death row phenomenon", including the isolation and the uncertainty as to the time of execution, causes mental illness and a very high increase of physical disabilities of inmates.

22. The percentage of Americans who believe that the death penalty is applied fairly continues to decrease. According to Gallup polls of October 2023, for the first time more Americans believe that the death penalty is applied unfairly (50%) than fairly (47%). Gallup found that 53% of Americans are in favour of the death penalty, which is not statistically significantly different from the 54% and 55% support recorded over the last three years.¹¹²

23. NGOs (such as Sister Helen Prejean's Ministry Against the Death Penalty) and lawyers are continuing to work for the complete abolition of capital punishment, especially by giving media exposure to executions and cases of wrongful convictions. However, despite some positive abolitionist tendencies in the United States of America, there are still serious difficulties that prevent a substantial advance towards the abolition of the death penalty. In its last decision on the death penalty (27 September 2023), the Committee of Ministers regretted that executions continue to be carried out in 2023 in the United States. It also reiterated the Council of Europe' readiness to share its experience on abolition of the death penalty with its observer States, through initiatives in conjunction with them.

3.3. Japan

24. Japan has been a Council of Europe observer state since 1996. It ratified the International Covenant on Civil and Political Rights on 21 June 1979 but has not ratified the Second Optional Protocol, aiming at the abolition of the death penalty. In Japan, nineteen crimes carry the death penalty (including crimes that do not involve the death of the victim). Japan has carried out 98 executions of capital punishment since 2000. In 2018, the country more than tripled its annual figure (4 to 15) as a result of the hanging of 13 men in the high-profile case of the Aum Shinrikyo cult responsible for the deadly sarin gas attack on the Tokyo metro in 1995.¹¹³ In August 2019, two men (of 64 and 50 years of age) were executed by hanging after being convicted for murder and, on 26 December 2019, a Chinese man was executed; all of them had been convicted of murders¹¹⁴. Three people in 2021 and one person in 2022¹¹⁵ were hanged for being convicted of murder in separate cases, after a pause of 24 months. The last and only execution in 2022 (26 July) was the hanging of Tomohiro Katō, the perpetrator of the Akihabara massacre in 2008. In 2021, at least three people were condemned to the death penalty including Satoru Nomura, a 74-year-old gang leader.¹¹⁶ Furthermore, at least two convictions

¹⁰⁶ International Court of Justice, *Avena and Other Mexican Nationals (Mexico. v. United States of America)*, judgment of 31 March 2004, I. C. J. Reports 2004, p. 12.

¹⁰⁷ See the reactions by my predecessor Ms Karamanli: [Call on the state of Texas not to execute Ramiro Hernandez \(coe.int\)](#), 8 April 2014.

¹⁰⁸ UN, Office of the High Commissioner for Human rights (OHCHR), [UN experts urge US to halt Texas execution of Mexican Roberto Ramos Moreno](#), 13 November 2018.

¹⁰⁹ [Texas executes Robert Moreno Ramos, amid pleas for case review](#), The Texas Tribune, 14 November 2019.

¹¹⁰ As of 10 November 2023: <https://deathpenaltyinfo.org/executions/2023>

¹¹¹ [Bureau of Justice Statistics Reports Number on Death Row Down, Average Time on Death Row Approaches 19 Years](#), Death Penalty Information Center, 25 June 2021.

¹¹² <https://deathpenaltyinfo.org/news/poll-for-the-first-time-more-americans-believe-the-death-penalty-is-applied-unfairly-in-the-united-states>, 6 November 2023.

¹¹³ Amnesty International 2018, pp. 19 and 20, and [Mr Cruchten's statement](#) of 9 July 2018. In addition, two men were executed on 27 December 2018.

¹¹⁴ Amnesty International, [Japan: two hanged in deplorable move](#), 2 August 2019, and [Japan: Execution a shameful stain on human rights record of Olympic hosts](#), 26 December 2019.

¹¹⁵ <https://apnews.com/article/japan-crime-tokyo-violent-government-and-politics-9602d86bc9c11b79b8c44b82b068e3f8>

¹¹⁶ [Yakuza Boss First to be Sentenced to Death in Japan](#), OCCRP, 29 August 2021. The two others convicted people are Ibaraki Mito, 36, and Yoshitaka Morito, 51.

have been upheld, including that of Chisako Kakehi, a 74-year-old woman convicted for the murder of three men¹¹⁷, and Mitsuru Nakata, a former policeman aged 43.¹¹⁸ In 2023, the Supreme Court upheld a death sentence for Toshihiko Iwama, convicted of conspiring to hire a man in the Philippines to kill two men. There are currently 115 people under the sentence of death, including six foreign nationals and 7 women.¹¹⁹

25. Many Japanese practices relating to the death penalty alarm human rights activists in particular. Some executions involved men whose appeal to secure a retrial was still pending before the courts. For example, nine of those who were executed in July 2018¹²⁰ and the Chinese man who was executed in December 2019 had made applications for a retrial that were still before the courts at the date of their execution. Prisoners are often given only a few hours' notice of their execution and their families and lawyers are informed only after it has taken place.¹²¹ Amnesty International has repeatedly condemned Japan's execution procedures as being "shrouded in secrecy". In October 2021, the UN Human Rights Council adopted a resolution that calls on non-abolitionist states to end secret executions or executions with little or no prior warning, which impair the ability of the convicted individual and family members to prepare for death and can amount to cruel, inhuman or degrading treatment.¹²²

26. Amnesty International points out that people with mental disabilities have been sentenced to death in Japan and are still on death row.¹²³ Moreover, people sentenced to death live in very questionable conditions. They are isolated from other inmates and their contacts with the outside world are limited to rare and closely supervised visits from members of their families, their lawyers and other officially authorised visitors. Some inmates, such as Iwao Hakamada (see below) and Kenji Matsumoto (whose eight requests for retrial have been rejected)¹²⁴ showed signs of seriously disturbed thinking and behaviour due to their detention. In 2021, the Japan Innocence and Death Penalty Information Center underlined that two of the 118 people on death row had been in prison for more than 40 years¹²⁵. Under Article 475 of the Japanese Criminal Procedure Code, the death penalty shall be ordered within six months from the date when the judgment becomes final, the period of the request for retrial or pardon being exempted.¹²⁶ Yet, Japan is one of the countries with the longest periods spent on death row, and few people can have access to the places where condemned inmates are executed or even meet them.¹²⁷ The release of death row inmates found to be innocent or their release pending a retrial has sparked heated debate in Japan concerning the death penalty. The best-known case is that of 87 year-old Iwao Hakamada, who has spent more than 40 years on death row¹²⁸, and is known as the longest serving death row prisoner in the world. Owing to new doubts about his guilt (it is likely that his "confessions" were forced out of him by the police during a twenty-day interrogation), the Japanese courts decided to release him in March 2014. However, in June 2018 the Tokyo High Court refused to grant him a retrial. Mr Hakamada appealed; at the end of December 2020, the Supreme Court returned his case to the Tokyo High Court for retrial.¹²⁹ In 2023, Tokyo High Court finally granted a retrial.¹³⁰

27. On 20 August 2014, the United Nations Human Rights Committee voiced its concerns about the situation of the death penalty in Japan in its concluding observations on the sixth periodic report of Japan. Firstly, it was concerned that some of the 19 crimes that carried the death penalty did not comply with the Covenant's requirement of limiting capital punishment to the "most serious crimes". Secondly, apart from the above-mentioned faults in the system, the Committee also pointed out that the confidentiality of meetings between lawyers and death row inmates was not guaranteed; thirdly, the examinations to decide whether a prisoner was sane were not independent. Fourthly, it emphasised that an application for a retrial or a pardon

¹¹⁷ [Japan's top court upholds death penalty for 'black widow' serial killer](#), Japan Times, 22 June 2021.

¹¹⁸ [Ex-cop's death penalty upheld over murder of wife, children](#), Death Penalty Information Center, 16 September 2021.

¹¹⁹ <https://www.jiadep.org/resources/Chart-Shikei.html>, as of November 2023.

¹²⁰ Amnesty International, [Japan: Unprecedented spate of executions continues as six more Aum cult members hanged](#), 26 July 2018, and [Japan: Executions of seven Aum cult members fails to deliver justice](#), 6 July 2018.

¹²¹ Amnesty International, [Japan: Two hanged as reprehensible executions continue](#), 13 July 2017.

¹²² <https://deathpenaltyinfo.org/news/death-row-prisoners-in-japan-sue-over-same-day-notice-of-executions>, 15

November 2021.

¹²³ Amnesty International 2020, p. 29.

¹²⁴ *Ibidem*.

¹²⁵ [In Japan, the death penalty hits a wall of indifference \(lemonde.fr\)](#), 30 July 2022.

¹²⁶ Japan Hanging on to Death Penalty. *South Asia Human Rights Documentation Centre*. 28 May 2006.

¹²⁷ FIDH, [The Death Penalty In Japan. A Practice Unworthy of a Democracy](#), Report of the International investigation mission, no. 359, March 2003, p. 19, and Philippe Pons, [Au Japon, il ne faut pas 'troubler l'âme' des condamnés à mort](#), *Le Monde*, 25 March 2005.

¹²⁸ <https://edition.cnn.com/2020/03/21/asia/japan-death-penalty-hakamada-hnk-intl/index.html>

¹²⁹ Amnesty International 2020, p. 29.

¹³⁰ <https://deathpenaltyinfo.org/news/international-longest-serving-death-row-prisoner-in-the-world-has-case-reversed>, 20 March 2023.

did not have the effect of staying the execution and was ineffective. Lastly, the Committee also reported that the death penalty had been handed down on various occasions as a result of forced confessions.¹³¹ In response to the recommendations and remarks in the 2014 report, NGOs emphasised that the problems identified had not been resolved.¹³² The number of crimes subject to the death penalty (19) is still the same, an independent system for considering the mental health of inmates has still not been put in place and applications for a review of procedures have no suspensive effect. There is a ray of hope in the Supreme Court's ruling of 10 December 2013 that meetings between persons sentenced to death and their lawyers should be confidential, save in exceptional circumstances. However, discussions between the members of the Aum Shinrikyo cult and their lawyers were held in the presence of prison staff. On 30 November 2022, the UN Human Rights Committee reiterated many of its previous concerns and notably condemned the fact that death row inmates continue to be kept in prolonged solitary confinement, including for up to 40 years before execution, are subjected to 24-hour video surveillance, and continue to be denied prior notice of the day of execution.¹³³

28. On 7 October 2016, for the first time, the Japanese Federation of Bar Associations issued a declaration stating its opposition to the death penalty and calling on the authorities to abolish it by 2020.¹³⁴ In 2023 it asked the government to enact legislation to abolish the death penalty, and to establish a moratorium on all executions in the meantime. However, capital punishment still has the broad support of Japanese society. According to a survey conducted in 2014, more than 80% of the population consider the death penalty as an 'unavoidable punishment' for those who have committed heinous crimes.¹³⁵ Another poll conducted by the Cabinet Office, in November 2019, showed that over 80% of the respondents accepted the death penalty as "inevitable". However, according to researchers from the Death Penalty Project, Japanese people form their views on the death penalty with limited information.¹³⁶ The authorities are not considering abolishing the capital sentence or introducing a new moratorium on executions (a moratorium was instituted between November 1989 and March 1993), despite recommendations made by a large number of states in connection with the last Universal Periodic Review (UPR) by the United Nations, as well as by the UN Human Rights Committee.¹³⁷ In August 2019, a group of 300 people, including journalists, lawyers, religious figures and former politicians, met in Tokyo in order to establish a Citizen's Committee to Abolish Capital Punishment in Japan,¹³⁸ which was further welcomed by the United Nations.¹³⁹ Despite this, Japan voted against the UN General Assembly resolution on the moratorium on the use of the death penalty in December 2022. In its last decision on the death penalty (27 September 2023), the Committee of Ministers called on Japan to promote an open and democratic debate towards the abolition of the death penalty. It also reiterated the Council of Europe's readiness to share its experience on abolition of the death penalty with its observer States, through initiatives in conjunction with them. In this context, and in my capacity as PACE General Rapporteur, I will seek to engage with groups or parliamentarians in Japan supporting abolition.

3.4. Israel

29. Israel abolished the death penalty for ordinary crimes under a law passed in 1954. This law maintains the legality of the death penalty for certain crimes, such as genocide, crimes against humanity, mass crimes, treason and crimes against the Jewish people. Since the creation of the State of Israel, the death penalty has been carried out only once. In 1961, Adolph Eichmann was convicted on 15 counts of crimes against humanity, war crimes, crimes against the Jewish people, and membership in a criminal organisation, and was hanged in 1962.¹⁴⁰

¹³¹ Human Rights Committee, Concluding observations on the sixth periodic report of Japan, [CCPR/C/JPN/CO/6](#), 20 August 2014, para. 13.

¹³² See the reports of the International Federation for Human Rights (FIDH) and the Center for Prisoners' Rights (CPR), Joint submission for the adoption of the List of Issues, Japan, United Nations Human Rights Committee (CCPR) – 121st session, 27 July 2018, and Human Rights Now, Information for LOIPR, Report on Japan, 24 July 2017.

¹³³ HRC, Concluding observations on the seventh periodic report of Japan, 30 November 2022, [CCPR/C/JPN/CO/7](#).

¹³⁴ Amnesty International 2016, p. 22.

¹³⁵ [Japan's new Justice Minister Katsuyuki Kawai pledges reform with a focus on immigration](#), Japan Times, 30 September 2019.

¹³⁶ [Lawyer: Popular support a flawed reason for death penalty in Japan](#), the Asahi Shimbun, 31 March 2021. A recent study had been conducted by a London-based lawyer Saul Lehrfreund.

¹³⁷ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Japan, June-July 2023: <https://worldcoalition.org/2023/09/18/abolition-of-the-death-penalty-at-the-united-nations-human-rights-council-53rd-session/>.

¹³⁸ [Civil group for a death penalty-free inaugurated](#), Japan Press Weekly, 28 August 2019.

¹³⁹ [Video message on the occasion of the establishment of the Citizen's Committee to Abolish Capital Punishment, Japan](#), 9 March 2019.

¹⁴⁰ <https://www.internationalcrimesdatabase.org/Case/192>

30. However, it is important to point out that this law does not prevent the use of the death penalty, especially as the terms “treason” or “crimes against the Jewish people” are subject to interpretation. In the ongoing climate of conflict experienced by the country, there are more and more calls for the restoration of the death penalty. In 2014, several Israeli ministers called for its reintroduction, such as, Yisrael Katz, the Minister of Transport, who demanded its reinstatement in May that year as a deterrent for certain Palestinian prisoners. The Housing Minister, Uri Ariel, also called for its reintroduction for terrorists after the kidnapping and murder of three Jewish teenagers.¹⁴¹ In July 2015, the Knesset rejected a bill that would have made it easier for courts to sentence to death those convicted of terrorism-related offences, but in March 2016 the issue was once again raised in the Israeli parliament.¹⁴² On 3 January 2018, the Knesset gave its preliminary agreement to this draft law – a worrying development to which Mr Cruchten responded with a statement reiterating that observer status with the Assembly encourages commitment to the abolition of the death penalty.¹⁴³ The adoption of this draft law had been postponed on several occasions and the Defence Minister, Avigdor Liberman, called for it to be passed to make it easier to sentence terrorists (*i.e.* Palestinians) to death, by requiring only majority, as opposed to the unanimous agreement of the three judges. However, the Attorney General, Avichai Mandelblit, came out against such a law.¹⁴⁴ In November 2018, the then Minister of Defence, Avigdor Liberman, accused his coalition partners of sabotaging the draft law.¹⁴⁵ In February 2019, some ministers called for the use of the death penalty after the savage murder in Jerusalem of a teenage girl by a Palestinian man.¹⁴⁶ In December 2020 and 2022, Israel voted in favour of the UN General Assembly resolutions on the moratorium on the use of the death penalty.¹⁴⁷ Nevertheless, Israel is still not a Party to the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.

31. The discussion on whether the *de facto* ban on the death penalty should be lifted resurfaced after a wave of terrorist attacks that cost at least 18 lives in the spring of 2022. Furthermore, following a massacre perpetrated outside a synagogue in Jerusalem last January in which seven people were killed, the Minister of National Security, Itamar Ben-Gvir promoted a bill that would establish the mandatory death penalty for those who have committed a nationalistically motivated murder (motivated by racism or hate to a certain public... and with the purpose of harming the State of Israel and the rebirth of the Jewish people in its homeland) of an Israeli citizen. Although the bill was found unconstitutional by the Chief Justice and the Attorney General, the Knesset gave its preliminary approval on 1st March 2023.¹⁴⁸ I had the occasion to comment on this worrying development in my statement published the day after, where I called on MPs in Israel to reconsider their preliminary decision concerning this bill, which would represent, if passed, a most regrettable step backwards.¹⁴⁹ It appears that the bill was later put on hold, together with the judicial reforms package of Prime Minister Netanyahu. Following the attack by Hamas in October 2023, a Likud MP submitted another bill to the Knesset that would allow courts to impose the death penalty on Palestinian terrorists who participated in Hamas’ terrorist attacks.¹⁵⁰

3.5. Kazakhstan

32. Since 1998, the number of crimes that carry the death penalty in peacetime had been significantly reduced. A 2014 reform of the Criminal Code, which came into force on 1 January 2018, raised the number of offences subject to the death penalty from 18 to 19.¹⁵¹ Article 47(2) of the Kazakhstan Criminal Code of 2014¹⁵² prohibited the death penalty for individuals under 18 years of age, women and people over 65.

¹⁴¹ Amnesty International 2014, p. 49.

¹⁴² Amnesty International, *Israel: Human Rights Situation Remains Dire*, p. 15.

¹⁴³ See his statement of 4 January 2018.

¹⁴⁴ Toi Staff, *Defense minister urges colleagues to endorse death penalty for terrorists*, *The Times of Israel*, 25 July 2018.

¹⁴⁵ *Peine de mort: Liberman accuse la coalition d’avoir sabordé son projet de loi*, *Times of Israel*, 21 November 2018.

¹⁴⁶ *Death Penalty for Palestinian Who Savagely Murdered Jewish Teen?*, *Israel Today*, 10 February 2019.

¹⁴⁷ Amnesty International 2020, p. 61. <https://worldcoalition.org/2022/12/20/9th-resolution-for-a-moratorium-on-the-death-penalty-the-trend-is-growing/>.

¹⁴⁸ Toi Stadd, *Bill on death penalty for Palestinian terrorists passes preliminary Knesset vote*, *The Times of Israel*, 1 March 2023; <https://www.ohchr.org/en/press-releases/2023/02/israel-un-experts-alarmed-potential-reinstatement-death-penalty-terrorism>, 24 February 2023.

¹⁴⁹ [PACE rapporteur urges Israeli MPs to reconsider preliminary decision to allow death penalty for terrorists \(coe.int\)](https://www.pace.org/rapporteur-urges-israeli-mps-to-reconsider-preliminary-decision-to-allow-death-penalty-for-terrorists-coe-int).

¹⁵⁰ <https://www.jns.org/after-hamas-rampage-israeli-lawmaker-submits-death-penalty-bill/>, 16 October 2023.

¹⁵¹ International Commission against the Death Penalty, *How States abolish the death penalty. 29 Case-Studies, Second edition*, May 2018, p. 32.

¹⁵² <http://www.legislationline.org/documents/section/criminal-codes/country/21>.

33. On 18 December 2003, President Nursultan Nazarbayev issued a moratorium on executions and since 12 May 2003 (the date of the last execution), no execution was carried out in the country. Following a judgment in November 2016, Ruslan Kulekbayev was sentenced to death for terrorism-related acts¹⁵³ having killed 10 people in Almaty in July that year and remained the only person on death row in Kazakhstan¹⁵⁴. This was the sixth death sentence handed down since the 2003 moratorium on executions. Since then, all death sentences had been commuted to life imprisonment¹⁵⁵ and no execution or death sentence had been recorded.

34. In December 2012, 2014, 2016, 2018 and 2020,¹⁵⁶ Kazakhstan voted in favour of the UN General Assembly resolutions calling for a moratorium on the use of the death penalty. By signing the Second Protocol to the ICCPR on 23 September 2020 following a speech by President Kassym-Jomart Tokayev during the 75th UN General Assembly session, Kazakhstan decided to fully abolish the death penalty and committed itself to reform its Criminal Code.¹⁵⁷ On 2 January 2021, President Kassym-Jomart Tokayev signed the law ratifying the Second Optional Protocol to the ICCPR.¹⁵⁸ On 23 September 2021, 23 members of the Parliamentary Assembly, issued a declaration supporting the abolition of the death penalty in Kazakhstan.¹⁵⁹ On 29 December 2021, the President of Kazakhstan, Kassym-Jomart Tokayev approved and signed a bill abolishing the death penalty for all crimes in the country's Criminal Code¹⁶⁰, replacing capital sentence by life imprisonment.¹⁶¹ Kazakhstan finally ratified the Second Optional Protocol to the ICCPR on 24 March 2022.

3.6. Morocco

35. Morocco is not a Party to the Second Optional Protocol to the ICCPR. However, as an Assembly partner for democracy, the Moroccan Parliament has undertaken to continue its efforts “to raise the awareness of the public authorities and the main players in politics and civil society of the need to make progress in the discussion of [...] the death penalty” and to continue “to encourage the authorities concerned to maintain the de facto moratorium that has been established on executions of the death penalty since 1993”.¹⁶² The 2011 Constitution expressly enshrines the “right to life” but without abolishing the death penalty. In 2019, King Mohammed VI pardoned a total of 34 people, commuting their death sentences to life imprisonment and, on 29 July 2020, two people.¹⁶³ However, on 18 July 2019, the anti-terrorist court in Sale issued death sentences against three men accused of the savage murder of two Scandinavian tourists in the Atlas Mountains in December 2018 and of belonging to a group associated with Daesh¹⁶⁴. My predecessor, Mr Corlatean, reacted to this decision in his statement of 24 July 2019, in which he stressed that neither the fight against terrorism nor the most serious crimes could justify the death penalty, calling on the Moroccan authorities not to apply this penalty. On 31 October 2019, however, the Rabat Court of Appeal upheld these sentences.¹⁶⁵ In July 2021, the family of one of the victims asked Morocco's judiciary to execute the death penalty sentences.¹⁶⁶ In 2021, one new death sentence was handed down. In 2023, a man was sentenced to death penalty for his involvement in the murder of a policeman.¹⁶⁷ As of March 2023, there were 83 people on death row in Morocco.¹⁶⁸

36. The Moroccan Coalition against the Death Penalty, which groups together seven NGOs, is the leading organisation in Morocco's abolition movement.¹⁶⁹ It is accompanied in this fight by the Network of

¹⁵³ Amnesty International 2017, p. 33.

¹⁵⁴ Amnesty International, [Kazakhstan takes important step towards abolishing the death penalty](#), 23 September 2020.

¹⁵⁵ Amnesty International, [Kazakhstan 2017/2018](#).

¹⁵⁶ [Official records of the 75th session of the UN General Assembly](#), 16 December 2020.

¹⁵⁷ [Kazakhstan officially abolishes death penalty](#), 24 September 2020.

¹⁵⁸ [Kazakhstan Abolishes the Death Penalty](#), Death Penalty Information Center, 02 January 2021. According to Amnesty International, the law on the ratification contains a reservation that provides for the application of the death penalty in time of war; Amnesty International 2020, p. 35.

¹⁵⁹ [Political reform in Kazakhstan responsive to the needs and ambitions of its citizens](#), Written declaration 30 September 2021.

¹⁶⁰ [BAHRI welcomes the abolition of the death penalty in Kazakhstan](#), 23 June 2022.

¹⁶¹ Қазақстан Республикасының кейбір заңнамалық актілеріне өлім жазасын жою мәселесі бойынша өзгерістер мен толықтыру енгізу туралы, 29 December 2021.

¹⁶² “Moroccan Parliament obtains ‘Partner for Democracy’ status with PACE”, Press release – AP032(2011), 21 June 2011.

¹⁶³ <https://www.peinedemort.org/document/actualites?zonegeo=MAR>. [Amnesty International reports only one royal pardon in 2019; Amnesty International 2019, p. 39.](#)

¹⁶⁴ <https://english.alarabiya.net/News/north-africa/2019/10/31/Morocco-death-penalties-confirmed-for-killers-of-Scandinavian-hikers>

¹⁶⁵ [Morocco backpacker murders: Court confirms death penalty for killers, Deutsche Welle](#), 31 October 2019.

¹⁶⁶ [Imlil Murder: Family of Danish Victim Calls for Execution of Death Penalty](#), Morocco World News, 05 July 2021

¹⁶⁷ <https://www.morocroworldnews.com/2023/10/358282/morocco-sentences-suspect-involved-in-murder-of-policeman-to-death-penalty>, 13 October 2023.

¹⁶⁸ <https://medias24.com/2023/03/02/peine-de-mort-ouahbi-expose-les-avancees-du-maroc/>, 2 March 2023.

¹⁶⁹ Téo Cazenaves, [Peine de mort: le Maroc, ‘pays abolitionniste en pratique’](#), *Le Desk*, 12 April 2017.

Parliamentarians against the Death Penalty in Morocco, the National Human Rights Council and lawyers from six different bar associations. They come together to fight against capital punishment.¹⁷⁰ However, Moroccan society is still split regarding its abolition.¹⁷¹ In its most recent resolution on evaluation of the partnership for democracy in respect of the parliament of Morocco, of May 2019, the Assembly expressed regret that little progress had been achieved with regard to the death penalty and once again called on the Moroccan Parliament to abolish the death penalty in law, and, pending abolition, to declare a *de jure* moratorium on executions.¹⁷² This question was also considered in the report of the Committee on Political Affairs and Democracy on the “Evaluation of the partnership for democracy in respect of the Parliament of Morocco”¹⁷³. In December 2022, the Moroccan delegation abstained in the vote on the 9th UN General Assembly Resolution on a moratorium on the use of the death penalty; it had abstained on the previous eight votes on similar resolutions. In December 2016, the Human Rights Committee had also expressed concern about proposed changes to the Criminal Code which would extend the scope of the death penalty to three new categories of offences (despite a reduction in the number of offences that carry capital punishment). These concerns were also voiced by Amnesty International in September 2017.¹⁷⁴ In January 2019, the Moroccan Organisation of Human Rights urged Morocco to join an international agreement ending capital punishment and the new president of the National Council of Human Rights, Ms Amina Bouayach, strongly criticised the ‘indecisiveness’ of the government towards the complete abolition of this sentence.¹⁷⁵ The brutal murder of 11-year old Adnane Bouchouf prompted the question of whether death penalty should be applied again and a petition launched on Facebook in this respect collected over 100,000 signatures.¹⁷⁶ In April 2021, the Tangier Court of Appeal upheld the death penalty for a 24-year-old man convicted for killing and raping Adnane Bouchouf in September 2020.¹⁷⁷ On 5 January 2022, the Court of Cassation in Rabat confirmed the death penalty sentence for the 24-year-old man.¹⁷⁸ In the context of the last Universal Periodic Review by the UN Human Rights Council (2023), Morocco stated that it continued its efforts to promote public debate on the question of the abolition of the death penalty. Several States recommended however that Morocco abolished formally the death penalty and ratified the Second Optional Protocol to the ICCPR.¹⁷⁹

37. In its last decision on the death penalty (27 September 2023), the Committee of Ministers stated that the Council of Europe stands ready to continue the exchanges on this theme with those States covered by the policy of the Council of Europe towards neighbouring regions, in particular with Morocco and Tunisia.¹⁸⁰

3.7. *Palestinian Authority*¹⁸¹

38. By becoming a partner for democracy on 4 October 2011,¹⁸² the Palestinian National Council (PNC) undertook to promote discussions in support of the abolition of the death penalty in the Criminal Code and to continue the *de facto* moratorium in force in the West Bank since 2005. In the territories administered by the Palestinian Authority, the West Bank continues to pass death sentences, but no execution has been recorded since 2005. However, death sentences are still handed down and carried out in the Gaza Strip, which has been under Hamas control since 2007. The methods used are hanging or firing squad. According to Palestinian law, death sentences must be carried out with the agreement of the Palestinian President; however, since

¹⁷⁰ Fouâd Harit, [Abolition de la peine de mort au Maroc: les avocats rejoignent le mouvement](#), 9 October 2014.

¹⁷¹ Yassine Benargane, [Au Maroc, la journée mondiale de l'abolition de la peine de mort est passée presque inaperçue](#), Yabiladi, yabiladi.com, 11 October 2016.

¹⁷² [Resolution 2282 \(2019\)](#) adopted by the Assembly's Standing Committee on 24 May 2019, paragraph 5.1.

¹⁷³ [Doc. 14659](#), adopted on 21 October 2018, rapporteur: Mr Bogdan Klich (Poland, EPP/CD), Section 3.1. See also [Doc. 14853](#), this committee's opinion, rapporteur Mr André Vallini (France, Socialists, Democrats and Greens Group), 1 April 2019.

¹⁷⁴ Human Rights Committee, CCPR/C/MAR/CO/6 of 1 December 2016, paragraph 19, and Amnesty International, [public statement](#) of 21 September 2017.

¹⁷⁵ [Justice Minister: Morocco is Taking Steps Toward Ending Death Penalty](#), Morocco World News, 19 January 2019.

¹⁷⁶ Morocco World News, [Moroccans Launch Online Petition to Execute Adnane Bouchouf's Killer](#), 13 September 2020.

¹⁷⁷ [Morocco Upholds Death Penalty For Rapist, Killer of 11-Year-Old Adnane Bouchouf](#), Morocco World News, 05 July 2021

¹⁷⁸ [Cassation Court Confirms Death Penalty for Rapist, Killer of 11-year Old Adnane \(moroccoworldnews.com\)](#), 6 January 2022.

¹⁷⁹ <https://www.ohchr.org/en/hr-bodies/upr/ma-index>.

¹⁸⁰ For recent developments in Tunisia, see: <https://www.lefigaro.fr/flash-actu/tunisie-deux-condamnations-a-mort-pour-un-attentat-djihadiste-20230314>.

¹⁸¹ This section describes the situation before the Hamas attack on Israel in October 2023 and the subsequent escalation between Israel and Hamas.

¹⁸² [Resolution 1830 \(2011\)](#) on the Request for partner for democracy status with the Parliamentary Assembly submitted by the Palestinian National Council, 4 October 2011.

2010, this requirement has never been complied with.¹⁸³ In Resolution 2105 (2016)¹⁸⁴ on evaluation of the partnership for democracy in respect of the Palestinian National Council, the Assembly noted that while a *de facto* moratorium on executions had been in place since 2005 in the West Bank, courts in Gaza continued to hand down death penalty sentences and Hamas authorities continued to carry out illegal executions. The Assembly roundly condemned these executions and urged the PNC to intervene with Hamas to stop executions in Gaza and to abolish the death penalty in the Palestinian Criminal Code. Despite this call, further executions have been carried out in the Gaza Strip.

39. In 2023, the number of persons sentenced to death has risen to 12, out of which 9 by military courts. All the death sentences were handed down in the Gaza Strip. On 30 January 2023, the Higher Crime Committee in Gaza issued a death sentence by hanging regarding charges of drug dealing and possession along with recidivism.¹⁸⁵ In July 2023, the Military Appeal Court in Gaza issued 7 death sentences by hanging for collaboration with Israel. The total number of death sentences issued in the Palestinian territory since 1994 has reached 292; 30 in the West Bank and 262 in the Gaza Strip.¹⁸⁶ 46 death sentences have been executed since 1994: 44 in the Gaza Strip, and two in the West Bank. Of those executed in the Gaza Strip, 33 have been conducted since the 2007 division without the ratification of the Palestinian President in violation of Palestinian law. The first execution since 2017 was recorded on 4 September 2022. Hamas authorities executed five Palestinians, two of them on charges of espionage for Israel in 2015 and 2019, by hanging or firing squad.¹⁸⁷

40. Some NGOs, including Amnesty International and the PCHR (Palestinian Centre for Human Rights), also condemn procedures preceding a death sentence that do not meet international fair-trial standards, with convictions based on confessions probably extracted through torture or ill-treatment. Most of the cases related to death penalty were handed down by military courts, including on civilians and for crimes not involving military or security issues.¹⁸⁸ Death sentences have also been passed in absentia.

41. On 6 June 2018, the Palestinian Authority signed the Second Optional Protocol to the ICCPR, and acceded to this treaty on 18 March 2019.¹⁸⁹ After the signing, the establishment of a moratorium on executions in the Gaza Strip is all the more necessary.¹⁹⁰ However, neither the Palestinian authorities in the West Bank nor the Hamas *de facto* administration in Gaza took any steps to translate the Palestinian Authority's commitments under the Second Optional Protocol to the ICCPR into domestic law.¹⁹¹

3.8. Jordan

42. Jordan is not a Party to the Second Optional Protocol to the ICCPR. In Resolution 2086 (2016) of 26 January 2016, in which the Assembly conferred "partner for democracy" status on the Jordanian parliament, it also called for the abolition of the death penalty in that country. In December 2020 and December 2022, Jordan voted for the UN General Assembly Resolutions on the moratorium on the use of the death penalty.¹⁹²

43. No executions have been reported since March 2017. Nonetheless, the death penalty continues to be provided for in the Criminal Code. In 2021, at least 11 death sentences were issued.¹⁹³ On 12 January 2021, Jordan's State security court sentenced a citizen to death for the 2019 stabbing of eight people, four of them foreign tourists, at Jerash, one of the kingdom's ancient sites.¹⁹⁴ In April 2021, the same court sentenced six men to the death penalty for a brutal assault on a 16-year-old boy.¹⁹⁵ Moreover, in July 2021, the Court of Cassation upheld a death sentence for a man who had burned his wife¹⁹⁶ and, in September 2021, a man was

¹⁸³ Amnesty International, [Palestine: Hamas must urgently halt executions of three men sentenced after unfair trial](#), 24 May 2017.

¹⁸⁴ Adopted on 19 April 2016, paragraph 7.3.

¹⁸⁵ Death Sentence against a Drug Dealer in Gaza: PCHR Calls Upon the Authorities to End This Inhuman Penalty, 31 January 2023.

¹⁸⁶ <https://pchrgaza.org/en/gaza-military-court-issues-5-new-death-sentences/>.

¹⁸⁷ [Hamas authorities in Gaza execute five Palestinians | Palestinian territories | The Guardian](#), 4 September 2022; <https://pchrgaza.org/en/in-violation-of-palestines-international-obligations-5-death-sentences-executed-in-gaza-strip/>.

¹⁸⁸ Amnesty International 2021, p. 48

¹⁸⁹ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&clang=fr

¹⁹⁰ See Mr Cruchten statement of 14 June 2018.

¹⁹¹ Amnesty International, [Palestine \(State of\) 2020](#).

¹⁹² Amnesty International 2020, p. 61.

¹⁹³ Amnesty International 2020, p. 36.

¹⁹⁴ [Jordanian sentenced to death for 2019 knife attack on tourists, Al Jazeera](#), 12 January 2021.

¹⁹⁵ [Jordan sentences six men to death for blinding teen, chopping his arms off](#), Alarabiya news, 17 March 2021.

¹⁹⁶ [Man gets death penalty for burning wife to death](#), Death Penalty Information Center, 29 September 2021.

convicted to death for murdering his mother.¹⁹⁷ In 2022, the number of death sentences decreased to 4. To the knowledge of Amnesty International, there were around 219 people under a death sentence at the end of 2022.¹⁹⁸ It is worth noting that a regional congress on the death penalty was organised in Amman to explore specific issues linked to the abolition of the death penalty in the Middle East.¹⁹⁹

44. In Resolution 2183 (2017) of October 2017,²⁰⁰ the Assembly regretted the fact that while a de facto moratorium on executions was purportedly introduced in 2006, the courts continue to hand down death sentences. It called on the Jordanian Parliament to intervene with the authorities to stop executions and reinstate the moratorium pending the abolition of the death penalty in the Criminal Code, in keeping with the commitment to act to abolish capital punishment, which is one of the criteria for granting partner for democracy status (Rule 64.2 of the Assembly's Rules of Procedure). The Assembly decided to continue to follow the implementation of the reforms in Jordan very closely and to offer the Jordanian Parliament its full assistance and to make a new assessment of this partnership within two years from October 2017. In Resolution 2469 (2022) on the "Evaluation of the partnership for democracy in respect of the Parliament of Jordan", the Assembly regretted again the fact that courts continue to hand down death sentences. It called on the Jordanian Parliament to intervene to introduce a *de jure* moratorium pending the abolition of the death penalty, in line with the expectations indicated by the Assembly upon granting partner for democracy status.

3.9. Belarus

45. Belarus entered into international commitments by ratifying the International Covenant on Civil and Political Rights on 12 November 1973 but is not a Party to the Second Optional Protocol. It is the only state on the continent of Europe that still carries out executions in its territory. The method of execution employed is the firing squad. In April 2016, Belarus resumed executions after a 17-month hiatus; at least four executions were carried out in that year²⁰¹ (including that of Ivan Kulesh, who apparently suffered from a personality disorder). In 2017, there were at least two executions and at least four new death sentences.²⁰² In 2018, at least four executions were carried out – doubling the yearly total persons compared to 2017 – and at least two death sentences handed down.²⁰³ In 2019, at least two executions took place and at least three people were sentenced to death²⁰⁴. It should be borne in mind that since figures on the application of the death penalty are classified as a state secret, these are minimum numbers and the actual figures may be higher. Indeed, the exact number of persons sentenced to death and/or executed in Belarus is unknown; the Belarusian Minister of Justice estimated that 245 death sentences had been pronounced between 1994 and 2014, while human rights NGOs affirmed that at least 400 persons had been executed since 1991 (when the country gained its independence).²⁰⁵ As regards 2020, no new execution was reported, but at least three death sentences were issued. In 2021, one person was executed and one person was sentenced to death penalty. In January 2021, the Minsk Regional Court upheld the death penalty for Viktor Skrundzik after a retrial ordered by the Supreme Court.²⁰⁶ In my predecessor's statement from 20 January 2021, Mr Vardanyan expressed his strong disappointment about this decision.²⁰⁷ In 2021, Belarusian authorities executed Viktor Paulau whose execution had been carried out at the same time as the case was pending before the UN Human Rights Committee, despite the interim measures granted with a view to suspending his execution.²⁰⁸ In 2022, Viktor Skrundzik was executed.²⁰⁹ According to Amnesty International, the number of persons under sentence of death at the end of 2022 was one.²¹⁰ On 19 October 2023, the Minsk Regional Court sentenced Aleksandr Taratuta to

¹⁹⁷ [Man sentenced to death by hanging for murdering mother](#), Death Penalty Information Center, 29 September 2021.

¹⁹⁸ <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

¹⁹⁹ [Abolition congresses - ECPM](#)

²⁰⁰ Evaluation of the partnership for democracy in respect of the Parliament of Jordan, [Resolution 2183 \(2017\)](#), adopted by the Assembly on 10 October 2017, paragraphs 6.8 and 13. See also the report of the Committee on Political Affairs and Democracy, rapporteur: Ms Josette Durrieu (France, SOC), [Doc. 14399](#) and addendum, and the opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Andrea Rigoni (Italy, ALDE), [Doc. 14412](#).

²⁰¹ European Union, Directorate General for External Policies of the Union, "Human rights in Belarus: The EU's role since 2016", PE 603.870, June 2018, p. 38, and Amnesty International 2016, pp. 28-29.

²⁰² Amnesty International 2017, p. 28, and European Union, Directorate General for External Policies, [Human rights in Belarus: The EU's role since 2016](#), PE 603.870, June 2018, p. 38 (Fn 152).

²⁰³ Amnesty International 2018, pp. 29-30.

²⁰⁴ Amnesty International 2019, p. 53.

²⁰⁵ [Yet again: EU calls on Belarus to abolish death penalty](#), Belsat, 10 October 2019.

²⁰⁶ [Belarus Issues First Death Sentence This Year](#), BW Business world, 15 January 2021.

²⁰⁷ See Mr Vardanyan's statement of [20 January 2021](#).

²⁰⁸ [Belarus: UN Human Rights Committee condemns execution | OHCHR](#), 11 March 2022

²⁰⁹ <https://spring96.org/en/news/110810>, 17 February 2023.

²¹⁰ <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

death, a fact that I condemned in my statement of 20 October 2023, in which I called on the Belarusian authorities not to carry out this sentence.

46. The executions in Belarus raise several concerns in the light of two practices contrary to international law. Firstly, in the last few years, it has been revealed that several sentences have been carried out in secret. The Belarusian authorities execute people sentenced to death without giving them prior notice or informing their families or their lawyers. Furthermore, families are unable to recover the body of the executed family member or even to find out where he or she is buried. Thus, on 8 May 2014, the Mahilioŭ Regional Court announced that Rygor Yuzepchuk²¹¹ had been executed in Belarus without stating the date of his execution nor where the body had been taken. Another example is that of the Siarhei Vostrykau, executed in April 2017: the Homel Regional Court did not inform his mother of his death until the beginning of May 2017. Article 175 of the Criminal Executive Code allows the government not to return the bodies of those executed to relatives and not to disclose the place of burial.²¹² In June 2019, Aliaksandr Zylnikau's lawyer was not informed about his client's execution.²¹³ In 2021, Belarus executed Viktor Paulau, constituting the first officially recorded execution since 2019.²¹⁴ Family members of Viktor Paulau and institutions such as the UN Human Rights Committee repeatedly requested information about Paulau's whereabouts since June 2021. However, Belarusian authorities did not respond to any inquiries and only notified the family in August 2021 that Paulau had been executed by providing a death certificate.²¹⁵ Paulau was executed while his petition to the UN Human Rights Committee was still being examined. This was strongly condemned by the Committee. However, information on the death penalty is classified as a state secret in Belarus, therefore the recorded death sentences and executions are only minimum estimates and the actual figures may be higher. In May 2021, President Lukashenko granted clemency to two brothers, Ilya and Stanislav Kostev, who were sentenced to death in 2020.²¹⁶ There has only been one other known instance of clemency being granted to someone facing execution since Mr. Lukashenko came to power in 1994. In July 2022, Viktor Skrundzik was executed, but the date of the execution was only revealed more than a year after.

47. Moreover, many death sentences are passed at the end of unfair trials during which proof of guilt is provided by "confessions" drawn up after the use of torture or in the absence of any defence counsel.²¹⁷ The Belarusian authorities do not hesitate to carry out secret executions of death row inmates whose cases are being considered by the Human Rights Committee. In 2010 and 2011, Andrei Zhuk and Vasily Yuzepchuk, as well as Oleg Grishkovtsov and Andrei Burdyko, whose cases were being considered by the UN Human Rights Committee, were executed despite complaining that they had been tortured and not been given a fair trial. In April 2014, Belarus executed 23-year-old Pavel Selyun, who had been sentenced to death in June 2013. At that time, the Human Rights Committee was considering the case of Pavel Selyun and had asked the Belarusian authorities to stay the execution pending its conclusions,²¹⁸ a measure that Belarus deliberately failed to comply with. In November 2014, 25-year-old Alyksandr Haryunou was executed even though he had appealed to the UN Human Rights Committee alleging that he had not been given a fair trial. The Committee then called on the Belarusian authorities to stay his execution until it had finished considering his case.²¹⁹ In 2016, Syarhei Ivanou, Hyanadz Yakavitski and Syarhei Khmialeuski were executed in spite of the Human Rights Committee having asked the authorities not to carry out the execution while it considered the case.²²⁰ Aliaksei Mikhalenya, sentenced to death in 2017, was executed in May 2018 and Alyksandr Zhylnikay – in June 2019 despite the UN's requests for an interim measure.²²¹ In his report published in April 2017, the then UN Special Rapporteur, Mr Miklós Haraszti, on the situation of human rights in Belarus emphasised that the death sentences handed down in the country were disputable owing to the failure to comply with the guarantees of a fair trial and the lack of judicial independence, adding that "the secrecy surrounding executions

²¹¹ Alternative spelling: Ryhor Yuzepchuk.

²¹² Amnesty International, [Death sentences and executions in 2013](#), p. 28.

²¹³ <https://www.amnesty.org/download/Documents/EUR4905352019ENGLISH.pdf>

²¹⁴ Amnesty International 2021, p. 10, 38.

²¹⁵ Amnesty International 2021, p. 38; according to other sources, Paulau's family was only informed about the execution in 2022, see [UN Rights Committee Condemns Belarus's Execution Of Man While Case Still Pending](#), RFE/RL, 10 March 2022.

²¹⁶ [Lukashenko pardons 2 brothers sentenced to death](#), Handsoffcain Info, 30 April 2021.

²¹⁷ Amnesty International [2013](#), p. 29. See also the very controversial case of the executions on 18 March 2012 of Dimitri Konovalov and Vadislav Kovalev, who had been sentenced and executed after a bungled investigation, compounded by the apparent lack of a motive on the part of the individuals convicted and the total lack of material evidence. [Vives critiques après l'exécution de deux condamnés en Biélorussie](#), *Le Monde*, 19 March 2012.

²¹⁸ Amnesty International, [Death sentences and executions in 2014](#), p. 42.

²¹⁹ *Ibid*, p. 42.

²²⁰ Amnesty International, [Death sentences and executions in 2016](#), p. 28.

²²¹ Directorate General for External Policies of the Union, Human rights in Belarus: The EU's role since 2016, PE 603.870, June 2018, p. 38, and Amnesty International 2019, p. 32.

and the fact that no details on executions or places of burial are given to the families also amount to torture".²²² The current UN special rapporteur on the human rights situation in Belarus, Ms Anaïs Marin, has also considered the practice of not informing relatives about the circumstances of death of their close ones as inhuman treatment, violating Article 7 of the ICCPR.²²³

48. The Assembly has had occasion to express its grave concern about the increase in executions and death sentences in Belarus and the way they are carried out, as in [Resolution 1857 \(2012\)](#) and [Resolution 2172 \(2017\)](#).²²⁴ In the latter, it called on the authorities to introduce a *de jure* moratorium on the death penalty and executions, with a view to their abolition. Given the fact that no such moratorium had been introduced and no other progress had been made, it concluded that it was not in a position to re-establish the special guest status for the parliament of Belarus.²²⁵ Recently, in its Resolution 2372 (2021) on "Human rights violations in Belarus require an international investigation" of April 2021, the Assembly called once again on the Belarussian authorities to abolish the death penalty as soon as possible, starting with a moratorium.²²⁶ In October 2017,²²⁷ the Council of Europe Committee of Ministers reiterated its request to the Belarussian authorities to introduce an official moratorium on executions without delay and commute all death sentences handed down. In November 2017, in its response to Assembly [Recommendation 2107 \(2017\)](#) on the situation in Belarus, it once again deplored the fact that the country's authorities are continuing to carry out death sentences.²²⁸ In July 2019, the Committee of Ministers adopted a Council of Europe Action Plan 2019-2021, a strategic programme providing several approaches aiming to bring Belarus's legislations, institutions and practices into line with European standards. In this Action Plan, the Council of Europe and the authorities of Belarus agreed to jointly foster dialogue on the death penalty through co-operation programmes.²²⁹ The situation in Belarus is also being closely monitored by the European Union, which regularly condemns new executions and death sentences. As far as the UN is concerned, the Special Rapporteurs on the situation of human rights in Belarus have contributed to monitoring the development of the situation and makes recommendations, assist the Belarussian government in fulfilling its international human rights obligations and submit annual reports to the Human Rights Council and the UN General Assembly. Unfortunately, Belarus abstained from voting on the last UN resolution on a moratorium on the use of the death penalty in 2022.²³⁰

49. In May 2017, a working group on the death penalty (now known formally as the Working Group on Studying the Issue of the Abolition of the Death Penalty) was set up in the Belarus parliament.²³¹ It was co-operating with several international experts, including from the United Kingdom, on the question of abolition and organised round tables on legal Aspects of the Abolition of the Death Penalty in cooperation with the Council of Europe.²³² On 27 August 2019, one of my predecessors, Mr Corlatean, took part in a conference organised in Minsk by the Belarussian National Assembly, in co-operation with the Council of Europe Directorate General on Human Rights and the Rule of Law (DG 1). Moreover, at its meeting on 1 October 2019, our committee held a discussion with Mr Maxim Misko, Deputy Chairman of the Standing Committee on Law of the House of Representatives of Belarus, who stressed that the authorities were studying new initiatives on how to influence public opinion on the abolition of the death penalty issue before organising a new referendum. The authorities' official line, that the death penalty should be maintained until most of the population supports its abolition, should be reconsidered. In June 2021, Aleksandr Lukashenko signed amendments to the Criminal Code, which did not bring any changes as to the death penalty.²³³ In 2021, after the head of Constitutional Committee had stated that more social studies were required before organising a referendum on the abolition of the death penalty,²³⁴ he stated that the question of the death penalty might be

²²² UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Belarus, A/HRC/35/40, 21 April 2017, para. 103.

²²³ UN, A/HRC/41/52, *op. cit.*, para. 22.

²²⁴ [Resolution 1857 \(2012\)](#), The situation in Belarus, 25 January 2012, and [Resolution 2172 \(2017\)](#) on the same subject, adopted on 27 June 2017.

²²⁵ Paragraphs 5.4.2. and 8 of [Resolution 2172 \(2017\)](#).

²²⁶ Adopted by the Assembly on 21 April 2021, paragraph 11.1.10. See report by this Committee, rapporteur: Ms Alexandra Louis (France, ALDE), Doc. 15256.

²²⁷ Committee of Ministers, Decision on the abolition of the death penalty, adopted at the 1298th meeting, CM/Del/Dec(2017)1298/4.1, 25 October 2017, para. 8.

²²⁸ [Doc. 14446](#), Reply to Assembly [Recommendation 2107 \(2017\)](#), adopted at the 1301st meeting of the Ministers' Deputies, 29 November 2017.

²²⁹ Council of Europe Action Plan for Belarus 2019-2021, p. 2.

²³⁰ [9th Resolution for a moratorium on the death penalty: the trend is growing - WCADP \(worldcoalition.org\)](#).

²³¹ DD(2019)1222, 30 October 2019 and *Nine members of National Assembly join new-look working group on issue of death penalty*, Belapan, 31 January 2020.

²³² For example, see the news item at <https://www.coe.int/en/web/national-implementation/-/abolition-of-death-penalty-discussed-in-minsk>.

²³³ [Belarus's Lukashenko Endorses 'Anti-Extremist' Amendments To Criminal Code \(rferl.org\)](#), 8 June 2021.

²³⁴ [It is suggested to hold a separate referendum on the death penalty in Belarus](#), Belta, 28 September 2021.

considered in the future, following a separate referendum on this issue.²³⁵ Even though the necessity of the death penalty is questioned in the Belarusian society, President Lukashenko widened the scope of the death penalty to planning an attack or an act of sabotage, dubbed "attempting an act of terrorism" in May 2022.²³⁶ Human rights groups denounced the new law adding new charges in death penalty regulations, and they alleged that the expansion of the death penalty target many opponents and anti-war activists, including its exiled leader.²³⁷ U.S. Secretary of State Antony J. Blinken described the actions as "those of an authoritarian leader desperate to cling to power through fear and intimidation."²³⁸ In March 2023, Lukashenko signed a law extending capital punishment to civil servants and military personnel for the crime of "High treason against the State".²³⁹ Both amendments to the Criminal Code (2022 and 2023) seem contrary to international law standards on the use of the death penalty, which limit it to the most serious crimes, involving intentional killing,²⁴⁰ and were denounced by the Committee of Ministers.²⁴¹

50. The Parliamentary Assembly and the Committee of Ministers have been advocating for the abolition of the death penalty in Belarus for many years through several resolutions and co-operation programmes.²⁴² On 17 March 2022, the Committee of Ministers decided to suspend relations between the Council of Europe and Belarus due to the active participation of Belarus in the aggression of the Russian Federation against Ukraine.²⁴³ In its last decision on the death penalty (27 September 2023), the Committee of Ministers reiterated its strong call on the authorities of Belarus to stop executions pending abolition of the death penalty and to apply the alternative punishment provided for in the Belarusian criminal legislation; and encouraged the implementation of the activities on the death penalty within the framework of the Contact Group between the Council of Europe and the Belarusian democratic forces and civil society.

4. Conclusion

51. The global trend continues towards the universal abolition of the death penalty. Especially in Europe the movement for abolition is very pronounced and, as a result, capital punishment has been almost entirely abolished on the continent. The Council of Europe has been one of the principal actors in setting standards and norms in the fight for the abolition of the death penalty. The rejection of capital punishment constitutes one of the main principles and values of the organisation. The Parliamentary Assembly has contributed to the abolition of the death penalty in nearly all European countries by making a moratorium on executions and a commitment to abolition a prerequisite for accession to the organisation. However, we should not take this for granted. In France several private member's bills have been tabled to reinstate it, the last dating from 2004.²⁴⁴ After the January 2015 terrorist attacks, the President of the National Front, Marine Le Pen, publicly stated that she was in favour of "a referendum on the death penalty in France".²⁴⁵ Recently, a candidate in the last presidential election, journalist Eric Zemmour, stated that "it had not been a good thing to abolish of the death penalty".²⁴⁶ According to a 2020 opinion poll, 55 % of French people were in favour of reinstating the death penalty.²⁴⁷ Nevertheless, on 6 October 2021, the National Assembly held a high-level conference to celebrate the 40th anniversary of the abolition of the death penalty in France and President Macron clearly reiterated the firm opposition of France to the death penalty in all places and all circumstances. In Hungary, in 2015, Prime Minister Viktor Orbán commented publicly on its reintroduction²⁴⁸ and some politicians still tried to launch a debate on it²⁴⁹. The situation in Turkey, following the attempted coup d'état of 15 July 2016, and President

²³⁵ [Lukashenko has agreed to consider the abolition of the death penalty on referendum](#), Meduza, 28 September 2021.

²³⁶ [Belarus president changes death penalty law to target opposition | Euronews](#), 19 May 2022

²³⁷ [Western Democracies, Human Rights Groups Denounce Belarus' Use of Death Penalty to Target Political Opponents and Anti-War Activists | Death Penalty Information Center](#), 23 May 2022

²³⁸ [Belarus introduces death penalty for 'attempted' terrorism \(france24.com\)](#), 18 May 2022

²³⁹ Sergei Kuznetsov, [Belarus wants to bring in death penalty for 'high treason' – POLITICO](#), 7 December 2022.

²⁴⁰ <https://reliefweb.int/report/belarus/report-special-rapporteur-situation-human-rights-belarus-anais-marin-a78327-enarruzh>, 25 August 2023, referring to the position of the UN Human Rights Committee on Article 6 of the ICCPR.

²⁴¹ [Decision](#) of 5 April 2023.

²⁴² see [Resolution 1857 \(2012\)](#), The situation in Belarus, 25 January 2012; [Resolution 2172 \(2017\)](#), The situation in Belarus, 27 June 2017; [Resolution 2372 \(2021\)](#), Human rights violations in Belarus require an international investigation, 21 April 2021; [Council of Europe Action Plan for Belarus 2019-2021](#).

²⁴³ [Decision CM/Del/Dec\(2022\)1429/2.5](#), 17 March 2022.

²⁴⁴ <http://www.assemblee-nationale.fr/histoire/peinedemort/retablissement.asp>, retrieved on 2 August 2018.

²⁴⁵ [Charlie Hebdo: Marine Le Pen pour un référendum sur la peine de mort](#), *Le Point*, 8 January 2015.

²⁴⁶ [Présidentielle 2022 : Eric Zemmour « philosophiquement » pour la peine de mort](#), *Le Parisien*, 15 September 2021.

²⁴⁷ A. Feertchak, [Est-il juridiquement possible de rétablir la peine de mort?](#), *Le Figaro*, 16 September 2020.

²⁴⁸ See, for example, http://www.lemonde.fr/les-decodeurs/article/2015/05/21/viktor-orban-peut-il-retablir-la-peine-de-mort-en-hongrie_4637096_4355770.html and

<http://www.theguardian.com/world/2015/apr/30/eu-jean-claude-juncker-viktor-orban-hungary-death-penalty-return>.

²⁴⁹ In February 2020, Laszlo Toroczkai, leader of the far-right Mi Hazánk (Our Homeland) party called for a debate on the possibility of reinstating the death penalty; [Hungary. Leader of Far-Right Party Calls for Public Debate on Possibility of Reinstating Death Penalty](#), *hungarytoday.hu*, 3 February 2020.

Erdoğan's statements on organising a referendum on reintroducing the death penalty were also worrying.²⁵⁰ The discovery in Turkey in 2017 of children who had disappeared and were found dead reignited the debate on the death penalty. President Erdoğan voiced his support for its restoration for terrorist offences. In July 2018, he agreed with Devlet Bahçeli, the leader of the Nationalist Movement Party (MHP), supporting the ruling Justice and Development Party (AKP), on the idea of amending the criminal law to introduce the possibility of handing down the death penalty for perpetrators of terrorist offences and serious crimes against children and women.²⁵¹ In September 2020, the parliamentary speaker, Mustafa Şentop, expressed his support for the reintroduction of the death penalty "to a very limited extent, for certain crimes". He noted, however, that this would require constitutional reform and an evaluation of the compatibility of the potential reform with Turkey's international Human Rights obligations.²⁵² In Poland, the former Prime Minister Mateusz Morawiecki said in 2023 that he was in favour of reinstating the death penalty for the most horrific crimes²⁵³. More recently, a poll conducted in March 2023 reported that 54% of Canadians support the return of the death penalty for murder, which is up three points since a similar poll conducted in February 2022.²⁵⁴

52. In several statements, the Committee on Legal Affairs and Human Rights²⁵⁵ and its general rapporteurs have reiterated that the rejection of capital punishment is a basic principle of our Organisation. The Assembly, which has helped turn Europe into death penalty free continent, by making a moratorium on executions and a commitment to abolition a condition for accession to the Council of Europe, will not accept any backsliding on this question. Reintroducing the death penalty would purely and simply be incompatible with a state's continuing membership of the Council of Europe. It should also be noted that in January 2018, in Recommendation 2123 (2018) on "Strengthening international regulations against trade in goods used for torture and the death penalty",²⁵⁶ the Assembly called for a ban on the trade in goods that have no practical use other than for the purposes of the death penalty or torture and called on Council of Europe member states to apply the approach adopted by the European Union (see Council Regulations 1236/2005 and 2016/2134).²⁵⁷ According to the Assembly, on the basis of their existing legal obligations "Council of Europe member states are required to take effective measures to prevent activity within their jurisdictions that might contribute to or facilitate capital punishment, torture and inhuman or degrading treatment or punishment in other countries, including by effectively regulating the trade in goods that may be used for such purposes".²⁵⁸ In its reply to this recommendation, the Committee of Ministers reiterated its commitment to the abolition of capital punishment and expressed its support for international regulations against the trade in goods used for torture and the death penalty.²⁵⁹ Following the work undertaken by the Steering Committee on Human Rights (CDDH) in cooperation with civil society, on 31 March 2021, the Committee of Ministers adopted its Recommendation CM/Rec(2021)2 to member States on measures against the trade in goods used for the death penalty, torture and cruel, inhuman or degrading treatment or punishment. A review of this recommendation is foreseen in the new CDDH terms of reference adopted on 22 November 2023.

53. Reference should also be made to an important step forward by the Catholic Church (the Holy See has observer status with the Council of Europe): on 2 August 2018, Pope Francis inserted into the Catechism a reference to the Catholic Church's categorical opposition to the death penalty, which is considered "inadmissible". He now wants the Church to work "with determination" for its abolition worldwide.²⁶⁰ This approach has been confirmed in his newest encyclical "Fratelli Tutti" issued on 3 October 2020.²⁶¹ Ecumenical Patriarch Bartholomew of Constantinople, the head of the Eastern Orthodox Church, has joined with the Roman Catholic Church in declaring the death penalty fundamentally incompatible with Christian teachings.²⁶²

²⁵⁰ AFP, [Turquie: la France s'inquiète d'un référendum sur la peine de mort](#), *Le Point*, 17 April 2017.

²⁵¹ Mehmet Cetingulec, [Child tragedies reignite death penalty calls in Turkey](#), *Al-Monitor*, 17 July 2018; [Turkish leader in death penalty vow after bomb kills mother and baby](#), *middleeasteye.net*, 2 August 2018, and [Turkish leaders agree to bring back death penalty](#), *middleeasteye.net*, 29 August 2018.

²⁵² BIA News Desk, Istanbul, 4 September 2020, <http://bianet.org/english/politics/230302-parliamentary-speaker-announces-support-for-reintroduction-of-death-penalty>.

²⁵³ [| Polska Agencja Prasowa SA \(pap.pl\)](#) ; [Poland's conservative premier in favor of death penalty | AP News](#)

²⁵⁴ M. Cznsco, [Support for the Return of Capital Punishment Rises in Canada](#), *ResearchCo*, 17 March 2023.

²⁵⁵ See, for example, the committee's statement of 10 October 2019.

²⁵⁶ [Recommendation 2123 \(2018\)](#), adopted by the Assembly on 26 January 2018.

²⁵⁷ See our Committee's report, rapporteur: Mr Vusal Huseynov (Azerbaijan, EPP/CD), [Doc. 14454](#).

²⁵⁸ Paragraph 3 of [Recommendation 2123 \(2018\)](#).

²⁵⁹ [Doc. 14614](#) of 14 September 2018.

²⁶⁰ [Le pape inscrit dans le catéchisme une opposition catégorique à la peine de mort](#), *Le Monde*, 2 August 2018.

²⁶¹ [Vatican City | Pope Francis closes the door on the death penalty in 'Fratelli Tutti'](#), *americamagazine.org*, Staff, 4 October 2020.

²⁶² [Orthodox Church Patriarch Calls Death Penalty Incompatible with Christian Beliefs](#), *Death Penalty Information Center*, 26 October 2020.

54. Most recently, at the Reykjavik Summit of May 2023, the Council of Europe Heads of State and Government have given a new impetus to the organisation's long-standing fight against the death penalty in Europe and beyond. They expressed their commitment to pursue the fight against its reintroduction in Europe and in favour of its global abolition. This has been confirmed by the last Committee of Ministers decision on the abolition of the death penalty adopted 27 September 2023, and actions to implement the Reykjavik Summit declaration have already been taken, such as the organisation in June 2023 of a workshop for youth advocacy for the abolition of the death penalty and a second training course is supposed to take place in June 2024.

55. In conclusion, the Council of Europe is endeavouring to protect individuals against the death penalty in both its member and observer states and in neighbouring countries with co-operation status, such as "partner for democracy" status. The Assembly has always played a key role in this fight and must continue to do so in order to protect the values that it is the Council of Europe's duty to uphold. It has to remain vigilant about the developments in certain member States, bearing in mind certain political statements promoting the reintroduction of the death penalty. It must also contribute to its universal abolition beyond Europe, by sharing its expertise and practice on abolition with other parts of the world, thus contributing also to the implementation of the Reykjavik Summit declaration.