



# **Convention on the Elimination of All Forms of Discrimination against Women**

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## **Committee on the Elimination of Discrimination against Women**

### **Concluding observations on the eighth periodic report of Belarus**

#### **Addendum**

#### **Information provided by Belarus in follow-up to the concluding observations\***

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\* The present document is being issued without formal editing.



**Information on the steps taken by the Republic of Belarus to implement the recommendations contained in the concluding observations on the eighth periodic report of the Republic of Belarus on implementation of the Convention on the Elimination of All Forms of Discrimination against Women**

**Paragraph 23 (a): Adopt legislation criminalizing gender-based violence specifically, including marital rape.**

1. Gender-based violence is not specifically criminalized under Belarusian law.
2. All forms of violence, whether physical, psychological or sexual, incur criminal and/or administrative responsibility under the Criminal Code and the Code of Administrative Offences of the Republic of Belarus. The responsibility incurred is gender-neutral: the victim of the violence, as well as the perpetrator, can be either a woman or a man.
3. Responsibility is therefore also incurred in the case of marital rape. Under article 20-1 (Equality of the spouses in family relations) of the Marriage and Family Code, all issues pertaining to marriage and family relations must be resolved by the spouses jointly, by mutual consent and on the basis of equality.
4. Sexual intercourse against the will of the female spouse (or the female domestic partner) accompanied by the use or threat of violence constitutes rape and incurs responsibility under article 166 of the Criminal Code.
5. In addition, as stated in paragraph 2, part three, of the Decision of the Plenum of the Supreme Court No. 7 dated 27 September 2012 on judicial practice in cases involving crimes against sexual autonomy or sexual inviolability, covered in articles 166-170 of the Criminal Code, a person can be recognized as a victim in such cases regardless of prior conduct, way of life, the existence of marital relations with the accused or other personal circumstances.

**Paragraph 45 (b): The living and working conditions of detained women are decent and in line with international standards, monitoring and mechanisms for oversight are in place and clear procedures for complaints are available.**

6. Respect for the rights of women in detention at correctional facilities is subject to special monitoring by the Penal Enforcement Department of the Ministry of Internal Affairs.
7. The Republic of Belarus is a State governed by the rule of law where the individual and individual rights, freedoms and the guarantees for their realization are values of the highest order; furthermore, universally recognized principles of international law are recognized as having precedence and are reflected in national law.
8. In the Republic of Belarus, the legal status of women in detention is governed by the Code of Criminal Procedure and the Detention Procedure and Conditions Act.
9. Gender-based discrimination against detainees is prohibited under article 2 of the Act. Their detention is governed by the principles of legality, humanism, equality of all citizens before the law and respect for human dignity in accordance with the Constitution, universally recognized principles and norms of international law, as well as international treaties to which the Republic of Belarus is party; detention should not be accompanied by cruel or inhumane treatment that could harm the physical or mental health of the detainee.

10. Persons are remanded in custody on the basis of a detention order (ruling), an order (ruling) to remand the person in custody as a preventive measure or a court sentence.
11. Detainees have equal rights regardless of sex, nationality, material wealth, social status, membership in public associations or religion.
12. Detainees have the following rights:
  - (a) To be informed of their rights and responsibilities, the regime of detention and the procedure for submitting petitions, proposals, applications and complaints;
  - (b) To submit petitions, proposals, applications and complaints, including to a court, regarding the legality of and grounds for their detention and regarding violations of their rights and lawful interests;
  - (c) To apply to meet in person with the director of the administration of the detention centre and with his or her authorized representatives, as well as with the person who supervises the detention centre, while such persons are on its premises.
13. The special needs of women in detention are taken into consideration in national law.
14. In accordance with article 23 of the Detention Procedure and Conditions Act, women may be accompanied by their children under the age of three years.
15. Detention centres for pregnant women and women accompanied by children offer superior living conditions and medical care and adhere to higher nutrition and clothing standards, as determined by the Government.
16. Pregnant women and women accompanied by children are allowed at least three hours of daily exercise. No restrictions may be placed on the time allowed for daily exercise.
17. Solitary confinement may not be used to discipline pregnant women or women accompanied by children.
18. The children of detained women may be transferred to relatives, under the circumstances and in accordance with procedures established in national law, provided that the women grant their consent.
19. In accordance with Decision No. 1564 of the Council of Ministers of 21 November 2006, establishing nutritional standards for persons held in remand centres and detention centres operated by law enforcement agencies and the correctional system and for those held at compulsory rehabilitation centres of the Ministry of Internal Affairs, and establishing also standards for the provision of personal hygiene products to detainees in correctional institutions and to those held at compulsory rehabilitation centres, a separate nutritional standard applicable to pregnant women and women with children has been defined within nutritional standard No. 3 applicable to detainees in remand centres. Provision is made in that separate standard for a larger allowance of wheat bread, meat, milk, eggs, sugar, vegetables, cow's milk butter and cottage cheese. A diet conforming to nutritional standard 5B, which contains a higher proportion of those food items, is provided to pregnant women in the last four months preceding delivery and to breastfeeding mothers and wet nurses during the breastfeeding period until the child reaches the age of nine months. The same Decision provides for a higher standard for the provision of personal hygiene products to women.
20. In accordance with article 17 of the Detention Procedure and Conditions Act, no restrictions may be placed on the weight of care packages transmitted to pregnant women and women accompanied by children.

21. Pursuant to paragraph 542 of Decision No. 202/39 of the Ministry of Internal Affairs and the Ministry of Health of 27 August 2003 approving instructions for the medical care of detainees in correctional facilities of the Ministry of Internal Affairs of the Republic of Belarus, women in the third trimester and women accompanied by children under the age of three years must be transported in special wagons separately from other convicted persons and must be accompanied by medical personnel.
22. In accordance with article 31 of the Act, cell assignment must take into account the personalities and psychological compatibility of the detainees.
23. Men and women are kept separately in detention.
24. In addition to being segregated by sex, suspects and accused persons being held in correctional facilities for the first time are held separately from suspects and accused persons who have been detained previously.
25. Persons arriving at a remand centre usually undergo a medical assessment on the day of arrival or within one day at the latest.
26. The health screening and search of a detainee are carried out by facility staff of the same sex.
27. Persons arriving at a remand centre are informed of their rights and responsibilities, the regime of detention and the procedure for submitting petitions, proposals, applications and complaints.
28. In accordance with article 22 of the Detention Procedure and Conditions Act, upon request and provided that conditions so permit, detainees are given the opportunity to work at the detention centre.
29. The working conditions of detainees must comply with safety requirements and meet health and sanitation rules and regulations.
30. Remuneration of detainees is provided in accordance with national law.
31. The wages earned by detainees are credited to their personal accounts.
32. In accordance with article 43 of the Act, the Procurator-General of the Republic of Belarus and subordinate procurators oversee the strict and consistent application of the law in detention centres.

**Paragraph 45 (c): Male staff in detention facilities receive mandatory training in the rights of women and gender-sensitive behaviour, the number of female staff is increased, detainees have the possibility to correspond confidentially with outside judicial and complaints bodies and closed complaints boxes are installed in prisons.**

33. In accordance with article 12 of the Detention Procedure and Conditions Act, all petitions, proposals, applications and complaints from detainees are submitted through the administration of the detention centre.
34. Petitions, proposals, applications or complaints addressed to bodies conducting criminal proceedings are not censored and are dispatched, as appropriate, within one day following their submission.
35. Petitions, proposals, applications and complaints addressed to other State bodies, local government and self-governing authorities and defence lawyers are not censored and are dispatched, as appropriate, within three days following their submission.
36. Responses to petitions, proposals, applications and complaints are delivered to and signed for by detainees and are attached to their personal files.

37. Any form of harassment of detainees in connection with their having filed a petition, proposal, application or complaint is prohibited.

38. In accordance with the internal regulations of correctional institutions approved by Decision No. 174 of the Ministry of Internal Affairs of 20 October 2000, no restrictions may be placed on the number of letters and telegrams received or dispatched by convicted persons. For this purpose, mailboxes are available in every detention area and in designated locations in correctional colonies; letters are collected daily, except on weekends and public holidays, by authorized officials for dispatch.

**Paragraph 45 (d): Women in detention have equal access to free legal aid, and the right to private communication with counsel is guaranteed and not restricted by the prison administration.**

39. In accordance with article 41 of the Code of Criminal Procedure, suspects, including women, in the event of detention or a preventive measure in the form of remand, have the right to:

(a) Receive, free legal advice from a lawyer funded from local budgets before their first interrogation as a suspect;

(b) Have one or several defence lawyers from the time they have been informed by the criminal prosecution body that criminal proceedings have been instituted against them, that they are a suspect, that they are being detained or that a preventive measure is being imposed on them;

(c) Communicate with their lawyer without hindrance, in private and in confidence, with no restriction on the number and duration of interviews;

(d) File a complaint regarding the actions or decisions of the body conducting criminal proceedings;

(e) File a complaint in court regarding their detention or remand in custody.

40. In accordance with article 25 of the Detention Procedure and Conditions Act, detainees, including women detainees, have the right to communicate with their lawyers and to receive visits from close relatives and family members, as provided for by law, in areas designated for such purposes in detention centres.

41. Detainees can communicate with their lawyers, in private and in confidence, with no restriction on the number and duration of interviews.

42. A body conducting criminal proceedings may grant detainees permission to receive visits of up to two hours from close relatives and family members.