



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**  
**Forty-seventh session**

**Summary record of the first part (public)\* of the 1036th meeting**

Held at the Palais Wilson, Geneva, on Friday, 11 November 2011, at 10 a.m.

*Chairperson:* Mr. Wang Xuexian (Vice-Chairperson)

**Contents**

Consideration of reports submitted by States parties under article 19 of the Convention  
(*continued*)

*Fourth periodic report of Belarus*

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\* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1036/Add.1.

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*In the absence of the Chairperson, Mr. Wang Xuexian, Vice-Chairperson, took the Chair.*

*The meeting was called to order at 10.05 a.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** *(continued)*

*Fourth periodic report of Belarus (CAT/C/BLR/4; CAT/C/BLR/Q/4 and Add.1; HRI/CORE/1/Add.70)*

1. *At the invitation of the Chairperson, the delegation of Belarus took places at the Committee table.*
2. **Mr. Khvostov** (Belarus) said that the Belarusian Constitution accorded priority to internationally recognized legal principles and ensured that they were reflected in the country's legislation. The inadmissibility of torture and cruel, inhuman or degrading treatment or punishment was guaranteed under article 25 of the Constitution.
3. Belarusian legislation currently contained no specific legal definition of torture. However, criminal responsibility for torture and cruel, inhuman or degrading treatment or punishment was covered by articles 128 and 394 of the Criminal Code. In accordance with article 20 of Act No. 361-3 on the Laws and Regulations of the Republic of Belarus, the rules of law contained in the international treaties to which Belarus was a party formed part of domestic legislation and were directly applicable, except where an international treaty specifically required the enactment of a domestic law. Hence the definition of torture contained in article 1 of the Convention was used to determine the criminal liability of persons charged with participating in acts of torture. However, the Office of the Procurator-General was required, pursuant to the plan for the drafting of bills for 2011 approved by Presidential Decree No. 10 of 6 January 2011, to draft a bill on amendments to the Criminal Code and the Code of Criminal Procedure that would include, inter alia, a definition of the term "torture" in the Criminal Code and criminalize such acts.
4. No cases of criminal organizations engaged in activities involving the use of torture or other cruel, inhuman or degrading treatment or punishment against citizens had been recorded by the law enforcement agencies in 2010 or the first eight months of 2011. According to the Office of the Procurator-General, the courts had heard no criminal cases pertaining to attempted acts of torture, the commission of torture or the issuing of orders to commit torture by persons in authority. There was also no information concerning convictions of persons who had sought to bring pressure to bear on the judiciary.
5. Belarus had established the requisite legal and regulatory basis for preventing and prosecuting torture. The Criminal Code, the Penal Enforcement Code and the Code of Criminal Procedure had been revised and expanded to bring them into line with the Convention, and the amended versions had entered into force on 1 January 2001. Responsibility for torture was also covered by article 426 of the Criminal Code concerning abuse of authority or official powers. Paragraph 3 mentioned the use of violence, weapons or restraining devices, and cruel or degrading treatment of the victim as separate elements of the offence. In such cases, the offence was characterized as a serious crime and was punishable by deprivation of liberty for a period of between 3 and 10 years, with or without confiscation of property, and forfeiture of the right to occupy certain posts or engage in certain activities.
6. In accordance with article 3 of the Penal Enforcement Code, guarantees of protection against torture, violence and other cruel or degrading treatment were strictly observed in the case of convicted persons. Anyone who claimed to have been subjected to torture or ill-treatment could file a complaint with the prosecution service and judicial bodies.

7. The Detention Procedures and Conditions Act had been adopted in 2003. Article 2 of the Act guaranteed the application to persons in detention of the principles of legality, humanity, equality of all citizens before the law and respect for human dignity, in accordance with the Constitution, the universally recognized principles and standards of international law and the international treaties to which Belarus was a party. It also outlawed cruel and inhuman treatment that could harm the physical or mental health of the detainee.
8. The 2008 Act on the Granting of Refugee Status and Subsidiary and Temporary Protection to Foreign Nationals and Stateless Persons in the Republic of Belarus stipulated that foreign nationals present in the territory of Belarus could not be returned or expelled against their will to the territory of a State where they were at risk of torture. The 2008 Act laying down the principles governing action to prevent infringements of the law established a system of measures aimed at detecting family problems, the functions of State bodies in that area, and basic measures to prevent domestic violence. The domestic violence prevention measures specified in the Act were part of the general system of crime prevention. The right of children to inviolability of the person and to protection from exploitation and violence was enshrined in the 1993 Rights of the Child Act.
9. Presidential Decree No. 518 of 2 October 2010 approved the State Programme to Combat Human Trafficking, Illegal Migration and Other Illegal Activities 2011–2013, which aimed, inter alia, to protect and rehabilitate victims of human trafficking, to reduce the level of crime linked to human trafficking, and to enhance the effectiveness of State bodies and organizations involved in preventing, detecting and suppressing human trafficking.
10. Criminal enforcement legislation in Belarus provided for oversight and for the involvement of civil society organizations in the work of agencies and institutions responsible for the enforcement of various types of penalties. For instance, Presidential Decree No. 460 of 28 August 2001 had approved regulations applicable to watchdog commissions attached to the provincial, district and municipal executive committees and local administrations. Such commissions were set up by decision of the executive and administrative bodies located in the same area as facilities responsible for enforcing criminal penalties and compulsory rehabilitation centres. The watchdog commissions monitored the activities of correctional facilities and compulsory rehabilitation centres and the conditions of detention. They also provided assistance to the facilities in organizing the correctional process and rehabilitating convicted criminals, and to local executive and administrative bodies in ensuring the social reintegration of persons released from prison or discharged from compulsory rehabilitation centres.
11. The commissions were entitled to visit correctional facilities and organizations employing persons sentenced to community service, punitive work or semi-custodial sentences. They also made recommendations to the relevant local executive and administrative bodies on ways of improving the correctional process in the facilities concerned. In addition, they examined the medical and social rehabilitation of prisoners in compulsory rehabilitation centres, their conditions of detention and the work available to them. To ensure transparency in correctional establishments, an article of the Penal Enforcement Code provided for visits by representatives of the media to such facilities.
12. While the procedures for oversight by public and civil society organizations might not be ideal, they were nonetheless effective. Belarus had introduced a comprehensive range of measures to prevent torture in correctional facilities and domestic violence. The Government and public bodies continually monitored their implementation with a view to amending and supplementing the regulatory documents in the light of practical experience.

13. **Ms. Gaer** (Country Rapporteur) expressed regret that all members of the delegation were based in Geneva and that no official had travelled from the State party to participate in the dialogue with the Committee.

14. The fourth periodic report, although it had been submitted almost 10 years after the scheduled date, provided a great deal of information about legal provisions and some information about practical developments. She welcomed, for instance, the closure of 10 temporary holding facilities that failed to meet national standards and the installation of video surveillance systems to monitor duty details in such facilities, including at night.

15. She drew attention to the Committee's general comment No. 2 on article 2 of the Convention. That article was of key importance because it required States parties to take effective measures to prevent acts of torture and affirmed that no exceptional circumstances whatsoever, such as a state of war, internal instability or any other public emergency, could be invoked as a justification for torture. The same applied to orders from a superior officer or public authority.

16. The Committee had received numerous allegations of difficulties in obtaining access to legal counsel and of harassment of lawyers. It had also received reports concerning the lack of independent investigations and effective complaint mechanisms. She thanked the State party for its replies to the Committee's list of issues (CAT/C/BLR/Q/4/Add.1) but noted that its failure to address the issues she had just mentioned seemed to reinforce those key concerns.

17. The Special Rapporteur on the independence of judges and lawyers had sent an urgent appeal to the Belarusian Government in March 2011, noting that defence lawyers in at least 17 cases involving former presidential candidates and others arrested in connection with the events of 19 December 2010 had been prevented from meeting with their clients since those events. For instance, the lawyers of Andrei Sannikov and Vladimir Neklyayev alleged that they had been prevented from meeting their clients for at least 30 days. She invited the delegation to comment on those allegations.

18. She asked how the State party monitored whether individuals were provided with access to counsel within a short period of time after their apprehension. Were inspections by the authorities the only type of monitoring? She also wished to know whether the police were required to record requests for access to counsel and the response to those requests and, if so, whether the records were reviewed by an independent authority. Had any police officer been disciplined for failing to provide a detainee with access to a lawyer?

19. According to the State party's replies to the list of issues, lawyers for individuals detained in connection with the December 2010 events had been required to reschedule appointments with their clients because only two rooms were available at the facility where their clients were being held and the system was overwhelmed with detainees. She wondered why more rooms had not been made available or other means of communication provided. How many inspections of the facilities in which the detainees were being held had been conducted by the Office of the Procurator-General or an independent body? Had the authorities acted on any of the information arising from such inspections? She also enquired about measures to ensure that all detainees had an opportunity to communicate confidentially with the counsel of their choice.

20. It had been alleged that persons detained in connection with the December 2010 events and others, such as Ales Bialiatski who had been detained on 4 August 2011, had been prevented from contacting family members within a short period of time following their apprehension. She asked whether the exercise of that right was monitored. The Committee considered that arrested persons should be allowed to contact family members themselves in order to explain what had happened to them and, if necessary, to report abuse.

21. She asked whether the law stipulated that all arrested persons had the right to request an independent medical examination and, if so, how the exercise of that right was monitored. Were detainees provided with a copy of the results and were detention facility employees other than the doctor permitted to be present during the examination? The Committee had been informed that medical examinations had been refused in some cases. For instance, Andrei Sannikov claimed that he had been subjected to abuse by the police both during and after his arrest. There were photographs showing him being pushed to the ground with a police shield and being jumped upon by an officer. He was allegedly denied adequate medical care and a forensic medical examination. Vladimir Neklyayev had been taken into custody at a hospital where he was being treated for an injury to his head. He also alleged that he had been denied proper medical treatment and that he had been subjected to torture following his detention. Questions regarding those two cases had been raised in the list of issues but the Government had failed to respond. She hoped that the delegation would remedy that shortcoming.

22. Turning to the question of the identity of police personnel, she said that both Mr. Sannikov and Mr. Neklyayev had reported that they had been subjected to torture in pretrial detention and that some of the acts had been perpetrated by men with black face coverings. The Committee was concerned about the failure to ensure that law enforcement officers' identity was visible to detainees. What measures were in place to ensure that the identity of police and other interrogators could be ascertained and how was the effectiveness of such measures monitored?

23. The State party had been asked whether detainees could challenge the lawfulness of their pretrial detention by filing a claim for habeas corpus. It had replied that the Code of Criminal Procedure provided for a legal mechanism for appeals against the actions and decisions of the bodies conducting the criminal proceedings, including the denial of safeguards. She asked which article of the Code contained that provision and how many appeals had been filed. Had any been successful and, if so, what was the substance of the court's decision?

24. The State party claimed in paragraph 21 of its reply to the list of issues that no complaints had been made by those arrested in connection with the December 2010 events. That statement directly contradicted the information that the Committee had received from various sources. She referred, for instance, to Mr. Sannikov's letter to his wife indicating that he had been unable to file complaints, that he had been denied a medical examination and that he had been approached by an investigator, Andrei Khalimau, from the Military Prosecutor's Office, who was apparently conducting an investigation at the State Security Committee detention facility, acting on a complaint from the Belarusian Helsinki Committee. She asked what investigations had been conducted into the treatment of Mr. Sannikov in response to any of those complaints.

25. The Committee had been informed that officials from the Office of the Procurator-General had refused to investigate complaints from prisoners or their families. The wife of Alyaksandr Atroshchankau claimed that she had submitted a petition to the Office concerning allegations that her husband had been tortured in the State Security Committee pretrial detention facility, including through psychological pressure caused by the placement of electroshock equipment near his ears during the interrogation. An investigator from the Office of the Procurator-General had apparently visited the facility in response to her complaint, but when her husband had begun to provide him with details about the abuse, he had torn up the report and started to issue threats. Mr. Atroshchankau had then refused to provide information unless his lawyer was present. His wife had been informed that he had failed to provide any evidence regarding the facts. Had the State party investigated those allegations?

26. Human rights groups had conducted a survey of many individuals detained in connection with the December 2010 protests. Human Rights Watch had interviewed 208 former detainees, of whom 158 had claimed that they had been beaten when taken to the pretrial facility and 58 had claimed to have been struck with batons. Some had allegedly been forced to sign a paper on release to the effect that they had no complaints. Had the State party conducted any such investigation or survey and had any agency apart from the Office of the Procurator-General examined the claims?

27. The Working Group on Enforced or Involuntary Disappearances had been unable to ascertain the whereabouts of three prominent individuals who had disappeared in the State party; the delegation was asked to comment on those cases and inform the Committee whether they had been resolved. In that regard, the State party had said that there was a centralized register containing the names of all detained persons. The Committee wished to know whether detainees' relatives and lawyers could consult that register and, if so, how they could submit requests to do so. She also asked what the procedure was for entering a detainee's name in that register, and whether any police officers had been disciplined or punished for failing to properly record the names of detained persons. According to the State party report, media organizations were permitted to visit places of detention. Could the delegation say which independent media organizations had visited prisons?

28. The State party had failed to provide details of any concrete measures in place to ensure respect for the principle of inadmissibility of evidence obtained through torture. The delegation was requested to provide that information, as well as details of any cases that had been dismissed on the grounds that the evidence before the court had been obtained by means of torture.

29. The Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) had issued a report on trials in Belarus, which stated that allegations of torture had been made during several of the trials monitored by OSCE. In some cases, judges had relied on pretrial statements by defendants that had allegedly been obtained under duress or as a result of intimidation, even though those statements conflicted with defendants' testimony during their trials. According to the report, judges had generally been satisfied upon ascertaining that any statement used at trial had been signed in the presence of a lawyer, and only rarely had a judge attempted to gather additional facts concerning alleged mistreatment. No judge had ordered an independent inquiry and defence motions to exclude evidence based on alleged mistreatment had been denied. The Committee wished to know whether Belarus would take steps to implement the recommendations made by OSCE in its report, and in particular its recommendation that Belarus should amend its Code of Criminal Procedure to provide that when defendants retracted previously provided written testimonies, those testimonies should be excluded from the evidence and not relied upon by the court.

30. The Special Rapporteur on the independence of judges and lawyers had submitted appeals to the State party with regard to Pavel Sapelka, Tatsiana Aheyeva, Uladzimir Toustsik, Aleh Aheyev, Tamara Harayeva and Alyaksandr Pylchanka. The Committee was concerned that Belarus had failed to respond adequately to those appeals. The delegation was asked to comment on the cases involving those individuals, and to indicate what steps Belarus was taking to ensure the independence of bar associations. In its report, OSCE had also stated that the sanctioning of defence counsel for airing allegations of maltreatment had had a chilling effect on other lawyers' assertions of their clients' rights. The Committee wished to know if Belarus would implement the recommendation made by OSCE that it reform the lawyer licensing regime to comply with the strictures set out in the UN Basic Principles on the Role of Lawyers, and remove the role of the Ministry of Justice in licensing the legal profession.

31. There had been reports of widespread harassment of human rights defenders in Belarus. In that regard, the Committee wished to know whether the arrest of Aleh Hulak, Chair of the Belarusian Helsinki Committee (BHC), and the search of his home and the offices of BHC, had been carried out as reprisals for the fact that that organization had submitted a communication to the United Nations Special Rapporteur on the independence of lawyers and judges.

32. The delegation was reminded that, in December 2010, an urgent appeal had been submitted by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in which concerns had been raised about the detention of several human rights defenders, including Ales Bialiatski, Chair of the *Viasna* Human Rights Centre, which had, moreover, been closed down, in violation of the International Covenant on Civil and Political Rights. The delegation was asked whether Belarus would provide appropriate remedy to the complainants in the case, re-register the *Viasna* Human Rights Centre, and review its legislation on the registration of organizations, as had been recommended by the Special Rapporteurs.

33. In its report on trials in Belarus, OSCE had concluded that the pervasive influence of the executive in judicial proceedings has created a structural bias in favour of the prosecution, resulting in very high conviction rates, and that the appointment, compensation, bonuses, tenure and judicial selection processes did not meet international standards. The delegation was asked to comment on those conclusions and explain why no information had been provided on measures implemented by Belarus to fully ensure the independence of its judiciary. In that connection, the Committee urged Belarus to provide information on the case of Vladimir Russkin.

34. The State party had failed to answer most of the questions contained in paragraph 25 of the list of issues; in particular, Belarus had failed to provide information on bodies other than the Office of the Public Prosecutor that could initiate proceedings into crimes and receive complaints of torture. Belarus had indicated that the authorities were investigating only one complaint of torture that had not proceeded to trial, and that no criminal cases involving torture had been considered by the courts. The Committee was surprised that none of the well-publicized allegations of ill-treatment and torture in recent years had been deemed sufficiently credible to merit investigation.

35. The Committee asked the delegation to provide it with: a list of all independent bodies that could receive complaints of torture and ill-treatment in the State party; complete data on the complaints of torture and ill-treatment by State actors, or with their acquiescence and consent, that had been received by those institutions and the number of investigations that those bodies had launched. The Committee also wished to know whether any of those investigations had resulted in trials and, if so, what the outcome of those trials had been. Data were required on the number of individuals accused of torture or ill-treatment that had been suspended pending investigations of their conduct. The Committee specifically requested further information on the Commission for Human Rights, Community Relations and the Mass Media; the Public Advisory Council in the Office of the President; and the Public Watchdog Commission. Information was also required on what measures had been authorized by the courts to protect witnesses and complainants, how frequently such authorizations had been granted, and whether Belarus had established any witness and victim protection schemes.

36. The State party had provided no information on prosecutions related to the use of indiscriminate and disproportionate force by Belarusian riot police against protestors on 19 December 2010. However, the Committee had been informed that criminal proceedings had

been initiated against an individual for the beating of Maya Abromchik. The Committee wished to know whether that individual was a police officer, and would like details of that criminal investigation, and any others conducted against police officers in connection with the 19 December events.

37. Further information was also needed about Ales Mikhalevich, the former presidential candidate, whose formal complaint to the Office of the Prosecutor General that he had been tortured had been dismissed following his request for political asylum in the Czech Republic. It would be interesting to know why the case had been dismissed, and whether it could be reopened.

38. No information had been received from the State party on Natalia Radina, editor of the opposition Charter 97 website. Investigators had refused to register her complaints that she had been subjected to psychological pressure, and that KGB officers had attempted to recruit her as an informant; the delegation was asked why her complaints had not been investigated.

39. No information had been received on whether any individuals had been sanctioned or punished in relation to allegations made by Uladzimir Nyaklyayeu (Neklyayev) that, inter alia, he had been abducted by security personnel in black masks and had been stripped and beaten. The Committee had learned that the Office of the Public Prosecutor had refused to initiate a criminal investigation into those allegations. Could the delegation provide details of that case in its replies?

40. Belarus had failed to provide any information on any investigations, prosecutions and remedial measures that had been implemented in response to allegations of torture made in connection with the case of Andrei Sannikau (Sannikov). The Committee asked the delegation to provide that information, especially since it had learned that Mr. Sannikau continued to receive threats while held in detention.

41. The State party had informed the Committee that it was drafting a new law that would specifically define torture. Could the delegation report on progress made in drafting that law.

42. **Ms. Sveaass** said that the Committee was concerned that Belarus was failing to take its obligations under the Convention seriously, and was alarmed at the authorities' ongoing harassment of civil society organizations, human rights defenders and opposition groups.

43. The urgent appeal that had been submitted by United Nations Special Rapporteurs in December 2010 underlined the concern of the international community with regard to the human rights situation in Belarus. Many human rights defenders and political candidates, including Andrei Sannikau (Sannikov) and Ales Mikhalevich, remained in detention. Furthermore, the European Parliament had issued resolutions, in which it had condemned the detention and harassment of political candidates in Belarus. While Belarus was to be commended on its willingness to collaborate with the Committee, it was vital that it should make every effort to fully comply with its obligations under the Convention.

44. The Committee would like more information on the legislation in place to combat domestic violence and violence against women and children, on complaints mechanisms available to victims of such violence and how those complaints were dealt with, as well as with regard to training provided to the authorities responsible for dealing with them. She also asked what was being done to increase the availability of shelters to victims of violence and to help them with rehabilitation, and whether there were plans to prohibit the use of corporal punishment in the home.

45. She wanted to know whether allegations of sexual harassment in prisons, in particular claims by women arrested during the demonstrations of 19 December 2010 that they had been threatened with rape while in custody for challenging the orders of officials,

had been investigated and, if so, with what results. She asked what measures the State party had taken to combat human trafficking and whether any perpetrators had been prosecuted.

46. Turning to the subject of human rights training and the prevention of torture, she asked whether staff responsible for carrying out medical assessments of asylum-seekers were trained in the application of the Istanbul Protocol. She reiterated the Committee's request for more detailed information on human rights training provided to police and members of the judiciary, and asked whether training materials were publicly available. It would be especially useful to the Committee if the results of any evaluations of training programmes carried out by the State party or independently were available. She asked why cooperation between Belarus and the Organization for Security and Cooperation in Europe had been terminated and whether the State party had found alternative means of continuing training courses that had been run in the framework of that cooperation.

47. She asked how often medical personnel were called upon to assess detainees for signs of having been subjected to torture or ill-treatment and whether statistics were available on the number of such assessments made in response to complaints by detainees. Were the forensic doctors involved independent or part of the prison administration? Did they receive training in the use of the Istanbul Protocol? She also asked whether it was true that the Code of Criminal Procedure contained no specific prohibition of the use of torture or cruel, inhuman or degrading treatment.

48. She asked for more detailed information with regard to the extra resources and funding made available by the State party to improve living conditions in places of detention and steps taken to comply with international norms, including the Standard Minimum Rules for the Treatment of Prisoners. She reiterated the Committee's concern that complaints by detainees about living conditions and treatment in detention centres, such as the KGB pretrial detention facilities in Minsk, went unheard. Many detention centres did not meet even the State party's own standards and problems included overcrowding, poor ventilation and hygiene, and a lack of sheets and medical care. She cited the case of one detainee, Nikolai Statkevich, who had been obliged to carry out hard labour in spite of prior injuries, and noted that detainees held in high security facilities were exposed to sexual threats from fellow prisoners and prison warders. Allegations of sexual harassment of detainees had also appeared in a 2009 report by the United Nations Development Programme. Had any steps been taken to put a stop to or investigate sexual harassment in places of detention? Was anyone held accountable for such ill-treatment?

49. She requested clarification of the mandate of the watchdog commissions and more information about their working methods and membership, the length of members' terms of office, the use made of its findings, and whether civil society stakeholders were represented on them. She asked whether it was able to carry out prison inspections unannounced, conduct confidential interviews with detainees and obtain access to detainees' medical files. Information before the Committee suggested that it could not. If that were so, it was to be hoped that the State party would rectify the situation. She also asked the delegation to explain the nature of the compulsory rehabilitation centres mentioned in the State party's replies to the list of issues.

50. She wondered whether it was true that the Ministry of Interior Affairs had, in August 2011, ordered police officials sent to monitor protest rallies to wear plain clothes, thus making it impossible to identify them. Citing cases of human rights defenders allegedly detained without medical reasons in psychiatric hospitals and findings by the European Parliament of growing pressure on journalists in Belarus, she observed that human rights defenders and journalists appeared to be subjected to constant harassment. The State party ought to investigate the role and ethical standards of doctors who accepted such so-called patients. She repeated the Committee's request for clarification of cases of journalists who

had been arrested and drew attention to calls by the European Parliament on the State party not to proceed with the closure of a series of newspapers.

51. Turning to article 14 of the Convention, she reiterated requests by the Committee for information on steps taken by the State party to provide redress and compensation for the victims of torture and ill-treatment. She also asked for specific examples of compensation awarded by the courts to victims. With regard to the death penalty, she wished to know what conditions were like for prisoners on death row, whether families were informed of when and where executions took place and whether the corpses of the executed were returned to their families for burial. Could the delegation provide more information on the execution of two persons in 2011, even though complaints by them were still being heard by the Human Rights Committee at the time? She also asked whether it was true that some people had been sentenced to death on the basis of confessions extracted under torture. Finally, she asked what steps the State party had taken to ensure that juvenile offenders were held separately from adults in places of detention.

52. **Ms. Belmir** noted that there appeared to be no separate jurisdiction in the judicial system of the State party for juvenile offenders and asked for more information in that regard. She also requested clarification of paragraph 69 of the State party's periodic report (CAT/C/BLR/4), in which it was stated that the "right to judicial protection is among those rights that may not be restricted, including in the case of persons whose right to appeal to a court is not explicitly provided for in the legal acts of Belarus". She wished to know for which persons the right to appeal to a court might not be explicitly provided for in the State party's legislation. Turning to the matter of the independence of the judiciary, she wished to know whether the decision to detain persons, including minors, was taken by investigators and/or prosecutors without a warrant or supervision by a judge.

53. **Mr. Mariño Menéndez** said that the recent application by the State party of the death penalty in two cases despite requests by the Human Rights Committee for interim measures was indicative of an increasingly belligerent attitude on the part of the State party towards the treaty bodies, including the Committee against Torture. He would like to know more about the circumstances of those two cases.

54. He asked whether international human rights law and, more particularly, the provisions of the Convention were taught in university law faculties in the State party. Information before the Committee suggested that the European Humanities University of Minsk was still closed and that classes were being held outside the country. He also asked on the basis of which criteria Belarus determined its list of safe countries to which persons could be deported without risk of them being subjected to torture. He would like to know whether the language of Belarus was commonly used alongside Russian in court proceedings.

55. **Mr. Bruni**, referring to paragraph 90 of the State party's report, enquired about the current position of the Government concerning the possibility of making declarations under articles 21 and 22 of the Convention. In the absence of a definition of torture in the State party's legislation, he asked whether the definition given in the Convention could be applied directly by the courts, and whether the planned bill to incorporate a definition of torture into the Criminal Code took full account of all elements of the definition of torture contained in the Convention. With regard to the information given in paragraph 19 of the State party's report, he requested examples of cases in which article 5 of the Act on the Granting of Refugee Status and Subsidiary and Temporary Protection to Foreign Nationals and Stateless Persons in the Republic of Belarus had been applied.

56. He asked what had been done to improve conditions in detention facilities and requested specific examples of improvements, in view of numerous allegations of poor conditions. Referring to paragraph 67 of the State party's report, he asked what action had

been taken as a result of the 38 visits to places of detention conducted by the National Public Watchdog Commission and local watchdog commissions since their creation, and what improvements had been made to detention conditions as a result.

57. The continued application of the death penalty contradicted statements made by the authorities to the effect that efforts would be made to restrict its use gradually and to declare a moratorium. Although a parliamentary working group on the issue had been established, reports from non-governmental organizations indicated that it was inactive and that no progress had been made. He sought the Government's views on the matter and asked whether any initiatives were envisaged to accelerate progress towards a moratorium.

58. **Ms. Kleopas** asked whether the State party intended to ratify the Optional Protocol to the Convention, which would assist immensely in preventing torture in places of detention, and how the State party ensured that the crime of torture was not subject to any statute of limitation, particularly in the absence of a specific definition of torture in its legislation.

59. **The Chairperson** sought the delegation's views with regard to allegations received by the Committee that a member of a non-registered organization was regarded as an offender under the State party's criminal legislation.

60. **Mr. Khvostov** (Belarus) expressed appreciation for the dialogue with the Committee and looked forward to its continuation.

61. *The public part of the meeting ended at 12.20 p.m.*