



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

Distr.: General  
16 January 2012  
English  
Original: Russian  
English and Russian only

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**Committee against Torture**

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

**Belarus**

**Comments of Belarus to the concluding observations of the  
Committee against Torture (CAT/C/BLR/C/4)\***

[28 December 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## **Comments by the Republic of Belarus on the concluding observations of the Committee against Torture (CAT/C/BLR/CO/4)**

1. Belarus is a party to most of the fundamental human rights instruments of the United Nations, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention).
2. Belarus submitted its fourth periodic report to the Committee against Torture (CAT/C/BLR/4) in fulfilment of its obligations under the Convention. Prior to the official consideration of the report at the Committee's forty-seventh session, Belarus prepared detailed replies to the preliminary questions posed by the members of the Committee. During the session the Belarusian delegation directly presented the Committee with essential comments on the measures taken at the national level for implementation of the Convention. Belarus thus replied to the **totality** of the Committee's questions.
3. Reviewing the conclusions and recommendations prepared by the Committee, Belarus regrets to note that a major portion thereof lacks objectivity and is politicized in nature, and does not correspond with the provisions of the Convention. These conclusions and recommendations do not take into consideration the information presented by Belarus in the fourth periodic report, in its replies to the preliminary questions of the Committee members and directly in the dialogue with the Committee members.
4. The Committee's ability to consider communications from or on behalf of individuals in the jurisdiction of a State party claiming that they have been victims of violations of the Convention by the State is contingent upon the State party's filing a declaration in accordance with article 22 of the Convention. At present, Belarus has **not filed** such a declaration.
5. Belarus also draws attention to the fact that the Committee is not competent to establish whether there have been violations of any international or regional instruments other than the Convention against Torture under which the Committee was established. The Committee therefore must not refer to or interpret other instruments, either in the abstract or in concrete terms. The Committee may only assess the facts that have been submitted to it in the framework of its competence.
6. For the above reasons, Belarus cannot accept paragraphs 6, 8, 9, 10, 11, 12, 18, 25, 27 and 35 of the concluding observations.
7. The recommendations of the Committee contained in other paragraphs will be considered by Belarus. Belarus is strongly committed to fulfilling its international obligations in the field of human rights and intends to continue to consistently and unswervingly pursue this policy, including through implementation of its obligations under the Convention. Belarus is prepared to cooperate in a constructive manner with the Committee against Torture.
8. To clarify the situation resulting from the events of 19 December 2010, we are enclosing with this document an official document, "Comments by the Government of the Republic of Belarus on the events on 19 December 2010 and the post-electoral period".
9. In accordance with article 19 of the Convention, Belarus requests that the Committee include these comments and the text of the fourth periodic report in its annual report.

## Annex

### Comments by the Government of the Republic of Belarus on the events on 19 December 2010 and the post-electoral period

1. The 2010 presidential elections in Belarus were conducted in compliance with the national law and with the principles of the international instruments to which Belarus is a party.
2. In electing the head of State, the country's citizens expressed their will freely and on the basis of universal, equal and direct suffrage, in a secret ballot.
3. At all stages of the electoral process, procuratorial oversight ensured compliance with the legislation on elections. Special attention was paid to ensuring voting rights, public safety and public order. **Not a single case of obstruction of voting rights was established.**
4. In full compliance with its international obligations, Belarus invited over 1,000 international observers to monitor the elections, including from the Organization for Security and Cooperation in Europe (OSCE) and the Commonwealth of Independent States (CIS). The CIS observers and a significant portion of the independent international observers concluded that the elections were held in an **orderly and transparent manner that ensured the right of citizens of Belarus to freely express their will.**
5. **In relation to the mass unrest of 19 December 2010, accusations by western countries that Belarus violated the rights of freedom of expression and peaceful assembly are without grounds.**
6. The Declaration on the State Sovereignty of the Republic of Belarus of 1990, which has constitutional force, specifies that any violent action against the Belarusian State by political parties, voluntary associations or individuals is punishable by law.
7. The legislation in Belarus governing peaceful activities and demonstrations complies fully with the international obligations and standards that have been established in particular by the International Covenant on Civil and Political Rights (the Covenant).
8. The Constitution guarantees the right to assemble, to hold meetings, to organize street processions, to demonstrate and to picket when such activities do not disturb public order or impinge upon the rights of others. The Public Events Act is founded on the basic principle that public safety and order must be ensured when such activities are held.
9. The restrictive clauses contained in the Act do not violate the Covenant, article 19 of which stipulates that the **exercise of the right to freedom of expression carries with it special duties and responsibilities** and may be subject to certain restrictions, which must be established by law and designed to **ensure respect for the rights of others and for the protection of national security or public order.**
10. Article 21 of the Covenant, which recognizes the right of peaceful assembly, also establishes the possibility of introducing restrictions in accordance with the law, including **in the interests of national security or public safety and public order.**
11. In their election campaigns, presidential candidates Andrei Sannikov, Nikolai Statkevich, Vitaly Rymashevsky, Vladimir Neklyayev and Yaroslav Romanchuk repeatedly called upon voters to go into the public square on election day. They did not request authorization to hold public events, and received no such authorization.
12. In Belarus, **as in other countries**, the law specifies that organizers of public events are not entitled to call for citizens to take part in them before they receive authorization from the local authorities.

13. **As a preventive measure, the Office of the Procurator-General on numerous occasions issued official warnings** to presidential candidates Sannikov, Statkevich, Rymashevsky, Neklyayev and Romanchuk **who, abusing the right to conduct election campaigns, called on citizens to take part in the unauthorized mass event in Minsk on 19 December 2010.**

14. Despite publicized official warnings, on 19 December 2010 **these individuals deliberately held an unauthorized political rally and procession in Minsk.**

15. The unauthorized activity began at 6.50 p.m., with groups of participants coming to Oktyabrskaya Square from various parts of Minsk. In all, the organizers mobilized approximately 3,000 people.

16. From 8.10 p.m. to 8.55 p.m. a political rally was held calling for a change of power and demanding presidential elections to be held without the participation of the current head of State. **The law enforcement services did not intervene in the rally.**

17. At 8.57 p.m. participants in the activity spilled into the part of Oktyabrskaya Square reserved for traffic, thus blocking the thoroughfare on Independence Avenue, and marched toward Independence Square, to the Central Electoral Commission of Belarus. **The law enforcement services did not intervene to stop them.**

18. The organizers **did not respond** when officials of the law enforcement services issued **legal requests** for the unauthorized procession to cease.

19. At 9.20 p.m. the participants in the unauthorized activity held yet another rally, at Independence Square, calling for new elections.

20. During this time, **despite the fact that the activity in question was unauthorized and the demonstrators' actions were illegal, the law enforcement services remained calm and did not intervene.**

21. At 9.50 p.m. the crowd moved to a building containing Government House, the Central Electoral Commission and the National Assembly.

22. From 10 p.m. to 10.30 p.m. the more active participants in this unauthorized public event, responding to calls from the organizers, including former presidential candidates Sannikov and Statkevich, attacked the Government House building, broke windows and doors and attempted to gain entry to the building, which is a guarded site.

23. Militia officers formed a chain around the building in an attempt to prevent the unrest and, **without the use of force, called on the demonstrators to stop their illegal activities.**

24. Despite this, at 10.14 p.m. calls were once again made for the storming of Government House, and those present once again began to break the building's windows and doors.

25. The demonstrators used **concrete reinforcement bars, crowbars, prying bars** and other objects that testify to the blatantly aggressive nature of their actions. This in all clarity demonstrates that the actions of the organizers in the close vicinity of **a guarded Government building** on 19 December 2010 were not peaceful; they were deliberately intended to foment mass unrest.

26. It is thus appropriate to speak of a violation of international standards not by representatives of the State, but by the organizers of and participants in the event. They acted in violation not only of Belarusian law, but also the "Guidelines on Freedom of Peaceful Assembly" drawn up under the aegis of the OSCE Office of Democratic Institutions and Human Rights, and which defines assembly as peaceful only in cases **where the organizers have peaceful intentions.**

27. **The law enforcement services were obliged to take the required measures to ensure public order, as specified in the Covenant, because of the storming of the Government House building and the violence that was taking place.**
28. At 10.37 p.m., **some three hours after the unauthorized event began**, the law enforcement services **began to take steps to end the mass unrest.**
29. To prevent the occupation of the Government House building and end the unrest and ensure public safety, officers of the internal affairs services evicted the demonstrators from Independence Square and arrested the most active participants. **Neither the supervising procurators nor the judges hearing the cases considered the arrests to be illegal.**
30. Under Belarusian law the law enforcement services may use special means **to stop mass unrest or group disruptions of public order or activities aimed at damaging and/or destroying property. No teargas, water cannon or plastic bullets were used** against the participants in the unrest on 19 December 2010.
31. During the unrest over 600 people were arrested, including former presidential candidates A. Sannikov, V. Rymashevsky, N. Statkevich, G. Kostusev and Neklyaeu.
32. Most of the arrested participants were charged with **administrative** offences and were released within a few days.
33. The district courts of the city of Minsk considered **12 criminal cases** involving **41 defendants** related to the unrest. Of these, 10 people were convicted for organizing and actively participating in group activities in flagrant breach of the peace and of disrupting public transport. The courts found **27 people guilty of active participation in the unrest. Four** were convicted **of organizing mass unrest**: Nikolai Statkevich, Dmitri Uss, Aleksandr Klaskovsky and Andrei Sannikov.
34. Of the 41 accused, **38 appealed against the court decisions in cassation.** The judicial proceedings against the participants in the activities of 19 December took place in the presence of **OSCE observers** invited by the Government of Belarus. The legality and justification of the sentences were confirmed in cassation by the Minsk municipal court. No violations were found, and the judicial decisions were left to stand.
35. In accordance with article 17 of the Code of Criminal Procedure, all the **suspects and defendants in this case were guaranteed the right to defend themselves both in person and with the assistance of counsel.** All the **lawyers authorized to act as defenders** in the criminal case resulting from the unrest of 19 December 2010 in Minsk **were given the right to meet their clients without hindrance**, taking into account the number of defendants and the technical possibilities afforded by the facilities detaining them.
36. In the course of the judicial proceedings, no pressure was brought to bear on the judges and lay judges to hinder a comprehensive, thorough and objective consideration of the case and the responsibilities it involves, as established by law.
37. Meanwhile, **the statements made and sanctions imposed on Belarusian judges by the countries of the European Union and the United States are quite simply an attempt to bring pressure to bear on the judges and to influence their judicial decisions** while they are considering specific criminal cases brought as a result of the events of 19 December 2010.
38. **The conditions of pretrial detention of the suspected** participants in the mass unrest of 19 December 2010 were in keeping with the **requirements of domestic law and international standards.** This was confirmed by monthly checks conducted by the Office of the Procurator-General of the legality and conditions of detention of persons held in the remand centres of the State Security Committee.

39. **During numerous checks**, the individual files of the accused were reviewed, along with other documents, including medical records, and mandatory visits were paid to the cells, during which all the detainees were able to personally **elaborate on complaints** regarding conditions of detention or **violations of their rights** by the administration of the facility in question.

40. It was established that all the detainees at the State Security Committee remand centres were **provided with appropriate medical care** and regularly received packages containing food and other items, as well as money transfers which allowed them to purchase food and other goods by stating their wishes to the facility's staff.

41. Upon questioning, the people in pretrial detention, including the former presidential candidates and their associates, issued **no complaints** about their conditions of detention, their health status or violations of their rights.

42. In addition, the Office of the Procurator-General checked on a statement by Mr. A. Mikhalevich referring to his mistreatment when in pretrial detention at the State Security Committee remand centre.

43. The assertions made by Mr. Mikhalevich in his complaint were not borne out. It was thus decided not to institute criminal proceedings. In a spirit of transparency and openness, Belarus reported on the outcome of this verification to the Special Rapporteur on Torture of the Human Rights Council.

44. **Belarusian President A. Lukashenka considered a petition from 13 of the citizens mentioned above and pardoned them after they repented, admitted their guilt and recognized the illegal nature of their actions, accepting to strictly abide by Belarusian law.**

45. In August 2011 **criminal charges against several persons involved in the case of mass unrest in Minsk on 19 December 2010 were dropped.**