



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

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## Committee against Torture

### List of issues prior to submission of the sixth periodic report of Belarus\*

#### Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee's previous recommendations

##### Issues identified for follow-up in the previous concluding observations

1. In its concluding observations on the fifth periodic report of the State party (para. 60),<sup>1</sup> the Committee requested the State party to provide further information regarding areas of particular concern identified by the Committee, namely, fundamental legal safeguards, effective investigation of allegations of torture and ill-treatment and the situation of human rights defenders (paras. 8, 16 and 47). Noting that a reply concerning the information sought by the Committee was provided on 30 November 2020,<sup>2</sup> and with reference to the letter dated 6 April 2021 from the Committee's rapporteur on follow-up to concluding observations, the Committee considers that the recommendations included in paragraph 47 have been partially implemented and the recommendations included in paragraphs 8 and 16 have not been implemented. In particular, the Committee regrets the lack of information with respect to investigations of the allegations of torture raised by Andrei Sannikov, Vladimir Neklyayev, Ales Mikhalevich, Andrei Molchan, Pavel Plaska, Alexander Otruschenkov, Natalia Radina, Maya Abromchick and Tatyana Revyaka.

##### Articles 1 and 4

2. With reference to the Committee's previous recommendations (para. 51), please indicate steps taken to criminalize torture as a separate and specific crime, whose definition covers all the elements contained in article 1 of the Convention, under the State party's legislation and to punish acts of torture with appropriate penalties commensurate with the gravity of the crime, as set out in article 4 (2) of the Convention. Specify measures that have been taken to include in the Criminal Code specific provisions concerning the criminal liability for acts of torture, attempted acts of torture, orders to commit torture and complicity in committing torture. Clarify whether the State party has amended its legislation to ensure that acts of torture are not subject to any statute of limitations.

\* Adopted by the Committee at its seventieth session (26–28 April 2021).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CAT/C/BLR/CO/5).

<sup>2</sup> CAT/C/BLR/FCO/5.



**Article 2<sup>3</sup>**

3. In the light of the Committee's previous recommendations (para. 10), please provide information on any steps taken by the State party during the reporting period to publicly and unambiguously condemn torture in all its forms and to make it clear that perpetrators and accomplices will be held responsible and punished.

4. With reference to the Committee's previous recommendations (para. 8) and in addition to the information provided in the State party's follow-up report,<sup>4</sup> please provide information about measures taken to ensure that detainees have prompt and confidential access to a lawyer and have the right to contact family members or any other persons of their choice from the outset of detention. In particular, please provide specific, updated information on the following:

(a) Any steps taken by the State party to ensure in practice that a mandatory, independent and confidential medical examination is conducted upon the detainee's request, out of hearing and out of sight of the police or prison officers, at the outset of the detention. Indicate how the State party guarantees the independence of doctors and other medical staff treating persons deprived of their liberty. Please also clarify whether doctors may bring medical reports of injuries suspected of being caused by torture directly to the attention of the public prosecutor on a confidential basis;

(b) Any cases, since the consideration of the State party's previous periodic report, in which police officers have been subjected to disciplinary or criminal penalties for failing to provide fundamental legal safeguards to detained persons;

(c) The number of cases, since the consideration of the State party's previous periodic report, in which detainees have challenged the legality of their detention or treatment before the courts, as well as the outcome of the cases, specifying in particular the number of cases in which the petitioner was released from detention.

5. With reference to the Committee's previous recommendations (para. 8), please provide information about measures taken to ensure that all periods of deprivation of liberty are accurately recorded immediately after arrest in a register at the place of detention, including administrative detention, and in a central register and that the lawyers and family members of those detained have full access to the information contained in those registers. Please clarify the steps taken to develop a comprehensive national registration system of persons deprived of liberty.

6. With reference to the Committee's previous recommendations (para. 18), please provide information on steps taken to strengthen compliance with legislation requiring all on-duty law enforcement officers, including riot police and State Security Committee personnel, to wear identification. Provide data on investigations into cases of non-compliance and punishment of law enforcement officers for failure to wear appropriate identification while on duty.

7. In the light of the Committee's previous recommendations (para. 45), please indicate measures taken to strengthen the independence of the Bar Association from the Ministry of Justice and ensure its autonomy. Provide information about investigation into instances of the disbarment of lawyers, including Alexander Pylchenko and Yulia Levanchuk, representing individuals who have complained about torture and ill-treatment, and whether their licences have been reinstated.

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<sup>3</sup> The issues raised under article 2 could also be relevant to other articles of the Convention, such as article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2008) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also section V of the same general comment.

<sup>4</sup> CAT/C/BLR/FCO/5.

8. With reference to the Committee's previous recommendations (para. 47), please respond to the reported continued harassment, intimidation, arrest and prosecution of human rights defenders and journalists as a result of their activities. Please indicate whether reports of such harassment are promptly, impartially and thoroughly investigated, prosecuted and punished, including the number of investigations carried out during the period under review regarding the reported harassment and unjustified prosecution of and disciplinary action taken against lawyers who represented clients who were victims of torture, human rights defenders, political opponents and journalists. Please describe measures taken to protect human rights defenders and journalists from intimidation and violence. Provide information with respect to the allegations of intimidation and harassment of Tatiana Reviaka, a coordinator of the Belarusian Human Rights House, Aleksandra Dzikan and Tatiana Stryzheuskaya of the Centre for Promotion of Women's Rights – Her Rights, and Marfa Rabkova, coordinator of the Viasna Human Rights Centre, the latter of whom was reportedly arrested by masked officers under false accusations and detained.

9. In the light of the Committee's previous recommendations (para. 39), please provide information about the steps taken towards adopting legislation criminalizing domestic violence and marital rape. Please respond to concerns that the development of a draft law against domestic violence was discontinued in October 2018.<sup>5</sup> Provide information about protection and redress measures provided to victims of domestic violence, including protective orders, legal aid and crisis shelters. Provide information on awareness-raising campaigns and training on prevention and the investigation of domestic violence for judges, lawyers, law enforcement officers, social workers and others who interact with victims and the public at large. Please provide data on the number of complaints received during the reporting period concerning all forms of violence against women and information on investigations and the outcome of any prosecutions in those cases.

10. With reference to the Committee's previous recommendations (para. 39), please provide information on efforts to provide effective protection, redress and rehabilitation services to victims of trafficking in persons. Provide data, disaggregated by relevant factors, on the number of investigations, prosecutions and the punishment of perpetrators of trafficking in persons, as well as on the efforts to create standard operating procedures to implement the victim identification and referral mechanism, including for child victims, and on the provision of effective redress to victims.

11. With reference to the Committee's previous recommendations (para. 41), please provide information about steps taken to enact legislation to prohibit the corporal punishment of children in all settings and to prevent such punishment.

12. With regard to reports about the more than 27,000 people, including pregnant women and minors, arrested since the elections of 9 August 2020,<sup>6</sup> allegations of violence on a massive scale against protesters and other persons, including reports of their torture and ill-treatment, please provide information about the following:

(a) Measures taken to prevent, investigate and punish use of excessive force against protesters by police and security forces, including the reported brutal dispersal of peaceful gatherings, use of rubber bullets and other special means and violent arrests of individuals. In particular, provide information about investigations of the deaths of protesters, including Alexander Taraykovsky, Gennady Shutov, Nikita Krivtsov, Konstantin Shishmakov, Alexander Budnitsky and Roman Bondarenko. Please provide data on the number of injured persons and the number of deaths in the context of the protests. Indicate whether there has been any publicly pronounced condemnation by any high-level official with respect to the allegations of large-scale torture and ill-treatment of protesters and other persons;

(b) Measures taken to comply with legislation requiring law enforcement officials, including riot police, to wear visible identification. Respond to the reports that law enforcement officers performed their duties in civilian clothes, wearing masks such as

<sup>5</sup> A/HRC/41/52, para. 29.

<sup>6</sup> Statement of the High Commissioner for Human Rights, Michelle Bachelet, on the situation in Belarus, Human Rights Council (4 December 2020).

balaclavas, without any visible identification, used civilian cars without identification plates and served as witnesses with their faces hidden and under fictitious names in trials against protestors. Indicate what steps have been taken to prevent and investigate those incidents and prosecute and punish the perpetrators. Please provide data about the number of incidents, investigations and prosecutions and information on the punishments for law enforcement officials who failed to wear visible identification while on duty in the post-election period;

(c) Steps taken to investigate allegations of torture and ill-treatment in detention, including inside police vehicles and detention centres, in particular the centre for the isolation of detainees and the Okrestina temporary detention facility in Minsk, such as beatings, sexual abuse, prolonged holding in uncomfortable positions and postures, threats, insults and verbal abuse. Provide data, disaggregated by relevant factors, on the number of complaints of torture and ill-treatment received by the State party authorities, the status and outcome of investigations, the number of criminal prosecutions opened, the punishment of perpetrators and redress provided to victims. Indicate how many persons have been suspended from their official duties in connection with allegations of torture pending investigation and how many disciplinary investigations have been launched in connection with the above-mentioned allegations. Respond to allegations of threats and intimidation by law enforcement officials of complainants to deter their efforts to submit a complaint, including reported forced signature of a document in the Okrestina detention centre in order to discourage released detainees from raising complaints under a threat of criminal investigation;

(d) Measures taken to ensure access to a lawyer, a doctor and contact with family members or any other persons of their choice from the outset of detention to all persons detained in the context of protests. Respond to reports that detained persons were denied access to a lawyer, especially in the trials that took place in detention centres, and the right to appeal the decision. Respond to allegations of a lack of access to medical care by detained protestors, including Alexander Vikhor, who reportedly died in detention as a result of delayed access to medical treatment;

(e) Steps taken to ensure appropriate conditions of detention of persons detained in the context of protests. Respond to reports about overcrowding of cells, such as reports of 80 to 100 persons being held in 20 square metres, the deprivation of food, water and sleep, poor ventilation, lack of outdoor exercise and lack of access to hygiene products, including those for women's specific needs.

### **Article 3**

13. In the light of the Committee's previous recommendations (para. 53), please provide updated information on current procedures and practices in the area of expulsion, refoulement and extradition, in particular guarantees in law and in practice of non-refoulement prior to a final asylum decision. Please provide detailed statistical data, disaggregated by country of origin, on the number of persons who have requested asylum or refugees status, as well as information on the outcome of those applications, and on the number of expulsions, deportations or extraditions that have taken place, the countries to which individuals were returned and the grounds on which they were sent back, during the reporting period. In addition, please indicate whether the State party is considering ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. Respond to concerns that the provisions concerning the deprivation of nationality included in the new law on citizenship, which will come into force on 18 June 2021, may lead to statelessness and the potential removal of persons to countries where they might be at risk of being subjected to torture.

14. Please indicate whether the State party has provided or accepted diplomatic assurances with regard to cases of refoulement, extradition and expulsions during the reporting period and, if so, provide information about the assurances.

### **Articles 5, 6 and 7**

15. Please indicate whether, since the consideration of the previous report, the State party has rejected, for any reason, any request by a third State for extradition of an individual

suspected of having committed an offence of torture, thereby launching its own prosecution as a result. If so, please provide information on the status and outcome of those proceedings.

16. Please provide information on whether the State party's domestic legislation establishing universal jurisdiction applies to the offences referred to in article 4 of the Convention. Please inform the Committee about measures taken to ensure that acts of torture are considered universal crimes.

#### **Article 10**

17. With reference to the Committee's previous recommendations (para. 57), please provide information on the following:

(a) Training programmes, especially in cooperation with civil society organizations, on the provisions of the Convention and the absolute prohibition of torture, as well as rules, instructions and methods of interrogation for medical and law enforcement personnel, security and prison officials, judicial officials and other persons involved with custody, interrogation or the treatment of detainees. Indicate whether the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are part of the training curriculum for law enforcement personnel;

(b) Specific training for all relevant personnel on how to identify signs of torture and ill-treatment on the basis of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and whether such training is mandatory for all medical professionals and other public officials working with persons deprived of their liberty;

(c) The implementation of a gender-sensitive approach in the training of all personnel involved in the custody, interrogation or treatment of women and girls subjected to any form of arrest, detention or imprisonment, as well as training focused on sexual and gender-based violence;

(d) The development and implementation of regular assessments of the effectiveness and impact of such training and educational programmes on the reduction of cases of torture and ill-treatment. Please provide information on the methodology used to assess the effectiveness of those programmes in reducing cases of torture and ill-treatment.

#### **Article 11**

18. In the light of the Committee's previous recommendations (para. 34), please indicate whether:

(a) The mandates of public monitoring commissions has been strengthened to ensure their independence and unannounced access to all places of deprivation of liberty, including temporary and pretrial detention facilities, labour treatment facilities, administrative detention facilities, psychiatric hospitals and social-care institutions. Indicate measures taken to ensure that the commissions include diverse, qualified legal and medical professionals who are familiar with the relevant international standards, as well as independent experts and other representatives of civil society. Please also indicate whether the findings, recommendations and follow-up visits are made publicly available;

(b) Access has been granted to independent national and international monitors to all detention facilities, including psychiatric institutions, in the country;

(c) Any steps have been taken towards the ratification of the Optional Protocol to the Convention;

(d) Efforts have been taken to strengthen cooperation with the United Nations human rights mechanisms, indicating whether the State party has agreed, or intends to agree, to visits by the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 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, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights in Belarus and the Office of the United Nations High Commissioner for

Human Rights. If the State party has agreed to visits, please indicate its willingness to cooperate with the experts and mechanisms to carry out the visits in accordance with their mandates and procedures.

19. With reference to the Committee's previous recommendations (para. 20), please inform the Committee about measures that have been taken to ensure that psychiatric hospitalization and treatment is not used for punitive reasons or for any reasons other than medical ones. Specify legal safeguards in force concerning involuntary hospitalization, including in psychiatric hospitals, and their enforcement in practice. Provide data on complaints of torture and ill-treatment in psychiatric institutions and the results of the investigation of such allegations, including those of Igor Postnov and Alexander Lapitski. Outline the steps taken with respect to the establishment of an independent complaint mechanism to investigate complaints of torture and ill-treatment in psychiatric institutions.

20. In the light of the Committee's previous recommendations (para. 24), please inform the Committee about steps taken to abolish all forms of "treatment through labour" in so-called "labour treatment facilities". Provide data, disaggregated by relevant factors, on the number of persons currently subject to that form detention and the reasons for their detention. Specify the means of challenging such detention, safeguards to prevent torture and ill-treatment in those facilities and how access to proper medical care, in particular for women, is ensured.

21. With reference to the Committee's previous recommendations (para. 22), please provide information on steps taken to bring the conditions in detention centres into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and other relevant international and national standards. Indicate what measures have been taken to prevent overcrowding and to establish non-custodial forms of detention in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures. Please inform the Committee about efforts that have been made to take measures to combat inter-prisoner violence, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, and provide data on incidents of inter-prisoner violence and the investigation of, and accountability for, such incidents.

22. In the light of the Committee's previous recommendations (para. 32), please provide statistical data on the number of deaths in custody. Provide details of investigations of past incidents, including allegations surrounding the death of Ihar Barbaschynski, and other allegations of torture, ill-treatment and denial of adequate medical treatment leading to deaths in custody, and prosecutions and convictions of the officials responsible for them. Please indicate the measures taken to prevent incidents of death, inter-prisoner violence and suicide in custody.

23. With reference to the Committee's previous recommendations (para. 55), please indicate any steps taken towards the establishment of a moratorium on executions, commuting death sentences to prison sentences and considering the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Specify whether there was a comprehensive review of all cases of the death sentence involving allegations that a confession was obtained through torture and provide information about the investigation of such allegations. Inform the Committee about any measures that have been taken to improve the detention conditions of persons sentenced to death and indicate whether they are afforded all the protections provided under the Convention. Provide information about any efforts that have been made to remedy the secrecy and arbitrariness surrounding executions, including the notification of relatives about the date of execution and the place of burial.

### **Articles 12 and 13**

24. With reference to the Committee's previous recommendations (para. 36), please comment on reports that the investigation into the cases of enforced disappearance of Viktor Gonchar, Anatoly Krasovsky and Yury Zakharenko was suspended in January 2019, despite

the fact that the fate of those persons remains unclarified.<sup>7</sup> Provide detailed information about the investigations and measures taken to provide effective remedies to the families of the victims. Provide details about any pending investigation of cases of alleged forced disappearance and any prosecutions pending or concluded during the reporting period.

25. With reference to the Committee's previous recommendations (para. 16), please provide information on measures taken since the consideration of the State party's previous periodic report to ensure that allegations of torture and ill-treatment are promptly, impartially and effectively investigated and indicate whether perpetrators and accomplices are held accountable and punished. In particular, please provide information on the following:

(a) Any measures that have been taken to ensure that members of law enforcement or the security services who are accused of having committed acts of torture are immediately suspended from duty for the duration of the investigation;

(b) Any policies or mechanisms that the State party has established to ensure that, in practice, people who claim to be victims of torture or ill-treatment and their families are protected against any ill-treatment or intimidation as a result of their complaint or the evidence that they provide regarding a complaint;

(c) The number of cases of alleged torture and ill-treatment that have been referred to the State party's Investigative Committee during the reporting period. Please indicate whether the Committee has investigated such cases and how many of them have resulted in prosecution and/or conviction.

26. Please provide up-to-date data, disaggregated by relevant factors, on the number of complaints of torture or ill-treatment received during the reporting period and the number of investigations and prosecutions carried out following such allegations. Please indicate whether any individuals have been convicted and, if so, specify under which articles of the Criminal Code or other legislation they were convicted and any sentences received. In particular, inform the Committee of any progress in investigations of the allegations of torture raised by Andrei Sannikov, Vladimir Neklyayev, Ales Mikhalevich, Andrei Molchan, Pavel Plaska, Alexander Otroschenkov, Natalia Radina, Maya Abromchick and Tatyana Revyaka.

27. With reference to the Committee's previous recommendations (para. 49), and in the light of the State party's stated consideration of the possibility and desirability of supplementing its national system with a human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) in the context of the third cycle of the universal periodic review,<sup>8</sup> please provide updated information about any steps taken towards the establishment of a national human rights institution.

#### **Article 14**

28. With reference to the Committee's previous recommendations (paras. 58–59), please provide information on measures taken to provide adequate redress and compensation, including rehabilitation, to victims of torture and ill-treatment, as well as relatives of disappeared persons, including in cases where the perpetrator has not been identified or convicted of a crime. Provide data on redress and compensation measures ordered by the courts during the reporting period, requests for compensation made and granted, including amounts ordered and those actually provided. Inform the Committee about rehabilitation programmes provided to victims, including medical and psychological treatment of trauma, as well as the allocation of adequate resources to ensure the effective functioning of such treatment programmes.

#### **Article 15**

29. With reference to the Committee's previous recommendations (para. 10), please provide up-to-date information on measures adopted to ensure that confessions obtained under torture or ill-treatment are not admitted in court proceedings. Provide data on the cases

<sup>7</sup> A/HRC/41/52, para. 33.

<sup>8</sup> A/HRC/WG.6/36/BLR/1, para. 19.

in which a confession obtained through torture have been declared inadmissible, the progress of any investigations into allegations of torture made in any previous cases and any criminal proceedings brought against public agents who extracted such confessions, including the punishment imposed. Provide information about the review of cases in which defendants' claims of having been tortured to extract confessions were not investigated, such as those of Sergey Khmelevsky, Kirill Smolyarenko and Arthur Evgelsky, and the results of the investigation of those allegations.

#### **Article 16**

30. With reference to the Committee's previous recommendations (para. 28), please provide updated information on steps taken to ensure that non-custodial measures are used for minors who are in conflict with the law and that minors are detained only as a last resort, for the shortest possible period, and are separated from adults, afforded full legal safeguards and offered educational and recreational activities. Please outline measures taken towards the establishment of an effective, specialized and well-functioning child justice system in compliance with international standards. Provide information about measures taken to protect minors from any violence, including sexual violence, in places of deprivation of liberty. Please specify steps taken towards the abolishment of the solitary confinement of children in law and practice.

31. Please inform the Committee about measures taken to ensure that all detainees have full access to and receive adequate food, heating, hot water and health care. Please also describe the measures taken to guarantee that no detainees are deprived of sleep, placed in stress positions, placed in isolation cells for any reason or forced to seek a pardon. In addition, please provide details of measures taken to guarantee that all detainees are able to study and observe their religious beliefs. Please inform the Committee about any legislation adopted after 9 August 2020 that affects the rights of detainees.

32. With reference to the Committee's previous recommendations (para. 26), please inform the Committee about measures taken to improve conditions of detention for women and girls, in particular to protect them against violence, including sexual violence. Provide data on complaints on violence against women in detention, their investigation and the punishment of perpetrators. Specify any steps taken towards the establishment of an effective complaint mechanism, including for complaints of sexual violence, available to women in detention.

#### **Other issues**

33. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for older persons, hospitals or institutions for persons with intellectual and psychosocial disabilities.

#### **General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Convention**

34. Please provide detailed information on any other relevant legislative, administrative and other measures taken to implement the provisions of the Convention or the Committee's recommendations since the consideration of the State party's previous periodic report in 2018, including institutional developments, plans and programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.