



# 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 fifth periodic report of Belarus\*

The Committee against Torture, at its thirty-eighth session (A/62/44, paras. 23 and 24), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

#### Articles 1 and 4

1. With reference to the Committee's previous concluding observations (para. 16),<sup>1</sup> please indicate whether a definition of torture that covers all the elements contained in article 1 of the Convention has been adopted and whether acts of torture are punishable by appropriate penalties which take into account their grave nature, as set out in article 4, paragraph 2, of the Convention. Is torture a separate offence under domestic law? Please specify whether the State party has amended its legislation to ensure that acts of torture are not subject to any statute of limitations.

#### Article 2<sup>2</sup>

2. In the light of the Committee's previous concluding observations (para. 11) and the request for clarification transmitted by the Committee's Rapporteur for follow-up on concluding observations, please provide information on any measures taken by the State

\* Adopted by the Committee at its fifty-first session (28 October–22 November 2013).

<sup>1</sup> Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/BLR/CO/4.

<sup>2</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 by States parties: "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 (hereinafter 'ill-treatment') under article 16, paragraph 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 chapter V of the same general comment.



party since November 2011 to condemn publicly and unambiguously the use of torture, and make it clear that perpetrators and accomplices will be held responsible and punished.

3. In the light of the serious concerns that the Committee expressed in its previous concluding observations about reports that detainees are frequently denied fundamental legal safeguards (para. 6), please provide information about measures taken to ensure that detainees have prompt access to a lawyer and a doctor and have the right to contact family members from the very outset of detention. In particular, please provide specific, updated information on:

(a) Any steps the State party has taken to amend its legislation to permit independent doctors to examine persons who are deprived of their liberty and who allege that they have been subjected to torture or ill-treatment, upon the detainee's request;

(b) Any cases, since the consideration of the last periodic report, in which government officials 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 last periodic report, in which detainees have challenged the legality of their detention or treatment before the courts, as well as the outcome of these challenges. In particular, please specify the number of cases in which the petitioner was released from detention;

(d) The number of police stations and detention facilities in which interrogations are routinely audiotaped or videotaped, and information on any measures the State party is taking to ensure that this practice is followed in all places of detention and for all interrogations;

(e) Measures taken to ensure that persons detained under article 293 of the Criminal Code, persons held under administrative detention, persons held in psychiatric hospitals, and persons held in the pretrial detention facilities of the State Security Agency (KGB) are afforded the safeguards outlined above; and

(f) Any investigations the authorities have conducted into the allegations that Vladimir Neklyayev and Andrei Sannikov were denied basic fundamental legal safeguards while in detention in 2011.

4. Pursuant to the Committee's previous concluding observations (para. 7), please provide information about efforts to ensure that all persons who are deprived of their liberty are registered promptly following their apprehension and that the lawyers and family members of those detained have full access to the detainee information contained in the central registry.

5. With reference to the Committee's previous concluding observations (para. 8), please provide information on efforts to monitor compliance with legislation requiring all on-duty law enforcement officers, including riot police and KGB personnel, to wear identification. Please indicate whether all law enforcement officers are assigned uniforms that include appropriate, visible identification, and provide data on any cases in which law enforcement personnel have been disciplined or punished for failing to wear appropriate identification.

6. In the light of the Committee's concluding observations (para. 10), please provide information on measures taken to prevent acts of torture and ill-treatment in detention facilities throughout the country. What steps have been taken to eliminate the substantial

gap between the legislative framework and its practical implementation? Have new methods of prevention been adopted?<sup>3</sup>

7. In the light of the Committee's previous concluding observations (para. 12), please provide information on measures taken to guarantee the full independence of the judiciary, in line with the Basic Principles on the Independence of the Judiciary. Please describe the steps taken to ensure that judicial selection, appointment, compensation and tenure are made according to objective criteria and to guarantee judges' independence from the executive branch of Government. Furthermore, please indicate whether the cases of the lawyers who represented individuals detained in connection with the events of 19 December 2010 and who were subsequently disbarred — including Aleh Aheyeva and Tatsyana Aheyev, Tamara Harayeva, Pavel Sapelka and Vadzimer Toustsik — have been or are being effectively investigated.

8. With reference to the Committee's previous concluding observations (para. 17), please state whether measures have been taken to ensure, de facto, the applicability of the provisions of the Convention in the domestic legal order. Please also indicate whether steps have been taken towards the practical implementation of article 20 of the Act on Laws and Regulations, including the provision of extensive training to the judiciary and law enforcement personnel in order to make them fully aware of the provisions of the Convention and its direct applicability. Please provide information on any decisions handed down by domestic courts or administrative authorities that give effect to the rights enshrined in the Convention.

9. Following the Committee's previous concluding observations (para. 22), please provide information about steps taken to make domestic violence and marital rape specific crimes in the Criminal Code and indicate whether victims of violence, particularly women and children, are provided with immediate protection and long-term rehabilitation. Please provide information on broader awareness-raising campaigns and training on domestic violence for judges, lawyers, law enforcement officers and social workers who are in direct contact with victims and the public at large. Please provide data on the number of complaints received during the reporting period concerning sexual and domestic violence, and information on investigations and the outcome of any prosecutions in those cases.

10. In the light of the Committee's concluding observations (para. 25), please inform the Committee about efforts to ensure the protection of human rights defenders and journalists from intimidation or violence as a result of their activities. Are reports of such harassment promptly, impartially and thoroughly investigated, prosecuted and punished? In particular, please indicate whether:

(a) Efforts have been made to enable non-governmental organizations to seek and receive adequate funding, including from abroad, to carry out their peaceful human rights activities. In this regard, please comment on allegations that the political activist Andrei Haidukou was sentenced to imprisonment in July 2013 on charges resulting from efforts to seek foreign funding for his work;

(b) Investigations have been conducted into the alleged threats against human rights defenders and journalists and their harassment by the authorities, including the cases of journalists Irina Khalip and Andrzej Poczobut; Chairman of the Belarusian Helsinki Committee, Aleh Hulak; opposition social network moderators, including Roman

<sup>3</sup> For example, videotaping all interrogations, utilizing investigative procedures such as those detailed in the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or taking new approaches to public education or the protection of minors.

Protasevich; and Oleg Volchek, director of Legal Aid to the Population. If so, please inform the Committee of the outcome of these investigations; and

(c) The State party has investigated the allegations that Ales Bialiatski, President of Viasna Human Rights Centre — who was sentenced to four and a half years' detention in 2011 for financial offences related to the foreign accounts of his human rights organization — was arrested and prosecuted in retaliation for his advocacy at international forums. Please indicate which institution(s) or mechanism(s) carried out any investigation(s) and the results.

11. In the light of the Committee's previous concluding observations (para. 23), please provide information on efforts to address the root causes of trafficking in persons, especially sexual exploitation. Please indicate whether the perpetrators of those crimes are prosecuted and punished, and whether victims are given redress and reintegrated into the community. Furthermore, please indicate whether law enforcement officials, in particular border and customs officials, are given proper training with regard to this matter.

### **Article 3**

12. With reference to the Committee's previous concluding observations (para. 26), please provide information on measures taken to comply with the recommendation that the State party should further revise the text and the implementation of the 2008 Law on Provision of Refugee Status, Complementary and Temporary Protection to Foreign Citizens and Stateless Persons in order to comply with article 3 of the Convention. Please provide updated information on current procedures and practices in the area of expulsion, refoulement and extradition. In addition, please indicate whether the State party is considering ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

13. Please indicate whether any expulsions, returns or extraditions have taken place since the consideration of the last periodic report and, if so, provide a list of countries to which individuals were returned and information on the grounds on which they were sent back. Furthermore, please indicate which type of appeal mechanisms are in place, whether anyone has appealed and, if so, what the outcome was.

14. Please indicate whether the State party has provided diplomatic assurances with regard to cases of refoulement, extradition and expulsions 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, thus 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. What measures have been taken to ensure that acts of torture are considered universal crimes? Please update the Committee on any progress made since the examination of the State party's report in 2011 to ensure full respect of the Convention in all territories under the State party's jurisdiction.

**Article 10**

17. With reference to the Committee's previous concluding observations (para. 21), please provide information on:

(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;

(b) Specific training for all relevant personnel on how to identify signs of torture and ill-treatment on the basis of the Istanbul Protocol;<sup>4</sup>

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

(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.

**Article 11**

18. With reference to the Committee's previous concluding observations (para. 13), please indicate whether:

(a) Fully independent bodies with the capacity to perform independent, periodic and unannounced visits to places of detention, including psychiatric hospitals, have been established and, if so, whether their personnel 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;

(b) Steps have been taken to ensure that psychiatric hospitalization and treatment is not used for punitive reasons, or for any reasons other than medical ones; and

(c) The State party has investigated the allegations that Igor Postnov — a psychiatrist working at the Vitebsk Regional Centre for Psychiatry and Narcology who criticized government policy and health care in several videos available on the Internet — was forcibly detained and subjected to forced treatment at the Vitebsk hospital in retaliation for his criticism. If so, which institution(s) or mechanism(s) carried out the investigation(s) and what were the results?

19. In line with the Committee's previous concluding observations (para. 14), please provide additional information on:

(a) The monitoring of detention facilities and special facilities by the National Public Watchdog Commission and the provincial and Minsk watchdog commissions, indicating whether these commissions are able to conduct visits to all places of detention, including pretrial detention centres, administrative detention centres and police lock-ups. Please provide details of any concerns reported by the commissions about possible violations of legislation detected during visits to places of detention, and indicate what action the authorities have taken in response to information from these bodies regarding detention conditions that may amount to ill-treatment. Please also indicate whether

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<sup>4</sup> Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1999).

measures have been taken to ensure that the commissions include independent human rights experts among their members and that they have the necessary power to carry out their work, including access to prisoner files, the ability to make unannounced visits to places of detention, to speak with detainees without the presence of prison officials, and to take notes during visits;

(b) The “voluntary associations” referred to in the additional information provided by Belarus on the implementation of paragraph 14 of the previous concluding observations.<sup>5</sup> Please indicate how many such associations exist, how their members are chosen, whether they are permitted to make unannounced visits to places of detention and whether their findings are made public in a timely and transparent manner. Please provide data on the number of places of detention that were visited by voluntary associations during the reporting period, any concerns they reported about possible violations detected, and any action the authorities have taken in response to information regarding detention conditions that may amount to ill-treatment;

(c) Access by other independent non-governmental monitoring mechanisms to places of detention, indicating the number of visits to places of detention, including psychiatric hospitals, that have been undertaken by national or international non-governmental organizations during the reporting period; and

(d) Efforts 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 United Nations High Commissioner for Human Rights. If the State party has agreed to these visits, please indicate whether it will allow the experts and mechanisms to carry out the visits in accordance with their proposed methods and procedures.

20. Regarding the Committee’s previous concluding observations (para. 19), please provide information on steps taken to bring the conditions in detention centres into line with the Standard Minimum Rules for the Treatment of Prisoners and other relevant international and national standards. In particular, please provide information on measures taken to reduce prison overcrowding and to establish non-custodial forms of detention in accordance with the Tokyo Rules.<sup>6</sup>

21. With reference to the Committee’s previous concluding observations (para. 20), please indicate whether efforts have been made to take prompt and effective measures to combat prison violence, in line with the Bangkok rules.<sup>7</sup> Please inform the Committee whether an effective mechanism for receiving complaints of sexual violence has been or is being established and promoted. Please provide information on whether law enforcement

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<sup>5</sup> Additional information from Belarus on the implementation of paragraph 14 of the conclusions and recommendations adopted by the Committee against Torture following its consideration of the fourth periodic report of Belarus on measures taken to implement commitments under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/BLR/CO/4/Add.2), para. 3.

<sup>6</sup> United Nations Standard Minimum Rules for Non-custodial Measures.

<sup>7</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders.

personnel receive training on how to receive such complaints and on the absolute prohibition of sexual violence as a form of torture.

22. Please provide statistical data on the number of deaths in custody, including details of investigations of past incidents and of prosecutions and convictions of the officials responsible for these acts. Please also indicate what measures have been taken to prevent deaths in custody.

### **Articles 12 and 13**

23. Please provide updated information on any efforts in the State party to investigate cases of enforced disappearances (para. 9), particularly those of Viktor Gonchar, Anatoly Krasovsky, Yury Zakharenko and Dmitry Zavadsky. Please indicate the current status of each of these investigations, whether fresh efforts have been made during the reporting period to effectively investigate them, whether any punishments or sanctions have been imposed on those responsible and whether any remedies have been provided for their relatives. Do their relatives and lawyers have access to information about the investigations that have been carried out to date, as well as to the database on disappearances? Please clarify which law or instruction prescribes penalties for enforced disappearances by State officials or persons acting at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Please provide details of the relevant content of these legal provisions and the results of any prosecutions pursuant to them to date.

24. With reference to the Committee's concluding observations (para. 11), please provide information on measures taken since the last 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:

(a) Any measures that have been taken to ensure that members of the law enforcement or 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 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 they provide regarding a complaint; and

(c) The number of cases of alleged torture and ill-treatment that have been referred to the Investigative Committee of the Republic of Belarus since its creation in January 2012. Please indicate whether the Committee has investigated these cases and how many of them have resulted in prosecution and/or conviction.

25. Please provide updated information on the number of complaints of torture or ill-treatment received by the authorities since November 2011 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.

26. Please inform the Committee of any progress in the State party's efforts to investigate the allegations of torture made by Maya Abromchick, Alex Mikhalevich, Andrei Molchan, Vladimir Neklayaev, Alexander Otruschenkov, Pavel Plaska, Natalia Radina and Andrei Sannikov, and indicate whether any individuals have been prosecuted for these alleged offences. Please also indicate whether the State party has investigated the allegations made by the imprisoned former presidential candidate, Mikalai Statkevich, that he has been subjected to intimidation by prison authorities at the Shklou colony in an effort

to compel him to apply for a presidential pardon, and that other inmates have similarly been threatened by the authorities, including with rape, to compel them to admit guilt and seek pardons.

27. With reference to the Committee's previous concluding observations (para. 15) and in the light of the State party's stated intention to establish a national human rights institution in accordance with a recommendation from the 2010 universal periodic review,<sup>8</sup> please provide updated information on whether the State party has established an independent and effective mechanism, in accordance with the Paris Principles,<sup>9</sup> to receive complaints of human rights abuse including torture and ill-treatment and to conduct prompt, impartial and effective investigations into allegations of torture, including by obtaining medical evidence concerning petitioners' allegations. If such a mechanism has been established, please provide information on whether the State party consulted with non-governmental organizations on its creation. Please also provide information on the number of complaints of torture and ill-treatment it has received, the number that have been investigated and the outcome of the investigations.

#### **Article 14**

28. With reference to the Committee's concluding observations (para. 24), please provide information on measures taken to provide adequate redress and compensation, including rehabilitation, to victims of torture and ill-treatment or their families.

29. In the light of paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on redress and compensation measures ordered by the courts since the consideration of the last periodic report. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Furthermore, please also indicate what kind of rehabilitation programmes are provided to victims and whether they include medical and psychological assistance.

#### **Article 15**

30. According to information before to the Committee, evidence obtained under torture and ill-treatment has been presented to judges in several cases (CAT/C/BLR/CO/4, para. 18). Please provide information on measures adopted to ensure that confessions obtained under torture or ill-treatment are not admitted in court proceedings, in line with article 27 of the Constitution and article 15 of the Convention. Furthermore, please indicate whether any officials have been prosecuted and punished for extracting confessions under torture and, if so, please provide details of the cases and any punishments or sanctions imposed on those responsible, particularly in the cases of Vladimir Asipenka and Nikolay Avtukhovich.

#### **Article 16**

31. Please provide updated information on measures taken to effectively prevent, combat and punish violence against children. In this respect, please indicate whether corporal punishment of children in all settings, including schools, children's institutions and in the home, is explicitly prohibited under domestic law and, if not, what efforts are being undertaken to remedy this.

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<sup>8</sup> See the report of the Working Group on the Universal Periodic Review: Belarus (A/HRC/15/16), para. 97.4.

<sup>9</sup> Principles relating to the status of national institutions for the promotion and protection of human rights.



32. Please inform the Committee about measures taken to ensure that all detainees have full access to and actually 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.

33. Please provide detailed information on new measures taken to ensure that all minors are detained separately from adults throughout their confinement, and that they are offered educational and recreational activities.

34. With reference to the Committee's concluding observations (para. 27), please provide information on measures taken to improve the detention conditions of persons sentenced to death and indicate whether they are afforded all the protections provided by the Convention. Please explain whether efforts have been made to remedy the secrecy and arbitrariness surrounding executions and the detention conditions of individuals on death row. Furthermore, please indicate whether steps have been taken to establish a parliamentary working group on the death penalty and whether the State party is considering ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

#### **Other issues**

35. Please provide updated information on any measures taken by the State party to respond to terrorist threats. Please indicate whether anti-terrorism measures have affected human rights safeguards in law and practice and, if so, how. In addition, please describe how the State party has ensured that measures taken to combat terrorism comply with all its obligations under international law. Please describe the relevant training given to law enforcement officers. Please provide information on the number of individuals who have been convicted under anti-terrorism legislation and the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice. Please indicate whether there have been complaints of non-observance of the relevant international standards and, if so, the outcome of these complaints.

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

36. Please provide detailed information on new relevant legislative, administrative and other measures undertaken to implement the provisions of the Convention and the Committee's recommendations since the consideration of the last periodic report in 2011. This may include institutional developments, plans and programmes, including resources allocated and statistical data, or any other information that the State party considers relevant.

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