



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

Distr.: General
20 March 2013
English
Original: Russian
English and Russian only

Committee against Torture

**Concluding observations on the fourth periodic report of
Belarus, adopted by the Committee at its forty-seventh
session (31 October–25 November 2011)**

Addendum

**Information received from Belarus on the implementation of
the Committee's concluding observations
(CAT/C/BLR/CO/4)***

[27 November 2012]

* 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.

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

1. Belarus currently has an effective mechanism for monitoring compliance with legislation in prisons.
2. Under article 20 of the Penal Enforcement Code, the Procurator-General and subordinate prosecutors monitor compliance with legislation by the agencies and institutions that enforce sentences and other penal measures, in accordance with national legislation.
3. Article 21 of the Code makes it possible for voluntary associations to take part in such monitoring.
4. Council of Ministers Decree No. 1220 of 15 September 2006 approved regulations governing the procedures for voluntary associations to monitor the activities of the agencies and institutions that enforce sentences and other penal measures.
5. The regulations, which came into force on 18 September 2006, were drafted in accordance with article 6 of the 9 June 2006 Act amending the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code to Improve Penal Correction Procedure and Other Penal Measures, exclusively to implement article 21 of the Penal Enforcement Code.
6. To implement the regulations, Ministry of Justice Decree No. 85 of 15 December 2006 approved instructions applicable to the National Public Watchdog Commission under the Ministry of Justice and the provincial and Minsk municipal public watchdog commissions under the justice departments of the provincial and Minsk municipal executive committees, governing the procedure for their constitution, operating procedures and collaboration.
7. In 2011, on the initiative of the Ministry of Justice and based on practice in the use of the regulations and an analysis of the activities of the public watchdog commissions, with a view to making their work more effective, the Government introduced amendments to Council of Ministers Decrees No. 1220 of 15 September 2006 and No. 196 of 15 February 2011. They increase public involvement in monitoring the activities of the agencies and institutions that enforce sentences and encourage the broader application in the country of international standards adopted in the framework of the United Nations and the Council of Europe to safeguard the rights of prisoners and prevent torture and other cruel, inhuman or degrading treatment or punishment.
8. In line with the regulations approved by Ministry of Internal Affairs Order No. 88 of 16 April 2011, within the limits of its authority, the Ministry of Internal Affairs department of oversight and enforcement coordinates the activities of the law enforcement agencies in organizing the enforcement and serving of non-custodial sentences and other penal measures, as well as detention in the temporary holding facilities of the law enforcement agencies and in special institutions responsible for enforcing administrative detention.
9. Article 4 of the Detention Procedures and Conditions Act of 16 June 2003 establishes that the temporary holding facilities of the internal affairs agencies are places of

detention in custody, not of deprivation of liberty. The special institutions responsible for enforcing administrative detention are not places of deprivation of liberty either.

10. Representatives of the relevant national authorities and departments that have the right to monitor and supervise places of detention in custody and special institutions responsible for enforcing administrative detention conduct regular inspections of the special institutions, in strict accordance with national legislation and international instruments, particularly paragraph 55 of the Standard Minimum Rules for the Treatment of Prisoners.

11. The treatment of persons held in custody or subject to the penalty of administrative detention is based on the principles of the rule of law, humane treatment, the equality of all citizens before the law, respect for human dignity in accordance with the Constitution and the universally accepted norms and principles of international law, as well as the international treaties to which Belarus is a party.

12. To ensure transparency in places of detention, article 22 of the Penal Enforcement Code provides for representatives of the media to visit institutions of the penal correction system.

13. The Office of the Procurator-General did not receive any complaints of violations of the above-mentioned legislation during the reporting period in 2012.

14. The activities of mental health-care organizations are governed by the requirements of the Health Care Act of 18 June 1993 and the Mental Health Care Act of 7 January 2012. Such organizations are not closed and may, if necessary, be visited by foreign experts in line with national and international legislation.

15. The adoption of the Mental Health Care Act of 7 January 2012 represents significant progress in the legal regulation of psychiatric care. The Act establishes a presumption of absence of mental disorder or illness, whereby a person is considered not to have a mental disorder or illness unless the contrary is determined on the grounds and in the manner prescribed by the Act. To that end, the Act specifically establishes: a mechanism to protect patients' rights and legitimate interests; the rights and responsibilities of patients receiving mental health care; the rights and responsibilities of the medical staff who provide mental health care; the rights and responsibilities of patients in psychiatric hospitals; and the rights and responsibilities of directors of psychiatric hospitals, including to create conditions for the realization of patients' rights as established by the Act and other legislation. These regulations are based on article 53 of the Constitution, according to which everyone must respect the dignity, rights, freedom and legitimate interests of other persons.

16. Articles 13 and 14 of the Act define Government policy in the field of mental health care and State safeguards for persons suffering from mental disorders or illnesses. They establish an implementation mechanism for the standards contained in article 45, paragraphs 1 and 2, of the Constitution concerning the citizen's guaranteed right to health protection, including free treatment in State-run health institutions, as well as State provision of accessible health care for all.

17. Articles 15 and 17 of the Act provide that diagnosis, or the absence thereof, of mental disorder or illness is the exclusive prerogative of medical specialists and the medical advisory board. A mental disorder or illness is diagnosed according to the International Statistical Classification of Diseases and Related Health Problems, and may not be based solely on the patient's rejection of society's generally accepted moral, cultural, political and religious values or other circumstances that are not directly related to his or her state of mental health, and the necessary conditions are ensured for the provision of psychiatric care. These guidelines are based on article 25, paragraph 3, of the Constitution, which states that no one may be subjected to degrading treatment, or to medical or other experimentation without his or her consent.

18. Article 28 of the Constitution establishes the right of every person to protection from illegal interference in his or her personal life, in line with article 20 of the Act governing the provision of information on a patient's state of mental health and patient confidentiality in the provision of mental health care.

19. Grounds for the provision of psychiatric care in hospital include a court decision to grant an application for involuntary admission and treatment. Articles 36, 38 and 39 of the Act establish the grounds for involuntary admission and treatment, and for the submission to a court and consideration of such an application, as well as the period of involuntary admission and treatment.

20. The Act safeguards the rights of the individual by stipulating that only a court may consider grounds for, an application for or a recommendation of involuntary admission and treatment by the medical advisory board of a psychiatric hospital, or an application for or recommendation of an extension of involuntary admission and treatment by the medical advisory board of a psychiatric hospital.

21. In line with its voluntary undertakings subsequent to the universal periodic review (A/HRC/15/16, paras. 97.17 and 97.18), Belarus cooperates constructively with the special procedures of the Human Rights Council and sends them all information requested.

22. Between 2010 and 2012, the competent authorities considered more than 10 requests from the Special Rapporteurs on the right to freedom of opinion and expression, human rights defenders and torture. It sent comprehensive information in response to all the requests received.

23. In August 2011, Belarus also extended an invitation to the United Nations High Commissioner for Human Rights to visit Belarus. However, Belarus has not yet been informed whether the High Commissioner is prepared to visit the country.
