

Belarus Human Rights Index

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2021

Right of persons deprived of their liberty to be treated with humanity

Expert Commentary

The score: 2,6

Including scores by component:

- General principles 2,8
- Detention conditions 2,9
- Protection of persons deprived of their liberty 2

The state partially guarantees the right of persons deprived of their liberty to humane treatment in Article 25 of the Constitution which proclaims: “The state shall ensure the liberty, inviolability and dignity of the individual. A person in custody shall have the right to judicial review of the lawfulness of his detention or arrest”¹. The right to humane treatment of persons deprived of their liberty is closely related to other human rights. The Republic of Belarus has been a party to the International Covenant on Civil and Political Rights since 1973². Article 10 of the Covenant declares: “ All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.”³

In assessing the 2021 status of the right to humane treatment of persons deprived of their liberty, Index experts gave lower scores than in 2020. Their position is explained in more detail below.

General principles

Despite the principle of equality of all inmates before the law being enshrined in the criminal-executive legislation, according to the experts, in practice, different approaches are applied to different groups of inmates. The situation of prisoners convicted on political grounds, those convicted on drug-related charges, etc. has always been particularly vulnerable.

¹ Constitution of the Republic of Belarus, Art. 25: <https://pravo.by/pravovaya-informatsiya/normativnye-dokumenty/konstitutsiya-respubliki-belarus/>.

² International Covenant on Civil and Political Rights: ratification status. https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND.

³ International Covenant on Civil and Political Rights, Art. 10: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.



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Since August 2020, persons convicted in politically motivated cases comprise the largest and the most vulnerable group. Such prisoners are marked with coloured patches in places of detention. For example, by the words of now deceased Vitold Ashurak, in the Shklou colony inmates convicted under the "political" articles wear yellow tags⁴. The same takes place in juvenile colonies. According to Nikita Zolotarev, a 17-year-old juvenile found guilty in 2021 of participating in the August 2020 protests and for allegedly throwing a Molotov cocktail at two police officers, he also received a yellow tag, which identifies "extremists", upon arrival in Babruisk colony. Now he wears a red one, meaning that he is "prone to escape"⁵.

Vitold Ashurak became the first political prisoner to die in custody in May 2021. The relatives were told that the cause of death was cardiac arrest, but when they took the body, the relatives found bruises all over it, as well as head trauma, which cast doubt on the cause of death and the conditions of detention of prisoners, especially political ones. The investigation stressed that the autopsy "did not reveal any signs of the criminal nature of the convict's death"⁶.

Bias is manifested in the application of various penalties. For example, on 17 November 2021 political prisoner Nikita Yemelianov was once again sent to a punishment cell for refusing to sweep the courtyard for a walk, although this duty for prisoners is not prescribed in the internal regulations of correctional institutions. His prayer beads were taken away; Nikita was also restricted from eating⁷. Political prisoner Igor Povarov was placed in solitary confinement for six months, which is equivalent to conditions in high-security colonies, although Igor is serving his sentence in a penal colony under the general regime. He was also subjected to torture by cold, as the window in his cell was always open⁸. In November 2021 Amnesty International called for the General Prosecutor to demand medical treatment for human rights defender Marfa Rabkova since she was not provided with such treatment in the pre-trial detention facility № 1⁹. These are just some examples of the way political convictions impact the conditions of detention. As of the end of 2021, there were 969 political prisoners in Belarus¹⁰. In addition to evidence of the inhumane treatment of such prisoners directly in places of detention, the disproportionate and inhumane nature of the court sentences themselves must also be noted. For instance, anarchists Igor Olynevich and Sergey Romanov each got 20 years' imprisonment, some of the harshest sentences in political trials¹¹.

⁴ <https://reform.by/225864-v-shklovskej-kolonii-politicheskij-pomechajut-zheltyimi-birkami>

⁵ <https://eurasia.amnesty.org/2021/12/08/ya-by-peredal-emu-v-koloniyu-knigi-no-u-nih-tam-minuty-svobodnoj-net-istoriya-17-letnego-nikity-zolotaryova-geroya-marafona-pisem/>.

⁶ <https://www.bbc.com/russian/features-57642388>.

⁷ <https://spring96.org/ru/news/106050>.

⁸ <https://spring96.org/ru/news/105903>.

⁹ <https://eurasia.amnesty.org/2021/11/17/beloruskoj-pravozashhitnicze-marfe-rabkovej-v-sizo-otkazyvayut-v-mediczinskoj-pomoshhi-potrebujete-ot-minska-nachat-eyo-lechenie/>.

¹⁰ <https://spring96.org/ru/news/106313>.

¹¹ <https://spring96.org/ru/news/106313>.



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According to expert assessments, the repression of dissenters has increased significantly in 2021. Detentions are accompanied by torture, psychological pressure and disproportionate use of physical force. The practice of recording "repentant" videos has taken root, with law enforcement authorities forcing detainees to confess to video recordings of things they have not done, revealing personal information about themselves, such as their sexual orientation¹². These videos were disseminated on pro-government social networks and state-run mass media in order, on the one hand, to sow fear in the society before such "demonstrative executions" and, on the other hand, to make the society repudiate the person in the video. Cases are known of intentional COVID-19 contamination of inmates.

Human rights violations persist: among others, the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person, the right of persons deprived of liberty to be treated humanely and with respect for the inherent dignity of the human person, the right to privacy, the right to a lawyer and the right to a fair trial are violated¹³. In 2021, 102 persons became victims of prohibited treatment in places of detention. Political prisoners were signed on preventive detention registers, placed in punitive isolators, subjected to provocation, restricted in their meals, walks and kept in unsanitary conditions; they suffered from multiple overcrowding in isolators, lack of bedding, including mattresses and pillows, toothbrushes and other basic necessities, sufficient water and other legal guarantees for administrative detainees and arrestees¹⁴. The refusal to investigate and prosecute cases of torture in Belarus has led to an increase in the number of such cases in places of detention. The defendants reported that they were subjected to improper treatment in the courtroom in order to draw at least the public's attention to the ongoing violations. For instance, Vadzim Dzmitronak, Kirill Pavlovets, Yauhen Barouski, Ivan Zenko, Aliaksei Droba, Stsiapan Latypau reported torture during their trials¹⁵. These examples confirm that torture in Belarus in 2021 not only did not stop but became entrenched as a systematic practice.

In violation of the standards, no difference can be drawn between the treatment of accused and convicted persons. The practice of imposing disciplinary sanctions on accused persons held in pre-trial detention facilities for trumped-up violations and failure to comply with formal requirements is progressing. Unconvicted persons are forbidden to sleep during the day, to lie on the bed; the practice of using disciplinary cells for unconvicted persons has expanded. The above-mentioned methods of pressure and punishment are more frequently used against political defendants.

Accused juveniles, despite their special status, are held in pre-trial detention for long periods of time in violation of Article 10 of the Covenant. The Criminal Executive Code stipulates that juveniles serve

¹² On December 10, 2021, an A1 employee Nikolay Bredelev was detained. A "repentant" video with him appeared on pro-government Telegram channels, where he discloses his sexual orientation and to leaking information to Anton Motolko for the Telegram channel of the latter. Bredelev is accused of "leaking" classified information about the company's clients. <https://reform.by/285254-zaderzhan-press-sekretar-a1>.

¹³ <https://drive.google.com/file/d/1BdRF2t5umJI7JD9mT7RaxPmeJdMJpbi/view>.

¹⁴ https://spring96.org/files/misc/review_2021_ru.pdf.

¹⁵ https://spring96.org/files/misc/review_2021_ru.pdf.



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their sentences separately from adults in an educational colony. There is one educational colony in Belarus (Bobruisk) that provides conditions for education and recreation of minors. Among the political prisoners in 2021 there were 10 juveniles or those who had reached the age of 18 in the places of detention¹⁶. More than 100 complaints of torture and other ill-treatment¹⁷ have been received from juveniles and have not been investigated.

Legislation declares correction and re-education as the main goal of the penitentiary system, however, high recidivism rate¹⁸ demonstrates that this goal is not achieved in practice. The penitentiary system is punitive in nature¹⁹. Since August 2020 political trials have been used to intimidate the public.

Among the positive trends, experts noted the retention of opportunities to learn new professions in prisons, and organization of cultural activities.

Conditions of detention

Conditions in places of detention do not comply with basic international human rights standards. In 2021, experts noted a slight deterioration. The practice of singling out and mistreating political prisoners has strengthened. Additional restrictions include placement in solitary confinement or, alternatively, in overcrowded cells where the normal stay is impossible and diseases spread more easily, e.g. COVID-19. Political prisoners are systematically subjected to disproportionate violence which can be fatal, as in the case of Vitold Ashurak who died in May 2021. At the same time, there is a lack of proper investigation, which contributes to impunity and an increase in the use of violence.

In 2021, a ban on the transfer of parcels, medication, letters, and hygiene products was implemented²⁰. Political prisoners noted that their conditions of detention have been deliberately worsened to cruel and inhumane, at times being on the verge of torture²¹. For instance, Anatol Bokun, leader of the "Belaruskali" strike committee, spent 45 days of his arrest in the heat and without proper access to drinking water²². The inhumane detention conditions were also described by Hrodna journalist Iryna Novik after her release²³.

In November 2021, ten women from cell № 15 in the Okrestina detention facility were forced to declare a hunger strike because of the detention conditions, which clearly did not meet not only international

¹⁶ <https://spring96.org/ru/news/106313>.

¹⁷ https://spring96.org/files/misc/review_2021_ru.pdf.

¹⁸ <https://www.belta.by/society/view/verhovnyj-sud-otmechaet-vysokij-uroven-retsdivnoj-prestupnosti-v-belarusi-337866-2019/>.

¹⁹ <https://www.dw.com/ru/uslovija-v-belorusskih-tjurmah-kto-teper-ih-kontroliruet/a-59467103>.

²⁰ <https://belsat.eu/ru/news/28-10-2021-delo-zeltsera-dve-smerti-pytki-i-prizyv-k-terroru-chno-stalo-izvestno-za-mesyats>.

²¹ <https://spring96.org/ru/news/105919>.

²² <https://spring96.org/ru/news/103977>.

²³ <https://baj.by/ru/analytics/pod-sakuroy-i-s-princessoy-irina-novik-o-grodnenskoj-tyurme-i-lechebno-m-golodanii-na>.



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standards but also the requirements of Belarusian legislation: small cell size, lack of warm clothes and personal hygiene items. At the same time, the Center's staff not only failed to comply with the women's demands but also threatened them with even worse conditions²⁴.

Contacts with the outside world (family, attorney, social and medical services, NGOs) are provided with unreasonable restrictions or are not provided at all. The prohibition of contact with the outside world is used as a way of exerting pressure on prisoners, especially political ones. The situation has not changed significantly since 2020. In 2021, the authorities liquidated almost all non-governmental organizations. This has limited the prisoners' access to the outside world and their ability to convey information to the public about the conditions of detention and mistreatment.

Political repression and the breakdown of civil society have affected the legal profession. As many attorneys have been deprived of their licenses, the provision of legal assistance has become problematic. For instance, in the midst of the trial of Siarhei Tsikhanouski, his attorney, Natalia Matskevich, was suspended on 13 October 2021 and later deprived of her lawyer's license²⁵.

In 2021 the Belarusian authorities continued to resort to manipulation, using the coronavirus pandemic as a pretext to restrict the basic rights of inmates. For example, the "Zeltser case" became widely known when some two hundred people were detained for negative remarks and placed in Zhodzina prison № 8. A quarantine was enforced there, and the detainees were restricted in their transfers, the possibility of meeting their attorneys and receiving personal hygiene items and warm clothes. The situation was resolved only after human rights organizations appealed to the UN mechanisms²⁶.

The law does not explicitly prohibit long-term solitary confinement. It continues to be used as a punitive measure and a form of torture against political prisoners, including juveniles. For example, solitary confinement was applied to Maria Kalesnikava and Siarhei Tsikhanouski.

Detention conditions for juveniles are in practice equated to the detention of adult inmates, which is not in line with international standards. The case of Nikita Zolotarev who was 16 years old at the time of his detention is illustrative. Nikita was detained in Gomel on 10 August 2020. He was diagnosed with epilepsy. After being arrested, he was taken to the police station, where he was beaten and tortured with electric shocks. Nikita was accused of allegedly throwing a Molotov cocktail at two police officers while participating in protests. On 22 February 2021, he was sentenced to five years imprisonment. He was sent to a juvenile penal colony²⁷. He was given some unidentified medication

²⁴ <https://spring96.org/ru/news/105708>.

²⁵ <https://www.dw.com/ru/delo-tihanovskogo-statkevicha-losika-cto-izvestno-o-sud%D0%B5/a-59933571#:~:text=%D0%A1%2030%20%D0%BC%D0%B0%D1%8F%202020%20%D0%B3%D0%BE%D0%B4%D0%B0,%D0%B0%20%D0%BF%D0%BE%D1%81%D1%82%D0%BE%D0%BC%20%D0%BB%D0%B8%D1%88%D0%B8%D0%BB%D0%B8%20%D0%B0%D0%B4%D0%B2%D0%BE%D0%BA%D0%B0%D1%82%D1%81%D0%BA%D0%BE%D0%B9%20%D0%BB%D0%B8%D1%86%D0%B5%D0%BD%D0%B7%D0%B8%D0%B8>.

²⁶ https://spring96.org/files/misc/review_2021_ru.pdf.

²⁷ <https://eurasia.amnesty.org/2021/12/08/ya-by-peredal-emu-v-koloniyu-knigi-no-u-nih-tam-minuty-svobodnoj-net-istoriya-17-letnego-nikity-zolotaryova-geroya-marafona-pisem/>.



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for epilepsy once every two days, although Nikita is supposed to take epilepsy medication twice a day, in the afternoon and in the evening²⁸. Letters, food and medication parcels were not transferred to him. For a long time, Nikita was kept in solitary confinement, constantly awakened at night, and taken out for checks²⁹.

Protection of persons deprived of their liberty

A mechanism for monitoring the conditions of detention and treatment of persons subjected to any form of arrest, detention or imprisonment has been developed and formally applied. In Belarus, the Republican Public Monitoring Commission under the Ministry of Justice (and regional public monitoring commissions) is endowed with these functions; its members include representatives of human rights organizations. Due to the COVID-19 epidemic in 2021, the Commission's visits to places of detention were suspended; only one visit was made to Shklov, the penal colony № 17. Moreover, the NGOs whose staff were members of the Republican Commission were liquidated in 2021 during a massive crackdown on civil society. According to the experts, the dependence of the commission on the incumbent authorities is evident. Often inspections of the commissions resemble excursions rather than qualitative monitoring³⁰.

For example, in August 2021, under the pretext of the COVID-19 epidemic, the regional public monitoring commission was not allowed to visit detainee Artyom Anischuk, who had previously complained to his attorney about torture and beatings³¹.

Medical services for prisoners are poor and access to medical care is difficult. There is no nationwide prison hospital that would meet modern requirements, even though a new complex of detention facilities and the republican general hospital is under construction, which is intended to improve the situation of receiving medical care in places of detention. In 2021 the administration persisted in deliberately creating conditions for the spread of diseases, including parasites, and infecting political prisoners with COVID-19. As noted by the experts, such detainees were deliberately "infected" with COVID-19. The treatment of COVID-19 patients was inadequate, and staff failed to respond to detainees' complaints of feeling unwell. Experts are aware of several situations in which persons who had served administrative detention were infected with COVID-19 and died on release from the detention facility. For instance, Elena Amelina died after serving her administrative detention in a detention center in Minsk as a consequence of coronavirus infection. She was detained for administrative offenses in April and September 2021³².

²⁸ <https://www.currenttime.tv/a/zolotarev/31119185.html>.

²⁹ <https://eurasia.amnesty.org/2021/12/08/ya-by-peredal-emu-v-koloniyu-knigi-no-u-nih-tam-minuty-svobodnoj-net-istoriya-17-letnego-nikity-zolotaryova-geroya-marafona-pisem/>.

³⁰ <https://www.dw.com/ru/uslovija-v-belorusskih-tjurmah-kto-teper-ih-kontroliruet/a-59467103>.

³¹ <https://spring96.org/ru/news/104521>.

³² <https://spring96.org/ru/news/105541>.



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There is no independent and objective mechanism for medical examinations and documentation of bodily injuries in places of detention. The process is politicized, and doctors are dependent on the “top-down” decisions. The situation worsened in 2021, as illustrated by the lack of a proper investigation into Vitold Ashurak’s death.

Despite a legal right to file a complaint, in 2021 it has become much more difficult to realize it. Whereas in 2020, victims were willing to fight for their rights and file complaints, in 2021, due to fear of retaliation from law enforcement agencies, people are afraid to express their position, defend their rights publicly, and file complaints. The right to complain has become a “dead” right.

The legal crisis that worsened in the country in the aftermath of the August 2020 events has played a deterrent role in the use of complaints by prisoners as a means of ceasing violations of their rights and bringing the perpetrators to justice. There is no trust in the system, its fairness and impartiality. In August 2021, the Investigative Committee of the Republic of Belarus stated that there were no grounds to initiate criminal proceedings for 4,644 allegations of torture and other inappropriate treatment of detainees since August 2020³³. Nevertheless, the evidence and evidence of such inhuman treatment indicate a principled reluctance of the Belarusian authorities to stop torturing political prisoners and investigate the crimes committed earlier.

Although the law formally provides for the possibility of compensation for victims of torture, in practice it is not realized. The situation has not fundamentally changed since 2020. On the contrary, 2021 practices demonstrate the ineffectiveness of the mechanism for the protection of victims of torture and the impunity of all violent acts committed by state bodies against citizens in August 2020 and thereafter. These acts were not recognised as torture, and the prosecutor's office did not investigate them properly. Experts say that there is a tacit prohibition on official recording of beatings. Victims of torture are often threatened and their rights continue to be violated. For example, after Artyom Anischuk complained of torture and a prosecutor's investigation, he was beaten by the head of the colony³⁴.

Under the experts, there are serious problems with independent and impartial investigations into cases of bodily harm to prisoners and deaths in custody. A clear example of the flawed system is the death of Vitold Ashurak in May 2021 and the subsequent virtual absence of an investigation with confusing evidence and reasoning. A proper investigation has been replaced by inspections, the effectiveness of which is limited. If the deaths in custody are not of an overtly “criminal” nature, the clarification of the circumstances is superficial. Law enforcement agencies are unwilling to establish the truth. In 2021 the systematic use of torture, cruel and degrading treatment and punishment of dissenters in conditions

³³ <https://www.hrw.org/ru/world-report/2022/country-chapters/380742#>.

³⁴ <https://spring96.org/ru/news/104056>



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of incarceration was be observed to be increasing. There is also an increase in impunity for unlawful activities of state authorities, which is endorsed by high-ranking officials³⁵.

³⁵ See “Zeltser case”. For more information: <https://www.bbc.com/russian/news-58730869>; https://t.me/belta_telegramm/71215; <https://belsat.eu/ru/news/28-10-2021-delo-zeltsera-dve-smerti-pytki-i-prizyv-k-terroru-chno-stalo-izvestno-za-mesyats/>; <https://nashaniva.com/?c=ar&i=278677>.



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