

Committee against Torture
70th session

**Proposed issues for the “List of issues prior to reporting
(LoIPR) of the sixth periodic report of the Republic of Belarus”**

Belarusian Helsinki Committee

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Content:

I. Issues regarding institutional framework for combating torture and other cruel, inhumane or degrading treatment (hereinafter ‘ill-treatment’):	3
<i>Regarding legislation:</i>	3
<i>Regarding monitoring mechanisms:</i>	3
<i>Regarding measures to prevent torture</i>	4
<i>Regarding medical examination of a detainee and medical aid</i>	4
<i>Regarding statements about torture obtained in the course of the judicial proceedings</i>	5
<i>Regarding the documentation of torture</i>	5
<i>Regarding the procedure for the execution of the death penalty</i>	5
<i>Regarding independent bodies or specialized units for the investigation of torture</i>	6
<i>Regarding the gathering and publication of statistical data</i>	6
<i>Regarding the conditions of detention</i>	6
<i>Regarding domestic violence</i>	6
<i>Regarding redress to victims of torture</i>	6
<i>Regarding the rights of minors</i>	7
<i>Regarding other topics</i>	7
<i>Regarding COVID-19</i>	7
II. Questions regarding the events of August 9-13, 2020 and the following months in connection with the protests	7
<i>Regarding the violation of the right to life</i>	7
<i>Regarding the investigation of allegations of mass torture</i>	8
<i>Regarding the establishment of ad hoc bodies to investigate mass torture</i>	9
<i>Regarding the identification of persons involved in torture</i>	9
<i>Regarding receiving medical care</i>	9
<i>Individual cases of torture</i>	10
<i>Regarding the investigation of sexual violence allegations</i>	10
<i>Regarding the conditions of detention for participants in peaceful assemblies in the post-election period</i>	10
<i>Regarding violations of the right to protection</i>	11

I. Issues regarding institutional framework for combating torture and other cruel, inhumane or degrading treatment (hereinafter 'ill-treatment'):

Since the adoption by the Committee against Torture of the last Concluding observation on the fifth periodic report of Belarus (CAT/C/BLR/CO/5), the Government has shown no progress in implementing recommendations aimed at improving measures to combat torture and ill-treatment, either in law or in practice.

The absence of effective tools to prevent and respond to acts of torture was one of the reasons for the events of 9-13 August and the following months, when thousands of citizens were subjected to torture, for which no one has so far been held responsible. The existing mechanisms were not able to prevent and provide an adequate response to the mass torture that occurred in Belarus during the post-election period.

Belarus has not yet established the National Preventive Mechanism for the prevention of torture, the Criminal Code does not criminalize all acts of torture under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter 'Convention'), a real mechanism of public control over places of detention has not yet been established, there are no guarantees of independence of investigative bodies.

Regarding legislation:

- 1. What measures have been taken to criminalize all acts of torture in national criminal legislation?**
- 2. Has legislation been amended to ensure that no period of limitations for criminal prosecution applies to all acts of torture under the Convention?**
- 3. Has the State party changed its legislation so that a person who has committed intentional crime under obviously criminal order could be subjected to criminal liability for executing obviously illegal order?**
- 4. In light of the obligations of the of the Republic of Belarus under Article 12 of the Convention (a quick investigation of torture) please comment on changes in the Code of Criminal Procedure, as amended by the Act of 6 January 2021 No. 85-Z "On the change of codes concerning criminal responsibility", including the possibility of extending terms of suspension of investigation on the statement regarding a crime without specifying a time limit for the suspension.**

Regarding monitoring mechanisms:

- 5. What measures have been taken to establish a monitoring mechanism consistent with the basic principles set out by the Committee against Torture (CAT/OP/12/5) to assess whether a detainee has all the basic legal guarantees from the outset of deprivation of liberty, including access to a lawyer, notification of relatives within 12 hours?**
- 6. What measures have been taken to establish an independent national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)?**
- 7. What measures have been taken to establish an effective mechanism for monitoring the conditions of detention in places of deprivation of liberty?**

8. **How many detention centers, temporary detention facilities and other places of deprivation of liberty were visited by Public Monitoring Commissions in the post-election period?**
9. **How many complaints were submitted to the Public Monitoring Commissions during the reporting period?**
10. **How many violations were identified by the Public Monitoring Commissions in places of deprivation of liberty in the post-election period?**
11. **Please also provide information on whether members of the public have been allowed to enter detention facilities to monitor conditions of detention.**
12. **Is it allowed for members of the public, including representatives of human rights organizations, to monitor the conditions of detention in detention facilities for persons serving administrative arrest, including visits to such places without prior notice?**
13. **What measures have been taken to grant access to independent national and international monitors to all detention facilities in the country, including police cells, temporary and pretrial detention centers, labour treatment facilities, pretrial detention facilities managed by security agencies, administrative detention areas, the detention units of medical and psychiatric institutions, and prisons?**

Regarding measures to prevent torture

Belarus does not have an effective system for preventing torture. Under the Interdepartmental Plan for the implementation of the recommendations adopted by the Republic of Belarus following the Second Cycle of the Universal Periodic Review in the United Nations Human Rights Council and the recommendations addressed to the Republic of Belarus by the Human Rights Treaty Bodies for 2016-2019 (hereinafter 'Interdepartmental Plan') the Government planned to study the international experience concerning audio- or video recordings of interrogations in territorial bodies of internal affairs and pretrial detention facilities as a mean of preventing torture and ill-treatment, to consider the feasibility of applying such experience in the Republic of Belarus. In this regard, please provide information on the following:

14. **What are the results of the realization of the Interdepartmental Plan?**
15. **Have specific measures been taken to equip the interrogation rooms in pretrial detention facilities with audio-visual, electronic and other technical means that allow for video recording of all interrogations?**
16. **What measures have been taken to adopt rules of interrogation of arrested, detained, or incarcerated persons at the legislative level?**
17. **What alternatives to detention are used in relation to persons suspected of committing illegal acts, in particular, political prisoners?**
18. **What measures have been taken to provide mandatory training on the prevention of torture and ill-treatment of all law enforcement officials, judges and other persons who come into contact with victims of torture?**
19. **Have programmes been developed to train law enforcement officials in investigative techniques in accordance with the provisions of the Convention?**

Regarding medical examination of a detainee and medical aid

Due to the lack of information concerning changes in the procedure for conducting a rapid and confidential medical examination of a detainee, please inform:

20. **What measures have been taken to ensure that a mandatory and independent medical examination of a detainee is carried out from the outset of the detention?**
21. **Is it possible to conduct medical examination out of hearing and out of sight of the police from the outset of the detention?**
22. **What measures have been taken to improve access to and the quality of health care, including psychiatric care, for detainees in all places of deprivation of liberty?**

Regarding statements about torture obtained in the course of the judicial proceedings

Given the available information on numerous cases of statements about torture, violence and ill-treatment by the accused during interrogations, and also because the Government, in accordance with the Interdepartmental Plan, was to discuss the issue of adjusting the legislation, providing for the suspension of criminal proceedings in court until a thorough investigation of the claim on the use of torture in order to extract confessions is carried out, please inform:

23. **What measures have been taken to ensure that cases in which the defendants' claims of having been tortured to extract confessions were not investigated can be returned for a review?**
24. **What measures have been taken to ensure in practice that statements obtained by torture are declared inadmissible as evidence in any proceeding?**
25. **What measures have been taken to ensure in law that in all cases where a person claims that a confession was obtained by torture, the case is suspended until the claim is thoroughly investigated?**
26. **Please provide statistics on cases in which confessions obtained by torture were declared inadmissible.**
27. **How many complaints of torture in the course of obtaining evidence have been investigated?**
28. **How many criminal proceedings have been initiated against public officials who obtained evidence by torture?**

Regarding the documentation of torture

29. **What measures have been taken to ensure that all alleged cases of torture or ill-treatment are promptly documented in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and reported to the competent authorities?**

Regarding the procedure for the execution of the death penalty

In accordance with the current legislation, the death penalty in Belarus is carried out non-publicly by firing squad, the date and place of execution are kept secret, the bodies of the executed are not handed over to relatives for burial, and information about the place of burial is not disclosed. The Human Rights Committee has repeatedly recognized these procedures as ill-treatment of the relatives of the executed. Those sentenced to death are

held in solitary confinement in very poor conditions. The executed are not informed beforehand about the date and time of execution of the death penalty as well.

- 30. What measures have been taken to bring prison conditions for individuals sentenced to death into compliance with the obligations under the Convention?**
- 31. What measures have been taken to stop the practice of non-notification of relatives about the date of execution of the death penalty and the place of burial?**

Regarding independent bodies or specialized units for the investigation of torture

- 32. What measures have been taken to establish dedicated, specialized units within the State party's Investigative Committee to which persons deprived of their liberty can safely and confidentially submit complaints of torture and ill-treatment, including allegations of sexual violence?**
- 33. What measures have been taken to ensure that such complaints do not pass through the administration of the places of detention in respect of which they are submitted?**

Regarding the gathering and publication of statistical data

- 34. What measures have been taken to compile statistical information relevant to the monitoring of the Convention, including data on complaints, investigations, prosecutions and convictions in cases of torture or ill-treatment?**
- 35. Is this data publicly available?**

Regarding the conditions of detention

- 36. What measures have been taken to improve the conditions of detention in places of deprivation of liberty, including places of detention of administrative detainees and those serving administrative arrest?**
- 37. What measures have been taken to abolish strip searches conducted by guards of the opposite sex?**

Regarding domestic violence

- 38. Has legislation on domestic violence been adopted?**
- 39. Has the State party changed its criminal legislation to criminalize domestic violence?**
- 40. What protection mechanisms are available for victims of domestic violence, especially women and children?**
- 41. Please provide statistics on cases that should be classified as domestic violence.**

Regarding redress to victims of torture

- 42. Does the law provide for the possibility of unconditional redress, including compensation and rehabilitation, to victims of torture?**
- 43. Please provide information about the exact number of persons in respect of whom a decision has been made on appropriate compensation for damage.**

44. Has a state mechanism for the rehabilitation of victims of torture been established?

Regarding the rights of minors

45. What measures have been taken to ensure that non-custodial measures are normally used for minors who are in conflict with the law? What measures have been taken to stop the practice of placing juvenile suspects in pretrial detention cells along with adults?

Regarding other topics

46. What measures have been taken to strengthen the independence of the Bar Association from the Ministry of Justice through, inter alia, the provision of opportunities for self-government?

47. What measures have been taken to ensure that journalists are protected from prosecution because of their professional activities?

48. How is the right of defence and the right to appeal against cases of unlawful detention ensured?

Regarding COVID-19

49. What measures have been taken to implement the right to protection, contact with the outside world, receipt of letters and transmissions for prisoners, administrative detainees and other persons in places of deprivation of liberty in the context of the COVID-19 pandemic?

II. Questions regarding the events of August 9-13, 2020 and the following months in connection with the protests¹

Regarding the violation of the right to life

During peaceful assemblies in Minsk and other cities of Belarus from 9 to 13 August, special divisions of the Ministry of Internal Affairs actively used special equipment and non-lethal weapons, special equipment, rubber bullets, stun grenades, water cannons, rubber batons, stun guns, handcuffs and binding objects. For the first time in the history of Belarus, rubber bullets were used against demonstrators.

The methods of using non-lethal weapons in many cases caused a threat to the lives and health of citizens who took part in the demonstrations, and led to a large number of people being injured. At least two demonstrators were killed as a result of the use of weapons by representatives of the Ministry of Internal Affairs. It is known that one of the protestors, Alexander Taraykovsky, died, according to available information, as a result of a direct shot from a non-lethal weapon in the heart area.

¹ For more information about the situation with human rights in Belarus see report «Belarus after Election», prepared by Belarusian Helsinki Committee, Human Rights Centre “Viasna” and the Belarusian Association of Journalists in cooperation with the International Federation for Human Rights (FIDH) and World Organization Against Torture (OMCT), https://belhelcom.org/sites/default/files/belarus_after_election_report_2020_en.pdf

There is no official information in the public domain about the number of protesters who received injuries and bullet wounds as a result of the use of weapons and special means by law enforcement officials.

In accordance with credible information, law enforcement officials used weapons aimlessly towards large crowd of protesters. As a result, many people were injured, most of them in the area of vital organs². In this regard, we propose to send the following issues to the Government:

- 50. Please provide information on the number of protesters affected by law enforcement officials' actions, separated by various types of injuries, including gunshot wounds, injuries from stun grenades, etc.**
- 51. Please provide information on the number of deaths from law enforcement officials' actions during the protests that took place after the 2020 presidential election.**
- 52. Have special forces officials been trained regarding the usage of non-lethal weapons in accordance with generally accepted standards for the use of weapons, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials?**
- 53. Has the legality and reasonableness of the use of firearms against peaceful demonstrators been assessed?**
- 54. Have the employees of law enforcement agencies been brought to justice for the use of weapons, which caused serious injuries and death of one of participants of protest actions?**
- 55. Has the investigation into the death of protesters, Taraykovsky Alexander and Gennady Shutov, who died from bullet wounds, as well as Nikita Krivtsov, Konstantin Shishmakov, Alexander Budnitsky and Roman Bondarenko been held? Please provide reports on these investigations.**
- 56. Please comment on recent audio recording of the conversation that appeared on the Internet. On this audio recording the person identified by the initiative BYPOL as Deputy Minister of Internal Affairs Nikolay Karpenko acknowledges that Alexander Taraikovsky died from "rubber bullets that flew into his chest" and talks about getting permission from the Head of State on wider application of non-lethal weapons against protesters.**

Regarding the investigation of allegations of mass torture

According to available information, numerous complaints and applications for criminal proceedings regarding the use of violence, torture and ill-treatment of detained protesters by law enforcement officials have been filed. However, to date, no criminal proceedings have been initiated on the fact of torture. In this regard:

- 57. Please indicate how this practice relates to the obligation of the Republic of Belarus to proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that acts of torture has been committed in its territory (article 12 of the Convention)?**
- 58. What measures have been taken for prompt effective investigations into all allegations of torture and ill-treatment by law enforcement officials in the post-election period?**

² See research of Mediazona "Brutalised Minsk: how Belarusian police beat protesters"
<https://mediazona.by/article/2020/11/03/minsk-beaten-en>

59. **Is the statistics on the basis of numerous statements and official complaints from detainees about which departments of the Internal Affairs authorities are involved in acts of torture, the age characteristics of victims, etc. maintained?**
60. **What number of complaints on torture and ill-treatment, including sexual violence, by law enforcement officials in the post-election period was investigated?**
61. **How many law enforcement officials were prosecuted for torture and ill-treatment, including sexual violence, during the post-election period?**
62. **What measures have been taken to ensure that in case of suspicions on torture and ill-treatment suspects are immediately suspended of duties until completion of investigation?**
63. **How many persons have been suspended of their official duties in connection with suspicions of torture and ill-treatment during the post-election period?**

Regarding the establishment of ad hoc bodies to investigate mass torture

As a party to the Convention against Torture, as well as to the International Covenant on Civil and Political Rights, the Republic of Belarus is obliged to investigate cases of torture and ill-treatment. As the Government has repeatedly pointed out, an interdepartmental commission under the Prosecutor General's Office has been established to investigate numerous cases of violence by law enforcement officials. Please provide updated information on:

64. **Who are the members of the interdepartmental commission?**
65. **What are the conclusions the Commission has made?**
66. **Have the results of its work been published?**
67. **Has a parliamentary commission to investigate cases of violence, ill-treatment and torture by law enforcement officials been established?**
68. **Have any parliamentary hearings on this issue been held?**

Regarding the identification of persons involved in torture

69. **What mechanisms can be used to identify members of special units involved in beatings, torture and ill-treatment if they wear uniforms without insignia?**
70. **How are the law enforcement officials going to prosecute the perpetrators if the victims are not able to establish their identity?**
71. **What measures have been taken to comply with legislation requiring all law enforcement officials, including OMON (riot police) to wear visible identification marks to ensure their personal liability and protect detainees from torture and ill-treatment?**
72. **How many law enforcement officials have been prosecuted for the violation of this requirement in the post-election period?**

Regarding receiving medical care

People detained during the protests reported a lack of access to medical care. As a result of delayed provision of medical care, Alexander Vikhor died. In the paddy wagon after the arrest, he became ill, but instead of providing the necessary medical care, Alexander Vikhor was sent to a psychiatric hospital. In this regard:

73. Has a criminal case been opened and an investigation into the death of Alexander Vikhor been conducted? If so, please provide on information about the results.

74. What measures have been taken to prevent such cases?

75. Did detainees have access to a prompt and confidential medical examination by an independent doctor?

Individual cases of torture

On November 11, 2020, it became known about the detention of Nikolai Dedok. Later, a video appeared on the YouTube channel of the Ministry of Internal Affairs of Belarus with his confession of calling to participate in mass riots in his Telegram channel. In the video, Nikolai Dedok looks beaten, which was confirmed by his lawyer. Such cases, when detainees who had signs of torture and ill-treatment were forced to give "confessions" in front of the camera to participate in illegal actions, have been repeated many times.

76. Please provide information on how this practice is consistent with the provision of article 2, paragraph 2, of the Convention against Torture, which states that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency may be invoked as a justification of torture?

Regarding the investigation of sexual violence allegations

According to the information received from the victims, some women and men have faced threats of sexual violence in places of detention – CIP and IVS – and several cases of direct use of sexual violence (mainly rape with rubber batons) are also known. Women have also reported threats of gang rape.

77. Please provide information on whether the detainees received these threats by law enforcement officials, as well as cases of rape in places of detention of administrative detainees and arrested persons, have been investigated. Have the affected persons received redress, including rehabilitation?

Regarding the conditions of detention for participants in peaceful assemblies in the post-election period

According to the available information, in the first days after the protests, the people detained by the internal affairs bodies were kept in the CIP and IVS in inhumane conditions. In particular, people were placed in overcrowded cells, were left for several days without food and water, without ventilation, and without access to hygiene products. It is especially worth noting the demonstrative cruelty towards media persons. Olga Khizhinkova, who did 42 days of administrative arrest, said that the heating was turned off in her cell and all the mattresses were taken away. Similar information was told by the athlete Elena Levchenko, also adding that the toilet did not flush in her cell. On October 5, 2020, it became known about the introduction of restrictions on the reception of packages for detainees and serving administrative arrest in the CIP and IVS of Minsk City Department of Internal Affairs.

According to the new rules, packages were accepted only once a week. The introduction of restrictions is due to "ensuring security and reducing the risks associated with the spread of COVID-19 on the territory of the Republic of Belarus." On January 7, 2021, packages' acceptance was suspended altogether due to the Coronavirus epidemic. In this regard:

- 78. Please provide information whether the investigation was conducted to comply with the requirements of national legislation and international standards regarding the conditions of detention of arrested persons.**
- 79. Why were no measures taken to delay the execution of the assigned administrative arrests due to the inability to provide conditions to all detained and arrested persons in accordance with international standards and national legislation?**
- 80. Please provide detailed information on the number of requests submitted for the conditions of detention and the measures taken on them.**
- 81. Please comment on how the restrictions and bans on receiving packages for persons doing administrative arrest in the CIP and IVS of the Minsk City Department of Internal Affairs (on Okrestino lane) correspond to the stated goal – "prevention and struggle against COVID-19"?**

Regarding violations of the right to protection

Individuals who stay in pre-trial detention centers due to their political position do not have access to legal assistance for a long time. In particular, Maria Kolesnikova said that during her stay in the pre-trial detention center in Zhodino, a lawyer was not allowed to visit her because of the quarantine announced for three weeks, and she was also simply not allowed to correspond with her. After Maria Kolesnikova's transfer to the pre-trial detention center to Volodarsky, her lawyer said that because of the glass in the meeting room, it is difficult to communicate, in particular, to transfer documents or whisper, which may violate the right to privacy.

Cases of disbarment defending political prisoners have been noted. So, the licenses were left from Alexander Pylchenko, who defended the interests of Viktor Babariko and Maria Kolesnikova, as well as Yulia Levanchuk, who represented the interests of Maxim Khoroshin. The latter, in turn, was subjected to torture and harsh treatment, and then left the territory of the Republic of Belarus. In this regard:

- 82. Have violations of the right to protection of prisoners on guard been investigated?**
- 83. Are all of the standards in the field of providing legal protection to persons on guard observed?**
- 84. Please comment on what grounds was it decided to terminate the license of lawyers Alexander Pylchenko and Yulia Levanchuk? In particular, please explain how the composition of courts was formed and how the principle of independence of judges was ensured in this case, as well as in other politically motivated cases?**