



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the seventh report of the Republic of Belarus at the Committee's forty-eighth session, held in January-February 2011. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/BLR/CO/7). You may recall that in the concluding observations, the Committee requested the Republic of Belarus to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraph 20 and, within one year, on the steps taken to implement the recommendations in paragraph 26 of the concluding observations.

The Committee welcomes the follow-up report received in November 2013 (CEDAW/C/BLR/CO/7/Add.1) under the CEDAW follow-up procedure, although it was received with a nineteen-month delay as regards the implementation of paragraph 20 and a seven-month delay as regards the implementation of paragraph 26 of the concluding observations. At its fifty-eighth session, held in July 2014 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 20** of the concluding observations, the Committee urged the State party to “intensify its efforts to prevent and prosecute acts of domestic and sexual violence against women and impose appropriate penalties commensurate with the gravity of the crime on perpetrators rather than administrative fines which may have an adverse impact on the financial situation of victims themselves”: The State party mentioned the provisions of the Penal Code related to the punishment of violence against women and indicated that the criminal penalties are not overly lenient and allow for the imposition of different penalties depending on the particular perpetrator and circumstances of the offence. The Committee notes the existence of legal provisions providing for penal penalties commensurate with the gravity of the crime on perpetrators in case of violence. However, the Committee considers that the State party failed to indicate whether the State Party effectively imposes these penalties, rather than the administrative fines which may have an adverse impact on the situation of the victims themselves. The Committee also considers that the State party failed to indicate the efforts made to prevent and prosecute acts of domestic and sexual violence against women. The Committee therefore considers that it **did not receive sufficient information** to assess whether the recommendation had been implemented.

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Regarding the recommendation to “expedite the adoption of the draft Law on Prevention of Domestic Violence, including specific rights for victims to assistance, protection and compensation”: The State party mentioned a decision made during a meeting of the National Council on Gender Policy of the Council of Ministers, in 2012, to improve legislation for the prevention of domestic violence and the provision of assistance to victims of such violence by amending a number of laws and considering the advisability of drawing up a draft law for combating domestic violence. The State party also indicated that in 2013, the lower house of Parliament adopted, on first reading, a new version of the Act on the principles of actions to prevent offences, which reflects the provisions aimed at preventing domestic violence. The Committee considers that the State Party took some steps towards the adoption of the draft Law on Prevention of Domestic Violence. It considers that, for the period under consideration, the recommendation **has been implemented**.

Regarding the recommendation to “amend its Criminal Code and Criminal Procedure Code in order to specifically criminalize domestic violence and marital rape, introduce ex officio prosecution for rape, and ensure that the definition of rape covers any non-consensual sexual act”: The State party mentioned legal provisions criminalizing different forms of violence against women. It indicated that the legal definition of rape is a sexual intercourse against the will of the victim: a) using violence or the threat of violence against the woman or her loved ones, or b) taking advantage of the victim’s defencelessness. It also indicated that rape, as a crime, may be prosecuted in the absence of a complaint by the victim, if the latter is in a position of dependency or is otherwise unable to protect his or her interests. The Committee considers that the State party failed to integrate in its legislation explicit provisions criminalizing marital rape. The Committee also considers that, while rape may be prosecuted in the absence of a complaint by the victim, the law sets conditions for this. The Committee further considers that, while the definition of rape covers non-consensual sexual acts, it fails to cover any non-consensual act because the definition of rape sets conditions (using violence or the threat of violence against the woman or her loved ones or taking advantage of the victim’s defencelessness). The Committee considers that the recommendation **has not been implemented**.

Regarding the recommendation to “provide mandatory training to judges, prosecutors and the police on the strict application of legal provisions dealing with violence against women and train police officers, on standardized procedures to deal with women victims of violence”: The State party indicated that, in 2013, the Ministry of Internal Affairs organized and conducted seminars and training sessions for district police inspectors on the prevention of domestic and family violence (on 30 April 2013 in Vitebsk, on 2 May 2013 in Zhlobin and on 28 May 2013 in Grodno). It added that, under the international technical assistance project “Developing national capacity to counteract domestic violence in the Republic of Belarus”, carried out by the Ministry of Internal Affairs of the Republic of Belarus in cooperation with the United Nations Population Fund (UNFPA), training seminars for law enforcement personnel were held from 16 to 19 July 2013 in Brest and Kobrin on the topic “Role of law enforcement in the prevention of domestic violence”. The Committee considers that the State party took action to implement the recommendation. It notes however that the training did not cover all geographical regions. The Committee considers that the recommendation **has been partially implemented**.

Regarding the recommendation to “encourage women to report incidents of domestic and sexual violence, by de-stigmatizing victims and raising awareness about the criminal nature of such acts”: The State party mentioned the general actions that law enforcement personnel take to raise awareness among victims of domestic and sexual violence, including the provision of guidelines containing information on the procedures in place for such cases. The Committee considers that the State party failed to provide information on specific actions taken since the issuance of the concluding observations. The Committee **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation to “provide adequate assistance and protection to women victims of violence, by strengthening the capacity of crisis rooms in territorial centres for social assistance, increasing the number of State-run shelters for battered women and girls, enhancing cooperation with and funding for NGOs providing shelter and rehabilitation to victims, and reinforcing rehabilitation programmes for alcoholics”: The State party indicated that, in order to provide victims with temporary accommodation, including beds and food, a network of “crisis rooms” (shelters) is being developed. It further indicated that the number of crisis rooms increased from 31 to 53 from 2011 to 2013. The Committee notes the absence of information on the enhancement of cooperation with and funding for NGOs providing shelter and rehabilitation to victims, and on the reinforcement rehabilitation programmes for alcoholics since the issuance of the concluding observations. However, the Committee considers that the State party took significant steps towards providing adequate assistance and protection to women victims of violence by further developing network of crisis room and establishing new crisis rooms. The Committee considers that, for the period under consideration, the recommendation **has been implemented**.

Regarding the recommendation to “collect statistical data on domestic and sexual violence disaggregated by sex, age and relationship between the victim and perpetrator”: The State party indicated that, over a nine-month period, in 2013, the authorities carried out 1,518 preliminary investigations of crimes committed in the sphere of family relations; of these crimes, 1,341 (88.3 percent) were committed by men and 177 (7.7 percent) were committed by women. The Committee considers that the State party provided data on crimes committed in the sphere of family relations disaggregated by sex of the offender. However, the Committee notes that the State party failed to collect and provide statistical data disaggregated by sex and age of the victim, and relationship between the victim and the perpetrator. The Committee considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to paragraph 20 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Intensify its efforts to prevent and prosecute acts of domestic and sexual violence against women and impose appropriate penalties commensurate with the gravity of the crime on perpetrators rather than administrative fines which may have an adverse impact on the financial situation of victims themselves;
- 2) Expedite the adoption of the draft Law on Prevention of Domestic Violence and provide additional information on its content, and in particular on whether it includes provisions related to assistance, protection and compensation;
- 3) Amend its Criminal Code and Criminal Procedure Code in order to specifically criminalize marital rape, introduce ex officio prosecution for rape without conditions, and ensure that the definition of rape covers any non-consensual sexual act;
- 4) Continue its efforts to provide training to judges, prosecutors and the police on the strict application of legal provisions dealing with violence against women and train police officers on standardized procedures to deal with women victims of violence;
- 5) Encourage women to report incidents of domestic and sexual violence, by destigmatizing victims and raising awareness about the criminal nature of such acts;
- 6) Enhance cooperation with and funding for NGOs providing shelter and rehabilitation to victims, and reinforcing rehabilitation programmes for persons suffering from alcoholism; and

7) Collect statistical data on domestic and sexual violence disaggregated by sex and age of the victims and perpetrator and relationship between the victim and perpetrator.

Regarding the recommendation made in **paragraph 26** of the concluding observations to “ensure that complaints submitted by women about arbitrary arrests and detention, as well as cruel, inhuman or degrading treatment, in connection with the Presidential elections on 19 December 2010 are promptly and effectively investigated, that public officials responsible for such acts are prosecuted and adequately punished, and that the victims obtain adequate compensation for any violations of their rights”: The Committee **did not receive information** to assess whether the recommendation has been implemented.

Regarding the recommendation to “ensure that Irina Khalip, Natalia Radzina and Anastasia Polazhanko have access to an independent medical doctor; have adequate time and facilities to prepare their defence and to communicate privately with counsel of their own choosing; and that they are tried within a reasonable time in a fair and public trial by an independent and impartial tribunal, in accordance with international human rights standards, or released”: The Committee **did not receive information** to assess whether the recommendation has been implemented.

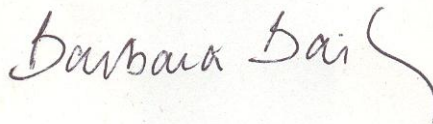
Regarding the recommendation to refrain from interfering with Irina Khalip’s right to privacy and family, by ensuring that the custody for her three-year old son remains with the child’s grandparents pending her or her husband’s release and that she may have regular contact with her son and other family members during her deprivation of liberty”: The Committee **did not receive information** to assess whether the recommendation has been implemented.

The Committee recommends that, in relation to paragraph 26 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to ensure that complaints submitted by women about arbitrary arrests and detention, as well as cruel, inhuman or degrading treatment, in connection with the Presidential elections on 19 December 2010 are promptly and effectively investigated, that public officials responsible for such acts are prosecuted and adequately punished, and that the victims obtain adequate compensation for any violations of their rights. The Committee also recommends that the State party provide information on the trials and current status of Irina Khalip, Natalia Radzina and Anastasia Polazhanko.

The Committee looks forward to pursuing its constructive dialogue with the authorities of the Republic of Belarus on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Barbara Bailey
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women