



**FOLLOW-UP REPORT TO THE CONCLUDING OBSERVATIONS OF
THE COMMITTEE AGAINST TORTURE ON BELARUS' FIFTH
PERIODIC REPORT**

**Submitted by the World Organisation against Torture (OMCT) and the
Interregional public organization "Committee against Torture" in Russia**

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Introduction

The following report comments on the priority recommendations of the UN Committee against Torture (hereinafter CAT) presented to the Republic of Belarus in its concluding observations of 7 June 2018 (paragraph 60) and the Belarusian report on follow-up to concluding observations in November 2020.¹ The priority recommendations as stated in paragraphs 8,16 and 47 of the concluding observations concern the following issues: (1) fundamental legal safeguards; (2) effective investigation of allegations of torture and ill-treatment, and (3) the situation of human rights defenders.

Recommendation 8: Fundamental legal safeguards

In its Follow-up report regarding the provision of fundamental legal safeguards, the government of Belarus mainly cited the provisions of the national legislation.² However, in reality, the provisions of the legislation are not implemented, especially in the cases of the politically motivated persecutions. The massive violations of all legal safeguards provided in the national legislation have been demonstrated during the 2020 crackdown on civil society and political opposition.

Access to lawyers

According to various data received from respondents during the mission of the World Organisation Against Torture (OMCT) and the and Russian NGO Interregional public organization “Committee against Torture” to Belarus in August 2020, 13% to 22% of those arrested during the events of August 9 – 13, 2020, complained about the lack of access to a lawyer and the impossibility to obtain qualified legal assistance in a timely manner.³

According to the information, provided by the documentation project 23-34,⁴ which collected more than 5000 testimonies of persons detained since August 2020, in 40% of cases when the detainee had a contract with a lawyer, the latest was not admitted to the police station, and was not allowed to provide legal assistance. Thus, while the national legislation of Belarus does not limit the frequency and duration of meetings with lawyers for suspects and accused, during the period covered in the report, even the first access to the lawyers has become a problem for a number of detainees and their lawyers.

The lawyers also faced difficulties to get access to their clients even during the trials. Since spring 2020 the Belarusian authorities initiated off-premises court hearings in the detention centers and prisons due to COVID-19. This led to the situation that since August 2020 only around 30% of administrative cases were heard properly in the court buildings. During the trials in the detention facilities or via video conferences, the lawyers are not allowed to stay in the same place where their clients are, the lawyers could not have a confidential communication with the detainees and the latter could not fully participate in the process.

¹<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsuYIhPYYu%2b7c2v1wUXnRL6yVIZQnE7ZgAhTdfSOUhXGqMIgFRSvtkaS7hCe7rD5wN8Wm5jTLu1TIYBN70SsoJqye630ilo0zgdnFHFxoQIVN>

²<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsuYIhPYYu%2b7c2v1wUXnRL6zvgeK8W0szUrhC7qdp18BbKyZexq7vM3G8cu8KqZkxOFgkg5zHBHezYXccqhl%2fs7TZPZW%2fwDfx2pGdHiWn0CyR>

³ https://www.omct.org/site-resources/files/BelarusLOIPRreport_Final.pdf

⁴ <https://www.23-34.net/>

Furthermore, an extremely worrying trend is that the national courts are setting precedents that a prior agreement with a lawyer is perceived as evidence of planning a violation of the law. For example, on 11.09.2020 the Zavodsky District Court of Minsk ruled in the case of Pavel Manko, who was tried for participation in an unsanctioned mass event. Pavel was fined at the sum of 186 EUR and was defended in court by lawyer Alena Shynkarevich. The court pointed out in the ruling that the fact that Manko had contacted a lawyer in advance indicated that he had originally intended to participate in unsanctioned rallies. This sets a dangerous precedent when the constitutional right to defense is equated with the intention to break the law.⁵

The situation with the total control of the Ministry of Justice over the lawyers has not changed: the licences to practice law are issued by the Ministry and it also supervises lawyers for compliance with the licence requirements and makes decisions on whether to extend, suspend, renew, terminate or revoke their licences.⁶

In 2020 the pressure on lawyers for defending the protesters in administrative cases and in criminal cases has increased significantly. Lawyers are harassed and pressured by the security forces in connection with their professional activities: they are detained, and their homes are searched. As a consequence, they are no longer able to fully and safely perform their professional duties. The Belarusian bar association itself is also harassing the lawyers through a number of administrative and disciplinary measures all aimed at silencing them and forcing them not to take cases of political opponents of the regime or protesters. On 15 October 2020, the Qualification Commission for Defense Lawyers under the Ministry of Justice adopted a recommendation to suspend the licence of lawyers Aliaksandr Pylchenka and Yuliya Levanchuk. Lawyers Maksym Znak and Ilya Saley are facing criminal charges and were taken into custody. Lawyer Lyudmila Kazak was abducted, taken to a detention centre, and subsequently held administratively liable.⁷ In February 2020 Lyudmila was deprived her lawyer's license because of September detention. In February – March 2021 six other lawyers were deprived of their licenses.⁸ All this is a clear signal to lawyers either to stop working on “political” cases, or to follow the Prosecutor's line.

Right to medical examination

During massive detentions in August 2020, law enforcement officials consistently denied detainees access to medical assistance, both by failing to engage in-house medics where available in helping the detainees who required medical attention and by limiting access to detention facilities for ambulance teams. Ambulances were usually called only for those detainees who experienced particularly serious emergencies – but not for everyone who needed medical attention.⁹

According to the information of the documentation project 23-34, for the whole period since August 2020 to February 2021, 30% of detainees faced refusal of medical assistance or medicines.

The illustrative case is the death of Raman Badarenka on 12 November 2020. Raman was detained and severely beaten in the courtyard of his own apartment house when he tried to talk to policemen in civilian clothes. Two hours later he had been delivered to the police station, he

⁵ https://www.omct.org/site-resources/files/BelarusLOIPRreport_Final.pdf

⁶ https://www.omct.org/files/2018/06/24946/belarus_report_english.pdf

⁷ https://www.omct.org/site-resources/files/BelarusLOIPRreport_Final.pdf

⁸ <https://spring96.org/be/news/102045>

⁹ https://www.omct.org/site-resources/files/Doklad_en_Web.pdf

was hospitalized, and later he died due to the injuries resulted after the beating. On 19 November 2020, Ekateryna Barisevich, a journalist and Artsem Sarokin, a doctor, were arrested on suspicion of disclosing medical confidential information (article 178 of the Criminal Code of Belarus), due to the publication prepared by Ms. Barisevich with the comment of Mr. Sorokin, that Raman Bandarenka was not drunk according to the blood test and died due to physical injuries. On 19 February 2021 Ms. Barisevich was sentenced to six months of arrest and a fine, Mr. Sarokin was sentenced to two years of suspended imprisonment.¹⁰

Registration of detention

During massive detention of peaceful protesters since August 2020, the detentions are simply not registered in the police stations or the detention centers. The detainees reported that they were not provided any documents of detention, the lists of detainees were not composed by the authorities and the relatives were not informed intentionally.

According to the information, provided by the documentation project 23-34 almost 50% of the detainees were not allowed to notify their families about their detention, in 38% of the cases the police promised to inform the relatives, but they did not do that. Only 33% of the detainees received the protocols of detention, 27% did not receive it although they demanded it. While the copies of these documents should be issued to every detainee without any demand.

Public Oversight Commissions

The situation with Public Oversight Commissions in Belarus has not changed since the CAT Concluding Observations in 2018.

The decisions on the composition of public oversight commissions are taken by the Ministry of Justice at the regional and republican levels. The national legislation does not provide any criteria for selection of the members to the commissions, and it is done exclusively on the assessment of executive state officials.

The Public Oversight Commissions do not include representatives of human rights organizations with minor exceptions. Mainly they include representatives of the NGOs who have nothing on human rights and penitentiary system in their statutes, as associations of fishermen, firemen and others. The Commission are very passive, perform few visits, and often visit the premises allowed by the law enforcement. The Minister of Justice has stated that the commissions have never reported incidents of torture to the Ministry. That also demonstrates their effectiveness.¹¹

Given the facts described above, Belarus cannot be considered having implemented follow-up recommendation number 8 and should therefore be assessed with a C.

¹⁰ <https://news.tut.by/society/720915.html>

¹¹ http://spring96.org/files/book/ru/2019_prison_conditions_ru.pdf

Recommendation 16: Effective investigation of allegations of torture and ill-treatment

As for the previous issue, in its Follow-up report regarding the investigation of allegations of torture and ill-treatment, the government of Belarus mainly cited the provisions of the national legislation. In the same way, the national legislation is violated in real life.

Following the massively reported torture in August 2020, not only was not a single proper investigation opened - despite the authorities' positive obligation to do so - but there has also been no proper acknowledgment, no apology, no disciplinary action, no indication of any victim support, no recognition of any violation towards international processes.¹²

Aliaksandr Lukashenka in his interview to the Russia Today TV Channel also admitted torture but said that "that page should be turned over" and that the excuses of the Minister of Internal Affairs should be enough.¹³

The evidence collected by civil society actors confirms the existence of a deliberate policy to foster impunity. Riot police and other police units involved in repressive actions are systematically hiding their identity behind balaclavas and face masks. The forces involved in grave human rights violations have received the highest honors.

According to the Coalition of NGOs – Committee for Investigation of Torture in Belarus, as of October 5, 2020, neither the Investigative Committee nor the interviewed applicants have any updates about the initiation of criminal cases on the facts of torture, as well as criminal cases on the facts of the death of people during the protests.¹⁴

The authorities are using a series of administrative practices and techniques with the effect to practically delay, deceive and frustrate any effective independent investigation and the right of victims to remedy and reparation, including rehabilitation. There is an active pattern of intimidation against victims' lawyers, human rights defenders and medical institutions. Available evidence confirms that doctors have been ordered to keep paper-based medical records of those beaten in detention, so that the records cannot be included in the hospital electronic database, thus keeping documentation of brutality off the internet.¹⁵

The victims of torture become targeted with threats and reprisals by the state authorities that decreases the number of persons willing to file complaints about torture and ill-treatment.

Complete impunity extends to the most serious cases, including the killing of 31-year-old Roman Bondarenko on 12 November 2020. The criminal case on the fact of his murder was started only on 18 February 2021, and the General Prosecutor Office stated that the involvement of employees of state bodies was not confirmed, while he died in hospital after being detained by the police. The investigation of the incident of another violent death of Aliaksander Taraikovsky, inflicted by the police on 10 August 2020, was stopped on 19 February 2021.

The most terrible case is the criminal prosecution of Hennadiy Shutov, who was shot dead in Brest by the military on 10 August 2020 and his friend, Aliaksander Kordukov. Both Mr. Shutov, dead already, and Mr. Kordukov have been recognized guilty by the court in an attempted murder of the military, even though they were never in the possession of any

¹² <https://www.omct.org/en/resources/reports/100-days-of-ongoing-human-rights-crisis-facts-figures>

¹³ <https://www.youtube.com/watch?v=xH9SzfHu8yE&t=5123s>

¹⁴ <https://drive.google.com/file/d/1cX6SN-Of3aop2RB6t2ZKU8ed79zSwg3E/view>

¹⁵ https://www.omct.org/site-resources/files/Doklad_en_Web.pdf

weapons. Mr. Kordukov was sentenced to 10 years of imprisonment. During the hearing of this case, a soldier name Havrilov, who killed Shutov, testified that he had wanted to shoot Shutov at his arm, but he (Havrilov) had felt bad that day, and accidentally shot Shutov in his head. Mr. Shutov died due his injury. However, the court decided that the fact of murder was not related to the hearing and this issue was not addressed by the court.

In conclusion, the active policy of torture is complemented by a deliberate and intentional policy to prevent accountability.

Given the facts described above, Belarus cannot be considered having implemented follow-up recommendation number 16. On the contrary, the government has taken measures contrary to the Committee's recommendations, and should therefore be assessed with a E.

Recommendation 47: Human Rights Defenders

The article 193-1 of the Criminal Code of Belarus that criminalized the participation in unregistered organizations was cancelled. However, article 23.88, which provides administrative liability for unlawful organization of operation of a public association, a religious organization or a foundation, or participation in its activities, remained in the Code of Administrative Offences.

Together with that the generally restrictive legislation regarding freedom of assemblies has not been reformed. On the contrary, in February 2021 Parliament declared that the foreign agent legislation is being elaborated and would be considered and adopted by the parliament during its spring session.¹⁶ In January 2021 further amendments of the Criminal code have been announced to toughen criminal responsibility for participation and any support of extremist activities and for discrediting state authorities.¹⁷

The detentions of journalists and human rights defenders have continued in 2018-2019.¹⁸ Since summer 2020 the wide-spread pressure and harassment against human rights defenders and journalists has increased in the country. Bloggers and activists were massively arrested and harassed, starting from May 2020.¹⁹ At the moment of writing the current report, at least 269 persons are recognized as political prisoners by Belarusian human rights organizations. Altogether, around 2000 politically motivated criminal cases have been initiated in Belarus in 2020.

In second half of 2020 multiple non-profit organisations in Belarus faced unplanned inspections and ungrounded requests for documentation including on use of foreign or domestic aid. While in the majority of cases the inspection verified absence of misuse of the received aid by the organisation, some clearly politically motivated cases resulted in criminal cases.²⁰

On 17 September 2020 Marfa Rabkova, a human rights defender, a coordinator of volunteer services at the Human Rights Center "Viasna" was detained together with her husband Vadzim

¹⁶ <https://reform.by/201940-zakon-ob-inostrannyh-agentah-v-belarusi-mozhet-byt-prinjat-vesnoj>

¹⁷ <https://www.dw.com/ru/za-kritiku-lukashenko-v-tjurmju-belorusam-hotjat-zapretit-diskreditaciju-vlastej/a-56469875>

¹⁸ http://spring96.org/files/reviews/ru/review_2019_ru.pdf

¹⁹ <https://prisoners.spring96.org/en>

²⁰ <https://www.omct.org/en/resources/urgent-interventions/belarus-stop-pressure-on-civil-society-organisations-in-connection-to-their-right-to-access-to-funding>

Zharomski. Their apartment was searched, and equipment, personal money and belongings were confiscated. Marfa Rabkova was charged with a criminal case under Part 3 of Art. 293 of the Criminal Code (training or other preparation of persons to participate in riots, or funding such activities). On February 11, Marfa Rabkova faced new criminal charges of “inciting social hostility to the government by a group of unidentified individuals” (Part 3 of Art. 130) and “involvement in a criminal organization” (Part 2 of Art. 285 of the Criminal Code).²¹ She now might face up to 12 years of imprisonment. A number of international human rights organizations, including Amnesty International, Front Line Defenders, and the Observatory for the Protection of Human Rights Defenders (a partnership of the World Organization Against Torture and FIDH), supported Marfa Rabkova and demanded her immediate release.

Late December 2020 the team of NGO “Journalist workshop Press Club” – Yulia Slutskaya, a director, Siarhey Alsheuski, a financial director, Ala Sharko, a program director, Petr Slutskiy, an operator, Siarhey Yakupov, a director of Press-Academy, were detained on the accusations of tax evasion and on criminal violation of the law on use of foreign funding were pressed against the employees of the institution.

On 12 January 2021 Andrei Aliaksandrau, a journalist and media manager and his girlfriend Iryna Zlobina were detained “on suspicion of financing protest activities”. According to the Ministry of Internal Affairs, Aliaksandrau paid 250 fines between August 22 and November 9 to persons brought to administrative justice for participation in peaceful protests.

Leanid Sudalenka, a human rights activist with 20 years of experience and chairman of the Homiel branch of the Human Rights Center "Viasna" was detained on January 18 as part of a criminal case under Art. 342 of the Criminal Code (organization or active participation in group actions which gravely breach public order). On January 21, 2021, Tatsiana Lasitsa, who works with Mr. Sudalenka, was detained at the Minsk airport while attempting to travel from Belarus to Lithuania by officers of the Interior Ministry. She is considered as a suspect in the same criminal case and remains in custody.²²

On January 21, the Department of Financial Investigations at the Committee of State Control in Belarus started an investigation of the educational human rights defence institution “Office for the Rights of People with Disabilities.” The director, Sergey Drozdovskiy, and lawyer Oleg Grablevsky were brought to the Committee, the accountant Tatiana Krishtal had her phone and computer confiscated. Unidentified people tried to enter the flat of the former deputy director Mikhail Matskevich. The Committee announced that the official reason for detention was the appropriation of resources received as gratuitous donations and foreign aid for the purpose of providing assistance to people with disabilities (Article 210 of the Criminal Code, Plunder by abuse of office powers). There was earlier pressure and detention of the CSO employees in connection with their participation in the peaceful assemblies.²³

On February 2, 2021, Siarhei Drazdouski and Aleh Hrableuski were summoned to the Financial Investigations Department of the State Control Committee where they were interrogated for seven hours. Throughout this time, they were not allowed to see their lawyers. Siarhei Drazdouski moves around in a wheelchair, and spending seven hours in the same room without the ability to move was tantamount to torture. Both human rights defenders were released a

²¹ <https://www.omct.org/en/resources/urgent-interventions/belarus-new-charges-against-maria-marfa-rabkova-viasna-coordinator>

²² <https://www.omct.org/en/resources/urgent-interventions/belarus-indictment-of-leanid-sudalenka-and-arbitrary-detention-of-tatsiana-lasitsa>

²³ <https://www.omct.org/en/resources/urgent-interventions/belarus-stop-pressure-on-civil-society-organisations-in-connection-to-their-right-to-access-to-funding>

few hours later while their computers and phones were confiscated. On February 3, 2021, officers of the Belarusian Investigative Committee raided the premises of the Office for the Rights of Persons with Disabilities in Minsk, seized equipment and documents, placed Siarhei Drazdouski under house arrest and detained Aleh Hrableuski. These actions of the Investigative Committee are part of a criminal case initiated against the two human rights defenders in relation with their participation in disabled persons marches on October 15 and 22, 2020, as well as their provision of legal support for those arrested in protests.²⁴

On 16 February 2021 starting early this morning, the Belarusian police, State Security Committee (KGB) officers and members of the Main Department for Combating Organized Crime and Corruption have been carrying around 80 coordinated searches and arrests of human rights defenders and journalists. The arrests and raids are supposedly linked to a criminal case opened under Article 342 of the Belarusian Criminal Code (“organisation and preparation of actions that grossly violate the public order, or active participation in them”).²⁵ This investigation is considered as a continued line of pressure and criminal cases started in the last months against collecting, receipt and use of gratuitous monetary support in Belarus.

On 5 March 2021 the Human Rights Center "Viasna" stated that the Main Department for Investigation of Crimes in the Sphere of Organized Crime and Corruption of the Central Office of the Investigative Committee of the Republic of Belarus is reportedly investigating their activities. The criminal case was opened under Art. 342 of the Criminal Code (organization and active participation in group actions that grossly violate public order). At the moment, the case involves investigative actions, including searches in the organization’s local offices and in the apartments of Viasna members, interrogations of activists and other procedural actions. Dzmitry Salauyou, a member of the Board of the Human Rights Center "Viasna", is a suspect in the case and is under travel restrictions. The list of persecuted activists is likely to be expanded. According to the official comments by officers of the Investigative Committee, the Human Rights Center “Viasna” allegedly provides funding and other material support for illegal mass events that pursue the goals grossly violating public order.²⁶

Independent journalists also face systematic repressions and criminal prosecution. One of the most outrageous recent case is the sentencing of journalists Katsiaryna Andreeva (Bahvalava) and Daria Chultsova to two years of imprisonment for life streaming the demonstration in commemoration of Raman Bandarenka on 15 November 2020.

Given the facts described above, Belarus can be considered having implemented follow-up recommendation number 47(a) and could be assessed with a B. However, the follow-up recommendation number 47 (b) was not implemented. On the contrary, the government has taken the measures opposite to the recommendations of the Committee and should therefore be assessed with a E.

²⁴ <https://www.omct.org/en/resources/urgent-interventions/belarus-arbitrary-arrest-of-two-members-of-the-office-for-the-rights-of-people-with-disabilities>

²⁵ <https://www.omct.org/en/resources/urgent-interventions/belarus-escalating-crackdown-on-human-rights-defenders>

²⁶ <https://spring96.org/en/news/102280>