

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture**  
*(Extracts for follow-up of CAT/C/BLR/CO/4)*

**BELARUS**

(...)

**C. Principal subjects of concern and recommendations**

(...)

**Fundamental legal safeguards**

6. The Committee is seriously concerned about numerous, consistent reports that detainees are frequently denied basic fundamental legal safeguards, including prompt access to a lawyer and medical doctor and the right to contact family members, and this pertains especially to those detainees charged under article 293 of the Criminal Code. Such reports include cases raised jointly by several special procedure mandate holders, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and pertaining to, inter alia, Andrei Sannikov who made an allegation during trial in May 2011 about the denial of his rights to prompt access to lawyer, to contact family and to medical treatment despite injuries caused by the authorities during arrest, and Vladimir Neklyayev (A/HRC/17/27/Add.1, para. 249). While noting the Act No.215-Z of 16 June 2003 on detention procedure and conditions, the Committee expresses its serious concern at the State party's failure in practice to afford all persons deprived of their liberty, including detainees held in pretrial detention facilities of the State Security Committee (KGB) and under administrative detention, with all fundamental legal safeguards, as referred to in paragraphs 13 and 14 of the Committee's general comment No. 2 (2008) on implementation of article 2 by States parties, from the very outset of detention (arts. 2, 11 and 12).

**The Committee recommends the State party to:**

- (a) Ensure that all detainees are afforded, by law and in practice, all fundamental legal safeguards from the very outset of their detention, including the rights to prompt access to a lawyer and a medical examination by an independent doctor, to contact family members, to be informed of their rights at the time of detention, including about the charges laid against them, and to appear before a judge promptly;**

**(b) Guarantee the access of detained persons, including those under administrative detention, to challenging the legality of their detention or treatment; and**

**(c) Take measures to ensure audiotaping or videotaping of all interrogations in police stations and detention facilities as a further means to prevent torture and ill-treatment.**

(...)

### **Impunity and lack of independent investigation**

11. The Committee continues to be deeply concerned about the persistent and prevailing pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture and ill-treatment and to prosecute alleged perpetrators, the lack of independent investigation and complaint mechanisms, the intimidation of the judiciary, the low level of cooperation with international monitoring bodies, which have led to serious underreporting and impunity (arts. 2, 11, 12, 13 and 16). In particular, the Committee is concerned about:

- (a) The lack of an independent and effective mechanism for receiving complaints and conducting prompt, impartial and effective investigations into allegations of torture, in particular of pretrial detainees;
- (b) Information suggesting that serious conflicts of interest prevent the existing complaints mechanisms from undertaking effective, impartial investigations into complaints received;
- (c) The lack of congruence in information before the Committee regarding complaints presented by persons in detention. The Committee notes with serious concern the information about reprisals against those who file complaints and the cases of denial of the complaints made by detainees, including the cases of Ales Mikhalevich and Andrei Sannikov; and
- (d) Reports indicating that no officials have been prosecuted for having committed acts of torture. According to information before the Committee, over the last 10 years, only four law enforcement officers have been charged with the less serious offence, “abuse of power or official authority” and “transgression of power or official authority” under articles 424 and 426 of the Criminal Code.

**The Committee urges the State party to take all necessary measures to ensure that all allegations of torture and ill-treatment by public officers are promptly investigated in the course of transparent and independent inquiries and that the perpetrators are punished according to the gravity of their acts. To that end, the State party should:**

- (a) Establish an independent and effective mechanism to facilitate submission of complaints by victims of torture and ill-treatment to public authorities, including obtaining medical evidence in support**

**of their allegations, and to ensure in practice that complainants are protected against any ill-treatment or intimidation as a consequence of their complaint or any evidence given. In particular, as previously recommended (A/56/44, para. 46 (c)), the State party should consider establishing an independent and impartial governmental and non-governmental national human rights commission with effective powers to, inter alia, promote human rights and investigate all complaints of human rights violations, in particular those pertaining to the implementation of the Convention;**

- (b) Publicly and unambiguously condemn the use of all forms of torture, addressing in particular law enforcement officers, the armed forces and prison staff, and including in its statements clear warnings that any person committing or participating in such acts or acting as an accomplice shall be held personally responsible before the law and liable to criminal penalties;**
- (c) Ensure that, in cases of alleged torture, suspects are suspended from duty immediately for the duration of the investigation, particularly if there is a risk that they might otherwise be in a position to obstruct the investigation; and**
- (d) Provide the outcome of the investigation into the allegations raised by the Committee, including cases of Ales Mikhalevich, Andrei Sannikov, Alexander Otroschenkov, Vladimir Neklyayev, Natalia Radina and Maya Abromchick, and the broader allegations of indiscriminate and disproportionate force used by riot police against approximately 300 people in Independence Square on 19 December 2010.**

(...)

#### **Monitoring and inspection of places of deprivation of liberty**

(...)

14. The Committee is concerned at the lack of access for international monitoring mechanisms, both governmental and non-governmental, to detention facilities in Belarus. The Committee also expresses regret at the outstanding request for a country visit by the five mandate holders of the special procedures, particularly the Special Rapporteur on the question of torture and the Working Group on Enforced or Involuntary Disappearances, and the State party's failure to respond to requests for a visit by the Office of the United Nations High Commissioner for Human Rights (OHCHR) (arts. 2, 11 and 16).

#### **The Committee urges the State party to:**

- (a) Grant access to independent governmental and non-government organisations to all detention facilities in the country, including**

**police lock-ups, pretrial detention centres, security service premises, administrative detention areas, detention units of medical and psychiatric institutions and prisons;**

- (b) Strengthen further the cooperation with United Nations human rights mechanisms, particularly by permitting visits by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders, as accepted by the State party in the context of the universal periodic review (A/HRC/15/16, para. 97.17), as soon as possible; and**
- (c) Consider accepting the request by the United Nations High Commissioner for Human Rights for a visit by an OHCHR team.**

(...)

34. The Committee requests the State party to provide, by 25 November 2012, follow-up information in response to the Committee's recommendations related to (a) ensuring or strengthening legal safeguards for persons detained, (b) conducting, prompt, impartial and effective investigations, and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraphs 6, 11 and 14 of the present document, as well as redress and remedies provided to victims as relevant.

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