



**Belarus's Compliance with the Convention Against Torture  
Suggested List of Issues Prior to Reporting**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996  
and

**Centre for Promotion of Women's Rights 'Her Rights'**

a Belarusian non-governmental organization

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

**Centre for Promotion of Women's Rights 'Her Rights'** ('Her Rights' Centre) is a Belarusian non-governmental organization that aims at strengthening women's potential by the promotion of women's rights and elimination of discrimination against women. 'Her Rights' Centre participates in advocacy activities at the national and international levels as well as supports active women. One of the organization's main activities is to provide free and confidential legal help for women who face gender-based violence and discrimination.

## EXECUTIVE SUMMARY

1. In August 2020, Belarus held a presidential election. The Central Elections Commission declared that President Lukashenko won with 80.1% of the votes, while Ms. Sviatlana Tikhanovskaya received only 10.12% of the votes. Yet, Ms. Tikhanovskaya, an opposition candidate, contested the results, claiming that 80% of registered voters chose her. Several NGOs also declared that the election results were falsified. Beginning from 9 August 2020, Belarusian people have been taking to the streets to protest the election results. The government of Belarus responded to peaceful protests with excessive force and arbitrary detention of thousands of people.
2. Authorities did not notify relatives of arrested protestors about where they were detained in due course, nor did they conduct fair trials for detainees. Protestors experienced conditions of detention constituting torture and ill-treatment. Women in detention experienced sexual violence, threats of violence, and verbal abuse. Several individuals also died as a result of injuries sustained in police custody, refusal of medical care or excessive force from law enforcement officials. Further, the government targeted human rights defenders as well as women's rights organizations.
3. Domestic violence remains a problem in Belarus. In 2019, reports of domestic violence increased by 12.7%. The Ministry of Internal Affairs has not made progress toward passing specific domestic violence legislation since 2018. Victims face barriers to reporting abuse, and adequate protection is not available to them. Finally, shelters and crisis rooms are insufficient to respond to the needs of victims of domestic violence.

### **Belarus fails to uphold its obligations under the Convention Against Torture**

4. As a State Party to the Convention Against Torture, Belarus is obligated to prevent all acts of torture (Article 2), including any acts of torture during internal political instability and any acts of cruel, inhuman, or degrading treatment by government officials (Article 16). The Convention also mandates that Belarus train law enforcement officials on the prohibition of torture (10) and investigate alleged acts of torture (Article 12). Further, Belarus has an obligation to prevent all forms of violence against women constituting torture under the convention.

#### **I. Fundamental Legal Safeguards**

5. In its 2018 Concluding Observations, the Committee Against Torture (“Committee”) expressed concern about the lack of a mechanism to monitor the provision of legal safeguards for all persons in detention. The Committee was also concerned that the Code of Criminal Procedure does not guarantee an automatic mandatory independent medical examination for those who request it.<sup>1</sup> The Committee recommended that the State Party

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<sup>1</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶7.

ensure access to a lawyer, legal aid, and contact with a family member for every person in detention, ensure the right to request and receive a prompt and confidential medical examination, and keep a register of persons in detention.<sup>2</sup>

6. Under article 8.2 of the Code of Administrative Court Procedure, if the person is detained for more than 3 hours, their family members and a legal counsel shall be informed upon request. Nevertheless, many people had difficulty finding their family members who were in police custody after the 2020 protests. In the first five days of protests after the election, it seemed that police phonelines were either overwhelmed or disconnected.<sup>3</sup> The Ministry of Internal Affairs established a helpline for families trying to find out about their relatives in detention on 14 August 2020,<sup>4</sup> yet many families still could not locate their relatives.<sup>5</sup>
7. **Police denied persons in detention the right to contact their family members and legal counsels.** In September 2020, one man asked to call a family member, and police told him he could do it later. Yet, he never received an opportunity to call. Other people in detention in late September 2020 asked police multiple times to call their relatives. Police told them they were not allowed, though it is mandated by law. In October 2020, authorities declined to grant one detainee a call. His brother told him later that he had called the police station himself and the police incorrectly told him that the relatives were already informed.<sup>6</sup>
8. On 9-13 August 2020, the trials of the detainees, with few exceptions, took place in the premises of detention centers and other detention facilities. The trials were secret, meaning that neither the detainees, nor their families and legal counsels knew about the time of the trial. As a result, there was no opportunity to obtain assistance from a legal counsel. Detainees appeared before judges for between 5 and 10 minutes. The judges did not ask whether the detainees had or needed help of a legal counsel.<sup>7</sup>
9. **Relatives of people in detention also experienced psychological harm due to lack of information about their family members.** For instance, one pregnant woman did not receive any information from authorities after her husband was detained on 9 August 2020.

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<sup>2</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶8.

<sup>3</sup> Source on file with authors.

<sup>4</sup> AIF.BY, The Ministry of Internal Affairs established a helpline with information on persons detained during the protests, [https://aif.by/social/mvd\\_otkrylo\\_goryachuyu\\_liniyu\\_s\\_informaciy\\_o\\_zaderzhannyh\\_na\\_akciyah\\_protesta](https://aif.by/social/mvd_otkrylo_goryachuyu_liniyu_s_informaciy_o_zaderzhannyh_na_akciyah_protesta) (in Russian).

<sup>5</sup> Source on file with authors.

<sup>6</sup> International Committee on Torture Investigation in Belarus (NGO coalition, including ‘Her Rights’ Centre), *Mass torture in Belarus, Second interim report: detention, conditions of detention and treatment of detainees in September-November 2020*, 21. Available at [http://www.legin.by/uploads/20201202\\_5fc739af6b825.pdf](http://www.legin.by/uploads/20201202_5fc739af6b825.pdf) (in Russian).

<sup>7</sup> Human Rights Center “Viasna,” *Belarus. August 2020: "Justice" for Protesters*, 2020, 5, 9-10. Available at [https://spring96.org/files/book/en/2020\\_belarus\\_august\\_justice\\_for\\_protesters\\_en.pdf](https://spring96.org/files/book/en/2020_belarus_august_justice_for_protesters_en.pdf).

Her physical and mental condition deteriorated due to this lack of information, reports of torture in detention, and blackout of the Internet across the country.<sup>8</sup>

#### 10. Suggested questions related to fundamental legal safeguards:

- What measures have authorities taken to investigate the failure to provide fundamental legal safeguards to detained persons?
- What steps has the State Party taken to impose disciplinary, administrative or criminal penalties against officials who failed to provide fundamental legal safeguards to detained persons?
- What effort has the State Party made to establish a monitoring mechanism to assess whether all the fundamental legal safeguards are adequately provided to the detainees.
- What steps has the State Party taken to establish a register of detained persons?

## II. Effective Investigation of Allegations of Torture and Ill-treatment

11. In its 2018 Concluding Observations, the Committee expressed concern about the State Party's failure to effectively investigate allegations of torture and ill-treatment against persons in detention. The Committee noted that the number of criminal convictions for torture is very low.<sup>9</sup> The Committee recommended that Belarus establish specialized units to address allegations of torture, ensure effective investigation of all allegations of torture, and suspend all suspected perpetrators from duty during the investigation.<sup>10</sup>
12. The General Prosecutor's Office received thousands of complaints of torture and ill-treatment following protests in early August 2020. It created an Inter-Departmental Commission to investigate these allegations.<sup>11</sup> Nonetheless, the office repeatedly refused to share information about the make-up of the commission or about its progress in addressing these allegations.<sup>12</sup>

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<sup>8</sup> 'Her Rights' Centre, ADC 'Memorial,' *The situation with human rights of women in Belarus following the presidential elections in 2020*, 2020, 13-14. Available at <https://drive.google.com/file/d/1yMdbM6XsPYxLBYh5VuQ4fyi1IXgzbfY-/view>.

<sup>9</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶13.

<sup>10</sup> *Id.* ¶16.

<sup>11</sup> "Interdepartmental commission to check allegations of the use of violence created in Belarus – Prosecutor General's Office," Belta, 26 August 2020. Available at <https://www.belta.by/society/view/v-belarusi-sozdana-mezhvedomstvennaja-komissija-po-proverke-zajavlenij-o-primenenii-nasilija-404233-2020/> (Russian).

<sup>12</sup> Legal Initiative, *Make-up of Inter-Departmental Commission to Investigate Torture is Another Secret*, 22 August 2020, Available at <http://www.legin.by/posts/289> (in Russian); *see also* International Committee on Torture Investigation in Belarus (NGO coalition, including 'Her Rights' Centre), *Mass torture in Belarus 2020, The first interim report about the government response and measures to investigate mass torture of 9-13 August 2020*, 33-39. Available at <https://drive.google.com/file/d/1QqXIQSIAKvkAlisCVHB1DRgLG18LLKPC/view> (in Russian).

13. In general, perpetrators of torture and ill-treatment have enjoyed impunity. Authorities have not filed any criminal cases or suspended any of the people involved in incidents of torture and ill-treatment during protests following the 2020 presidential election.<sup>13</sup>
14. By 17 August 2020, according to the Investigative Committee, more than 600 people filed complaints against police officers who caused them physical injury while in detention. 100 people filed complaints against police officers in temporary detention facilities.<sup>14</sup> Though some people spoke with an investigator and even submitted clothing or medical examinations for evidence, the process has been neither transparent nor consistent. As of 5 October 2020, there was no information whether any criminal case concerning torture was opened. The complainants only received notices on the extension of the investigation period from the Investigative Committee.<sup>15</sup> However, on 29 October 2020, the Investigative Committee refused to initiate a criminal case regarding physical injury against one complainant.<sup>16</sup> Several other people who filed complaints received refusals to initiate a criminal case on ill-treatment in detention in November 2020.<sup>17</sup>
15. **Some people who filed complaints of torture or ill-treatment experienced reprisals in the form of threats.** Several people reported threats against their children, threats that they would be prosecuted themselves if they did not drop the case, and anonymous phone calls advising them to drop the case.<sup>18</sup>
16. **Suggested questions related to allegations of torture and ill-treatment:**
- To what extent has the State Party responded to complaints filed concerning torture and other ill-treatment?
  - What steps has the State Party taken to track the number of instituted criminal proceedings for allegations of torture, and number of refusals to institute criminal proceedings since the last periodic report?

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<sup>13</sup> Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, *OSCE Rapporteur's Report Under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus*, 5 November 2020, 53.

<sup>14</sup> International Committee on Torture Investigation in Belarus (NGO coalition, including 'Her Rights' Centre), *Mass torture in Belarus 2020, The first interim report about the government response and measures to investigate mass torture of 9-13 August 2020*, , 36. Available at <https://drive.google.com/file/d/1QqXIQSIKvkAliSCVHB1DRgLG18LLKPC/view> (in Russian).

<sup>15</sup> *Ibid.*

<sup>16</sup> "The composition of the Interdepartmental Commission on the Investigation of Torture is another secret," Legal Initiative, 22 October 2020. Available at <https://www.legin.by/posts/298>.

<sup>17</sup> Nadezhda Vishnevskaya, "Grodno residents are denied to initiate criminal cases against security officials. Why is it important to complain about torture anyway?" Hrodna Life, 14 December 2020. Available at <https://ru.hrodna.life/articles/otkazy-v-ugolovnyh-delah/>.

<sup>18</sup> International Committee on Torture Investigation in Belarus (NGO coalition, including 'Her Rights' Centre), *Mass torture in Belarus 2020, The first interim report about the government response and measures to investigate mass torture of 9-13 August 2020*, 36. Available at <https://drive.google.com/file/d/1QqXIQSIKvkAliSCVHB1DRgLG18LLKPC/view> (in Russian).

- What steps has the State Party taken to suspend or punish officials alleged to have committed torture or other ill-treatment?
- What measures has the Inter-Departmental Commission taken to investigate allegations of violence against protesters?

### **III. Identification of Law Enforcement Officers**

17. In its 2018 Concluding Observations, the Committee noted with concern numerous allegations of law enforcement officers responding to peaceful protests without proper identification.<sup>19</sup> The Committee recommended that Belarus strengthen implementation of legislation requiring law enforcement to wear visible identification to ensure accountability and prevent human rights violations.<sup>20</sup>

18. During protests following the 2020 presidential election, law enforcement did not use adequate forms of identification. Some officers were dressed as civilians or covered their faces with masks or balaclavas.<sup>21</sup> Some also used civilian vehicles without identification plates. Further, law enforcement officers without identification responded with violence to people documenting them with their phones.<sup>22</sup>

#### **19. Suggested questions related to identification of law enforcement officers:**

- What measures has the State Party taken to ensure that legislation obliging law enforcement officers to wear uniforms is enforced?
- What steps has the State Party taken to identify law enforcement officers without proper identification who used excessive force and hold them accountable?

### **IV. Conditions of Detention**

20. In its 2018 Concluding Observations, the Committee expressed concern about “deplorable conditions of places of deprivation of liberty” as well as alleged torture by law enforcement or prison personnel in those places.<sup>23</sup> The Committee recommended training in line with the Istanbul Protocol for all officials working with persons in detention facilities. It also

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<sup>19</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶17.

<sup>20</sup> *Id.* ¶18.

<sup>21</sup> International Committee on Torture Investigation in Belarus (NGO coalition, including ‘Her Rights’ Centre), *Mass torture in Belarus 2020, Second interim report: detention, conditions of detention and treatment of detainees in September-November 2020*, 5. Available at [http://www.ligin.by/uploads/20201202\\_5fc739af6b825.pdf](http://www.ligin.by/uploads/20201202_5fc739af6b825.pdf) (in Russian).

<sup>22</sup> Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, *OSCE Rapporteur’s Report Under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus*, 5 November 2020, 50.

<sup>23</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶21.

recommended that Belarus improve access to health and medical care for persons in detention facilities.<sup>24</sup>

21. Approximately 30,300 people were detained between August and November 2020 for protesting the August presidential elections.<sup>25</sup> Conditions of detention for protestors constituted cruel, inhuman, and degrading punishment. Prison officials crowded detainees into small cells; in one case, they put 120 people into one cell.<sup>26</sup> One man who was arrested in August reported that several people lost consciousness due to poor conditions in detention facilities.<sup>27</sup> Other detainees reported that the cells were very cold, toilets and showers did not allow for privacy, and bedding was either not provided or dirty.<sup>28</sup> People in pre-trial detention did not receive any food before their trial.<sup>29</sup> There were many reports that people in detention were refused medical assistance and drugs, including those with chronic diseases.<sup>30</sup>
22. Protestors in detention also experience torture at the hands of police. Multiple people interviewed by NGOs reported physical injuries such as bruises and broken bones.<sup>31</sup> Others also reported mental trauma due to conditions of detention and the sounds of police torturing other detainees.<sup>32</sup> Further, police often forced detainees to maintain uncomfortable positions on concrete floors for long periods of time. For example, one man reported that after they arrested him, officials brought him to a room where several people were sitting cross-legged with their heads down on the floor. He assumed the same position for a long period of time and experienced pain in his knees, neck, and back afterwards. He also believed that officials would beat anyone who did not follow their orders.<sup>33</sup>
23. Police isolated some detainees in small, poorly lit cells after beating them. Some people reported that police kept them in a single cell for up to ten days without water or bedding to sleep on.<sup>34</sup> They kept one man in solitary confinement despite the fact that he had medical

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<sup>24</sup> Id. ¶22.

<sup>25</sup> NGO Coalition Report to the International Committee on Torture Investigation in Belarus, 2020, 13. Available at [http://www.legin.by/uploads/20201202\\_5fc739af6b825.pdf](http://www.legin.by/uploads/20201202_5fc739af6b825.pdf).

<sup>26</sup> Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, *OSCE Rapporteur's Report Under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus*, 5 November 2020, 43.

<sup>27</sup> Ibid.

<sup>28</sup> International Committee on Torture Investigation in Belarus (NGO coalition, including 'Her Rights' Centre), *Mass torture in Belarus, Second interim report: detention, conditions of detention and treatment of detainees in September-November 2020*, Available at [http://www.legin.by/uploads/20201202\\_5fc739af6b825.pdf](http://www.legin.by/uploads/20201202_5fc739af6b825.pdf) (in Russian)

<sup>29</sup> Ibid.

<sup>30</sup> Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, *OSCE Rapporteur's Report Under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus*, 5 November 2020, 43-45

<sup>31</sup> Id, 41-42.

<sup>32</sup> Id, 43.

<sup>33</sup> International Committee on Torture Investigation in Belarus (NGO coalition, including 'Her Rights' Centre), *Mass torture in Belarus, Second interim report: detention, conditions of detention and treatment of detainees in September-November 2020*, 21-22. Available at [http://www.legin.by/uploads/20201202\\_5fc739af6b825.pdf](http://www.legin.by/uploads/20201202_5fc739af6b825.pdf).

<sup>34</sup> Id. at 24-25.

problems. His blood pressure rose to the point that he had to go to the hospital; however, once he was stable again, authorities put him back in solitary confinement.<sup>35</sup>

#### 24. Suggested questions related to conditions of detention:

- What measures has the State Party taken to investigate allegations of conditions of detention that amount to torture or other ill-treatment? How many officials have been held accountable?
- What kinds of places of detention did the National Public Watchdog Commission and regional commissions visit since the last periodic report? What information, if any, did they find on ill-treatment and torture in places of detention? What actions has the State Party taken in response to these concerns?
- What training has the State Party provided to detention facility officials to combat ill-treatment, torture, and the arbitrary use of solitary confinement?

### V. Women in Detention

25. In its 2018 Concluding Observations, the Committee expressed concern about violence against women in prison facilities by prison officials.<sup>36</sup> The Committee recommended that Belarus improve conditions of detention for women and establish an effective mechanism to receive complaints of violence against women.<sup>37</sup>

26. In August and September 2020, officials arbitrarily detained approximately 1,270 women participating in protests.<sup>38</sup> Women protestors experienced inhuman conditions of detention. Officials reportedly placed between 36 and 50 women in cells designed for 4 or 6 people.<sup>39</sup> Women did not have bed linens or adequate access to water and were denied access to bathrooms in some cases.<sup>40</sup> Multiple women also reported that officials denied them basic sanitary products.<sup>41</sup> Finally, women experienced psychological harm because they could hear sounds of torture in detention facilities.<sup>42</sup>

27. Women experienced both sexual violence and threats of rape while in detention. An organization, ‘Radislava’ received several calls from doctors reporting that they were treating patients who had experienced sexual violence while in detention.<sup>43</sup> Multiple

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<sup>35</sup> Id. at 25.

<sup>36</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶25.

<sup>37</sup> Id. at ¶26.

<sup>38</sup> Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, *OSCE Rapporteur’s Report Under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus*, 5 November 2020, 46.

<sup>39</sup> ‘Her Rights’ Centre, ADC ‘Memorial,’ *The situation with human rights of women in Belarus following the presidential elections in 2020*, 2020, 12. Available at <https://drive.google.com/file/d/1yMdbM6XsPYxLBYh5VuQ4fyi1IXgzbfY-/view>.

<sup>40</sup> Ibid.

<sup>41</sup> Id. at 13

<sup>42</sup> Id. at 12

<sup>43</sup> Id. at 11.



women interviewed by an NGO reported that riot police frequently threatened to rape them while they were detained. One woman recalled abusive language from her time in detention: “We will gang rape you if you don’t shut up.”<sup>44</sup>

28. Conditions of detention for women detained in connection with 2020 protests were not gender sensitive. The staff of the detention centers where they were held consisted mainly of men. One woman reported she was denied access to the toilet by riot police. She had to urinate at the back of the bus full of male police officers and other detained persons, where she was kept for hours. Detention facility officers and riot police mocked and abused women when they were menstruating in detention facilities.<sup>45</sup>

**29. Suggested questions related to women in detention:**

- What measures has the State Party taken to investigate allegations of sexual violence and threats of sexual violence against women in detention?
- What steps has the State Party taken to improve conditions of detention for women and ensure that a gender sensitive approach is applied?
- What training has the State Party provided to law enforcement personnel on a gender sensitive approach and on prohibition of violence against women?

**VI. Death in Custody**

30. In its 2018 Concluding Observations, the Committee expressed concern about the number of deaths in custody due to denial of medical care and the lack of investigation.<sup>46</sup> The Committee recommended that Belarus to ensure an impartial, effective investigation into all deaths in custody.<sup>47</sup>

31. During 2020 protests, several deaths were reported as a result of torture or excessive force by law enforcement. Roman Bondarenko, a 31-year-old man from Minsk, died on 13 November 2020 from injuries he sustained from law enforcement officers who beat him in detention.<sup>48</sup> As of 12 August 2020, at least three other deaths occurred as a result of law

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<sup>44</sup> Ibid.

<sup>45</sup> Id. at 12-13.

<sup>46</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶31.

<sup>47</sup> Id. at ¶32.

<sup>48</sup> International Committee on Torture Investigation in Belarus (NGO coalition, including ‘Her Rights’ Centre), *Mass torture in Belarus, Second interim report: detention, conditions of detention and treatment of detainees in September-November 2020*, 15. Available at [http://www.legin.by/uploads/20201202\\_5fc739af6b825.pdf](http://www.legin.by/uploads/20201202_5fc739af6b825.pdf); see also “A month after the death of Roman Bondarenko. What have we found out during this time?” Tut.by, 12 December 2020. Available at <https://news.tut.by/society/710991.html>.

enforcement violence.<sup>49</sup> Police fatally shot two men, Aleksandr Taraikovskiy and Gennadiy Shutov, while they were protesting.<sup>50</sup>

32. At least one person died in custody due to inadequate medical care. Police arrested Alexandr Vikhor, a 25-year-old man on 9 August 2020 and detained him overnight before his trial the next day. Witnesses who were detained with Alexander reported that after the trial, when police were transporting him back to serve a ten-day sentence, he began to act strange and it was evident that he needed medical attention. One man told the police that Alexandr needed help, but the police initially refused to call. Alexander later died in the hospital.<sup>51</sup>

**33. Suggested questions related to deaths in police custody:**

- What steps has the State Party taken to ensure persons in detention receive adequate and prompt medical care?
- What efforts has the State Party made to investigate the deaths in custody of Alexandr Taraikovskiy, Gennadiy Shutov, Aleksandr Vikhor and Roman Bondarenko?

## **VII. Violence against Women**

34. In its 2018 Concluding Observations, The Committee expressed concern about high rates of violence against women and few criminal prosecutions. The Committee was concerned that domestic violence and marital rape are not criminalized and that police often recommend reconciliation when women report an incident. The Committee also noted that Belarus has not published data on the number of crimes reported, protection measures, and the availability of crisis shelters.<sup>52</sup> The Committee recommended that Belarus pass legislation to criminalize domestic violence and marital rape, publish statistics on all forms of violence against women, and provide training to law enforcement, judges, and any other officials that interact with victims of violence against women.<sup>53</sup>

35. **Domestic violence remains a widespread problem in Belarus.** In 2018, it was reported that “every third person killed in the country was killed by a family member”.<sup>54</sup> From January until October of 2018, 115 women were victims of severe domestic violence, and

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<sup>49</sup> Letter from Belarusian Helsinki Committee to the Chairman of the Investigative Committee of the Republic of Belarus, 19 August 2020, 2. Available at [https://belhelcom.org/sites/default/files/predsdatelyu\\_sk\\_st.\\_128\\_uk.pdf](https://belhelcom.org/sites/default/files/predsdatelyu_sk_st._128_uk.pdf).

<sup>50</sup> “The Investigative Committee has suspended the investigation of the case of Alexander Taraikovskiy,” Tut.by, 13 November 2020. Available at <https://news.tut.by/society/707740.html>.

<sup>51</sup> Elena Bychkova, “He did not die, he died.” In Gomel, they said goodbye to the deceased after being detained at a protest rally Aleksandr Vikhor,” Tut.by, 16 August 2020. Available at <https://news.tut.by/society/696865.html>.

<sup>52</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶38.

<sup>53</sup> Id. at ¶39.

<sup>54</sup> United States Department of State, *Belarus 2018 Human Rights Report* p. 31 (accessed Sept. 26,2019) <https://by.usembassy.gov/wp-content/uploads/sites/57/2018-Human-Rights-Report-for-Belarus.pdf>

51 had died from the abuse.<sup>55</sup> In 2019, reports of domestic violence increased by 12.7 percent.<sup>56</sup> The Ministry of Internal Affairs does not publish official statistics on the number of domestic violence incidents.<sup>57</sup>

### A. Legislation

36. Belarus has taken several measures toward combating domestic violence, including opening crisis-rooms for survivors.<sup>58</sup> In 2014, a broad definition of domestic violence was added to The Belarus Law on the Basics of Activities for the Prevention of Offences under which victims may request a protective order.<sup>59</sup> Yet gaps remain in the language of the law and in implementation.
37. While domestic violence is defined in the 2014 Law on the Basics of Activities for the Prevention of Offences, the definition includes only current family members.<sup>60</sup> The definition excludes mention of ex-partners or ex-spouses.<sup>61</sup> Thus, an instance of harm would not be considered domestic violence if the parties involved are separated or divorced.<sup>62</sup> In addition, the current definition excludes intimate partners and fails to address threats of violence.<sup>63</sup>
38. Belarus does not have specialized legislation to combat domestic violence. In 2017, the Ministry of the Interior began drafting a domestic violence law that would improve protection measures and extend the scope of criminal liability to include former partners.<sup>64</sup> Nonetheless, in 2018, President Lukashenko reacted negatively to the bill and halted all

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<sup>55</sup> United States Department of State, *Belarus 2018 Human Rights Report* p. 31 (accessed Sept. 26, 2019)

<https://by.usembassy.gov/wp-content/uploads/sites/57/2018-Human-Rights-Report-for-Belarus.pdf>

<sup>56</sup> “The Ministry of Internal Affairs is working on amendments to the legislation to counter domestic violence,” Belta, 16 March 2020. Available at <https://www.belta.by/incident/view/mvd-dlja-protivodejstvija-domashnemu-nasiliju-prorabatyaet-izmenenija-v-zakonodatelstvo-383732-2020/>.

<sup>57</sup> NGO Coalition, *Belarus Performance Recommendations Committee Against Torture 2018/2020*, 35.

<sup>58</sup> United States Department of State, *Belarus 2018 Human Rights Report* p. 31 (accessed Sept. 26, 2019)

<https://by.usembassy.gov/wp-content/uploads/sites/57/2018-Human-Rights-Report-for-Belarus.pdf>

<sup>59</sup> Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 1

<sup>60</sup> Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31; Young Women Christian Association of Belarus, Gender Perspectives, Mogilev Women’s Centre for Support and Self-Education, Provincia, Radislava, *Domestic Violence Against Women in Belarus: Alternative Report to CEDAW*, INT\_CEDAW\_NGO\_BLR\_25372, October 2016,

[https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT\\_CEDAW\\_NGO\\_BLR\\_25372\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT_CEDAW_NGO_BLR_25372_E.pdf)

<sup>61</sup> Young Women Christian Association of Belarus, Gender Perspectives, Mogilev Women’s Centre for Support and Self-Education, Provincia, Radislava, *Domestic Violence Against Women in Belarus: Alternative Report to CEDAW*, INT\_CEDAW\_NGO\_BLR\_25372, October 2016, 12. Available at

[https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT\\_CEDAW\\_NGO\\_BLR\\_25372\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BLR/INT_CEDAW_NGO_BLR_25372_E.pdf)

<sup>62</sup> Id. at 3.

<sup>63</sup> Id. at 10-11.

<sup>64</sup> “The Ministry of Internal Affairs of Belarus has Submitted for Public Discussion the Concept of the Draft Law “On Counteracting Domestic Violence.” Gender Perspectives, accessed 22 January 2021. Available at <https://www.genderperspectives.by/events/news/mvd-belarusi-vyneslo-na-obshchestvennoe-obsuzhdenie-kontseptsiyu-proekta-zakona-o-protivodejstvii-domashnemu-nasiliju/>.

plans to finalize it. The Ministry of Internal Affairs has not made any progress toward passing the bill since then.<sup>65</sup>

## **B. Barriers to Reporting and Accessing Protection**

39. **Victims are reluctant to report instances of abuse for multiple reasons.** First, victims have a real fear of losing their children. If children are present in the home and a report of abuse is made for violence involving only adults, police still must report to the Department of Education.<sup>66</sup> The children are then considered to be in a “socially dangerous situation” and may be removed from the family.<sup>67,68</sup> Fear of losing children is a strong deterrent for victims to report abuse. According to an NGO employee, police may use this fear to unduly influence victims not to report.<sup>69</sup> Police will inform victims that they may make the report of domestic violence, but that the children will be removed.<sup>70</sup> This often leads to victims withdrawing their report.<sup>71</sup>
40. Another factor are the weak accountability tools to hold offenders accountable. Officers often inform the victims they are able to arrest the abuser, but this is only a temporary measure.<sup>72</sup> The aggressor may only be detained for several days, and “who knows what will happen when they return.”<sup>73</sup> Once victims learn this, they frequently withdraw their report.
41. **The Law on Marriage and Family also poses barriers to women seeking to escape violence.** Article 35 prohibits divorce while the wife is pregnant and until the child reaches three years of age, without the written consent of the other spouse.<sup>74</sup> While divorce alone is not an effective way to end domestic violence, it may be one of the few options to increase her safety, particularly where protective orders are restricted in their accessibility and duration. Under the current law, however, a victim who is pregnant or shares a child

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<sup>65</sup> NGO Coalition, *Belarus Performance Recommendations Committee Against Torture 2018/2020*, 36.

<sup>66</sup> Interview with NGO, Aug. 27, 2019; Interview with Lawyer, Sept. 18, 2019

<sup>67</sup> Office of the High Commissioner for Human Rights, “Committee on the Elimination of Discrimination against Women Examines the Report of Belarus,” accessed Sept. 26, 2019, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20789&LangID=E>

<sup>68</sup> Interview with NGO, Aug. 27, 2019

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> The Code of the Republic of Belarus on Marriage and Family, Art. 35.

under three years of age with her husband must remain married to her abuser unless he gives her permission to divorce.

### C. Protective Orders Provide Weak Protection

42. While the Law on the Basics of Activities for the Prevention of Offences is a first step toward protecting victims and holding offenders accountable, gaps remain in the language of the law itself. **The duration of the protective order falls short of international standards.** The law allows for a victim to obtain a protective order, which can last for 3-30 days.<sup>75</sup> Best practice standards, however, dictate that a protective order should last for a minimum of one year.<sup>76</sup>
43. The law also erects an onerous barrier for a victim to obtain protection. **In order to secure a protective order, the victim must experience two acts of violence before authorities will issue the order.**<sup>77</sup> Specifically, there must be two incidents of violence reported to the police within a single year in order to issue the protective order.<sup>78</sup> Upon the first incident of violence, authorities issue aggressors a warning.<sup>79</sup> Warnings, however, are not in compliance with best practice standards, as they communicate the message that violence will be tolerated and perpetuate impunity.<sup>80</sup> Only upon the filing of a second report of violence can the victim request a protective order.<sup>81</sup>
44. **The law allows for a delay in the issuance of the protective order, which places the victim at great risk of further violence and retribution from her abuser.** The local internal affairs office is responsible for issuing this protective order.<sup>82</sup> Upon receiving the order for an administrative penalty for the domestic violence, the internal affairs body has three days to issue the protective order.<sup>83</sup> This leaves the victim unprotected at one of the most vulnerable times. Research indicates that the most dangerous time for a battered woman is after she ends the relationship.<sup>84</sup> For example, research indicates that women

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<sup>75</sup> Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31

<sup>76</sup> UN Virtual Knowledge Centre to End Violence against Women and Girls, Legislation: Civil Remedies for Domestic Violence, Time Limits on Protection Orders, Section 3.2.5, Jan. 5, 2011, available at <https://endvawnow.org/en/articles/416-time-limits-on-protection-orders.html>.

<sup>77</sup> Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31; Interview with NGO, Aug. 27, 2019.

<sup>78</sup> Interview with NGO, Aug. 27, 2019; Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31.

<sup>79</sup> Interview with Lawyer, Sept. 18, 2019; Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31.

<sup>80</sup> UN Virtual Knowledge Centre to End Violence against Women and Girls, Legislation: Criminal Justice System Response to Domestic Violence, Introduction, Section 3.2.6, Jan. 7, 2011, available at <https://endvawnow.org/en/articles/434-introduction.html>.

<sup>81</sup> Interview with Lawyer, Sept. 18, 2019

<sup>82</sup> Interview with Lawyer, Sept. 18, 2019; Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31.

<sup>83</sup> Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31.

<sup>84</sup> StopVAW, "Lethal and Extremely Dangerous Behavior," 1 February, 2006, available at [http://www.stopvaw.org/Lethal\\_and\\_Extremely\\_Dangerous\\_Behavior](http://www.stopvaw.org/Lethal_and_Extremely_Dangerous_Behavior).

who leave their abusers are at a 75% greater risk of being killed by their abusers than those who stay.<sup>85</sup> Best practices dictate protective orders be issued without delay.

45. **No extensions of the protective order are available.** The law does not currently allow for renewal of the protective order after the 3-30 days expire.<sup>86</sup> Instead, the victim must experience two additional acts of violence within a year to request a new protective order.<sup>87</sup> This forces the victim to endure further violence from her abuser to secure additional protection beyond 30 days. Best practices recognize that extensions of a protective order should be allowed without a showing of additional acts of violence, but instead on the victim's fear of harm.
46. **Protective orders fail to fully protect a victim from an aggressor.** Article 31 of The Law on the Basics of Activities for the Prevention of Offences states that aggressors may not attempt to discover the location of the victim or contact the victim.<sup>88</sup> The law neglects to specify whether location and in-person contact refer to the location where victim resides, or if it also refers to other areas the victim may frequent.

#### **D. Victim services are limited.**

47. **Limited state-run crisis rooms and private shelters are available for victims.**<sup>89</sup> As of 2019, there were five private shelters dedicated to women victims of domestic violence.<sup>90</sup> These shelters allow for children and offer services such as counseling.<sup>91</sup> Currently, there are not enough spaces to meet the needs of victims. There is also a shortage of state-sponsored crisis rooms. According to an NGO employee, even regions such as Minsk lack the required amount of crisis rooms.<sup>92</sup> State-sponsored crisis rooms that have opened are not sufficient for victims of domestic violence. They do not provide psychological or legal services and provide only temporary housing for a short time.<sup>93</sup> The main requirement to access state-sponsored crisis rooms is that victims must first make a report to the police.<sup>94</sup> This referral requirement, coupled with the common practice of referring victims to state homes and not autonomous shelters, can inhibit shelter access for victims who are not ready

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<sup>85</sup> Julian Center, Women in the US; Casa de Esperanza, Myths and Facts, (accessed Sept 27, 2019) <https://casadeesperanza.org/wp-content/uploads/2015/01/mythsandfactsENG.pdf>.

<sup>86</sup> Interview with Lawyer, Sept. 18, 2019.

<sup>87</sup> Ibid.

<sup>88</sup> Belarus Law on the Basics of Activities for the Prevention of Offences, Art. 31.

<sup>89</sup> Interview with NGO, Aug. 27, 2019.

<sup>90</sup> Coalition of national CSOs (Centre for Promotion of Women's Rights 'Her Rights'), *Joint UPR Stakeholder Report on gender equality and women's rights in Belarus*, (2 October, 2019), Available at [file:///C:/Users/localadmin/Downloads/JS4\\_UPR36\\_BLR\\_E\\_Main.pdf](file:///C:/Users/localadmin/Downloads/JS4_UPR36_BLR_E_Main.pdf).

<sup>91</sup> Interview with NGO, Aug. 27, 2019.

<sup>92</sup> Interview with NGO, Aug. 27, 2019.

<sup>93</sup> Coalition of national CSOs (Centre for Promotion of Women's Rights 'Her Rights'), *Joint UPR Stakeholder Report on gender equality and women's rights in Belarus*, (2 October, 2019), Available at [file:///C:/Users/localadmin/Downloads/JS4\\_UPR36\\_BLR\\_E\\_Main.pdf](file:///C:/Users/localadmin/Downloads/JS4_UPR36_BLR_E_Main.pdf).

<sup>94</sup> Interview with Lawyer, Sept. 18, 2019.

to report their experience of violence to the authorities.<sup>95</sup> Further, most crisis rooms only allow victims to stay for up to ten days.<sup>96</sup>

48. **Victims have limited access to legal aid.** Many victims have little understanding of the legal process or their rights, help is limited.<sup>97</sup> Often, NGOs are unable to provide assistance other than explaining legal terms or documents.<sup>98</sup> If the justice system refuses to prosecute a case, victims have the option to pursue private prosecution. Under private prosecution, victims are expected to act as both investigators and lawyers. This also requires victims to bear the financial costs of litigation.<sup>99</sup> With little legal knowledge or assistance, many victims are unaware of the option to pursue private prosecution and their cases are closed.<sup>100</sup> Victims often also lack the financial resources necessary for litigation.<sup>101</sup>

49. **Suggested questions related to violence against women:**

- What steps has the State Party taken toward ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)?
- What steps has the State Party taken to improve protection measures for victims of domestic violence?
- What training has the State Party provided on domestic violence for law enforcement officials, judges, lawyers, social workers, and any other officials that directly interact with victims of domestic violence?
- What steps have been taken to investigate complaints of sexual and domestic violence, respectively?
- What measures has the State Party taken to support victims of domestic violence? How many crisis rooms and/or shelters were established since the last periodic report?

## VIII. Human Rights Defenders

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<sup>95</sup> Source on file with the authors.

<sup>96</sup> Crb.lida, "Crisis Room," accessed 22 January 2021. Available at [http://crb.lida.by/news\\_gl/krizisnaya-komnata.html](http://crb.lida.by/news_gl/krizisnaya-komnata.html).

<sup>97</sup> Center for the Advancement of Women's Rights, Private Prosecution in Courts as an Obstacle to Protecting Women from Domestic Violence in Belarus, (accessed Sept. 30, 2019) <http://www.eeprava.by/2017/10/legal-regulation-of-domestic-violence-in-belarus/>

<sup>98</sup> Interview with NGO, Aug. 27, 2019

<sup>99</sup> Center for the Advancement of Women's Rights, Private Prosecution in Courts as an Obstacle to Protecting Women from Domestic Violence in Belarus, (accessed Sept. 30, 2019) <http://www.eeprava.by/2017/10/legal-regulation-of-domestic-violence-in-belarus/>

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

50. In its 2018 Concluding Observations, The Committee expressed concern about widespread harassment, intimidation, arrest, torture, and ill-treatment of human rights defenders.<sup>102</sup> The Committee recommended that Belarus refrain from detaining and prosecuting human rights defenders and ensure effective and impartial investigations of reprisals.<sup>103</sup>
51. Multiple women working in organizations to promote the rights of women or LGBTI individuals faced reprisals in 2020. Police arbitrarily arrested and detained Ms. Olga Gorbunova, a board member for a shelter for victims of domestic violence, ‘Radislava,’ and an LGBTI activist. On 26 September 2020, officials arbitrarily arrested and detained another prominent LGBTI activist, Ms Viktoria Biran.<sup>104</sup>
52. The government accused several individuals and organizations of financing or encouraging mass protests under Article 293 of the Criminal Code as pretense to arrest and detain them. A video circulated on Belarusian official television alleged that the women’s organization ‘Her Rights’ Centre used foreign funding to promote women’s marches.<sup>105</sup> ‘Her Rights’ Centre later denied the accusations.<sup>106</sup> Nonetheless, several activists within the organization had to flee the country for their safety.<sup>107</sup> Another prominent activist working for the Human Rights Center “Viasna” was accused of training or sending aid to protestors against the government. Officials arbitrarily arrested and detained her.<sup>108</sup> On 18 January 2021, a human rights defender of the “Viasna” Center was detained as a suspect under Article 343 of the Criminal Code (Organization and preparation of activities causing public disorder, or active participation in them).<sup>109</sup> On 18 January 2021, his assistant was detained as well.<sup>110</sup>

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<sup>102</sup> Committee Against Torture, *Concluding Observations on the fifth periodic report of Belarus*, (7 June 2018), U.N. Doc. CAT/C/BLR/CO/5, ¶46.

<sup>103</sup> Id. at ¶47.

<sup>104</sup> ‘Her Rights’ Centre, ADC ‘Memorial,’ *The situation with human rights of women in Belarus following the presidential elections in 2020*, 2020, 14. Available at <https://drive.google.com/file/d/1yMdbM6XsPYxLBYh5VuQ4fyi1IXgzbfY-/view>.

<sup>105</sup> Ibid.

<sup>106</sup> “Refutation of the information in the ATN video about the sponsoring of women's marches by the Center "Her Rights" and PandaDoc,” Eeprava, 14 September 2020, available at <https://bit.ly/396lDcP>.

<sup>107</sup> ‘Her Rights’ Centre, ADC ‘Memorial,’ *The situation with human rights of women in Belarus following the presidential elections in 2020*, 2020. Available at <https://drive.google.com/file/d/1yMdbM6XsPYxLBYh5VuQ4fyi1IXgzbfY-/view>.

<sup>108</sup> Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, *OSCE Rapporteur’s Report Under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus*, 5 November 2020, 35.

<sup>109</sup> “Famous human rights activist Leonid Sudalenko was detained in Gomel, he is in the UK,” Tut.by, 19 January 2021. Available at <https://news.tut.by/society/715320.html>.

<sup>110</sup> “In Gomel, after the arrest of human rights defender Sudalenko, his assistant Maria Tarasenko was also detained,” Tut.by, 19 January 2021. Available at <https://news.tut.by/society/715463.html>.



53. The Special Rapporteur on the situation of Human Rights Defenders noted with concern that the nature of these accusations against women human rights defenders “raise(s) serious questions as to the legal basis for their initial detention and subsequent sentencing.”<sup>111</sup>

**54. Suggested questions related to human rights defenders:**

- What protections are in place to ensure human rights defenders will not face reprisals for their work?
- What steps has the State Party taken to ensure protection of freedom of expression and freedom from arbitrary deprivation of their liberty for human rights defenders?

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<sup>111</sup> Special Rapporteur on the situation of human rights defenders, “Belarus: UN experts decry threats against women human rights defenders,” OHCHR, 2 November 2020. Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26470&LangID=E>