

THE MASS TORTURE IN BELARUS 2020

**Fir interim report:
on the state's reaction and measures
taken to investigate the mass torture
of August 9-13, 2020**

International
Committee
for the Investigation
of Torture in Belarus

The International Committee for the Investigation of Torture in Belarus was created as a reaction of Belarusian and foreign human rights organizations to torture and brutality towards civilians after the presidential elections on August 9, 2020.

The Committee's objectives

1. Documenting torture, brutality, use of weapons and special equipment against civilians.
2. Searching for witnesses and evidence of torture.
3. Identification of suspects in torture and inhuman treatment.
4. Processing of the information received.
5. Preparation of lawsuits and legal support of torture victims.
6. Communications with and appeals to international organizations.
7. Preparation of reports on the collected information for the general public of Belarus, as well as for international organizations and institutions.
8. Interaction with governmental, non-governmental actors, for example, national and international courts, the Investigative Committee, the General Prosecutor's Office of the Republic of Belarus.

Principles of the Committee

The activities of the Committee are based on the [Principles of Activity of Human Rights Defenders of Belarus](#). In addition, for this purpose, we adhere to and emphasize the following in our work:

- confidentiality of information and security for its members;
- interaction of all stakeholders;
- work according to unified methodology and concentration of information in a single database.

The Committee's members include

1. "Legal Initiative"
2. Human Constanta
3. Center for the Promotion of Women's Rights "Her Rights"
4. Ukrainian Helsinki Human Rights Union
5. Public Association "Zvyano"
6. Belarusian Documentation Center
7. Public organization Thruth Hounds
8. Charitable foundation East-SOS
9. Association of Ukrainian Human Rights Monitors on Law Enforcement
10. Human Rights Center ZMINA (Ukraine)
11. World Organization Against Torture (OMCT)
12. Moscow Helsinki Group

Contacts

belarus.torture@gmail.com

<http://torture.tilda.ws/>

Table of contents

Table of contents	4
Summary	5
Overview	6
The reaction of officials in the media to the detention and torture of citizens	7
Reaction of international organizations to the events in Belarus	14
International standards: the prohibition of torture and the effectiveness of the investigation	19
Applicable national legislation: offenses and criminal procedure	24
Analysis of the effectiveness of the investigation	29
Recommendations to the state	36

Summary

1. Prohibition of torture is one of the few absolute and inalienable human rights. The Republic of Belarus has ratified the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this connection, it is obliged to ensure the protection of any person from torture and to ensure prompt and impartial investigation of torture and other cruel treatment.
2. During four days from August 9 to 13, 2020, according to official data, more than 7000 people were detained. As a result of the actions of law enforcement agencies, the death of at least four people was recorded, thousands of detainees received physical and psychological trauma and had to undergo medical treatment, physical and psychological rehabilitation. Such large-scale manifestations of power abuse due to its extremely high social danger are considered by the criminal law not as ordinary professional misconduct, but as a particularly grave crime against the safety of mankind, provided for in Art. 128 of the Criminal Code of the Republic of Belarus.
3. Neither the current President, nor the General Prosecutor's Office, nor the Ministry of the Interior have issued a single public and unequivocal statement condemning the use of all forms of torture, nor have they issued a clear warning that any person involved in such actions will bear responsibility according to the Criminal Code.
4. 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. Currently, the ongoing checks do not meet the standards for effective investigation of allegations of torture in terms of speed, thoroughness, impartiality, victims' access to investigation and transparency.

Overview

The 2020 presidential elections in the Republic of Belarus were marked by fear, intimidation of voters and observers. They were not recognized by the international community as fair and democratic. On August 9, after the closure of polling stations and posting of the protocols of election commissions, peaceful protesters took to the streets throughout the country demanding non-recognition of the official election results and holding new fair elections. The authorities responded to the peaceful protests with a wave of mass repressions, unprecedented, brutal and massive violations of human rights: torture, violence, enforced disappearances, rape, destruction of the property of protesters, and murder of protesters.

Over the four days from 9 to 13 August 2020, according to official data, more than 7000 people were detained. Among them there were random citizens who did not take part in the protests, including journalists, medical workers, observers, human rights defenders who were fulfilling their professional and public duties. Human rights organizations note that almost every detainee reported disproportionate and unlawful use of force by law enforcement officers, unjustified use of weapons and ammunition, use of torture and ill-treatment in detention centers, and inability to inform relatives and lawyers of their whereabouts.

The actions of law enforcement agencies led to the death of at least four people, thousands of detainees were physically and psychologically injured and had to undergo medical treatment or physical and psychological rehabilitation.

More than 1000 people filed claims to the territorial departments of the Investigative Committee of the Republic of Belarus, the Prosecutor's Office to initiate criminal cases against law enforcement officers, temporary detention centers, police stations, and other places of detention on the grounds of torture, abuse of power and malfeasance.

The reaction of officials in the media to the detention and torture of citizens

On August 9–12, 2020, Belarus experienced a large-scale Internet shutdown. Access to a number of independent sites and to instant messengers was blocked, mobile Internet was disconnected at night from August 9 to 12 (moreover, at the state level it was claimed that this was the result of external DDoS attacks). Thus, on the indicated days, most Internet users in Belarus were in the information blockade.

During this period, state media and television channels paid very little attention to the events, and the protesters were almost always presented in a negative way, as immoral and marginal elements (alcoholics, drug addicts, prostitutes and criminals), whose purpose is to destabilize the situation in a peaceful country. According to the state media, protests were sponsored by foreign states. Brutal and violent detentions were portrayed as a necessary reaction of law enforcement agencies to the destructive, violent actions of the protesters that were characterized as riots.

Already on August 10 Ivan Noskevich, the head of the Investigative Committee of the Republic of Belarus, announced that 21 criminal cases on riots and violence against the police on the night of August 9–10 were initiated.

There were no reports of unjustified infliction of bodily harm, violence, or torture of detainees.¹

On August 11–12, with the first releases of the detained citizens from detention centers, the facts of torture became public knowledge by the word of mouth. Independent media published testimonies of victims of torture, cruel, inhuman and degrading treatment not only during detention, but also in police wagons, places of detention (police departments, the Center for Isolation of Offenders, temporary detention centers). Lack of reaction from government agencies, officials of law enforcement agencies was no longer possible.

¹ <https://www.belta.by/incident/view/vozbuzhdeny-ugolovnye-dela-po-faktam-massovyh-besporjadkov-i-nasilija-v-otnoshenii-militsii-noskevich-402269-2020/>

On August 13, the Minister of Internal Affairs Yuri Karaev commented on the situation. In particular, he emphasized that the citizens participating in the protests used violence against the police officers.

Comments regarding the “accidental” victims: *“It happened so that someone could not jump away timely, got accidentally hit, got in the way ... For such, as they call it, violence, I, as a commander, military leader, want to take this responsibility, I must take personal responsibility, I’d like to apologize to these people, it’s a human thing to do...”*²

It is important to emphasize that apologies were made only to people who were accidentally detained (however, according to the minister, it is the protesters to blame for deliberately choosing places near shops, etc. in order to “frame” innocent citizens). The minister deliberately outlined that physical violence was used only in the act of detention. Everything that happened next, in the places of detention, was not commented on.

Numerous facts of torture, inhuman and degrading treatment already known to the public (it is obvious that the minister of the security department should have been notified of them) not only were not evaluated, but were not even mentioned by him. The high-ranking official Mr. Karaev did not comment on the gross violations of the Convention against Torture, the Constitution of the Republic of Belarus, the Criminal Code of the Republic of Belarus by the officers of the security agencies, especially the OMON, Belarusian riot police.

On August 16, Yuri Karaev again assessed the current events. He focused on the fact that protests were unauthorized and expressed regrets about the beatings of citizens, but most of all — of his injured officers. Addressing torture and humiliation as due by law was not brought up in his speech.³

It should be noted that after the numerous facts of the use of violence by the security agencies became public and the victims appealed to the Investigative Committee, riot police atrocities have somewhat decreased since August 14.

Mr. Karaev noted in a few days that many protesting women were just standing peacefully and there was no need to detain them. However, the events of the following days showed that the police officers again began to detain both men and women, standing with flowers, in festive clothes, and this was often done very harshly, sometimes with beatings.

² https://www.youtube.com/watch?time_continue=333&v=UKg-SrGvDes&feature=emb_title

³ https://news.tut.by/economics/696888.html#ua:main_news~2

On September 15, it became known that the Minister of Internal Affairs Yuri Karayev appealed to the Parliament proposing to amend the Procedural and Executive Code on Administrative Offenses. In particular, he suggested legalizing anonymous witness testimonies of police officers in courts, releasing them from the duty to physically appear in court, closing court sessions, prohibiting release of information about police officers for their protection. In the protocol of the procedural action, it was proposed to indicate the fictitious personal data of such employees.⁴

Already on September 25, 2020, at the court hearing of an administrative offense of lawyer Lyudmila Kazak in the Oktyabrsky District Court of Minsk, both witnesses from the prosecution testified under fictitious first and last names. On the request of the defenders to ascertain the identity of the witnesses Ivan Ivanov and Aleksandr Aleksandrov, the judge replied that the court had established their identities, and their personal data had been changed, since they were “constantly receiving threats”.⁵

The hypocrisy of another high ranking official — Alexander Barsukov, Deputy Minister of the Ministry of Internal Affairs of the Republic of Belarus, was most clearly manifested. He came to the Center for Isolation of Offenders on the night of 14 August. Leaving the Center for Isolation of Offenders in Minsk at 36 Okrestin Street (hereinafter CIO), he assured the relatives and friends of the detainees that no one was beaten or tortured in the cells.⁶

One month after the elections, on September 9, 2020, Alexander Lukashenko was interviewed by Russian journalists.⁷ Regarding the actions of the riot police and the observance of the rule of law, he said (words are quoted close to the text):

“I cannot blame these guys who defended not only the country, but also me personally. ... riot police and internal troops are working in the streets. It is their job — to stabilize the situation. Did they break the law? No! The only thing I didn’t like about it was that they beat someone lying on the ground. And then I saw the photo where he [a protester] had done something wrong somewhere. Of course, he tried to escape, and he got beaten. I openly said, like a true man, that I do not welcome it.”

⁴ <https://www.intex-press.by/2020/09/16/karaev-poprosil-zashhitit-silovikov-vystupayushhih-svidetelyami-v-sudah/>

⁵ <https://news.tut.by/economics/701822.html>

⁶ <https://www.kp.by/daily/217169.5/4269983/>

⁷ <https://news.tutby.news/society/699864.html>

Lukashenko denied presence of riot police officers in detention centers, although none of the officials dared to do so, because their presence in the detention facilities was obvious and is confirmed by numerous testimonies of the victims.

The violence that took place there was presented as a confrontation between “convicts” and “cops”:

“The biggest clash between convicts and ‘cops’ is that they hate each other. And a lot of people got to Okrestsin Street, whom I call “cons”, convicted 12 times and more. And when they were all drunk and stoned, and there were 60 % of them, they rushed at these guys [the guards at Okrestsin Street], and of course, they pushed back. And of course, someone was protecting someone there, they also got beaten. But not riot police, there were no riot police in Okrestsin Street...”

The bottom line of this interview is that the riot police OMON was right to act as they did. Their gruesome actions in detention facilities were denied, and the “bruises” of the victims were explained to have been inflicted by the “cons”. There is a direct distortion of facts, understatement of the degree and severity of the injuries inflicted upon the detained. The violence was hushed up, turned into a farce. As for cruel treatment, torture, humiliation of human dignity, it was not brought up whatsoever. In fact, police officers have already been pardoned for allegedly saving the country and the President personally, and “this page” of their atrocities can be turned over. Lukashenko’s vague promise to revisit the issue when the dust has settled, but not to immediately start criminal cases as required by law, may well be forgotten.

Earlier, on August 18, at a meeting of the Security Council, Alexander Lukashenko spoke out more unambiguously: *“I want to warn you once again: cool down. Then there will be no second round of sobs and bruises in the media”*, — he stressed.⁸

Such attitude of the top state officials to the actions of security forces gives reason to assume that there will be no objective investigation of the tortures.

Now former Prosecutor General Alexander Konyuk said on August 15 on the air of “Belarus-1” that all mass events must be approved by local authorities. He did not publicly discuss police violence and did not comment on the grave legal crisis that had developed in the country.⁹

⁸ <https://news.tut.by/economics/697175.html>

⁹ <https://news.tut.by/society/696844.html>

On September 13, the state TV channel STV aired a story about the Center for Isolation of Offenders in Okrestsin Street. The head of the CIO of the Municipal Department of Internal Affairs of the Minsk City Executive Committee, Yevgeny Shapetko, said: *“Given that thousands were delivered to our institution, there was not a single death”*.

In the same footage, a representative of the STV asked Gleb Dril, the deputy head of the CIO of the Municipal Department of Internal Affairs of the Minsk City Executive Committee, about whether there were tortures, bullying, and beatings in the institution. The deputy head of the CIO said: *“There was no torture or humiliation here. There was an overflow problem, of course. The building is not designed for so many people. The detainees were handled accordingly”*.

The representative of STV also spoke with the policeman, “who was on duty here when a large number of the detained arrived, on the 9–10th of August.” This policeman, without showing his face and without giving his last name, said *“Nobody was beaten here. They brought people here, put them in a cell, and that was it”*. When the reporter asked whether there had been any rough treatment and humiliation, the incognito policeman replied: *“There was nothing like this in here, because they brought a lot of people. We had to come, accommodate people and deal with other newcomers. Physically there wasn’t enough time for anything”*.¹⁰

On September 9, the chair of Prosecutor General was taken by Andrei Shved (Chairman of the State Committee for Forensic Expertise). The President, introducing him to the Prosecutor General’s Office, publicly stated that sometimes laws can be violated.¹¹

On September 24, Andrei Shved said that the prosecutor’s office would develop a strategy for implementing the president’s instructions and ensure law and order: *“All those responsible will be punished sooner or later. Not a single blogger, not a single person who has committed a crime not only at unauthorized events, but also on the Internet, will escape responsibility. Today, very active work is underway to identify such persons and bring them to justice”*, — said he.¹²

¹⁰ <https://news.tut.by/society/700316.html>

¹¹ <https://www.belta.by/president/view/lukashenko-vlast-ne-dlja-togo-daetsja-chtoby-ee-vzjal-brosil-i-otdal-406208-2020/>

¹² <https://www.belta.by/society/view/shved-ni-odin-organizator-i-uchastnik-nesanktsionirovannyh-aktsij-ne-ujdet-ot-otvetstvennosti-408042-2020/>

Once again, the selective approach of the prosecutor's office to ensuring law and order is alarming, as there is no discussion about revealing the criminal actions of the security forces against the detained citizens.

The statements by Alexander Lapshin, Deputy Prosecutor General, on September 17 at a meeting with students of the Law Faculty of the Belarusian State University, are very indicative. Addressing the question why the Prosecutor General's Office has not seen a single violation on the part of the police since August 9 (after all, there is still no information about a single criminal case), Mr. Lapshin explained: in accordance with Article 174 of the Criminal Procedural Code, decisions to initiate investigation on crimes committed by officials of the internal affairs bodies in connection with their official or professional activities are taken exclusively by the Investigative Committee. The Committee is now conducting a thorough verification of the claims, but a lot of work must be done, so there are no solutions yet.¹³

Such a qualified professional, however, must know that in accordance with part 3 of Article 4, part 2 of Article 174, part 4 of Article 34 of the Criminal Procedural Code of the Republic of Belarus, the prosecutor has the authority to conduct investigation of statements or crime reports, initiate a criminal case or refuse to initiate it. During pre-trial proceedings on a criminal case, the prosecutor takes over the criminal case and investigates it in full, exercising the authority of the investigator.

Under such circumstances, it is hardly possible to believe Mr. Lapshin's statements about keeping a close watch on investigations ("***But we are not washing our hands of this***"). On the contrary: the prosecutor's office does not consider it necessary to carry out investigations, initiate criminal proceedings against the security forces who used torture and disproportionate violence, as well as those who gave orders to use torture and such violence or persons with whose tacit consent this happened.

On October 2, 2020, highest officials of the Ministry of Internal Affairs and representatives of other state bodies met with Joanna Kazana-Wisniowiecki, the UN Resident Coordinator in Belarus.

"The negative assessment given by the international community of the situation in Belarus is based on inaccurate information. Unfortunately, specific facts of violence, specific facts of torture, rape, etc. are not named. Everything is somehow general," — said Deputy Minister of Internal Affairs Gennady

¹³ <https://news.tut.by/society/701026.html>

Kazakevich. According to Mr. Kazakevich, the UN representative was provided with information refuting fake news about torture and rape by law enforcement officers. *“At first we had rapes of women — they were not confirmed. Then there were rapes of men — they were also not confirmed. Step by step, examining the circumstances of each such statement, we came to the understanding that this was not the case,”* — the first deputy minister emphasized.¹⁴

Thus, neither the current President, nor the General Prosecutor’s Office, nor the Ministry of Internal Affairs have made a single public and unequivocal statement condemning the use of all forms of torture, nor have they issued a clear warning that any person, participating in such actions, will incur personal criminal responsibility for this.

¹⁴ <https://www.belta.by/society/view/mvd-otsenka-mezhdunarodnogo-soobschestva-situatsii-v-belarusi-osnovana-na-nedostovernoj-informatsii-409281-2020/>

Reaction of international organizations to the events in Belarus

Already on August 10, the OSCE Chairmanship (Albania) expressed concern about the events in Belarus after the presidential elections on August 9, called for full compliance with OSCE commitments, including the right to peaceful assembly, and for restraint at this critical time.¹⁵

On the same day, August 10, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) reported evidence of excessive use of force by police throughout Belarus, leading to a large number of detainees and victims, including independent election observers and journalists. ODIHR has called for an immediate and effective investigation of any police brutality and for the release of all those detained for their participation in the protests.¹⁶

On August 10, the Chairman of the Parliamentary Assembly of the Council of Europe (PACE) Rick Demes noted with deep regret that the last elections were far from free and fair. The candidates did not have the opportunity to freely nominate themselves and campaign; there were severe restrictions on freedom of assembly and freedom of expression, including mass detentions of peaceful protesters, activists and journalists; the integrity of the early voting procedure was questioned. He urged the authorities to exercise maximum restraint and to ensure the unhindered exercise of fundamental human rights and freedoms in accordance with Belarus' national and international obligations.¹⁷

On August 12, UN High Commissioner for Human Rights Michelle Bachelet condemned the violent measures taken by the Belarusian authorities in response to the peaceful protests that took place across the country after the presidential elections, and called for the authorities to listen to the people's discontent.

¹⁵ <https://www.osce.org/chairmanship/459649>

¹⁶ <https://www.osce.org/odihhr/belarus/459664>

¹⁷ https://www.coe.int/ru/web/portal/news-2020/-/asset_publisher/JgmLwXY88pXi/content/presidential-election-in-belarus-statement-by-pace-president?_101_INSTANCE_JgmLwXY88pXi_viewMode=view/

The High Commissioner called for the immediate release of all those unlawfully detained and for a timely, thorough, independent and impartial investigation of all allegations of human rights violations.¹⁸

On August 13, over ten Belarusian human rights organizations sent a joint appeal to the United Nations High Commissioner for Human Rights, Special Rapporteur on the situation of human rights in Belarus, Special Rapporteur on the right to freedom of peaceful assembly and association, Special Rapporteur on the issue of on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the impartiality of judges and lawyers. This appeal described current human rights situation in Belarus and called for urgent measures to assist in its improvement, requesting the government of Belarus to take urgent measures to fulfill its international human rights obligations and end violence against civilians and protesters.¹⁹

On August 13 UN human rights experts (Special Rapporteur on the rights to freedom of peaceful assembly and association; Special Rapporteur on the situation of human rights in Belarus; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of rights to freedom of opinion and expression, UN Special Rapporteur on extrajudicial executions) criticized Belarus for police violence against peaceful protesters and journalists, as well as large-scale detentions following a controversial presidential election, and called on the international community to put pressure on Belarus to end attacks on its own citizens.²⁰

On August 13, OSCE Parliamentary Assembly President George Tsereteli expressed concern over reports of excessive use of force after the presidential elections, including the use of rubber bullets, water cannons, flashbangs and mass arrests, and called on Belarus to end its repressive policies and fully respect international human rights standards.²¹

On August 17, the government of Belarus was officially offered a visit of OSCE Chairman-in-Office, Prime Minister, Minister of Europe and Foreign Affairs of

¹⁸ <https://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=26162&LangID=R>

¹⁹ <https://belhelcom.org/ru/news/pravozashchitniki-obratilis-k-verhovnomu-komissaru-oon-po-pravam-cheloveka-i-tematicheskim>

²⁰ <https://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=26164&LangID=R>

²¹ <https://www.osce.org/parliamentary-assembly/459997>

Albania Edi Rama and the new OSCE Chairman-in-Office, Minister of Foreign Affairs of Sweden Ann Linde to meet with the government and representatives of the opposition.²²

On August 19, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) called for the immediate release of all unlawfully detained and a prompt and impartial investigation into alleged human rights violations. ODIHR is deeply alarmed by arbitrary arrests and allegations of torture and other forms of ill-treatment by the Belarusian authorities in which detainees are held incommunicado and denied access to medical assistance and legal advice. ODIHR is particularly concerned about reported incidents of sexual and gender-based violence, including threats of rape, and stresses the absolute prohibition of torture and other ill-treatment. ODIHR called on the authorities to immediately end any practice amounting to torture, bring all perpetrators to justice and provide victims with appropriate compensation.²³

On August 25, 2020, the Viasna Human Rights Center, the Belarusian Helsinki Committee, the World Organization Against Torture, and the International Federation of Human Rights appealed to the UN Special Rapporteur on Torture with a call to intervene in the situation with the torture of peaceful protesters detained at protests against the falsification of the results of the presidential elections.²⁴

On August 26, in their joint statement, the three leaders of the Council of Europe — Deputy Minister of Foreign Affairs of Greece and Chairman of the Committee of Ministers of the Council of Europe Miltiadis Varvitsiotis, Chairman of the Parliamentary Assembly Rick Doms and Secretary General Marija Pejčinović Burić — called on the authorities of Belarus and all stakeholders to “*immediately start an extensive and inclusive national dialogue, fully involving civil society representatives, in order to ensure a peaceful solution to the current crisis and create opportunities for the necessary reforms in the best interests of all citizens of Belarus*”. The leaders of the Council of Europe called for “*immediate release of all detained protesters, an end to all acts of ill-treatment and an urgent open investigation of the brutality by law enforcement officials*”.²⁵

On August 28, the OSCE Chairman-in-Office, Prime Minister and Minister of Europe and Foreign Affairs of Albania Edi Rama proposed that the OSCE

²² <https://www.osce.org/chairmanship/460384>

²³ <https://www.osce.org/odihhr/460693>

²⁴ https://belapan.by/archive/2020/08/25/ru_1056683/

²⁵ <https://www.coe.int/ru/web/portal/-/belarus-joint-statement-by-committee-of-ministers-presidency-pace-president-and-secretary-general?inheritRedirect=true>

becomes the coordinator of the necessary dialogue to help Belarus get out of the current crisis.²⁶

On September 1, UN human rights experts (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the situation of human rights in Belarus; UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and association; UN Working Group on Arbitrary Detention) called on Belarus to end torture of detainees and bring police officers, who reportedly unlawfully humiliated and beat protesters in places of detention, to justice.²⁷

On September 3, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed deep concern over reports of violence against women in Belarus, including sexual abuse and rape, received by UN human rights experts.²⁸

On September 4, the Human Rights Center “Viasna” and “Belarusian Helsinki Committee”, representing 47 victims at peaceful protests, appealed to the UN Committee against Torture to conduct an investigation into the systematic use of torture in the Republic of Belarus.²⁹

On September 4, Estonia initiated a hearing in the UN Security Council on the situation in Belarus together with the permanent members of the United States and Great Britain, as well as Canada, Denmark, Iceland, Latvia, Lithuania, Poland, Romania and Ukraine. The meeting was chaired by the Minister of Foreign Affairs of Estonia Urmas Reinsalu.³⁰

On September 8, Secretary General of the Council of Europe Maria Peichinovich-Burich on behalf of the Council of Europe called on the leadership of Belarus to put an end to repressive actions.³¹

²⁶ <https://www.osce.org/chairmanship/461854>

²⁷ <https://www.ohchr.org/ru/NewsEvents/Pages/DisplayNews.aspx?NewsID=26199&LangID=R>

²⁸ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26206&LangID=E>

²⁹ https://belapan.by/archive/2020/09/04/ru_1058309/

³⁰ <https://news.tut.by/economics/699346.html>

³¹ <https://www.coe.int/ru/web/portal/-/secretary-general-gravely-concerned-by-human-rights-violations-in-belarus>

On September 9, the Committee of the Parliamentary Assembly of the Council of Europe on Legal Affairs and Human Rights adopted a statement on the human rights situation in Belarus and proposed to establish an international investigative body to collect information and evidence about violations in Belarus.³²

On September 14, the UN Human Rights Council decided by 25 votes against 2 and 20 abstentions to approve a request by Germany on behalf of the European Union member states that are members of the Human Rights Council to hold an urgent discussion on the “human rights situation in Belarus”.³³

On September 17, seventeen OSCE member States (Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, France, Iceland, Latvia, Lithuania, Netherlands, Norway, Poland, Romania, Slovakia, United Kingdom and the United States) engaged the OSCE Moscow Mechanism to investigate alleged violations of human rights in Belarus.³⁴

On September 18, the Human Rights Council held an urgent discussion of the human rights situation in Belarus. After the discussion, a resolution was adopted on the human rights situation in Belarus on the eve of the 2020 presidential elections and after them. The resolution, adopted by 23 votes to 2 and 22 abstentions, calls on the Belarusian authorities to create conditions for independent, transparent and impartial investigations of all human rights violations allegedly committed in the context of elections, including allegations of torture and other cruel, inhuman or degrading treatment or punishment of detainees and protesters, and enforced disappearances, and guarantee victims access to justice and compensation, and holding the perpetrators fully accountable.³⁵

On September 23, President of the OSCE Parliamentary Assembly George Tsereteli (Georgia) and Secretary General Roberto Montella held an online meeting with the head of the Belarusian delegation Andrei Savinykh, presidential candidate Svetlana Tikhanovskaya and members of the OSCE PA Bureau.³⁶

³² <https://pace.coe.int/en/news/7992/statement-on-the-human-rights-situation-in-belarus>

³³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26260&LangID=E>

³⁴ <https://www.osce.org/odihr/464001>

³⁵ <http://undocs.org/ru/A/HRC/45/L.1>

³⁶ <https://www.osce.org/parliamentary-assembly/464589>

International standards: the prohibition of torture and the effectiveness of the investigation

The prohibition of torture is one of the few absolute and non-derogable human rights. Article 2 of the Convention against Torture states that no exceptional circumstances, whatever they may be, be it a state of war or a threat of war, internal political instability or any other state of emergency, can justify torture.³⁷

In the 1998 Prosecutor v. Furundzhia case, the International Tribunal for the Former Yugoslavia stated that “the nature of the prohibition of torture *jus cogens* articulates the view that this prohibition has become one of the most fundamental standards of the international community. Moreover, this prohibition is intended to create a deterrent effect, as it signals to all members of the international community and those over whom they have authority that the prohibition of torture is an absolute value from which no one should deviate.”³⁸

In its 2012 judgment on Issues Concerning the Obligation to Prosecute or Extradite (Belgium v. Senegal), the International Court of Justice indicated that the prohibition of torture is a part of customary international law and a peremptory norm (*jus cogens*), based on widespread international practice and on the *opinio juris* of states.³⁹

Thus, it can be stated that the prohibition of torture belongs to the category of peremptory norms of general international law, the violation of which is considered unacceptable, since it can cause damage to the rights and interests of all states.

The International Covenant on Civil and Political Rights, ratified by the Decree of the Presidium of the Supreme Soviet of the Belorussian SSR “On the Ratification of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights” of 1973 in article 2 establishes the following general obligations of the state:

³⁷ https://www.un.org/ru/documents/decl_conv/conventions/torture.shtml

³⁸ <https://www.icty.org/x/cases/furundzija/tjug/en/>

³⁹ <https://www.icj-cij.org/files/case-related/144/144-20120720-JUD-01-00-EN.pdf>

- the obligation to respect and ensure the rights recognized in the ICCPR;
- the obligation to take the necessary steps to take such legislative or other measures as may be necessary for the implementation of the rights recognized in the ICCPR;
- the obligation to provide an effective remedy.⁴⁰

Specifying the provisions of Article 7 of the ICCPR, which prohibits torture or cruel, inhuman or degrading treatment or punishment, the Human Rights Committee (HRC), in 1992 General Comment No. 20, noted that the State party is obliged, through the adoption of legislative and other necessary measures, to protect any person from acts prohibited in Article 7, regardless of whether these acts are committed by persons acting within the framework of their official powers, outside these powers, or in their personal capacity.⁴¹

The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by the 1987 Decree of the Presidium of the Supreme Soviet of the Belarusian SSR, establishes the following obligations of the state:

- take effective legislative, administrative, judicial and other measures to prevent acts of torture in any territory under its jurisdiction;
- ensure that all acts of torture are dealt with in accordance with national criminal law;
- to establish appropriate penalties for such crimes, taking into account their grave nature;
- establish jurisdiction over crimes of torture;
- to take into custody or take other legal measures to ensure the presence of the accused of the crime of torture;
- to conduct a preliminary investigation of the facts;
- ensure that a prompt and impartial investigation of torture and other ill-treatment is carried out by the competent authorities.

The duty to investigate allegations of torture is of particular importance to the implementation of the prohibition against torture. Only as a result of an investigation

⁴⁰ https://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml

⁴¹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6621&Lang=ru

can it be established whether the fact of torture has taken place and, if there are grounds, to ensure that the guilty are brought to justice and the rights of the victims are restored.

The HRC, in General Comment No. 20, indicated that domestic law should recognize the right to lodge a complaint with respect to treatment prohibited by Article 7 of the ICCPR. Complaints must be investigated promptly and impartially by the competent authorities in order to ensure the effective use of this remedy.⁴²

The prohibition of torture imposes an obligation on the state to respond to signs of torture and complaints of torture, and to conduct an effective investigation. In the 1998 case *Assenov v. Bulgaria*, the ECtHR indicated that the investigation must be capable of leading to the identification and punishment of those responsible. Otherwise, a general legal prohibition against torture and inhuman and degrading treatment or punishment, despite its fundamental importance, would be ineffective in practice.⁴³

The practice of the Human Rights Committee, the Committee against Torture and the European Court of Human Rights has formulated the following standards for an effective investigation of allegations of torture:

1. The speed and timeliness of the investigation. This standard is one of the most important conditions for the effectiveness of an investigation, since its implementation contributes to the detection and consolidation of evidence, as well as the identification of those responsible. First of all, the standard of promptness and timeliness of the investigation implies the speed of the state's response to reports of torture: upon receipt of a complaint or other information about torture, the competent authorities should start an investigation as soon as possible, without any delay. The ECtHR, in its *Bati and Others v. Turkey* judgment of 2004, indicated that "whatever method of investigation is chosen, the authorities should take action immediately after the complaint has been lodged."⁴⁴ The principle of speed also requires that the necessary investigative actions be carried out without undue delay and that the overall duration of the investigation is not excessive.

2. The thoroughness of the investigation. This standard requires that the ways in which a torture report is investigated leads to the fulfillment of the basic objectives of the investigation. The public authorities in charge of the investigation are required to take steps to locate and record all evidence relevant

⁴² http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6621&Lang=ru

⁴³ <http://hudoc.echr.coe.int/eng?i=001-58261>

⁴⁴ <http://hudoc.echr.coe.int/eng?i=001-61805>

to establishing the circumstances of the case. Termination of an investigation before all necessary steps have been taken to gather evidence will be considered a violation of the principle of thoroughness of the investigation. This position is set out in the 2006 ECtHR judgment in the case of *Boychenko v. Moldova*: “The investigation of substantive complaints of ill-treatment must be thorough. This means that the authorities must always make a serious attempt to establish what happened and not rely on hasty or unfounded conclusions in order to discontinue an investigation or rule a case. They should take all available steps to consolidate evidence relevant to what happened, including, inter alia, eyewitness statements and medical documents”.⁴⁵

3. Independence of the investigation. This standard requires the body or person conducting the investigation to be both formally and practically independent. First, the independence of investigators from those allegedly guilty of torture must be ensured. Secondly, independence from the bodies and structures to which the alleged guilty of torture are subordinate must be ensured. This standard, in particular, is enshrined in the Guidelines for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: “Investigators must be competent and impartial, they are independent from suspects and from the authorities to which the latter are subordinate to”.⁴⁶ An investigation into a torture report will not be considered independent if the investigation is entrusted to persons allegedly responsible for torture or those connected with them in service. The independence standard also requires that the findings of an investigation should not be based solely on the testimony and explanations of the suspects. Thus, the ECHR, in its 2005 judgment in the *Afanasyev v. Ukraine* case, noted that “in response to the applicant’s complaint, the authorities conducted a superficial investigation, questioning only the alleged offenders. They accepted the denial [of guilt] by the police officers for the truth and refused to institute criminal proceedings against them, despite the applicant’s allegations and his undeniable bodily harm”.⁴⁷

4. Access of the victim to the investigation. In the Views of the Committee against Torture in the cases of *Harizi Jemile et al. V. Yugoslavia*, 2000,⁴⁸ *Dragan Dmitrievic v. Serbia and Montenegro*, 2002,⁴⁹ failure to comply with the requirement to inform the alleged victims is considered a violation of the standards of effective investigation. The standard of victim access to an investigation also includes the

⁴⁵ <http://hudoc.echr.coe.int/eng?i=001-76295>

⁴⁶ <http://www.ohchr.org/Documents/Publications/training8Rev1ru.pdf>

⁴⁷ <http://hudoc.echr.coe.int/eng?i=001-68711>

⁴⁸ <http://juris.ohchr.org/Search/Details/175>

⁴⁹ <http://juris.ohchr.org/Search/Details/141>

ability of victims to present evidence or request that some kind of investigative action be taken. For example, the Guidelines for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment indicate that alleged victims of torture and their legal representatives are provided with information and access to any hearings, as well as all information related to the investigation, the right to present other evidence is also given.⁵⁰

5. Publicity of the investigation. The need for public oversight of the investigation was reflected in the practice of the ECHR, for example, in the judgment in the case “Menesheva v. Russia” 2006: “The minimum standards of effectiveness established in the case-law of the ECHR also include the requirement that the investigation must be independent, impartial and under public control”.⁵¹ Given the particular danger of such a crime as torture and the extreme importance of investigating such complaints, the principle of publicity applies to the results of a completed investigation, which must be brought to the attention of the public in one way or another. The requirement for publicity is also enshrined in the Guidelines for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which states that investigative methods must meet the highest international standards, and that findings must be made public.⁵²

⁵⁰ <http://www.ohchr.org/Documents/Publications/training8Rev1ru.pdf>

⁵¹ <http://hudoc.echr.coe.int/eng?i=001-72700>

⁵² <http://www.ohchr.org/Documents/Publications/training8Rev1ru.pdf>

Applicable national legislation: offenses and criminal procedure

As noted above, acts of violence by law enforcement agencies against civilians were massive and widespread.

For a correct criminal law understanding and assessment of violent actions committed by representatives of the state, it is necessary to proceed from the following.

Every unlawful single act of violence committed by a representative of the authorities or an official in the exercise of his official powers is considered by the national criminal law as a crime against the interests of the service, provided for in Part 3 of Art. 426 of the Criminal Code of the Republic of Belarus (hereinafter referred to as the Criminal Code) — **abuse of power or official powers**.

The specified corpus delicti in relation to the situation under study is formulated in the Criminal Code as follows: *deliberate commission of actions by an official that clearly go beyond the rights and powers granted to him in the service, associated with violence, torture or insult of the victim or the use of weapons or special means*.

For the commission of such acts, the law provides for a penalty in the form of imprisonment for a term of three to ten years with or without a fine and deprivation of the right to hold certain positions or engage in certain activities.

However, as already noted, the actions noted in the report were really massive — according to the estimates of human rights defenders, volunteers and the media, only in Minsk during August 9–13, 2020, there were hundreds of acts of violence by the security forces.

The demands of civilians about A. Lukashenko's resignation and re-election of the President of the country continue to be suppressed by the authorities with brutal force to this day.

Under such circumstances, such large-scale manifestations of abuse of power, due to their extremely high social danger, acquired a new quality and are considered by the criminal law no longer as an ordinary crime against the interests of the

service, but as a particularly grave crime against the safety of mankind, provided for in Art. 128 of the Criminal Code.

The specified corpus delicti is contained in Chapter 17 of the Criminal Code “Crimes against the Peace and Security of Humanity”, Section VI “Crimes against Peace, Security of Humanity and War Crimes” and is formulated as follows: deportation, illegal detention, conversion into slavery, mass or systematic executions without trial, kidnapping followed by their disappearance, torture or acts of cruelty committed in connection with the race, nationality, ethnicity, political beliefs and religion of the civilian population.

Persons found guilty of committing this crime may be punished by a court with imprisonment for a term of seven to twenty-five years, or sentenced to life imprisonment or death penalty.

By the Law of the Republic of Belarus dated 05.01.2015 to Art. 128 of the Criminal Code there was introduced a note that fully copies the definition of “torture” contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (New York on 10.12.1984).

According to this note, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.

It should also be noted that in accordance with the norms of international criminal law and Part 3 of Art. 6 of the Criminal Code criminal liability under Art. 128 of the Criminal Code occurs regardless of the criminal law in force at the place of commission of the act (the universal principle of the operation of criminal law in space).

This means that citizens of the Republic of Belarus, as well as foreigners who have committed crimes against the safety of humanity in our country, can be held accountable for this crime not only in the Republic of Belarus, but also in any other country that is a party to the conventions on combating international crimes.

It is also very important that, given that the crime under Art. 128 of the Criminal Code, refers to the most dangerous crimes against the peace and security of mankind, art. 85 of the Criminal Code establishes that persons guilty of committing

this crime are not subject to release from criminal liability or punishment due to the expiration of the statute of limitations.

The criminal procedural legislation of the Republic of Belarus regulates in detail the procedure for actions of state bodies and officials carrying out criminal prosecution when they get reports on committed crimes.

In the Republic of Belarus, the bodies given the right to carry out criminal prosecution include the prosecutor's office, investigative divisions, as well as inquiry bodies.

A preliminary investigation in the Republic of Belarus is carried out by investigators of the Investigative Committee and state security bodies; the same right is given to the prosecutor in accordance with the law.

State bodies and officials authorized by law to carry out inquiries are the bodies of the Ministry of Internal Affairs, commanders of military units and divisions, heads of correctional institutions, border service bodies, customs authorities, financial investigation bodies of the State Control Committee of the Republic of Belarus and some others.

The reasons and grounds for initiating criminal cases, as well as the procedure for their initiation, are spelled out in chapters 20 and 21 of the Criminal Procedure Code of the Republic of Belarus (hereinafter CPC).

In accordance with Art. Art. 166 and 167 of the CPC, the reasons for initiating a criminal case are statements by citizens, reports of officials of state bodies and other organizations, reports of crimes in the media, direct detection by the criminal prosecution body of information indicating signs of a crime, and the grounds for initiating a case are the presence of sufficient data indicating signs of a crime.

Citizens' statements about a crime can be oral or written.

Reports of officials of state bodies, as well as other organizations about the crime must be made in writing. They may be accompanied by documents and other materials confirming the reliability of the crime report.

The official of the mass media who disseminated the message about the crime, at the request of the criminal prosecution body, is obliged to transfer the documents and other materials at its disposal, confirming the message made.

The criminal prosecution body is obliged to accept, register and consider a statement or report of any committed or impending crime. The applicant is issued a document on registration of the accepted statement or report of the crime, indicating the official who accepted the application or message and the time of their registration.

The decision on the application or message must be made no later than three days, and if it is necessary to check the sufficiency of the presence or absence of grounds for initiating a criminal case, no later than ten days.

Before the initiation of a criminal case, explanations can be obtained, additional documents requested, an inspection of the scene of the incident, corpse, terrain, objects, documents, examination, expertise, detention and a personal search during arrest can be carried out, and the corpse can also be removed from the burial place (exhumation).

If it is impossible to make a decision within 10 days, this period may be extended, but not more than up to 3 months.

In practice, the extension of the terms of pre-investigation checks is carried out, as a rule, in response to allegations of crimes in the field of financial and economic activities.

Upon the received application or report of a crime, or upon direct detection of signs of a crime, the body of inquiry, the investigator or the prosecutor make one of the following decisions: to initiate a criminal case; on refusal to initiate a criminal case; on the transfer of an application, a message under investigation; to terminate the examination and explain to the applicant the right to initiate a private prosecution in the court.

Making decisions on received applications or reports of crimes related to the death of a person, with violence against employees of the internal affairs bodies; about crimes committed by officials of the prosecutor's office, the Investigative Committee, internal affairs bodies, state security, financial investigations in connection with their official or professional activities, belongs to the exclusive competence of the preliminary investigation bodies in accordance with their jurisdiction and the prosecutor.

The applicant is informed of the decision taken and at the same time about the right to appeal the decision.

However, the adoption of this or that decision on the received message about the committed crime is not only the right of the criminal prosecution body.

Initiation of a criminal case in the presence of sufficient data indicating signs of a crime is also the responsibility of these bodies.

This need arises directly from Art. 27 of the CPC, which instructs the criminal prosecution body, within its competence, to initiate a criminal case in each case of detection of signs of a crime, to take all measures provided by law to

establish a socially dangerous act, to expose persons guilty of the crime and to punish them.

Thus, according to the law, the obligation to initiate a criminal case under Art. 128 of the Criminal Code lies with the investigators of the Investigative Committee and the prosecutor's office.

At the same time, it should be noted that under the current circumstances, it does not take much time and effort to resolve the issue of initiating a criminal case under this article of the Criminal Code.

The reasons and grounds for such a decision are about 2000 statements by citizens and reports in the media — victims of violence, their explanations to the investigating authorities, numerous video materials and forensic medical examinations, which are undoubtedly at the disposal of the Investigative Committee.

Nevertheless, neither the Investigative Committee, nor the prosecutor's office have initiated a single criminal case against the law enforcement who used violence against citizens.

It seems that the reasons for the non-response of the investigative bodies and the prosecutor's office to the arbitrariness perpetrated in the country — mass torture, abductions and murders — is not the legal, but political issue.

In this regard, it is important to note that in itself the failure by officials of the Investigative Committee and the Prosecutor's Office to initiate criminal cases against the law enforcement officials, to arrest them and to investigate the crimes they have committed is a criminal offence.

In the actions of these officials, there are signs of *corpus delicti* under Part 3 of Art. 425 of the Criminal Code (inaction of an official).

With regard to the situation under consideration, the composition of this crime is formulated as follows: deliberate, contrary to the interests of the service, failure by an official out of selfish or other personal interest to perform actions that he should and could have performed due to the official duties assigned to him, committed by an official in a responsible position, or entailing grave consequences are punishable by imprisonment for a term of two to seven years with or without a fine and deprivation of the right to hold certain positions or engage in certain activities.

Thus, the investigating authorities criminally evade the fulfillment of their direct duties to initiate and investigate criminal cases, and the prosecutor's office, which have to ensure supervision of the implementation of laws in the course of pre-trial proceedings, criminally evade this supervision.

Analysis of the effectiveness of the investigation

On August 15, lawyer of the Viasna Human Rights Center Pavel Sapelko appealed to the prosecutor of the city of Minsk with a statement about the disproportionate use of physical force, weapons and special means, torture, cruel and inhuman treatment of detained participants of peaceful protest actions by law enforcement officials. The human rights activist asked to initiate a criminal case on numerous facts of acts falling under the Part 3 of Art. 426 of the Criminal Code (Abuse of power or official powers) and p. 3 of Art. 455 of the Criminal Code (Abuse of Power, exceeding of authority or Inaction of authorities), committed by police officers and military personnel.⁵³

On August 22, the Minsk city prosecutor's office sent an answer, signed by the deputy prosecutor D. Kostyukevich, about the redirection of the application regarding the arguments about the illegality of the actions of the militia officers and crimes they committed under Articles 426 and 455 of the Criminal Code to the head of the Minsk Investigative Committee.⁵⁴

On August 16, human rights defenders of the Viasna Human Rights Center filed a statement to the Prosecutor General's Office, demanding the immediate initiation of a criminal case on the facts of arbitrary detention of citizens, torture and acts of cruel, inhuman, degrading treatment from August 9 to 13, 2020 in different places of Minsk and other cities of Belarus, on the basis of Articles 128, 426, 455 of the Criminal Code.⁵⁵

On August 19, "Belarusian Helsinki Committee" addressed the Head of the Investigative Committee of the Republic of Belarus with a report on the crime (in accordance with Article 170 of the CPC). Human rights activists draw the attention of the Investigative Committee to the facts of mass torture committed by law enforcement officials, as well as to the facts of deaths during peaceful protests. "It is known that at least three people died as a result of the use of

⁵³ <http://spring96.org/ru/news/99061>

⁵⁴ <http://spring96.org/ru/news/99197>

⁵⁵ <http://spring96.org/ru/news/99077>

special means and weapons — Alexander Vikhor (Gomel), Alexander Taraikovsky (Minsk), Gennady Shutov (Brest)”. Human rights activists demand:

1. To initiate a criminal case on the basis of Article 128 of the Criminal Code of the Republic of Belarus on the facts stated in the appeal.
2. In accordance with Art. 131 of the CPC, in the prescribed manner, suspend suspects from office, work, since there is reason to believe that, while remaining in office, they will interfere with the preliminary investigation and trial of a criminal case, compensation for harm caused by the crime, or continue to engage in criminal activity related to staying in this positions.
3. Not to hinder lawyers in their professional activities, including in the right to publicly respond to procedural violations and procedural decisions during the preliminary investigation.
4. To provide maximum information to the public about the progress of the investigation of this criminal case on the facts of mass torture, cruel treatment and violence on political grounds.⁵⁶

On September 2, the Central Office of the Investigative Committee of the Republic of Belarus sent a response signed by the head of the main department of procedural control S.P. Tishuk stating that there are no grounds to hold the investigation by the Investigative Committee on this appeal and make decisions in accordance with the procedure established by the CPC of the Republic of Belarus, since the appeal does not contain information about specific crimes and other circumstances.⁵⁷

On August 24, a collective application was submitted to the Gomel city department of the Investigative Committee with a request to initiate a criminal case under Art. 128 of the Criminal Code of Belarus — “Crimes against the security of mankind”. 843 people signed the statement. The statement noted that “the facts of beatings and the use of torture” were recorded in the Central, Zheleznodorozhny militia departments of Gomel and other regional departments — in relation to the detained participants of peaceful protests against the official results of the presidential elections.⁵⁸

On August 25, “Belarusian Helsinki Committee” appealed to the Chairpersons of the Chambers of the National Assembly of the Republic of Belarus, deputies of

⁵⁶ https://belhelcom.org/sites/default/files/predsdatelyu_sk_st._128_uk.pdf

⁵⁷ https://belhelcom.org/sites/default/files/otvet_sk_02.09.2020_no_np-114-2020.pdf

⁵⁸ <https://www.kp.by/daily/217172.5/4275470/>

the House of Representatives, members of the Council of the Republic to create a parliamentary commission to investigate mass torture.⁵⁹

On August 26, the Belarusian Helsinki Committee appealed to the General Prosecutor's Office of the Republic of Belarus on the facts of gross violations in the administration of justice by the judges who carried out administrative procedures for the detainees. According to the victims, information from social networks, and other sources, the trials took place with the presence of judges in the places of detention (temporary detention centers, centers for isolation of offenders and others), several teams of judges worked in the premises, in fact it was a "judicial conveyor". The administratively arrested were brought before the judges by the officers of the places of detention wearing special equipment, many of the detainees had beatings on the visible parts of bodies, wounds (on the head, face, arms, torso, legs) and torn clothes on visible parts of their bodies.⁶⁰

On September 8, Belarusian human rights organizations filed an application to the Minsk Investigative Committee to initiate a criminal case against the officers of the internal affairs bodies who beat a person after the September 6 rally. The statement was signed by Legal Initiative, Zveno, Human Constanta, Belarusian Documentation Center, FORB Initiative, Legal Transformation Center and Belarusian PEN Center.⁶¹

On September 10, the International Committee for the Investigation of Torture in Belarus, represented by a number of human rights organizations, appealed to the Prosecutor General with a demand to respond to the abduction of people by unknown subjects wearing balaclavas without uniforms and other insignia. Human rights activists noted that it is the impossibility for the detainee and eyewitnesses to identify the officers of the internal affairs bodies among all the persons carrying out the abductions that provokes a feeling of permissiveness and, as a result, torture.⁶²

The Prosecutor General's Office ignored this statement. The answer was received from the Main Department of Law Enforcement and Prevention of the Ministry of Internal Affairs. In the response of the Ministry of Internal Affairs, the issue of abduction of people by incomprehensible subjects in balaclavas remained without attention. For the rest, the Ministry of Internal Affairs referred to cases of

⁵⁹ https://belhelcom.org/sites/default/files/nacionalnoe_sobranie_parlamentskaya_komissiya_po_rassledovaniyu_pytok.pdf

⁶⁰ https://belhelcom.org/sites/default/files/generalnomu_prokururu_otmena_postanovleniy_2.pdf

⁶¹ <http://www.ligin.by/posts/270>

⁶² <http://www.ligin.by/posts/271>

the need to immediately suppress offenses, to detain those who committed them and trying to escape.⁶³

According to the official data of the Investigative Committee already by August 17, more than 600 citizens filed applications about bodily harm during the detention by law enforcement officers, and about 100 people — about bodily harm in places of temporary detention.⁶⁴

As of October 5, 2020, both the Investigative Committee and the interviewed applicants have no information on the initiation of criminal cases on the facts of torture.

Applicants receive only notice of extension of the examination period. Little is known about the progress of the examinations themselves — the Investigative Committee does not inform either the applicants or the public about this. The applicants report that they were questioned by the investigators and sent for a forensic medical examination. In some cases, the applicants' clothes were removed and saliva samples were taken.

At the same time, some applicants say about threats and repressions related to filing applications to initiate criminal proceedings against law enforcement officials: threats to children, subsequent initiation of criminal cases under Art. 293 of the Criminal Code (Mass Riots), phone calls from anonymous phone numbers with "advice" to drop the charges, warnings "not to go anywhere."

On August 26, the General Prosecutor's Office announced that the units of the Investigative Committee continue to conduct pre-investigation checks on the applications of citizens about the use of physical force and special means during mass events. Each such check is taken under the control of the prosecutor's office. In order to coordinate and support the study of the circumstances described in the corresponding appeals, an interdepartmental commission was created under the auspices of the General Prosecutor's Office. It includes representatives of the Prosecutor General's Office, the Investigative Committee, the Ministry of Internal Affairs, and the State Committee for Forensic Expertise. Deputies of the House of Representatives of the National Assembly will also take part in the work of the commission.⁶⁵

⁶³ <http://www.login.by/posts/277>

⁶⁴ <https://t.me/skgovby/2945>

⁶⁵ <https://t.me/prokuraturabelarus/343>

As of October 5, 2020, there is no information on the activities of this interdepartmental commission in the public domain, as well as information on the structure of the commission.

The above facts indicate that the current examinations do not meet the standards for effective investigation of allegations of torture: speed, thoroughness, independence, victims' access to investigation and publicity.

Despite the fact that information about beatings and torture with the testimonies of the victims began to appear in the media as early as August 12, not a single criminal case has been initiated against the law enforcement officers.

It is worth noting that before the initiation of a criminal case, explanations can be obtained, additional documents requested, an inspection of the scene of the incident, corpse, terrain, objects, documents, expertise, detention and a personal search during detention can be carried out, and the corpse can be removed from the place of burial (exhumation).

That is, during the examination there is no authority to carry out such investigative actions as an investigative experiment; search; seizure of documents; interrogation; confrontation; presentation for identification; on-site verification of testimonies. Such restrictions related to the extension of the timelines for examinations do not make it possible to take all available steps to consolidate evidence related to torture.

Despite the fact that one of the principles of the Investigative Committee in accordance with Art. 3 of the Law of the Republic of Belarus "On the Investigative Committee of the Republic of Belarus" of 2012 is independence in the exercise of its powers from the activities of other state bodies, political parties, other public associations and other organizations, in accordance with Art. 1 of the above law, the Investigative Committee is subordinate to the President of the Republic of Belarus.

Since the torture was used against citizens participating in protests against falsification of the presidential elections held on August 9, 2020, it is difficult to talk about any independence.

With regard to the victim's access to the investigation, it is important to note that the CPC in Art. 50 provides for a fairly wide range of rights for the victim. In accordance with Art. 49 of the CPC, an individual is recognized as a victim if a socially dangerous act stipulated by the criminal law has inflicted physical, property or moral harm and in relation to whom the body conducting the criminal proceedings issued a resolution (ruling) recognizing him as a victim.

Until such a decision is made, the victim remains in the status of an “applicant” whose rights are not regulated.

Despite the public outcry regarding the acts of violence that have occurred (including numerous chains of solidarity and actions against violence), the state does not consider it necessary to investigate torture publicly.

It is important to note that, as of October 5, 2020, there is no public information about the suspension from their official duties of employees who are being examined for the use of torture, if indeed it is carried out, accordingly, these employees are still working in law enforcement agencies and continue to detain demonstrators.

This situation is inconsistent with the Guidelines for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which explicitly states that persons who may be involved in torture or ill-treatment should be removed from any position that provides directly or indirectly, control or authority over plaintiffs, witnesses and their families, as well as those conducting the investigation.

The deliberate delay in the terms of inspections, the absence of initiated cases of torture demonstrates a clear reluctance to bring the guilty to justice. In this regard, the following facts look especially cynical:

- According to the information of the Ministry of Internal Affairs of September 16, from August 9 to September 14, the Main Directorate of Security of the Ministry of Internal Affairs instituted 143 pre-investigation examinations on the facts of encroachments committed against the police officers and their relatives — 43 criminal cases were initiated.⁶⁶
- On June 19, in Molodechno, there was a clash between protesters and riot police officers. Already on June 23, the Ministry of Internal Affairs published information on the initiation of a criminal case.⁶⁷
- On September 29, the Molodechno District Court sentenced Pavel Peskov and Vladislav Evstigneev under Part 2 of Art. 363 of the Criminal Code for resisting riot police officers using violence. Pavel Peskov was sentenced to three years and three months in prison, Vladislav Evstigneev — to three years in a colony of a general regime.⁶⁸

⁶⁶ <https://t.me/pressmvd/2101>

⁶⁷ <https://t.me/pressmvd/1674>

⁶⁸ <https://news.tut.by/society/702160.html>

- Already now some applications to the prosecutor's office about the initiation of a criminal case against the actions of the investigators of the Investigative Committee who threaten to torture are sent back to the Investigative Committee, which does not find grounds for conducting an examination in accordance with the CPC.⁶⁹
- On October 3, Denis Kuznetsov died in the intensive care unit of an ambulance hospital, who was admitted to the hospital on September 29 from the temporary detention facility in Minsk on the Akrestin Street 36 with many injuries: fractures of the skull bones, numerous hematomas, open craniocerebral trauma of moderate severity, rib fractures, fractures of the right ilium and other injuries. At the same time, the police officers reported that he fell from the second tier of the bed. The multiplicity of injuries gives rise to doubt about the nonviolent infliction of such traumas. Also, according to doctors, Denis himself said that he was beaten by the police.⁷⁰

⁶⁹ <http://www.ligin.by/posts/280>

⁷⁰ <https://belsat.eu/ru/news/izbityj-na-okrestina-denis-k-segodnya-umer/>

Recommendations to the state

1. The highest officials of the state to unequivocally condemn the use of torture and warn about criminal liability for all acts of torture, including failure to report torture.
2. The Investigative Committee to immediately institute a criminal case under Art. 128 of the Criminal Code of the Republic of Belarus on the facts of mass and systematic torture and acts of cruelty that took place in the Republic of Belarus after the presidential elections on August 9, 2020 and recognize the applicants as victims.
3. Prior to making a decision on a criminal case, suspend the persons involved from their duties, including the Minister of Internal Affairs Yuri Karaev, the head of the OMON GUVD of the Minsk City Executive Committee Dmitry Balaba and the heads of the OMON in regional centers, the head of the center for isolation of offenders of the Minsk City Executive Committee Yevgeny Shapetko and the heads of other places of detention, in which, according to victims' statements torture was used.
4. The Investigative Committee should immediately initiate criminal proceedings on the facts of the death of Alexander Taraikovsky, Alexander Vikhor, Gennady Shutov, Denis Kuznetsov.
5. Stop threats and repressions, including criminal prosecution against victims of torture who file complaints to initiate criminal proceedings against the law enforcement officers.
6. Regularly provide information on the progress of the investigation to the media and periodically hold briefings inviting non-state media and human rights organizations.