



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Written replies by the Government of Belarus to
the list of issues (CAT/C/BLR/Q/4) to be taken up
in connection with the consideration of the fourth
periodic report of Belarus (CAT/C/BLR/4)***

[11 October 2011]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Written replies to the list of issues to be taken up in connection with the consideration of the fourth periodic report of Belarus on measures taken to implement its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Reply to questions raised in paragraphs 1 and 2 of the list of issues (CAT/C/BLR/Q/4)

1. Article 25 of the Constitution of Belarus establishes the citizen's right to freedom, inviolability and dignity of the individual. It specifically states, in its third paragraph, that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.
2. There is, however, no specific legal definition of torture in current legislation. Nonetheless, offences related to the use of torture and other cruel, inhuman or degrading treatment or punishment are punishable under articles 128 and 394 of the Criminal Code.
3. In accordance with article 20 of Act No. 361-Z of 10 January 2000 on the Laws and Regulations of the Republic of Belarus, the rules of law contained in the international treaties to which Belarus is a party form part of domestic legislation; are directly applicable, except where it is specified in an international treaty that such application requires the adoption (promulgation) of a domestic legal act; and are supported by the legal act whereby Belarus expresses its consent to be bound by the international treaty concerned.
4. Thus, for the purpose of the prosecution of persons involved in carrying out torture, the definition of torture given in article 1 of the Convention applies.

Article 128. Crimes against the security of humankind

Deportation, unlawful detention, delivering into slavery, mass or systematic punishment without a court hearing, kidnapping leading to the victim's disappearance, torture or acts of cruelty committed on grounds of racial, national, or ethnic affiliation or the political beliefs or religious faith of the civil population are punishable by deprivation of liberty for between 7 and 25 years or life imprisonment, or the death penalty.

Article 394. Coercion to testify

1. Coercion of a suspect, accused person, victim or witness to testify or of an expert to give a conclusion through the use of threats, blackmail or other acts by a person conducting an initial inquiry or pretrial investigation or a person administering justice is punishable by forfeiture of the right to hold certain posts or engage in certain activities, or deprivation of liberty for up to 3 years, or deprivation of liberty for the same period with or without forfeiture of the right to hold certain posts or engage in certain activities.
2. The same act accompanied by violence or bullying is punishable by deprivation of liberty for a period of 2 to 7 years, with or without forfeiture of the right to hold certain posts or engage in certain activities.
3. The act envisaged in paragraph 1 of this article, when it involves the use of torture, is punishable by deprivation of liberty for a period of 3 to 10 years, with or without forfeiture of the right to hold certain posts or engage in certain activities.

5. In that connection, under paragraph 47 of the plan for the preparation of bills for 2011, approved by Presidential Decree No. 10 of 6 January 2011, the Office of the Procurator-General has been asked to prepare a bill on amendments to the Criminal Code and the Code of Criminal Procedure that will, among others, include a definition of the term “torture” in the Criminal Code and criminalize the act.

Reply to questions raised in paragraphs 3 to 13 of the list of issues

6. Individuals who believe that field agents, investigators or persons conducting an initial inquiry have committed unlawful acts against them in the form of physical or mental pressure to coerce them to give or refuse to give evidence, or on any other grounds caused them physical, mental or sexual violence, have the right to lodge a complaint with the procuratorial authorities or the internal security service of the internal affairs agencies either personally or through a lawyer. The complaint is subject to verification, a procedural decision is adopted and explanation is given of the procedure for appealing against the decision to higher authorities, including by filing a judicial appeal. This process is regulated in detail in legislation governing criminal procedure.

7. Where the use of torture is confirmed, the perpetrator may be subject only to criminal, not disciplinary, proceedings.

8. The internal affairs agencies have not investigated any cases concerning torture of witnesses or participants in criminal proceedings.

9. Matters of investigative jurisdiction are covered by article 182 of the Code of Criminal Procedure, under which, in criminal cases concerning offences committed by officials of the procuratorial authorities, the internal affairs agencies or the financial investigation agencies in connection with their official or professional activities, the preliminary investigation is conducted by investigators from the Office of the Procurator.

10. Furthermore, criminal cases are brought for torture and other cruel, inhuman or degrading treatment or punishment and investigated under article 426 of the Criminal Code (improper exercise of authority) against officers of the law enforcement agencies. For example, a case brought on 13 May 2011 against officers of the criminal investigation section of the internal affairs department, Pervomai district, Vitebsk, under article 426, paragraph 3, of the Criminal Code, is currently under investigation by the Office of the Procurator-General. The officers are charged with using unlawful methods of investigation against the following individuals held on suspicion of the murder of Mr. D.A. Sidorov: minors A.A. Loginov, A.O. Napayuk, A.A. Obcharov, A.A. Morozov and V.S. Rysev, as well as witness D.V. Kosyakin.

11. No cases of criminal organizations with activities involving the use of torture or other cruel, inhuman or degrading treatment or punishment against citizens were recorded by the law enforcement agencies in 2010 or the first eight months of 2011.

12. Act No. 215-Z of 16 June 2003 governs detention procedure and conditions, and guarantees the rights and legal interests of persons held on remand. Its article 2 establishes the following principles for detention on remand: detention must be carried out on the basis of the principles of lawfulness, humanity, equality of all citizens before the law and respect for human dignity, in accordance with the Constitution, the generally recognized principles and standards of international law and the international treaties to which Belarus is a party, and must not be accompanied by cruel or inhuman treatment that may harm the physical or mental health of the detainee.

13. There may be no discrimination against detainees on the grounds of sex, race, ethnic background, language, origin, property or social status, place of residence, attitude to religion, beliefs, membership of voluntary associations, or any other grounds.

14. Article 31 of the Act states that minors shall be held separately from persons aged 18 or over. With the agreement of the procurator, persons aged 18 or over may be held in the same cells as minors, provided that they are of good character, and are charged with a first offence, which is neither a serious nor an especially serious offence. Men and women are also held separately. Under article 115, paragraph 1, and article 126, paragraph 8, of the Code of Criminal Procedure, the criminal prosecution authority must inform an adult member of the detainee's family or a close relative of his or her arrest and place of detention, and the application of preventive measures in the form of remand in custody. Article 36, paragraph 5, of the Code states that only the investigator may authorize a meeting between a detainee and close relatives or family members. Hence the administration of the remand centre does not have the right to organize such a meeting without the authorization of the investigator. The preliminary investigation in the criminal case brought for mass disorder, accompanied by violence against individuals, rioting, destruction of property and armed resistance to Government representatives that occurred in Minsk between 19 and 20 December 2010 was conducted by the preliminary investigation department of the Minsk municipal executive committee Central Internal Affairs Administration, and was concluded on 11 April 2011.

15. Pursuant to article 17 of the Code of Criminal Procedure, all persons suspected or accused in the case were informed by the criminal investigation authorities of their right to defence and given the opportunity to defend themselves, either personally or with the assistance of defence counsel. In line with article 48 of the Code, all lawyers admitted as defence counsel in the given case were allowed unhindered access to their clients held in remand centres.

16. On application from the lawyers retained by the suspects, accused persons or their relatives, and of persons participating in the proceedings in accordance with article 46 of the Code of Criminal Procedure, the investigation department issued written authorizations for them to visit their clients in the State Security Committee remand centre, remand centre No. 1 and prison No. 8 in Zhodzina, without restriction as to the number or duration of such meetings.

17. Under article 25 of the Act on the procedure and conditions for detention on remand, persons held on remand have the right to meet with their defence counsel. The meetings with counsel take place in privacy and confidentiality, without restriction as to their number or duration.

18. It should, however, be pointed out that the State Security Committee remand centre has only two rooms available both for investigative activities and for meetings between defendants and their lawyers. Thus, when requests are made at the same time by a number of investigators and defence lawyers who have come to carry out procedural measures, as did indeed happen, the remand centre administration is not able to respect the right of all the participants in the proceedings to meet with remand prisoners or defendants at the time they wish; hence many lawyers and investigators were forced to alter their planned meetings with the accused persons.

19. Under current legislation, including internal departmental regulations, representatives of the Procurator's Office carry out monthly reviews of the conditions and legality of the detention of remand prisoners, including in the State Security Committee remand centre. Staff from the Procurator's Office also carry out regular inspections of other establishments in the country's penal enforcement establishments. During the inspections of the State Security Committee remand centre, the individual cases of the accused persons

were reviewed, as were other documents, including medical records. Each visit systematically included a round of the cells, during which the detainees raised any complaints they had concerning their conditions of detention or violations of their rights by the remand centre administration.

20. All those held in the remand centre were provided with appropriate medical care, and received periodic food and clothes packages and money transfers from which, at the request of the accused, staff of the remand centre bought food and other products.

21. During the various inspections, the ex-presidential candidates and their close collaborators made no complaints about the procedure for or conditions of their detention, their state of health or any violations by the remand centre administration of their right to defence.

22. As of 1 July 2011, there were 40,729 persons serving prison sentences in the establishments of the penal enforcement system; this was 579 persons, or 1.44 per cent, more than full capacity. During the first six months of the year, the procuratorial agencies carried out 1,138 inspections, as a result of which 352 procuratorial supervision reports were drawn up. A total of 595 internal affairs officers were charged with violations of the law. Penal enforcement legislation, and specifically article 21 of the Penal Enforcement Code, makes it possible for voluntary associations to monitor and participate in the work of the agencies and establishments enforcing sentences and other penal measures.

23. The voluntary associations monitor the activities of those agencies and establishments to ensure respect of the rights guaranteed in the Constitution, the universally recognized principles and norms of international law, international agreements to which Belarus is a party and in domestic legislation of persons against whom such sentences and other penal measures are applied.

24. Pursuant to article 19 of the Penal Enforcement Code, the higher-ranking agencies (the Penal Enforcement Department and its provincial sections) conduct internal monitoring of the establishments enforcing sentences and other penal measures. Article 22 of the Code aims to ensure transparency in detention centres within correctional establishments, by providing for representatives of the media to visit them.

25. The Code of Criminal Procedure contains provision for a legal mechanism for appeals against the actions and decisions of the bodies conducting the criminal proceedings, including any restrictions on the right of suspects or accused persons, through the criminal investigation agency, to inform family members or close relatives of their detention, the application of preventive measures, the place of detention and their remand in custody; to receive free legal advice from a lawyer before the beginning of their first examination as a suspect; and to meet freely with their defence counsel, in privacy and confidentiality, and without restriction as to the number or duration of their discussions. There is, furthermore, legislative provision for the procedure for appeals against detention, remand and house arrest or their extension, and for judicial review of their legality and validity.

26. Belarus has a centralized register in which each case of a person being detained on suspicion of having committed an offence is recorded. This has its legal basis in the Instruction on completion of registration cards for the Unified State Offences Registration and Record-keeping System, confirmed by Ministry of Internal Affairs Decision No. 82 of 31 March 2007. Paragraph 48 of the Instruction states that any case of detention must be registered in the System within one day.

27. In respect of the conviction of Ms. I. Khalip and journalist Mr. A. Poczobut, it should be noted that, on 16 May 2011, the Zavod district court in Minsk found Ms. Khalip guilty of organizing and actively participating in group activities that seriously breached public order, together with clear failure to comply with the lawful demands of

representatives of the authorities, leading to disruption of transport, businesses, institutions and organizations; she was sentenced under article 342, paragraph 1, of the Criminal Code to 2 years' deprivation of liberty. Her sentence was deferred for 2 years pursuant to article 77 of the Criminal Code. On 19 July 2011, the criminal division of Minsk municipal court issued a decision upholding the judgement concerning Ms. Khalip and others. At the time of Ms. Khalip's detention, she was not a journalist with a media company duly registered in Belarus.

28. By decision of the Lenin district court, Hrodna, of 5 July 2011, Mr. A.S. Poczobut was found guilty of defamation of the President in the media and sentenced under article 367, paragraph 1, of the Criminal Code to 3 years' deprivation of liberty. His sentence was deferred for 2 years pursuant to article 77 of the Criminal Code. Mr. Poczobut was found not guilty of publicly insulting the President and acquitted under article 368, paragraph 1, of the Criminal Code on the basis of lack of evidence that a crime had been committed. The legality and validity of the court's decision in respect of Mr. Poczobut will be verified in cassation by the criminal division of the Hrodna provincial court.

29. Ms. Khalip and Mr. Poczobut have made use of their right of cassational appeal against the court's decision. Furthermore, when the sentences come into legal force, they will have the possibility of appealing against the court's decision under the supervisory procedure, as provided for in legislation covering criminal procedure.

30. On 6 May 2010, Mr. N.N. Avtukhovich was found guilty by the Supreme Court of a repeat offence of unlawful procurement, storage, carrying, transportation and transfer of firearms, explosives and explosive devices, and sentenced under article 295, paragraph 3, of the Criminal Code to deprivation of liberty for a period of 5 years and 2 months, without confiscation of property, to be served in a strict regime correctional colony.

31. Mr. V.V. Osipenko was found guilty of acting in collusion with Mr. Avtukhovich and Mr. Larin and sentenced (except for the repeated nature of the offence) under article 16, paragraph 6, and article 295, paragraph 2, of the Criminal Code to 3 years' deprivation of liberty, without confiscation of property, to be served in an ordinary regime correctional colony.

32. The Office of the Procurator-General considered the application of defence counsel Mr. O.K. Volchek concerning the use by the Ministry of Internal Affairs Central Preliminary Investigation Department investigation team of unlawful methods in the inquiry into the criminal case against Mr. N.N. Avtukhovich, Mr. V.V. Osipenko, Mr. A.A. Larin and Mr. M.N. Kozlov.

33. During consideration of the application, it was found that convicted prisoner Mr. A.S. Kozel had lodged a complaint during court proceedings on 25 March 2010, and an inquiry had been carried out by the Office of the Procurator-General under article 173 of the Code of Criminal Procedure into the actions of internal affairs officers to establish whether there was evidence that an offence of unlawfully obtaining evidence of guilt had been committed. The results of the inquiry showed that Mr. Kozel's allegations that unlawful methods of investigation had been used against him were fabrications.

34. In respect of judicial decisions on forced placement in a psychiatric hospital, chapter 46 of the Code of Criminal Procedure lays out the procedure for criminal proceedings concerning the use of compulsory security and treatment measures. The criminal case is heard with the participation of the procurator, the defence counsel and the legal representative of a person who has committed a socially dangerous act, and the victims, witnesses and, where necessary, experts are called. The person against whom the case has been brought is summoned to court, unless the nature of his or her illness precludes this.

35. Under article 446, paragraph 2, of the Code of Criminal Procedure, the court session must examine evidence that supports or refutes the fact that the person has committed a socially dangerous act, as provided for in criminal law, hear expert conclusions on the mental state of the person, and take account of other circumstances of significance in deciding whether to apply compulsory security and treatment measures.

36. Article 449 of the Code of Criminal Procedure provides the possibility for appeal by the defence counsel or legal representative of the person against whom the criminal case is brought or the court ruling is issued. Information from the Office of the Procurator-General states that the courts did not consider any criminal cases concerning offences that infringe on the use of torture, the use of torture itself or orders to use torture given by a person in authority, nor is there any information on persons convicted of attempting to exert pressure on the judiciary.

37. Article 14 of the Act of 10 November 2008 on the principles of action to prevent offences lays out a system of measures to detect family problems, the functions of State bodies in this area, and the main measures aimed at preventing domestic violence. The domestic violence prevention measures specified in the Act are part of the general system of crime prevention.

38. Presidential Decree No. 518 of 2 October 2010 approved the State Programme to Combat Human Trafficking, Illegal Migration and Other Illegal Activities 2011–2013, which covers:

- (a) The protection and rehabilitation of victims of human trafficking;
- (b) The reduction of the level of crime linked to human trafficking;
- (c) Improved efficiency in the activities of State bodies and organizations in preventing, detecting and suppressing human trafficking.

Furthermore, such offences are punishable under:

- (a) Article 139, paragraphs 2 (2), (3) and (7) of the Criminal Code, for murder:
 - (i) Of a person known to be a minor, an elderly person or a person in a helpless state;
 - (ii) Of a woman known by the perpetrator to be pregnant, accompanied by rape or violence of a sexual nature;
- (b) Article 154 of the Criminal Code, for cruel treatment;
- (c) Chapter 20 of the Criminal Code, for offences against sexual inviolability or sexual freedom;
- (d) Article 173, paragraph 2, of the Criminal Code, for involvement of a minor in antisocial behaviour (committed with the use or threat of violence, or committed by a parent, teacher or other person responsible for the upbringing of the minor);
- (e) Article 181 of the Criminal Code, for trafficking in persons;
- (f) Article 181-1, for use of slave labour;
- (g) Article 182, for abduction;
- (h) Article 183 of the Criminal Code, for unlawful deprivation of liberty;
- (i) Article 185, for coercion.

39. Every case of unlawful action, including sexual, domestic and any other violence against women and children, is punishable under criminal law. Under article 27 of the Code of Criminal Procedure, the victim has access to justice and measures are taken to ensure

that he or she receives compensation for harm caused as a result of a violation of his or her rights and freedoms in criminal proceedings. Article 10 of the Code states that, if there is sufficient information that the victim, or members of his or her family, close relatives or persons who may be reasonably considered to be close, are threatened with murder, the use of violence, destruction, harm to property or other illegal actions, the criminal prosecution authority must, within the limits of its competence, take those measures provided for in law to protect the life, health and property of those persons.

40. The rights of the victim in a criminal investigation are laid out in articles 28 and 50 of the Code of Criminal Procedure. He or she has the right to know the substance of the accusation; in private cases, to lay and press charges against the perpetrator; to present evidence; to submit challenges and petitions; to consult the records of the investigation and other procedural activities in which he or she participated; as soon as information is received on the conclusion of the preliminary investigation, to study the case files and note any amount of information from them; and to have his or her own representative. The criminal prosecution authority has the duty to inform the victim and his or her representative of their rights and responsibilities in accordance with article 192 of the Code of Criminal Procedure.

41. Issues related to combating impunity for violations of human rights are also addressed in current legislation covering criminal procedure, in order to encourage respect for human and civil rights and freedoms and to affirm justice in society. Under article 7 of the Code of Criminal Procedure, the criminal process is intended first and foremost to protect the victims of crime by means of the rapid and thorough investigation of socially dangerous acts, the identification and prosecution of the perpetrator, and proper application of the law so that anyone who commits a crime is justly punished. Furthermore, the right of children to inviolability of the person, and protection from exploitation and violence is enshrined in the Rights of the Child Act of 19 November 1993.

42. The Act states that every child has the right to protection of the person from all forms of exploitation and violence. The State guarantees the personal inviolability of the child, and protects him or her from any type of exploitation, including sexual exploitation, from physical and psychological violence, from cruel, rough or degrading treatment, humiliation, from sexual abuse, including by the child's parents (or persons performing parental duties) or relatives, from involvement in criminal activity, exposure to alcohol or the non-medical use of narcotic, toxic, psychotropic and other potent intoxicating substances, from forced prostitution, begging, gambling or acts involving the production of pornographic materials or items, and from involvement in work that may be injurious to his or her physical, mental or moral development. Persons who become aware of cases of cruelty or physical or mental abuse of a child, representing a threat to his or her life, health and development must immediately inform the competent State bodies of the matter.

43. The Act also prohibits the recruitment of children for participation in hostilities or any other use in armed conflicts, as well as of propaganda for war and violence among children and the formation of children's paramilitary groups.

44. The Act of 10 November 2008 on the principles of action to prevent offences includes measures to prevent domestic violence. To that end, the internal affairs agencies, together with educational establishments, health organizations, labour, employment and social protection bodies, minors' affairs commissions and the tutorship and guardianship bodies, as well as other State bodies and organizations responsible for protecting the rights, freedoms and legal interests of children, work within the limits of their mandates to detect cases of domestic violence and their perpetrators; they prepare material for the adoption in line with due procedure of decisions: to declare of limited dispositive capacity persons who abuse alcohol, drugs, psychotropic, toxic or other substances and put their family in a difficult material position; to take a child into care without deprivation of parental rights or

to remove parental rights; to impose compulsory security and treatment measures for persons suffering from psychiatric disorders (illnesses) prone to unlawful behaviour; and to bring administrative or criminal prosecutions of persons who allow domestic violence to occur. Furthermore, persons suffering from domestic violence are informed of their right to apply for a criminal case to be brought or to bring a complaint for an administrative offence.

45. Under the National Plan of Action for Gender Equality 2011–2015, approved by Decision No. 1101 of the Council of Ministers of 16 August 2011, the Ministry of Internal Affairs is one of the joint implementing agencies for a number of measures to prevent human trafficking and gender-based violence. These include the drafting of proposals for an international technical assistance project to enhance national capacity to prevent domestic violence, and its implementation, as well as the annual “A house without violence!” national preventive campaign. In addition, the Ministry of Internal Affairs holds regular discussions in the media on issues related to domestic violence in order to promote a zero tolerance attitude in society.

46. The National Children’s Helpline (8 801 100 1611) was set up in July 2011 to help children suffering from violence and cruelty. In 2010, more than 106,000 persons suffered criminal assault, compared to 115,000 in 2009, a reduction of 8.3 per cent. Of those, in 2010, 44,000 were women, compared to 50,000 in 2009, a reduction of 11.0 per cent. Women represented 42.1 per cent of the victims of reported crimes in 2010, and children 10.0 per cent. Domestic violence is mainly directed against women, but its harmful consequences also affect children, who witness violent relations in the family from a young age.

47. A total of 2,300 women were victims of domestic violence, representing 74.6 per cent of all domestic victims. Of those, 109 women (52.6) died at the hands of relatives, 148 (42.2 per cent) suffered serious bodily harm, and 110 (86.6 per cent) suffered less serious bodily harm. Despite the fact that offences committed in the home represented no more than 3 per cent of all recorded criminal offences over the past five years, the seriousness of their consequences means that the issue cannot be seen solely from the view of comparative statistics. In 2010, of the 416 murders that occurred, 140 (33.7 per cent) were committed by close family members. Over the same period, 3,111 domestic offences were reported. Equally, most cases of violence are not recorded, as many women either are not willing to appear in court, or prefer to find solutions without reporting the case to the authorities.

48. In accordance with the provisions of the United Nations Convention on the Rights of the Child, Belarus has implemented and applied all the appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment and exploitation. Particular attention has been paid in legislation to criminal liability for physical and mental violence against minors and, in particular, small children. Issues surrounding the prevention of various forms of violence against children have received constant attention, and steps taken by the State in this area have ensured that these kinds of crimes have not become more widespread. In general the situation may be described as positive.

49. In 2009, 139 minors (0.008 per cent of the total number of minors living in Belarus) were victims of crimes against their life and health; in 2010, the figure was 149 (0.009 per cent of the total number of minors); and the figure for the first seven months of 2011 was 95.

50. In 2009, 178 minors (0.01 per cent of the total number of minors) were victims of crimes against their sexual inviolability and freedom; in 2010, the figure was 139 (0.008 per cent of the total number of minors); and the figure for the first seven months of 2011

stood at 67. The procuratorial bodies schedule and perform systematic checks on the enforcement of legislation to protect the rights of minors in every sphere of their lives and to encourage parents to take responsibility for their children's upbringing. They also check the enforcement of legislation aimed at preventing, combating and bringing prosecutions for violence against or neglect of children, and for criminality and offences among minors.

51. The appropriate procuratorial measures are taken in response to the results of these checks, and information is communicated to the central and local government and administrative bodies. In 2010, 392 checks were carried out on the protection of the rights of the child, as a result of which 295 recommendations and 151 orders were issued, 132 complaints were lodged, 107 illegal acts were repealed by the procuratorial authorities in their supervisory role and disciplinary proceedings were brought against 382 officials. In the first half of 2011, 267 such checks were conducted, as a result of which 192 recommendations and 127 orders were issued, 39 complaints were lodged, 26 illegal acts were repealed by the procuratorial authorities in their supervisory role and disciplinary proceedings were brought against 348 officials.

52. Furthermore, the procuratorial bodies, in accordance with their mandates, are taking specific measures to monitor the effective and consistent application of legislation to combat human trafficking. The Office of the Procurator-General has examined the progress made by agencies responsible for upholding legislation on the prevention, detection and suppression of offences which involve the use of forced labour, including that of minors. A joint meeting was held between the board of the Office of the Procurator-General and law enforcement and other State agencies, using the results of the review with the aim of developing an effective mechanism to prevent labour exploitation becoming more pervasive.

53. Through the efforts of the board, a number of decisions have been adopted to improve cooperation between the appropriate bodies and to enhance the effectiveness of the work of the law enforcement and other agencies in combating the slave trade and labour exploitation. The Ministry of Education has thus been advised to work with the Ministry of Labour and Social Welfare to design a system for monitoring the employment of graduates from secondary schools and specialized secondary schools. Within its competence, the Office of the Procurator-General has analysed advertising material posted on websites by individuals living in Belarus, offering sexual services for payment. The objective was for State agencies and organizations to provide a planned and coordinated response through organized legal and practical measures, aimed at effectively preventing, detecting and suppressing human trafficking, illegal migration and associated illegal activities, and also at eliminating the root causes of these socially dangerous phenomena.

54. In 2010–2011, the Office of the Procurator-General, which has oversight of the application of legislation, carried out a systematic analysis of the progress made in implementing Presidential Decree No. 60 of 1 February 2010 on measures to improve the use of the national segment of the Internet, and the regulations approved by decision No. 4/11 of 29 June 2010 of the Operational and Analytical Centre in the Office of the President and the Ministry of Communications and Information Technology on procedure for restricting user access to information prohibited by law.

55. Despite the penalties incurred for involvement in and complicity with prostitution and the dissemination of pornography, advertisements for sexual services for material compensation (prostitution) by persons living in Belarus, and photographic and video materials of a pornographic nature, including those involving children and adolescents, are widespread on the Internet.

56. Considering that prostitution, the accompanying phenomenon of trafficking in persons for the purpose of prostitution, pornography and its publication on the World Wide

Web are incompatible with the dignity and worth of the human person, and that they endanger the welfare of the individual, the family and the community and offend public decency, and in view of defending minors from the spread of such publications liable to damage their health and moral and spiritual development, the Office of the Procurator-General makes decisions in accordance with the above-mentioned regulations to restrict access to Internet resources which contain information promoting trafficking in persons and the dissemination of pornographic material.

57. In accordance with the instructions on the procedure for completion of registration cards for the Unified State Offences Registration and Record-keeping System approved by Ministry of Interior Affairs Order No. 82 of 31 March 2007, a domestic offence is any offence provided for in articles 139, 141, 143 to 150, 152 to 155, 183, 186, 188 and 189 of the Criminal Code perpetrated on the grounds of hostile relations (conflicts) between close relatives, family members and loved ones.

Replies to questions raised in paragraphs 14 and 15 of the list of issues

58. Under article 5 of the Act on the Granting of Refugee Status and Subsidiary and Temporary Protection to Foreign Nationals and Stateless Persons, foreign nationals and stateless persons (hereinafter referred to as foreigners), who: apply for refugee status or subsidiary protection; have been granted refugee status or subsidiary and temporary protection; have had the review of their application for protection suspended; have been refused refugee status and subsidiary protection; have been refused an extension of the period of their subsidiary protection; have lost refugee status or subsidiary protection; or have had their refugee status or subsidiary protection cancelled, may not be returned or expelled against their will to a State where, on account of their race, faith, citizenship, ethnicity, membership of a particular social group or political opinions, their life or freedom is at risk or they may be subjected to torture.

59. The decision that, under the above-mentioned Act, it is impossible to return or expel such persons is taken by the Citizenship and Migration Department of the Ministry of Interior Affairs. Foreigners in respect of whom such a decision is taken are entitled to receive a temporary residence permit for Belarus in line with legal procedure.

60. In 2010, 155 foreigners applied for refugee status or subsidiary protection in Belarus (91 from Afghanistan; 22 from Georgia; 14 from the Russian Federation; 6 from Pakistan; 5 from Poland; 3 from Azerbaijan; 3 from Ukraine; 2 from Kyrgyzstan; 2 from Uzbekistan; 2 from the Islamic Republic of Iran; 2 from the Sudan; 1 from Kazakhstan; 1 from Côte d'Ivoire; and 1 from Nigeria). In the first half of 2011, 47 foreigners submitted applications (19 from Afghanistan; 14 from Georgia; 5 from Pakistan; 2 from the Russian Federation; 2 from Ukraine; 2 from the Democratic Republic of the Congo; 1 from the Republic of Moldova; 1 from Kazakhstan; and 1 from Cameroon).

61. In 2010, refugee status was granted to seven foreigners (five from Afghanistan; one from Georgia; and one from the Islamic Republic of Iran). One Iranian national was granted subsidiary protection and a decision was taken to extend the provision of subsidiary protection for 1 Afghan national, while 140 foreigners were refused refugee status and subsidiary protection (87 from Afghanistan; 16 from Russia; 12 from Georgia; 6 from the Islamic Republic of Iran; 6 from Pakistan; 2 from Azerbaijan; 2 from Uzbekistan; 2 from Ukraine; 1 from Kazakhstan; 1 from Lebanon; 1 from Madagascar; 1 from the Republic of Moldova; 1 from Nigeria; 1 from the Sudan; and 1 from Tajikistan). In the first half of 2011, 6 Afghan nationals were granted refugee status in Belarus and 38 foreigners were refused refugee status or subsidiary protection (23 from Afghanistan; 7 from Georgia; 2 from Ukraine; 1 from Kazakhstan; 1 from Cameroon; 1 from Kyrgyzstan; 1 from the Republic of Moldova; 1 from the Russian Federation; and 1 from Uzbekistan).

62. In 2010, 73 foreigners submitted asylum applications to the President (63 from Afghanistan; 4 from the Russian Federation; 2 from Uzbekistan; 1 from Georgia; 1 from Lebanon; 1 from the Republic of Moldova; and 1 from Pakistan). In the first half of 2011, 25 foreigners submitted applications (18 from Afghanistan; 4 from Georgia; 2 from the Russian Federation; and 1 from Tajikistan). None of the applications were successful.

63. In 2010, seven foreigners were deported from Belarus after being refused refugee status and subsidiary protection (the involuntary deportation of three foreign nationals, from Georgia, Tajikistan and the Russian Federation; the voluntary deportation of four foreign nationals — two from Afghanistan and two from Uzbekistan — and the extradition of one Ukrainian national to Ukraine). In the first half of 2011, two Ukrainian nationals were voluntarily deported from Belarus after being refused refugee status and subsidiary protection.

64. The procedure for granting refugee status in Belarus is applied in strict compliance with the United Nations Convention relating to the Status of Refugees and with the cooperation of representatives of the Office of the United Nations High Commissioner for Refugees in Belarus.

Replies to questions raised in paragraphs 17 and 18 of the list of issues

65. Belarusian law does not provide for the establishment of universal jurisdiction for the crime of torture. Belarusian citizens and stateless persons permanently residing in the country who have committed torture are subject to prosecution under the Criminal Code if their acts are recognized as offences in the State where they were committed and if they have not already faced criminal prosecution in that State. National legislation provides for the possibility of extraditing a foreign national or stateless person to another State to be prosecuted on charges of torture. No States parties to the Convention have made any requests to the Office of the Procurator-General for the extradition of persons suspected of the crime of torture.

Replies to questions raised in paragraphs 19 and 20 of the list of issues

66. Under the Act on the Granting of Refugee Status and Subsidiary and Temporary Protection to Foreign Nationals and Stateless Persons, it is mandatory for foreigners applying for refugee status or subsidiary protection to undergo a medical examination. The procedure for the medical examination is set out in the instructions on the procedure for conducting the compulsory medical examination for foreign nationals and stateless persons applying for refugee status or subsidiary protection in Belarus, approved by Ministry of Health Order No. 49 of 7 May 2009.

67. In accordance with the instructions on the organizational procedure for granting, rescinding or cancelling the refugee status or subsidiary protection of foreign nationals and stateless persons, approved by Ministry of Internal Affairs Order No. 143 of 11 May 2009, where the applicants have fears of being subjected to persecution, associated with the threat or occurrence of rape or torture, or on the grounds of gender or other reasons requiring the creation of an atmosphere of trust, an interview is held with a member of staff and an interpreter of the same sex as the applicant, whose opinion is taken into account.

Replies to questions raised in paragraphs 21 to 24 of the list of issues

68. Presidential Decree No. 460 of 28 August 2001 approved regulations on watchdog commissions attached to the provincial (Minsk municipal), district and municipal executive committees and local administrations.

69. Watchdog commissions are set up by decision of the local executive and administrative bodies in the same locations as the agencies and institutions responsible for enforcing sentences and other penal sanctions (hereinafter referred to as correctional facilities) and of compulsory rehabilitation centres, to provide public oversight of the activity of these facilities and centres and participate in the rehabilitation of convicts.

70. In accordance with paragraph 3 of the regulations, the main aims of the watchdog commissions are:

(a) To monitor the activities of correctional facilities and compulsory rehabilitation centres, the procedure for and conditions of detention, and the use of preventive methods, and to identify violations and help prevent them;

(b) To give assistance to correctional facilities in organizing the correctional process and the rehabilitation of convicted criminals, and to local executive and administrative bodies in respect of the social reintegration of persons released from prison or discharged from compulsory rehabilitation centres.

Operating on a voluntary basis, watchdog commissions have the right:

(a) To visit correctional facilities and organizations employing persons sentenced to community service, punitive work or semi-custodial sentences, in keeping with the legally established procedure and with the aim of overseeing the implementation of the correctional process vis-à-vis these individuals;

(b) To submit recommendations to the relevant local executive and administrative bodies as to how to improve the correctional process in such facilities;

(c) To visit compulsory rehabilitation centres and to examine the medical and social rehabilitation of prisoners, their conditions of detention and the work available to them.

Replies to questions raised in paragraphs 25 to 30 of the list of issues

71. Chapter 8 of the Code of Criminal Procedure sets out the measures to ensure the security of participants in a trial and other persons (article 6, paragraph 49, of the Code of Criminal Procedure refers to: the judge, the procurator, the public prosecutor, the head of the investigations unit, the investigator, the persons conducting and in charge of the initial inquiry, the suspect, the accused, the counsel for the defence, the victim, the private prosecutor, the civil claimant, the civil defendant, legal representatives and other representatives, the clerk of the court, witnesses, experts, specialists, interpreters and independent witnesses). Article 65 of the Code, on the responsibility of the body in charge of the criminal proceedings to take protective measures, states that:

“(1) Where there is sufficient evidence to suggest that, by virtue of their participation in the criminal proceedings, participants in a criminal case who are defending their own rights and interests; their legal representatives; other persons involved in the proceedings; or members of the defendant’s family and loved ones are in real danger of being killed or attacked, having their property destroyed or damaged, or being subjected to other unlawful actions, the body in charge of the

criminal proceedings is required to take measures defined by the law to protect these persons and their property.

- (2) Decisions to apply protective measures are taken if:
 - (a) The body in charge of the criminal proceedings establishes that there are grounds for taking protective measures;
 - (b) The body in charge of the criminal proceedings receives new information indicating that there are grounds for taking protective measures;
 - (c) The participant in the criminal proceedings states the need for protective measures to be taken.”

Under article 6, paragraph 22, of the Code of Criminal Procedure, the criminal prosecution bodies are: the body and the persons conducting the initial inquiries, the investigator and the procurator.

72. In accordance with article 27, paragraph 1, of the Code of Criminal Procedure, the criminal prosecution body shall, within its competence, initiate criminal proceedings whenever elements of a crime are discovered; take any measures prescribed by law to establish the circumstances of a socially dangerous act, and to identify and punish the perpetrators of a crime; and take measures for the rehabilitation of persons found not guilty.

73. In accordance with article 426, paragraph 3, of the Criminal Code, persons in positions of responsibility who act outside the scope of their authority, or with serious consequences, or who carry out acts that clearly exceed the rights and authority conferred on them in their duty, accompanied by violence and cruel or degrading treatment of the victim, or the use of weapons or special restraining devices, shall be deprived of their freedom for a term of 3 to 10 years, with confiscation of property or without confiscation of property and with forfeiture of the right to hold certain posts or engage in certain activities.

74. Article 128, paragraph 1, of the Code of Criminal Procedure stipulates that suspension is one of the available coercive procedural measures and is used to enforce the provisions prescribed in the Code for preliminary investigations, and court hearings of criminal cases. The list of persons and bodies able to decide whether the suspect or accused may be suspended from their functions, including for the commission of acts of torture, is set out in article 131. Paragraph 2 of this article also defines suspension as a prohibition on exerting the authority attached to the post and on carrying out the same work or activity as previously, which is issued as a decision or judgement with immediate effect.

75. The freedom to hold assemblies, rallies, marches, demonstrations and pickets shall be guaranteed by the State, provided that these do not violate public order and the rights of other Belarusian citizens. The procedure for conducting such events is determined by law. Restriction of the rights and freedoms of the individual is only permitted in the instances provided for in national legislation and the International Covenant on Civil and Political Rights, in the interest of national security or public order, or for the protection of public morals, public health or the rights and freedoms of other persons. The procedure for organizing and holding large public events in Belarus is set out in the Large Public Events Act.

76. The legal and organizational framework for the activity of the internal affairs agencies is described in the Internal Affairs Agencies Act. Pursuant to this Act, they are required to ensure public order, personal, public and State security and to take all necessary measures to protect the life, health, honour, dignity, rights, freedoms and legitimate interests of citizens, the rights and legitimate interests of organizations, and to protect property from criminal and other unlawful infringements. To fulfil their mission, the internal affairs agencies have the right to require citizens to observe public order;

temporarily to restrict or forbid the access of citizens to specific areas or to certain facilities; to compel citizens to leave a specific area in the interest of public order, and personal and public safety; and to have recourse to physical force and special measures.

77. On 19 December 2010, during the policing of an unauthorized large public event involving acts of hooliganism by those present, the internal affairs agencies acted in strict compliance with their legally defined rights and with the international obligations of Belarus. The Counter-Extremism Act forbids public incitement to organize, prepare and commit acts aimed at violent change of the constitutional order, as well as public incitement to organize and carry out mass disturbances and acts of hooliganism fuelled by political or ideological enmity.

78. Under the Large Public Events Act, neither the organizer nor other persons are allowed to announce in the media the date, location and time of the event, nor to prepare and disseminate pamphlets, posters and other materials before authorization to hold the event has been received.

79. If no application has been submitted or the life and health of citizens are in danger, large public events shall be stopped on the request of the head of the relevant local executive and administrative body, the internal affairs agencies, the organizer of the event in question or the person responsible for organizing and holding it. Should those taking part in the event refuse to comply with the lawful requests of authorized officials, Belarusian law stipulates that the internal affairs agencies may take the necessary steps to stop the event, as is the case in other countries.

80. Article 28 of the Internal Affairs Agencies Act outlines the use of special devices by officers and specifies that an internal affairs officer may use handcuffs, rubber truncheons, restraining devices, special chemical substances, sound and light devices for distracting attention, devices for entering rooms by force, devices for the forceful stoppage of vehicles and other special means, including service animals, for the purpose of:

- Repulsing attacks on buildings, rooms, structures and/or means of transport, irrespective of who owns them, and freeing sites that have been occupied
- Suppressing insubordination or opposition to the lawful requests of public security officers or other persons with the same duties or fulfilling their civic duty to enforce public law and order, and prevent and suppress crimes and administrative offences
- Preventing large-scale disturbances and violations of public order by groups, or activities aimed at damaging and/or destroying property

81. The widespread assertion that internal affairs officers obstruct the holding of so-called “peaceful assemblies” is untrue. An event may be peaceful but that does not mean that is legal and has been authorized by the local executive and administrative bodies (in Minsk, the Minsk City Executive Committee) since an organizer must have the relevant authorization and meet a number of requirements defined by law.

82. In addition, under administrative and criminal law, it is unlawful to prevent large public events from being held in accordance with established procedure, and to prevent any person’s participation. When the internal affairs agencies received information that an unauthorized large public event would potentially be held in Kastychnitskaya Square in Minsk, they requested citizens through the media to refrain from taking part in the event and, as far as possible, to keep away from the area where it was due to take place. They were very clear on the illegality of taking part in unauthorized demonstrations.

83. During the unauthorized event on 19 December 2010, police officers regularly used loudspeakers to tell the participants to stop their acts of hooliganism and warned them of the criminality of their unlawful behaviour and of the potential use of physical force and

special measures. Citizens who were in the vicinity of Independence Square were recommended to leave the area where the event was being held or to remain at a safe distance.

84. Before the actual mobilization of the law enforcement bodies which were dispatched to suppress the unlawful behaviour and detain those persons who were violating public order, participants of the unauthorized large public event had the opportunity to leave Independence Square of their own free will, however they opted for violence. This is why the demonstration cannot be referred to as peaceful.

Replies to questions raised in paragraphs 33 to 39 of the list of issues

85. Non-regulation behaviour is not prevalent in the Armed Forces in the relations between personnel and, on the isolated occasions when it occurs, appropriate measures in accordance with the Belarusian law in force at the time are taken immediately. Over the past five years (2006–2010), the overall incidence of crime in the Armed Forces dropped by 38 per cent, while the number of crimes involving physical violence between soldiers decreased by 34 per cent. Over the first seven months of 2011, the number of crimes decreased by 26 per cent compared with the same period of the previous year and the number involving physical violence by 49 per cent. To reduce the incidence of crime in the Armed Forces further, a plan to install video surveillance in rooms in barracks is currently being implemented. The plan specifies that funds will be allocated from the budget for this purpose every year until 2017. Efforts are being made to also install video surveillance cameras in the rooms of barracks of the militarized units of the Ministry of Internal Affairs.

Replies to questions raised in paragraphs 40 to 42 of the list of issues

86. Criminal liability for the illegal production, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment is not covered by criminal law in Belarus, except in paragraph 3 of article 339 (hooliganism) and article 376 (the illicit manufacture, acquisition and sale of covert surveillance material) of the Criminal Code.
