STATEMENT

UPR Pre-session on Belarus

Geneva, 03.04.2020

Delivered by: Legal Initiative

1- Presentation of the Organisation

This statement is delivered on behalf of Legal Initiative, a not-for-profit, independent human rights organisation set up to promote and protect human rights in Belarus.

2- National consultations for the drafting of the national report

Non-governmental human rights organizations did not participate in the discussion and drafting of the national report.

3- Plan of the Statement

This statement addresses the following issues: (1) Torture, (2) Enforced disappearance and Political prisoners, (3) Domestic Violence

4- Statement

I. Torture

A. Follow-up to the second review

Some counties during the previous review gave recommendations regarding implementation of international obligations on addressing the impunity of perpetrators of torture and effective investigation of all allegations of torture and ill-treatment.

Many countries gave recommendations regarding ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

B. New developments since the second review

Belarus has not defined torture as a specific crime in accordance with Art. 1 of the Convention against Torture. The offences provided by the Criminal Code do not criminalize the whole range of acts of torture.

Belarus practices forced expulsion, deportation and extradition to the countries using torture and death penalty. There have been cases of open and hidden extradition and expulsion without procedure.

Belarus has no independent bodies authorized to visit places of detention without prior notice. The existing Public Monitoring Commissions can visit places of detention only with the permission of the Department of Execution of Sentences. The commission members are not entitled to take photos and videos or accept complaints from prisoners.

There is no provision in domestic law ensuring suspension of criminal court proceedings prior to the verification of statements of the accused on the use of torture against him in order to obtain confession.

Measures to ensure an independent investigation of cases related to the use of torture have not been undertaken.
C. Recommendations

We therefore recommend that the Government of Belarus:

- Include a special provision in the Criminal Code establishing liability for all acts of torture in accordance with the Convention against Torture
- Ratify the Optional Protocol to the Convention against torture and establish the NPM in accordance with the Protocol
- Recognize the competence of the CAT in accordance with articles 21 and 22 of the Convention against Torture

II. Enforced disappearance and Political prisoners

A. Follow-up to the second review

During the previous review France gave recommendation to conduct an in-depth independent investigation into the disappearances of public figures that occurred in 1999 and 2000 with a view to bringing the authors of those crimes to justice. This recommendation was supported by Belarus. Many countries during the previous review gave recommendations regarding ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. Many countries during the previous review gave recommendations to release immediately all political prisoners.

B. New developments since the second review

The State failed to take effective action to investigate four cases of enforced disappearances in 1999–2000. To date, the disappearances of political opponents have not been investigated, the perpetrators have not been brought to justice. Political prisoner Mikhail Zhamchuzhny continues to serve his sentence in a penal colony in Horki. In February, he was transferred to the detention facility in Vitebsk. Political prisoners Nikita Emelianov and Ivan Komar sentenced both to seven years in prison.

C. Recommendations

We therefore recommend that the Government of Belarus:

- Conduct an in-depth independent investigation into the disappearances of political opponents that occurred in 1999 and 2000 with a view to bringing the perpetrators to justice
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance
- Immediately and unconditionally release political prisoner Mikhail Zhamchuzhny
- Immediately review the sentence against political prisoners Nikita Emelianov and Ivan Komar with guarantees of the right to a fair trial

III. Domestic Violence

A. Follow-up to the second review

Many countries during the previous review gave recommendations regarding combating domestic violence including adoption the draft law on prevention of domestic violence.

B. New developments since the second review
After being transferred to Parliament, the existing comprehensive draft law on domestic violence was criticized by the President and has not yet been adopted. In response to the collective appeal by the organizations of the National Gender Platform in 2018, the MIA announced that it considered to refuse drafting an independent Law on Combating Domestic Violence.

C. Recommendations

We therefore recommend that the Government of Belarus:

- Adopt the law on prevention of domestic violence

Many thanks for your attention.