

BELARUS: CRIMES AGAINST HUMANITY

Legal classification of the crimes
of A. Lukashenko's regime

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 cruel treatment of civilians after the presidential elections on August 9, 2020.

TASKS OF THE COMMITTEE

1. Recording cases of torture, ill-treatment, use of weapons and special equipment against citizens.
2. Search for witnesses and evidence of torture.
3. Identification of suspects in torture and inhuman treatment.
4. Processing the information received.
5. Preparation of lawsuits and legal support of people who have been tortured.
6. Preparation of communications and complaints to international bodies.
7. Preparation of reports on the collected information for the 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 for the Activities of Human Rights Defenders in 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 partners;
- work on a unified methodology and concentration of information in a unified database.

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ABBREVIATIONS IN THE DOCUMENT

SIZO — pre-trial prison

IVS — temporary detention facility

CIP — center for isolation of offenders

RUVD — District Department of Internal Affairs

ROVD — department of internal affairs

ICC — International Criminal Court

OMON — militia special forces

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Brief conclusions

The prohibition of crimes against humanity is a peremptory norm of general international law (*jus cogens*). The prohibition of crimes against humanity is firmly established both in practice and in doctrine as a norm that is accepted and known as a norm that cannot be derogated from.

The classification of crimes against humanity as «crimes under international law» indicates that they exist as crimes regardless of the criminalization of this behavior under national law.

Despite the fact that the norms of the Criminal Code of the Republic of Belarus do not fully correlate with the definition of crimes against humanity enshrined in the Draft Articles on the Prevention and Punishment of Crimes Against Humanity and the Rome Statute of the International Criminal Court, the acts considered in this report are crimes against humanity, for which the perpetrators must be punished.

The scale of violence used, violations of civil rights, persecution of individuals and legal entities, torture and other acts prohibited as crimes against humanity, in 2020 and up to the present, has no analogues in the history of modern Belarus. Taking into account the total number of the civilian population that was attacked, it can be stated that the attack was widespread.

The organized nature of the acts is confirmed by the fact that the same pattern of criminal behavior is methodically repeated by the official authorities, from the start of the election campaign to the present day. There is a clear pattern in the criminal actions of the official authorities: to arbitrarily detain or expel from the country all democratic leaders (Sergei Tikhanovsky, Viktor Babariko,

Valery Tsepka, Svetlana Tikhanovskaya, Maria Kolesnikova, Pavel Latushko, Sergei Dylevsky and others); arbitrarily and with the use of violence to detain participants in peaceful protests (for example, in three days from August 9 to 12, 2020, only according to official data, more than 7,000 peaceful protesters were detained, on every Sunday march from September 6, 2020 to November 29, 2020, there were between 194 and 1291 people detained), in total, more than 35,000 protesters were detained at the protests; from August 2020 to the present day; purposefully create inhuman conditions for those detained for political reasons in places of detention; Despite the absence of numerous protests in 2021, hundreds of people are subjected to administrative persecution for political reasons every month. Thus, targeted attacks on democratic leaders, protesters, and ultimately on every dissenter are organized, regular and not accidental, which demonstrates their systematic nature.

In Belarus, at all state levels, a policy is being implemented with the aim of eliminating any dissent and aimed at attacking the civilian population determined by political affiliation. The conclusion about the conscientiousness of the attack and the awareness of the criminals of the Lukashenko regime that their behavior is a part of such an attack can be made based on the methods of attack that indicate the presence of a clear scheme and organized policy, the presence at the scene of the crime, public gratitude by Lukashenko for these attacks, the general historical and political environment in which the crimes were committed.

As a part of a deliberate widespread and systematic attack on civilians, crimes against humanity have been committed in the form of murder, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, rape, persecution, in the form of enforced disappearance of people and in the form of other inhuman acts.

Introduction and methodology

The list of crimes committed by the Lukashenko regime during all the years, starting from 1994, is very large and includes many events. For the Belarusian people it is completely obvious that the current regime and its henchmen security and other forces are guilty of premeditated killings, disappearances of opponents, torture, deportation of citizens from their country, and the fight against dissent. It is the subjects of state authorities that have made the mass terror of the Belarusian people for 27 years the practice of state administration.

Throughout **the entire term of Lukashenko's rule**, human rights to peaceful assembly, expression of opinion, non-interference in private life, and a fair trial were grossly violated. Legislation on peaceful assembly was constantly tightened, making it impossible to hold any peaceful assembly against the existing regime. Violators were subjected to arbitrary detention, administrative arrest, heavy fines, fired from work, expelled from educational institutions. The national legislation regulating the work of law enforcement agencies has been tightened: the Law «On Internal Affairs Bodies», the Law «On State Security Bodies», the Law «On Operational Investigative Activities», Decree No. 60 «On Measures to Improve the Use of the National Segment of the Internet». The judicial system in the country is not independent and impartial. Throughout the entire term of Lukashenko's rule, there were political prisoners in places of detention.

The purpose of this report is, on the basis of data collected by the International Committee for the Investigation of Torture in Belarus, testimony of victims of crimes and information published in the media, **to conduct a primary qualifying analysis of the crimes of the A. Lukashenko regime** in the Republic of Belarus as **international crimes — crimes against humanity**.

By publishing this report, the Committee does not set itself the task of a comprehensive legal analysis, conducting investigative measures in each case and preparing indictments. The document is an assessment of the regime's actions in terms of international legal qualifications and **contributes to the preparations for the trial over the regime** that has been established in the country since 1994. This report contains only a few examples of the regime's criminal acts, confirming the qualification of specific crimes.

The concept of «**crimes against humanity**» evolved in the last century, when revolutionary provisions were made to the Charter of the International Military Tribunal (Nuremberg Charter) and the Charter of the International Military Tribunal for the Far East (Tokyo Charter), and important improvements were made to these charters and case law of modern international criminal tribunals, including the International Criminal Court.

Although the codification and application of the provisions on this crime has entailed some doctrinal disagreement, the concept contains several basic elements that are common to all formulations of the *corpus delicti*.

This crime is **an international crime**; it does not matter whether it qualifies as criminal conduct in national law in the territory in which it took place. This crime is directed against the civilian population and therefore has a certain scale or a systematic nature that goes, in general, beyond the scope of isolated incidents of violence or crimes committed exclusively for private purposes. It can be committed on the territory of one state or in a transboundary context. Finally, this crime concerns the most heinous acts of violence and persecution known to mankind¹.

Over the past century, the concept of «crimes against humanity» has been defined in different ways. At the same time, the most generally accepted definition is contained in article 7 of the Rome Statute of the International Criminal Court (hereinafter — the Rome Statute), which, in turn, is based on the definitions contained in the statutes of the Nuremberg and Tokyo Tribunals, the Nuremberg Principles, the draft code of crimes Against the Peace and Security of Humanity 1954, the 1993 Statute of the International Criminal Tribunal for the Former Yugoslavia, the 1994 Statute of the International Criminal Tribunal for Rwanda and the 1994 Draft Statute of the International Criminal Court, as well as the International Law Commission's definition in the prepared by

¹ First report on crimes against humanity. International Law Commission Sixty-seventh session, Geneva, 4 May-5 June and 6 July-7 August 2015. <https://legal.un.org/docs/?symbol=AV/CN.4/680> p. 28

the Commission in 1996 draft code of crimes against the peace and security of humanity². Article 7 of the Rome Statute reflects the agreement reached between all 123 States parties to the Statute as of August 2021.

There is no reason to doubt that article 7, as one of the definitions of crimes against humanity, enjoys very broad support among States.

Thus, without exception, all states that raised this issue in the fall of 2014 in the Sixth Committee of the UN General Assembly spoke that the International Law Commission should not adopt for the purposes of the new convention a new definition of «crimes against humanity» that differs from the definition contained in article 7 of the Rome Statute³.

Crimes against humanity are any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, and when such an attack is committed knowingly:

- a) murder;**
- b) extermination;**
- c) enslavement;**
- d) deportation or forcible transfer of population;**
- (e) imprisonment or other severe deprivation of physical liberty;**
- f) torture;**
- g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable severity;**
- h) persecution of any identifiable group or community for political, racial, national, ethnic, cultural, religious, gender, as defined in paragraph 3, or other motives that are universally recognized as unacceptable under international law, in connection with any conduct indicated in this paragraph, or any offenses within the jurisdiction of the Court;**
- i) enforced disappearance of people;**
- j) the crime of apartheid;**
- k) other inhuman acts of a similar nature, consisting in willful infliction of severe suffering or serious bodily harm or serious damage to mental or physical health.**

² Sixty-seventh session, Geneva, 4 May-5 June and 6 July-7 August 2015. <https://legal.un.org/docs/?symbol=A/CN.4/680>, paragraph 121

³ Ibid., P. 122

*(Article 7 of the Rome Statute,
draft article 2, on the prevention and punishment of crimes against humanity,
adopted by the International Law Commission at its seventy-first session in 2019
and submitted to the General Assembly as part of the Commission's report on
this session (A / 74/10))*

The introductory provision of this definition establishes two general conditions that must be met in order for one of the prohibited acts to qualify as a crime against humanity.

The first condition requires that the act «**be done systematically or on a large scale**». This first condition consists of two alternative requirements.

The first alternative requires that inhuman acts be «systematically committed,» that is, according to a pre-planned plan or policy. The implementation of such a plan or policy could lead to repeated or constant inhuman acts. The main point of this requirement is to exclude an accidental act that was not committed as part of a more general plan or policy.

The second alternative requires that inhuman acts be committed «on a large scale», meaning that such acts are directed against multiple victims. This requirement excludes a single inhuman act committed by a person acting on his own initiative and directed against one victim.

The second condition requires that the act is «**inspired or directed by the government or any organization or group**». Such necessary inspiration or direction may come from a government or an organization or group. This alternative is intended to eliminate the situation where the inhuman act is committed by a person acting on his own initiative, according to his criminal plan, in the absence of any encouragement or guidance from both the government and the group or organization.

The term «**directed against any civilian population**» should be used to refer to acts committed as part of a widespread and systematic terror directed against civilians on national, political, ethnic, racial or religious grounds. Specific acts referred to in this definition are acts intentionally committed as part of such terror.

The jurisprudence of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda have concluded that the perpetrator **must be aware** that an attack is taking place against

a civilian population and that, in addition, his or her action is a part of that attack⁴. This two-pronged approach is reflected in the International Criminal Court's document «Elements of Crimes», which requires that the latter element be included in the act for each of the prohibited acts: «The perpetrator knew that the act was a part of a widespread or systematic attack on the civilian population, or had intent to make it a part of such an attack»⁵.

The prohibition of crimes against humanity is a **peremptory norm of general international law** (jus cogens). The prohibition of crimes against humanity is firmly established both in practice and in doctrine as a norm that is accepted and recognized as a norm that cannot be derogated from.

The assignment of crimes against humanity to the category of «crimes under international law» indicates that they exist as crimes, regardless of the criminalization of this behavior under national law.

The Criminal Code of the Republic of Belarus, which entered into force on January 1, 2001, opens its Special Part with section (VI) on crimes against the peace and security of mankind. Crimes against the security of mankind include: genocide (Article 127); deportation; illegal detention; slavery; mass or systematic executions without trial; kidnapping followed by disappearance; torture or atrocities committed in connection with the race, nationality, ethnicity, political convictions and religion of the civilian population (Article 128) and others.

Despite the fact that the norms of the Criminal Code of the Republic of Belarus do not fully correlate with the definition of crimes against humanity enshrined in the Draft Articles on the Prevention and Punishment of Crimes against Humanity and the Rome Statute, the acts considered in this report are crimes for which the perpetrators must be punished.

The thesis of the existence of crimes against humanity as crimes regardless of the criminalization of the behavior under national law is accepted by Belarus⁶.

⁴ Prosecutor v. Kunarac, Trial Chamber, Judgment, ICTY Case No. IT-96-23, para. 418

⁵ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

⁶ <http://statements.unmeetings.org/media2/16154382/belarus.pdf>, commentary on art. 2

Chapter 1. Historical context

In Belarus, almost immediately after the fall of the totalitarian Soviet regime in August 1991, an authoritarian system of power began to take shape. The national democratic forces failed to carry out massive political mobilization and conquer state power. The party-state nomenclature was restructured and, having abandoned the communist ideology, began to use the external attributes of democracy in its corporate interests.

Democracy of the presidential type was established in the Republic of Belarus, formally representing a classic example of a presidential form of government. But under the presidency of A. Lukashenko, it actually only continued the line on the formation and legalization of the personalist form of the authoritarian regime (1994–1996).

As a result, to date, Lukashenko's authoritarian regime is a personalist in form and reactionary in content, a Bonapartist-type dictatorship with strong totalitarian tendencies⁷.

The new edition of the 1996 constitution legalized, legally formalized and institutionalized the dictatorship of the president, consolidated unlimited power in the form of personal domination.

The 1996 Constitution strengthened presidential power as much as possible, made it practically unlimited and obscene, and gave this power an illusion of constitutional legitimacy and European decency.

Thus, the Constitution (with amendments and additions of November 24, 1996) proclaims Belarus as a unitary democratic social legal state, in which state power

⁷ Viktor CHERNOV, Form of government in post-communist Belarus: evolution and the problem of choosing an optimal constitutional model, September 24, 2004.

is exercised on the basis of its declared division into: legislative, executive and judicial. But the state bodies that make up it are not independent: they interact with each other while subordinating to the president, and therefore the bodies of the three branches of power do not restrain and do not balance each other.

In the Basic Law, the president is proclaimed the head of state, who represents the Republic of Belarus in relations with other states, ensures political and economic stability, mediates between government bodies, and also declares that the president is the guarantor of the Constitution, human rights and freedoms.

Thus, the principle of separation of powers proclaimed in the Constitution was transformed into a completely unbalanced structure of interaction between the authorities under the absolute patronage of the president. In fact, we are talking about the merger of the executive, legislative and judicial powers in one person, which, by definition, is a dictatorship⁸.

POLICY OF SYSTEMIC VIOLATIONS OF HUMAN RIGHTS BY THE STATE AUTHORITIES OF THE REPUBLIC OF BELARUS IN 1994–2021

By the time citizen A. Lukashenko was elected president, there was no full-fledged civil society in Belarus, which would be the guarantor of irreversible democratic changes. For this reason, the people of Belarus have become hostages of Lukashenko's power aspirations.

Due to the undemocratic nature of the parliamentary elections in 1995, Belarus was denied full membership in the Council of Europe.

Deputies of the Supreme Soviet of the 13th convocation became a serious obstacle to approval of the autocracy; they have undertaken the procedure of impeachment of Lukashenko for numerous violations of the Constitution. Having usurped the powers of parliament, A. Lukashenko **in November 1996 initiated a referendum on the legislative consolidation of the regime of sole power** through the adoption of a new edition of the Constitution.

The events preceding the holding of the republican referendum in November 1996

⁸ Viktor CHERNOV, Form of government in post-communist Belarus: evolution and the problem of choosing an optimal constitutional model, September 24, 2004.

marked the beginning of a sharp demarcation of the Belarusian public in assessing the actions of President Lukashenko. It was at this time that the most acute questions began to be raised about his direct abuse of power, abuse of office, deliberate violation of the norms of the current Constitution and laws, failure to comply with the decisions of the Constitutional Court, which recognized a number of its decrees as unconstitutional. Lukashenko himself cynically admitted: «... I do not execute some laws at my own discretion, ... I will not hide, I issued decrees that violate the laws. I replaced the Supreme Soviet »(newspaper «Soviet Belarus», March 29, 1996).

As a result, the Supreme Council and the Constitutional Court began the procedure of impeachment of the President — his removal from power.

On November 27, 1996, **following the results of the republican referendum on November 24, 1996**, with numerous violations, amendments and additions were made to the Constitution, which gave the president virtually unlimited power. Now the presidential term of office of Alexander Lukashenko, according to the amendments to the Constitution, was counted from 1996 **for a period of 5 years.**

On January 10, 1999, a meeting of 43 former deputies of the Supreme Soviet of the 13th convocation, loyal to the 1994 Constitution, took place. In accordance with its provisions, the term of office of President Lukashenko ended on July 20, 1999. Former deputies made a decision to hold elections for the President of the Republic of Belarus on May 16, 1999. During the period of this political action, about 3.5 thousand people were persecuted (arrests, fines, summons to the prosecutor's office, KGB)⁹. The Leninsky Court of Minsk found all members of the alternative Central Election Commission guilty of holding an «unsanctioned meeting» and sentenced them to various terms of arrest and fines.

On March 30, 1999, Mikhail Chigir (one of the two candidates) was arrested and held in custody under a criminal case brought against him under Art. 91 of the Criminal Code of the Republic of Belarus «Theft on an especially large scale.» The criminal case was initiated on the fact that in 1994 Belagroprombank, whose chairman was then Chigir, issued loans. The human rights organization International Amnesty recognized Mikhail Chigir as a prisoner of conscience.

According to the Conclusion of the 13th Supreme Soviet Special Commission headed by Viktor Gonchar, Lukashenko's actions to appoint and hold the 1996 referendum were considered as a number of crimes. Viktor Gonchar was supposed to publicly announce this on September 19, 1999¹⁰. But on the night

⁹ Newspaper «Our freedom», 2000, July 7.

¹⁰ <http://spring96.org/ru/news/19247>

of September 17, he disappeared with his friend Anatoly Krasovsky.

«The new Constitution of Belarus is illegal and does not meet the minimum democratic standards, violates the principles of the rule of law and the separation of powers,» said Chairwoman of the Parliamentary Assembly of the Council of Europe L. Fischer.

The democratic community of Belarus assessed the events of November 1996 as a coup d'état and usurpation of power by Lukashenko. The results of the referendum and the Parliament and the Constitutional Court personally formed by him were not recognized as legitimate by international institutions¹¹.

The practice of applying the norms of the Constitution in the new edition and the actions of the President led to the destruction of the constitutional principles of legality, separation of powers, democratic parliamentarism, to massive and gross violation of human rights and freedoms, i.e. to the actual and legal change of the constitutional order.

Part 2 of Art. 3 of the Constitution proclaims: «any actions aimed at changing the constitutional system and achieve state power by violent methods, as well as by other violation of the laws of the Republic of Belarus are punished in accordance with the law.»

The Criminal Code of the Republic of Belarus qualifies such acts as the seizure of state power in an unconstitutional way. The actions of those who participated in the so-called constitutional coup fall under the elements of a crime under Part 2 of Art. 61–1 of the Criminal Code (as amended in 1960) or part 2 of Art. 357 of the current Criminal Code (Seizure or retention of state power by unconstitutional means).

At the end of 1996, Lukashenko dissolved the legitimate parliament and formed his own from the deputies loyal to him. The direct dependence of the country's electoral system on the president has turned the expression of the will of citizens into a farce.

The system of using the administrative resource, gross disregard for legislative norms and falsification of voting results, worked out **during the 1996 referendum**, only improved in subsequent years. As it is known, **the 2001 presidential campaign** was full of such examples. «I don't need money for the election campaign — I have enough administrative resources to hold elections and win them,» A. Lukashenko

¹¹ <https://bit.ly/3AmXkCj>

boasted on Belarusian television on April 10, 2001.

In 2004, Lukashenko, in violation of the law, appointed and held a referendum to lift constitutional restrictions on his presidency.

On October 7, 2004, Decree No. 431 «On the appointment of a republican referendum» was published¹², which raised the question for voting: «Do you allow the first President of the Republic of Belarus A.G. Lukashenko to participate as a candidate for the President of the Republic of Belarus in the presidential elections and do you accept Part 1 of Article 81 of the Constitution of the Republic of Belarus as follows: «The President is elected for five years directly by the people of the Republic of Belarus on the basis of universal, free, equal and direct suffrage by secret ballot»? The wording of the question was non-transparent. In fact, it contained two questions. It was veiled that we are talking about the abolition of the provision of the current Constitution on the limitation of the presidency to two terms (part 1 of article 81). The inclusion of this issue was illegal, since Part 3 of Art. 112 of the Electoral Code provided for a ban: «issues related to the election and dismissal of the President of the Republic of Belarus cannot be submitted to a republican referendum». The results of the referendum on October 17, 2004, which should be regarded as legally null and void, have not been recognized by the democratic community of Belarus and international organizations (PACE, European Union, OSCE, etc.).

The results of the referendum and the amendments to the Constitution introduced on its basis provided A. Lukashenko with the opportunity to participate in the elections for the third time.

Lukashenko's registration as a presidential candidate in 2006 and his election for a third term were carried out with direct and gross disregard of the provisions of Art. 8 of the Law «On the President of the Republic of Belarus» (as amended at that time), which prohibits the same person from being President for more than two terms.

The appointment of the 2006 presidential elections, their preparation and conduct took place with gross violations of the current legislation, which influenced the results of the elections. Lukashenko himself confessed on November 23, 2006 about falsification of the results of the presidential elections¹³.

In order to retain the illegally achieved power and avoid punishment, citizen

¹² <https://rec.gov.by/uploads/folderForLinks/archive-referenda-2004-ukaz.pdf>

¹³ <https://bit.ly/3lAdAf3>; <https://iz.ru/news/388382>

Lukashenko A.G. uses the judicial and legal system of the state as a repressive mechanism against his opponents.

In order to toughen up the existing opportunities to carry out repressions, at the end of 2005, the parliament adopted amendments to the Criminal Code of the Republic of Belarus, providing for liability for activities on behalf of an unregistered organization, discrediting the Republic of Belarus and others.

Since the 2006 presidential campaign, the practice of arbitrary detentions of politically active citizens under the guise of committing administrative offenses has become widespread. After the administrative arrest, these citizens are expelled from educational institutions, dismissed from work.

There are thousands of victims of the repressions of the Lukashenko regime and the number is growing steadily.

On July 13, 2006, a new precedent was created in Belarus — criminal prosecution of presidential candidates — **presidential candidate Alyaksandr Kazulin, professor, chairman of the Belarusian Social Democratic Party (Hramada) was sentenced to five and a half years in prison.** In the conditions of imprisonment A. Kazulin held a 53-day political hunger strike in protest of A. G. Lukashenko's illegal stay in power and its retention through massive violations of the rights and freedoms of citizens of Belarus.

The apotheosis of the administrative and criminal terror against opponents of the political course of A. Lukashenko was the actions of the authorities against the participants of the mass protest against the falsification of the presidential elections on the Independence Square on **December 19, 2010**. Then, in a few days, over 700 protesters were subjected to harsh administrative measures, and 43 people, including 5 presidential candidates, were prosecuted under Article 342 of the Criminal Code «Organization and preparation of actions that grossly violate public order or active participation in them.» The offices of human rights organizations were searched, the first on the night of December 20. Office of HRC «Viasna» was searched twice¹⁴.

The 2015 presidential campaign like the previous ones, did not meet international standards for free elections. As before, the counting of votes was carried out in a non-transparent manner. However, it was not accompanied by serious repressions against the opponents of the authorities.

¹⁴ https://www.fidh.org/IMG/pdf/rapport_Belarus_RUS_web.pdf

On October 4, 10, 11, 2015, Minsk hosted mass events organized by representatives of opposition parties and movements, as well as opposition activists. All meetings were of an exclusively peaceful nature. After the events, some of the participants were summoned to the police departments, where preventive conversations were held with them¹⁵.

2020 presidential elections¹⁶ took place in an unprecedented atmosphere of intimidation and violence. The repressions began almost immediately after the start of the election campaign and did not stop at all its stages. As a result, even before election day, more than a thousand citizens were subjected to administrative detention, hundreds were arrested or fined. Criminal cases were immediately initiated against 23 people, including direct participants of the election campaign (members of initiative groups, persons nominated as candidates, bloggers and participants in peaceful protests and pickets to collect signatures). These persons were recognized as political prisoners by the Belarusian human rights community.

One of the most popular potential candidates, Viktor Babariko, was detained and taken into custody at the stage of collecting signatures, a criminal case was opened, and he is currently sentenced to 14 years in prison.

The second alternative potential candidate, Valery Tsepkalov, was forced to leave Belarus due to the threat of criminal prosecution. Currently, a criminal case has been opened against him. Belarus demanded his extradition from Latvia, but was refused.

Following the results of the presidential elections on 9 August 2020, mass protests against their falsification began throughout Belarus, with demands for new elections, outrage from violence from the Belarusian security forces. During them, more than 6,700 people were detained in Minsk and other towns only from August 9 to 12, 2020, according to the Ministry of Internal Affairs. Among them were both participants in peaceful processions and people who did not directly participate in the meetings.

The level of used violence, torture, violations of the rights of citizens, repression of individuals and legal entities in 2020 and until now has no analogues in the history of modern Belarus¹⁷.

¹⁵ http://spring96.org/files/reviews/ru/review_2015_ru.pdf

¹⁶ <https://bit.ly/3saEfAo>

¹⁷ <https://belhelcom.org/sites/default/files/katavanni-daklad-2020.pdf>

Chapter 2. Crimes against humanity: widespread and systematic attacks against civilians

Crimes against humanity — these acts discussed in Chapters 3–10 of this report, committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

The purpose of this chapter is to justify the contextual conditions that make it possible to say that criminal acts were committed systematically and on a large scale, were inspired and directed by official authorities and were directed against the civilian population on a political basis. The establishment of contextual elements makes it possible to classify acts as international crimes — crimes against humanity, distinguishing them from ordinary crimes and violations of human rights.

LARGE-SCALE ATTACK

As noted by the International Tribunal for the Former Yugoslavia, «the adjective ‘widespread’ implies the widespread nature of the attack and the number of persons on whom it was committed»¹⁸. Accordingly, this requirement implies «many victims»¹⁹ and excludes isolated acts of violence²⁰, such as the killing of individual victims by persons acting of their own free will rather than as part of a larger action. At the same time, a single act committed by an individual may

¹⁸ Prosecutor v. Kunarac, Trial Chamber, Judgment, ICTY Case No. IT-96-23, para. 428 (Feb. 22, 2001) (Kunarac 2001)

¹⁹ Prosecutor v. Jean-Pierre Bemba Gombo, Pre-Trial Chamber II, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges, ICC-01/05-01/08, para. 83

²⁰ Prosecutor v. Bosco Ntaganda, Pre-Trial Chamber II, Decision on the Prosecutor’s Application under Article 58, ICC-01/04-02/06, para. 19

constitute a crime against humanity if committed as part of a larger campaign²¹. The exact number of victims at which the attack is considered «widespread» has not been established; instead, the total number of civilians allegedly being attacked is taken into account²². The International Criminal Court noted that «the assessment is carried out not on the basis of exclusively quantitative and geographical criteria, but taking into account individual facts»²³. The attack can be considered large-scale both in the sum of many inhuman acts, and as a result of a single inhuman act of a huge scale²⁴.

The scale of the violence used, violations of the rights of citizens, persecution of individuals and legal entities, torture and other acts prohibited as crimes against humanity, in 2020 and up to the present, has no analogues in the history of modern Belarus.

Belarusian security forces used weapons and disproportionate force against demonstrators and people who disagreed with the authorities, which led to the death of at least four people.

According to the official data, announced in October 2020 by the head of the Department for Citizenship and Migration of the Ministry of Internal Affairs Alexey Begun, more than 13.5 thousand people have left Belarus since September 2020²⁵. In 2021, Belstat published the latest population data in its bulletin. At the beginning of 2021, 9,349,645 people lived in Belarus, which is 60,614 people less than at the beginning of the last year. Official authorities do not provide actual data on the number of people who left the country.

At the same time, even the announced figures allow us to speak about the mass exodus of Belarusians from the country. Some Belarusians, including the elected president Svetlana Tikhonovskaya, leaders of the democratic movement Olga Kovalkova, Ivan Kravtsov, Anton Rodnenkov, were forcibly removed from the country by the official authorities. In relation to Maria Kolesnikova, an attempt of forcible deportation was also made, which was unsuccessful for reasons beyond the control of the official authorities (Maria tore off her passport, after which she was detained and placed in a pre-trial detention center). Many Belarusians

²¹ Prosecutor v. Kupreškić et al., Trial Chamber, Judgment, ICTY Case No. IT-95-16-T, para. 550

²² Prosecutor v. Kunarac, Appeals Chamber, Judgment, ICTY Case No. IT-96-23, para. 95

²³ Decision Pursuant to Article 15 of the Rome Statute on the Authorization of a Prosecutor v. Kupreškić et al., Trial Chamber, Judgment, ICTY Case No. IT-95-16-T, para. 550

²⁴ Pre-Trial Chamber II, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges, ICC-01/05-01/08, para. 83

²⁵ <https://vgr.by/2020/10/22/stalo-izvestno-skolko-lyudey-uehalo-iz-belarusi-s-sentyabrya/>

were forced to leave the country due to politically motivated persecution for participating in peaceful protests, human rights and journalistic activities.

At least more than 35 thousand people were subjected to arbitrary detentions, severe deprivation of physical liberty and administrative persecution in violation of fundamental norms of international law from the start of the election campaign in May 2020 until August 2021²⁶. As of August 14, 2021, the human rights community of Belarus recognized 630 people as political prisoners.

Thousands of people were subjected to cruel torture while being detained and in places of detention. Since August 2020, the International Committee for the Investigation of Torture has documented about 1,500 cases of torture.

The enforced disappearances of opponents of the authorities in 1999–2000, in respect of which no proper investigation has been carried out so far, demonstrate the fact that the Lukashenko regime was initially aimed at destroying its opponents.

In 2020–2021, in all places of detention (IVS, CIP, SIZO, etc.), the administrations of these institutions, on the direct instructions of the Ministry of Internal Affairs, created «special conditions» for those detained and arrested for political reasons, which are inherently inhuman acts intentionally causing great sufferings or serious bodily harm or serious damage to mental or physical health²⁷.

After the presidential elections in 2020, the Belarusian media faced an unprecedented wave of repressions against editorial offices and journalists — more than half a thousand detentions, hundreds of administrative arrests and fines, dozens of criminal cases and putting journalists in SIZO. Almost all independent socio-political media in Belarus faced repressions, fines, searches or were forced to stop working

On February 16, 2021, searches were carried out throughout the country in the offices of human rights organizations and in the offices of human rights defenders, journalists and public activists — according to the Ministry of Internal Affairs, 90 searches were carried out on that day²⁸.

A new wave of repression swept through the media in July 2021. During ten

²⁶ <http://spring96.org/ru/news/104615>

²⁷ Fourth report of the International Committee on the Investigation of Torture in Belarus <https://drive.google.com/file/d/1BdRF2t5umJI7JTD9mT7RaxPmeJdMJpbi/edit>

²⁸ <https://bit.ly/3fN3luK>

days, the security forces had conducted more than 70 searches in the editorial offices and homes of journalists. Dozens of journalists are in pre-trial prisons²⁹.

On 09.08.2021, in its Telegram channel, the Belarusian Association of Journalists (BAJ) reported that in a year in Belarus journalists were detained about 500 times, more than 100 websites were blocked. According to the BAJ, from the day of the presidential elections in 2020 and until August 2021, «497 arrests, 68 facts of violence and injuries, 119 administrative arrests of journalists were recorded.» «At the moment, there are 29 media representatives in custody. More than 50 people are under criminal prosecution,» the association said. According to the BAJ, during the year the security forces conducted 135 searches and examinations of journalists and editorial offices³⁰.

Access is blocked to more than 100 social and political resources and media sites. 10 editions were forced to stop production.

From 14 to 16 July 2021, more than 100 searches were carried out in the offices of Belarusian human rights organizations and the homes of their employees, during which documents, laptops, telephones and stationary computers were seized. More than 30 people were interrogated, 13 people were detained for 72 hours, allegedly in connection with criminal cases of violation of public order and tax evasion.

The head of the human rights center Viasna Ales Bialiatski, his deputy Valentin Stefanovich, lawyer of Viasna Vladimir Labkovich, members of the HRC Viasna Marfa Rabkova, Andrei Chepyuk, Leonid Sudalenko and Tatyana Lasitsa remain in custody. Oleg Grablevsky, a lawyer of the Office for the Rights of Persons with Disabilities, and Sergei Drozdovsky, head of the Office, have been changed the preventive measure under personal surety, but they both remain accused in the criminal case. Sergei Drozdovsky spent half a year under house arrest without the right to communicate, and Oleg Grablevsky spent all this time in pre-trial prison No. 1 on Volodarsky str.

On July 22, 2021, it became known about the decision of the authorities to liquidate more than 60 non-governmental organizations. Among them there are institutions dealing with human rights activities, charity, ecology, assistance to people with disabilities, and cultural issues. As of August 14, 2021, at least 115 civil society organizations are known that have already been liquidated or are in the process of liquidation³¹.

²⁹ <https://bit.ly/37u1o7g>

³⁰ <https://belaruspartisan.by/life/542874/>

³¹ <http://spring96.org/ru/news/104540>

From August 2020 to August 2021, at least 19 lawyers were deprived of their licenses to practice law. These lawyers have represented Democratic leaders, protesters, independent journalists and torture victims in courts.

Repressions have affected almost all organizations and institutions of the civil society in Belarus. Many people with an active civic position involved in the work of these organizations have suffered.

From the beginning of 2021, state-owned enterprises began to lay off workers who participated in protests and gave their signatures for alternative candidates³².

Thus, taking into account the total number of the civilian population that was attacked, it can be stated that the attack was widespread.

SYSTEMATIC ATTACK

The second, alternative condition, stipulates that the attack must be «systematic». The International Tribunal for the Former Yugoslavia has determined that the requirement «systematic» means «the organized nature of the acts and the impossibility that they could have happened by accident»³³, and stated that the attack is systematic if there is evidence of repeated acts or the existence of a methodological plan³⁴, «the repeated acts — that is, a non-random repetition of similar crimes on a regular basis — usually indicates the systematic nature of events»³⁵.

Guided by the jurisprudence of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, the International Criminal Court has stated that the «systematic» requirement implies «the organized nature of acts of violence and the impossibility that they could have happened by accident»³⁶, this term «means either an organized plan for the implementation of a common policy, distinguished by a clear pattern and resulting in repeated commission of acts, or» repeated crimes «, that is, a non-random repetition of homogeneous crimes on a regular basis»³⁷.

³² <https://www.the-village.me/village/business/business-news/287309-minskenergo-fired>

³³ Prosecutor v. Mrkšić, Trial Chamber, Judgment, ICTY Case No. IT-95-13/1, para. 437

³⁴ Prosecutor v. Tadić, Trial Chamber, Opinion & Judgment, ICTY Case No. IT-94-1-T, para. 648.

³⁵ Prosecutor v. Kunarac, Appeals Chamber, Judgment, ICTY Case No. IT-96-23, para. 94.

³⁶ Prosecutor v. Harun, Pre-Trial Chamber I, Decision on the Prosecution Application under Article 58(7) of the Statute, ICC-02/05-01/07, para. 62 (Apr. 27, 2007), para. 62, 94

³⁷ Prosecutor v. Katanga, Pre-Trial Chamber Decision on the Confirmation of Charges, ICC-01/04-01/07, para. 397

The evidence for the repeated acts was set out above when describing the widespread nature of the attack. The organized nature of the actions is confirmed by the fact that the same pattern of criminal behavior is methodically repeated by the official authorities, from the start of the election campaign to the present day. There is a clear pattern in the criminal actions of the official authorities: to arbitrarily detain or expel from the country all democratic leaders (Sergei Tikhanovsky, Viktor Babariko, Valery Tsepkalo, Svetlana Tikhanovskaya, Maria Kolesnikova, Pavel Latushko, Sergei Dylevsky and others); arbitrarily and with the use of violence to detain participants of peaceful protests (for example, in three days from August 9 to 12, 2020, according to official data, more than 7,000 peaceful protesters were detained, on every Sunday march from September 6, 2020 to November 29, 2020, there were detained from 194 to 1291 people³⁸), in total, more than 35,000 protesters were detained at the protests; from August 2020 to the present day, for those detained for political reasons the authorities purposefully create inhuman conditions in places of detention; despite the fact that there are no numerous protests, hundreds of people are subjected to administrative prosecution every month (January 2021 — 747 incidents, 291 arrested; February 2021 — 393 incidents, 172 arrested; March 2021 — 956 incidents, 374 arrested; April 2021 — 294 incidents, 139 arrested; May 2021 — 319 incidents, 144 arrested; June 2021 — 232 incidents, 98 arrested; July 2021 — 340 incidents, 59 arrested)³⁹.

Thus, targeted attacks on democratic leaders, protesters, and ultimately on every dissent are organized, regular, and not accidental, which demonstrates their systematic nature.

ATTACK ON ANY CIVILIANS

According to the provisions of article 7, paragraph 2, subparagraph (a) of the Rome Statute, ««Attack directed against any civilian population» means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack»⁴⁰.

The word «any» indicates that the expression «civilians» should be broadly

³⁸ <https://drive.google.com/file/d/1SNKbex93cWSocrXInQS9JUXf2tGMKDmX/view>

³⁹ <https://spring96.org/persecution> Incident means detention (including on the border), writing a protocol, search and other

⁴⁰ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

defined and should be interpreted broadly⁴¹. Assaulted individuals may «include a group of individuals determined by their (alleged) political affiliation»⁴². In times of peace, «civilians» should include all persons, except those who are obliged to maintain public order and have the legal means to use force for this purpose when they are attacked⁴³.

The term «persons» does not mean that the entire population in a given geographic location should be attacked⁴⁴; rather, the term implies the collective nature of the crime as an attack on multiple victims. In this case, any particular victim is targeted not because of his or her individual characteristics, but because of his or her belonging to the attacked civilian population⁴⁵.

Since 1994, people and groups who disagree with the rule of the existing regime have been persecuted in Belarus. However, in 2020–2021, persecution for dissent began to be applied as widely as possible, and now includes repression for any display of white-red-white colors (colors of the historical national flag). So, in October 2020, a 75-year-old pensioner Iriad Misko was fined by the Zhodino city court for a photo with white-red-white pastille⁴⁶. In January 2021, the father of seven children, Sergei Melyanets, was fined by the Minsk District Court for white-red-white blinds on the window of his private house⁴⁷. In March 2021, Kristina Malashevich from Minsk was sentenced to 15 days of administrative arrest by the Sovetsky District Court of Minsk for white-red-white socks⁴⁸. On April 8, 2021, the court of the Central District of Minsk sentenced Yulia Mikhailova to 25 days of administrative arrest for walking around the city with a white-red-white umbrella⁴⁹. In April 2021, the Minsk District Court sentenced 72-year-old pensioner Larisa Sysoeva to 15 days of arrest and fined Olga Sysoeva for a white-red-white flag on the window of a private house⁵⁰. On April 14, 2021, Dmitry Goncharov was sentenced by the Minsk District Court to administrative arrest for a period of 15 days for a white-red-white garland on the window⁵¹. In April 2021, Andrei Parkhomenko

⁴¹ Prosecutor v. Mrkšić, Trial Chamber, Judgment, ICTY Case No. IT-95-13/1, para. 442

⁴² Prosecutor v. Ruto, Pre-Trial Chamber II, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-01/11, para. 164

⁴³ Prosecutor v. Kayishema, Trial Chamber, Judgment, Case No. ICTR-95-1, para. 127

⁴⁴ Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, Pre-Trial Chamber, ICC-01/09, para. 82

⁴⁵ Prosecutor v. Tadić, Trial Chamber, Opinion & Judgment, ICTY Case No. IT-94-1-T, para. 644

⁴⁶ <https://euroradio.fm/ru/zhodinka-lishilas-kompyutera-i-poluchila-shtraf-za-foto-s-bchb-pastiloy>

⁴⁷ <https://www.the-village.me/village/city/news-city/286823-colour-jalusy>

⁴⁸ <https://reform.by/211729-bchb-noski-bchb-shapka-naklejka-na-velosipede-foto-avtozaka-za-chto-davali-sutki-zaderzhannym-25-marta>

⁴⁹ <https://m.nashaniva.com/ru/articles/271140/>

⁵⁰ <https://euroradio.fm/ru/sud-minskogo-rayona-za-flag-v-okne-otpravil-na-15-sutok-72-letnyuyu-zhenshchinu>

⁵¹ <https://euroradio.fm/ru/zhitelya-borovlyan-arestovali-na-15-sutok-za-bchb-girlyandu-na-okne>

was sentenced to 15 days of administrative arrest by the Leninsky district court of Minsk for a box from an LG TV on the balcony, as it was white-red-white⁵². In July 2021, Maya Shatokhina, Yuri Klimashevsky, Denis Kulikov and Andrey Muravyov were sentenced to administrative arrest for a term of 13 to 28 days by the Frunzensky District Court for white sheets of paper on their windows⁵³. The persecution has reached such proportions that any person, even an accidental one, can be detained for «wrong» white-red-white clothes or «wrong» white-red-white food. So, on March 30, 2021, the court fined the Menu.by courier Alexander 60 basic units, since he delivered the order in a branded red vest. For the photo of this detention of the Menu.by courier, Andrei Gornoshevich was sentenced to 15 days, the court recognized the photographing as a picketing⁵⁴. On July 2, 2021, the Leninsky District Court of Minsk sentenced Yekaterina Vinnikova, a graduate of the law faculty of the Belarusian State University, to 15 days of administrative arrest for gratitude from the stage during the presentation of a diploma to political prisoner Maxim Znak and teachers dismissed for political reasons⁵⁵.

The repression has affected broad segments of society:

- journalists persecuted for their professional activities⁵⁶;
- students persecuted for peaceful protests⁵⁷;
- teachers who supported students and spoke out against violence⁵⁸;
- medical workers persecuted for protests against violence and torture⁵⁹;
- IT workers who went out to protests⁶⁰;
- lawyers working in political processes who have been deprived of their licenses⁶¹;
- clergymen who spoke out against violence and torture⁶²;
- workers who went out to protests against the regime⁶³;
- many others.

⁵² <https://nashaniva.com/?c=ar&i=273133&lang=ru>

⁵³ <https://euroradio.fm/ru/v-belarusi-za-belye-listy-bumagi-na-oknah-dali-ot-13-do-28-sutok-aresta>

⁵⁴ <https://euroradio.by/kurera-menuby-za-formu-ashtrafavali-na-pautara-mesyachnaga-zarobku>

⁵⁵ <https://nashaniva.com/?c=ar&i=275359&lang=ru>

⁵⁶ <https://www.bbc.com/russian/features-56103448>

⁵⁷ <https://belsat.eu/ru/news/16-07-2021-vynesli-prigovor-po-pa-delu-studentov-ot-2-do-2-5-let-kolonii/>

⁵⁸ https://tvrain.ru/teleshov/here_and_now/v_belarusi-518493/

⁵⁹ <https://nashaniva.com/?c=ar&i=259231&lang=ru>

⁶⁰ <http://spring96.org/ru/news/101745>

⁶¹ <https://www.currenttime.tv/a/desyatki-advokatov-lishilis-licenzii-za-zashitu-protestuyushih/31232068.html>

⁶² <https://www.bbc.com/russian/features-54720488>

⁶³ <https://www.dw.com/ru/rasplata-za-protesty-chno-proishodit-v-belarusi-s-uvolennymi-rabochimi/a-56874669>

National minorities in Belarus — Poles — fell under repressions. A criminal case was opened against the chairman and other members of the Union of Poles in Belarus⁶⁴. Polish schools and Polish language courses are being persecuted⁶⁵.

The second part of the definition under consideration requires that an attack should be committed «for the purpose of pursuing the policy of a State or organization aimed at carrying out such an attack⁶⁶».

The document of the International Criminal Court «Elements of Crimes» suggests that «a policy aimed at carrying out such an attack» requires «a State or organization to actively encourage or incite such conduct as an attack on a civilian population». One of the footnotes in the «Elements of Crimes» document states that «Such a policy may, in exceptional circumstances, be implemented by a deliberate failure to take action, which is consciously aimed at encouraging such attack. « In the frames of other precedents it is also emphasized that deliberate inaction may satisfy the requirement for a politics element⁶⁷.

The International Criminal Court has concluded that a politics is not required to be formally proclaimed or made public before an attack is carried out, and may be evidenced by a repetition of acts, preparatory measures or collective mobilization⁶⁸. In addition, the politics is not required to be specific or well-defined, and it can evolve over time as events unfold⁶⁹.

In Belarus, at all government levels, a policy is being implemented that aims to eliminate any dissent and is aimed at attacking the civilian population determined by political affiliation.

⁶⁴ <https://belsat.eu/ru/news/31-03-2021-predstaviteljam-soyuza-polyakov-v-belarusi-predyavyat-obvineniya/>

⁶⁵ <https://www.dw.com/ru/lukashenko-ishhet-vneshnego-vraga-poljaki-v-belarusi-zalozhniki/a-57232635>

⁶⁶ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

⁶⁷ Prosecutor v. Kupreškić et al., Trial Chamber, Judgment, ICTY Case No. IT-95-16-T, para. 551-555.

⁶⁸ Prosecutor v. Katanga, Trial Chamber II, Judgment, ICC-01 / 04-01 / 07, para. 1109, Prosecutor v. Gbagbo, Pre-Trial Chamber I, Decision on the Confirmation of Charges against Laurent Gbagbo, ICC-02 / 11-01 / 11, paras. 211-12, 215

⁶⁹ Prosecutor v. Katanga, Trial Chamber II, Judgment, ICC-01 / 04-01 / 07, para. 1110

INCUMBENT

A month after the elections, on September 9, 2020, Alexander Lukashenko in an interview with Russian journalists, referring to the actions of the riot police and the observance of the rule of law, stated (words are quoted close to the text):

«I can not condemn these guys who defended not only the country, but also me. ... riot police and internal troops are working on the streets. This is their task — to stabilize the situation. Did they break the law? No! The only thing that I didn't like about it was that they beat someone who was lying down.^{70»}

On September 10, 2020, when Andrei Shved was introduced as the Prosecutor General of Belarus, Lukashenko said: «Although when practically impudent intervention is carried out, as I call it, from the outside and it is fueled from within and directed from the outside, there is sometimes no time for laws, tough measures must be taken, to stop all the bastards responsible for that»⁷¹.

On October 27, 2020, Alexander Lukashenko said that he personally gave the order to break into the apartments of citizens and seize people⁷².

On October 30, 2020, Alexander Lukashenko said: «From now on, especially in the apartments of citizens where they hide, we will not take any prisoners. If someone touches a soldier (I have already made a remark to the generals), he must leave at least without hands. I say this publicly so that everyone would understand our further determination. Further — nothing. We have nowhere to retreat, and we are not going to retreat. Who is ready, we will act»⁷³.

Yuri Karaev, Assistant to the President of Belarus — Inspector for the Grodno Region, Minister of Internal Affairs 2019-2020, said in an interview: «You cannot relax and say that everything is over. In such a narrow circle of military people I say: remember, we are still at war»⁷⁴. By war, he meant a war with society.

On August 9, 2021, during the Big Conversation, which was broadcasted

⁷⁰ https://youtu.be/I_eWbQAk5R4

⁷¹ <https://www.youtube.com/watch?v=EVzWN41hVBs>

⁷² <https://reform.by/175193-lukashenko-jeto-byi-moj-prikaz-vskryvat-kvartiry-i-vytaskivat-jetih-narkomanov>

⁷³ <https://youtu.be/qcp86HjI9Bc>

⁷⁴ <https://bit.ly/3CxK2os>

by state channels, Lukashenko said that he personally gave all orders to the security forces to suppress the protests in the country in 2020: «Don't look for the guilty, I gave orders. Put everyone in their place, without shooting». As a result of these orders, the law enforcement started mass tortures of the detainees, at least 3 people were killed⁷⁵.

Thus, the incumbent, citizen Lukashenko, as well as his assistant and former Minister of Internal Affairs Karaev, instead of condemning the mass torture and repression against citizens and calling for an investigation, publicly proclaim a war against the civilian population and approve mass torture and violence. At the same time, the security officials are given an unambiguous message that the protesters can be treated without obeying the laws. Lukashenko confirmed that he personally gives orders to disperse peaceful protesters and break into apartments, respectively, all actions of the security forces are coordinated with him personally.

EXECUTIVE AUTHORITIES OF THE REPUBLIC OF BELARUS

MINISTRY OF INTERNAL AFFAIRS

In December 2020, the initiative **BYPOL** — law enforcement officers who took the side of the people, who had resigned from their jobs, published a record in which at that moment the Minister of Internal Affairs Yuri Karaev talks about Sergei Tikhanovsky:

«They slapped him well. My only regret is that it's late. Although you drew my attention to this in October. The KGB officers and I worked together. And it's good that everyone had the wisdom at least once to see him and slap him. Let the whole world scream: «Without following the rule of law ...». Such a creature is the most dangerous of all. He is more dangerous than all these Babarikas. He is the destroyer of the state. If there is no article for him — you need to think up and put him into prison for a long time. Let him sit there. Let him die there»⁷⁶.

In January 2021, the **BYPOL** initiative published an audio recording⁷⁷, where Deputy Minister of Internal Affairs Nikolai Karpenkov talks about a meeting with a person holding the post of President, where the security forces were told

⁷⁵ <https://tass.ru/mezhdunarodnaya-panorama/12090333>

⁷⁶ <https://www.youtube.com/watch?v=KXg8wSgWU94>

⁷⁷ <https://youtu.be/VeGigtOJl24>

what to do with the protests and protesters⁷⁸:

«Therefore, as the president said, if he is rushing to you, if rushing to you — use the weapon, it turns out, here is non-lethal. Point-blank: legs, stomach, balls. To understand what he has done and what he has done when he regains consciousness. Well, apply something to him like this: either maim, or mutilate, or kill. Use the weapon directly on his forehead, right on the forehead, right in the face, right there, after which he will never, it turns out, return to the state in which he was. Well, if they resuscitate him so be it. He will not have half of his brain, well, there he deserves. Because basically all those who take to the streets at the moment to take part in a rail war, it turns out that those who block roads, attack policemen, throw Molotov cocktails, are the same terrorists. Our country doesn't need such people».

Karpenkov also spoke about the creation of special camps for protesters:

«It has been said to develop, to make a camp, to make a camp, well, not for prisoners of war, not even for internees, but a camp for especially sharp-hoofed ones, such for resettlement. And put a barbed wire, it turns out, along the perimeter. To make two rooms: firebox — floor, floor to feed them, so that they would work. But keep them there until everything calms down».

On an audio recording published by **BYPOL** in March 2021, Yuri Karaev, at the time of the recording, the Minister of the Interior, gives instructions to his subordinates:

«Pursue those who threaten you and me, officials, and especially you. Give up other things you have to do and find this creature and kill [or «take away» — it doesn't sound very legible]. Here is my instruction to you⁷⁹».

A year after the August brutal dispersals⁸⁰ other criminal orders of the leadership of the Ministry of Internal Affairs for brutal detentions, dispersals, beatings and intimidation of civilians also became public knowledge. Here is a fragment of a conversation between the head of the interior affairs of the city of Soligorsk, Alexander Sharovar, and the deputy head of the Internal Affairs Directorate of the Minsk Regional Executive Committee, Nikolai Maksimovich. N.V. Maksimovich

⁷⁸ The belonging of the voice to Karpenkov was established by the conclusion of the expert E.V. Borgoyakova, GlavExpert LLC, which conducted a phonoscopic study of the audio recording published by BYPOL <https://www.legin.by/posts/-ot->

⁷⁹ <https://www.youtube.com/watch?v=IKid3b6Yals>

⁸⁰ In August 2021

gives direct instructions to his subordinate Sharovar⁸¹ on the detentions and beatings of any citizens who find themselves in the city center (*the author's style has been preserved — authors of the report*):

«The detentions, I say right away, this is my order, must be tough f..., looked wrong f..., with the phone, f..., f... beat everyone; do not be ashamed of anyone even if he even looks the wrong way, f... beat them all, put in paddy wagons, f..., and get them to the regional department ... The point is that when they see a police officer or their transport, f..., all the fagots who are planning to get together, they must, f... run away, peeing in their pants, f... That's the effect we need in the city».

Thus, we observe not only a complete disregard for the rights of citizens to peaceful assembly and violations of the rights to personal immunity by the police leadership, but also direct orders to use violence and torture during and after detentions.

On March 14, 2021, serviceman Denis Urad photographed and published a secret letter from Interior Minister **Ivan Kubrakov** to Defense Minister **Viktor Khrenin**. In the letter, the head of the Ministry of Internal Affairs, contrary to the Constitution, asked on the eve of Freedom Day to attract 3,725 military personnel to guard different places in different cities. Thus, it was planned to send at least 1,360 people to Minsk (at least 100 representatives of special operations forces). And under a state of emergency in the capital, their number should increase to 2,680. The participation of servicemen in the protection of facilities will allow the Ministry of Internal Affairs to concentrate on stopping demonstrations⁸².

In April 2021, Deputy Minister of Internal Affairs, Commander of the Internal Troops Nikolai Karpenkov said in an interview that the Belarusian opposition has become radicalized and is on a par with international terrorists. According to him, the fight will proceed in the same way as counter-terrorist operations take place.

«As soon as the order comes — wherever they are, without a statute of limitations — we will find them and we will clean them out ... We remind our false bloodthirsty opposition that we know them all. We know where they are, with whom they communicate, what kind of real estate they have, where their families are. They love to remind us of our families and build all their threats against us through our wives and children. I am not hinting at anything, but if an order comes or someone of them will do something in relation to the head of state, to members of his family, to law enforcement officers, to the wives and children of our employees, our reaction

⁸¹ <https://t.me/cpartisans/334>

⁸² <https://bit.ly/3lHe03j>

will be lightning fast and the blow will be crushing. And it will be symmetrical in absolutely all plans and designs, which the opposition had. We will find them and clean them up. And let them know that retribution is inevitable»⁸³.

On the official Telegram channel of the press secretary of the Ministry of Internal Affairs of Belarus **Olga Chemodanova**, videos of detained protesters, often beaten, who apologize to the camera, admit their guilt and urge not to go to protests and not engage in opposition activities, constantly appear⁸⁴.

Thus, before the presidential elections and after the elections, the leadership of the Ministry of Internal Affairs gave instructions to its employees for maximum lawlessness against civilians and political opponents, allowing them any methods, up to injuries and murders, as well as detentions without legal grounds. These orders have resulted in massive torture, cruel and inhuman treatment of thousands of detainees, and the killing of protesters. Videos of beaten protesters apologizing for going out to protests and for other actions interpreted as anti-state are published to intimidate the civilian population.

KGB

In December, the head of the KGB Ivan Tertel, speaking in front of the working collective of «Grodno-Azot,» said that the special services were preparing for a «*hot war*»⁸⁵ in the spring. [refers to the war against the protesters].

In May, speaking to the government, the head of the KGB, Ivan Tertel, called Roman Protasevich, for the capture of which a Ryanair civilian plane was landed a «*terrorist*» and a «*militant-mercenary*»⁸⁶.

July 8, 2021 searches⁸⁷ were held at the apartments of many Belarusian activists and journalists in Svetlogorsk, Gomel, Brest, Vitebsk, Polotsk, Novopolotsk, Glubokoye, Dokshitsy, Orsha, Minsk⁸⁸.

On the same evening, the Deputy Head of the Investigation Department of the KGB Konstantin Bychek on the air of the Belarus-1 TV channel⁸⁹ stated that a

⁸³ <https://www.youtube.com/watch?v=kmyBIB9v4BY>

⁸⁴ <https://t.me/pressmvd>

⁸⁵ <https://nashaniva.com/?c=ar&i=265466&lang=ru>

⁸⁶ <https://bit.ly/3fH2ssU>

⁸⁷ <https://reform.by/239480-v-regionah-proshli-obyski-u-aktivistov-i-zhurnalistov>

⁸⁸ <https://bit.ly/3yMA9k8>

⁸⁹ https://t.me/ATN_BTRC/31800

«large-scale cleanup operation is held to get rid of radicalized individuals».

KGB officers are also directly involved in tortures of detainees⁹⁰.

The KGB has always been one of the regime's punitive organs, taking part in the persecution of Lukashenko's opponents. In April 2021, the KGB included in the list of people involved in terrorism Svetlana Tikhanovskaya, Pavel Latushko, Anton Motolko, BYPOL employees who are investigating the crimes of the regime and want to restore the rule of law in Belarus.

Thus, the main body designed to guard the security of the state classifies the protesters as terrorists and radicals, and peaceful protests as military actions with a corresponding response from the security forces.

MINISTRY OF DEFENSE

On August 23, 2020, Defense Minister Viktor Khrenin said in his address:

«We cannot calmly watch how under the flags under which the fascists organized the massacres of Belarusians, Russians, Jews, representatives of other nationalities — today, actions are being organized in these sacred places. We cannot allow this to happen! Therefore, from today we take them under our protection and defense. We warn you categorically: in case of violation of order and peace in these places, you will no longer deal with the police, but with the army⁹¹».

It is important to note that the «March for Freedom», a protest, which was held in Minsk on 16 August 2020 with a gathering place near the Stela «Minsk — Hero City» and counted between 400 and 500 thousand people⁹² excluding the movement of people on the streets, it is a peaceful assembly of citizens, during which there was no disturbance of public order.

Already on August 23, 2020, near the Stela, several hundred soldiers and officers were placed, journalists noticed that they had machine guns, light machine guns, sniper rifles and RPG-7 anti-tank grenade launchers⁹³. Starting from August 23, 2020, during a march each Sunday Stela «Minsk — Hero City» was under the Ministry of Defense military cordon in uniforms and balaclavas that created the

⁹⁰ <https://bit.ly/3AvfEgf>

⁹¹ <https://www.youtube.com/watch?v=DHFqzwWRLhg>

⁹² <https://nn.by/?c=ar&i=257219>

⁹³ <https://bit.ly/3jEdPmv>

oppressive atmosphere of martial law. Such measures were aimed exclusively at intimidating the protesters, since there was no objective need for a cordon.

In August 2020, during a scheduled information session at the Ministry of Defense, Minister Viktor Khrenin said in front of the heads of the structural divisions of his departments:

«Only few people leave us. They changed their colour quickly, they begin to water us with mud. Those political strategists who write Tikhanovskaya's texts pose the question: Army, are you with the people? Will you shoot against the people? We are being summoned, including by Tikhanovskaya, who says «Do not carry out criminal orders.» This woman calls us to treason, breaking the law — not to follow orders. No matter if it is criminal or not criminal ... — we are military people. The state system is not collapsed, it works, the president is elected»⁹⁴.

Thus, the leadership of the armed forces expressed their readiness to carry out any criminal orders of the person holding the presidency. Without the introduction of martial law in the country, military with weapons, ready to start using it, joined in intimidating peaceful protesters at all peaceful protests.

MINISTRY OF FOREIGN AFFAIRS

On April 10, 2021, Foreign Minister Vladimir Makei directly voiced threats to civil society:

«Any further tightening of sanctions will lead to the fact that civil society will cease to exist. And this, I believe, will be absolutely justified in this situation. The civil society they care about»⁹⁵.

On May 28, 2021, in an interview with the Kommersant newspaper, Minister Makei said:

«I think that the actions of our law enforcement officers, including last year, were absolutely adequate to the situation that was developing. And if the protests were peaceful, no one would have taken forceful actions by law enforcement agencies»⁹⁶.

Thus, the Minister of Foreign Affairs approves of the criminal actions of the

⁹⁴ <https://bit.ly/3IW1CMG>

⁹⁵ <https://bit.ly/3s3c71Q>

⁹⁶ <https://www.mfa.gov.by/press/smi/a3f9bd63d7d37c0a.html>

security forces during the dispersal of protests, trying to justify such crimes by the allegedly non-peaceful nature of the protests. The persecution of civil society is confirmed by the subsequent targeted cleansing of non-governmental organizations, including those protecting human rights.

MINISTRY OF JUSTICE

The Ministry of Justice is endowed with the broadest powers to control the Bar activities, as an institution as a whole, and the activities of individual lawyers, as holders of a license to carry out advocacy, which is issued by the Ministry of Justice.

For the first time, the lawyers 'community faced a massive deprivation of licenses after the presidential elections in Belarus in December 2010, when during 2011 the Ministry of Justice revoked **seven lawyers' licenses** for various reasons. In the period since the start of the electoral campaign for the presidential election in 2020 to the present time at least **19 lawyers' licenses** were suspended.

Lawyer Alyaksandr Pylchenko, deprived of his license, said that during the conference of the Minsk City Collegium, the Deputy Minister of Justice and the Chairman of the Belarusian Republican Collegium of Advocates *«in general, unambiguously explained what the problem was: that there are lawyers who, in their opinion, climb into politics, speak out their opinions»*⁹⁷.

Thus, using the broadest powers, the Ministry of Justice revokes the licenses of those lawyers who defend opponents of the authorities and openly speak out against lawlessness.

The Ministry of Justice is also directly involved in the mass liquidation of civil society organizations. Thus, the Ministry of Justice handed down two warnings to «Belarusian Helsinki Committee», filed claims to the Supreme Court to suspend the activities of the NGO «Legal Initiative», «Movement «For Freedom», to liquidate NGO «Belarusian Association of Journalists», NGO «Belarusian PEN-center».

Since 2010, the Ministry of Justice has been revoking licenses of lawyers involved in political cases, thus joining the political repressions. Participation in the liquidation of public organizations confirms the readiness to persecute civil society.

⁹⁷ <https://mediazona.by/article/2021/03/24/lawyers>

MINISTRY OF INFORMATION

In August 2020, the Ministry of Information on an out-of-court procedure restricted access to a number of Internet resources. A number of sites have been blocked, bypassing legal procedures. Thus, the website of the Belarusian Association of Journalists BAJ was unavailable to users in Belarus from August 9 to 27, 2020, despite the absence of a decision to restrict access to it.

On August 21 and 28, 2020, it became known that the Ministry of Information made a decision to restrict access to more than 70 Internet resources for «using them to coordinate activities and to organize mass disobedience to representatives of the authorities» and for «a number of articles that negatively characterize the situation in Belarus after the end of the electoral campaign and discrediting the activities of state bodies, including law enforcement agencies».

By the order of the Minister of Information Igor Lutsky dated September 29, 2020, the status of the media for the largest online news portal TUT.BY was suspended. The Ministry of Information also went to court with a claim to terminate the publication of the online version TUT.BY⁹⁸.

On May 18, 2021, on the basis of a notification from the General Prosecutor's Office of the Republic of Belarus, the Ministry of Information decided to restrict access to the tut.by Internet resource and its copies⁹⁹.

On July 8, 2021, on the basis of a notification from the General Prosecutor's Office in connection with the placement of information, the dissemination of which is prohibited by paragraph 1 of Article 38 of the Law of the Republic of Belarus «On Mass Media», the Ministry of Information decided to restrict access to the Internet resource nn.by.

Thus, the Ministry of Information is directly involved in the destruction of independent mass media in order to ensure the monopolization of the media and restrict the population from obtaining objective and reliable information.

⁹⁸ <https://bit.ly/3yvQTMt>

⁹⁹ <https://bit.ly/3AtEtW5>

MINISTRY OF EMERGENCY SITUATIONS

Since September 2020, its employees have been removing white-red-white flags and other historical symbols. On July 25, 2021, the head of the Ministry of Emergency Situations, Vadim Sinyavsky, announced that his subordinates would continue to remove the White-Red-White symbols¹⁰⁰:

«This was our initiative as well. The Ministry of Emergency Situations is a part of the forces that ensure the national security of the Republic of Belarus, therefore, no matter how difficult it is, no matter what tasks we perform, we are people in uniform, and in the event of a threat to national security, the territorial integrity of the Republic Belarus special weapons and equipment are defined for us. In the event of emergency situations, we will actually carry out, like the internal affairs bodies, tasks as intended.»

«We have done this work, have done and will continue to do so. We can talk about these fascist symbols, we cannot call them otherwise, unfortunately. They themselves deserved it, these individuals who disseminated them. And today a normal rational person realizes what could have happened to our country if, God forbid, these scoundrels seized power in the country. Nobody will allow them to do this, including the Ministry of Emergency Situations.»

The white-red-white flag is a historical flag and is not recognized as an officially prohibited symbol. The removal of flags by employees of the Ministry of Emergency Situations is one of the many forms of violation of freedom of expression. Since August 2020, the historic flag has become a symbol of the proponents of change. By hanging flags on balconies or streamers between houses, citizens demonstrate their political position. The symbols do not carry any inconveniences or threats to security and law and order. As a former employee of the Ministry of Emergency Situations reported, the demands to remove the flags came not from disgruntled citizens, but from the police¹⁰¹. By destroying the symbols and cynically invoicing for the removal of flags¹⁰², the Ministry of Emergency Situations demonstrates its involvement in suppressing dissent.

In addition, the minister commented on the changes in the laws «On the state of emergency» and «On martial law»:

«The employees of the ministry will be covered by the law «On the Internal Affairs Bodies» on the terms of the use of physical force, special means, service weapons, and most importantly, employees will be legally protected from various threats in

¹⁰⁰ <https://bit.ly/3AtEtW5>

¹⁰¹ <https://www.the-village.me/village/city/whatsgoingon/286183-ex-mchs>

¹⁰² <https://realt.onliner.by/2020/10/14/kaskad-schet-za-flag>

the same way. Now the appropriate methods will be introduced into the order of personnel training, we will conduct classes with personnel, with commanders and we will prepare them to perform tasks as intended».

Thus, the leadership of the Ministry of Emergency Situations, helping the current regime, is fighting dissent. The statements of the head of the Ministry of Emergency Situations about the readiness of the employees of the Ministry of Emergency Situations to use physical force and weapons against the demonstrators indicate that the Ministry of Emergency Situations, on a level with other power structures, is ready to carry out orders to disperse and torture peaceful protesters.

INVESTIGATIVE COMMITTEE

Since its creation in September 2011, the Investigative Committee has been and remains one of the most repressive bodies. It was this body that initiated and «investigated» any political criminal cases. Since August 2020, the Investigative Committee has been massively persecuting peaceful protesters, replacing peaceful assemblies with the concept of «riots» and «actions that grossly violate public order». Many criminal cases have been opened for expressing an opinion, while in fact the cases are being opened for «insulting a representative of the authorities». The Investigative Committee has not initiated a single criminal case against representatives of the state media who incite hatred on political, ethnic or religious grounds.

On July 30, 2021, at a meeting of the Board of the Investigative Committee, it was stated:

«Since August 2020, the main efforts of the Investigative Committee have been focused on identifying and, suppressing and investigating the circumstances of criminal manifestations associated with illegal mass events, riots, protests, encroachment on state sovereignty and public safety, deliberate destruction and damage to property, violence and threats in regarding officials and their family members. Investigative divisions initiated 4,691 criminal cases on 4,196 facts of such manifestations¹⁰³».

At the same time, since August 2020, not a single criminal case has been initiated on the facts of mass torture and further unlawful actions of the security forces during 2020-2021, despite the massive statements of the victims and publications about torture in the media»¹⁰⁴.

¹⁰³ <https://sk.gov.by/ru/news-ru/view/sledstvennym-komitetom-na-zasedanii-kollegii-podvedeny-itogi-raboty-v-pervom-polugodii-2021-goda-10240/>

¹⁰⁴ <https://bit.ly/3ABqj5d>

Thus, the Investigative Committee turned into a punitive body and massively persecutes the civilian population for political reasons.

LEGISLATIVE AUTHORITIES OF THE REPUBLIC OF BELARUS

In fact, since 1996, the Belarusian parliament has been completely controlled by Lukashenko. All elections since 1996 have been falsified. Legislative drafts are adopted by the deputies almost unanimously.

Against the backdrop of unprecedented repression aimed primarily at preventing the resumption of mass protests, the authorities took unprecedented measures to tighten legislation. In 2020–2021, parliament passed a number of laws aimed at suppressing dissent and expanding the powers of security officials in suppressing protests and continuing to harass protesters, journalists, lawyers and anyone who disagrees with the regime's actions.

The law «On amending the Law of the Republic of Belarus» On Citizenship of the Republic of Belarus»¹⁰⁵ of December 10, 2020 was supplemented by a norm providing for the loss of Belarusian citizenship for participation in terrorist and other extremist activities or for causing grave harm to the interests of the state. At the same time, any activity that is objectionable to the regime is recognized as extremist, and people who fight the regime by peaceful methods are included in the list of persons involved in terrorist activities.

On January 13, 2021, the Law «On Amendments to Codes on Criminal Liability» was published¹⁰⁶. According to the updated Criminal Procedure Code, the total period of suspension of the examination should not exceed three months. However, it provides for the possibility to suspend an examination for a period exceeding three months, while the maximum period is not set. This law was adopted at a time when the maximum period of checks on thousands of allegations of torture committed by the security forces in August 2020 expired. Thus, the parliament has legalized the ability to carry out such examinations for an indefinite period without making any procedural decision.

As a result of the adoption of the new Code of Administrative Offenses¹⁰⁷, which entered into force on March 1, 2021, the administrative liability for participation

¹⁰⁵ https://etalonline.by/document/?regnum=h12000067&q_id=3611419

¹⁰⁶ https://etalonline.by/document/?regnum=h12100085&q_id=3611354

¹⁰⁷ https://etalonline.by/document/?regnum=hk2100091&q_id=3611420

in unauthorized assemblies was tightened — the size of fines was significantly increased (up to 200 base units), and for repeated prosecution, the maximum period of administrative arrest was increased from 15 up to 30 days.

Law «On Amendments to the Laws on the Issues of Ensuring the National Security of the Republic of Belarus»¹⁰⁸ entered into force on June 19, 2021 and gives the security officials the right to use weapons, physical force, military and special equipment «in order to suppress mass riots». At the same time, the security forces, in fact, are not responsible for the harm caused as a result of the use of this special equipment.

The Law «On Amendments to the Law» On State Protection of Judges, Officials of Law Enforcement and Regulatory (Supervisory) Bodies, Employees of the State Security Body¹⁰⁹ «entered into force on June 19, 2021 and is aimed at protecting judges, officials of law enforcement and regulatory (supervisory) bodies, employees of the state security body, military and civilian personnel of the Operational and Analytical Center under the President.» and their loved ones and gives them the right to change jobs and even change their appearance if their safety cannot be ensured by other means.

Thus, the legislation was changed as soon as possible so that the security forces were not afraid to commit crimes in the future (to illegally detain, use physical force and special means, torture detainees, etc.). These changes took effect and strengthened the security officials' confidence in their actions.

In accordance with the Law «On Amendments to the Law of the Republic of Belarus» On Mass Events in the Republic of Belarus»¹¹⁰ of May 24, 2021, all actions will need permission from the authorities, and the notification procedure for their conduct will be canceled. Until the event is officially allowed, it cannot be written about in the media. Live broadcasts at public events are prohibited. Journalists are equated with participants or organizers, at the same time, media representatives cannot act as organizers or participants in mass events. It is also forbidden to collect money or help in any other way people who have been held accountable for violating the order of organizing or holding mass actions. Political parties and public associations will be held accountable for their members if they violate the law on public events. Thus, the right to peaceful assembly, which was difficult to realize earlier because of the law «On Mass Events in the Republic of Belarus», is now practically impossible to realize.

¹⁰⁸ <https://pravo.by/document/?guid=3961&p0=H12100106>

¹⁰⁹ https://etalonline.by/document/?regnum=h12100105&q_id=3611366

¹¹⁰ https://etalonline.by/document/?regnum=h12100108&q_id=3611380&type=card#

The Law «On Amendments to the Laws on the Issues of the Mass Media»¹¹¹ dated May 24, 2021, a journalist will be deprived of his accreditation for «deliberately unlawful act in the exercise of professional activity, »and also allows not the court, but the Interdepartmental Commission on Security in the Information Sphere to stop the publication of the media or restrict access to the online publication. The reason this can be done is because there is material the dissemination of which could pose a threat to national security. The same Commission may decide to restrict access to an Internet resource or a network publication if it considers that the materials on this resource threaten the national security of the country. It is prohibited to publish in the media and on Internet resources the results of public opinion polls related to the socio-political situation in the country, republican referendums, presidential and deputies' elections, if they were held without obtaining the necessary accreditation for this. The ban on the right of individuals and legal entities to act as a founder of a media after the termination of its publication will be extended from 3 to 5 years, but for owners of online publications this is 3 years. Any materials that carry an opposition agenda can be recognized as extremist and posing a threat to national security.

Law «On Amendments to the Laws on Advocacy Issues»¹¹² dated May 27, 2021, abolishes the activities of lawyers within law offices and individually. Legal consultation remains the only organizational form. A simplified procedure for admission to lawyers is proposed for applicants from among former judges, prosecutors and other law enforcement officials. While interns usually do an internship for 6 months and then take oral and written exams, former law enforcement and judicial officers will intern for 3 months and take one oral exam.

According to the Law «On Amendments to the Laws on Countering Extremism»¹¹³ dated May 14, 2021, extremism will also be: dissemination of false information about various spheres of life in Belarus, about the legal status of citizens of Belarus, information« discrediting the Republic of Belarus»; insulting a civil servant; discrediting the government and administration; obstruction of the work of the Central Election Commission and other state bodies; active participation in mass riots or their organization; calling for an unauthorized mass action — from a rally to a picket, as well as involving people in them; public justification of such actions, and even more an appeal to them; financing of the above actions. Since the adoption of this Law, any manifestation of dissent, including peaceful assemblies and journalistic activities to cover protests in Belarus, becomes extremist and will be prosecuted.

¹¹¹ https://etalonline.by/document/?regnum=h12100110&q_id=3611395

¹¹² https://etalonline.by/document/?regnum=h12100110&q_id=3611395

¹¹³ <https://etalonline.by/document/?regnum=H12100104>

JUDICIAL AUTHORITIES OF THE REPUBLIC OF BELARUS

As noted by the Human Rights Committee in its Concluding Observations on the Fifth Periodic Report on Belarus, adopted on 25 October 2018, the independence of the judiciary continues to be hampered by the role of the President in the selection, appointment, reappointment, promotion and removal of judges and prosecutors and oversight from him of these processes, as well as the lack of guarantees of irremovability of judges, who are initially appointed for a five-year term with the possibility of reappointment for another term or indefinitely. The Human Rights Committee is also concerned that the salaries of judges are determined by presidential decree and not by the law.

The dependence of the judiciary on the president, namely, on the person illegally holding the presidency, citizen Lukashenko, found its expression in thousands of political, administrative and criminal proceedings in 2020–2021, as well as throughout Lukashenko's rule.

As indicated in the monitoring reports of the Viasna Human Rights Center, in the process of administrative and criminal proceedings, including in the courts, there is a widespread violation of national legal norms, constitutional and internationally recognized standards of a fair trial. Gross violations and ignoring human rights have fundamentally undermined trust in law enforcement, as well as trust and respect for the justice system¹¹⁴¹¹⁵.

According to data from Project «23.34», based on the analysis of 5,595 documented cases of administrative prosecution for participation in protests, human rights are systematically violated during trials. Among the most serious violations are the conduct of trials from places of detention through videoconferencing, the refusal to have independent lawyers present at the trial, and the use of testimony from law enforcement officials as the only or main evidence, despite discrepancies in testimony¹¹⁶.

On January 19, 2021, a political prisoner Viktor Borushko, during the consideration of a criminal case in the Leninsky District Court of Minsk (judge Marina Zapasnik), stated that after being detained in the Leninsky RUVD, he was «*beaten, a truncheon was put in my ass. After that, I spent 12 days in the intensive care unit of the emergency hospital. My legs were so swollen I couldn't take my jeans off*»¹¹⁷.

¹¹⁴ <https://bit.ly/3CzsCaP>

¹¹⁵ <https://bit.ly/3iBwcJq>

¹¹⁶ <https://bit.ly/3AxD54Z>

¹¹⁷ <http://spring96.org/ru/news/101420>

On July 1, 2021, political prisoner Stepan Latypov, during the consideration of the criminal case in the Sovetsky District Court of Minsk (judge Alexander Volk), said: *«Father! After the meeting, the GUBOP came to me. Promised that if I do not admit my guilt, I will have a «press-hata» (a jail cell, in which the administration, with the help of prisoners collaborating with it, creates unbearable conditions for the arrested person, in order to get a confession from him), criminal cases will be initiated against relatives and neighbors. I spent in a «press-hata» 51 day.»* Right during the proceedings, sitting in the cage, he stuck a pen in his throat¹¹⁸.

On July 1, 2021, a political prisoner Nikolai Dedok, during the consideration of a criminal case in the Minsk City Court (judge Anastasia Popko), told shocking details of the torture used by the GUBOPiK officers¹¹⁹.

Despite these and many other allegations of torture, the judges did not suspend the consideration of criminal cases pending an examination of the accused's allegations of torture.

Many victims interviewed by the International Committee for the Investigation of Torture in Belarus report the same indifference of judges to the traces and facts of torture on August 9–12, 2020:

«At the trial itself, I said directly the following: «I don't want to be beaten, so I admit my guilt.» I asked: «Will they beat me anymore?» The judge replied: «The court does not accept your ultimatums. We are not obliged to listen to you, we are judging you».

At the same time, the so-called court sessions were held on the territory of SIZO, in the corridors, without any attempts to even create the appearance of a proper trial: *«The judge immediately said: «The court is leaving to make a decision. Decision is made». Directly with that speed he said, without leaving anywhere, he just turned the page and read out the sentence for 13 days».*

Thus, the courts are a part of the repressive mechanism and perform the function of mass conviction of people who disagree with the regime. The imitation of the judicial process gives confidence to the security forces and other state structures in the correctness and impunity of repression for dissent.

¹¹⁸ <https://spring96.org/ru/news/103684>

¹¹⁹ <http://mediazona.by/article/2021/07/01/dedok>

PROSECUTOR'S OFFICE

Prosecutor General (now former) Alexander Konyuk on August 15, 2020, on the air of the Belarus1 TV channel, told that all mass events should be coordinated with local authorities¹²⁰. He did not publicly discuss police violence and did not comment on the grave legal crisis that had developed in the country. The prosecutor's office did not take steps to investigate the mass torture.

Only on August 26, 2020, when people began to file torture allegations en masse, the General Prosecutor's Office said: «Subdivisions of the Investigative Committee continue to conduct pre-investigation checks on citizens' statements about the use of physical force and special means during unauthorized mass events. The purpose of these inspections is to objectively, fully and comprehensively understand the situation, to establish the presence or absence of signs of crime in the actions of representatives of the law enforcement during the arrest, delivery and detention of citizens in the temporary detention facility and the CIP after their participation in unauthorized mass events. Each such examination is taken under the control by the prosecutor's office. An interdepartmental commission has been created under the aegis of the General Prosecutor's Office to coordinate and support the study of the circumstances set out in the relevant appeals. It included 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»¹²¹.

Already on September 9, 2020, so that the prosecutor's office does not investigate the mass torture, and the security forces continue to commit large-scale attacks on civilians with impunity, Lukashenko appoints another Prosecutor General.

The post of the Prosecutor General was taken by Andrei Shved (formerly the chairman of the State Committee for Forensic Expertise), representing whom in the Prosecutor General's Office, Lukashenko publicly stated that sometimes laws can be violated¹²².

On September 24, 2020, Andrei Shved said that the prosecutor's office, together with the law enforcement forces, other competent authorities and organizations, will develop tactics and strategy of action to implement the instructions of the head of state: «All those responsible will be punished sooner or later. Not a single blogger, not a single person who committed a crime not only at unauthorized

¹²⁰ <https://bit.ly/3s22O2e>

¹²¹ <https://bit.ly/3iws65x>

¹²² <https://youtu.be/EVzWN41hVBs>

events, but also on the Internet, will escape responsibility. Today, very active work is underway to identify such persons and bring them to justice»¹²³.

At the same time, not a single word was said about the identification of the criminal actions of the security forces in relation to the detained civilians.

The composition of the previously created interdepartmental commission for the investigation of torture was classified, no information about its work for the year was presented to the public¹²⁴.

According to the submissions of the Minsk city prosecutor's office, the main department of justice of the Minsk City Executive Committee liquidated at least 4 human rights organizations: «Consulting Center on Current International Practices and Their Implementation in Law« Human Constanta »,« Center for the Promotion of Women's Rights»,« Office for the Rights of Persons with Disabilities » and the Center for Legal Transformation¹²⁵.

During the trials of the protesters, prosecutors ignored allegations of torture during the investigation.

The prosecutor's office does not take any action in connection with numerous complaints about the conditions of detention in the CIP and IVS¹²⁶, such complaints are simply forwarded to the body which actions are being appealed.

In accordance with Art. 26 of the Law of the Republic of Belarus «On the Prosecutor's Office of the Republic of Belarus», the subject of supervision over the implementation of legislation is accurate and uniform implementation of laws, decrees, and other normative legal acts by republican government bodies and other state organizations subordinate to the Council of Ministers of the Republic of Belarus, local representative, executive and administrative bodies, public associations, religious organizations and other organizations, officials and other citizens, including individual entrepreneurs.

According to the law, when exercising supervision over the implementation of the legislation, the prosecutor has the right to freely enter the premises and other facilities of state bodies, as well as call officials and demand explanations about the circumstances associated with the violation of the law. The prosecutor's

¹²³ <https://bit.ly/3yNNsBf>

¹²⁴ <https://www.legin.by/posts/289>

¹²⁵ <https://t.me/prokuraturabelarus/1202>

¹²⁶ <https://news.zerkalo.io/life/865.html>

office has broad powers to restore the rights of citizens — from making a submission and issuing a binding warning, to going to court to protect the rights of citizens and initiating criminal cases. Nevertheless, the prosecutor's office has completely withdrawn from its supervisory functions and has become on a par with the rest of the regime's repressive mechanisms to persecute citizens for dissent and protesting against the regime.

GOVERNMENTAL MASS-MEDIA

During the period of peaceful protests, the state media (television channels, Internet publications and Telegram channels) paid very little attention to the ongoing events, and information about the protesters was presented almost always negatively, they tried to present them as «immoral» elements (*alcoholics, drug addicts, prostitutes and criminals*), whose goal is to destabilize the situation in a calm country.

The protesters' participation in the rallies, according to state media, is paid for from abroad. The arrests with the use of brutal violence were presented as a necessary reaction of law enforcement agencies to the destructive, violent actions of the protesters and were characterized as mass riots.

State-owned media incite hatred and enmity on political and ethnic grounds, and some workers in these media directly call for the destruction of protesters and the leadership of countries to which the protesters persecuted by the regime were forced to flee. Many media outlets publish materials from closed trials, calling the accused criminals even before the sentence.

The UN Committee on the Elimination of Racial Discrimination understands «hate speech» as «a form of a focused on surrounding people speech that denies the basic principles of human dignity and equality and seeks to belittle the position of individuals or groups of the population in the eyes of society»¹²⁷.

Here is a short selection of materials from the state media that illustrate hate speech.

Grigory Azarenok, host of the state television channel CTV, incites hatred on ethnic grounds against the leaders and residents of European states and the United States, especially against those who supported free elections and protesting for the freedom Belarusian people. He also incites hatred against

¹²⁷ Committee on the Elimination of Racial Discrimination, General Recommendation No. 35, Combating Racist Hate Speech, 26 September 2013, CERD / C / GC / 35, para 10

those who were forced to flee from regime from Belarus because of the persecution, and calls for the destruction of protesters and Belarusians who fled from the persecution of the regime.

«Secret Springs of Politics 2.0» dated 08/14/2021

«And if at least someone shows me something more disgusting than our zmagars (people who are in opposition to the regime), I will be really surprised. It seems that the devil himself is spewing stench from their heads».

«How did you, degenerates, appeared on our land? Where did that bastard turd come from? And you are still surprised that all this rot, which has brought up such Zoys here, is burned out with a hot iron? Yes, this incredible creature should pray that there are law enforcement officers who will treat her according to the law».

«When every day I see your white-red-white marasmus, watch and read your wretched and bastard conclusions, I only regret one thing. That this is happening seven decades after the Victory. Veterans are already aged, and tens of millions of winners lie in the ground. But, by God, you will one day raise them from their graves with your abomination. And they will make you shut up with the help of a three-line rifle. And do not be offended, scum, that you will burn in the new imperial office together with your masters. You deserve it»¹²⁸.

«Secret Springs of Politics 2.0» dated 07.24.2021

«If America appears somewhere, there comes war, hunger, tears and death. This state is a gangster that will stop at nothing to maintain dominance over humanity. Therefore, all American lackeys, all their henchmen are enemies of the people. The same fate awaits the heirs of Carthage — your printed billions, for which you pray, will become the fire on which you will burn.»¹²⁹

«Secret Springs of Politics 2.0» dated 21.07.2021

«And we openly declare: the modern Republic of Lithuania is a fascist state, where the people are under Nazi occupation»¹³⁰.

¹²⁸ <http://www.ctv.by/grigoriy-azaryonok-stydit-ih-za-cto-v-ih-golove-poyavlyayutsya-tolko-vysokooplachivaemye-mysli>

¹²⁹ https://www.youtube.com/watch?v=43tTDBQc_98

¹³⁰ https://youtu.be/_yytNEUNyg4

«Secret Springs of Politics 2.0» dated 20.07.2021

«Do you even know what you are doing? A pregnant Muslim woman running from a weapon is haram [sacred]. After all, retribution will come not on the heads of stupid politicians, but on your unfortunate citizens [meaning the Lithuanians — compilers of the report]. Or Charlie Hebdo's bad example haunts you? Hear the word jihad. Think about it»¹³¹.

«Secret springs Politics 2.0» from 07.17.2021.

If not to clean up this scum [meaning those who were forced to flee from the regime from Belarus] now, then in the future they will gladly arrange Buchenwald from Belarus. Activities for money to destroy one's own country in favor of a geopolitical adversary is called treason. But they have no homeland. Their homeland is the dollar and the rubber phallus. But history has already given them a name. These are the enemies of the people»¹³².

«Secret Springs of Politics 2.0» dated 07.07.2021

«They went mad — the West and its bootlickers [meaning the EU countries and those who were forced to flee from Belarus]. They are trying to hound us. Sanctions are red flags with which they drive us in order to shoot. But we will break free and tear you apart. Belovezhskaya Pushcha will become your grave»¹³³.

«Secret Springs of Politics 2.0» dated 03.06.2021

«One should not know the West at all, its special services, its methods, in order to be surprised that Protasevich was surrendered. They slaughtered and poisoned entire nations, they plundered huge continents for centuries, they raised Hitler to fight the USSR, and then joined in his destruction. And you think that they will feel sorry for some pathetic Protasevich, some fool Tikhonovskaya, some drunken luggage inmate or a juvenile cocaine blogger? They will kill you all in turn, hand you over, flood your panties with «Novichok», throw them away, gut and not choke. These are the laws of the West, since the days of Machiavelli. In their policy, only expediency and benefit are relevant. And you are profitable for them — dead or behind bars»¹³⁴.

¹³¹ <https://bit.ly/2VLPEKU>

¹³² <https://bit.ly/3yAivQR>

¹³³ <https://bit.ly/3s5xMXk>

¹³⁴ <https://bit.ly/3fKIM7I>

Program «Secret Springs of Politics 2.0» dated 09.05.2021

«You — the ones who raised the white-red-white flag — you are the heirs of the collaborators and the Nazis. You are traitors to your homeland. There are millions of deaths on you, blood, fear, pain and suffering of our people, you, anti-Soviet bastards, you are fascists. You will never wash off this. Never clean your nasty rag of this»¹³⁵.

«Secret Springs of Politics 2.0» of 03/25/2021

«The first thing they will do, of course, is the ritual abuse. The «polizei» flag will be hung on the stele «Minsk — the city-hero», on the Victory monument, on the Museum of the Great Patriotic War. And they will cancel benefits and pensions for veterans so that they die as soon as possible. Because they hate them because they beat the traitors and their masters 75 years ago — they hate them for that.

They will start with what they like to call the mild word «lustration». But in reality — reprisals. They will throw Paralympian Alexei Talai into the trash can. A riot policeman who recently saved a girl from suicide will be welded an eagle on his back. After it all the policemen would be brought to their knees near the building of the Ministry of Internal Affairs, holding their wives, children and mothers at gunpoint. They will give a young member of the Belarusian Republican Youth Union to be torn apart by the fighters of some «Dobrobat» from one very European country in gratitude for the help provided. And the ambassador of this country will film everything. The diplomatic mission of overseas democracy on Twitter will write a post that this is the process of the formation of a civil society. With the current patriot-journalist they will do the same as with the great writer Buzina. And investigators from the Bypolizei organization will not investigate this case.

All those who disagree — peasants, workers, engineers, doctors — they will one day drive them into the Palace of Trade Unions on October Square and throw Molotov cocktails at it. Those who jump out of the windows will be shot by the activists of the courtyard chats from machine guns. Was it in vain that Svetlana Tikhanovskaya posed next to the deputy Goncharenko? He knows a lot about burning enemies.

I would like to close this book. And tell the guys from the OMON, GUBOP, internal troops: «Crush the fascist reptile»¹³⁶.

¹³⁵ <https://bit.ly/3jDT0YC>

¹³⁶ <https://bit.ly/2U6zg7d>

Julia Artyukh anchor on the CTV channel, incites hatred based on ethnicity, in relation to the leaders and citizens of European countries and Ukraine, especially in relation to those who supported free elections and protests for freedom in Belarus. She also incites hatred towards peaceful Belarusian protesters.

Rubric «Not smooth» from 05/14/2021

«Can you imagine May 9 without celebrating this Great Victory? Ask this question, because the protesters would also destroy everything that reminds of the feat of the Soviet people. Perhaps this is an order of foreign states — to erase this memory in order to arrange genocide again»¹³⁷.

Rubric «Not smooth» from 04/02/2021

«And while Zelensky is sitting in a luxurious office, shooting streams — and this, it seems, is one of the main functions of the President of Ukraine — people climb through trash cans, garbage cans in search of food»¹³⁸.

Rubric «Not smooth» from 02/26/2021

«We remember the heroic deed of the people and our common heroic past, in which the countries that are now crawling into our social and political life fought on the other side, burned Soviet children alive, exterminated our ancestors in whole villages. And nobody really cares about the opinion of corrupt traitors in building Belarusian-Russian relations»¹³⁹.

Andrey Mukovozchik, author of the state edition «SB. Belarus Today», incites hatred against peaceful protesters in Belarus and representatives of civil society, calls for the destruction of protesters and representatives of civil society.

Material from 22.07.2020

«The color revolution is a grave for the state. We have seen it, we have been convinced many times, we know. And you want to dig it, the shovels are already in your hands. Then remember the popular wisdom — and start digging a grave for yourself.

¹³⁷ <https://bit.ly/2VAMTfb>

¹³⁸ <https://bit.ly/3IKp1Rn>

¹³⁹ <https://bit.ly/3fOugM3>

Under the guise of democracy uprisings, riots, pogroms and a violent seizure of power are really being prepared. And the Belarusian people do not want this, do not accept. And if you are doing so, then we will not wait with our hands down.

After all, the Belarusians coped with both the White Cossacks and the White Poles. «White-Red-White remained a marginal minuscule in our society. Do you think we are not able to fight them? [meaning protesters — Authors of the Report] Can't cope? To excise, cauterize, isolate and treat thoughtfully — that's it»¹⁴⁰..

Material from 21.09.2020

«They are also enemies of the people [meaning protesters — the authors of the report] because they know how many of them there really are (ten percent maximum). But they don't tell the people. Of course, from their «highly moral» ideas: it is useless, they say, to cast your pearls before swine.

What history teaches: as soon as the people are done with their enemies, they immediately become stronger. More fruitful. More beautiful. And ready to win the Patriotic War»¹⁴¹.

Material from 24.07.2021

«The same is with society: no one will touch the normal «civil». And their «civil society» — this is the «society» with all its metastases — must be mercilessly cut out. Or it will eat us from the inside, so that donor-customers get only the territory, buildings and communications. Without us. Without Belarus»¹⁴².

Lyudmila Gladkaya, special correspondent for the newspaper «SB. Belarus today,» publishes materials in state-owned media, while calling the accused criminals, creating the impression that opposition-minded citizens and bloggers are guilty even before the sentence. Thus, through the state media, pressure is exerted on the courts and a negative attitude towards the accused is formed.

Material «In Gomel, the trial began in the case of Tikhanovsky, Statkevich and other defendants» dated June 24, 2021.

«According to the materials of the case, the accused [meaning Tikhanovsky,

¹⁴⁰ <https://bit.ly/3s5yaVM>

¹⁴¹ <https://bit.ly/3jEyoIS>

¹⁴² <https://bit.ly/3xKRid3>

Statkevich and others — the authors of the report] from June 2019 have been planning the organization of mass riots during the preparation and conduct of elections of the President», «We also know that in May of the previous year Tikhonovskiy hindered the work of the Central Commission for Elections and National Referendums, threatening Lidziya Yarmoshyna: publicly during video broadcasts with the participation of Sakov and Popov urged to break into her house. The accomplices of Tikhonovskiy and Statkevich developed and tried to implement this plan in September, but were detained»¹⁴³.

Material «In Mogilev, the trial on the group of Tikhonovskiy — Statkevich: Sevyarynets, Afnagel and others began» dated 05/12/2021.

«Afnagel, fulfilling his role, is gathering a team. The stake was on immigrants from the «Molodoy Front», «Zubr», BCD, «European Belarus» Voynich, Yukhnovich, Vinyarskiy, Schastnaya, the beginning blogger Kozlov and others. They had to find and manipulate the audience, recruit accomplices and involve them in crimes. The plans of the created structure include the preparation and commission of crimes before and after the elections. They planned street riots, blocking of roads, stopping enterprises, pogroms, arsons, destruction of property, threats to people, armed resistance to the security forces¹⁴⁴...»

On June 14, 2020, Belarus-1 TV channel published a video, in which a number of harsh affirmative statements were made about Viktor Babariko's guilt¹⁴⁵.

It should be noted, that the principle of the presumption of innocence, enshrined in the Constitution and the Criminal Procedure Code, states that no one can be found guilty of a crime if his guilt is not proven and established by a court verdict.

All state bodies are obliged to refrain from prejudging the outcome of the trial, including refraining from public statements alleging guilt. As for the media, by international standards, they should also refrain from presenting news in this way.

Despite the fact that the lawyers signed a gag order to the materials of the criminal case, the TV channels showed videos from the interrogations of the detainees and filmed «investigation» films¹⁴⁶.

On July 21, 2021, the Belarus 1 TV channel released a film about Sergei

¹⁴³ <https://bit.ly/3AnA72A>

¹⁴⁴ <https://bit.ly/3fOrnL3>

¹⁴⁵ <https://bit.ly/3ITVvJ7>

¹⁴⁶ <https://youtu.be/gqyYIWcdXRM>

Tikhanovsky entitled «Country for brutality». The film tells about the activists of Tikhanovsky and the preparation of terror in Belarus. Assistant to the President for the Grodno Region Yuri Karaev (formerly the Minister of Internal Affairs), speaking about Tikhanovsky, said: «A street bully, a scumbag from the 90s, a mixture of a criminal with, as he calls himself, a blogger».

State-owned media channels regularly broadcast propaganda films in which opposition political leaders and protesters who fled from the regime are called traitors, detained opponents of the regime are called criminals before the court verdict, and any protest activity is called a crime¹⁴⁷.

DELIBERATE ATTACK

The jurisprudence of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda have concluded that the perpetrator must be aware that a civilian population is being attacked and that, in addition, his or her action is part of that attack¹⁴⁸. This two-pronged approach is reflected in the document of International Criminal Court's «Elements of Crimes», which requires the latter element to be included in the act for each of the prohibited acts: «The perpetrator knew that the act was a part of a widespread or systematic attack on the civilian population, or had the intent to make it a part of such an attack.»

However, the last element should not be interpreted as requiring proof that the perpetrator had knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organization. In the case of an emerging widespread or systematic attack against a civilian population, the intent clause of the last element indicates that this mental element is satisfied if the perpetrator intended to further such an attack»¹⁴⁹.

It is not required to prove that the perpetrator knew the specific details of the attack¹⁵⁰; a conclusion about the knowledge of the offender can be made on the basis of circumstantial evidence¹⁵¹. In addition, the personal motive for the perpetrator's involvement in the attack is irrelevant; the performer need not

¹⁴⁷ <https://youtu.be/5Z0AQSqd4s0>; <https://youtu.be/Vln3Kw55YNI>; <https://youtu.be/KfqQZ9PR7Cg>; <https://youtu.be/MRsYuRGyV94>; <https://youtu.be/TKUi4bcxiLk>; <https://youtu.be/jTDk1JjyPXg>; <https://youtu.be/Cke5iW4cJgQ>; https://youtu.be/2_poZW1YhIE

¹⁴⁸ Prosecutor v. Kunarac, Trial Chamber, Judgment, ICTY Case No. IT-96-23, para. 418

¹⁴⁹ ICC, Elements of Crimes (see footnote 92 above), pp. 12-13

¹⁵⁰ Prosecutor v. Kunarac, Trial Chamber, Judgment, ICTY Case No. IT-96-23, para. 434

¹⁵¹ Prosecutor v. Tadić, Trial Chamber, Opinion & Judgment, ICTY Case No. IT-94 -1-T, para. 657

share the purpose of the broader attack¹⁵².

Thus, the conclusion about the conscientiousness of the attack and the awareness of the criminals of the Lukashenko regime that their behavior is a part of such an attack can be made based on the methods of attack that indicate the presence of a clear scheme and organized policy, presence at the scene of the crime, public gratitude of Lukashenko for these attacks, the general historical and political situation in which the acts discussed below were committed.

¹⁵² Prosecutor v. Kunarac, Appeals Chamber, Judgment, ICTY Case No. IT-96-23, para. 103

Chapter 3. Crime against humanity of murder

Elements

- 1. The perpetrator killed one or more persons.*
- 2. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.*
- 3. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack against a civilian population¹⁵³.*

Belarusian security forces used weapons and disproportionate force against demonstrators and people who disagreed with the government, which led to the death of at least four people. In addition to the cases described below, several other deaths of activists and protesters are known under strange circumstances. In addition, individuals who were arbitrarily detained and tortured, especially in August 2020, reported other cases of killings to human rights defenders, on condition of confidentiality. However, it remains impossible to investigate this evidence in the current situation.

¹⁵³ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

ALEXANDER TARAIKOVSKY¹⁵⁴

Alexander Taraikovsky, a peaceful protester who was shot dead by the security forces on August 10, 2020, near the Pushkinskaya metro station in Minsk. As it later became clear from the video recordings, he raised his hands, thereby showing the peacefulness of his intentions, and stood in front of the security forces. The leadership of the Ministry of Internal Affairs and later the state media from the very beginning stated that an unidentified explosive device had exploded in Alexander's hands. Nobody refuted this version until December 2020, when the head of the KGB Ivan Tertel said that «Comrade Taraynovsky or Taraykovsky died in Minsk. But whoever saw these pictures, saw that a man was standing in front of the OMON, went out — and brazenly stood in front of the police. He stands purposefully». Thus, at the highest state level, the fact of the execution of the peaceful demonstrator Taraykovsky was confirmed only because, in the opinion of the security officials, he stood «brazenly» and «purposefully» in front of them, and there were no longer any statements about an explosive device. A criminal case was not opened even on the fact of death.

ALEXANDER VIKHOR¹⁵⁵

On August 9, 2020, in Gomel, security forces while suppressing protests detained Aleksandr Vikhor. On August 9 and 10, the security forces mocked and beat all the detainees. On August 11, 2020, in the gym of the Railway District Department of Internal Affairs of the city of Gomel, due to psychological pressure, Alexander Vikhor suffered severe stress. Witness Rodion Beglyak states that «*He (Alexander Vikhor) had a nervous breakdown from this stress, he did not behave quite adequately, he did not obey them. And when he turned around and started something there ... to call mom and something there to be released. Then they flew up to him and began to beat him in such a way that it was just brutal ... In my opinion, there were two people with truncheons who beat him with all their «strength.»*» The new detainees continued to be beaten by the security forces with even greater force. At the same time, Alexander Vikhor was not provided with any medical assistance.

Then Rodion Beglyak and Alexander Vikhor were transferred to the Gomel SIZO in one narrow cell in a car for transporting prisoners, they sat there very tightly, there was not enough air, there was no way to move. Due to a mental breakdown, Alexander did not understand where he was and demanded to

¹⁵⁴ <https://mediazona.by/news/2020/12/17/taraikovskiy>

¹⁵⁵ <http://spring96.org/ru/news/102625>

release him, for which the security forces sprayed pepper spray into this small cell. In such conditions, they were transported for about an hour. After all the detainees were unloaded, they left Alexander and ordered the guards to teach (beat) Alexander a lesson, since, according to the security officials, he was a drug addict. A couple of hours later, Alexander, already in a coma, was taken to the hospital with a closed head injury. The state media stated that Alexander died of a drug overdose, which is a deliberate lie and was not confirmed by the results of the examination.

On August 12 at 3:55 am Alexander died in the hospital.

A criminal case was not initiated, and the investigators did not establish the involvement of the security officials in the death.

GENNADY SHUTOV¹⁵⁶

On August 11, 2020 in Brest, in the courtyard of house No. 344 on Moskovskaya Street, a serviceman, working to suppress the protests, shot Gennady Shutov in the back of the head. From the moment of the incident, the investigating authorities stated that Gennady Shutov and a friend attacked the security forces with pieces of rebar. As it later became known from the video recordings from CCTV cameras, Shutov didn't have a rebar, he and his friend did not commit illegal actions and did not resist, and the shot itself in the back of the head suggests that they were shooting from the back.

On August 19, 2020, Gennady Shutov passed away.

At the trial, it turned out that Shutov did not have any rebar in his hands and he did not attack anyone. Gavrillov explained the need to use weapons by the fact that he «felt bad», and the attackers were aggressive¹⁵⁷.

However, no evidence of aggression against the security forces was presented in court. A key witness to Gennady's murder, his friend, Alexander Kordyukov, was sentenced to 10 years in prison on politically motivated charges¹⁵⁸. A criminal case on the fact of Gennady's death was not initiated, despite the confession of his killer in court.

¹⁵⁶ <https://mediazona.by/article/2020/09/21/shutov-cctv>

¹⁵⁷ <https://bit.ly/3yB4Bhg>

¹⁵⁸ <https://bit.ly/3ytIMjF>

ROMAN BONDARENKO¹⁵⁹

In 2020, in Minsk, in the courtyard of the house 24B on the street Chervyakova, the «Square of Changes» appeared — a courtyard in which residents who disagree with the regime’s policy gather. The courtyard was renovated with protest murals, and fences were decorated with ribbons of white-red-white color. Belarusian musicians and other celebrities came to this courtyard and gave concerts to people. This place was a symbol of free Belarus, where a lot of people gathered.

On November 11, 2020, late in the evening, people close to the security forces: Dmitry Shakuta (works as a special training instructor in military units 3214 and 3032 (SOBR) of the internal troops); Natalia Eismont (press secretary of the President of the Republic of Belarus); Dmitry Baskov (chairman of the Ice Hockey Federation of Belarus, instructor of the SOBR special unit); Yevgeny Timanovsky (senior warrant officer of the special forces of the SOBR) and others, drove up and began to cut the decorations of the courtyard territory (ribbons of national colors). A dispute ensued between them and the local residents, in which Roman Bondarenko took part. As a result, unknown persons beat and dragged Roman Bondarenko into a minibus, in which SOBR officers were moving that evening. This minibus brought Roman to the Central District Department of Internal Affairs of Minsk, already badly beaten and in critical condition. The officers called an ambulance, which took Roman to the hospital. He underwent a complex operation on the brain.

On November 12, 2020, Roman Bondarenko died in hospital without regaining consciousness. The security forces initially misled people, claiming that Roman was drunk, although the tests did not confirm this. Later, the physician who provided the results of the examination, Artem Sorokin, and the journalist who published these results in the media, Katerina Borisevich, were arrested and convicted in connection with the dissemination of this information. Close relatives were immediately wiretapped and surveillance was immediately established. Later, a criminal case on the fact of Roman’s death was opened, but the involvement of law enforcement officers was not established, despite the facts and publications in independent media, including video recordings, testimony of witnesses and journalistic investigations¹⁶⁰.

The killings on August 10–12, 2020 were committed in different regions of Belarus and in the circumstances of dispersal or torture of demonstrators who

¹⁵⁹ <https://telegra.ph/Bondarenko-01-21>

¹⁶⁰ <https://bit.ly/2U4whMq>

came out to peacefully protest against the current regime. All this confirms the scale and repeated actions of the regime, the level of violence which reached its maximum point, up to and including murders. After August 2020, the security forces purposefully persecuted protesters and people who disagreed with the authorities and destroyed any symbols of freedom, as evidenced by the murder of Roman Bondarenko on November 12, 2020. This speaks of the continuous and systematic use of targeted and maximum violence, reaching the point of killing people who do not agree with the authorities.

Earlier, Alexander Lukashenko also spoke about the national historical flag of Belarus (White-red-white), calling it fascist (although on July 20, 1994, under the state symbols of the state — namely the coat of arms «Pursuit» and the white-red-white flag — A.G. Lukashenko took the oath of office as the President of the Republic of Belarus) ¹⁶¹. Thus, hatred was accumulated, primarily among the security forces, towards people using any items according to the scheme of historical national symbols (white-red-white), which happened in the courtyard during the beating of Roman Bondarenko.

¹⁶¹ <https://bit.ly/3iwpF2K>

Chapter 4. Crime against humanity of deportation or forcible transfer of population

Elements

- 1. The perpetrator deported or forcibly transferred, without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts.*
- 2. Such person or persons were lawfully present in the area from which they were so deported or transferred.*
- 3. The perpetrator was aware of the factual circumstances that established the lawfulness of such presence.*
- 4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.*
- 5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population¹⁶².*

¹⁶² International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

Deportation as a crime against humanity is enshrined in articles 7 (1) (d) and 7 (2) (d) of the Statute of the International Criminal Court. According to article 128 of the Criminal Code of the Republic of Belarus, deportation is recognized as a «crime against the safety of humanity» and Belarusian legislation.

Crime against humanity of deportation or forcible transfer of population, as well as in the form of persecution that became the basis for the statement on behalf of the International Partnership for Human Rights, Global Diligence LLP, Truth Hounds and the Norwegian Helsinki Committee, filed with the Office of the Prosecutor of the International Criminal Court May 19, 2021¹⁶³.

Despite the fact that Belarus has not ratified the Statute of the International Criminal Court, this statement was an attempt by the international community to hold Belarusian actors accountable for crimes committed in the territories of the countries that have ratified the Rome Statute — Lithuania, Poland, Latvia. Thus, the victims of the repressive policy were deported and forcibly displaced on the territory of these countries or forced to leave Belarus due to the persecution of them as opponents of the authorities, such crimes are continuing in their essence and continue on the territory of the states where the victims were deported. A similar approach has already been taken by the International Criminal Court when considering jurisdiction in the case of Rohingya Muslims in Myanmar and Bangladesh in connection with the repressive policies of Myanmar¹⁶⁴.

The actions of the Belarusian authorities and their representatives before, during and after the 2020 presidential elections contain elements of deportation and forced displacement.

According to the official statistics of the Belarusian authorities, in the period from August to October 2020 alone, about 14,000 people moved from Belarus to the neighboring countries¹⁶⁵. Most of the people who left the country settled in Lithuania, Latvia, Poland and Ukraine. The number of people who left the country during this period is 5 times more than the total number of emigrants in the previous 12 months¹⁶⁶. At the same time, the real numbers of people displaced from the country could be significantly higher than those included in the official statistics.

It was the violence against political opponents and dissidents that caused a

¹⁶³ <https://bit.ly/3IPCyY0>; <https://bit.ly/3ITXfID>

¹⁶⁴ https://www.icc-cpi.int/CourtRecords/CR2019_06955.PDF; <https://news.un.org/ru/story/2019/11/1367141>

¹⁶⁵ <https://web.archive.org/web/20210325160950;https://finance.tut.by/news704904.html>

¹⁶⁶ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 114

record number of Belarusians to move abroad in 2020 and 2021¹⁶⁷. Alexander Lukashenko himself noted that 1,500–2,000 «rioting» citizens could be forced out to Lithuania and Poland¹⁶⁸, and those who left Belarus risk not return back¹⁶⁹.

In December 2020, the Law of the Republic of Belarus «On Citizenship of the Republic of Belarus» was amended. The new version of Article 19 of the Law states that «the citizenship of the Republic of Belarus of a person who has reached the age of 18, acquired by such a person as a result of admission to the citizenship of the Republic of Belarus, by the way of registration, as a result of restoration of citizenship of the Republic of Belarus or on the grounds provided for by international treaties of the Republic of Belarus, may be lost due to the presence of a final judgment of a court of the Republic of Belarus, a court decision on a criminal case of a foreign state, a judgment or other decision of an international tribunal (court), a mixed tribunal (court), confirming the participation of this person in extremist activities or causing by them serious harm to the interests of the Republic of Belarus»¹⁷⁰.

Within the framework of the application to the International Criminal Court, the applicants distinguish three categories of people who became victims of deportation under different circumstances: people who were directly displaced or taken out of Belarus by representatives of state authorities (1); people who left Belarus due to the imminent risk of arrest or other coercive measures (2); people who left Belarus due to the atmosphere of coercion and repression (3)¹⁷¹.

All of the named groups fall under the definition of victims of deportation or forced displacement, since the main criterion for such a crime is the absence of a «genuine choice» when deciding to leave the country¹⁷². The fact that the victim of deportation has no free will when making such a decision suggests that the act of leaving the country is violent and can be qualified as a crime against humanity in the form of deportation.

The vast majority of forcibly displaced persons are citizens of Belarus who legally resided on the territory of their country. In the case of deportation of foreigners for political reasons, such foreigners also legally stayed on the territory of Belarus.

¹⁶⁷ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 114

¹⁶⁸ <https://www.youtube.com/watch?v=C7zjzOJg-1I>, 2:53:25

¹⁶⁹ <https://bit.ly/3yOmlpH>; <https://bit.ly/3xzMmrd>

¹⁷⁰ https://pravo.by/upload/docs/op/H12000067_1608152400.pdf

¹⁷¹ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 116

¹⁷² <https://www.casematrixnetwork.org/cm-n-knowledge-hub/elements-digest/art-7/7-1-d/3/>

The representatives of the state authorities who carried out the forced displacement or who made the decisions pushing people to such displacement were aware of the deported persons, their citizenship and the reasons for staying in the country.

The Belarusian authorities have been involved in a brutal and prolonged attack on opponents and critics of the Lukashenko regime since at least June 2020 (earlier waves of such attacks occurred in 2006, 2010 and 2016)¹⁷³.

State officials used violent methods to disperse peaceful protesters, preventing them from exercising their right to freedom of assembly¹⁷⁴; did not investigate the killings of peaceful protesters, allegedly committed by law enforcement officials, in violation of the right to life¹⁷⁵; arbitrarily detained activists and opponents of the authorities in violation of the right to liberty and security of the person¹⁷⁶; applied torture and other forms of cruel and inhuman treatment to detainees in violation of the right to freedom from torture¹⁷⁷; did not provide detainees and convicts with adequate standards of trial, in violation of the right to a fair trial¹⁷⁸.

Representatives of state authorities who have carried out forced displacement or who make decisions that push people to such displacement are part of the state administration system and directly contribute to the repressive policy of the state. Representatives of relevant ministries and departments, law enforcement agencies and special services act in a coordinated and conscious manner, confirmation of the deliberate nature of deportations comes from the lips of both Alexander Lukashenko himself and other state agents.

Examples of deportation are the following cases:

Svetlana Tikhonovskaya. Svetlana Tikhonovskaya left Belarus immediately after her long stay in the Central Election Commission and after the publication of a video in which she reads a text written on paper calling for an end to protest activities¹⁷⁹. She later admitted that she was threatened with imprisonment for 15 years and unbearable conditions, and that her children would be taken to an orphanage¹⁸⁰.

¹⁷³ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 151

¹⁷⁴ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 151

¹⁷⁵ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 152

¹⁷⁶ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 153

¹⁷⁷ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 154

¹⁷⁸ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 155

¹⁷⁹ <https://bit.ly/3IPYdz8>; <https://bit.ly/37KQnid>

¹⁸⁰ <https://www.buzzfeednews.com/article/christopherm51/tikhonovskaya-belarus-opposition-washington-us>

Ivan Kravtsov and Anton Rodnenkov. The situation with the press secretary of the Coordination Council Anton Rodnenkov and the executive secretary of the Coordination Council Ivan Kravtsov is one of the most striking examples of deportation through the direct removal of political opponents from the country directly by the security forces. In September 2020, Ivan Kravtsov, Anton Rodnenkov and Maria Kolesnikova were taken to the Belarusian-Ukrainian border by representatives of the law enforcement agencies in order to force them to leave the country. According to Ivan Kravtsov, the persons who expelled them from Belarus explained their actions by the need to de-escalate the situation in the country. Kolesnikova, who refused to cross the border, tore her passport, was detained and placed in custody. She is currently a political prisoner¹⁸¹.

Valeryna Kustova. Poet and writer Valeryna Kustova was forced to leave Belarus after law enforcement officers came to her house with a search in June 2021. Simultaneously with the search at her place of residence, the security forces came with a search at her place of work and at her parents' house. Kustova learned about the searches when she was on the street, and was forced to leave Belarus in the shortest possible time along unofficial routes passing through «forests and swamps»¹⁸². Moving to Poland took her two days, and she was forced to move without her two-year-old daughter, who was able to join her mother later. Representatives of law enforcement agencies had spent in Valeryna's apartment 24 hours. She reportedly faced criminal liability in Belarus for funding protests and tax evasion.

Victoria Fedorova and Sergei Ustinov. Human rights defenders Viktoria Fedorova and Sergei Ustinov, co-founders of the International Committee for the Investigation of Torture in Belarus, were forced to leave the country in March 2021 after the security forces searched apartments of one of the Committee's volunteers, seized office equipment and opened a criminal case¹⁸³. Human rights defenders cannot return to Belarus due to the threat of criminal prosecution.

Daniil Lavretsky and Elizaveta Prokopchik. Activist of student and youth associations «Youth Bloc» and «Zadzinochanne of Belarusian Students» Daniil Lavretsky was forced to leave the country in November 2020 after the security forces searched both the address of his registration and the address of his rented apartment. The security forces showed Daniel's parents a document on the initiation of a criminal case against him for «organizing and preparing actions that grossly violate public order, or active participation in them.» Daniil

¹⁸¹ <https://bit.ly/3izaciv>

¹⁸² <https://bit.ly/3ITXJYZ>

¹⁸³ <https://www.legin.by/posts/v-belarusi-nachalos-davlenie-na-mezhdunarodnii-komitet-po-rassledovaniyu-pitok>; <https://www.bbc.com/russian/news-56087914>

and activist Yelizaveta Prokopchik left Belarus for Ukraine via Russia to reduce the risks of tracing their route by the Belarusian authorities¹⁸⁴.

Artyom Shraibman. Political analyst Artyom Shraibman was forced to leave Belarus in June 2021 after Roman Protasevich, detained by the Belarusian authorities as a result of the Ryanair plane landing incident, mentioned Shraibman as one of the organizers of the protests in an interview with the Belarusian state TV channel. After the release of the interview, Shraibman noticed surveillance outside his house, left Belarus as soon as possible and went to Ukraine. It was the increased political pressure and intimidation that made him leave the country¹⁸⁵.

¹⁸⁴ <https://bit.ly/3INkv4x>

¹⁸⁵ <https://www.currenttime.tv/a/shraybman-pokinul-belarus-posle-intervyu-protasevicha/31291801.html>

Chapter 5. Crime against humanity of imprisonment or other severe deprivation of physical liberty

Elements

- 1. The perpetrator imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty.*
- 2. The gravity of the conduct was such that it was in violation of fundamental rules of international law.*
- 3. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.*
- 4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.*
- 5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population¹⁸⁶.*

Mass repressions by the regime against the awakened political activity of citizens struck the country in May 2020, immediately after the announcement by the parliament of the date of the presidential elections.

¹⁸⁶ International Criminal Court, Elements of Crime, United Nations document PCNICC / 2000/1 / Add.2 (2000)

In order to remove obstacles to the conduct of elections according to their own scenario, the authorities arbitrarily detained and arrested a number of prominent politicians and public figures, activists of non-governmental organizations, bloggers and others.

Thus, pickets to collect signatures for the nomination of Svetlana Tikhanovskaya as a presidential candidate, organized by her husband Sergei Tikhanovsky, host of the popular YouTube channel «Country for Life», attracted thousands of people everywhere and demonstrated a clear rejection of A. Lukashenko's regime by the population, which was extremely annoying for the regime.

The regime's reaction followed not long after.

On May 29, 2020, in Grodno, during an election picket, **Sergei Tikhanovsky was detained** right in front of hundreds of people along with five members of his team. After Sergei's arrest, his other most active supporters, bloggers Sergei Petrukhin and Alexander Kabanov, were also detained.

The detention of S. Tikhanovsky was primitively provoked by the security forces and was of a frankly political and arbitrary nature, which the authorities did not even conceal afterwards.

At a closed speech to the activists of the Minsk region in June 2020, President A. Lukashenko said literally the following: «Yes, I gave a signal with Tikhanovsky. Did I do something wrong?» A. Lukashenko motivated his decision to detain S. Tikhanovsky by his alleged responsibility for the country and its future¹⁸⁷.

In December 2020, an audio recording of the speech of the former Minister of Internal Affairs Y. Karaev appeared in the public space, where he, in particular, said: «Let the whole world yell: «Without following the rule of law ...». Such a creature is the most dangerous of all. He is more dangerous than all these Babarikas. He is the destroyer of the state. If there is no article for him — you need to think up and put him into prison for a long time. Let him sit there. Let him die there»¹⁸⁸.

On May 31, 2020, in Minsk on the way to Komarovsky market, where crowded pre-election pickets were held, the security forces detained and then arrested a longtime political opponent of A. Lukashenko, chairman of the «Narodnaya Hramada» party **Nikolay Statkevich**, without any legal or factual basis.

¹⁸⁷ <https://bit.ly/3jIYukE>

¹⁸⁸ <https://bdg.by/news/politics/by-pol-ugolovnoe-delo-protiv-tihanovskogo-politicheski-motivirovano>

On June 7, 2020, in Minsk near his house, another long-term opposition politician, co-chairman of the Belarusian Christian Democracy Party **Pavel Severinets**, was similarly detained and subsequently arrested. On the eve of his arrest, P. Severinets was on the square near the Komarovsky market, where legal pickets were held to collect signatures, and spoke to the audience.

On June 25, 2020, in Minsk, law enforcement agencies arrested **Igor Losik**, a well-known blogger and administrator of one of the country's most popular opposition Telegram channels, «Belarus Golovnogo Mozga».

From the point of view of international criminal law, these actions of the Belarusian authorities are fully covered by the corpus delicti provided for by subparagraph e) of paragraph 1 of article 7 of the Rome Statute of the International Criminal Court — imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law.

This conclusion is based on the following.

All of the above and many other detentions of citizens were carried out by the authorities in violation of the generally recognized norms of international law prohibiting arbitrary deprivation of liberty.

It is quite obvious that S. Tikhanovsky, N. Statkevich, P. Severinets and I. Losik were imprisoned precisely in connection with the exercise of their rights and freedoms guaranteed in Articles 19, 21, 25 and 26 of the International Covenant on Civil and Political rights, as well as in violation of the international legal prohibition of discrimination on the basis of political opinion.

All of these elements are fully consistent with the criteria of arbitrariness established by the UN Working Group on Arbitrary Detention¹⁸⁹.

Moreover, the authorities carried out arbitrary detentions and arrests of citizens as part of mass attacks on civilians who demanded free and fair elections. More than 35,000 people were captured from August to November 2020. These attacks were expressed in mass seizures of civilians, beatings, detention in unbearable conditions, the use of special means and special equipment against people, etc.

For the qualification of the listed detentions of citizens as crimes against humanity, this fact has contextual and attributive meaning, since from the

¹⁸⁹ <https://www.ohchr.org/RU/Issues/Detention/Pages/AboutArbitraryDetention.aspx>

content of paragraph 1 of Art. 7 of the Rome Statute, it follows that, for the purposes of the Statute, crime against humanity means imprisonment in violation of fundamental rules of international law when committed as part of a widespread or systematic attack on any civilian population.

It is also quite obvious that on the part of the performers, these actions were deliberate and were a manifestation of the policy pursued by the regime.

It is important to note that each of the 630 (as of August 14, 2021) political prisoners was imprisoned in violation of fundamental norms of international law.

A number of political prisoners were imprisoned solely because of political convictions, as well as in connection with the non-violent exercise of freedom of expression and information, freedom of peaceful assembly and association, and other rights and freedoms guaranteed by the International Covenant on Civil and Political Rights; due to non-violent activities aimed at protecting human rights and fundamental freedoms.

With regard to other political prisoners, along with the presence of political motives for persecuting them, at least one of the following factors took place:

- a) the deprivation of liberty was applied in violation of the right to a fair trial, other rights and freedoms guaranteed by the International Covenant on Civil and Political Rights;
- b) the deprivation of liberty was based on falsification of evidence of the offense charged or in the absence of an act or *corpus delicti*, or it was committed by another person;
- c) the duration or conditions of the deprivation of liberty are clearly disproportionate (inadequate) to the offense of which the person is suspected, charged or found guilty;
- d) the person is deprived of his liberty selectively in comparison with other persons.

Chapter 6. Crime against humanity of torture

Elements

- 1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.*
- 2. Such person or persons were in the custody or under the control of the perpetrator.*
- 3. Such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions.*
- 4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.*
- 5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population¹⁹⁰.*

Torture was used en masse and everywhere on August 9–13, 2020. Torture was used throughout Belarus by various law enforcement structures and in various places of detention (RUVD, ROVD, IVS, TSIP, SIZO), as well as in cars for transporting detained. At the same time, the security officials were aware that they were using torture, and they spoke directly about the fact that this was being done for political convictions.

¹⁹⁰ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

At least 2,300 people filed allegations of torture on August 9–13, 2020¹⁹¹. However, many, fearing persecution, did not apply to the investigating authorities. The International Committee for the Investigation of Torture has interviewed about 1,500 victims of torture.

Alexey Kurachev went out to peaceful protests. On the night of August 12–13, 2020, he was detained by riot police not far from Surganov str. in Minsk. During the arrest, he was beaten and placed in a car for transporting prisoners (paddy wagon), where there were about 8 security officials. He was ordered to lie face down on the floor and put his hands behind his head, then they kicked and beat him with truncheons on various parts of his body, mainly on the legs and buttocks. The beatings continued with interruptions for about 1–1.5 hours. All this time, the security forces demanded to share information about the protest coordinators and the amount of payment for the actions. At the same time, they threatened with rape and performed penetrative actions with a truncheon through his pants. All this was accompanied by insults that humiliate human dignity. Then Alexey was transferred to another paddy wagon, and the beatings continued there. At some point, from pain and shock, he stopped screaming and reacting to torture. Only when security officials thought he was dead, they stopped beating and called an ambulance, which took Alexey to the hospital.

Anton Formakidov was detained by security officials (traffic police officers) on the night of August 10–11, 2020, when he was driving in a car with his acquaintances on the ring road near Mazurov Street in Minsk. During the arrest, he was severely beaten by the security forces, he was beaten with police truncheons and kicked about 30–40 times in different parts of his body. All this was accompanied by insults that humiliate human dignity. The security forces also deliberately damaged his car, smashed headlights, glass, bumper, radiator. Then Anton and other detainees were taken to the gym of the Frunzenskiy district police department of Minsk, where the police officers put them face down on the floor, handcuffed their hands behind their backs and started beating them. They beat all the detainees in the gym. They beat for changing the posture on the floor, for asking to go to the toilet, for asking for medical assistance, for the head turned to the side. Then Anton was taken to a separate office, where a security officer in civilian clothes beat him for 2–3 minutes with a police baton. Then he was returned to the gym again. The security forces periodically beat the detainees. On the morning of August 11, the remaining detainees were knelt along the wall and ordered to rest their heads on the floor, their hands were handcuffed behind their backs. Anyone who asked any questions or

¹⁹¹ <https://www.bg.by/news/latushko-sledstvennyiy-komit-et-na-raskol-iz-za-prinyatiya-resheniy-o-vozbuzhdenii-ugolovnyih-del-na-sotrudnikov-milicii/>

asked for medical help or to go to the toilet was beaten. The victims stood in this position for about 8–9 hours, many fainted. At some point, the policemen forced everyone to shout «We all love our President Lukashenko!», If someone didn't shout, they would beat him with police truncheons and kicks. At some point, a female police officer came and lifted Anton up and started hitting him in the face, stuffing raw eggs into the pocket of his jeans and breaking them with blows, while insulting him. Later, Anton was taken for interrogation, where several security officials beat him with truncheons in his feet, knees and legs. Then he was demanded to sign the forged protocols, when Anton refused to sign, the security forces beat him again. As a result, he had to sign these protocols.

Alexey Abramov, a citizen of the Russian Federation, did not participate in the protest, was detained for wearing an embroidered shirt (national Belarusian shirt) by the security forces on August 11, 2020 at about 21:00 in Grodno. His hands were tied behind his back with plastic ties and he was placed in a paddy wagon. They demanded to unblock the phone. When Aleksey refused to do this, they began to beat him with a police truncheon on all parts of his body. After the beatings, he was forced to unlock the phone. Then they put a bag over his head and took him to some ROVD, where he was laid on the floor, and in this position he was interrogated. The interrogation was accompanied by strong beatings with a police truncheon on the legs, buttocks, back and other parts of the body. At the same time, they threatened to shoot the knees, rape with a truncheon, and he was not allowed to go to the toilet. The torture lasted for about two hours.

At some point, Alexei was given a protocol to sign, to his demand to read, they began to beat him again, and he was forced to sign the protocol. Then they took him to a search in his rented apartment, where Alexei was beaten again on the way there. Before being placed in the Grodno prison No. 1, Aleksey was again beaten by an officer. In the courtyard of the prison, Alexei was also beaten with fists. All beatings and communication were accompanied by insults and humiliation of human dignity.

Sergei Yakimovich, did not participate in the protests, was detained on August 10, 2020 at about 5 pm near Pobediteley Avenue in Minsk for a white bracelet on his arm and a white-red-white ribbon on his backpack. He was placed in a prisoner transport vehicle (paddy wagon), where they beat him, threatened to rape him with a truncheon or urinate on him. After that, Sergei was transferred to a minibus, and the beatings continued there. Sergei was taken to the Central District Department of Internal Affairs of Minsk, where during interrogation he was kicked, punched and beaten with an electric shocker. The torture in the

office lasted for about 30 minutes. He was taken to the courtyard of the police department and placed in a hangar together with other detainees, where he was put face down on the floor. If a person moved, he was beaten with truncheons. There he and the rest of the detainees laid until nightfall.

Nikita Knyazev went to a protest rally, was detained by the security forces late in the evening on August 11, 2020 in the area of Trudovaya str. in Gomel for a white-red-white ribbon on his arm and placed in a car for transporting prisoners (paddy wagon). At night he was taken to the Novobelitskiy ROVD, his hands were tied behind with plastic ties, he was taken to the toilet, where he was beaten with a police truncheon on his legs and buttocks, his head was dipped into the toilet. Then they dragged him into the corridor, laid face down on the floor, put a gauze bandage over his eyes and continued to beat him with police truncheons on back, legs and buttocks. Then they took him into an office, put on a chair and beat on the head with hands and a police truncheon and kicked in the legs. At some point, the security officers demanded to admit his guilt and sign the protocol, Nikita refused, the beatings continued. They beat him with a police truncheon on the back, on the parietal region of the head, on the back of the head, on the front surface of the chest; the torture in this room lasted for about 40 minutes.

Chapter 7. Crime against humanity of rape

Elements

1. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.

2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent¹⁹².

There are at least three known cases of male rape. These cases show that the rape of the civilian population by the security forces was repeated. Different dates, different representatives of law enforcement agencies and different circumstances of rape committed with the aim of obtaining information stored in the phone of a protester, or punishing for participation in protest actions, confirm the scale of the actions, and previously received instructions to use rape as a method of torturing demonstrators who do not agree with the actions of the regime.

¹⁹² International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

Many of the men interviewed reported threats of rape with a police truncheon by the security forces, while some of them had their pants pulled down. In some cases, they performed penetrative actions with a truncheon through their pants. Many interviewed girls reported threats of rape or gang rape by the security forces. This indicates the widespread practice of threats of rape of detainees, against the background of obvious lawlessness and mass torture of men, all women perceived these threats realistically¹⁹³.

On August 11, 2020, **a programmer from Minsk¹⁹⁴ was detained** by security officials at a protest action. He was placed in a car for transporting prisoners and demanded to unlock his phone. The programmer refused to do this. Then the security officers called a senior in rank, and he cut the detainee's shorts and underpants in a cross from behind, pulled a condom on the truncheon and thrust it into the victim's anus. Then he took out his truncheon and again demanded the password and started beating with his fists and legs on various parts of his body, including the head.

After that, they took the victim to the Zavodskoye District Department of Internal Affairs of Minsk, and from there to the detention center on Akrestsin Street. An ambulance car picked him up from Akrestsin Street and took him to the hospital.

October 18, 2020 **Viktor Borushko¹⁹⁵** participating in a protest action was detained by the security forces in the area of Partizansky aveny in Minsk. Then Viktor was taken to the Leninsky District Department of Internal Affairs of Minsk, where they put a sack on his head in an office, severely beat him and thrust a truncheon into his anus. After that, Victor spent 12 days in intensive care.

Viktor Borushko spoke about the incident at a hearing in the Leninsky District Court of Minsk on January 19, 2021. The court did not suspend the examination of the criminal case and did not take any action to investigate the allegations of torture and rape.

On August 10, 2020, in Minsk at about 17:00 a victim, interviewed by the International Committee for the Investigation of Torture in Belarus, was returning home from work. He was detained by the security forces and placed in a bus, where they started beating him and demanded to unlock his phone, all this was accompanied by threats of rape. After refusing to unlock the phone, the security forces put a condom on the police truncheon, pulled off his pants and performed penetrative actions with the truncheon.

¹⁹³ <https://www.facebook.com/watch/?v=769948400469102>

¹⁹⁴ <https://www.legin.by/posts/334>

¹⁹⁵ <https://bit.ly/3izmAik>

Chapter 8. Crime against humanity of persecution

Elements

- 1. The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights.*
- 2. The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such.*
- 3. Such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognized as impermissible under international law.*
- 4. The conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court.*
- 5. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.*
- 6. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population¹⁹⁶.*

¹⁹⁶ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

Persecution as a crime against humanity is enshrined in article 7 (1) (h) and 7 (2) (g) of the Statute of the International Criminal Court (ICC). Despite the fact that the persecution is not directly criminalized by the Belarusian legislator as a «crime against the safety of mankind» in accordance with Article 128 of the Criminal Code of the Republic of Belarus, Article 127 of the Criminal Code of the Republic of Belarus establishes responsibility for «prosecuting citizens for criticism».

It was crimes against humanity in the form of persecution, as well as in the form of deportation and forced displacement of people that became the basis for the statement on behalf of the International Partnership for Human Rights, Global Diligence LLP, Truth Hounds and Norwegian Helsinki Committee, filed with the Office of the Prosecutor of the International Criminal Court May 19, 2021¹⁹⁷.

The actions of the Belarusian authorities and their representatives before, during and after the 2020 presidential elections contain all the elements of persecution.

State representatives violate a number of fundamental human rights — they use violent methods to disperse peaceful protesters, preventing them from exercising their right to freedom of assembly¹⁹⁸; do not investigate the killings of peaceful protesters by law enforcement officials, in violation of the right to life¹⁹⁹; arbitrarily detain activists and opponents of the authorities in violation of the right to liberty and security of the person²⁰⁰; apply torture and other forms of cruel and inhuman treatment to detainees in violation of the right to freedom from torture²⁰¹; do not provide detainees and convicts with due standards of trial, in violation of the right to a fair trial²⁰².

According to the Investigative Committee of the Republic of Belarus, since August 2020, 4,691 criminal cases have been initiated only in cases of «manifestations associated with illegal mass events, riots, protest actions, encroachment on state sovereignty and public safety, deliberate destruction and damage of property, violence and threats against officials and their families»²⁰³. More than 4,200 criminal cases were initiated in cases related to manifestations of «extremism» and «terrorism»²⁰⁴. In total, more than 35,000 people were detained in connection with their participation in peaceful protests²⁰⁵.

¹⁹⁷ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf; <https://bit.ly/2VDgp47>

¹⁹⁸ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 151

¹⁹⁹ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 152

²⁰⁰ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 153

²⁰¹ https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 154

²⁰² https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf, § 155

²⁰³ <http://spring96.org/ru/news/104506>

²⁰⁴ <http://spring96.org/ru/news/104506>

²⁰⁵ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27266&LangID=E>

Critics and opponents of the authorities have faced and continue to face numerous and serious restrictions on their fundamental rights and freedoms. The requirement for the «seriousness» of a restriction of rights depends largely on the context of the persecution and on the cumulative effect of all acts of persecution²⁰⁶. In the situation in Belarus, persecuted persons, as a rule, are simultaneously subjected to various forms of persecution — violation of the rights to expression and peaceful assembly is followed by arbitrary detentions, arbitrary detentions are followed by unfair trials, followed by inhuman treatment in places of deprivation of liberty. The massiveness and variety of forms of persecution have a cumulative effect, which indicates the seriousness of restrictions of rights.

An important criterion for qualifying actions as persecution is the discriminatory nature of persecution — that is, its focus on a particular group of persons on a specific basis. This element includes both a discriminatory basis and a discriminatory intent.

Discriminatory intent means the performer's deliberate policy to persecute a specific group. In this case, the targeted group should be interpreted broadly and may include people whom the performer refers to the targeted group according to his subjective belief, even if such a qualification is actually erroneous²⁰⁷.

The group chosen by the Belarusian regime for persecution are critics and opponents of authorities or those who, according to their subjective conviction, are considered by the representatives of the authorities as their critics and opponents. The persecution of critics and opponents of the current authorities tends to manifest itself in «waves» and target, inter alia, individual professional communities. Thus, at intervals of several weeks, searches and arrests took place at the leading representatives of the independent media and at the most important civil society organizations. Previously, targeted persecution concerned opposition politicians, lawyers, bloggers, activists of courtyard Telegram chats. Representatives of these groups are considered hostile by the Belarusian authorities on the basis of their political convictions, even if the activities of such people are determined not by their political preferences, but by their professional duties — covering the political situation in the country by journalists or providing assistance to victims by human rights defenders and lawyers.

²⁰⁶ <https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-99-52/appeals-chamber-judgements/en/071128.pdf>, § 987; https://www.icty.org/x/cases/naletilic_martinovic/tjug/en/nal-tj030331-e.pdf, § 637

²⁰⁷ https://www.icty.org/x/cases/naletilic_martinovic/tjug/en/nal-tj030331-e.pdf, § 636

The discriminatory basis of persecution is also manifested in the fact that the choice of the targeted group should be based on one of the proposed motives that are inadmissible from the point of view of international law.

The persecution of critics and opponents of the authorities in Belarus is conditioned by political motives and a desire to suppress any protest moods that threaten the current authorities. The choice of the persecuted persons and the deprivations to which they are subjected is related to the extent to which such persons pose a threat to the retention of power.

The persecution must be directly related to other related unlawful acts that are attributed to the perpetrator²⁰⁸.

The acts of persecution are associated with the commission by the Belarusian authorities of other crimes against humanity named in Article 7 (1) of the Rome Statute — torture, murder, deportation, and imprisonment. The commission of such crimes by the Belarusian authorities is covered in other parts of this report. The persecution of critics of the authorities and political opponents in the case of Belarus is inseparable from the commission of other illegal acts against them and is an integral part of the general repressive policy of the regime.

²⁰⁸ https://www.icty.org/x/cases/kordic_cerkez/tjug/en/kor-tj010226e-2.htm, § 211

Chapter 9. Crime against humanity of enforced disappearance of persons

Elements

1. The perpetrator:

(a) Arrested, detained or abducted one or more persons; or

(b) Refused to acknowledge the arrest, detention or abduction, or to give information on the fate or whereabouts of such person or persons.

2. (a) Such arrest, detention or abduction was followed or accompanied by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons;

or

(b) Such refusal was preceded or accompanied by that deprivation of freedom.

3. The perpetrator was aware that:

(a) Such arrest, detention or abduction would be followed in the ordinary course of events by a refusal to acknowledge that deprivation of freedom or to give information on the fate or

whereabouts of such person or persons; or

(b) Such refusal was preceded or accompanied by that deprivation of freedom.

4. Such arrest, detention or abduction was carried out by, or with the authorization, support or acquiescence of, a State or a political organization.

5. Such refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons was carried out by, or with the authorization or support of, such State or political organization.

6. The perpetrator intended to remove such person or persons from the protection of the law for a prolonged period of time.

7. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

8. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population²⁰⁹.

International Convention for the Protection of All Persons from Enforced Disappearance²¹⁰ 2006 provides a legal definition of the concept of «enforced disappearances», which it classifies as crimes both in peacetime and in war. Enforced disappearances cannot be justified by any exceptional circumstances.

Both isolated cases of enforced disappearance and the practice of systematic enforced disappearances fall within the scope of the Convention. So, according to the Convention, if a person disappears with the knowledge — or on the initiative — of this or that state, and the fate of this person remains unknown, then this is a crime. The Convention classifies the practice of widespread and systematic enforced disappearance as a «crime against humanity». The convention prohibits

²⁰⁹ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

²¹⁰ https://www.un.org/ru/documents/decl_conv/conventions/disappearance.shtml

secret places of detention and strengthens procedural safeguards in custody. It provides the families and loved ones of victims of enforced disappearance with the right to know about the fate of the missing, and emphasizes the right of victims to compensation for the damage **they have suffered**.

According to Art. 4 par 1 of the **Declaration on the Protection of All Persons from Enforced Disappearance**²¹¹ «All acts of enforced disappearance are a crime under criminal law, which provides for appropriate penalties given its extremely serious nature.»

The Belarusian legislation does not provide for the concept of «enforced disappearances». The state has repeatedly received recommendations and comments from international structures²¹² (UN HRC, UN CAT) on the need to criminalize enforced disappearances in accordance with international standards, as well as to investigate cases of enforced disappearances in the country. In particular,

... «B) Conduct a thorough, credible and impartial investigation into the fate and whereabouts of Viktor Hanchar, Yuri Zakharenko, Dimitry Zavadsky and Anatoly Krasovsky, who have been identified as victims of enforced disappearance; ensure that the victims and their relatives are informed of the progress and results of the investigation; identify those responsible and ensure that they are prosecuted and punished with appropriate penalties that are commensurate with the gravity of their crimes; ensure that victims of enforced disappearance and their families are provided with full reparation, including rehabilitation, satisfaction and guarantees of non-repetition; and take into account the Committee's Views in *Krasovskaya and Krasovskaya v. Belarus* (CCPR/C/104/D/1820/2008) and *Zakharenko and Zakharenko v. Belarus* (CCPR/C/119/D/2586/2015)²¹³».

Several facts of enforced disappearances have been officially registered in the Republic of Belarus, which is confirmed by the conclusions of the competent international bodies (the UN HRC, the UN Committee against Torture, the Working Group on Enforced Disappearances, the Parliamentary Assembly of the Council of Europe, the OSCE and others), as well as the materials of the preliminary investigation of these cases.

²¹¹ https://www.un.org/ru/documents/decl_conv/declarations/enforced_disappearances.shtml

²¹² Concluding observations on the results of the 124th session of the UN Human Rights Committee, where the fifth periodic report of the Republic of Belarus was considered, at the 3556th meeting of the UN HRC, held on October 25, 2018: <https://bit.ly/2G9jZdf>

²¹³ Concluding observations on the results of the 124th session of the UN Human Rights Committee, where the fifth periodic report of the Republic of Belarus was considered, at the 3556th meeting of the UN HRC, held on 25 October 2018: <https://bit.ly/2G9jZdf>

Yuri Zakharenko

Ex-Minister of the Ministry of Internal Affairs of the Republic of Belarus (1994–1995), general-major of militia, after his release by the President of the Republic of Belarus A. Lukashenko from the post of Minister was in open opposition to the President and was engaged in active political activities. Forcibly disappeared on May 7, 1999. Not recognized as dead or missing until now.

Viktor Gonchar, Deputy Speaker of the Supreme Council

Deputy of the Supreme Council, Deputy Prime Minister of the Government of the Republic of Belarus, Chairman of the Central Election Commission, Secretary of the CIS Economic Court. Member of the United Civil Party. Forcibly disappeared on September 19, 1999. Recognized as missing on December 5, 2002.

Anatoly Krasovsky

Large entrepreneur, publisher, teacher, candidate of philosophical sciences. Forcibly disappeared on September 19, 1999. Recognized as missing on November 20, 2002.

Dmitry Zavadsky

Cameraman of the ORT bureau in Minsk. After the story about the Belarusian border, together with Pavel Sheremet, he was deprived of accreditation. Filmed a film about Chechnya. He was violently kidnapped on July 7, 2000. The trial took place on March 14, 2002. 4 people were found guilty of kidnapping. They were sentenced to 12, 25 years in prison, two people — to life imprisonment. D. Zavadsky's body has not been found. Pronounced dead on November 27, 2003.

On the facts of the disappearances of these persons and on the basis of information obtained during the conduct of operational-search measures by the KGB, the Ministry of Internal Affairs and the prosecutor's office, criminal cases were initiated on the grounds of a crime under Art. 101 of the Criminal Code (as amended in 1960) — premeditated murder: September 17, 1999 — in relation to the disappearance of Y. Zakharenko; September 20, 1999 — against V. Gonchar, A. Krasovsky; July 8, 2000 — against D. Zavadsky.

In the Memorandum of the Special Rapporteur of the Parliamentary Assembly

of the Council of Europe H. Pourgourides «**Missing people in Belarus**»²¹⁴, it is stated: «At the present time I have come to ... the conclusion that the competent Belarusian authorities did not carry out a proper investigation of the disappearances. On the contrary, the conversations I had in Minsk in connection with the testimony of Mr. Alkaev ... and the documents or copies that I possess, forced me to believe that active steps were taken at the highest state level to conceal the real motive of the disappearances, and to suspect, that the highest government officials may themselves be drawn into these disappearances.»

For 22 years, the preliminary investigation did not achieve any results, none of the suspects was arrested and brought to trial, promising versions were stubbornly ignored.

The fact that every 3–4 months the relatives of the disappeared and their representatives received reports from the criminal prosecution that the investigation was allegedly ongoing, clearly demonstrates the desire to mislead both relatives and society.

Over the course of 22 years, the timeframes for investigating these cases have been extended several times²¹⁵. The preliminary investigation of the cases was suspended in connection with the failure to identify the person (persons) to be prosecuted as an accused or the failure to find the missing person, and then resumed.

Official reports of the competent authorities of Belarus about the lack of data on the perpetrators of the abduction of Y. Zakharenko, V. Gonchar, A. Krasovsky and D. Zavadsky do not correspond to reality, since the available data have reliably confirmed that former and current representatives of official authorities of Belarus were involved in this crime, including the top echelon²¹⁶.

Already from the results of the initial operational-search actions, it was established that they were all victims of planned violent actions by a well-organized armed group of the special forces of the Ministry of Internal Affairs.

In July 2014, the Investigative Committee refused to combine the criminal cases of Zakharenko, Krasovsky, Gonchar, Zavadsky in one proceeding and in the qualification of the actions of persons involved in committing a crime against their relatives, under Art. 128 of the Criminal Code of the Republic of Belarus

²¹⁴ <http://www.ciwr.org/documents/2004-02-18-purgurides.html>

²¹⁵ <https://bit.ly/371vZJb>

²¹⁶ <https://bit.ly/3zqj7s6>

(crimes against humanity).

In 2015–2016, Ulyana Zakharenko appealed three times to the Prosecutor General A. Konyuk and the Chairman of the Investigative Committee I. Noskevich and appealed against the actions (inaction) of the investigator Y. Varavko regarding his preliminary investigation of the criminal case²¹⁷. All the complaints of U. Zakharenko were denied²¹⁸.

12/18/2019 suspended preliminary investigation in the criminal case of Yuri Zakharenko, Viktor Gonchar and Anatoly Krasovsky²¹⁹ was resumed in connection with an interview with former special forces soldier Yuri Garavsky, posted on December 16, 2019 on the website of the Deutsche Welle radio station.

Former SOBR fighter Yuri Garavsky in an interview²²⁰ claims to have taken part in the abduction and murder of opposition Belarusian politicians in the late 1990s. The abductions and murders were carried out on the orders and with the direct participation of Dmitry Pavlichenko, the commander of the SOBR. At the same time D. Pavlichenko personally shot Y. Zakharenko, V. Gonchar and A. Krasovsky. Besides him and Y. Garavsky, SOBR fighters Yury Borodach, Sergei Shkinderov, Dmitry Karpovich, Novatorsky, Kozhevnikov, Pankov, Alexey Rummyantsev, Balynin, Yury Budko took part in the abductions and murders.

Y. Garavsky claims that Y. Sivakov was aware of the above events, V. Sheiman too, and he had the opinion that Alyaksandr Lukashenko also knew about this.

On March 19, 2020, **the resumed preliminary investigation in criminal cases** was suspended due to the failure to identify the person to be prosecuted²²¹. The appeal of this decision to the General Prosecutor's Office and the Investigative Committee of the Republic of Belarus by the relatives of the disappeared did not bring any results.

The decision to suspend the preliminary investigation to search for the disappeared again can be regarded as a complete refusal to investigate the case, bring it to court and punish those guilty of the crime, which is confirmed by the actions of the state.

²¹⁷ <https://bit.ly/3rEAnY8>

²¹⁸ <https://bit.ly/2UliBai>

²¹⁹ <https://bit.ly/3zxb38W>

²²⁰ <https://bit.ly/3zfWjvc>

²²¹ <https://bit.ly/3iJVV1b>

The state refuses to comply with the Views of the UN Human Rights Committee on communication **No. 2586/2015, Ulyana and Elena Zakharenko v. Belarus** dated April 10, 2017²²², according to which the Republic of Belarus is obliged to (a) conduct a thorough and effective investigation of the authors' allegations and provide adequate information on the results of its investigations; and if confirmed, (b) prosecute and punish those responsible, (c), and provide adequate compensation to authors for violations of rights that occurred. The experts of the UN HRC found that the state violated Articles 6, 7, 9 of the International Covenant on Civil and Political Rights.

Failure by the state to comply with the Views leads to legal uncertainty of the legal status of the disappeared ex-Minister of Internal Affairs of the Republic of Belarus Yuri Zakharenko (to date, he has not been recognized as deceased in court).

A similar situation occurs with the implementation by the state of the Committee's Views on communication **No. 1820/2008 (Irina Krasovskaya and Valeria Krasovskaya v. Belarus)**²²³, adopted at the one hundred and fourth session, 12–30 March 2012. The Views found violations of articles 2, paragraphs 3, 6, 7, 9 and 10 of the Covenant.

In the period 2020–2021, there is no information about the investigation of these criminal cases by the authorities. At the same time, the authorities are hiding the investigation materials from the public and the relatives of the disappeared politicians, refusing to say what exactly they have done in 22 years to check the political version of their disappearance. As of 08/10/2021, the preliminary investigation of the cases of Y. Zakharenko, V. Gonchar, A. Krasovsky was suspended. The perpetrators of the crimes were not found, the criminal cases were not brought to court. The criminal case on the disappearance of Dmitry Zavatsky has been suspended since 2006.

As can be seen from the materials available in the public space, the abductions of Y. Zakharenko, V. Gonchar and A. Krasovsky were inspired in the highest echelons of power, and then were planned and carried out in detail by an organized armed group of servicemen of the Ministry of Internal Affairs.

It is also quite obvious that on the part of the inspirers and performers, these actions were deliberate and were a manifestation of the political will of the state.

There is no doubt that the motive for committing these crimes is the elimination

²²² <https://bit.ly/3lXa0vr>

²²³ <https://bit.ly/3AERtZg>

of dangerous political opponents from the political scene, who, in the opinion of the authorities, posed a real threat to them.

In 2020–2021, many detentions were in the nature of enforced disappearances or incommunicado detentions, in which law enforcement officers did not inform relatives/lawyers about the detentions, did not provide any public information and misled loved ones. This practice continues in the framework of politically motivated criminal cases, when, again, law enforcement officials do not report anything about the detainees. This demonstrates the fact that elements of enforced disappearance have become a routine practice of Belarusian law enforcement agencies.

Chapter 10. Crime against humanity of other inhumane acts

Elements

- 1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.*
- 2. Such act was of a character similar to any other act referred to in article 7, paragraph 1, of the Statute.*
- 3. The perpetrator was aware of the factual circumstances that established the character of the act.*
- 4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.*
- 5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population²²⁴.*

²²⁴ International Criminal Court, Elements of Crimes, United Nations document PCNICC / 2000/1 / Add.2 (2000)

In the period from August 9, 2020 and throughout 2021 in the Republic of Belarus, mass detentions of civilians by employees of state power structures were accompanied by subsequent detention in pre-trial detention centers, isolation centers for offenders, Minsk police department, regional police departments of regional cities, prisons, medical institutions and other places of deprivation of liberty. According to reports of citizens who served administrative arrests or who was kept there before the courts, the conditions of detention in them were deliberately worsened by the employees of these institutions and represented cruel inhuman conditions²²⁵. It is obvious that the system for creating inhuman conditions of detention in places of detention throughout the country from August 8, 2020 to the present time²²⁶ is aimed at suppressing protest actions in the country, combating citizens' dissent and constitutes a crime against humanity. Numerous testimonies of citizens who have endured deep suffering from their stay there, who have felt the grave consequences after being in prison, confirm these conclusions.

Detained citizens were kept in overcrowded cells when there were empty cells at the same time (up to 30 people in 5-bed cells), bedding and hygiene items were missing or deliberately taken away, food and clothing parcels were not transferred. Women were not provided with hygiene products (pads, wet wipes). There were not enough sleeping places in the cells, and the arrested slept two or three people in one berth, one by one, on tables, on a concrete floor. At the same time, the staff took away their mattresses, pillows and blankets, claiming that these were orders from their superiors.

The sanitary condition of the cells was extremely unsatisfactory — dirt, mold, low temperatures in autumn and winter, high in summer, draughts or insufficient supply of fresh air, linen lice and cockroaches. The solution of bleach was poured to the cells, ostensibly for disinfection, as a result of which people burned the mucous membranes of the eyes and nose with chlorine vapor, the humidity in the cells made it difficult to breathe.

In such conditions, the detainees had to stay from three to thirty days.

Citizens were not provided with medical assistance even if there was clear evidence for that it is needed, they were not provided with the necessary medicines.

²²⁵ <https://drive.google.com/file/d/1BdRF2t5umJI7JTD9mT7RaxPmeJdMJpbi/edit> The fourth interim report of the International Committee for the Investigation of Torture in Belarus. Prison conditions from August 2020 to May 2021 (RUS); <https://drive.google.com/file/d/1WoeiJKx9I7BT9d10ylqgckomkZNJpw4c/view> Fourth interim report: Conditions of Detention in Places of Detention from August 2020 to May 2021 (Eng)

²²⁶ Time of the preparation of this report is August 2021

As a rule, such conditions of detention lead to serious consequences and damage to mental and physical health: infection with infectious diseases (including Covid-19), exacerbation of chronic diseases, psychological trauma and suffering, nervous breakdowns, infection with parasites (lice).

Shocking facts are told by **Lena Amnuel**, who was detained on August 8, 2020 at a polling station in Minsk, where she was an independent observer²²⁷. The girl was serving an administrative arrest in the detention center on Akrestsina Street: *«There were an incredible number of people in the cell! They were just everywhere: 3–4 people on one bed, under beds, on a table and under a table, on bedside tables and in bedside tables. There were 36 people in a four-bed cell! It was difficult even to walk there».*

«... We were told how they beat guys in the neighboring cells. All along the corridor — blood, urine. Alesya, a girl from Russia, was with us, she demanded an ambassador, but the staff did not react. She was also beaten in the CIP. There were women in the cell from 20 to 60 years old.

... It was already 11 pm and we tried to go to bed. I have found a place under the sink and sneakers became a comfortable pillow. It was as hot as in the sauna. The girls said that water was splashed into the cell and it got even worse and hotter. Everyone was exhausted. Eyes of many girls turned yellow, or it seemed to me so from the lighting. Later, a feeder was opened for us.

Somehow, we went to bed, but it was so scary there that from every rustle outside the cell we were constantly shaking. I was shaking all the time. You just do not understand what is happening, how this can be. How?! Then they started beating the guys. We heard screams. And this is the worst thing: you fall asleep under these screams, because you have no strength anymore».

Lena testifies about the beatings in the inner courtyard of the detention center on Akrestsina Street: *«... Then they began to take us out into the inner courtyard in parties. There were already guys in the corner, on their knees, with their faces on the floor. And we were put in a row of ten people against the wall, hands behind our heads. The girls began to faint.*

When we were taken to the wall, I had the feeling that we were taken to be shot. And they can do it without a twinge of conscience. It's very scary. It just didn't fit in my head. I got into such a state when everything inside is empty, apparently, a defensive reaction. I thought only about the moment when I would go out and my

²²⁷ <https://august2020.info/ru/detail-page/163>

relatives would meet me. As a result, those who became sick were allowed to sit on the ground. The girls tried to look for their husbands, guys. The guys were in a terrible state: someone without shoes, someone without pants, in only shorts, terribly beaten, blue.»

Similarly shocking are the facts of beatings during the arrest and transfer on August 9, 2020 to the detention center at Akrestsina Street, which Andrey S. told about: « ... when we were taken to the fourth floor, after the search, my head ached very badly, my ribs ached on the right side. I asked to see a doctor. They asked me what the problem was and replied that I had to be taken to an X-ray and no one would do this ... And when later, after signing the protocol, I stood in the corridor and when I was already near the duty station below, I had hallucinations, before my eyes everything floated....

... a five-seater cell, ... they brought in more people, in the end there were 20 of us. (Later there were 40 of them). On August 14, in the morning, more people began to come to us. They brought 10 people, we did not count. As a result, there were about 50 of us in the cell. We were in this amount for 1.5 hours. For all the time on Akrestsina Street, in 4 days, we were fed only 3 times».

One day they were taken out to the exercise yard, there were 120 of them. They were there from 22.00 to 12.00 the next day, «during this time we were given an about of 6 liters of water, 3 bottles of 2 liters each, I can be a little mistaken. Everyone drank from bottles. Only about 30 of us could go to the toilet».

There are hundreds of documented testimonies of victims of unprecedented mass beatings during detention, in police departments, in Akrestsina Street from 9.08.2020 and in the following days, as well as detention in conditions that put people on the brink of survival. This trend continues to this day²²⁸.

Journalist **Artem Lyava**, after staying in three places of detention **in November 2020**: SIZO in Zhodino, in Akrestsina Street and in the temporary detention center in Baranovichi, contracted the coronavirus. He describes the terrible conditions of stay in Baranovichi (there were 100 (!) People in the distribution cell for 10 people, old iron bunks, humidity, absence of hot water and the inability to wash, a ban on the transfer of medical masks)²²⁹. The detainee says that the whole cell actually fell ill, people had a fever, a cough, but they did not receive any medical assistance. A similar situation was in other isolation wards (all the **detained musicians of the «Echo» group** fell ill in the IVS on Akrestsina

²²⁸ <https://belaruspartisan.by/life/541618/>

²²⁹ <https://novychas.by/hramadstva/u-faszystau-byli-hazavyja-kamery-u-nas-kavidnyja>

Street, one of them was hospitalized with bilateral pneumonia)²³⁰.

The well-known Belarusian athlete Andrei Kravchenko also spoke about the coronavirus infection in the pre-trial detention center in Zhodino in November 2020²³¹.

A resident of Minsk told about the conditions of stay in the CIP on Akrestsina Str²³². After the arrest on January 28, 2021, she spent five out of fifteen days in the CIP. The air temperature in the cell was minus 15 degrees. The girl had to sleep on the icy floor. As a result of hypothermia, her ovary became inflamed, she experienced terrible pains, was admitted to the hospital, where her ovary was removed.

Doctor Anna Barushko, a teacher at the Belarusian Medical Academy of Postgraduate Education, who was detained on March 27, 2021, told reporters about the conditions in which she had to serve administrative arrest in CIP on Akrestsina Street and in the SIZO in Zhodino²³³. The psychological atmosphere was very difficult — the detainees were grossly insulted and humiliated. On Akrestsina Street, the woman was kept in a four-bed cell, but there were 9 detainees there. The women slept in threes on the lower bunks. When their mattresses were taken away, they had to sleep on their own things. It was very stuffy in the cell, in order to breathe in even a little air, the women came to the door and breathed through the feeder. In addition to this, the staff from time to time poured a bucket of bleach on the floor and «advised» to remove it quickly, otherwise the eyes would be irritated. Throughout her stay at the CIP, the detainees were not allowed to sleep — a bright light was constantly on, officers periodically entered the cells, there were roll-calls, they were intimidated. As a result of such conditions of detention, one of the girls suffered a nervous breakdown, she had to be given sedatives, and a paramedic was called for her.

Anna spoke about the terrible sanitary condition of the cells in Zhodino (dirt, mold, paint falling off the walls). As a doctor, she stated that many of the detainees were there with serious chronic diseases: *«We had a girl who had oncology; she underwent treatment, but was still under surveillance. ... Another had kidney failure and had to sleep on the floor with us. She got cold; she was ill, she did not have the medicines that she usually took at home. She was not called a doctor during the day ... The next day she was taken to the doctor. But the mattress and blanket were not given to her, and she again slept on the floor.»*

²³⁰ *ibid*

²³¹ <https://bit.ly/3lOZGWw>

²³² <https://www.svaboda.org/a/31285958.html>

²³³ <https://www.svaboda.org/a/31223406.html>

The journalist **Ales Silich**, released on May 31, 2021, after 10 days of arrest, said²³⁴, that he was in a four-bed cell of the CIP on Akrestsina Street, in which there were 16 people. They didn't feed him for two days; they didn't even give him water. A bright light was constantly turned on, preventing people from sleeping. Several times at night, people were woken up, thus tortured by the lack of sleep, this affected the psychological and physical health of the detainees. Mattresses and bed linen were not given to the «politicians». I slept on the cold concrete floor.

Serving administrative arrest in July 2021: «At first I was sitting in a four- bed cell where there were 16 people and the temperature was over +40. In the cell, everyone was absolutely wet in their underwear, it was difficult to breathe and just move ... — The overcrowding of the cells is such that there is just enough space for everyone to sleep on the floor. If someone was freed, then new people were soon brought in ... Linen and mattresses were not given out ... Most sleep on the floor, it is more comfortable than on the iron bunk ... They do not allow personal belongings to be taken to the cell, they receive parcels from relatives, but not they give them to the arrested people — they give them away during the release ... As a result, almost everyone is sitting without a change of underwear, clothes, a toothbrush, a towel, not to mention books. At the same time, non-political ones, in his words, «sit comfortably, sleep on linen and receive parcels» ... For 10 days, they never took a shower, we washed using bottles over the toilet. Lights out at 22, wake up at 6 in the morning, you can't lie down during the day. Every night, the camera is woken up twice, at 2 and 4 o'clock, to arrange a roll-call. Thus, it is not possible to get enough sleep, fatigue accumulates ...»

In previous reports of the International Committee against Torture in Belarus, it has already been noted that the created torture regime for serving the administrative penalty of those arrested for political reasons contradicts not only international norms, but also Belarusian legislation (in particular, the Internal Regulations for places of serving administrative arrest, approved by the decree of the Ministry of Internal Affairs Of the Republic of Belarus October 20, 2015 No. 313²³⁵, Rules of keeping a person in custody in respect of whom administrative arrest is applied²³⁶).

Thus, the large-scale, deliberate creation of inhuman conditions of detention, when the infliction of severe suffering, damage to mental and physical health, allows us to talk about the qualification of these crimes as crimes against humanity.

²³⁴ <https://www.facebook.com/BELSAT.TV/videos/337430471227286/>

²³⁵ https://etalonline.by/document/?regnum=w21530421&q_id=3855241

²³⁶ https://etalonline.by/document/?regnum=c21300996&q_id=3855243