

## **Belarus: Crimes against Humanity. Legal classification of the crimes of A. Lukashenko's regime**

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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 committed by the regime 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.

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.

Even the officially 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. Many Belarusians 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 2021. As of October 1, 2021, the human rights community of Belarus recognized 715 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 health.

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 Tsepkalo, 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 mass 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 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.

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 officers are also directly involved in tortures of detainees. 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.

The leadership of the Ministry of defense 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.

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. 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.

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.

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 to use physical force and weapons against the demonstrators indicate that the Ministry on a level with other power structures, is ready to carry out orders to disperse and torture peaceful protesters.

The Investigative Committee turned into a punitive body and massively persecutes the civilian population for political reasons. Since August 2020 investigative divisions initiated 4,691 criminal cases against protesters. 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.

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 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.

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 system.

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

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 IVS, such complaints are simply forwarded to the body which actions are being appealed. 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.

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 conclusion about the knowledge 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.

