

**BELARUS:  
Crimes against Humanity committed by the government from  
August 2020 onwards**

*November – December 2021*

**Executive Summary and Key Recommendations**

Since the contested presidential elections of August 2020, the unprecedented repressions take place in Belarus. These repressions of the Lukashenka regime should be considered crimes against humanity as defined by international criminal law due to their grave nature and systematic and widespread character.

The attack against the civilian population is conducted in form of numerous serious human rights violations, targeted those perceived **as disloyal or potentially disloyal** to the regime. Any independent civic activity, whether in the field of culture, ecology, sport, or even public health, is considered as a potential disloyalty if operated independently of the state. The attacks include physical violence and non-violent forms and target **large segments of the population** that may amount to about 50-60% of the country's population.

Multiple acts of serious human rights violations in Belarus occur regularly in different regions, their intensity has not diminished, and they are aimed at a **common goal** of maintaining political power by 1) suppression of any form of political/civil protest or activism; 2) revenge for political disloyalty to prevent its manifestation 3) the destruction of civil society independent institutions and horizontal social initiatives.

The Lukashenka`s regime **methods have logic and consistency** to reach this goal, and human rights violations have **similar patterns**. A **specific scheme** of attack includes 1) isolation of political and opinion leaders, 2) suppression of any political and civic activity, 3) destruction of all organized forms of civil activity beyond the control of the authorities, 4) punishment of those who report the illegal actions of the regime, 5) dissemination of state propaganda. **The methods of attack** include various forms of persecution, including but not limited to murders, enforced disappearances, criminal and administrative prosecution, arbitrary detentions and arrests, torture and inhumane treatment, denial of fair trial, deportations and violations of freedom of movement, systematic violations of freedom of assembly and association, media, expression, and discrimination of disloyal individuals and communities.

Aliaksandar Lukashenka, the heads of security agencies and other state officials in public and non-public speeches **acknowledge the existence of a policy, planned actions and a**

**command** to commit these acts. To support the attack, the Lukashenka regime attracted **significant financial, technical, and organizational resources** with almost all state system being involved in the repressions.

As a **result** of the attack, the Belarusian civil society was partially paralyzed and partially outlawed. Hundreds of journalists, human rights defenders, political and civil leaders, and activists, up to the level of administrators of local chats, are subject to various forms of persecution. Many civilians suffer serious physical, psychological and financial damage themselves or witnessed violence against others. This leads to an atmosphere of universal fear to express an opinion on any issue of public life, which can be interpreted as disloyalty.

The current briefing is prepared by the World Organisation against Torture (OMCT) and International Committee for Investigation of Torture in Belarus (ICIT) and provides a primary qualifying analysis of contextual elements of the crimes, committed in Belarus. The document is based on the report of ICIT, which provides detailed information on each specific crime.<sup>1</sup>

***Key Recommendations to the government of the Republic of Belarus:***

- To stop policy of persecution of disloyal citizens, restore legal order in the country and comply with its international human rights obligations;
- To investigate all committed international crimes and human rights violations in the country and bring all perpetrators to justice;
- To provide reparation to all victims of human rights violations and international crimes and restore their rights.

***Key Recommendations to the foreign governments and international community:***

- To promote with all the available means termination of international crimes and serious human rights violations in Belarus, and to encourage the Belarusian authorities to conduct effective investigation of human rights violations;
- To investigate crimes committed in Belarus within universal jurisdiction and other national and international investigative mechanisms;
- To continue support of the UN mechanism for Belarus as well as other existing mechanisms and initiatives of international organizations and civil society aimed at accountability in Belarus, as well as assistance and rehabilitation for victims of human rights violations.

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<sup>1</sup> International Committee for Investigation of Torture in Belarus, Report “Belarus: Crimes against Humanity”, August 2021, <https://drive.google.com/file/d/1zhH4XCSuPtFLVTwFjU4WuGh3id7uIQAx/view>

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## Introduction and methodology

Since his rising to power in Belarus in 1994, Aliaksandar Lukashenka and the state officials under his control systematically and grossly violate fundamental human rights and freedoms. Since the beginning of the 2020 presidential electoral campaign, the scale and character of these violations indicate that they might have reached the threshold of international crimes — crimes against humanity.

The purpose of the present briefing is to conduct a primary qualifying analysis of the crimes of the regime of Aliaksandar Lukashenka based on the data collected by the International Committee for the Investigation of Torture in Belarus (hereinafter — ICIT), other partners and open data. The current legal analysis is essential for ongoing and future criminal investigations regarding the situation in Belarus.

The authors of the report have not set themselves the task of comprehensive legal analysis or investigation of all the crimes taking place in Belarus. The document is limited to an assessment of the regime's actions in terms of contextual elements of crimes against humanity. The document is based on the report of ICIT, which provides detailed information on each specific crime.<sup>2</sup>

The current analysis is based on the definition of crimes against humanity provided by the Rome Statute of International Criminal Court and decisions of international criminal tribunals that reflect the customary international law. Despite the Republic of Belarus has not ratified the Rome Statute, it is obliged by customary international law.

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<sup>2</sup> International Committee for Investigation of Torture in Belarus, Report “Belarus: Crimes against Humanity”, August 2021, <https://drive.google.com/file/d/1zhH4XCSuPtFLVTwFjU4WuGh3id7uIQAx/view>

## **Crimes against humanity: general characteristic**

Crimes against humanity is one of international crimes that can be committed both during armed conflict and in peace time, when a systematic and widespread attack is taking place against civilian population.

Article 7 of the Rome Statute of International Criminal Court<sup>3</sup> provides the most widely accepted definition of the crimes against humanity, based on the previous jurisdictions and reflecting customary international law, thus being obligatory even for the states, as Belarus, that did not ratify the Rome Statute:

For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

The specificity of the crimes against humanity is the contextual or 'chapeau' elements. To qualify as crime against humanity, the enlisted crimes should be committed as a part of a widespread or systematic attack against civilian population. The individual crimes should go beyond the mere crime and create a systematic and planned policy by the state. This excludes random, accidental, or isolated acts of violence or human rights violations. The perpetrator should also have a knowledge of this widespread or systematic attack and each crime should have a nexus to this attack. Except the contextual elements each crime committed have its subjective and objective elements.

The analysis of the contextual elements of crimes against humanity committed in Belarus since August 2020 are presented below.

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<sup>3</sup> Rome Statute of the International Criminal Court, <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

## The contextual elements of crimes against humanity

As briefly mentioned above for the qualification as crime against humanity, the following contextual elements should be present:

- an attack;
- directed against any civilian population;
- which is widespread or systematic;
- with knowledge of the attack.

Each of these elements and its characteristics are described below.

### An attack

According to the Rome Statute and jurisdiction of international criminal tribunals, the acts of attack need not constitute a military attack and are not restricted to the use of armed force.<sup>4</sup> It means as well a course of conduct involving *the multiple commission* of acts against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack<sup>5</sup>. The term “attack” includes acts of *mistreatment of the civilian population*<sup>6</sup>, such as exerting pressure on the population to act in a particular manner<sup>7</sup>. “Policy to commit such attack” requires that the State or organization *actively promote or encourage such an attack* against a civilian population<sup>8</sup>.

The Lukashenka`s regime's persecution of the civilian population of Belarus since the August 2020 protests meets the requirements of an attack. The attack in the Belarusian case is taking place in peace time and is performed by multiple acts of serious human rights violations that started in August 2020 and continue till the present day.

Multiple acts of serious human rights violations in Belarus occur regularly, have similar patterns, and are aimed at a common goal, in particular, the suppression of any form of civilian protest and activism, revenge for disloyalty and the destruction of any civil society independent institutions. Aliaksandar Lukashenka and the heads of security agencies in public and non-public speeches acknowledge the existence of a policy, planned actions and a command to commit these acts. Moreover, the whole state system (executive, legislative and judicial authorities) is involved in this policy. Individual attacks are carried out pursuant to or in furtherance of this state policy.

The attacks target large segments of the population and account for different forms of human rights violations and persecution, including physical violence and non-violent forms. Analysis of multiple attacks and the existence of an organized State policy to carry out such an attack is provided in the section below.

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<sup>4</sup> ICTY, Prosecutor v. Perišić, Judgement, IT-04-81-T, 6 September 2011, para. 82; ICTY, Prosecutor v. Gotovina et al., Judgement, IT-06-90-T, 15 April 2001, para. 1702; ICTR, Prosecutor v. Semanza, Judgement, ICTR-97-20-T, 15 May 2003, para. 327

<sup>5</sup> Rome Statute of the International Criminal Court, <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

<sup>6</sup> Prosecutor v. Jadranko Prlić, Case No. IT-04-74-T, Judgement (TC), 29 May 2013, para. 35

<sup>7</sup> ICTR, Prosecutor v. Musema, Judgement, ICTR-96-13-T, 27 January 2000, para. 205; ICTR, Prosecutor v. Rutaganda, Judgement, ICTR-96-3-T, 6 December 1999, para. 70, citing ICTR, Prosecutor v. Akayesu, Judgement, ICTR-96-4-T, 2 September 1998, para. 581

<sup>8</sup> ICC, Elements of Crimes, <https://www.icc-cpi.int/Publications/Elements-of-Crimes.pdf>

### **An attack directed against a civilian population<sup>9</sup>**

For crimes against humanity, the civilian population must constitute the primary target of the attack. The “population” element is intended to imply crimes of collective nature and exclude single or isolated acts<sup>10</sup>. Together with that, it is not required for the attack to be directed against the whole civilian population, rather against sufficient number of individuals<sup>11</sup>. The assessment is performed in each case individually and should go beyond a limited and random number of victims<sup>12</sup>.

The international criminal tribunals consider, among other indicators, the means and methods employed during the attack, the status of the victims, their number, the discriminatory character of the attack, the nature of the crimes committed during the attack.<sup>13</sup> The qualifier “any civilian population” has been previously interpreted to mean “groups distinguishable by nationality, ethnicity or other distinguishing features”. The civilian population targeted can include a group defined by its political affiliation<sup>14</sup>.

To assess this element in relation to Belarus, it is necessary to mention the historical background. Immediately after rising to power in 1994, Aliaksandar Lukashenka began to create an authoritarian system of government, which was legally formalized following the referenda in 1996 and in 2004. Over the years, Lukashenka has created a political system in which he has unlimited power by expanding presidential powers, removing restrictions on the permissible presidential term and falsifying elections. Since 1996, all referenda and elections in Belarus were held with numerous violations and were not recognized by the OSCE, the Council of Europe, and other international organizations.

Since 1996 any opposition to the Lukashenka regime has been regularly attacked. The victims included oppositional politicians, political activists, independent journalists, human rights defenders, trade union and civil society activists, artists and others who organized or openly supported political protest or publicly criticized the Lukashenka’s regime. Numerous facts of imprisonment on political ground, torture and inhuman treatment, arbitrary detentions, violations of freedom of speech, freedom of assembly and association, discrimination on the political ground and other gross violations of basic human rights and freedoms have been reported and documented.

However, until 2020 these attacks were not widespread and intensified in response to the political or social protests. Repressions had decreased after the destruction of the hotbeds of protest and had been limited to the political opponents, their teams, and high-profile activists.

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<sup>9</sup> ICC, Elements of Crimes, <https://www.icc-cpi.int/Publications/Elements-of-Crimes.pdf>

<sup>10</sup> ICTY, Prosecutor v. Tadić, Judgement, IT-94-1-T, 7 May 1997, para. 644

<sup>11</sup> Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. IT-03-69-T, Judgement (TC), 30 May 2013, paras. 964-965

<sup>12</sup> ICTY, The Perišić Trial Chamber

<sup>13</sup> ICTY, Prosecutor v. Jadranko Prlić, Case No. IT-04-74-T, Judgement (TC), 29 May 2013, para. 36

<sup>14</sup> ICC, Prosecutor v. Muthaura, Kenyatta and Ali, Decision on the Confirmation of charges, ICC-01/09-02/11-382-Red, 23 January 2012, para. 110

The situation has changed significantly in 2020. On the eve and after the presidential elections, the largest and longest mass protests against the Lukashenka's power began throughout the country. As independent electoral commission members were not allowed, exit polls are banned and independent observers were prevented to work freely, it is impossible to calculate the exact number of the population, who voted against Lukashenka. According to a number of independent media, which analysed all the available data on the voting results using mathematical and statistical methods, Aliaksandar Lukashenka could get a maximum of 43<sup>15</sup>-51<sup>16</sup>% of the vote. In addition, about 18% of the country's population have registered on the opposition online platform "Golos"<sup>17</sup>.

Another fact that indicates the number of disloyal population is protest activities and its public manifestation. According to the British think tank Chatham House, more than 1 million residents of Belarusian cities<sup>18</sup> (more than 10% of the country's population<sup>19</sup>) took part in street protests against the regime. The research does not take into account the rural population, which means that the real number of protesters may be higher. In 2020-2021 protesters and protest symbols flooded the streets of many Belarusian cities, offices of public and private companies and factories, educational, medical, and cultural institutions. Protest virtual content has been actively disseminated in the social networks. Thus, based on this date, the number of citizens who protested actively against the regime and has taken some actions is from 10-20%, but the number of those who disloyal and voted against may be up to 60% of the population.

**Facing the protests and allegedly losing elections, the Lukashenka regime began to perceive any protest-related or civil related activities as disloyalty and a threat to the state power and started to attack any civilians perceived as disloyal.** Since the actions of the Lukashenka regime are currently aimed at identifying and punishing all citizens disloyal to him, about 60% of the country's population may potentially face repression in various forms.

In 2020-2021 the Belarusian government has started to target and destroy civil society formal institutions and groups, including the following groups:

- opposition leaders, headquarters/groups of alternative candidates at the 2020 elections and anyone who worked for/helped the teams of candidates;
- other opposition parties, political activists and independent political institutions as Coordination Council;
- independent media, journalists and bloggers;
- academia, students and independent students' unions;
- doctors, factory workers, IT workers, cultural workers and other independent professional communities that participated in the protests as well as independent trade unions;
- human rights defenders, volunteers, lawyers and NGOs;

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<sup>15</sup> <https://novayagazeta.ru/articles/2020/08/13/86651-vbroshennyy-prezident>

<sup>16</sup> <https://www.vedomosti.ru/society/articles/2020/09/16/840201-golosov-tihanovskaya>

<sup>17</sup> <https://belarus2020.org/home>

<sup>18</sup> <http://web.archive.org/web/20210318235243/https://news.tut.by/economics/705209.html>

<sup>19</sup> [https://www.belstat.gov.by/ofitsialnaya-statistika/ssrd-mvf\\_2/natsionalnaya-stranitsa-svodnyh-dannyh/naselenie\\_6/chislenost-naseleniya1\\_yan\\_poobl/](https://www.belstat.gov.by/ofitsialnaya-statistika/ssrd-mvf_2/natsionalnaya-stranitsa-svodnyh-dannyh/naselenie_6/chislenost-naseleniya1_yan_poobl/)



- athletes and sportsmen and their independent associations;
- representatives of religious organizations and Catholic/Protestant Churches;
- national minorities and their independent associations (Poles);
- ‘yard’ and ‘neighbours’ communities, chats and groups on social media.

In 2021 basically any involvement in the protest and civil activities has been perceived as disloyalty, and therefore as a pretext for an attack. For example, there are cases of persecution for stickers with protest symbols on transport, the use of clothing in the colours of protest symbols<sup>20</sup>, and even cooking food in the colour of protest symbols<sup>21</sup>.

The relatives and families of the persecuted persons also face persecution. Thus, criminal cases were initiated against several family members of one of the opposition leaders Paval Latushka<sup>22</sup>. Searches, psychological and other forms of pressure on family members of human rights defenders and activists are being carried out in different regions of the country<sup>23</sup>. Moreover, the victims and witnesses of torture that complaint or publicly report violence are persecuted<sup>24</sup>.

An important feature of the attack on the civilian population by the Lukashenka’s regime is harassment of persons identified as potentially disloyal, even if they did not participate in any form of protest. For example, bystanders who happened to be in places of protest actions were subjected to violence and arrests by law enforcement officers. In the early days of protests in August 2020, police crashed passing cars and drivers were detained and beaten. In this case, the fact of being in the place of protests was regarded as potential disloyalty.

In 2021-2022 any independent civic activity, whether in the field of culture, ecology, sport or public health, is also considered as a potential disloyalty. Numerous cases of criminal, administrative prosecution and inhuman treatment of volunteers and activists of non-political civil initiatives who were not involved in the protests are reported. The Lukashenka’s regime views these initiatives as potentially disloyal as they operate independently of the state. Another example is the arrests of members of the Union of Poles in Belarus and pressure on the administration of Polish schools and language courses<sup>25</sup>. Since August 2020, Poland has increased support for the Belarusian democratic community, and Polish officials regularly claim the Lukashenka’s regime as illegitimate at the international arena. As a result, the Polish national minority in Belarus began to be perceived by the regime as a threat.

In 2021 any activity in social networks, which is directly or indirectly indicates disloyalty is being prosecuted by the authorities. Thus, numerous criminal cases on extremism have been initiated for allegedly negative posts, reposts and comments against Aliaksandar Lukashenka,

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<sup>20</sup><https://reform.by/211729-bchb-noski-bchb-shapka-naklejka-na-velosipede-foto-avtozaka-za-cto-davali-sutki-zaderzhannym-25-marta>

<sup>21</sup> <https://euroradio.fm/ru/zhodinka-lishilas-kompyutera-i-poluchila-shtraf-za-foto-s-bchb-pastiloy>

<sup>22</sup><https://belsat.eu/news/01-02-2022-latushka-pra-perasled-syam-i-geta-davoli-motsny-tsisk-ale-yon-niyak-ne-uplyvae-na-mayu-dzejnasts/>

<sup>23</sup> <https://spring96.org/be/news/104259>

<sup>24</sup><http://surl.li/biyaf>

<sup>25</sup> <https://www.dw.com/ru/lukashenko-ishhet-vneshnego-vraga-poljaki-v-belarusi-zalozhniki/a-57232635>



officials and even ordinary law enforcement officers<sup>26</sup>. A short private message, a negative emoji, like or comment criticizing the political regime can trigger criminal case.

In addition, subscribing to telegram channels recognized as “extremist formations” leads to criminal prosecution, and subscribing to telegram channels recognized as “extremist materials” leads to administrative prosecution<sup>27</sup>. According to estimates by Belarusian independent journalists, in this regard, about 2 million subscribers of 200 telegram channels that are recognized as “extremist” may be brought to criminal or administrative prosecution<sup>28</sup>. In this context, it should be noted that in Belarus any news chats and telegram channels that are not controlled by the authorities are recognized as “extremist”.

**Thus, any person who has shown political or civil disloyalty in any form can become object to an attack in Belarus today.** Also, even in the absence of any political or civic activity, people can be attacked since what the state perceives as disloyalty is expanding.

The aim of the attack is to suppress any manifestation of civil protest and any activity independent of the state, as well as avenge disloyalty to maintain political power.

The Lukashenka`s regime methods have a clear logic and consistency:

1. to isolate political leaders and public opinion leaders, including informal leaders, through criminal prosecution or forcible expulsion from the country (opposition politicians, bloggers, human rights defenders, journalists, businessmen, religious leaders);
2. to stop manifestation of any civil or political activity by punishing and intimidating anyone who is politically active or perceived as active. This applies to suppression of street protests, expressing opinions on social networks and chats, at work and any other forms of protest;
3. to destroy all organized forms of "resistance" and all civil society actors not controlled by the State (NGOs, parties, media, cultural, religious, sports communities, etc.);
4. to punish everyone who documents and reports illegal actions of the regime, both by public initiatives and within the authorities, to prevent the investigation of crimes;
5. to punish anyone who refuses to support the state policy/propaganda within the state officials<sup>29</sup> and state factory workers<sup>30</sup>;
6. to disseminate propaganda about the legitimacy of the Lukashenka`s regime and that the protests were organized from outside by the enemies of the Belarusian people.

Thus, the actions of the Lukashenka`s regime should be considered an attack on the civilian population based on the perceived disloyalty to the regime. The large number of victims is explained by the fact that at least 10-20% of the country's population protested against the regime in various forms and about 60% of population may be “hiddenly” disloyal because they did not vote for Lukashenka.

The methods of attack include various forms of persecution, including but not limited to murders, enforced disappearances, criminal and administrative prosecution, arbitrary arrests,

<sup>26</sup> <https://www.dw.com/ru/srok-za-komentarii-v-belarusi-massovo-sudjat-za-diffamaciju/a-59902109>

<sup>27</sup> <https://www.rbc.ru/politics/16/10/2021/616ae7a59a7947569177a092>

<sup>28</sup> <https://www.svoboda.org/a/dva-milliona-ekstremistov-v-belarusi-raspravlyayutsya-s-podpischikami-telegrama/31527073.html>

<sup>29</sup> <https://belsat.eu/ru/news/20-05-2021-v-minske-vnov-zaderzhali-byvshego-militsionera-kulakovskogo-kotoryj-uvolilsya-posle-9-avgusta/>

<sup>30</sup> <https://ru.hrodna.life/articles/pismo-protiv-sankcij/>

torture and inhumane treatment, denial of fair trial, deportations and violations of freedom of movement, systematic violations of freedom of assembly and association, media, expression, discrimination of disloyal individuals and communities. These methods of the attack, its logic, regularity, the number of victims and the degree of physical and psychological violence that is used, indicate the common purpose of the attack and its non-random nature.

### **A widespread or systematic attack**

This requirement could be alternative, the attack should be widespread and/or systematic and it is related to the whole attack, not to the individual acts of the accused<sup>31</sup>. Basically, a crime becomes widespread or systematic, based on the “cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude”<sup>32</sup>.

The widespread or systematic nature of the attack is essentially a relative notion and is assessed individually in each case in light of the means, methods, resources and result of the attack upon this population. In their assessment of whether the attack is widespread and systematic the international criminal tribunals examine the consequences of the attack on the civilian population targeted, the number of victims, the nature of the acts, the participation of political officials or authorities, or any identifiable pattern of crime<sup>33</sup>.

### **“Widespread” attack**

The characteristic of “widespread” refers to the attack being conducted on a large scale as well as to the high number of victims<sup>34</sup>. “Widespread” element means a massive, frequent, large-scale action, carried out with considerable seriousness and directed against multiple victims”<sup>35</sup>.

The attack against the civilian population by the Lukashenka`s regime should be regarded as widespread, considering the total number of victims, geography, frequency and duration of attacks, forms and methods of persecution, resources and the consequences of this attack.

The exact number of victims of the Lukashenka`s regime cannot be calculated, as law enforcement agencies constantly obstruct the work of journalists, human rights defenders, and other initiatives to document crimes. However, conclusions about a very large number of victims can be drawn from the fact that at least 10% of the population took part in street protests against the regime, and anyone who is identified as a participant of the protests or perceived by the regime as disloyal becomes a victim as it is described above.

Currently it is known that at least four persons have become victims of extrajudicial executions. Around 7 thousand persons were detained only during the first four days of the protests<sup>36</sup>, as of July 2021, the total number of arbitrary detentions has reached more than 35 thousand<sup>37</sup>.

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<sup>31</sup> ICTY, Prosecutor v. Jadranko Prlić, Case No. IT-04-74-T, Judgement (TC), 29 May 2013, paras. 41-42

<sup>32</sup> ICTY, Prosecutor v. Kordić and Cerkez, Trial Judgement, IT-95-14/2-T, 26 February 2001

<sup>33</sup> Prosecutor v. Jadranko Prlić, Case No. IT-04-74-T, Judgement (TC), 29 May 2013, paras. 41-42

<sup>34</sup> ICTY, Prosecutor v. Tadić (alias "Dule"), Judgement, IT-94-1-T, 7 May 1997, para. 644.

<sup>35</sup> ICTR, Prosecutor v. Musema, Judgement, ICTR-96-13-T, 27 January 2000, para. 204; ICTR, Prosecutor v. Ntakirutimana, Judgement, ICTR-96-10/ICTR-96-17-T, para. 804; ICTR, Prosecutor v. Niyetegeka, Judgement, ICTR-96-14-T, 16 May 2003, para. 439

<sup>36</sup> <https://assembly.coe.int/LifeRay/JUR/Pdf/TextesProvisoires/2021/20210324-BelarusViolationsHR-EN.pdf>

<sup>37</sup> <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27266&LangID=E>

From election day to the end of October 2021, 12.5 thousand people became victims of administrative prosecution on political grounds. In more than half of these cases, people were sentenced to administrative arrest.

As of February 2022, 1062 persons are recognized as political prisoners by Belarusian human rights organizations<sup>38</sup>. At the same time, several public initiatives state that the real number of political prisoners in the country is much higher<sup>39</sup>. So, as of July 2021, more than 4 thousand criminal cases were initiated under articles related to extremism and terrorism<sup>40</sup> within which political and civil activists are prosecuted.

At least 2,300 people submitted statements about torture in the first days after the elections to the investigative bodies of Belarus<sup>41</sup>. Among the cases documented by the project “23-34”, more than 60% of those detained in the first days after the elections faced physical abuse<sup>42</sup>. At least 143 women reported being victims of torture and sexual violence by law enforcement officers, at least 3 men reported rape<sup>43</sup>. At the same time, torture and cruel inhuman treatment of detainees did not stop after the crackdown on street protests. From August 2020 to the end of October 2021, the International Committee for the Investigation of Torture in Belarus documented about 1,500 testimonies of torture victims. Project “23-34” reports that from August 2020 to the present, out of 5,600 documented arbitrary detentions, physical violence was used against one in four detainees, and about half of all detainees became victims of psychological violence<sup>44</sup>. Over the entire period, the Belarusian state investigation bodies received 4,644 complaints about physical violence by law enforcement while dispersing peaceful protests<sup>45</sup>. But no single criminal investigation was initiated and none of these cases was effectively investigated.

According to the Belarusian official statistics, only in the first two months after the presidential elections, about 13.5 thousand people left the country<sup>46</sup>, which is 5 times more than the total number of emigrants in the previous 12 months<sup>47</sup>. Despite the lack of reliable information about each of these 13.5 thousand cases, the context of persecution allows a reasonable assumption that a significant number of these people were forced to leave the country.

There is no statistics of such widespread forms of persecution as searches, dismissal from work, expulsion from educational institutions, discriminatory deprivation of financial rewards, threats, intimidation, and other forms of psychological pressure etc.

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<sup>38</sup> <https://prisoners.spring96.org/ru>

<sup>39</sup> <https://www.dw.com/ru/v-belarusi-predlagajut-bolshe-ljudej-priznavat-politzakljuchennymi/a-59633459>

<sup>40</sup> <https://www.belta.by/society/view/prokuratura-vozbudila-42-tys-ugolovnyh-del-svjazannyh-s-ekstremizmom-i-terrorizmom-shved-452159-2021/>

<sup>41</sup> <https://www.currenttime.tv/a/belarus-tortures-police/30928635.html>

<sup>42</sup> <https://datastudio.google.com/reporting/5458afac-84dd-4ec8-bb61-6ff5c2990e5c/page/aR5sB?s=sOapm-zdZ3E>

<sup>43</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/101/84/PDF/G2110184.pdf?OpenElement>

<sup>44</sup> <https://datastudio.google.com/reporting/5458afac-84dd-4ec8-bb61-6ff5c2990e5c/page/6i4sB?s=sOapm-zdZ3E>

<sup>45</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/101/84/PDF/G2110184.pdf?OpenElement>

<sup>46</sup> <https://vgr.by/2020/10/22/stalo-izvestno-skolko-lyudej-uehalo-iz-belarusi-s-sentyabrya/>

<sup>47</sup> [https://www.iphronline.org/wp-content/uploads/2021/05/BY\\_ICC\\_Submission.pdf](https://www.iphronline.org/wp-content/uploads/2021/05/BY_ICC_Submission.pdf)

In addition, the number of affected people also includes relatives and friends of victims of persecution. In many cases, entire families were forced to leave the country, lost their jobs and livelihoods due to the persecution of a family member. The relatives of the persecuted activists also face persecution or psychological pressure. Often close relatives of victims of torture or criminal prosecution experience severe mental suffering due to an attack on a family member.

Despite the lack of accurate statistics on the number of victims, **these facts allow to conclude that the number of victims is large enough for an element of widespread attack.**

The widespread attack is also proven by the fact that from August 2020 to the present, acts of persecution have occurred regularly in different regions of the country and their intensity has not diminished. In the first months after the presidential elections, law enforcement actions were aimed at suppressing street protests and isolating political leaders. When this was achieved, the repression did not stop. The Lukashenka's regime started attacks on all sectors of civil society such as independent media, human rights, humanitarian and volunteer organizations, lawyers in political and human rights-related cases, representatives of the business community, strike committees, representatives of the academia, religious, sports and culture organizations. Currently, the actions of state bodies are focused on eliminating the still existing public initiatives, including non-political ones, punishing those who made legal or public statements about torture, as well as identifying and punishing everyone who previously participated in any form of protest. Daily new facts of criminal and administrative prosecution, torture, detention, physical violence is reported.

Also, the resources spent for the implementation of the attack indicate a widespread character. First of all, the majority of state authorities are involved in carrying human rights violations (this thesis will be described in more detail in the description of the “systematic attack” element). Secondly, according to numerous reports of Belarusian independent journalists, the significant financial resources were spent on equipment and on maintenance of law enforcement officers, involved in protests’ dispersal in summer-autumn 2020. According to the credible Belarusian resource, during the most acute phase of the protests, the government spent about half a million dollars a day on additional payments to security forces<sup>48</sup>. In addition, during the dispersal of street protests, a wide arsenal of special equipment was used, including traumatic and military weapons, water cannons, flash grenades, and tear gas. Various military equipment was also used.

Finally, the widespread nature of the attack is indicated by the impact it has on the civilian population. As a result of the attack, the Belarusian civil society was partially paralyzed and partially outlawed. State bodies have blocked access to more than 100 e-media, including the country's main independent media resources, 10 media were forced to stop publishing. In August 2021, the Supreme Court liquidated the Belarusian Association of Journalists, the leading organization for freedom of the media. Several leading independent media and foundations engaged in rendering humanitarian, financial, and legal help to the victims of

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<sup>48</sup> <https://belsat.eu/ru/programs/polmilliona-dollarov-stoit-razgon-protesta/>

human rights violations have been recognized as extremist. In 2021, at least 275 civil society organizations have been liquidated, including all human rights organizations. From August 2020 at least 22 lawyers were deprived of their license. Criminal cases against 13 human rights defenders (12 of whom have been detained) have been initiated, many other human rights defenders remain witnesses in the criminal cases. At least 29 journalists remain behind bars on criminal charges. Hundreds of journalists, human rights defenders, national and local political leaders, up to the level of administrators of local chat rooms, are subject to various forms of persecution, many of whom have been arrested or fled the country.

Many Belarusians continue to leave the country for fear of persecution if they or their relatives have stated anything against the current regime. In some cases, workers from entire sectors of the economy massively leave the country. According to experts, due to direct pressure and the political and human rights crisis, from 10 to 20 thousand IT specialists left the country<sup>49</sup>. In addition, many Belarusian emigrants living in third countries are unable to visit their home and family for fear of being attacked, since living, studying or working in democratic countries can also be seen as a sign of disloyalty as Aliaksandar Lukashenka stated<sup>50</sup>.

Many civilians suffered serious physical, psychological and financial damage themselves or witnessed violence against others as a result of the attack. Because of this, there is an atmosphere of universal fear to express an opinion on any issue of public life, which can be interpreted as disloyalty to the Lukashenka`s regime, in society. Thus, the consequences of the attack deeply affected the general population of Belarus.

### **“Systematic” attack**

The notion “systematic” attack signifies the organised nature and character of the acts of attack, following a regular pattern, based on a common policy<sup>51</sup> and substantial public or private resources. It means the actions in such a scale that improbable to occur randomly<sup>52</sup>. It is not obligatory for the plan or policy to be adopted formally as a policy of a State<sup>53</sup>.

The ICTY Trial Chamber in Blaskic case clarified that this requirement refers to the following four elements: (1) the existence of a political objective, that is, to destroy, persecute or weaken a community; (2) the perpetration of a criminal act on a very large scale against a group of civilians or the repeated and continuous commission of inhumane acts linked to one another; (3) the preparation and use of significant public or private resources, whether military or other; (4) the implication of high-level political and/or military authorities in the definition and establishment of the methodical plan<sup>54</sup>.

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<sup>49</sup><https://www.forbes.ru/karera-i-svoy-biznes/428601-strana-stremitelno-teryet-svoe-budushchee-pochemu-tysyachi-it>

<sup>50</sup> <https://lenta.ru/news/2021/08/24/lukashenko/>

<sup>51</sup> ICTY, Prosecutor v. Kunarac, Kovac and Vukovic, Judgement, IT-96-23-T and IT-96-23/1-T, 22 February 2001, para. 415

<sup>52</sup> ICTY, Prosecutor v. Jelisić, Judgement, IT-95-10-T, 14 December 1999, para. 53

<sup>53</sup> ICTY, Prosecutor v. Kunarac, Kovac and Vukovic, Judgement, IT-96-23-T and IT-96-23/1-T, 22 February 2001, para. 415; Prosecutor v. Kmojelac, Judgement, IT-97-25-T, 15 March 2002, para. 54; ICTY, Prosecutor v. Naletilić and Martinović, Judgement, IT-98-34-T, 31 March 2003, para. 233

<sup>54</sup> ICTY, Prosecutor v. Kordić and Cerkez, "Judgement", IT-95-14/2-T, 26 February 2001, para. 179

As noted before, in Belarus all specific attacks against civilians have a common, clearly identifiable goal. It is the goal of maintaining political power by the current authoritarian regime by 1) the suppression of any form of political/civil protest or activism; 2) revenge for political disloyalty to prevent the manifestation of such disloyalty in the future 3) destruction of civil society independent institutions and horizontal social initiatives.

To achieve this goal, the Belarusian state authorities operate according to a specific scheme, in which clear logic is visible. This scheme includes 1) isolation of political and opinion leaders 2) suppression of any political and civic activity 3) destruction of all organized forms of “resistance” and all organized forms of civil activity beyond the control of the authorities 4) punishment of all who report the illegal actions of the regime 5) dissemination of the state propaganda. This scheme is presented in more detail in the description of the element “an attack directed against a civilian population”.

From August 2020 to the present, all documented acts of attacks and human rights violations are within the logic of this scheme, occur regularly and continuously, are interconnected by a common goal, similar methods and patterns of violations. Here are some examples of the violations’ patterns:

- the same procedural violations during the criminal proceedings (closed trials, prevention of the work of independent lawyers, sentences based on the testimonies of secret witnesses from law enforcement officials, ignorance of obvious inaccuracies in the testimony of these witnesses, ignorance of statements of accused about torture to get confessions, prevention of any independent monitoring of places of detention or trials etc)
- the same formal grounds for criminal and administrative prosecution (violation of the procedure for organizing and holding mass events in the legislation on administrative offenses; terrorism, extremism, organizing mass riots, as well as tax evasion in criminal legislation)
- similar practices of torture and other inhuman acts (conducting “beatings corridors” in jails, threats or actual sexual violence, creating “special conditions” for protesters in jails, putting in a ‘punishment’ cell without access to food, water and sleeping space, etc)
- forcing political leaders to leave the country through threats or physical forcible expulsion across the state border and others.

To support the attack, the Lukashenka’s regime attracted significant financial, technical and organizational resources. Financial and technical resources in this context mean the use of a large number of special equipment and significant additional payments to law enforcement officers during the dispersal of protests in the second half of 2020. More details about this were mentioned above. This section provides more detailed information on organizational resources.

Almost all legislative, executive and judicial authorities at the central and local levels, as well as state-owned media are involved in the repressions against the civilian population. Such executive authorities as Ministry of Internal Affairs, State Security Committee, Ministry of Defense, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Information, Ministry of Emergency Situations, Ministry of Education, Ministry of Culture and Investigative Committee are the most involved in committing the policy of persecution.



Legislative measures to strengthen the policy of persecution were also passed by the parliament in 2020-2021, and they include:<sup>55</sup>

- expanding the official powers of law enforcement during the crackdown and in criminal proceedings<sup>56</sup>. For example, law enforcement officers received additional authorities to use weapons, physical force, military and special equipment against peaceful protesters<sup>57</sup>;
- new types of reprisals against citizens disloyal to the authorities. Thus, a law has been passed that provides losing of citizenship for participation in extremist activities or harm to the interests of the State (if the citizenship was obtained via the procedure of acquisition)<sup>58</sup>.
- tightening of regulations of peaceful assembly. Administrative responsibility for participating in peaceful gatherings has been strengthened<sup>59</sup>. It is forbidden to stream from mass gatherings, and journalists are equated to participants or organizers of gatherings. In addition, it is illegal to collect financial or any other assistance to persons who are administratively prosecuted for participating in peaceful gatherings;
- additional guarantees of physical security for judges, prosecutors, military and some other categories of employees of the state bodies who are most actively involved in the policy of repression against the civilian population<sup>60</sup>;
- tightening regulation of the work of media<sup>61</sup>. Thus, the grounds for depriving journalists of accreditation have been expanded, the procedure for restricting access to electronic media has been simplified, the publication of the results of public opinion polls in the media is prohibited, and several other restrictions have been passed;
- regulation of bar associations and lawyers was tightened<sup>62</sup>. The procedure for obtaining a lawyer's license for former judges, prosecutors and law enforcement officers has been simplified. The dependence of the bar associations from the Ministry of Justice is tightened;
- the list of acts recognized as extremism has been expanded<sup>63</sup>. Now extremism includes spreading false information about various spheres of life in Belarus and information that “discredit” Belarus, insulting civil servants, participation in mass riots, calls for unauthorized mass actions and more. Thus, according to the new legislation, any protest actions can be interpreted as extremism and can lead to criminal responsibility.

The judiciary has a significant impact on a systematic and widespread attack on the civilian population of Belarus. The dependence of judges on Aliaksandar Lukashenka is enshrined at the legislative level. As noted by the Human Rights Committee (HRC) 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 HRC has been also concerned that the salaries of judges are determined by presidential decree and not by the law<sup>64</sup>.

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<sup>55</sup> [https://spring96.org/files/misc/analiz\\_izmenenia\\_zakonov.pdf](https://spring96.org/files/misc/analiz_izmenenia_zakonov.pdf)

<sup>56</sup> [https://etalonline.by/document/?regnum=h12100085&q\\_id=3611354](https://etalonline.by/document/?regnum=h12100085&q_id=3611354)

<sup>57</sup> <https://pravo.by/document/?guid=3961&p0=H12100106>

<sup>58</sup> [https://etalonline.by/document/?regnum=h12000067&q\\_id=3611419](https://etalonline.by/document/?regnum=h12000067&q_id=3611419)

<sup>59</sup> [https://etalonline.by/document/?regnum=hk2100091&q\\_id=3611420](https://etalonline.by/document/?regnum=hk2100091&q_id=3611420)

<sup>60</sup> [https://etalonline.by/document/?regnum=h12100105&q\\_id=3611366](https://etalonline.by/document/?regnum=h12100105&q_id=3611366)

<sup>61</sup> [https://etalonline.by/document/?regnum=h12100110&q\\_id=3611395](https://etalonline.by/document/?regnum=h12100110&q_id=3611395)

<sup>62</sup> [https://etalonline.by/document/?regnum=h12100113&q\\_id=3611402](https://etalonline.by/document/?regnum=h12100113&q_id=3611402)

<sup>63</sup> <https://etalonline.by/document/?regnum=H12100104>

<sup>64</sup> <http://surl.li/biyoc>



As indicated in the monitoring reports of the Human Rights Centre “Viasna”, in the process of administrative<sup>65</sup> and criminal<sup>66</sup> proceedings, including in the courts, there is a widespread violation of national legal norms, constitutional and internationally recognized standards of fair trial. According to the Project “23-34”, the most serious violations during administrative proceedings against participants in peaceful demonstrations include trials taking place in the places of detention or through videoconferences, the prevention of independent lawyers to take part in the trial, and use of testimony from law enforcement officials as the only or main evidence, despite the discrepancies<sup>67</sup>.

During the criminal trials, the judges did not react to the numerous statements of the defendants about torture. In addition, the judges did not check even in the case of noticeable traces of torture on the defendants, and the trials often took place in the territory of the jails. Due to numerous violations during administrative and criminal trials against peaceful protesters and civil society representatives, there is not even a semblance of proper legal procedure.

The prosecution bodies are also actively involved in the policy of repression. According to Belarusian legislation, the Prosecutor's Office provides supervision over the observance of the rule of law. However, in September 2020, the Prosecutor General said that the prosecution bodies, together with law enforcement agencies, are implementing the order of Alyaksandar Lukashenka to bring bloggers and participants in peaceful protests to justice<sup>68</sup>.

At the same time, the prosecutor's office does not take any action to investigate the crimes of law enforcement officers against peaceful demonstrators. Prosecutors ignored testimonies of torture during the investigation. The prosecutor's office also does not take any action related to numerous complaints about the detention conditions in prisons<sup>69</sup>. Such complaints are forwarded to the bodies whose actions are being appealed. At the same time, at the request of the Minsk City Prosecutor's Office, 4 human rights organizations were liquidated<sup>70</sup>.

In addition to the state authorities, the Lukashenka`s regime has involved state media in the persecution of the oppositional part of society. State television channels, Internet media and telegram channels constantly disseminate messages aimed at 1) discrediting the protesters, civil activists and civil society, and are being represented by the state propaganda as ‘enemies’; 2) justifying violence by law enforcement officers; 3) inciting hatred and enmity on the ground of disloyalty to the regime in Belarus<sup>71</sup>. Some state journalists are openly calling for the extermination of the protesters and the leaders of the countries where the protesters fled<sup>72</sup>.

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<sup>65</sup> [https://spring96.org/files/book/ru/2021-politically\\_motivated\\_administrative\\_trials\\_ru.pdf](https://spring96.org/files/book/ru/2021-politically_motivated_administrative_trials_ru.pdf)

<sup>66</sup> [https://spring96.org/files/book/ru/2021\\_politically\\_motivated\\_criminal\\_prosecutions\\_ru.pdf](https://spring96.org/files/book/ru/2021_politically_motivated_criminal_prosecutions_ru.pdf)

<sup>67</sup> <https://datastudio.google.com/u/0/reporting/5458afac-84dd-4ec8-bb61-6ff5c2990e5c/page/1i4sB?s=sOapm-zdZ3E>

<sup>68</sup> <https://www.belta.by/society/view/shved-ni-odin-organizator-i-uchastnik-nesanktsionirovannyh-aktsij-ne-ujdet-ot-otvetstvennosti-408042-2020>

<sup>69</sup> <https://news.zerkalo.io/life/865.html>

<sup>70</sup> <https://t.me/prokuraturabelarus/1202>

<sup>71</sup> <http://www.ctv.by/grigoriy-azaryonok-oni-obezumeli-zapad-i-ego-holui-oni-pytayutsya-nas-zatravit-sankcii-eto-krasnye>

<sup>72</sup> <http://www.ctv.by/grigoriy-azaryonok-ob-obyskah-nko-brosaetsya-v-glaza-obilie-amerikanskih-flagov-nu-hot-bchb-byli;>  
<https://www.sb.by/articles/zhenskaya-revolutsiya-ili-babiy-bunt.html>

Many state media publish materials from closed trials, calling the accused criminals even before the courts were sentenced; any protest/civil activity is called a crime<sup>73</sup>.

Thus, over a long period of time, **all key government authorities regularly take actions that are part of the attack and amplify it.**

Another fact that points to the systematic attack and the organized policy of the State to carry out such an attack is the participation of senior officials in coordinating attacks on opposition leaders and protesters. Based on public and non-public speeches, it is possible to unambiguously draw conclusions about the participation of Alyaksandar Lukashenka personally, the Prosecutor General, the Minister and Deputy Minister of Internal Affairs, the Minister of Defense, the head of the State Security Committee, senior officials of the Ministry of Justice, the head of the Ministry of Emergency Situations and the leadership of the investigative committee in coordinating such an attack. Thus, all the leaders of the country's key law enforcement agencies participated in the development of the attack scheme.

In addition, Alyaksandar Lukashenka and the heads of the security agencies in public and non-public speeches have repeatedly called on law enforcement officials to attack<sup>74</sup> peaceful demonstrators and political leaders, including inflicting injuries<sup>75</sup> and murders<sup>76</sup>. They also publicly endorsed mass torture and violence, and law enforcement officers received a clear message that protesters can be treated in violation of law<sup>77</sup>. Also, a representative of one of the law enforcement agencies announced a command to create special camps for the most active protesters. Some heads of divisions of the Ministry of Internal Affairs stated that they ordered to beat brutally all detainees to create an atmosphere of terror in the city<sup>78</sup>.

Here are a few examples of how senior government officials reward law enforcement officials for attacking civilians and call for such an attack.

In December 2020, the initiative of the resigned security officials “BYPOL” published a recording where Minister of Internal Affairs Yuri Karaeu (at that moment) discusses the opposition leader Serhei Tikhanousky<sup>79</sup>: *“They “slapped” him well. Let the whole world scream: “by the lawlessness...”. Such a creature is the most dangerous of all. He is more dangerous than all these Babariks (note, another opposition politician). He is the destroyer of the state. There is no article for him - you need to think up and lock him for a long time. Let him sit there. Let him die there”*

In January 2021, the “BYPOL” initiative published an audio recording where Deputy Minister of Internal Affairs Mikalai Karpyankou talks about a meeting with Alyaksandar Lukashenka, when the security officials were told how to deal with the protesters<sup>80</sup>: *“Therefore, as the*

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<sup>73</sup> <https://www.youtube.com/watch?v=5Z0AQSqd4s0>

<sup>74</sup> <https://www.youtube.com/watch?v=YKMrL-yWJD4>

<sup>75</sup> <https://www.youtube.com/watch?v=qcp86Hjl9Bc>

<sup>76</sup> <https://www.legin.by/posts/-ot->

<sup>77</sup> <https://www.youtube.com/watch?v=IKid3b6Yals>

<sup>78</sup> <https://t.me/cpartisans/334>

<sup>79</sup> <https://www.youtube.com/watch?v=KXg8wSgWU94>

<sup>80</sup> <https://www.legin.by/posts/-ot>

*president said, if he (note, protester) is attacking you, use a non-lethal weapon. Point-blank: legs, stomach, balls. Let him understand what he has done when he regains consciousness. Well, do to him something like this: either mutilate or kill. Use the weapon directly in his forehead, right in the forehead, right in the face, right there, and he will never return to the state in which he was. Because basically all those who go to the streets to take part in the rail war, those who block the roads, attack the police, throw Molotov cocktails, are the same terrorists. These are superfluous people in our country”*

On an audio recording published by “BYPOL” in March 2021, Yuri Karaeu, the Minister of Internal Affairs, gives instructions to his subordinates<sup>81</sup>: *“Pursue those who threaten you and me, officials. Stop everything and find this creature and kill (or “to eliminate”, it doesn't sound very legible). Here is my instruction to you”*

A fragment of a conversation between the chief of internal affairs of the city of Saligorsk and the deputy chief of the Internal Affairs Directorate of the Minsk Regional Executive Committee<sup>82</sup>: *“My command is that detentions must be tough. If they look at you wrong, with the phone, you should beat everyone, not to be ashamed of anyone... even if they look at you in the wrong way, let beat them, in police cars... Let's deliver them to the regional department... The question is that when they see a police officer or their transport, all the fagots who are planning to get a meeting have to run away cowardly... This is then the effect in the city”*

Thus, a systemic attack and the existence of an organized policy of the State in Belarus is based on existence of a single goal of the attack, the internal logic of regular attacks and human rights violations connected with each other, the attraction of significant organizational and financial and technical resources, participation in the coordination of the attack of the highest officials of the State, as well as encouraging and instigating an attack from the leaders of law enforcement agencies.

### **Deliberate attack**

Investigating each specific crime of humanity there should be established a nexus between the individual crime and the policy of attack against civilian population, and the perpetrator must know that there is a widespread or systematic attack directed against a civilian population and know that his acts constitute part of this attack. There should be a special intent, except the direct intent for each crime.

A nexus between the acts of the accused and the attack consists of 1) the commission of an act which, by its nature or consequences, is objectively part of the attack; coupled with 2) knowledge on the part of the accused that there is an attack on the civilian population and that his act is part of the attack<sup>83</sup>. These elements clarify the requisite participation in and knowledge of a widespread or systematic attack against a civilian population.

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<sup>81</sup> <https://www.youtube.com/watch?v=IKid3b6Yals>

<sup>82</sup> <https://t.me/cpartisans/334>

<sup>83</sup> ICTY, Prosecutor v. Kunarac, Kovac and Vukovic, Judgement, IT-96-23-T and IT-96-23/1-T, 22 February 2001, para. 418. See also ICTY, Prosecutor v. Vasiljević, Judgement, IT-98-32-T, 29 November 2002, para. 32; ICTY; Prosecutor v. Kunarac, Kovac and Vukovic, Appeals Judgement, IT-96-23-T and IT-96-23/1-A, 12 June 2001, para. 99.

According to the practice of the International Criminal Court, this element should not be interpreted as requiring proof that the perpetrator knew all characteristics of the attack or the precise details of the plan or policy of the state or organization, but the perpetrator intended to further such an attack<sup>84</sup>. A conclusion about the knowledge of the offender can be made based on circumstantial evidence<sup>85</sup>. In addition, the personal motive for the perpetrator's involvement in the attack is irrelevant; the performer need not share the purpose of the broader attack<sup>86</sup>.

The fact that the specific crimes of the Lukashenka`s regime are objectively part of a general attack is proved by a common goal, similar methods and patterns of crimes, public statements of Alyaksandar Lukashenka praising the perpetrators for these attacks, public and non-public speeches of Alyaksandar Lukashenka and heads of law enforcement agencies with calls to attack politically disloyal civilians, the same rhetoric of state media, and that all victims are politically disloyal or perceived disloyal.

Knowledge of the perpetrators that there is an attack on the civilian population and that their acts are part of the attack should be assessed in each specific crime.

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<sup>84</sup> ICC, Elements of Crimes, pp. 12-13

<sup>85</sup> Prosecutor v. Tadić, Trial Chamber, Opinion & Judgment, ICTY Case No. IT-94-1-T, para. 657

<sup>86</sup> Prosecutor v. Kunarac, Appeals Chamber, Judgment, ICTY Case No. IT-96-23, para. 103