

## 2. Right to life

### *Enforced disappearances of the political opponents of the authority*

2.1. For a period of 2011 – 2014 there have been no facts confirmed new politically motivated disappearances in the Republic of Belarus. Thus any efforts have not been made by the authorities to investigate the cases on the disappearances of **Yuri Zakharenko**, former vice-speaker of the Supreme Council **Victor Gonchar**, businessman **Anatoly Krasovski**, journalist **Dmitri Zavadski**, and the recommendations of the Universal Periodic Review 2010 (hereafter UPR) regarding to that have not been implemented by the State.

2.2. **The UPR recommendation 98.19** (suspend the duties of all officers of security forces implicated in cases of enforced disappearance, extrajudicial execution or torture, and ensure that impartial and credible inquiries are carried out so that those responsible for such acts are brought to justice) was announced not acceptable and was not implemented. The State asserted that in Belarus there is no information available concerning the involvement of State authorities or their officials in such unlawful activities.

2.3. **The UPR recommendation 98.6** (sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance) was also announced not acceptable and up to date the Convention has not been signed by the Republic of Belarus.

2.4. **The UPR recommendation 98.20** (implement the recommendations of the report of the Parliamentary Assembly of the Council of Europe on disappeared persons in Belarus) was announced not acceptable and was not implemented. The government indicated in its comment that Belarus was not a member of the PACE.

2.5. Enforced disappearances of political opponents of regime and no investigation of their abductions are systemic problems. The demand to reveal the truth about the disappearances of Yuri Zakharenko, Victor Gonchar, Anatoly Krasovski, Dmitri Zavadski is contained in resolutions of the Parliamentary Assembly of the Council of Europe, the UN Human Rights Committee, The OSCE Parliamentary Assembly. Thus the authorities do not react on these demands and leave them unanswered.

2.6. Criminal cases based on the elements of a crime pursuant to Art. 101 of the Criminal Code (edition of 1960) – premeditated murder - were instituted for the mentioned persons` disappearances and on the ground of information received by the KGB, the Ministry of Internal Affairs and the Prosecutor's offices during inquiry: 17 September 1999 – Yuri Zakharenko; 20 September 1999 – Victor Gonchar and A.Krasovski; 8 July 2000 - Dmitri Zavadski.

2.7. The terms of these cases were extended repeatedly. Preliminary investigation on the cases was suspended owing to no determination of a person (persons) to be indicted or no disclosure of a missing person and then resumed.

2.8. Official communications of competent authorities of the Republic of Belarus concerning lack of information about persons guilty of the abductions do not represent the facts as findings have confirmed authentically that former and present representatives of the Belarus authorities concerned with the crimes.

2.9. This conclusion is based on the Memorandum of a Parliamentary Assembly of the Council of Europe reporter Christos Pourgourides *Disappeared Persons in Belarus* where has been claimed: 'For now, I have come to the... conclusion that a proper investigation of the disappearances has not been carried out by the competent Belarusian authorities. On the contrary, the interviews I conducted in Minsk, in conjunction with Mr. Alkayev's deposition... and the documents or copies thereof that are in my possession, have led me to believe that steps were taken at the highest level of the State actively to

cover up the true background of the disappearances, and to suspect that senior officials of the State may themselves be involved in these disappearances.’<sup>1</sup>

2.10. The Mr. Pourgourides` report and the Resolution and recommendations of the Council of Europe adopted on the basis of this demonstrated that independent and impartial investigation of these cases were not conducted by the Belarusian authorities. Mentioned in the Resolution persons presumed to be involved in the disappearances of the eminent public figures such as Head of the Directorate of the Presidential Administration Victor Sheyman, the former Minister of Internal Affairs Sivakov, former Minister of Internal Affairs Naumov, SOBR (special forces of the Ministry of Internal Affairs) commander colonel Pavlichenko, Chief of the President of the Republic of Belarus Security Vasilchenko etc. take posts in the State structures as before.

2.11. Now a proper investigation into the criminal cases for ascertaining persons guilty of the disappearances is not conducting, there is imitation of investigation. The authorities impede the investigation of the criminal cases, at the same time deterrents of inquiries include termination of investigative actions, changing investigators, prohibition of familiarizing the investigation materials, refusing to interrogate the representatives of the authorities suspected of involving in the disappearances, dismissing or total ignoring the petitions etc. It is ascertained that a part of findings of operational investigative actions, including material evidence testifying to involving in the crimes the highest officials of the State and special services (‘PB-9’ RO57S pistol and others) was lost or deliberately concealed.

2.12. Petitions of victims and their representatives, recommendations of the international organizations (the UN, the OSCE, PACE), demands of human rights defender organizations to remove temporarily, for a period of the investigation of the cases, the persons suspected of the abductions were ignored by the authorities of Belarus.

2.13. The whole of findings of operational investigative actions, as well as materials of public investigation of abductions of persons followed by their disappearances give grounds to claim that those crimes have been solved in accordance with existing legislation and the persons suspected of them have been ascertained. The facts and the circumstances studied do not except the disappeared persons have been the victims of extrajudicial executions. However, since the end of November 2000 further full-scale investigation has not been conducted because of professional activities of investigators, prosecutors and judges have been blocked by the highest officials of Belarus suspected of the crimes.

2.14. Validity of suspicions of involving in administration of crimes regarding to the mentioned persons is confirmed by the documents published in the press contained reliable information about the results of the operative research activities and about a number of investigative actions conducted. The original of the documents are kept in the materials of a criminal case on Yuri Zakharenko`s disappearance and in the other ones. Their copies were transmitted to mass medias by officers of the Prosecutor`s Office, of the Ministry of Internal Affairs and of the KGB taken part in the investigation. Some of them, having feared persecution, had to leave a country (Mr. Alkaev, Mr. Petrushkevich, Mr. Sluchek and others).<sup>2</sup>

2.15. It must be noted that before the disappearances of Belarusian politicians there was an alternative presidential election campaign organized by opposition. The political situation in the country was seriously strained. It was in the spring 1999 when a secret document *On the measures for counteracting political extremism* approved by the Security Council of Belarus (Victor Sheyman) was published. There were the next measures:

- ... *The KGB in collaboration with the Prosecutor`s Office realize preventive measures in relation to radical leaders and activists of campaign on removing the President, first of all members of the so-called Central Election Commission headed by Victor Gonchar and its regional representatives...*

2.16. A content of the mentioned document testified to the authorities intentionally prepared to block alternative presidential election through working out a plan of specific actions in relation to the opposition leaders, primarily, Victor Gonchar, right up to their murder.

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<sup>1</sup> <http://charter97.org/rus/news/2003/12/19/pace>

<sup>2</sup> [http://dossier.bymedia.net/index.php?option=com\\_apressdb&view=publications&layout=entry&id=11711](http://dossier.bymedia.net/index.php?option=com_apressdb&view=publications&layout=entry&id=11711)

2.17. It must be noted that the Yuri Zakharenko's criminal case was instituted four months after his abduction and putting in an appropriate application to the authorities. The circumstance also supports the conclusions that the Belarusian power structures were account for abduction and probable death of Yuri Zakharenko and other disappeared persons.

2.18. There was no a refutation of validity of the suspicions in relation to the highest officials of the State according to law as confirmations of that had not been transmitted to the victims, their agents and public. Though the UN Human Rights Committee found Belarus guilty of a violation of the International Pact on Civil and Political Rights as it had not ensure full and thorough investigation of the appropriate facts, and criminal prosecution and penetration of guilty persons, and proper informing about the results of the investigation.<sup>3</sup>

2.19. Mass arrests and detentions of citizens for protests against the enforced disappearances in Belarus and for dissemination of information relating to those testified to the authorities involving in the disappearances of their political opponents.

2.20. Thus, it could be argued that committed crimes against humanity falling within the international criminal jurisdiction out of statutory limitations were actually solved.

2.21. In 2014 domestic fifteen-years limitation period will expire for the disappeared politics' cases that would allow the authorities to cease proceedings in those cases.

2.22. In 2014 investigation of the cases on disappearances of Yuri Zakharenko, Victor Gonchar and Anatoly Krasovski was three times prolonged for three months, last time on 24 June 2014.

2.23. In 2011 Mr. Zakharenko's family representative Oleg Volchek filed a petition to the Working Group on Enforced or Involuntary Disappearances at the United Nations High Commissioner for Human Rights. The Working Group received three communications of the Government from January to October 2012. It came to a conclusion that submitted information was not sufficient to clarify the situation and asked the Government of the Republic of Belarus to visit the country, but no answer was received. To date the Working Group has not made any decision, the case is supervised.

2.24. In the end of 2011 Ulyana Zakharenko asked a number of concrete questions in the address to the Prosecutor General: who had been suspenders on each of versions of investigation; which version of abduction was being verified by investigation; had Victor Sheyman, Vladimir Naumov and Dmitri Pavlichenko been questioned as suspenders; on what grounds had Mr. Pavlichenko been set free from the KGB pretrial detention centre; had the information disseminated in a film *Kriostnyj Batka (The Godfather)* been verified.

2.25. A Deputy Chief of the Office on Supervision of Investigation of Criminal Cases by Prosecutor's Offices Sevruck having answered Ulyana Zakharenko communicated that she would inform 'about a check results'. There was not answer on a single of the questions asked in the address to the Prosecutor General.<sup>4</sup>

2.26. On 28 March 2012, Svetlana Zavadsкая, Sergey Bakhun and Roman Kisliak submitted an appeal to the Council of Ministers of the Republic of Belarus to sign the International Convention for the Protection of All Persons from Enforced Disappearance and to instruct the Minister of Foreign Affairs to introduce the bill to the parliament for its ratification.<sup>5</sup>

2.27. On 27 April 2012, Svetlana Zavadsкая received an answer to her appeal in which the Ministry of Foreign Affairs expressed the view that there is no need for Belarus to join the Convention because its provisions are implemented in the legislation of the Republic of Belarus – kidnapping falls into the category of crimes against humanity, and provides for criminal liability, and inadmissibility of the exemption from liability or punishment in connection with the expiry of limitation period. However, the

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<sup>3</sup> <http://www1.umn.edu/humanrts/russian/hrcommittee/Rview1820sess104.html>

<sup>4</sup> <http://www.nv-online.info/by/148/210/26924/%D0%9A%D1%82%D0%BE-%D0%BE%D1%82%D0%B2%D0%B5%D1%82%D0%B8%D1%82-%D0%BC%D0%B0%D1%82%D0%B5%D1%80%D0%B8-%D0%AE%D1%80%D0%B8%D1%8F-%D0%97%D0%B0%D1%85%D0%B0%D1%80%D0%B5%D0%BD%D0%BA%D0%BE.htm>

<sup>5</sup> [http://spring96.org/files/reviews/ru/2012\\_review\\_ru.pdf](http://spring96.org/files/reviews/ru/2012_review_ru.pdf) p. 53

articles of the Criminal Code mentioned in the answer provide punishment for kidnapping, not for enforced disappearance.<sup>6</sup>

2.28. In June 2012 the Human Rights Committee concluded that Belarus had violated its obligations to properly investigate and take appropriate remedial action regarding the disappearance of Mr. Krasovski (violation of article 2, paragraph 3, read in conjunction with articles 6 and 7 of the International Pact on Civil and Political Rights). The Committee requested to provide the victims with an effective remedy, which should include a thorough and diligent investigation of the facts, the prosecution and punishment of the perpetrators, adequate information about the results of its inquiries, and adequate compensation to the communication authors (Communication No. 1820/2008, Irina Krasovskaya and Valeriya Krasovskaya v. Belarus, CCPR/C/104/D/1820/2008, 6 June 2012).<sup>7</sup> The views of the Human Rights Committee have not implemented by the State up to date.

2.29. On 4 January 2013, the United Civil Party reported about the preparation of an appeal to the Prosecutor General concerning the disappearances of the political opponents of Alexander Lukashenko - Viktor Honchar and Yuri Zakharenko in which it would demand answers on all questions those had been asked back in 1999-2000 in connection with their disappearance.<sup>8</sup>

2.30. On 12 February 2013, representatives of political parties, social movements and human rights organizations met to develop a common tactics to prevent the closure due to the expiry of the limitation period of the criminal cases concerning the disappearance of Yuri Zakharenko, Victor Honchar, Anatoly Krasovski and Dmitri Zavadski.

2.31. On 16 March 2013, during an event dedicated to the memory of the missing politicians Yuri Zakharenko, Victor Honchar, Anatoly Krasovski and Dmitri Zavadski, signing of a petition to the General Prosecutor's Office demanding to investigate these cases, prepared by human rights defender Garri Pogoniailo, started.<sup>9</sup>

2.32. On 2 April 2013, the Investigative Committee sent a response to a joint request of the United Civil Party and human rights activists about the prospects of investigation into the disappearances of Yuri Zakharenko, Victor Honchar, Anatoly Krasovski and Dmitri Zavadski. The answer did not contain any information on the merits of the investigation and its results, and was a usual come-off without any hint of interest in the investigation of these crimes.<sup>10</sup>

2.33. The authorities refuse systematically to allow mass events relating with the mentioned politicians' disappearances. So on 25 March 2013 Mogiliov activists of the United Civil Party were not allowed to hold a picket in memory of the disappeared politician General Zakharenko. The organizers intended to hold the picket on 7 May, the 14th anniversary of Mr. Zakharenko's disappearance. Nevertheless on 1 April activists of the Belarusian National Youth Union held a picket there without any official permission.

2.34. In May 2014 a human rights defender institution the Belarusian Centre for Documentation (hereafter the BCD) prepared and submitted an individual communication to the UN Human Rights Committee on behalf of Ulyana Zakharenko and Elena Zakharenko – mother and daughter of the former Minister of Internal Affairs Zakharenko – to protect their rights violated by the authorities: the right to life, the right to liberty and security of person, the right not to be subjected to torture and ill-treatment and discrimination on political grounds.

2.35. In June 2014 the BDC prepared an application to the Investigative Committee of the Republic of Belarus on behalf of Ulyana Zakharenko to recognize her as a victim in the criminal case of her son which was refused to satisfy. The refusal was appealed to Prosecutor General. The appeal has left unanswered up to date. However, after this appeal, 14 July 2014 she was recognized as a victim.

2.36. In July 2014 the BDC prepared and sent to the Investigative Committee of the Republic of Belarus a petition on behalf of Ulyana Zakharenko, Irina Krasovskaya and Zinaida Gonchar for combining the

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<sup>6</sup> [http://spring96.org/files/reviews/ru/2012\\_review\\_ru.pdf](http://spring96.org/files/reviews/ru/2012_review_ru.pdf) p. 68

<sup>7</sup> <http://www1.umn.edu/humanrts/russian/hrcommittee/Rview1820sess104.html>

<sup>8</sup> <http://spring96.org/be/news/61203>

<sup>9</sup> <http://spring96.org/be/news/62743>

<sup>10</sup> <http://spring96.org/be/news/63102>

criminal cases into a single procedure and qualifying actions of the persons involved in the crimes against their relatives under article 128 of the Criminal Code of the Republic of Belarus as criminal actions in relation to Yuri Zakharenko, Victor Gonchar, Anatoly Krasovski were against safety of mankind (systematic executions out of court, kidnapping followed by disappearance). The petition was not satisfied without any motivation.

2.37. Up to date, in spite of obvious facts, the authorities of Belarus insist, to avoid their discrediting and to avoid domestic and international responsibility, there is no evidence confirming that the State officials have been guilty of enforced disappearances of political opponents.

2.38. At the same time the authorities keep from public and disappeared politicians` relatives the investigation materials refusing to communicate what has been specifically done by them to verify a political version of the disappearance. The relatives and their representatives receive refusals without a motivation to their numerous petitions to familiarize them with at least some of the investigation materials.

2.39. For 2011 – 2014 there has been no information concerning the investigation of the mentioned criminal cases having conducted by the authorities.

### **3. Recommendations for Belarus:**

3.1. Ratify the *International Convention for the Protection of All Persons from Enforced Disappearance*.

3.2. Take the necessary measures for full and impartial investigation into disappearances of political figures – Yuri Zakharenko, Victor Gonchar, Anatoly Krasovski, Dmitri Zavadski.

3.3. Bring to justice the persons suspected of the crimes and, when found guilty by independent judiciary, punish them in accordance with international obligations of the Republic of Belarus.

3.4. Remove officials involved in the mentioned cases of enforced disappearance, extrajudicial executions and torture.