

Mandates of the Special Rapporteur on the situation of human rights in Belarus; the Working Group on Enforced or Involuntary Disappearances; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE:
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Belarus; Working Group on Enforced or Involuntary Disappearances; and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 41/22, 36/6 and 35/15.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the lack of accountability in the **alleged cases of enforced disappearance and summary execution of Mr. Yuriy Zakharenko, Mr. Anatoliy Krasovskiy, and Mr. Dmitriy Zavadski.**

The cases of Mr. Yuriy Zakharenko and Mr. Anatoliy Krasovskiy were transmitted to Your Excellency's Government under the humanitarian procedure of the Working Group on Enforced or Involuntary Disappearances on 21 May 1999 and 1 January 2000, respectively. The cases will remain open in the Working Group's records, until the fate and whereabouts of Mr. Zakharenko and Mr. Krasovskiy are determined.

According to the information received:

Case of Mr. Yuriy Zakharenko:

On 7 May 1999, Mr. Yuriy Zakharenko, the former Minister of Internal Affairs of the Republic of Belarus and a prominent opposition political figure, went missing in Minsk. A criminal case under article 101 of the Criminal Code of the Republic of Belarus (intentional murder) was opened on 17 September 1999. For 20 years, the investigative process has been marred by multiple shortcomings, such as discontinuation of inquiries; replacement of investigators; refusal to question officials suspected of involvement into the alleged disappearances, as well as intransigence to consider procedural motions made by lawyers and family members. Serious allegations were made regarding deliberate concealment of crucial evidence, presumably attesting to the involvement of senior government officials in these crimes. In January 2019, the investigation into the alleged disappearance of Mr. Zakharenko was suspended, because the suspects could not be identified. Up until now, there is no information about the fate or whereabouts of Mr. Zakharenko. He has neither been declared missing, nor presumed dead.

On 16 December 2019, Deutsche Welle, the German public broadcaster, published an interview with a former member of a Belarusian special rapid response unit (SOBR), who disclosed that SOBR agents abducted and killed Mr. Yuriy Zakharenko, Mr. Anatoliy Krasovskiy and Mr. Dmitriy Zavadski. On 18 December 2019, following this resonance interview, the criminal investigation into the case was resumed.

Case of Mr. Anatoliy Krasovskiy:

On 16 September 1999, Mr. Anatoliy Krasovskiy, a Belarusian businessman, went missing in Minsk. A criminal case under article 101 of the Criminal Code of the Republic of Belarus (intentional murder) was opened on 20 September 1999. He was declared missing on 20 November 2002. For 20 years, the investigative process has been marred by multiple shortcomings, such as discontinuation of inquiries; replacement of investigators; refusal to question officials suspected of involvement into the alleged disappearances, as well as intransigence to consider procedural motions made by lawyers and family members. Serious allegations were made regarding deliberate concealment of crucial evidence, presumably attesting to the involvement of senior government officials in these crimes. In January 2019, just like in the case of Mr. Zakharenko, the investigation into Mr. Krasovskiy's disappearance was suspended due to the failure to identify a suspect. Shortly after the above-mentioned interview with the former member of the SOBR, the authorities in Belarus reopened the investigation into the case.

Case of Mr. Dmitriy Zavadski:

On 7 July 2000, Mr. Dmitriy Zavadski, a Russian camera operator, disappeared at Minsk National Airport. His car was parked next to the airport but there was no information about Mr. Zavadski's whereabouts. On 14 March 2002, two members of a special police unit were charged by the Minsk Regional Court for the abduction of Mr. Zavadski. However, the court did not establish what happened to Mr. Zavadski after he was abducted. On 27 November 2003, Mr. Zavadski was legally declared dead. However, as of now his body has not been found. On 31 March 2006, the criminal case regarding the enforced disappearance of Mr. Zavadski investigated under article 101 of the Criminal Code of the Republic of Belarus (intentional murder) was suspended.

Following the release of the Deutsche Welle interview, in December 2019, a relative of Mr. Zavadski appealed to the Investigative Committee to reopen the investigation in the case of enforced disappearance based on new available information. The Investigative Committee refused to resume the investigation however.

We express our concerns at the apparent lack of independent, impartial, transparent and effective investigation into the allegations of enforced disappearance and summary execution of Mr. Yuriy Zakharenko, Mr. Anatoliy Krasovskiy and Mr. Dmitriy

Zavadski. Moreover, we are further concerned that acts that may constitute enforced disappearance are subject to statutory limitations, despite the fact that the fate and whereabouts of the above-mentioned individuals have not been clarified. Mindful of the pervasive impunity surrounding these cases, we are perturbed that the relatives of Mr. Zakharenko, Krasovskiy and Zavadskiy cannot exercise their rights to the truth, prompt and effective judicial remedy, and commensurate reparation.

While we do not wish to prejudge the accuracy of these allegations, should they be confirmed, they would contravene articles 6 (right to life); 9 (right to liberty and security of person), 10 (right to be treated humanely while detained); 16 (right to be recognized as a person before the law); of the ICCPR ratified by Belarus in 1973. These allegations would also contravene the protections provided for by the Declaration on the Protection of all Persons from Enforced Disappearance adopted by the General Assembly Resolution 47/133 of 18 December 1992, particularly articles 1, 2, 3, 7, 9, 10, 13, 17 and 19.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. In particular, please provide information on all steps taken to investigate the above-mentioned allegations of enforced disappearance and summary execution, with a view to bringing the perpetrators to justice. Please outline the measures taken to ensure the effectiveness, transparency, independence and impartiality of the investigative process.
3. Please outline the steps taken to uphold and protect the rights of the families to the truth, justice and reparation. Should the allegations of summary execution be confirmed, please outline the concrete steps to be taken in the search for the remains, their identification and return to the relatives, with due respect for cultural customs.
4. Please provide information on why in spite of the new information shared by an alleged former member of the special rapid response unit, members of which were reportedly involved in the above-mentioned cases, in an interview to Deutsche Welle dated 16 December 2019, the investigations in the case of Mr. Dmitriy Zavadski were not resumed.

5. Please, indicate if steps have been taken to implement recommendations adopted by the Human Rights Committee on the case of enforced disappearance of Mr. Yuriy Zakharenko.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Anaïs Marin
Special Rapporteur on the situation of human rights in Belarus

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the articles 3 of the Universal Declaration of Human Rights (UDHR) and 6(1) and 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Belarus on 12 November 1973, which guarantee everyone's right to life, personal security and not to be arbitrarily deprived of life. In addition, we wish to underline article 10, which stipulates that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

We also wish to refer to article 2(1) of the ICCPR that establishes a general duty to ensure the rights recognized by the ICCPR. This article has been interpreted to have established a State duty to take positive measures to protect the right to life.

We also refer to article 16 that outlines that everyone shall have the right to recognition everywhere as a person before the law.

We would like to refer to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance and in particular article 2 which prohibits enforced disappearances and article 7 that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances. The article 9 also mandates that the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty.

Further, the Declaration establishes that any person deprived of liberty shall be held in an officially recognised place of detention (article 10.1), that an official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention (article 10.3), that steps shall be taken to ensure that all involved in the investigation of enforced disappearances, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal (article 13.3) and that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished (article 13.5).

We also wish to reaffirm that acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified, as stipulated by article 17 of the Declaration on the Protection of all Persons from Enforced Disappearance.

Finally, we refer to article 19 of the Declaration, which stipulates that the victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as

possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

The right to the truth in relation to enforced disappearances means the right to know about the progress and results of an investigation, the fate or the whereabouts of the disappeared persons, and the circumstances of the disappearances, and the identity of the perpetrator(s). The right to the truth in relation to enforced disappearances should be clearly distinguished from the right to information, and in particular the right of the relatives or other persons with a legitimate interest, their representatives or their legal counsel, to obtain information on a person who is deprived of his liberty. The right to information on the person detained, together with the non-derogable right of habeas corpus, should be considered central tools to prevent the occurrence of enforced disappearances.

The right to know the truth about the fate and the whereabouts includes, when the disappeared person is found to be dead, the right of the family to have the remains of their loved one returned to them, and to dispose of those remains according to their own tradition, religion or culture. The remains of the person should be clearly and indisputably identified, including through DNA analysis. The State, or any other authority, should not undertake the process of identification of the remains, and should not dispose of those remains, without the full participation of the family and without fully informing the general public of such measures. (General Comment on the Right to the Truth in Relation to Enforced Disappearances, Working Group on Enforced or Involuntary Disappearances).