



Response

of Belarusian Association of Human Rights Lawyers

for a thematic study by the Working Group on Enforced or Involuntary Disappearances on “Elections and Enforced Disappearances”

February 26, 2024

Key questions and answers:

1. What are the distinctive features of electoral violence when compared to other forms of political violence?

One of the main distinguishing features of electoral violence is that it is aimed at retaining power at any cost, and therefore the violence can take the most brutal forms and can be enormous in scale. It is primarily aimed at eliminating political opponents, social activists, journalists and other defenders of democracy in order to silence them. The means resorted to by the authorities are not only arbitrary detentions, initiation of criminal proceedings and imprisonment, but also the use of special means, torture and cruel treatment of political prisoners.

After the presidential elections in Belarus in 2020, a new distinction was the detention of opponents of the authorities in the incommunicado regime. Thus, for a year there is no data about the known political prisoners, letters do not reach, lawyers are not allowed, relatives are deprived of any communication with their imprisoned relatives. February 9, 2024 was 1 year since the last letter from Mikalai Statkevich.¹ On

¹ <https://prisoners.spring96.org/en/person/mikalaj-statkievich>.

February 15, 2024, one year has passed since the last news about Maria Kolesnikova.² About Victor Babariko,³ about Sergei Tikhanovsky⁴ the families haven't known anything since the spring of 2023. The last time we heard from Maxim Znak was on February 09, 2023.⁵

2. Do enforced disappearances in the context of elections follow a pattern? If so, please describe.

Such a mass disappearance of political prisoners in Belarus is happening for the first time. However, the Belarusian authorities have practiced the practice of isolation of detainees from the outside world before. Thus, after the rally in Independence Square on December 19, 2010, Vladimir Niakliaeu⁶ and Mikalai Statkevich lost contact with each other. For a long period of time their relatives did not know where the detainees were kept, what charges were brought against them, what their state of health was. There was also no information about the state of health of Andrei Sannikov, who was beaten during the detention. Andrei Sannikov⁷ was able to meet with his lawyer three months after his detention.⁸

The practice of enforced disappearances has now spread to the entire population. From the beginning of the electoral events of the summer of 2020 until now, the authorities, through arbitrary detentions, have not given any opportunity to inform the detainee's relatives and lawyer about his or her whereabouts and status.

The first stage of the practice of enforced disappearances: a person suddenly disappears and does not make contact. Over a long period of time (from a few hours to days or weeks), relatives call all police stations in the city and ask if their loved one has been detained. In many cases, police and investigative officers provided absolutely no information and denied that the detainee was in their possession. As a result, the whereabouts of the person became known days or weeks later. As a result, relatives are informed about the whereabouts of the detainee after a long period of no information and no understanding of whether the person is alive.

The second stage in the practice of enforced disappearances is the interruption of any communication with a person who is already in a colony or prison. Communication is interrupted and there is no information about the person, about his or her state of health, about changes in the conditions of serving the sentence, about stricter conditions of serving the sentence, and in the end the relatives do not know if the detainee is alive.

² <https://prisoners.spring96.org/en/person/maryja-kalesnikava>.

³ <https://prisoners.spring96.org/en/person/victor-babaryka>.

⁴ <https://prisoners.spring96.org/en/person/siarhiej-cichanouski>.

⁵ <https://prisoners.spring96.org/en/person/maksim-znak>.

⁶ <https://prisoners.spring96.org/ru/person/uladzimir-njakljaeu>.

⁷ <https://prisoners.spring96.org/ru/person/andrei-sannikau>.

⁸ https://issuu.com/lawtrend/docs/ugolovnie_dela_19.12.10, pages 301-303.

3. Who are the victims of enforced disappearances in the context of elections? If possible, provide examples.

The victims of enforced disappearances are political figures (such as Viktor Babarika, Siarhei Tikhonouski, Mikalai Statkevich, Maria Kolesnikova), lawyers (Maksim Znak), a blogger (Ihar Losik⁹) and human rights activist, Nobel laureate Ales Bialiatski.¹⁰ The Working Group on Enforced Disappearances recognized the fact of enforced disappearance of Viktor Babarika, Siarhei Tikhonouski and Maksim Znak and demanded the Belarusian authorities to provide information about them and to ensure communication with their relatives and lawyers¹¹. The Belarusian authorities ignored these demands. Later, the Working Group recognized the fact of enforced disappearance of Maria Kolesnikova and Mikalai Statkevich, the Belarusian authorities again ignored all the demands to provide information about them and ensure communication with the outside world¹².

Also, as it was mentioned above, thousands of Belarusian citizens, persecuted for disloyalty to the authorities, went through enforced disappearances for short periods of time (from several hours to several days).

4. What is the rationale for committing enforced disappearances in the context of elections?

The persons listed above had influence on the political situation in Belarus (see § 3). The authorities tried to remove the influence of these individuals and therefore isolated them from society.

As for other public figures and many peaceful demonstrators, the authorities concealed the fact of their detention and whereabouts in order to restrict their right to defense. Under pressure, ill-treatment and incommunicado, many detainees confessed and incriminated themselves.

5. What are the consequences of electoral violence? More specifically, how does the occurrence of electoral violence - including enforced disappearance – impact peoples' perception of the electoral process and their willingness to participate in future elections?

The consequences of enforced disappearances have a negative impact on people's willingness not only to put themselves forward as candidates, but even to participate in the electoral process. Such practices unfortunately increase people's fear and desire to stay as far away as possible from being active in the political life of the country. For example, in 2020, people who participated in the voting actively photographed

⁹ <https://prisoners.spring96.org/en/person/ihar-losik>.

¹⁰ <https://prisoners.spring96.org/en/person/ales-bjaljackiy>.

¹¹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28090>.

¹² <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28683>.

their ballots to prove the fact of voting for a different candidate, not for Alexander Lukashenko. Now the Electoral Code has been amended and explicitly prohibits photographing voting ballots.¹³ In case of violation, a person can be prosecuted, which is what happened on February 25, 2024 during the electoral event for the election to the legislature¹⁴

6. Have there been any enforced disappearances of actors who provide support to the electoral process? If so, how does it reflect on the electoral process?

We know of cases of enforced disappearance of prominent political figures and activists. In case of a search or detention, the Belarusian authorities take away the non-disclosure signatures from the relatives of the detainees, and people are afraid to share information. A well-known such case is the enforced disappearance of Igor Losik, a blogger, who covered all the events that took place in Belarus in the media on the eve of the elections in 2020. To date, journalists of all opposition media have been forced to leave Belarus, those who remained are periodically harassed.

7. Is there any particular phase of the electoral cycle when enforced disappearances are more likely to occur? Do enforced disappearances committed prior, during or after the elections have different purposes?

Authorities resort to enforced disappearances and other repressions when they feel threatened. This danger is not necessarily related to electoral events, but in most cases it is. The reason is that society is politicized at that moment and takes collective action (voting, boycott). The cohesion of society is a danger to the political regime. Therefore, in order to divide civil society, the authorities attack opinion leaders and in other ways try to intimidate the society not to protest.

The goals of enforced disappearance before, during and after elections are basically similar - to remove from the information field the persons who activate society by their actions. Another goal of enforced disappearance before elections is to exclude an alternative candidate.

8. Can you provide information on the intersection between enforced disappearances in the context of elections and, inter alia, (i) gender; (ii) ethnicity; (iii) indigenous peoples (iv) armed conflict; (v) land and environment-related dispute?

Such a connection is not seen in Belarus.

9. Are you aware of acts tantamount to enforced disappearances committed during the electoral process by non-State actors exercising Government-like functions or de facto control over territory and population?

No, we do not know.

¹³ <https://pravo.by/document/?guid=3871&p0=hk0000370>, article 52.

¹⁴ <https://belsat.eu/ru/news/25-02-2024-belarusa-oshtrafovali-za-fotografiyu-izbiratel'nogo-byulletenya>

10. Provide any example of legislation that has been adopted with the view of hindering the access to justice and redress to victims of human rights violations, including enforced disappearances in the context of elections.

Law enforcement practice shows that there is no possibility for a person subjected to enforced disappearance to demand that the perpetrators be brought to justice and compensation for damages. Belarusian legislation does not provide for compensation for damages in case of enforced disappearance.

11. Provide example of legislation that has facilitated the practice of enforced disappearance in the context of elections.

We can state that the absence of any legislation contributes to the practice of enforced disappearances: lack of responsibility for preventing a lawyer from visiting a defendant, lack of responsibility for blocking correspondence between a prisoner and his or her family, lack of responsibility for preventing representatives of the human rights sector from visiting a prisoner in cases of incommunicado detention, lack of state responsibility for cases of enforced disappearance, lack of a mechanism for compensating victims of enforced disappearance and their family members, lack of a mechanism for compensating victims of enforced disappearance, lack of a mechanism for compensating victims of enforced disappearance and their family members.

12. What are the main obstacles for domestic and international accountability for enforced disappearances committed in the context of elections? Provide concrete examples of challenges encountered in the investigation and prosecution of such crimes.

In Belarus, such crimes have never been investigated due to the lack of will of the authorities to recognize the fact of such crimes, because it is the authorities who initiate such violations.

The Prosecutor's Office of Belarus did not effectively investigate the disappearance of politicians Viktor Hanchar, Yury Zakharanka, businessman Anatol Krasouski and journalist Dzmitry Zavadski more than 20 years ago. Similarly, in 2020, the prosecutor's office and investigative bodies refused to initiate a criminal case into the enforced disappearance of Maria Kolesnikova.

13. What has been the role of the judiciary in safeguarding the rights of victims of enforced disappearances in the context of elections? Provide any examples of lack of judicial independence as well as attacks to judicial actors as a consequence of their work in this specific context.

There is no independent judicial system in Belarus. All judges in Belarus are appointed de facto by the president, Alexander Lukashenko. He determines the term of appointment of a judge, his decree determines his salary, he can at any time bring a

judge to disciplinary responsibility without initiating disciplinary proceedings. During Lukashenko's time in power, the judicial system was formed in such a way that the possibility of a judge disloyal to the authorities was excluded.

The initiator of enforced disappearance is Alexander Lukashenko, so the authorities and judges are not interested in ensuring the rights of victims of enforced disappearances.

14. How can impunity for enforced disappearances committed in the context of elections be addressed more effectively?

An effective method of struggle is the creation of democratic institutions and the change of power.

15. What measures could be put in place to prevent or reduce the risks as well as address the practice of enforced disappearances, including so-called “short-term” enforced disappearances in the electoral context?

See previous paragraph

16. Please share any good practices and tools, including early warning mechanisms that can be used to address electoral violence, including enforced disappearances.

Enforced disappearances occur because of impunity. If enforced disappearances are organized by authorities who control the judicial system, no legal mechanisms within the country can prevent them.

17. Is there any other information that you deem relevant for the purposes of the thematic study?

We would like to once again draw attention to our political prisoners: Maria Kolesnikova, Viktor Babarika, Siarhei Tikhanouski, Maksim Znak, Mikalai Statkevich, Ales Bialiatski, Ihar Losik and emphasize that for a long period of time (more than a year) we know nothing about them, their state of health, whether they are alive. We urge to send demands to the government of Belarus to provide information about them, to show them, to ensure communication between them and their relatives, to provide lawyers with access to the prisoners.