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**Closing the accountability gap for human rights violations
and related crimes in Belarus**

**Report of the Group of Independent Experts on the situation of human
rights in Belarus**

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I. Introduction

1. Since 1 May 2020, thousands of Belarusians have been arrested and arbitrarily detained for exercising their rights to freedom of expression, opinion, peaceful assembly and association, and subjected to systematic and discriminatory practices amounting to torture, cruel, inhuman or degrading treatment or punishment in detention facilities across Belarus. The Group determined that some of these violations amount to the crimes against humanity of political persecution and imprisonment.
2. Ensuring accountability for these violations and related crimes is imperative to ensure their non-recurrence. Belarusians should be able to expect that their State will fulfil its obligation under international law to hold the individuals responsible to account personally. As the United Nations Basic Principles on the Right to Remedy and Reparation put it: "In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him." However, impunity has become an enduring obstacle to justice and reparation for survivors of human rights violations in Belarus.
3. The Group of Independent Experts on the situation of human rights in Belarus (the Group) was established on 26 March 2024 by the Human Rights Council through its resolution A/HRC/RES/55/27. The three experts appointed by the Human Rights Council's President to lead the Group, Karinna Moskaleiko (chair), Susan Bazilli and Monika Platek, carry out their mandate independently, impartially and objectively. The Human Rights Council has provided the Group with a comprehensive mandate that combines investigation and fact-finding, evidence preservation and sharing, and the development of recommendations on accountability. To the extent that the sources' informed consent allowed, the Office of the High Commissioner for Human Rights (OHCHR) made the information and evidence preserved accessible to and usable by the Group.
4. In line with its mandate to "make recommendations, in particular on accountability measures, with a view to ending impunity and addressing its root causes, ensuring accountability and access to justice and effective remedy, including reparation for victims", the Group submits this thematic paper on accountability, to be read in conjunction with its report to the 58th session of the Human Rights Council¹ and previous reports of OHCHR's examination of the human rights situation in Belarus.² On 1 August 2025, the Group transmitted an advance copy of the report to the Permanent Mission of Belarus, affording the Government a right of response and the possibility to provide their version of the events as an annex to the report. The Belarusian authorities did not respond.
5. With this paper, the Group wishes to emphasize the need to counter a pervasive culture of impunity in Belarus through referral to justice at the national and international levels, in addition to other channels to promote truth and reconciliation and the social recovery and integration of victims. Many of the accountability options outlined below represent the perspectives of Belarusians who have shared their aspirations for a lasting transition.³ The Group wishes to thank them for entrusting them with their stories, knowledge and expertise.

II. Framework for accountability for human rights violations and related crimes in Belarus

6. Under international law, accountability for gross human rights violations is not "a matter of choice or convenience, but of legal obligation".⁴ Belarus is the primary duty holder

¹ A/HRC/58/68

² A/HRC/49/71; A/HRC/52/68; A/HRC/55/61.

³ This thematic report combines a mix of desk research and insights from interviews with former Belarusian government law enforcement agents, lawyers, academics, and affected communities.

⁴ Report of the Group of Independent Experts on Accountability (Democratic People's Republic of Korea), A/HRC/34/66/Add.1, 2017, para 11.

of the obligation to investigate and, when appropriate, prosecute the perpetrators of possible crimes under international law committed on its territory, most especially when its own nationals, especially State organs or agents, are involved in their commission.⁵

7. According to Article 2 (3) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Belarus on 12 November 1973, the State must ensure that every victim of a human rights violation has an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.⁶ Belarus must investigate allegations promptly, thoroughly and effectively through independent, competent and impartial bodies and, where the investigations reveal violations of certain Covenant rights, bring those responsible to justice. A failure to investigate and bring alleged perpetrators to justice may in and of itself constitute a separate breach of the Covenant.⁷ The right to an effective remedy includes reparation to individuals whose rights have been violated.⁸ Apart from bringing the perpetrators to justice and paying compensation to the victims, reparation for gross human rights violations may involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices.⁹

8. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), to which Belarus is a State Party, reiterates Belarus' obligations, including the obligation to investigate and submit the case to competent authorities for prosecution, provided the alleged perpetrator is present in territory of the investigating State.¹⁰

9. Under Belarusian law, Article 21 of the Constitution stipulates that "the State guarantees the rights and freedoms of the citizens of Belarus that are enshrined in the Constitution and the laws and specified in the State's international obligations." Article 25 guarantees that the State shall safeguard personal liberty, inviolability and dignity and that "no one shall be subjected to torture or cruel, inhuman or undignified treatment or punishment, or be subjected to medical or other experiments without his consent."

10. Article 128 of the Criminal Code stipulates that "crimes against the security of humanity", including deportation, illegal detention, enslavement, mass or systematic executions without trial, kidnapping followed by disappearance, torture or acts of cruelty committed in connection with the race, nationality, ethnicity, political beliefs and religion of the civilian population -shall be punishable by imprisonment for a term of seven to twenty-five years, or life imprisonment.¹¹ The Group notes that Belarus is also a State Party to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity in which States have considered that "war crimes and crimes against humanity are among the gravest crimes in international law" and expressed their conviction that "effective punishment of war crimes and crimes against humanity is an important element in the prevention of such crimes, the protection of human rights and fundamental freedoms".¹²

⁵ General Comment 31, para 18; *The scope and application of the principle of universal jurisdiction*, Report of the Secretary-General prepared on the basis of comments and observations of Governments, A/65/181 (2010) para 6.

⁶ see also Article 8 of the Universal Declaration of Human Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('Convention Against Torture') art 13.

⁷ Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, paras. 15; 18.

⁸ General Comment 31, para 16; see also Convention Against Torture, art 14.

⁹ General Comments 31, para 16; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147 (2005) ('Basic Principles and Guidelines on the Right to a Remedy') sec IX.

¹⁰ Convention Against Torture, arts 5(2), 7.

¹¹ Criminal Code of the Republic of Belarus No. 275-Z of 9 July 1999 (as amended up to Law of the Republic of Belarus No. 253-Z of November 11, 2019), Belarus, WIPO Lex.

¹² Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity Preamble, paras 4-5.

III. Grave human rights violations committed in Belarus since 1 May 2020

11. Following the decision of the President, Alexander Lukashenko, to seek a further term in office in April 2020, the situation of human rights in Belarus markedly deteriorated. Large-scale demonstrations started in May and June 2020 which were violently dispersed by the security forces. In response to the President's declaration of victory on 9 August 2020, people took to the streets over the following days to peacefully protest the way the election had been conducted and votes counted at polling stations. Hundreds of thousands of people rallied to voice their opposition to the widely contested result. Representing the largest anti-government movement in the history of Belarus, protests were held in all six oblasts and brought together people from all walks of life, men, women, children, pensioners, and students, frequently expressing their resistance by acts of carrying white-red-white flags and flowers and wearing white ribbons.¹³ With the creation of the "Women in White movement", Belarusian women organised marches to oppose police brutality and the disputed presidential elections and played a critical role in the protests.

12. As extensively documented by OHCHR's examination of the human rights situation in Belarus, the Special Rapporteur on the human rights situation in Belarus and the Group, the Government responded with a massive and violent crackdown which continues to this day.¹⁴

13. Since 1 May 2020, the security forces of Belarus systematically employ violence and punishments that amount to gross human rights violations in order to create a climate of fear that pre-empts any challenge to the current system of government. Belarus quashes dissent through excessive use of force, arbitrary arrests and detentions, sexual and gender-based violence, torture and summary trials. It is estimated that up to 600 000 individuals have been forced to leave Belarus since 2020¹⁵ in what has been a concerted campaign of violence and repression intentionally directed at those opposing, or perceived to be opposing, the Government or expressing critical or independent voices.¹⁶

14. Belarusian authorities have created a purposefully hostile environment that forced a significant segment of the civilian population of Belarus into exile and prevents their safe return. As further detailed below, the State of Belarus has demonstrated that it is unwilling and/or unable to provide adequate protection or safeguards against human rights violations, as it is the perpetrator of such violations.

IV. Crimes against humanity

15. Based on the extensive documentation of OHCHR examination of the human rights situation in Belarus and on its own findings¹⁷, the Group has reasonable grounds to believe that some of the human rights violations documented amount to international crimes in that they were committed intentionally as part of a widespread and systematic attack against a segment of the civilian population of Belarus, and that the perpetrators of these violations had knowledge of the attack and knew that their acts were a part of it. Specifically, the Group has reasonable grounds to believe that the crimes against humanity of persecution on political grounds and imprisonment have been committed since 1 May 2020.¹⁸

16. The orchestrated campaign of violence and mistreatment led by Belarusian authorities since 1 May 2020 is part of a discriminatory policy designed to systematically persecute and silence any person and shut down any civic or political organization that maintains a position that differs from that of the Government or that is perceived as such. Victims of this policy

¹³ A/HRC/49/71, paras. 16-21.

¹⁴ See for example: A/HRC/49/71; A/HRC/52/68; A/HRC/55/61; A/HRC/58/68.

¹⁵ Analysis of the migrant flow from Belarus to the EU in 2021–2022; See <https://newideas.center/dyk-kolki-belarusia-z-ehala> (in Belarusian); A/HRC/58/68.

¹⁶ A/HRC/52/68 and A/HRC/52/68/Corr.1, paras. 53 and 54.

¹⁷ A/HRC/49/71; A/HRC/52/68; A/HRC/55/61; A/HRC/58/68.

¹⁸ A/HRC/58/68.

include anyone perceived as being critical of or adversarial to the Government, and, in some cases, anyone perceived as not sufficiently loyal to the Government. The use of derogatory language in relation to this group by high-level officials indicates discriminatory intent. Political prisoners in detention are routinely referred to as “traitors”, “enemies of the State”, “zmagar”, “extremists” and “Nazis” by law enforcement officials. On 22 November 2021, in an interview with BBC, President Lukashenko said about protesters: “We’ll massacre all the scum that you have been financing. [...] We didn’t touch people who worked for the good of Belarus, who helped people. But the people who used your assistance, got funding from you and smashed everything up here... your people you saw here in Minsk. If we haven’t liquidated them already, we will do so in the near future.”¹⁹ On 24 January 2023, President Lukashenko referred to his opponents, real or perceived, as “cockroaches crawling out of the woodwork”, thus dehumanizing anyone who attempted to dissent.

17. The Group endorsed previous findings and concluded that considered cumulatively, the organized nature of the above-mentioned violations and their persistence through the years renders it improbable that they were random and accidental.²⁰ Specifically, based on the number of victims, and the recurrence in all six regions of Belarus of patterns of human rights violations amounting to crimes, the Group considers that the attack directed against the civilian population of Belarus was widespread.

18. The Group also found that the attack was systematic because of the organized nature of the crimes and the improbability of their random occurrence. The crimes were committed as part of a pattern of organized conduct, following instructions, encouragement and endorsement by high-level State authorities and senior members of State institutions, and implemented by individual perpetrators. For example, the decision to use force against peaceful protesters between 9 and 14 August 2020 was made at a high level within the Government and was implemented with a high degree of coordination. On 6 August 2020, the Minister of the Interior, met with the regional heads of police and, referring to orders from the commander in chief and, threatening consequences if the orders were not followed, instructed them to prevent people from assembling and to detain them if they did. The leadership of the Directorate for Combating Organized Crime and Corruption (GUBOPiK) assigned officers to “attack teams”, jointly with the military, to crack down on protests. On 11 August 2020, the deputy head of Minsk regional police instructed the use of physical force and special equipment, and to beat and detain anyone “talking on the phone” or standing in a group of five “at a bus stop”.²¹

19. The continuing involvement of multiple State actors among the intelligence and security forces of Belarus, coupled with a complete lack of accountability, indicates that the attack against the civilian population of Belarus remains ongoing, widespread, systematic, and is carried out in furtherance of Government policy.

V. Responsibility

A. Responsibility of the State of Belarus

20. The Group has reasonable grounds to believe that the State of Belarus has committed countless violations of international law, beginning at least on 1 May 2020 and continuing as the situation devolved into a protracted human rights crisis.

1. Grave violations of international law by Belarus

21. Unambiguously, the State of Belarus is responsible for the grave and repeated violations committed in contravention of the provisions of the ICCPR, particularly of articles 6, 7, 9, 10, 14, 16, 17 and 19, read in conjunction with article 2.3, as well as the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture.

¹⁹ <https://www.youtube.com/watch?v=ArWeoIK3Idc>.

²⁰ A/HRC/49/71, para. 84; A/HRC/52/68, para. 54; A/HRC/55/61, paras. 50-52.

²¹ A/HRC/49/71, para. 34.

22. Specifically, article 19 of the ICCPR requires Belarus to guarantee the right to freedom of expression, including the right to seek, receive, and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in general comment No. 34, such information and ideas include discussion of human rights. Any restrictions to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19(3) of the ICCPR. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity and proportionality. Article 19(3) may never be invoked to justify the muzzling of any advocacy of human rights, as is the case in Belarus since, at least, 1 May 2020. Nor, under any circumstance, can an attack on a person, because of the exercise of their freedom of opinion or expression, including such forms of attack as arbitrary arrest and torture, be compatible with article 19(3).

23. Article 9 of the ICCPR guarantees everyone the right to liberty of person. As emphasized by the Human Rights Committee in general comment No. 35, deprivation of liberty must not be arbitrary and must be carried out with respect for the rule of law.²² According to the same general comment and the jurisprudence of the Working Group on Arbitrary Detention, the arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary. The Human Rights Committee further stresses that persons who are deprived of liberty shall be informed, at the time of any deprivation of liberty, of the reasons for it. The Group finds that Belarus systematically breaches article 9 of the ICCPR since, at least, 1 May 2020.

24. The Group stresses the absolute and non-derogable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, as enshrined in article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture. Articles 12 and 16 of the Convention against Torture further require the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that such act has been committed. With regard to detention conditions, the Group finds that article 10 of the ICCPR, which requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person, is systematically violated in Belarus. Article 14 of the ICCPR, which enshrines the right to equality before courts and tribunals and to a fair trial, is also routinely breached by Belarus.

2. State institutions involved

25. These gross human rights violations in Belarus are characterized by a high degree of centralized coordination between different parts of the extensive security apparatus of Belarus. All branches of the State and public authorities at the national, regional or local levels, functioning on the instructions or under the effective direction or control of the State, or with the State's consent or acquiescence, continue to systematically and flagrantly violate international law, notably the international prohibition of crimes against humanity as a peremptory norm of general international law.

26. In most cases documented by the Group, since 1 May 2020, individuals perceived as threats to the Government are apprehended at home, at work or in the street by officers of the Main Directorate for Combating Organized Crime and Corruption (GUBOPiK), OMON, Special Anti-Terrorism Unit (ALMAZ) and in some instances, special force units of the Internal Troops of the Ministry of Internal Affairs and of the Committee for State Security (KGB), sometimes accompanied by members of special forces units of the KGB (ALPHA). The police and the Office of the Prosecutor General then regularly subject persons accused of political crimes to arbitrary arrest and subsequent incommunicado detention for prolonged periods of time. The judiciary of Belarus further enables the violent repression of dissent. With a lack of fair trials and disproportionately heavy sentences operating as the norm in Belarus, many violations originate in the judiciary. The Penal Correction Department (PCD) oversees all Ministry of Internal Affairs' detention facilities where inmates are often detained in degrading conditions. The head of the PCD is appointed by the President and reports directly to the Minister of Internal Affairs.

²² CCPR/C/GC/35, para. 10.

27. The Group concludes that it has reasonable grounds to believe that the state of Belarus is responsible, and should be held accountable, for serious, systematic and widespread human rights violations based on political grounds against members of the population opposed to the Government or perceived as such.

B. Individual criminal responsibility

28. In line with its accountability mandate, the Group has dedicated efforts and resources in identifying alleged direct perpetrators of violations, abuses and crimes, as well as gathering additional information linking direct perpetrators to other individuals at various levels of State institutions who may have contributed to the violations, abuses and crimes. Since it started working, the Group has been compiling the names of individuals identified by the victims as directly responsible for the violations, abuses and crimes documented, as well as of individuals whose contributions within the State structures could give rise to individual criminal responsibility at the international and national levels. In so doing, the Group identified the structure and chains of command within the Belarusian security and intelligence apparatus (see Annex 1). Considering their roles and authority within the entities listed above, the heads of those entities bear some responsibility for the commission of human rights violations and related crimes.

29. The Group will continue to investigate the structure of the State's repressive apparatus and to identify the individuals at its core. While its investigation into the responsibility of alleged individual perpetrators is being further supplemented and analyzed, at that juncture of its investigation, the Group is of the view that publicly revealing the names of the alleged perpetrators bearing the highest level of responsibility is in the interests of transparency and in line with the victims' right to know the full and complete truth about the circumstances of the human rights violations and crimes they suffered, and who participated in them. The Group wishes to underscore that it has approached the accountability element of its mandate in recognition of the fact that it is neither a judicial body nor a prosecutor. It cannot make final determinations of individual criminal responsibility. It can determine whether its findings establish reasonable grounds that crimes against humanity have been committed by individuals, so as to merit a criminal investigation by a competent national or international organ of justice complying with fair trials standards. Where the Group makes findings on alleged individual criminal responsibility in this section, these findings must be understood as being on the basis of the 'reasonable grounds' standard of proof.

30. The Group finds that the President and other high-level State officials have not only continued to exercise total control across all State powers, institutions, bodies and agencies involved in human rights violations since 1 May 2020, but have also established and implemented a policy aimed at suppressing any form of dissent by targeting real or perceived opponents in order to maintain power. The Group has reasonable grounds to believe that the President and other high-level State officials have participated in the crimes against humanity of political persecution and imprisonment and therefore finds that they should be subject to judicial investigations for determining their individual criminal responsibility. The direct perpetrators of documented crimes are also responsible for their actions. Their immediate supervisors and other persons higher in the chain of command may also be responsible for their criminal conduct.

31. Based on the analysis of four years of interviews of victims, witnesses and defectors, and other confidential and public documents, the Group finds that President Lukashenko has methodically instrumentalised the State apparatus to maintain his hold on power. By virtue of his highest position in the chains of command and the orders he gave and transmitted, President Lukashenko played a central role in the perpetration of the violations and crimes and, in general, in the organized repressive apparatus in Belarus. The Group observes a total centralization of all state powers in the hands of the President. Indeed, President Lukashenko consolidated his absolute control over all branches and institutions of the State, including those institutions involved in the violent repression of dissent since 1 May 2020 identified in the Annex. According to the legislation governing the Internal Affairs Bodies and the Internal Troops of the Ministry of Internal Affairs, the State Security Bodies and the Investigative

Committee, the President exercises general leadership over those institutions.²³ With this set of laws, the *de jure* control of the President over all institutions involved in human rights violations and related crimes is established. President Lukashenko also gave orders and instructions that resulted in human rights violations and related crimes against real or perceived opponents, especially leading to and after the 2020 presidential election. For example, on 28 July 2020, President Lukashenko instructed the head of Minsk special police units (OMON) to be heavy-handed on protesters. Speaking at a meeting held in January 2023 about the security situation in Belarus, the President stated “as for the law enforcers, please agree that they played their role in 2020. They did not fail then. Overall, they carried out the tasks that were clearly assigned to them. Every minute I was informed, gave the appropriate orders, and the security forces did not stumble, did not retreat, and at large, did not fail anywhere”.²⁴

32. The Group has further reasonable grounds to believe that the former Minister of Internal Affairs of Belarus, Yuri Karayev, in office from 11 June 2019 to 29 October 2020, was also instrumental in the violent repression of peaceful protests in the run up to the elections and in the aftermath of the presidential election. As the then Minister of Internal Affairs of Belarus, Yuri Karayev had overall leadership and command of and was therefore responsible for the actions of the Internal Troops and the Police in Minsk. Particularly, the former Minister of Internal Affairs was responsible for the excessive use of force, arbitrary arrests and detention, and torture and ill-treatment used by the security forces under his command against those Belarusian citizens who exercised their rights to freedom of expression, opinion and association. In the words of one of the Group’s interviewees, the former Minister of Internal Affairs was one of “the masterminds of the violence that marred Belarus from 9 to 14 August 2020”. Another interviewee, a former employee of the Ministry of Internal Affairs, reported that the heads of all police units received direct orders from Yuri Karayev to use force against demonstrators and to arrest them.

33. The Group also has reasonable grounds to believe that the current Deputy Minister of Internal Affairs and Commander of Internal Troops, and former Head of GUBOPiK (September 2014 - October 2020), Nikolai Karpenkov, is one of the architects of the State policy to suppress any dissent to the governance of the President. In both roles, he has engaged in and supported human rights violations and the repression of civil society in Belarus. During the 2020 protests in Belarus, officers of GUBOPiK, acting under his direct command, were actively involved in the suppression of public demonstrations and the detention of participants. To facilitate these operations, four specialized “attack” units were created within GUBOPiK, comprising both its personnel and members of the Special Operations Forces of the Belarusian Armed Forces. These units were involved in the interrogation of detainees, the examination of their subscriptions to Telegram channels prohibited in Belarus, and the investigation of their alleged associations with organizations or activities designated by the state as “extremist.” Nikolai Karpenkov is reported to have issued direct instructions to his subordinates to inflict serious bodily harm, including orders to cripple, maim, or kill individuals participating in the protests.²⁵ He is also alleged to have personally committed acts of physical violence against Belarusian citizens.

34. According to international law, any official of the State of Belarus who commits, orders, solicits or aids and abets crimes against humanity incurs criminal responsibility by international law and must be held accountable. Even without being directly involved in crimes against humanity, a civilian superior will incur personal criminal responsibility if the civilian superior knew or consciously disregarded information which clearly indicated that subordinates within his effective responsibility and control were committing crimes, and the

²³ See for example: Article 8 of the Law of the Republic of Belarus on Internal Affairs Bodies; Article 8 of the Law of the Republic of Belarus on Internal Troops of the Ministry of internal Affairs; Article 13 of the Law of the Republic of Belarus on the Bodies of the Border Service; Article 7 of the Law on the Bodies of State Security; Article 12 of the Law on the Investigative Committee.

²⁴ Сoвeщaниe oб oбщecтвeннo-пoлитичecкoй oбcтaнoвкe и cocoянии пpeступнocти в cтpaнe | Oфициaльный интepнeт-пopтaл Пpeзидeнтa Рecпубличecкoй Бeлapуcи [[Meeting to discuss the social and political situation and crime rate in the country](#)].

²⁵ <https://www.youtube.com/watch?v=WIQIQOd2ycM>

civilian fails to take all necessary and reasonable measures within the superior's power to prevent or repress their commission, or to submit the matter to competent authorities for investigation and prosecution.

Immunity of Heads of States

35. The Group notes that Article 89 of the 2022 Constitution of Belarus grants immunity to the President for acts committed in connection with the exercise of presidential powers (even after vacating the position), which further diminishes the prospects of accountability in Belarus, where the judiciary and prosecution systems are already controlled by the President.

36. While not formally codified, the granting of immunity to heads of state is regarded as an obligation under customary international law.²⁶ The protection from prosecution in foreign courts was confirmed by the International Court of Justice's (ICJ) Arrest Warrant Case (2002) which ruled: [T]he functions for a Minister for Foreign Affairs are such that, throughout the duration of his or her office, he or she when abroad enjoys full immunity from criminal jurisdiction and inviolability. That immunity and inviolability protects the individual concerned against any act of authority of another state which would hinder him or her in the performance of his or her duties.²⁷

37. The ICJ further confirmed that it was 'unable to deduce from this state practice that there exists under customary international law any form of exception to the rule according to immunity from criminal jurisdiction and inviolability to incumbent Ministers of Foreign Affairs, where they are suspect of having committed war crimes or crimes against humanity'. Thus, the ICJ confirmed immunity from foreign state jurisdiction, even for atrocity crimes.

38. However, the ICJ also claimed that 'an incumbent or former Minister for Foreign Affairs may be subject to criminal proceedings before certain international criminal courts, where they have jurisdiction'.²⁸ And indeed, Article 27 of the Rome Statute addresses the issue of immunity. It provides that: "[t]his Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence."

39. The Group notes with interest that the International Criminal Court has now issued arrest warrants for several serving heads of state or government of states that are not parties to the Rome statute.

40. While acknowledging the imperative of State sovereignty, the Group shares the increasingly common idea that the respect of the rights of victims of atrocity crimes should surpass any claim to immunity for the most serious crimes of concern to the international community. The Group is of the view that this is particularly true if the imperative to fulfil the fight against impunity is to retain any significance.

VI. Belarus' unwillingness to genuinely carry out proceedings

A. Responses of Belarus demonstrating knowledge and dismissing allegations of human rights violations and related crimes

41. Since 1 May 2020, the Secretary-General of the United Nations, the Human Rights Council, OHCHR, the Special Rapporteur on Belarus, Treaty Bodies and the Group have consistently expressed their profound concern regarding the human rights situation in Belarus and have repeatedly called on Belarus to meet its international human rights obligations.

²⁶ Head of state immunity, order, justice and the international criminal court: limits of international criminal justice in international society, Matt Killingsworth, Published: 26 September 2024.

²⁷ 121-20020214-JUD-01-00-EN.pdf.

²⁸ Ibid.

42. For example, on 12 August 2020, the High Commissioner for Human Rights condemned the authorities' violent response.²⁹ On 13 August 2020, five United Nations human rights experts strongly criticized the level of violence being used by security forces across Belarus against peaceful protesters.³⁰ On 14 August 2020, the Secretary-General underscored that allegations of torture and other mistreatment of people in detention must be thoroughly investigated.³¹ The protests and the violent responses by the security forces were consistently and extensively reported in the international media.³² In 2022, 2023 and 2024, OHCHR published three reports on the human rights situation in Belarus, thus putting the Belarusian authorities on notice.³³

43. Special Procedures transmitted a total of 46 communications to Belarus notifying it of allegations of human rights violations committed against political opponents, or individuals perceived as such since May 2020.³⁴ Belarus responded to dismiss most of those communications, thus indicating its knowledge of the allegations made against its state agents.

44. At its seventy-fourth session, in July 2022, the Committee against Torture decided, pursuant to article 20 (2) of the Convention against Torture, to initiate an inquiry into gross violations of the Convention by Belarus. At its 79th session in May 2024, the Committee against Torture reached the conclusion that torture is a systematic practice in Belarus.³⁵ Belarus has repeatedly rejected the allegations made against it throughout the inquiry. On 2 June 2022, 5 September 2022 and 10 June 2024, Belarus denied all the allegations and questioned the credibility of the sources of the information, claiming that it could not verify the information owing to the collective nature of the communication. Interestingly, Belarus confirmed that the investigative agencies of Belarus had received approximately 5,000 complaints about unlawful conduct by internal affairs officials, members of the internal military forces and other law enforcement officials on the day of the presidential election and after the election campaign. In all such cases, Belarus decided not to initiate criminal proceedings. Belarus further noted that, in many cases, the victims had been implicated in criminal cases involving breaches of public order and threats towards public officials. Belarus maintained that the protests had been mass riots and that it had been necessary to take measures to stop them.³⁶

45. The Group concludes that upon being made aware that security and intelligence forces, in coordination with the judiciary, were committing human rights violations against Belarusian citizens, the Government of Belarus systematically acknowledged but denied and dismissed the allegations, absolving its state institutions and agents of any responsibility since 1 May 2020.

B. A policy of shielding perpetrators from their responsibility

1. Failure to investigate

46. The Group finds that Belarusian authorities systematically failed to investigate, prosecute and punish human rights violations committed in the aftermath of the 2020

²⁹ UN News, "Belarus: UN rights chief condemns violence against protesters, calls for grievances to be heard", 12 August 2020.

³⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR), "Belarus must stop attacking peaceful protesters, UN human rights experts say", press release, 13 August 2020.

³¹ UN News, "UN chief: Belarusians must be able to exercise their 'civil and political rights'", 14 August 2020.

³² BBC, "Belarus elections: shocked by violence, people lose their fear", 13 August 2020; CNN, "Belarusians accuse authorities of torture and humiliation during mass detentions", 14 August 2020; and Al-Jazeera, "Belarus braces for fresh protests as pressure grows on Lukashenko", 15 August 2020.

³³ A/HRC/49/71; A/HRC/52/68; A/HRC/55/61.

³⁴ Special Procedures Communications: spcommreports.ohchr.org/TmSearch/Results?page=4.

³⁵ A/79/44, paras 34-48.

³⁶ Note Verbale dated 8 May 2024 from the Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Inquiries.aspx.

presidential election and have been unable or unwilling to investigate similar allegations since. To date, the Group is not aware of a single case where perpetrators have been held accountable for their possible involvement in gross human rights violations since 1 May 2020.

47. On the contrary, the Investigative Committee, an internal inquiry body responsible for investigating the conduct of security forces that reports directly to the President, announced in November 2020 that “no cases of unlawful acts by the police had been identified” and later dismissed thousands of complaints concerning torture and excessive use of force by law enforcement officers.³⁷ As noted by the Committee on Torture in its public summary account on its article 20 inquiry on Belarus, “[l]aw enforcement officials and prosecutors have facilitated torture and contributed to the climate of endemic impunity by failing to act on complaints thereof, to conduct effective, prompt and impartial investigations into the numerous allegations of torture or ill-treatment and to prosecute perpetrators. The situation has been exacerbated by the ineffective complaint mechanisms in place and the absence of an independent mechanism for monitoring places of deprivation of liberty. Threats of reprisals against persons alleging torture or ill-treatment and their legal representatives point to a complete denial of the right to an effective remedy”.³⁸

48. Many witnesses reported to the Group that they did not complain, or later withdrew their complaint, fearing they would be re-arrested when going to the police station, or after being summoned by the investigator to provide a statement. For those who dared to complain about the treatment they had suffered, the Government initiated criminal investigations, labelling victims’ accounts as “disinformation”.³⁹ In one emblematic case, a man from Mazyr in the region of Gomel was arrested in August 2020 by the police while walking in the street. According to his account, he was severely beaten by four unidentified police officers during the arrest, and later at the police station. Police officers continued to hit him inside the office of the chief of the police station, including with sticks. They shocked him with a taser and threatened to rape him, cutting off his pants. A female officer kicked his genitals and walked on his back with high heels. At some point, one of the police officers put a gun to his head and pulled the trigger. When he appeared in court, the judge ignored his poor physical condition and visible numerous bruises, failing to order an investigation into possible torture and ill-treatment. While in detention, the victim filed a substantiated complaint about the torture and ill-treatment he suffered to the Investigative Committee. However, in November 2020 the Investigative Committee informed him that no criminal investigation was launched in his case due to insufficient evidence.

49. Not only have there been no investigation or disciplinary proceedings since 1 May 2020, but officials who were allegedly implicated in gross human rights violations were later promoted to a higher rank or received a state award.⁴⁰ One emblematic case involves Aleksandr Bykov, who acted as Commander of the Special Rapid Response Unit of the police from March 2018 to September 2023. In his role, Aleksandr Bykov was reportedly directly involved in the violent repression against peaceful demonstrators from 9 to 14 August 2020. On 23 September 2023, Aleksandr Bykov was promoted to first deputy Commander of the Internal Troops and was awarded a medal by President Lukashenko.⁴¹ Another emblematic case involves Nikolay Karpenkov. As noted above, Mr. Karpenkov was the head of GUBOPiK from September 2014 to November 2020, and therefore responsible for the agency’s conduct during the violent crackdown it conducted against peaceful protesters from 9 to 14 August 2020, and subsequently. Nikolay Karpenkov was promoted on 19 November 2020 to Deputy Minister of Internal Affairs and Commander of the Internal Troops.

³⁷ A/HRC/49/71, paras 55-56.

³⁸ CAT/A/79/44, para. 46.

³⁹ CAT/C/BLR/6, paras. 125 and 128.

⁴⁰ See announcements on new appointments:

<https://pravo.by/document/?guid=12551&p0=P32000305&p1=1&p5=0>, accessed via VPN in February 2025.

⁴¹ The Internal Troops are paramilitary gendarmerie forces subordinate to the Ministry of Internal Affairs.

2. A judiciary hostage of the executive

50. The laws and practices applying to the Belarusian judiciary do not respect the basic requirements of judicial independence under the ICCPR, and as reflected in the Basic Principles on the Independence of the Judiciary (Basic Principles), endorsed by General Assembly resolutions 40/32 and 40/146.

51. Principle 2 of the Basic Principles, for instance, provides that the judiciary shall decide matters before them impartially, based on facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason. Principle 10 states that persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status.

52. In Belarus, the independence and impartiality of the Belarusian judiciary is severely undermined by the President's role in, and control over, the selection, appointment, reappointment, remuneration, promotion and dismissal of judges and prosecutors. Judges are appointed initially for a term of five years,⁴² and their promotion or reappointment is not governed by clear criteria, but rather by whether their rulings, as one interviewee pointed, "suited the President and his inner circles".⁴³ Information gathered from interviewees confirmed concerns regarding the improper interference in the work and decision-making of prosecutors and judges by more senior officials of the judiciary or by the Executive⁴⁴. Interviewees reported that judges may receive the recommended ruling and sentence in specific cases from more senior judges such as the president of the court and his deputies. For example, following the August 2020 protests, the State Security Committee of Belarus provided the courts with a list of individuals who allegedly participated in unauthorized protests, including a 'recommended' sentence of 15-day detention.

3. The harassment of lawyers

53. Lawyers and the free practice of the legal profession are indispensable to the rule of law, the protection of human rights and an independent judicial system. Belarus should ensure that those who practise law are able to do so free from intimidation, hindrance, harassment and interference.

54. The international principles and standards on the independence of the legal profession and its free exercise, in particular the Basic Principles on the Role of Lawyers, are essential elements that should serve as a guide for those who practise law, as well as for their professional associations, and should be upheld by Belarus. In accordance with the Basic Principles on the Role of Lawyers, States must ensure that lawyers do not suffer and are not threatened with prosecution or other administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

55. However, in Belarus, the State severely threatens the free exercise of the legal profession since 1 May 2020. Punitive prosecution, convictions, disbarment and the revocation of the license of lawyers, particularly those representing prominent opposition leaders and anti-Government activists, are on the rise. Widespread use of vague legal definitions and unpredictable, often abusive, interpretations, as well as closed trials, have allowed Belarusian authorities to misuse and instrumentalize counter-extremism and national security legislation not only to stifle critics but also to punish and endanger their defence lawyers.

56. The National Bar Association of Belarus is state-owned. The Law on the Bar and Legal Profession prohibits defence lawyers from working either independently or for private

⁴² Human rights committee, Concluding Observations (22 November 2018) para 39; Special Rapporteur report, A/75/173, July 2020, paras 21-22.

⁴³ see also Special Rapporteur report, A/75/173, July 2020, para 21.

⁴⁴ See also Special Rapporteur report, A/75/173, July 2020, para 27.

law firms and requires them instead to work in Ministry of Justice-approved legal practices.⁴⁵ Decisions about the continued practice of lawyers within the legal profession are not made by an independent entity but rather by a Ministry of Justice that serves the interests of the President.

57. The Group collected an abundance of information pointing to the continued intimidation and harassment of the legal profession. For example, one lawyer explained that he could not effectively defend his clients, who were opposition activists who suffered custodial violations in August 2020, as the judges ignored all his submissions and requests. When he posted comments on social media urging the investigation of senior officials into the allegations of torture, ill-treatment and arbitrary arrests suffered by his clients, GUBOPiK posted messages about him on social media, labelling him a “traitor”. A few months later, the Bar Association summoned him to a disciplinary hearing for “ethical breaches and misbehavior in court” resulting in his disbarment.

58. The Group concludes that the punitive persecution of lawyers is part of an overall pattern of targeted repression and State control that is silencing the legal profession throughout Belarus. This persistent harassment serves as a chilling warning to all lawyers considering taking on politically sensitive cases. As a result, the number of competent lawyers who are able and willing to assist victims is decreasing every year more, especially those representing clients who are, or are perceived to be, challenging Government policies. This continued persecution severely affects the rights of prisoners to have a legal counsel of their own choice and a genuine defense.

4. Systemic fair trial rights’ violations

59. Without professional and independent legal assistance, trials against Belarusian individuals opposed or perceived as being opposed to the Government, are marred with injustice and due process rights are systematically violated.

60. The Group’s investigation established a pattern of instrumentalization of the judicial system to suppress dissent. Courts charge and sentence individuals perceived as political opponents for exercising their legitimate rights to freedom of expression and association. Detentions continue under administrative and criminal charges. Torture and ill-treatment also remain widely used by law enforcement agents against individuals who were arrested in relation to their participation in the 2020 protests, for being disloyal to the Government or for expressing views against the conflict in Ukraine. The Group notes that confessions extracted under torture or duress continue to be routinely admitted in legal proceedings against political figures, in clear breach of article 15 of the Convention against Torture which provides that, “each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

61. It is beyond doubt that the judicial system of Belarus has been instrumentalized by the President to suppress any real or perceived dissent, which culminated in entrenched impunity in relation to violations to the rights of freedom of expression and association, to the rights to be free from arbitrary detention, torture and ill treatment.

62. The Group concludes that not only is the State of Belarus unable and unwilling to prosecute international crimes under its jurisdiction, but it also promotes impunity for the alleged perpetrators of these crimes. For that reason, and for now, the impetus for accountability must come from the international community.

VII. Mapping of options for accountability for human rights violations and related crimes outside of Belarus

63. Belarusian civil society actors provided invaluable insights on how survivors of human rights violations perceive accountability. As noted in a recent report, “focusing on the wishes and needs of survivors is a key aspect of the process of restoring justice” in Belarus.

⁴⁵ Law No. 334-Z of 30 December 2011 on Bar and the Legal Profession.

“By hearing the voices of those who suffered, the needed support can be provided, and conditions can be created for a full recovery from the human rights crisis in Belarus”⁴⁶.

64. The options for accountability listed below reflect the views of those Belarusians who have entrusted the Group with their stories and hopes for justice, accountability and respect for human rights in Belarus.

A. Criminal proceedings

1. Internationalized or international ad hoc tribunal

65. The international community has set up or helped to set up a number of ad hoc tribunals, including the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), the Special Court for Sierra Leone (SCSL), the Special Tribunal for Lebanon (STL) or the Extraordinary Chambers in the Courts of Cambodia (ECCC, “Khmer Rouge Tribunal”). An important advantage of such tribunals is that they can be tailored to meet the specific challenges and needs of the situation.

66. Some Belarusian civil society organizations have called for the creation of an ad hoc international tribunal for Belarus. This involves creating a solid legal framework, securing suitable facilities, hiring qualified personnel, and ensuring state cooperation—challenges that are time-consuming, costly, and likely more expensive than having a permanent institution handle investigations and prosecutions. Additionally, financial limitations on ad hoc tribunals are a major concern, as they severely hinder the ability to deliver justice to victims in an effective and independent manner.

67. An internationalized or hybrid ad hoc tribunal that would be integrated in the national judicial system is improbable as of today. Given the clear lack of willingness and capability to carry out investigations and prosecutions at the national level, it is unrealistic to assume that Belarus would support the establishment of such a tribunal, let alone fully respect its independence.

2. International Criminal Court

68. Belarus is not a State Party to the Rome Statute of the International Criminal Court (ICC). Under the Rome Statute, referral by Member States, or the opening of an investigation by the Court’s Prosecutor *proprio motu*, are limited to cases in which at least one element of a crime within the jurisdiction of the Court, or part of such a crime, is committed on the territory of a State Party to the Statute, or by a perpetrator whose nationality is of a State Party to the Statute.⁴⁷

69. On 30 September 2024, the Office of the Prosecutor of the ICC received from the Government of the Republic of Lithuania a State Party referral pursuant to articles 13(a) and 14(1) of the Rome Statute. On the same day, the Office opened a preliminary examination of the situation of the Republic of Lithuania/Republic of Belarus, within the limits of the ICC jurisdiction, to determine, based on statutory requirements, if there is a reasonable basis to proceed with an investigation. In accordance with article 15 of the Statute, the Prosecutor shall analyse the seriousness of the information received.

70. In its referral, the Republic of Lithuania requested the Office of the Prosecutor to investigate alleged crimes against humanity committed in the Republic of Belarus, a non-ICC State party, stating that part of the elements of the alleged crimes was committed on the territory of Lithuania, an ICC State Party.

71. Specifically, the referral alleges that “beginning in April 2020, and from at least 1 May 2020, partly ongoing to the present day, and continuing, crimes against humanity – including deportation, persecution and other inhumane acts – have been carried out against the civilian population of Belarus, at the behest of senior Belarusian political, law enforcement and military leaders, and that part of the element of these crimes was committed

⁴⁶ Belarus: How do survivors of torture and/or cruel treatment perceive justice: analytical_research_en.pdf

⁴⁷ Rome Statute of the International Criminal Court, art 12(2).

on the territory of Lithuania, bringing such crimes temporally, territorially, and materially within the jurisdiction of the Court”. As a result, the Government of Lithuania requested the Office of the Prosecutor “to investigate all past, ongoing and future crimes within the Court’s jurisdiction, including as referred, as committed in the territory of the Republic of Belarus, and partly on the territory of Lithuania, since at least 1 May 2020”⁴⁸

72. The Group welcomes any step aimed at pursuing accountability for the human rights violations and related crimes committed on the territory of Belarus since 2020. As an established, broadly supported structure, the ICC could immediately initiate investigations against authors of serious crimes in Belarus, and due to the complementarity principle, the option of national prosecutions at a later stage, in parallel to the activities of the ICC, remains fully available. The Group therefore stands ready to share information with relevant national, regional or international courts or tribunals who can use the information to prosecute alleged perpetrators, including the ICC.

73. However, the experts note that the ICC may only deal with emblematic trials involving the most serious cases and individuals who bear the greatest responsibility. The ICC will never be able to prosecute all authors of serious crimes.⁴⁹ The bulk of prosecutions will have to take place at the national level, whether the ICC is seized or not, particularly for low to mid-level perpetrators.

3. Universal Jurisdiction

74. Beyond the Rome Statute, extraterritorial proceedings based on the principle of universal jurisdiction are a genuine option to consider on the path towards accountability in Belarus. Universal jurisdiction is a specific form of extraterritorial jurisdiction, based on the idea that some crimes are so serious that all states have the obligation to prosecute offenders, even if the offender is not a national of that state and even if the crime was committed elsewhere.

75. Universal jurisdiction is a powerful tool at the service of international justice to prosecute mid- and lower-level perpetrators of crimes against humanity, but it requires States to adopt appropriate legislation and sufficient resources for its implementation. Many countries have adopted laws to allow their courts to prosecute international crimes including war crimes, crimes against humanity, torture, and genocide whenever a perpetrator is found in that state’s territory.⁵⁰ For example, in November 2024, a Gambian national was convicted by the Higher Regional Court of Celle, in Germany, of attempted murders and the murder of lawyers and journalists perceived as opposing the Government of then Gambian president Yahya Jammeh. This was the first time that a court had recognized that crimes against humanity had been committed in The Gambia under the presidency of Yahya Jammeh.⁵¹ In May 2024, the application of universal jurisdiction also enabled Switzerland to bring to trial and sentence in first instance former Gambian Interior Minister Ousman Sonko, then President Yahya Jammeh’s former right-hand man, for crimes against humanity committed between 2000 and 2006, to 20 years imprisonment. These cases sent solid messages to perpetrators of past crimes that their responsibility can be triggered at any point in time. This may one day hold true for Belarus.

76. The Group notes however that very few jurisdictions have the necessary resources to effectively fight the impunity of international crimes at the domestic level. This also impacts the litigation of Belarusian cases. The Group knows of efforts by victims to initiate criminal proceedings in at last six national jurisdictions outside Belarus but notes that no case has progressed to the stage of a formal indictment or the issuance of a warrant of arrest. At the time of writing, a very limited number of cases are actively pursued by third state regarding

⁴⁸ Statement of ICC Prosecutor Karim A.A. Khan KC on receipt of a referral by the Republic of Lithuania | International Criminal Court.

⁴⁹ 20160915_OTP-Policy_Case-Selection_Eng.pdf, paras. 42-44.

⁵⁰ In 2012, Amnesty International that 163 states could exercise universal jurisdiction over one or more crimes: Universal jurisdiction: A preliminary survey of legislation around the world - 2012 update - Amnesty International.

⁵¹ German court upholds conviction of Gambian national for crimes against humanity - TRIAL International.

the situation in Belarus. One such case is the ongoing investigation by the Office of the Prosecutor of Lithuania for alleged acts of torture committed against an activist during the protests against the re-election of Belarus President Alexander Lukashenko, in August 2020. On 30 November 2020, a Belarusian citizen filed a petition with Lithuanian authorities against Belarusian security officers, including Belarusian Deputy Minister of Interior Nikolai Karpenkov, for the acts of torture he reportedly suffered while in custody in Minsk.⁵² The Group very much welcomes the opening of the preliminary investigation and remains fully available to closely cooperate with the Office of the Prosecutor of Lithuania. The Group also encourages other prosecutorial bodies and Member States to examine all available legal approaches within their domestic legal frameworks which may allow the exercise of respective jurisdiction to initiate investigations into possible international crimes committed in Belarus.

77. Some of the experts' interlocutors emphasized that the primary challenge in investigating and prosecuting crimes within national jurisdictions, particularly in some Member States where victims have already submitted complaints, was the lack of access of investigative authorities to alleged perpetrators. Several jurisdictions do not recognize trials in absentia or limit the possibility of holding such trials, mainly due to reservations concerning the fairness of the proceedings, as well as practical obstacles to collect evidence, hold hearings and enforce court judgments. Most jurisdictions therefore require that the alleged perpetrators be physically present on their territory to initiate criminal proceedings. Other jurisdictions require that the complainant identifies a specific suspect as the alleged perpetrator or that both the victim and perpetrator are present in the territory of the investigating State. In other systems, where the presence of the suspect in the territory is not a formal prerequisite for the opening of an investigation or where domestic law allows trials in absentia, government officials admitted that it is improbable, for practical reasons, that any investigation would progress without access to the suspect.

78. The Group is also aware that most of the alleged perpetrators of the crimes committed in Belarus will likely avoid traveling to countries known for bringing universal jurisdiction cases, particularly in Western or Eastern Europe. However, the Group stresses that universal jurisdiction laws extend to countries in Asia, South America and Africa. While most of these countries have rarely or even never used their universal jurisdiction laws, concerted advocacy by civil society from Belarus and the relevant country, combined with support or resources from countries with more practice on universal jurisdiction cases, could help change the tide.

79. The experts stress that pursuing justice and accountability at the international level and in third-country states are not two options excluding each other, nor do they bar any future judicial proceedings in Belarus. Indeed, bolstering domestic proceedings inside Belarus will be crucial to restore Belarusians' trust in their own national institutions, in particular the judiciary. The Group therefore encourages all relevant stakeholders to consider all those options as complementary, and to continue on documenting evidence for future processes.

B. Inter-state litigation: avenue for legal determination of Belarus State responsibility for torture before the International Court of Justice

80. As noted above, the Group has reasonable grounds to believe that the State of Belarus is responsible for serious, systematic and widespread human rights violations against members of the population of Belarus opposed to the Government or perceived as such, including violations of the Convention against Torture.

81. The Group gathered and consolidated evidence that people arrested on politically motivated grounds between 2020 and 2024 were subjected to torture and ill-treatment at the time of arrest, during transportation and interrogation, or in detention. Acts of torture and ill-treatment were routinely carried out as a deliberate practice to intimidate detainees, extract self-incriminating statements, and punish political dissenters and peaceful protesters. Reliable medical and visual evidence provided to the Group illustrated common patterns of

⁵² TRIAL_International_UJAR-2022.pdf.

torture. Torture was perpetrated by police officers, prison guards and security officers in police stations, prisons and vehicles transporting detainees. Detainees are often held in inhuman conditions, characterized by severe overcrowding and a lack of access to medical care, family visits and lawyers. The Group also found that Belarusian authorities continued to apply a separate and harsher regime of detention to people arrested on politically motivated charges, clearly demonstrating their intent to discriminate against political opponents. Men and women who served short sentences in temporary detention facilities across the country were systematically subjected to discriminatory, degrading and punitive conditions of detention amounting to cruel, inhuman, and degrading treatment, and in some instances, torture. The Group documented several cases of torture and ill-treatment in penal colonies across the country.

82. The Group endorses the conclusion of the Committee against Torture that the State of Belarus is responsible for its gross and systematic failure to fulfil its obligations regarding the prohibition against torture and ill-treatment, as well as its other numerous violations of the provisions of Convention against Torture, and the legal consequences flowing therefrom.

83. The Group strongly encourages States parties to the Convention against Torture to leverage its article 30 (1) which states that “[A]ny dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.” The Group notes that Belarus has not made a reservation under Article 30 (2) of the Convention against Torture, to declare that it does not consider itself bound by Article 30 (1).

84. The Group notes the precedent set by the International Court of Justice in the case *Canada and the Netherlands v. Syrian Arab Republic*. On 8 June 2023, the Netherlands and Canada filed a case alleging that Syria is violating the international Convention Against Torture. While acknowledging the length of the procedure and the immense resources it requires, it is the strong view of the Group that the International Court of Justice’s order on 16 November 2023 directing Syria to take all measures within its power to prevent acts of torture and other abuses, was a milestone toward the protection of civilians. The experts stand ready to cooperate with any State party to the Convention against Torture willing to explore this concrete option towards the responsibility of the State of Belarus for failing to protect its citizens from torture and ill-treatment.

C. Belarusians’ right to remedy, reparation, truth and guarantees of non-recurrence

85. Judicial measures alone do not suffice to sustainably address the serious violations of international human rights and criminal law that have been taking place in Belarus since 1 May 2020. According to the Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity of 2005 (Impunity Principles), victims have a right to justice, to reparation, to the truth, and to guarantees of non-recurrence.

1. Right to remedy and reparation

86. International law provides that victims of human rights violations, and serious violations of international humanitarian law, have the right to an effective remedy and reparation for the violations.⁵³ The right of victims to remedy and reparation is applicable to violations perpetrated by or with complicity of officials of the State. Under these standards,

⁵³ Universal Declaration of Human Rights, article 8; ICCPR, article 2(3); Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, articles 13 and 14; International Convention on the Elimination of All Forms of Racial Discrimination, article 6; Convention on the Rights of the Child, article 39; American Convention on Human Rights, articles 25 and 63(1); African Charter on Human and Peoples’ Rights, article 7(1)(a); Arab Charter on Human Rights, articles 12 and 13; European Convention on Human Rights, articles 5 (5), 13 and 41; Charter of Fundamental Rights of the European Union, article 47; Vienna Declaration and Program of Action, article 27.

States have a duty to ensure that anyone who alleges to have been a victim of violations has access to an appropriate procedure for seeking a remedy and substantive reparation if the violation is established.

87. Any adequate and effective reparation process under international human rights law and standards, should include the following elements:

- *Truth*, which implies knowing the full and complete truth as to the events that transpired, their specific circumstances, and who participated in them, including knowing the circumstances in which the violations took place, as well as the reasons for them.
- *Restitution*, restoring the victim to the original situation before the violations in so far as is possible, for instance, restoration of liberty for someone who has been wrongly imprisoned since 1 May 2020 in Belarus;
- *Compensation* for economically assessable damage of any kind, including not only financial losses but, for instance, moral damage. Investing in strategic civil litigation for the human rights violations committed in Belarus since 1 May 2020 could prove to be a useful tool toward this goal. It is a targeted option that directly ties the human rights violations of governments and governmental actors to the money damages they need to pay survivors and victims for those harms. Seizing assets from Belarus for its perpetration of violations could incentivize a curbing of human rights violations so as to prevent the financial loss that results;
- *Rehabilitation*, which could include medical, social, legal and psychological care for Belarusian victims of custodial violations, including torture and ill-treatment;
- *Satisfaction*, such as full and public disclosure of the truth; an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim; public apology, including acknowledgement of the facts and acceptance of responsibility; judicial and administrative sanctions against persons liable for the violations;⁵⁴
- *Guarantees of non-repetition*, including by ensuring that all civilian proceedings in Belarus abide by international standards of due process, fairness and impartiality; by strengthening the independence of the judiciary; by reviewing and reforming laws that enable human rights violations.

2. Right to truth

88. Victims have a right to the truth as part of the satisfaction element of reparation. Article 22(b) of the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, for instance, states that satisfaction should include, where applicable: "Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations". The right to truth has also been recognized by international human rights courts and the UN Human Rights Council.⁵⁵

⁵⁴ The Group notes that since the 2020 presidential election, several Member States imposed sanctions against Belarus, targeting around 200 individuals and 35 organizations they deem responsible for rigging the elections and for the "repression and intimidation against peaceful demonstrators, opposition members and journalists".⁵⁴ The sanctions were strengthened following the Russian Federation's armed attack against Ukraine,⁵⁴ and they consist of measures such as asset freezing, travel bans, export and import restrictions, exclusion from admission to the territory or limitations in cooperation and technical assistance.

⁵⁵ See for example: ECtHR (Grand Chamber), *El-Masri v. the former Yugoslav Republic of Macedonia*, App. No. 39630/09 (13 December 2012), paras 191- 194; IAmCtHR, *Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil*, Series C No. 219 (24 November 2010), para. 200; Human Rights Council, resolutions on the right to truth, 9/11 (2008), 12/12 (2009), and 21/7 (2012); and the General Assembly, resolution 68/165 (2013) on the right to truth.

89. The Impunity Principles and other international and regional standards and jurisprudence recognize the "right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes". The right to truth includes both the rights of particular victims and their families to know the circumstances of the violations that have affected them, and the right of the broader society to know and remember its history, including as a vital safeguard against the recurrence of such violations in the future.

90. The Impunity Principles affirm that the process of fact-finding by an independent and effective judiciary in the course of legal proceedings is an essential part of realization of the right of victims and society to know the truth. At the same time, the role of the judiciary should be complemented by non-judicial processes. "Societies that have experienced heinous crimes perpetrated on a massive or systematic basis may benefit in particular from the creation of a truth commission or other commission of inquiry to establish the facts surrounding those violations so that the truth may be ascertained and to prevent the disappearance of evidence."⁵⁶ Truth commissions are "official, temporary, non-judicial fact finding bodies that investigate a pattern of abuses of human rights or humanitarian law, usually committed over a number of years."⁵⁷ Their work aims to realize the public interest in and the right of victims to the truth.

3. Gender dimension of truth and reparation processes

91. The Group wishes to emphasize the meaningful role that victims, specifically women and girls, should play in the design, implementation and assessment of truth and reparation programmes. A victim/survivor-centered, principled and pragmatic approach to funding reparations requires the recognition of the centrality of victims and their special status in the design and implementation of reparations, ensuring full respect for their dignity, views, priorities and concerns. Such an approach also requires that the causes and consequences of human rights violations be addressed. This means funding specific forms of reparation that respond to the most serious harms and urgent needs caused by violence and economic loss and anticipating how those violations can be prevented in the future.

92. Long-term and sustainable funding for reparations in Belarus should aspire to transform the pre-existing structural inequality that may have engendered the violence specifically suffered by women and girls. Funding reparations that only aim at returning to the situation before the violation took place is insufficient to ensure the effective realization of the rights of women and girls. Reparations programmes must advance gender equality through the funding of programmes that support the agency of women and girls as beneficiaries and ensure their effective participation in decision-making regarding reparations and their funding.⁵⁸

93. The Group strongly supports the creation of a truth and reconciliation commission to establish the root causes of the repression that started on 1 May 2020. By establishing a credible official narrative of past violations, a truth and reconciliation commission for Belarus would also seek to prevent the recurrence of similar violations in the future.

D. Corporate accountability for human rights violations and related crimes

94. The dire human rights situation in Belarus requires businesses, be they foreign or national, to exercise particular diligence when operating in the country. As laid out in the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles), business enterprises have a responsibility to respect human rights wherever they operate in

⁵⁶ UN Impunity Principles, Principle 5.

⁵⁷ UN Impunity Principles, Definitions (D).

⁵⁸ A/78/181: Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence: Financing of reparation for victims of serious violations of human rights and humanitarian law.

the world. The UN Guiding Principles require that business enterprises take pro-active steps to ensure that they do not cause or contribute to human rights abuses within their global operations and respond to any human rights abuses when they do occur.

95. Businesses involved in Belarus wield significant power and must be held accountable for their potential impacts on human rights. Risks are particularly salient for companies investing in or partnering with state-owned enterprises or entities tied to President Lukashenko, which could find themselves aiding, abetting, or otherwise indirectly facilitating Belarus' violations of international law. While more investigation is required, it appears that there are strong and persistent business and familial links between the Office of President Lukashenko and a few private Belarus companies and conglomerates involved in human rights violations. For example, interviewees informed the Group that women held in Correctional Colony No 4 in Gomel are forced to work for extended hours, sometimes up to 12 hours a day, in Government-owned retail factories producing clothes for commercial sale.

96. The Group stresses that it is possible to bring a company and/or its employees to justice, especially when abetting a crime in a country where a company operates can be attributed to that company. For example, if, in full knowledge of the facts, a company procured equipment such as arms or weapons-making materials, dual-use technologies - including new technologies such as facial recognition, or military equipment, to Belarus since 1 May 2020, it risks being complicit in ongoing violations, and may be convicted as an accomplice to such acts. Additionally, the legal, economic, and reputational risks for companies operating or investing in Belarus are important.

97. Against the backdrop of the gravity of its findings on human rights violations and related crimes, the Group strongly recommends that no business enterprise active in Belarus or trading with or investing in businesses in Belarus should enter into an economic or financial relationship with the political and security forces of Belarus, in particular the Office of the President, or any enterprise owned or controlled by them or their individual members, until and unless they act in accordance with international law standards. This holds particularly true for private military and security companies.

1. Private military company “Wagner”

98. According to verified information, the private military company “Wagner” (hereinafter – PMC Wagner) has redeployed in Belarus since July 2023, following the alleged unsuccessful rebellion attempt against Russian authorities led by its then leader, Yevgeny Prigozhin. On 14 July 2023, the Belarusian Ministry of Defence reported that Wagner mercenaries conducted training for the conscripts of the territorial troops of the Soligorsk region.⁵⁹ On 1 March 2024, the Belarusian Deputy Minister of Defence stated that “not only military personnel of military units undergo this [combat] training, but also teachers of higher educational institutions operating under the relevant ministries in order to pass on the acquired knowledge to cadets, students, and those studying under the reserve officers’ programs.”⁶⁰

99. The Group is extremely concerned by the reported presence and training activities of PMC Wagner in Belarus. The Group notes that the Working Group on the use of mercenaries and private military and security companies issued a number of communications reporting the illegal and criminal activities of the PMC Wagner in the Central African Republic,⁶¹ Syria⁶², Mali,⁶³ Libya,⁶⁴ and Russia and Ukraine.⁶⁵

⁵⁹ https://t.me/Hajun_BY/7098 (archived at <https://archive.ph/NIK5I>).

⁶⁰ <https://www.sb.by/articles/dumat-na-perspektivu-i-deystvovat-na-operezhenie.html> (archived at <https://archive.ph/WzdZj>).

⁶¹ RUS 5/2021; <https://www.ohchr.org/en/press-releases/2021/11/car-russian-wagner-group-harassing-and-intimidating-civilians-un-experts> (archived at <https://archive.ph/4i2ck>).

⁶² RUS 14/2021.

⁶³ MLI 3/2022.

⁶⁴ <https://www.ohchr.org/en/news/2020/06/libya-violations-related-mercenary-activities-must-be-investigated-un-experts> (archived at <https://archive.ph/7iSYD>).

⁶⁵ RUS 17/2022; OTH 8/2023.

100. The Group further notes that Belarus is a party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and calls on the Belarusian authorities to ensure compliance with their obligations under international law, namely, not to recruit, use, finance or train mercenaries.

101. The Group also encourages civil society actors and relevant stakeholders to leverage the Montreux Document on Private Military and Security Companies which reaffirms the existing obligations of States under international law relating to the activities of private military and security companies. The Group strongly recommends that companies, particularly private military and security companies, cease any activity that contribute, directly or indirectly, to ongoing human rights violations and crimes committed by the Belarusian authorities. The Group further recommends that such companies cease any activity for which they cannot efficiently implement measures to prevent or address negative impacts on the human rights of Belarusian citizens.

102. Belarusian civil society has an essential role to play in monitoring, investigating, and reporting on corporate accountability, including by focusing on how the economic interests of the Belarusian Presidency enable its criminal conduct since 1 May 2020.

VIII. Conclusions

103. As long as the system of corruption and clientelism protecting Aleksander Lukashenko's repressive presidency is in place in Belarus, there is no genuine prospect for accountability inside the country for the thousands of Belarusians who fell victims of gross violations and related crimes since 1 May 2020.

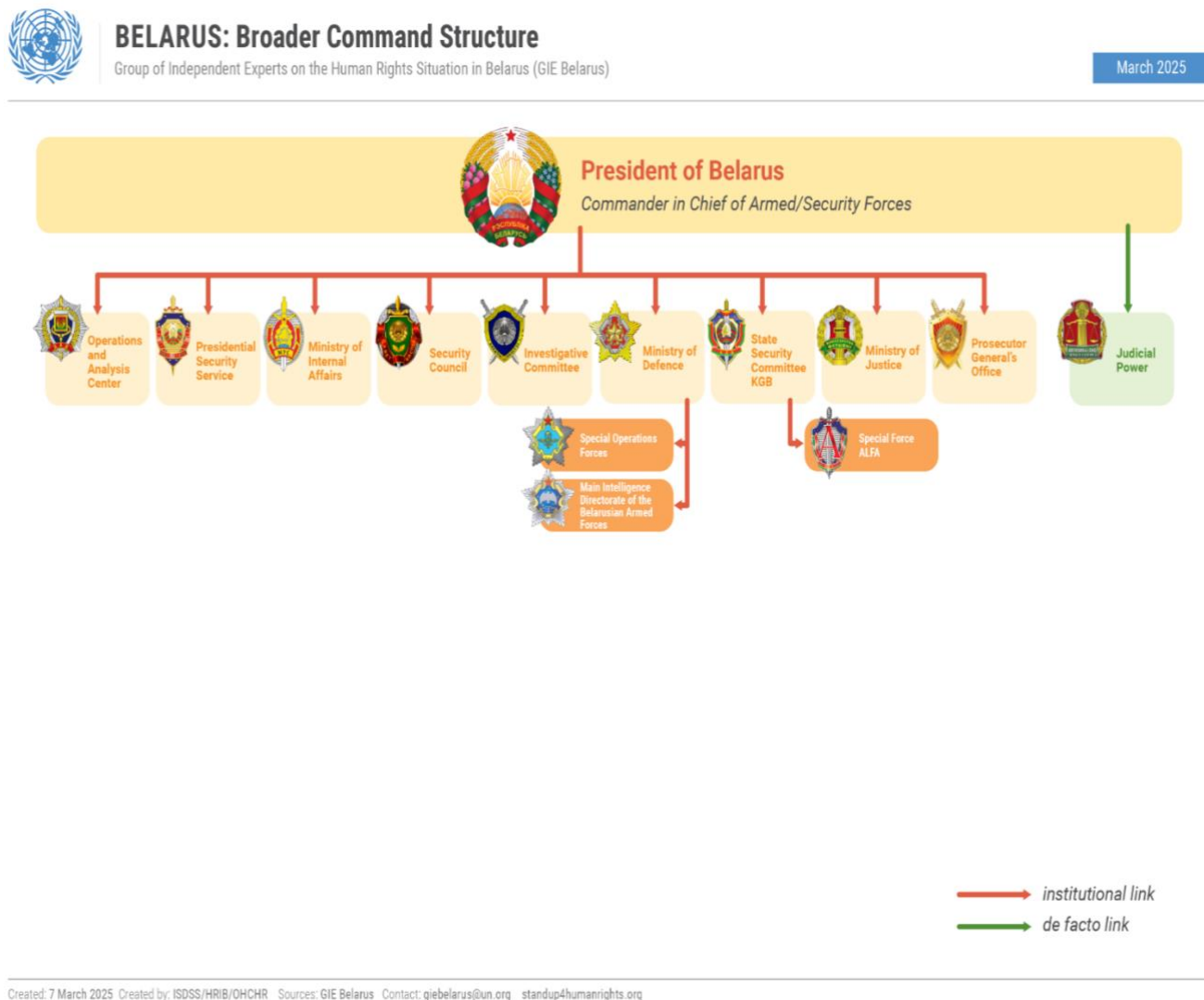
104. The rampant violations of the state of Belarus have left Belarusians looking for internationalized responses to their plight, as domestic avenues for accountability in national courts are not reliable for victims. Countries around the world have responded in a range of ways, including through a state referral to the International Criminal Court and attempts to open domestic investigations, via diplomatic channels and through the issuance of targeted sanctions against individuals and entities for gross human rights violations in Belarus.

105. Any of the potential approaches to legal accountability described above would have to be supplemented by national prosecutions in Belarus at some point. Experience shows that only a very limited number of cases can be dealt with by other States or the international community and that a significant impunity gap remains if the concerned State does not initiate national investigations and prosecutions. Assistance to strengthen the capacity, independence, impartiality, and effectiveness of the Belarusian national justice system with respect to prosecuting the crimes identified by the Group should form part of any transition.

106. It is also crucial that any initiative to fight impunity in Belarus is not limited to legal measures but is carried out to ensure all the basic rights of victims. International measures must be tailored with the view to contributing to a sustainable culture of accountability and rule of law in Belarus. They should strengthen national initiatives, ownership and institutions in order to re-establish civic trust and to create the basis for justice, security and development in Belarus.

Annex 1:

State Structures involved in human rights violations and related crimes

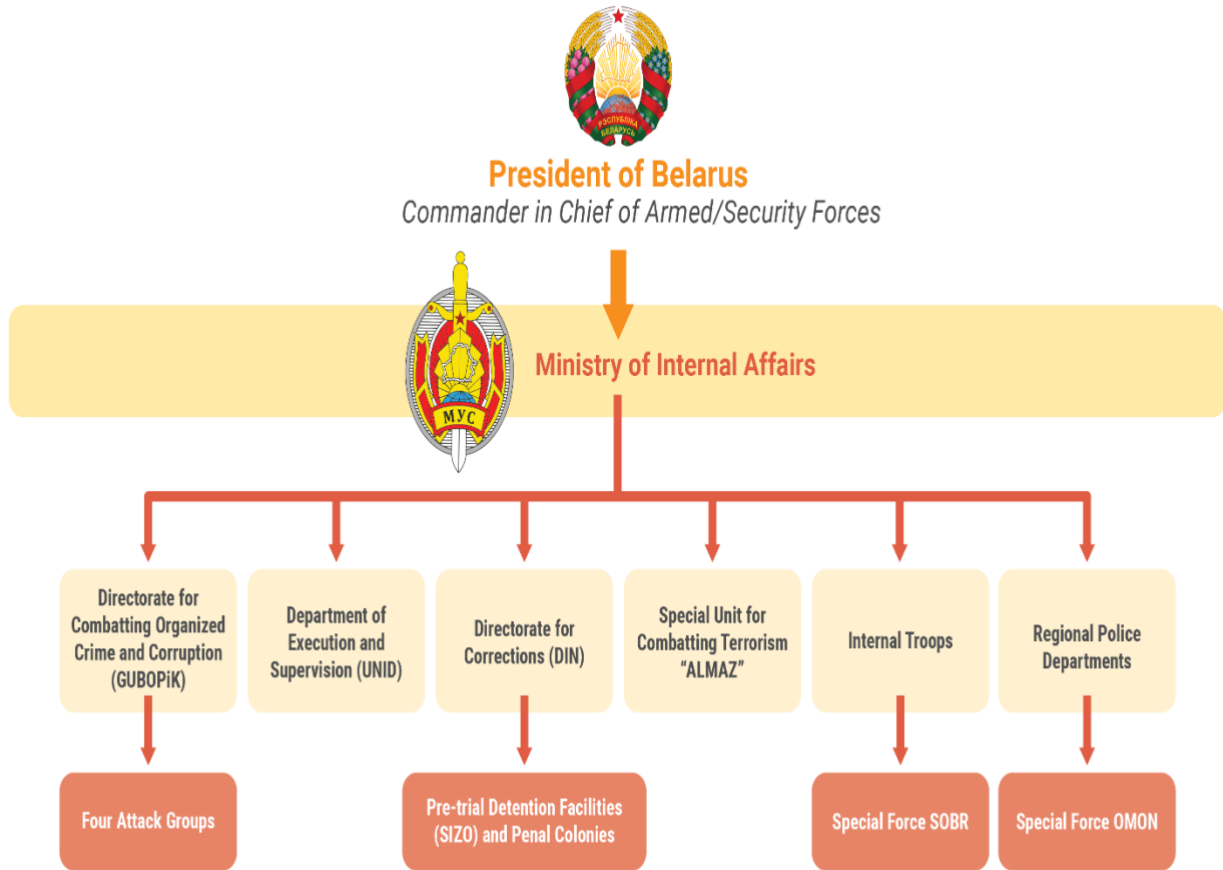




BELARUS: Ministry of Internal Affairs (MIA) Command Structure

Group of Independent Experts on the Human Rights Situation in Belarus (GIE Belarus)

February 2025



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