



Justice for enforced disappearances in Belarus: Former member of President Lukashenka's elite hit squad brought before a Swiss Court

Questions and answers

1. Who is Yuri Harauski and what are the criminal charges brought against him?

Yuri Harauski is a 44 years old Belarusian citizen, former member of an elite unit of the Internal Troops of the Belarusian Ministry of Internal Affairs (SOBR), which was created by President Lukashenka in 1998. Harauski is accused of having participated in the enforced disappearances of two emblematic figures of the opposition to the Lukashenka regime and of a businessman, who disappeared in May and September 1999, allegedly at the hands of SOBR.

2. What does “enforced disappearance” mean?

The crime of enforced disappearance is to be considered in two phases. First, there is an act of making someone disappear against his or her will, often suddenly. It therefore refers to the arrest, detention or abduction of a person.

It is followed by the refusal, by the State, to acknowledge the fate of that person, who remains outside the protection of the law: without arrest warrant nor charges or official prosecutions. The direct victims find themselves in a situation of utter vulnerability and are especially at risk of being tortured or executed with complete impunity.

The Swiss criminal provision punishing the crime of enforced disappearance – art. 185^{bis} of the Criminal Code (CC) – entered into force in 2017 and has never been applied by the Swiss authorities in a criminal case since then. As a result, the case will create a tremendously important legal precedent in the prosecution of enforced disappearances before a national court based on the principle of universal jurisdiction (see Q. 5 below).

3. Why will the trial of Yuri Harauski take place in Switzerland?

Yuri Harauski appeared in the media in 2019, reporting in a Deutsche Welle [article](#) that he had been involved in three disappearances in 1999. He provided extensive details both on the context of the kidnappings and on the killings of the victims. It emerged from this interview that Yuri Harauski was living in a German-speaking region of the Alps. After an investigation, TRIAL International was able to confirm his presence in Switzerland, more precisely in the canton of St. Gallen. According to the information available, he arrived in the country to seek asylum, arguing that his life was at risk in Belarus given his will to speak out about his past involvement within the SOBR unit.

The Swiss authorities have jurisdiction over the case in application of the principle of [universal jurisdiction](#) that allows the prosecution of suspects of international crimes, even when there is no connection with the crime, other than the presence of the suspect on the territory.

In Switzerland, unlike the prosecution of war crimes, crimes against humanity and genocide, which fall under the jurisdiction of the federal criminal justice authorities, the crime of enforced disappearance according to art. 185^{bis} CC falls under the jurisdiction of the relevant cantonal authorities of the canton, where the suspect is present. This explains why the authorities of the canton of St. Gallen have jurisdiction in the present case.

4. How was the investigation conducted?

In Spring 2021, after Yuri Harauski's location in Switzerland was confirmed, relatives of the victims, along with FIDH, TRIAL International and Viasna, filed criminal complaints for the crime of enforced disappearances with the office of the Prosecutor of St. Gallen.

The suspect was briefly arrested to be examined by the prosecutor in charge of the proceedings in June 2021. Yuri Harauski made a full confession and provided detailed descriptions of the crimes he is accused of. While the strong suspicion that Yuri Harauski has committed a felony was confirmed before the prosecutor, the accused yet remained free due to the lack of an additional, compulsory reason for his detention, such as the risk of absconding, risk of collusion and others.

In addition to the accused's statements, comprehensive inter (UN) - and supranational agencies (EU, PACE) as well as NGO documentation on the disappearances, were analysed.

The accused was examined by the prosecutor a second time in October 2021. His statements were detailed and congruent with the ones made earlier.

Subsequently, a witness was heard by the prosecutor in April 2022. His testimony confirmed a fragment of knowledge that was unknown to the public before and that only became known with the accused's public statements. This knowledge connects the accused directly with one of the crimes and therefore further confirms his participation in the crimes.

The investigation was concluded in spring 2022 and the Office of the Prosecutor charged the suspect in court on 2 May 2022.

5. What is universal jurisdiction?

Universal jurisdiction (UJ) is a legal principle that allows states to investigate and prosecute individuals suspected of having committed international crimes (genocide, crimes against humanity, war crimes, torture and enforced disappearances), regardless of where the crimes were committed and regardless of the nationality of the suspect(s) or victim(s).

Universal jurisdiction cases are playing an increasingly important role in international efforts to hold perpetrators of atrocities accountable and to bring justice to victims. Nevertheless, in a number of states that provide for UJ, including Switzerland, there are still major political obstacles to providing effective access to justice for victims of international crimes who wish to bring cases on the basis of this mechanism. These cases further help to deter the commission of future crimes and send a powerful message that perpetrators of human rights abuses will not find a safe haven abroad.

TRIAL International, FIDH and its partners publish an annual [Universal Jurisdiction Annual Review](#) (UJAR), which highlights key developments in cases brought before national courts around the world on the basis of this principle. The 2023 edition of the UJAR includes more than 65 cases concerning international crimes.

Indeed, many other countries are currently investigating and prosecuting international crimes committed in the Democratic Republic of Congo, Iraq, Liberia, Rwanda, Syria, Ukraine, Libya, Egypt, etc.

6. What was the situation like in Belarus when the crimes were committed and has anything improved since then?

Since his first election in 1994, Aliaksandr Lukashenka has been ruling Belarus with an iron fist, violently repressing any opposition to his regime as well as any human rights activism. Enforced disappearances have been one of the tools used by the government to shut down any contestation.

For twenty-nine years now, political opponents, human rights activists, lawyers, journalists and ordinary citizens have been deprived of their fundamental rights and subjected to massive and systematic state violence, ill-treatment, torture, arrest and arbitrary detention.

While violence on Belarusians relentlessly continued throughout the years, the repression worsened in 2020 - the election year that saw Lukashenka being disputably reelected – and spread to 2021, when peaceful demonstrations demanding democracy took place in many cities of the country and led to crackdowns and to thousands of arbitrary arrests, with subsequent inhuman treatment and torture in detention.

Additionally, civil society is being continuously persecuted: in July 2021, **Ales Bialiatski** – Nobel Peace Prize winner and Chairman of the Human Rights Center VIASNA, **Valiantsin Stefanovich** – Deputy Head of VIASNA and Vice-President of FIDH - and **Uladzimir Labkovich** – VIASNA’s lawyer, were arrested on trumped-up charges. In March 2023, they were convicted to [extremely grave prison sentences](#). Their case is both symbolic of the risk taken by anyone who challenges the power in place for the sake of the Belarusian people and democracy, and of the total contempt of the regime for international human rights law.

Belarus’ apparent participation in Russia’s 2022 aggression against Ukraine – by allowing the large-scale invasion from its territory - is another demonstration not only of the regime’s total contempt for international human rights law but also for its other international obligations.

7. Who are the victims of the crimes allegedly committed by Yuri Harauski?

Yury Zakharenka, Viktor Hanchar and Anatoly Krasouski, the three disappeared, are the primary victims of the crimes committed. They were all leading figures of the opposition and were abducted and murdered because they rose up against the regime.

International law recognizes that, just like the disappeared persons, their families are victims too. Sudden separation, a lack of news, uncertainty and fear of reprisal makes the mourning of a loss impossible and causes indelible suffering.

In this case, the children of two of the disappeared, represented by attorney Severin Walz, have filed individual criminal complaints on the same day the denunciation against Yuri Harauski was presented to the Prosecutor in St. Gallen by the partnering organizations. As victims, relatives of the disappeared have the right to file a complaint, to participate in the proceedings and to request reparations.

Since 1999, the families of the disappeared have made numerous attempts to initiate an investigation in Belarus into the disappearances of their loved ones, without having been able to obtain justice in their country.

8. What does this case mean for the victims and for Belarussians?

Although the crimes in question date back to 1999, they are symptomatic of the culture of human rights violations that is still ongoing in Belarus.

The families of the disappeared have never been able to learn what happened to their loved ones and under what circumstances they disappeared. The trial in St. Gallen will be an opportunity to shed light on the facts and to discuss them in a court of law and hopefully to recognize, following due process, that enforced disappearances have taken place in Belarus. Indeed, a guilty verdict would be the acknowledgement of past crimes and of a *modus operandi* still used by the government to silence any criticism.

9. Are any other individuals being prosecuted under universal jurisdiction for the crimes committed in Belarus?

There is currently one other ongoing procedure initiated in Lithuania against Belarusian security officers including Nikolay Karpenkov – Deputy Minister of Interior – for alleged acts of torture committed during the recent protests against the reelection of Aliaksandr Lukashenka. The suspects are however still in Belarus.

It is important to bear in mind that total impunity exists in Belarus for the crimes that were and are still being committed. Indeed, despite thorough documentation and reporting from civil society, there has never been any serious investigation led by the country’s authorities, nor

any prosecution of any perpetrator. On the contrary, as seen above (Q.6), the regime has set up a state policy – implemented thanks to the complicity of the judiciary - designed at repressing anyone who rises against it.

Furthermore, pursuant to international law, a restrictive list of high-level individuals - amongst whom Aliaksandr Lukashenka – would arguably benefit, under certain conditions, from immunities. This means that any prosecution would be barred against him for as long as he remains in power.

However, many lower-level individuals who participated in a way or another in the commission of grave offenses can be prosecuted on the basis of universal jurisdiction. This is the case for Yuri Harauski, whose trial will be the first ever of its kind: judging enforced disappearances committed in Belarus.

10. How long is Yuri Harauski's trial expected to last and what are the possible outcomes?

The trial is scheduled to take place on 19 and 20 September 2023 at the Kreisgericht Rorschach, in the premises of the Cantonal Court of St. Gallen, Klosterhof 1, 9001 St. Gallen, Switzerland. It will take place almost a year and a half after the indictment was filed before the Court, which will have to decide on Harauski's liability based on the prosecutor's investigation.

If convicted, Yuri Harauski could face a prison sentence of at least a year, while the legal maximum sentence could be twenty years in prison.

11. The disappearances took place in 1999, aren't they barred with statute of limitation?

The United Nations Working Group on Enforced Disappearances has spoken out about the continuous nature of the crime. According to the Working Group, the offense persists in time between the moment when the disappearance takes place and the moment when light is shed on the victim's fate.

In this case, from a legal point of view, the offense in question has not come to an end since the families do not yet know what happened to their loved ones. It follows that the statute of limitations has not begun to run and therefore the offense is not time-barred.

However, it will be up to the Tribunal to rule on this issue and the partnering organizations as well as the families' lawyers will closely follow the reasoning of the Tribunal.

12. How accessible will the trial be to the public and journalists?

In accordance with the principle of a public trial, which plays a fundamental role in a democratic society by promoting transparency in the justice process and thus contributing to public confidence in the judicial system, the trial of Yuri Harauski will be accessible to the public, within the limits of the available courtroom space. However, the trial will be conducted in German and a public translation will likely not be provided, making it potentially inhibiting accessibility for non-German speakers, including the Belarusian public.

In this regard, FIDH, TRIAL International and Viasna would like to raise the awareness of St. Gallen's authorities on the tremendous importance of this trial for the Belarusian people. An interpretation service made available in the courtroom will contribute to making sure that justice is not only done but also seen to be done and that access to information by those directly affected is guaranteed.

THE CASE IN BRIEF

Context

1994: Election of Aliaksandr Lukashenka as president of Belarus. Soon after his accession to power, his authoritarian regime began massive and violent repression of all forms of opposition, which continues to this day.

1998: Creation of the SOBR unit composed of elite troops of the Internal Troops of the Ministry of Internal Affairs which received orders from the highest government levels, unofficially tasked with surveilling, kidnapping, and eliminating political opponents.

1999: Several leading opposition figures disappeared in Minsk, allegedly after being seized by members of the SOBR in circumstances that are still not clear. Amongst them were Yury Zakharenka, Viktor Hanchar and Anatoly Krasouski.

1999 – present: Families of the disappeared alerted the Belarusian authorities and filed criminal complaints in 1999. Their efforts were and still are being obstructed as the authorities remain unwilling to conduct any impartial investigation. This was condemned by the United Nations Working Group of Enforced or Involuntary Disappearances in 2002, by the Council of Europe's Rapporteur for Enforced Disappearances in 2004 and by the Parliamentary Assembly of the Council of Europe the same year. The United Nations Human Rights Committee concluded the same in 2012, 2017 and 2018.

Chronology of the case in Switzerland

4th June 2021: After the presence of the suspect on Swiss territory was confirmed, FIDH, TRIAL International and VIASNA filed a criminal complaint before the Office of the Prosecutor in St. Gallen (Swiss Canton situated in the northwest of the country, where the suspect was residing). The same day, the families of the disappeared filed additional criminal complaints before the same authority.

7th June 2021: An investigation was opened based on article 185^{bis} of the Swiss Criminal Code, which criminalizes enforced disappearance.

16th July 2021: The suspect was arrested and heard by the prosecutor. He fully admitted his participation in the crimes he is accused of.

26th October 2021: The suspect was questioned for a second time and confirmed his participation in the enforced disappearance of the three victims.

28th April 2022: The prosecutor heard a witness who used to be in close contact with one of the victims. The witness confirmed details previously unknown to the public that were exclusively voiced by the accused.

2nd May 2022: The Office of the Prosecutor concluded its investigations and brought charges to the competent court.

22 May 2023: The Court informed the parties that the trial would take place on 19 and 20 September 2023 at the Cantonal Tribunal in St. Gallen.