

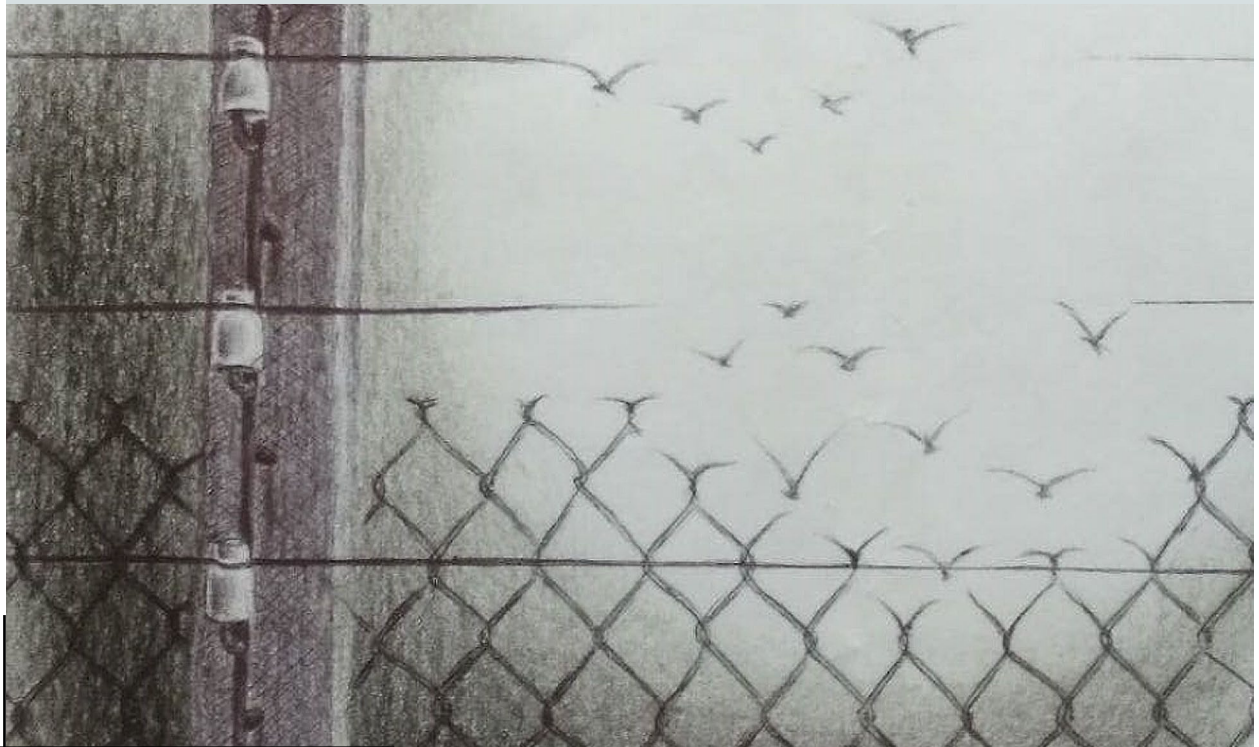
International  
Accountability  
Platform

for

Belarus

# **PATHS TO ACCOUNTABILITY FOR BELARUS**

**Mechanisms to Address  
Human Rights and International  
Criminal Law Violations**



September 2025



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# ACRONYMS

<b>BKDP</b>	Belarusian Congress of Democratic Trade Unions
<b>CAT</b>	Committee Against Torture
<b>CED</b>	Committee on Enforced Disappearances
<b>CEDAW</b>	Committee on the Elimination of Discrimination against Women
<b>CERD</b>	Convention on the Elimination of All Forms of Racial Discrimination
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CoE</b>	Council of Europe
<b>CPED</b>	Convention for the Protection of All Persons from Enforced Disappearance
<b>CRC</b>	Committee on the Rights of the Child
<b>CRPD</b>	Committee on the Rights of Persons with Disabilities
<b>CSO</b>	Civil Society Organisation
<b>ECtHR</b>	European Court of Human Rights
<b>ECCC</b>	Extraordinary Chambers in the Courts of Cambodia
<b>EU</b>	European Union
<b>GIEB</b>	UN Group of Independent Experts on the human rights situation in Belarus
<b>HRC</b>	UN Human Rights Committee
<b>IAPB</b>	International Accountability Platform for Belarus
<b>ICC</b>	International Criminal Court
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ICIT</b>	International Committee for the Investigation of Torture in Belarus
<b>ICJ</b>	International Court of Justice
<b>ICMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>ICTR</b>	International Criminal Tribunal for Rwanda
<b>ICTY</b>	International Criminal Tribunal for the former Yugoslavia
<b>ILO</b>	International Labour Organization

<b>ITUC</b>	International Trade Union Confederation
<b>KSC</b>	Kosovo Specialist Chambers
<b>LOI</b>	List of Issues
<b>LOIPR</b>	List of Issues Prior to Reporting
<b>NGO</b>	Non-Governmental Organisation
<b>ODIHR</b>	OSCE Office for Democratic Institutions and Human Rights
<b>OEB</b>	OHCHR Examination of the human rights situation in Belarus
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>OTP</b>	Office of the Prosecutor of the International Criminal Court
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>PGA</b>	Prosecutor General of Ukraine
<b>RD4U</b>	Register of Damage for Ukraine
<b>SCRL</b>	Special Court for Sierra Leone
<b>SCC</b>	Special Criminal Court in the Central African Republic
<b>SJAC</b>	Syria Justice and Accountability Centre
<b>STL</b>	Special Tribunal for Lebanon
<b>TFV</b>	Trust Fund for Victims
<b>UN</b>	United Nations
<b>UNCAT</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>UNCCP</b>	United Nations Conciliation Commission for Palestine
<b>UN CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>UNCRC</b>	Convention on the Rights of the Child
<b>UNCRPD</b>	Convention on the Rights of Persons with Disabilities
<b>UNGA</b>	United Nations General Assembly
<b>UNMIK</b>	United Nations Interim Administration Mission in Kosovo
<b>UNOV</b>	United Nations Office at Vienna
<b>UNRoD</b>	United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory
<b>UPR</b>	Universal Periodic Review
<b>Viasna</b>	Human Rights Center Viasna
<b>WGAD</b>	UN Working Group on Arbitrary Detention
<b>WGEID</b>	UN Working Group on Enforced or Involuntary Disappearances

# I. SUMMARY AND RECOMMENDATIONS

## A. Executive Summary

### About the report

This report offers a comprehensive overview of accountability mechanisms available to address severe human rights violations and breaches of international criminal law in Belarus, following the significant escalation of an already troubling human rights situation leading up to the disputed August 2020 presidential elections and in the subsequent years.

The report differentiates between mechanisms aimed at pursuing State responsibility, those focused on achieving individual criminal accountability, and mechanisms contributing to both areas. Additionally, it evaluates how the situation in Belarus has been addressed to date and identifies existing gaps, suggesting further actions and mechanisms that could be employed to bridge these gaps.

Underscoring the importance of justice for victims, the report emphasises their involvement as well as the potential roles of civil society organisations within each mechanism and examines how each accountability approach contributes to meeting survivor-centered justice needs.

By delineating the options available, the report aims to assist States in identifying suitable accountability mechanisms, detailing the steps required for engagement, and exploring potential outcomes and the added value of each option.

The deployment of each such mechanism is aimed at addressing impunity for human rights violations, which is one of the primary obstacles to achieving justice and reparations for victims and survivors, as well as a key enabler of further human rights violations. Conversely, fostering accountability serves as a deterrent against future abuses, emphasising the unacceptability of such actions and ensuring that they have repercussions.

### Background

Since the disputed presidential elections of August 2020, Belarus has faced one of the gravest human rights crises in Europe in recent decades. Peaceful protests against electoral fraud were met with a relentless campaign of repression, including mass arbitrary arrests, torture and ill-treatment, sham trials, the dismantling of independent media and civil society, and the imprisonment of more than 1,200 political opponents and human rights defenders. These

violations form part of a deliberate state policy to silence dissent, with UN experts warning that their widespread and systematic nature may amount to crimes against humanity.

With civic space crushed, accountability absent, and no prospect of independent and impartial investigations by Belarusian authorities, survivors have been left without recourse to justice. This makes it indispensable to pursue the avenues outlined in this report, which together offer the only meaningful pathways to truth, redress, and accountability for the people of Belarus.

## Mechanisms to establish individual criminal liability

The International Criminal Court (ICC) offers a particularly visible and authoritative response to mass atrocity crimes. Its ability to prosecute those most responsible for war crimes, crimes against humanity, and genocide makes it an institution of global legal and symbolic significance. The ICC's procedures also ensure that survivors can participate in proceedings where their personal interests are affected and can be awarded a reparation in case of a conviction. While Belarus is not a State Party to the Rome Statute, Lithuania submitted a referral to the ICC in September 2024 to assess jurisdiction over crimes against humanity, including the crimes of deportation, persecution and other inhumane acts, committed by Belarusian officials since at least May 2020, arguing that aspects of these crimes occurred on the territory of Lithuania, and other ICC member states.

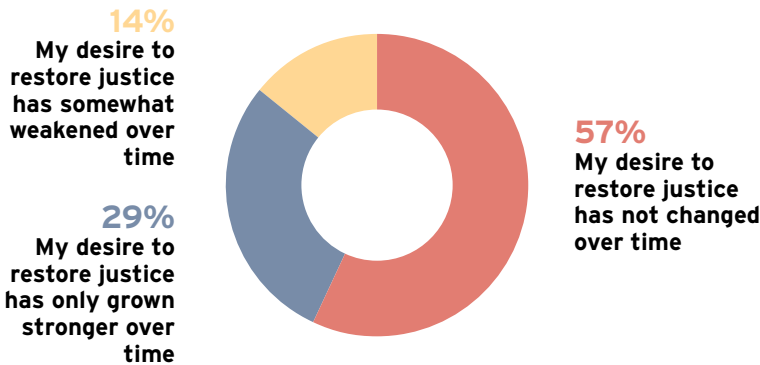
Several national jurisdictions have opened investigations into crimes committed in Belarus, primarily in cases involving their own nationals. These proceedings, based on the passive personality principle, reflect an important recognition of the gravity of the violations and the need to address them beyond Belarus' borders. While these efforts are commendable, States have not effectively utilised universal jurisdiction, which enables them to pursue accountability for grave international crimes irrespective of the perpetrator's nationality or the crime's location. There remains untapped potential for States to make greater use of this avenue. Expanding such efforts would demonstrate a collective commitment to ensuring that justice is pursued for all victims of international crimes.

Justice within Belarus is crucial for many survivors, who view it as the most authentic form of accountability – as illustrated in the report *“How Survivors of Torture and/or Cruel Treatment Perceive Justice”* published by the Human Rights Center Viasna and the International Committee for the Investigation of Torture in Belarus in November 2024. Under the current regime, characterised by an orchestrated campaign of repression and compromised judicial system, this justice is unattainable. Yet, in a post-transition phase, a national criminal justice system bolstered by democratic reforms and institutional vetting might eventually be able to contribute to a nationally led effort to confront past abuses and rebuild public trust.

Discussions among States regarding the establishment of a Special Tribunal have primarily centered on the crime of aggression against Ukraine, while Belarus has mainly been considered for its complicity in this offense. Although Belarusian individuals like Head of State, Head of Government, and Foreign Minister could be subject to investigation and prosecution at the Council of Europe Special Tribunal for Ukraine, this holds limited relevance for victims of

violations committed within Belarus itself. The widespread and systematic abuses experienced by Belarusian citizens fall outside the scope of this mechanism. Victims’ voices are unlikely to be heard unless they are “specially affected” by actions that underpin the aggression-related indictment, and they are unlikely to access the envisaged compensation system unless they were residing in Ukraine. Additionally, the very same alleged perpetrators might also be under investigation by the ICC, which has jurisdictional precedence over the Special Tribunal in case of their arrest.

**Findings and quotes from survivors from the report ‘How Survivors of Torture and/or Cruel Treatment Perceive Justice,’ published in 2024, which explores perceptions of justice among survivors of torture and cruel treatment in Belarus:**



“For every proposal I received, for example, Viasna’s proposal to participate in documenting,... proposals from UN representatives...someone was writing a book...Well, I agreed to these things right away. Because this is my personal contribution to at least document the injustice that has been occurring. Well, and hope that something may change someday, and maybe those people who have been doing all this will bear some responsibility one day.”

“Getting compensated is more of a private matters that concerns only me. And punishment is more of a social thing, it plays the role of affirming social justice or ensuring that this will not happen again.”

“We need some kind of concrete example so that future generations will remember this: an understanding that this is definitely not the way to do things, that we need to have our own understanding and not sign up for all sorts of atrocities.”

The ongoing investigation of the ICC into Ukraine shares similar limitations from the perspective of Belarusian survivors of severe human rights violations. This investigation encompasses war crimes and crimes against humanity committed in Ukraine. Belarusian senior figures are implicated only in relation to Belarus’ complicity in these crimes, such as enabling missile launches from its territory, or participating in the alleged transfer and deportation of children from Ukraine. As the investigation primarily targets violations of international humanitarian and criminal law impacting the Ukrainian population in Ukraine, it fails to provide a route to accountability or reparations for Belarusian victims of international crimes in Belarus.



## Mechanisms to establish State responsibility

In addition to criminal responsibility, it is also essential to pursue the responsibility of the Belarusian State for violations of international law. The International Court of Justice (ICJ), which settles legal disputes between states, offers a forum through which other states could challenge Belarus' record under treaties both parties have ratified without reservations concerning the ICJ's jurisdiction prior to the dispute. Potential cases could involve breaches of the Convention Against Torture, given that previous findings from UN treaty bodies have already established widespread and systematic patterns of abuse. A successful case before the ICJ could result in a binding judgment requiring Belarus to cease its violations, undertake legal and institutional reforms, and provide reparation which may later be distributed to victims.

Other treaty-based bodies also help establish State responsibility, such as the International Labour Organization (ILO), a tripartite mechanism involving governments, employers' and workers' representatives. In both its regular supervisory mechanism and through its special procedures, the ILO has reviewed Belarus' compliance with ILO conventions and found it in serious and persistent breach, particularly for repressing independent trade unions and retaliating against workers engaged in protest. While not a judicial body, the ILO's supervisory mechanisms issue authoritative findings that can lead to international pressure and ensure these abuses remain visible and subject to multilateral scrutiny.

## Other mechanisms

The UN Group of Independent Experts on the human rights situation Belarus (GIEB) offers a distinct and substantial contribution to ongoing accountability efforts. As a fully independent UN-mandated investigative body, the GIEB generates authoritative legal and factual findings based on its own investigations, and recommendations. Its mandate encompasses the entire spectrum of human rights—civil, political, economic, social, and cultural.

Unlike the OHCHR Examination of the human rights situation in Belarus that preceded the GIEB, it can investigate extraterritorial abuses linked to the Belarusian context, such as violations against exiled Belarusians. It also examines the roles of third-party states, private actors, and structural root causes, broadening the scope of accountability beyond the State itself. The GIEB employs the framework of international human rights law and the “reasonable grounds to believe” standard in identifying patterns of violations and potential perpetrators. Additionally, its gender- and age-sensitive approach ensures the specific impacts on survivors are documented in accordance with international standards.

Complementing these mechanisms are the United Nations treaty bodies, which monitor State compliance with international human rights instruments. Through periodic reviews, individual communications, and inquiries, these bodies offer authoritative interpretations of legal obligations and public documentation of State practices. Currently, only the individual complaints procedure of the Convention on the Elimination of All Forms of Discrimination Against Women (UN CEDAW) is applicable to Belarus, and only the Committee Against Torture and the Committee

on Elimination of All Forms of Discrimination against Women (CEDAW) have the competence to initiate a country inquiry. For survivors, these bodies offer a form of recognition and an avenue for advocacy, particularly since domestic remedies are unavailable.

Another essential arm of the UN human rights system is Special Procedures. Mandate holders, such as the Special Rapporteur on Belarus and thematic experts on torture, arbitrary detention, and enforced disappearance, have played a pivotal role in documenting violations and elevating survivor voices. Their urgent communications and public reports provide real-time attention to abuses and place the Belarusian government on formal notice. As a result, these procedures offer survivors and civil society organisations a platform to present information, trigger international reactions, and contribute to formal records of abuse. Rapporteurs who documented patterns of human rights violations in Belarus in fact-finding reports were also appointed in implementation of the OSCE Moscow Mechanism, based on input from victims and civil society organisations.

Possible additional avenues could consist in a Belarus-specific Special Tribunal or the establishment of a mechanism aimed at preparing for reparations, modelled after the register of damages created for Ukraine. Such initiative could document the harm suffered by survivors in a systematic and verifiable manner, ensuring that the infrastructure for future compensation and rehabilitation is firmly grounded in evidence. Although such mechanisms do not immediately lead to reparation payments, registers also support truth-telling efforts and provide families and communities with formal acknowledgment of harm, affirming that survivors' experiences matter.

## Conclusion

Taken together, the accountability mechanisms outlined in this report provide a comprehensive and complementary array of options for States seeking to advance accountability for the serious human rights and international criminal law violations documented in Belarus and against the exiled Belarusian community.

Each mechanism offers a distinct contribution towards what survivors have consistently sought: acknowledgment of the truth, accountability for perpetrators and the State, access to redress, and guarantees of non-repetition.

Their effectiveness hinges not only on the execution of their individual mandates but also on their interaction and mutual reinforcement over time. Importantly, most of these avenues require robust engagement from States, who remain the primary gatekeepers of international justice.

Achieving justice for Belarus necessitates sustained, committed, and coordinated action across multiple mechanisms, with survivors at the centre. Only through an inclusive and survivor-centered approach can the international community ensure that truth, accountability, and redress are consistently upheld as universal principles, rather than applied selectively.

The table below outlines the main mechanisms to address Human Rights and International Criminal Law Violations in Belarus.

Mechanism (Type of accountability)	What is it?	What are the preconditions?	What are the possible outcomes?	What is the added value?	How can victims or CSOs engage?
<b>International Criminal Court (Individual)</b>	A permanent international court that investigates and prosecutes individuals, for crimes against humanity, war crimes, genocide and the crime of aggression.	<p>The ICC can open an investigation through a State Party referral, a UNSC referral or on the Prosecutor's own initiative (<i>proprio motu</i>), provided jurisdictional requirements are met, and the case is admissible under the complementarity principle.</p> <p>Belarus is not a State Party to the Rome Statute, however, the State Parties that Belarusians fled to, such as Lithuania, are.</p> <p>Following Lithuania's referral of the situation in Belarus in 2024, the Prosecutor has to determine if there is a reasonable basis to proceed with an investigation, based on an assessment of jurisdiction and admissibility.</p>	<p>Convictions and sentencing of individual perpetrators, if the individual is found guilty.</p> <p>The ICC can order reparations to victims which may include restitution, compensation, rehabilitation and measures of satisfaction.</p>	<p>Determination of individual criminal responsibility, including for Heads of States who otherwise enjoy immunity.</p> <p>Reparations can be awarded to victims if there is a conviction.</p>	<p>Victims may participate during all stages of proceedings where their personal interests are affected.</p> <p>Victims may also provide their testimonies as witnesses.</p> <p>CSOs can send information to the Prosecutor based on Article 15 of the Rome Statute.</p>

Mechanism (Type of accountability)	What is it?	What are the preconditions?	What are the possible outcomes?	What is the added value?	How can victims or CSOs engage?
<b>National courts: universal jurisdiction or extraterritorial jurisdiction based on active or passive personality (Individual)</b>	<p>The prosecution of international crimes in domestic courts regardless of where the crimes occurred and irrespective of the nationality of the perpetrator or victim.</p> <p>When based on active or passive personality, the perpetrator or the victim must be a national of the State where extraterritorial jurisdiction is to be invoked.</p>	<p>States should enact specific legislation on universal jurisdiction (UJ) within their domestic legal frameworks.</p> <p>Some states impose restrictions on universal jurisdiction by requiring a nexus to the nationality or residence of the victim or alleged perpetrator, the physical presence of the suspect, or conditioning prosecutions on double criminality.</p> <p>Sustained political will is essential for its effective implementation.</p>	Criminal convictions of individual perpetrators, and reparation to victims.	<p>UJ enables prosecution where neither the territorial State nor the State of nationality is willing or able to act, thereby enabling victims to access justice and ensuring there is no gap in accountability.</p> <p>UJ proceedings often focus on prosecuting lower-ranking perpetrators, complementing ICC investigations that target those most responsible for international crimes.</p>	<p>Depending on jurisdiction, victims, their legal representatives, or civil society organisations may be able to file a complaint or submit information to the criminal justice authorities.</p> <p>In some jurisdictions, victims may participate as parties to the proceedings.</p>
<b>CoE Special Tribunal for the Crime of Aggression Against Ukraine (Individual)</b>	<p>An international tribunal established within the Council of Europe (CoE) framework to investigate and prosecute political and military leaders who planned, prepared, initiated, committed or attempted to commit the crime of aggression in Ukraine.</p> <p>Targeting high-level political and military leaders, the Tribunal could investigate the involvement of Belarusian leaders in the crime of aggression against Ukraine.</p>	<p>The Prosecutor General of Ukraine refers cases and investigations to the Tribunal's Prosecutor, following an assessment on whether a person should be charged with the crime of aggression.</p> <p>The ICC has jurisdictional precedence over the Special Tribunal in case of the arrest of the respective high-level perpetrator(s).</p>	<p>Conviction and sentencing of political and military leaders found guilty of the crime of aggression against Ukraine.</p> <p>While the tribunal may address complicity of Belarusian leaders in the crime of aggression, it offers no recourse for survivors of the widespread and systematic violations of human rights and international criminal law in Belarus.</p>	<p>Fills a jurisdictional gap left by the ICC, which cannot prosecute the crime of aggression as the Russian Federation has not ratified the Rome Statute and the Kampala Amendments related to the crime of aggression.</p> <p>Exception to functional immunity.</p> <p>Provision on <i>in absentia</i> trials under condition of procedural safeguards.</p>	<p>Victim participation is narrowly defined, limited to individuals "specially affected" by the crime.</p> <p>Belarusian citizens are unlikely to benefit unless they were residing in Ukraine.</p>

Mechanism (Type of accountability)	What is it?	What are the preconditions?	What are the possible outcomes?	What is the added value?	How can victims or CSOs engage?
<b>International Court of Justice (State)</b>	<p>The principal judicial organ of the United Nations, the ICJ settles legal disputes between States relating to provisions contained in international treaties (“contentious cases”). It also provides advisory opinions at the request of UN bodies and specialised agencies.</p> <p>The ICJ deals with State accountability as opposed to individual accountability on the basis that, as obligations <i>erga omnes</i>, the protection of human rights is owed to the international community as a whole.</p>	<p>Contentious proceedings can be initiated by a State Party to a treaty, focusing solely on resolving issues explicitly outlined in the treaty.</p> <p>The ICJ could be used to hold Belarus accountable for violations under treaties like the UNCAT and UN CEDAW.</p> <p>Requires good faith attempt at negotiation and arbitration, and eventual failure in resolving the dispute.</p>	<p>Rulings can confirm a state’s non-compliance or breach of specific international legal standards.</p> <p>The State’s failure to implement the judgment may prompt the other party to raise the issue of non-compliance before the UN Security Council, which can recommend measures to give effect to the judgement (although power not used to date).</p> <p>Advisory opinions on legal questions which are not legally binding but provide guidance on the interpretation and application of (human rights) law.</p>	<p>Provides authoritative guidance on the interpretation and application of international law, including international human rights law.</p> <p>ICJ can order provisional measures such as preventing acts of torture or facilitating humanitarian assistance.</p>	<p>CSOs can advocate for ICJ proceedings to be initiated by a State or group of States, and may provide substantive and evidentiary input to States throughout the proceedings.</p> <p>Given the inter-state nature of ICJ disputes, victims and civil society organisations do not have standing before the Court.</p>

Mechanism (Type of accountability)	What is it?	What are the preconditions?	What are the possible outcomes?	What is the added value?	How can victims or CSOs engage?
<b>International Labor Organisation (State)</b>	<p>A specialised UN agency with a mandate related to individual and collective labour rights and a tripartite setting that includes governments, employers' and workers' representatives.</p> <p>It sets international labour standards and monitors State compliance through regular supervisory mechanism and special procedures.</p>	<p>ILO regularly oversees Member States' implementation of its ratified Conventions through periodic review reports.</p> <p>A special procedure enables complaints against a Member State for non-compliance with the option of the establishment of a Commission of Inquiry, and invocation of Article 33 if recommendations are not implemented.</p> <p>Special procedures also address freedom of association violations and facilitate representations from employers' or workers' associations regarding non-observance of ratified ILO Conventions.</p>	<p>Findings of violations of ILO conventions; recommendations of actions to States to address violations; and adoption of measures in response to the State's non-compliance with recommendations.</p> <p>The Governing Body may explore interim measures in the context of the complaints procedure.</p> <p>Regular and special oversight procedures of ILO are connected, with the regular processes often serving as the catalyst for initiating special measures.</p>	<p>While limited to labour rights, ILO procedures can be a useful accountability option in relation to the sustained crackdown on independent trade unions and retaliation against workers engaged in protest.</p> <p>The ILO provides a tripartite structure that includes governments, employers' and workers' representatives, and enables tripartite interaction beyond the formal ILO procedures.</p>	<p>The ILO mechanisms do not allow victims or CSOs (other than trade unions) to file complaints, engage during the fact-finding or be accredited for participation.</p> <p>However, they can engage with this mechanism by advocating for States to take action and by furnishing information and documentation on labour rights violations to the ILO actors.</p>

Mechanism (Type of accountability)	What is it?	What are the preconditions?	What are the possible outcomes?	What is the added value?	How can victims or CSOs engage?
<b>UN Group of Independent Experts on the human rights situation in Belarus (GIEB)</b> <b>(Other)</b>	<p>A group of three independent experts mandated to investigate, document, and analyse human rights violations in Belarus since 1 May 2020.</p> <p>It builds on the work of the former OHCHR Examination of the human rights situation in Belarus (March 2021 – March 2024).</p>	<p>The mandate of the GIEB has to be annually renewed for the group to continue its activities.</p>	<p>Reports to the UN Human Rights Council; documentation and storage of evidence; awareness raising through press releases and public statements.</p>	<p>GIEB operates autonomously, conducting its own investigations and formulating factual and legal findings and recommendations.</p> <p>Its mandate is to investigate and establish facts of all alleged human rights violations committed in Belarus since 1 May 2020, collect, preserve and analyse related evidence and make recommendations with a view to ending impunity.</p> <p>It can investigate extraterritorial abuses linked to the Belarusian context, such as violations against exiled Belarusians, and examine the roles of third-party states, private actors, and structural root causes.</p>	<p>Individuals, groups and organisations can submit information to the GIEB.</p> <p>Victims and CSOs also have the opportunity to engage with the GIEB during consultations undertaken by the experts.</p>

Mechanism (Type of accountability)	What is it?	What are the preconditions?	What are the possible outcomes?	What is the added value?	How can victims or CSOs engage?
<b>UN Treaty Bodies (Other)</b>	<p>UN expert committees that monitor State compliance with the core international human rights treaties.</p> <p>Belarus is a State party to ICCPR, ICESCR, ICERD, UN CEDAW, UNCAT, UNCRC, and UNCRPD.</p>	<p>Periodic reviews scheduled every four to five years.</p> <p>Currently, only the individual complaints procedure of the UN CEDAW is applicable to Belarus.</p> <p>Only the CAT and CEDAW have the competence to initiate a country inquiry.</p>	<p>Concluding observations in periodic reviews; decisions on individual complaints; summaries of (confidential) country inquiries; and press releases and public statements.</p>	<p>Create a credible and public record of violations, and bring attention to human rights violations.</p>	<p>Victims and CSOs can provide information about human rights at different stages of the reporting process in periodic reviews, and also prompt treaty bodies to initiate country inquiries.</p> <p>Victims can file individual complaints regarding violations they suffered.</p>
<b>UN Special Procedures (Other)</b>	<p>Independent human rights experts tasked with investigating, reporting, and making recommendations related to thematic or country-specific human rights issues.</p> <p>The mandate of the Special Rapporteur on the situation of human rights in Belarus was established in July 2012.</p> <p>The thematic mandates on torture, arbitrary detention, extrajudicial, summary or arbitrary executions and enforced disappearance have particular relevance to the Belarus context.</p>	<p>The mandates are subject to renewal.</p> <p>Thematic mandates can investigate, report, and engage on human rights issues in any UN Member State, regardless of that State's treaty obligations.</p>	<p>With the exception of country missions, the ability of Special Procedures to act is not dependent on a State's consent, ratification, or recognition.</p>	<p>Annual reports to the Human Rights Council; communications in the form of allegation letters or urgent appeals; possibility of filing <i>amicus curiae</i> in domestic and international legal proceedings; and country visits to assess the human rights situation.</p> <p>Special Procedures remain a vital mechanism in the absence of meaningful co-operation by the Belarusian authorities.</p>	<p>Victims and CSOs can submit information on alleged violations, typically through an online form.</p>



Mechanism (Type of accountability)	What is it?	What are the preconditions?	What are the possible outcomes?	What is the added value?	How can victims or CSOs engage?
<b>OSCE Moscow Mechanism (Other)</b>	An OSCE mechanism enabling OSCE participating States to establish <i>ad hoc</i> missions of independent experts to investigate serious human rights violations.	The Moscow Mechanism can be self-invoked by a participating State, invoked by one or more States with the consent of the State under scrutiny, or invoked by any participating State with the support of at least five other States, regardless of the consent of the State under scrutiny.	Establish facts and report on them; include recommendations directed to the State under examination, but also to OSCE participating States and to the international community.	A new invocation of the Moscow Mechanism could focus on an assessment in relation to international criminal law, compared to the previous invocations that focused on human rights law; it could investigate transnational repression against the Belarusian exiled population.	While victims have no formal role, they and civil society organisations contribute substantially by submitting testimonies and documentation, participating in interviews, and informing the rapporteurs' reporting.

## B. Recommendations to States

### At the national level

**Ensure that legal frameworks are in place to effectively investigate and prosecute violations of international criminal law:**

- States should ensure that crimes against humanity are fully incorporated into domestic law, including all underlying acts when committed as part of a widespread or systematic attack against civilians. At the same time, States should also criminalise torture, enforced disappearance, sexual and gender-based violence – as stand-alone offences under domestic law. In both cases, national law should explicitly contain provisions on modes of responsibility which embed international standards (including direct participation, mechanisms for joint criminal enterprise and command responsibility). States should ensure that these offences are punishable by appropriate penalties, which reflect their grave nature.
- States should enshrine universal jurisdiction provisions in their national legislation in accordance with their international legal obligations and ensure that definitions of international crimes conform with international law.
- States should remove any immunities and temporal limitations that may prevent the investigation of international crimes and the prosecution of State officials.
- States should remove any requirement of nationality or residence for universal jurisdiction cases so that investigations can be commenced even if the perpetrator or victim is not a State national.
- States should enable domestic criminal justice authorities to commence structural investigations of core international crimes without the perpetrator being present on the territory of the investigating State.

**Establish specialised structures and allocate sufficient resources for the investigation and prosecution of violations of international criminal law:**

- States should establish specialised units within police and prosecution authorities, tasked with investigating and prosecuting international crimes.
- States should ensure that sufficient financial and human resources are allocated to the investigation and prosecution of international crimes under extraterritorial and universal jurisdiction.
- States should invest in the necessary technical expertise, including forensic, digital, financial and gender-sensitive skills, to handle the complexity of investigating and prosecuting international crimes.

- States should ensure effective coordination and information-sharing among relevant national bodies to facilitate prosecutions based on extraterritorial and universal jurisdiction.

## At the international level

### **Strengthen cooperation in relation to extraterritorial and universal prosecutions for crimes committed by the Belarusian regime:**

- States should collaborate in investigations of alleged Belarusian perpetrators through mutual judicial assistance and the Europol Analysis Project Core International Crimes ('AP CIC').
- States should consider the establishment of a Joint Investigation Team (JIT) under the coordination of Eurojust, to enhance inter-State cooperation on extraterritorial investigation and prosecution of crimes committed by Belarusian officials.
- States should strengthen their cooperation at the international level in prosecuting international crimes through signing, ratifying and applying relevant treaties, such as the Ljubljana-Hague Convention.

### **Support the ICC Prosecutor's preliminary examination into the Lithuania/Belarus situation:**

- States should join Lithuania's referral of the Lithuania/Belarus situation to the International Criminal Court (ICC) and express support for the Court's work towards accountability for violations of international criminal law committed at least partly on the territory of Lithuania and on the territory of other State Parties to the Rome Statute.
- States should ensure that the ICC is sufficiently resourced and able to carry out a possible investigation into the Lithuania/ Belarus situation.

### **Initiate mechanisms to address accountability gaps, to enhance victim redress provisions and to prevent future human rights violations:**

- States should support processes that facilitate restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition for Belarusian survivors of human rights violations.
- States should bring a case against Belarus before the International Court of Justice raising a dispute related to the Convention against Torture or the Convention on the Elimination of All Forms of Discrimination Against Women.
- States should re-apply the OSCE Moscow Mechanism and appoint a Rapporteur to assess the continuing severe human rights violations against the framework of international criminal law and to document transnational repression against the Belarusian exiled population.

- States should continue to employ the regular and special oversight procedures of the International Labour Organization to address the repression of independent trade unions and retaliation against workers engaged in protest.

**Renew the mandate of UN mechanisms tasked with monitoring and investigating human rights violations in Belarus:**

- States should support the renewal of the mandate of the Group of Independent Experts on the human rights situation in Belarus (GIEB), which investigates human rights violations committed in Belarus since 1 May 2020, collects, consolidates, preserves and analyses evidence of such violations.
- States should support the renewal of the mandate of the Special Rapporteur on the human rights situation in Belarus, who monitors and reports on the human rights situation in Belarus.

**Support Belarusian human rights organisations, independent lawyers, journalists and accountability initiatives:**

- States should support Belarusian human rights organisations, independent lawyers and journalists.
- States should collaborate with victims and civil society organisations, particularly those who collect evidence on violations of international human rights and criminal law.
- States should support independent accountability initiatives, which aim to collect, preserve and analyse evidence of gross human rights violations constituting crimes under international law allegedly committed by Belarusian authorities.

## C. How Does the IAPB Support Accountability Mechanisms for Belarus?

Civil society documentation of human rights violations and international crimes is central to supporting accountability mechanisms for Belarus. Due to limited access to the victims and the territory, civil society organisations (CSOs) are often the first to assist survivors of torture and other serious human rights violations and collect evidence of these crimes, while it can still be preserved. Without their efforts, crucial evidence of grave crimes can be forgotten, destroyed, vanish or otherwise be lost and never become available for accountability processes. As well-known and respected entities, CSOs also often have a relationship of trust with affected communities and can access individuals and groups that are difficult to reach and, as a result, risk being underrepresented in the accountability processes.

The response to crimes committed across other contexts, where national-level investigations and prosecutors have been supported by CSO-led documentation efforts, such as in Syria or Ukraine, demonstrates the importance of the collaboration between civil society organisations and prosecuting authorities. As acknowledged by Eurojust and the ICC, civil society has developed vast expertise and tools to collect and preserve evidence, verify and analyse information, and support investigations conducted by national criminal justice authorities and international accountability bodies, such as the ICC, UN Commissions of Inquiry and other UN investigative mechanisms.<sup>1</sup>

Beyond documentation, CSOs also play a crucial role in tracking suspects of international crimes, employing open-source investigation techniques, as well as collecting testimonies, linkage evidence and other information provided by survivors and affected communities. This information can be shared with prosecuting authorities and can be instrumental in securing the arrest and conviction of suspects of international crimes. Such collaboration efforts are an important element of the effective accountability efforts and need to be further developed to advance accountability for Belarus.

### What does the IAPB do?

The International Accountability Platform for Belarus (IAPB) is an independent, non-governmental initiative that collects, verifies, consolidates, preserves, and analyses evidence of serious human rights violations that may constitute crimes under international law allegedly committed by Belarusian authorities in the run-up to the 2020 presidential election and during the ensuing years.

The IAPB documents these crimes within the framework of criminal law and individual criminal liability, ensuring legal admissibility in criminal justice procedures and compliance with human rights standards. The Platform assists criminal justice authorities and international accountability mechanisms in investigating and prosecuting alleged perpetrators by providing high-quality evidence and legal analysis.

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<sup>1</sup> Eurojust, Documenting International Crimes and Human Rights Violations for Criminal Accountability Purposes: Guidelines for Civil Society Organisations.

## How does the IAPB support prosecutors and accountability mechanisms?

The IAPB provides evidence and information upon request to support investigations into crimes under international law of prosecutorial services and international accountability mechanisms (subject to informed consent with respect to victim/ witness statements):

- **National prosecutions under domestic frameworks**
- **Cases under universal jurisdiction**
- **International Criminal Court**
- **UN Group of Independent Experts on the human rights situation in Belarus**
- **OSCE Moscow Mechanism**
- **Lawyers and civil society organisations**

**All interactions are confidential, compliant with data protection regulations, and aligned with best practices in international criminal investigations.** Customised discovery spaces allow evidence sets to be tailored for prosecutorial use and to be disclosed safely.

## What types of evidence does the IAPB collect?

The IAPB collects and preserves a diverse range of evidentiary materials, ensuring adherence to criminal procedural standards. All materials are systematically tagged to facilitate searches in the closed-source database.

### **Interviews and closed-source documentation:**

- **Interviews with victims and witnesses:** Legally structured, based on the PEACE model, trauma-informed, and recorded with informed consent.
- **Documents:** Legal records, arrest warrants, court rulings, and official decrees.
- **Medical reports:** Forensic evidence supporting claims of torture and mistreatment.
- **Audio-visual files:** Videos, photographs, and audio recordings from incidents under investigation.
- **Witness summaries** to facilitate the review and analysis of case materials provided to external justice actors.

### **Open-source investigation:**

- Use of a professional **open-source evidentiary repository** of over **1.5 million records**.
- **Verification of selected audio-visual and other digital evidence**, ensuring reliability for legal proceedings.
- **Proactive tracking of relevant information** in response to prosecutorial service requests, ensuring that case-building aligns with evolving investigative needs.

### Analytical products:

- The IAPB's legal and investigative team produces highly specialised analytical products **tailored to requests**.
- The IAPB compiles **structured assessments** of State policies, produces linkage analysis and maps State structures.
- In-depth legal and factual analysis can be provided on **specific crimes or topics**.
- Patterns identified by the IAPB can assist in establishing **widespread and systematic practices**.

### Principles of evidence gathering:

- **Criminal justice standard.** Collected evidence meets requirements for use in judicial proceedings.
- **Strict, documented, and verifiable chain of custody.** Comprehensive documentation of how evidence is obtained, stored, and preserved.
- **Survivor-centered approach.** Prioritising the safety, dignity, and well-being of victims.
- **Informed consent.** Ensuring voluntary and documented participation from witnesses.
- **Data protection (GDPR-compliant).** Secure storage and controlled access to sensitive information.
- **Verification and corroboration.** Cross-referencing multiple sources to confirm authenticity, ensure reliability and to enhance the probative value of information and evidence.
- **Gender-responsive approach.** Recognising and documenting gender-based violence and discrimination.

## How is the IAPB structured?

The Platform's unique blend of national and international expertise is a significant advantage. The IAPB's Belarusian partners, Human Rights Centre Viasna and International Committee for the Investigation of Torture in Belarus, enjoy a position of trust with victims and witnesses, which has facilitated the collection of information, while the two international organisations, DIGNITY and REDRESS, bring specific international criminal legal expertise relating to evidentiary and analytical products, as well as access to a broad international network.

The IAPB also benefits from the involvement of further organisations through the IAPB's **Advisory Council**, including Belarusian organisations (not listed for security reasons), the European Center for Constitutional and Human Rights (ECCHR), the International Federation for Human Rights (FIDH), the International Rehabilitation Council for Torture Victims (IRCT), the Norwegian Helsinki Committee, Physicians for Human Rights (PHR), Reporters Without Borders (RSF), and the World Organisation Against Torture (OMCT).

## The IAPB's track record

The IAPB has received and responded to multiple requests for assistance since its establishment, including (as of 31 August 2025):

- **Ten formal requests from six states** for evidentiary support in ongoing investigations.
- **Five requests from UN accountability bodies** (OHCHR Examination of the Human Rights Situation in Belarus and UN Group of Independent Experts on the Human Rights Situation in Belarus).
- **One request from a OSCE Moscow Mechanism Rapporteur.**
- **Enquiries from lawyers and civil society organisations** working on Belarus.



## II. PURSUING ACCOUNTABILITY: CONTEXT, PATHWAYS AND CHALLENGES

### A. Background

Since May 2020, Belarus has witnessed a significant deterioration of an already concerning human rights situation, linked to the disputed August 2020 presidential elections and the subsequent orchestrated campaign of repression against real or perceived critics of the Lukashenko regime.<sup>2</sup>

Serious violations were documented by civil society organisations, most notably Human Rights Center Viasna (Viasna), International Committee for Investigation of Torture in Belarus (ICIT), the International Accountability Platform Belarus (IAPB), various Belarusian and international human rights organisations, as well as international bodies, particularly the Office of the High Commissioner for Human Rights (OHCHR), the UN Group of Independent Experts on the situation of human rights in Belarus (GIEB), the Special Rapporteur on the Situation of Human Rights in Belarus, and the Organization for Security and Co-operation in Europe (OSCE) Moscow Mechanism Rapporteur. Such violations were also highlighted in numerous statements and resolutions issued by the European Parliament and the Parliamentary Assembly of the Council of Europe (PACE).

These violations include, among others (the list below is non-exhaustive):

- **Widespread arbitrary detention and violations of due process rights.** Individuals opposing, or perceived to be opposing, the government have been subjected to unlawful arrest and detention, as well as trials “with predetermined outcomes that flouted due process and fair trial guarantees”,<sup>3</sup> often conducted without defence counsel, closed to the public, and relying on fake witnesses and/or forced confessions.<sup>4</sup> As of September 2025, 1,168 political prisoners remained in detention, including prominent figures such as Ales Bialiatski, Valiantsin Stefanovic, Maria Kalesnikava, Uladzimir Labkovich, Maria Rabkova, Andrei Chapiuk and Nasta Loika.<sup>5</sup> Moreover, the government launched a repressive campaign against lawyers, disbarring, arresting, and forcing into exile defence lawyers who represented protesters, human rights defenders, and independent journalists.<sup>6</sup>

<sup>2</sup> UN, Belarus: Violations remain ‘widespread and systematic’, says independent expert group, 14 February 2025.

<sup>3</sup> UN Human Rights Council, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, UN Doc. A/HRC/58/68, paras. 32-41, 7 February 2025.

<sup>4</sup> OSCE Office for Democratic Institutions and Human Rights, Televised “confessions” further example of widespread rights violations in Belarus, OSCE human rights head says, 4 June 2021.

<sup>5</sup> Viasna, Human Rights situation in Belarus, March 2025, 8 April 2025. See also, Amnesty International, Belarus: Sentencing of human rights defenders a ‘blatant retaliation’ for their work, 3 March 2023.

<sup>6</sup> OHCHR, Report of the United Nations High Commissioner for Human Rights, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, UN Doc. A/HRC/55/61, para. 21, 15 March 2024.

- **Potentially unlawful killings.** Incidents of potential unlawful killings allegedly took place during protests and in the context of deaths in detention. The Report of the Group of Independent Experts on the Situation of Human Rights in Belarus (GIEB) documented several deaths of political prisoners in custody or shortly after being released over the past few years.<sup>7</sup> At least one person died during protests in the immediate aftermath of the 2020 presidential election.<sup>8</sup>
- **Torture and ill-treatment during protests, arrests, detention, transfer and house searches.** Reports detail instances of torture and other cruel, inhuman or degrading treatment or punishment, including excessive and indiscriminate use of force and less-lethal weapons (e.g. unnecessary and/or disproportionate use of stun guns, stun grenades, rubber bullets and tear gas, use of stun guns against sensitive parts of the body, during transportation, interrogation and/ or in detention, designed to silence dissent.<sup>9</sup>
- **Psychological torture and ill-treatment.** Ill-treatment during arrests, transport and in detention included threats against the person (e.g. threat of being shot, burnt, beaten or raped), threats against family members (e.g. threats of raping one's wife, of taking children into care, threats to 'visit' family members), forced video-taped confessions, and verbal abuse.
- **Sexual and gender-based violence.** This included rape, threats of rape, use of discriminatory or humiliating language against peaceful protesters and detainees. Women detainees also faced threats of separation from their children.<sup>10</sup>
- **Inhumane detention conditions.** Many testimonies point at severe overcrowding, inadequate access to food and water, extreme temperatures inside the cells, prolonged use of solitary confinement, denial of medical care, and arbitrary sentence extensions under Article 411 of the Criminal Code.<sup>11</sup> Individuals detained in the context of expressing political dissent are subject to harsher conditions than those detained on non-political grounds.<sup>12</sup>
- **Use of extremist legislation as a tool of repression against civil society and independent media.** By the end of 2021, all independent media in Belarus had been categorised as extremist formations, and journalists had been arrested and sentenced.<sup>13</sup> As of September 2025, more than 1,500 NGOs were dismantled, or were in the process of being dismantled.<sup>14</sup> By February 2024, all independent trade unions had also been dismantled.<sup>15</sup>

7 Office of the UN High Commissioner for Human Rights, Belarus: UN experts call for investigations into deaths in custody, 16 July 2025.

8 Office of the UN High Commissioner for Human Rights, Bachelet condemns violent response of Belarus to post-electoral protests, 12 August 2020.

9 UN, Belarus: Violations remain 'widespread and systematic', says independent expert group, paras. 42-57 14 February 2025.

10 International Accountability Platform for Belarus (IAPB), Eighth progress report to supporting States, 1 October 2024 – 31 March 2025.

11 OHCHR, Belarus: Alarming ill-treatment of women and prisoners and life-threatening condition of Viktoriya Kulsha, say UN experts, 26 March 2025.

12 OHCHR, Belarus must release all detainees held on political grounds and protect their rights: UN experts, 30 May 2023.

13 Belarusian Association of Journalists (BAJ), Repressions against journalists in 2024, the list of detainees, 5 November 2024.

14 Lawtrend, Monitoring the situation with freedom of association and the status of civil society organizations in the Republic of Belarus October 2024.

15 OHCHR, Freedom of association eradicated in Belarus: Special Rapporteur, 3 July 2024.

- **Forced displacement and exile.** The regime has reportedly forced hundreds of thousands of Belarusians into exile.<sup>16</sup> The OHCHR's March 2024 report estimated that up to 300,000 people have fled since 2020 as a result of a deliberate campaign to silence critical voices,<sup>17</sup> corresponding with one in 30 former residents of the country living in exile.<sup>18</sup> Some sources estimated this figure to have doubled to 600,000 by February 2025.<sup>19</sup>
- **Transnational repression.** Even in exile, Belarusians face ongoing persecution, including politically motivated trials *in absentia*, intimidation of family members still in Belarus, confiscation of property, as well as restrictions on obtaining passports or other documents *via* diplomatic missions, thus mandating that Belarusians return to the country to renew their identification documents.<sup>20</sup> Moreover, the Belarusian government has amended the citizenship law to allow for stripping Belarusians of their citizenship while abroad if convicted of crimes such as 'participation in mass riots' and similar politically motivated charges.<sup>21</sup>
- **Widespread and systematic nature of violations.** The organised and sustained nature of these abuses suggests a deliberate policy of repression, rather than isolated incidents.<sup>22</sup> The OHCHR has indicated that some of these actions may constitute crimes against humanity, due to their widespread and systematic nature, and their targeting of a specific civilian population.<sup>23</sup> The GIEB, in 2025 concluded that the crimes of imprisonment and persecution have been perpetrated against a significant proportion of the population, based on their real or perceived political views.<sup>24</sup>

## B. Different Mechanisms with Distinct Purposes and Outcomes

Various mechanisms at the national, regional, and international levels have been established to perform distinct roles related to the implementation and enforcement of international law and the human rights framework, each with their own strengths and limitations. Some mechanisms contribute to ensuring accountability, while others aim to exert political pressure on governments, promote the prevention of human rights violations, or establish factual records.

16 UN Human Rights Council, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, UN Doc. A/HRC/58/68, para. 58, 7 February 2025.

17 OHCHR, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, UN Doc. A/HRC/55/61 (Advance unedited version, para. 47), 15 March 2024.

18 The Irish Times, Fresh evidence may lead to full ICC investigation into Belarus regime, referring to information from FIDH, 30 March 2025.

19 UN Human Rights Council, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, UN Doc. A/HRC/58/68, para. 58, 7 February 2025, referring to <https://newideas.center/dyk-kolki-belarus-a-z-ehala> (in Belarusian).

20 Report of the Special Rapporteur on the situation of human rights in Belarus, Nils Muiznieks, Report of human rights in Belarus, A/HRC/59/59, para 42, 45, 54-55, 22 April 2025; Human Rights Watch, Belarus: Decree Puts Exiled Citizens at Risk, 8 September 2023; OHCHR, Belarus: UN experts alarmed about widespread in absentia trials, 22 January 2025.

21 Human Rights Watch, 'We Will Find You': A Global Look at How Governments Repress Nationals Abroad, 2024. OHCHR, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, UN Doc. A/HRC/55/61, para. 51, 25 March 2024.

22 OHCHR, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, UN Doc. A/HRC/55/61, para. 51, 25 March 2024.

23 OHCHR, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, UN Doc. A/HRC/55/61 (Advance unedited version), para. 52, 15 March 2024; OHCHR, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, UN Doc. A/HRC/52/68, para. 54, 3 February 2023. See also, Viasna, Belarusian authorities target group of the individuals perceived as disloyal: Viasna lawyer speaks at the OSCE conference, 11 October 2024; Submission by Article 19, Human Constanta, Access Now and World Organisation against Torture (OMCT) to the Special Rapporteur on the Situation of Human Rights in Belarus, 6 June 2023; Claire Mills, Belarus: One year on from the disputed Presidential election, pp. 9-1, 5 October 20210.

24 OHCHR, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, 7 February 2025.

While this paper primarily focuses on mechanisms aimed at delivering accountability,<sup>25</sup> available instruments include:

- **Political and diplomatic measures.** Pressure can be imposed through political and diplomatic channels, including through high-level political statements or UN General Assembly resolutions signalling international condemnation and/or aiming to isolate perpetrators.
- **Sanction regimes.** Sanctions have become a widely used geopolitical tool of coercive diplomacy in the international community's response to gross violations of international law, including human rights law. They typically include travel bans, asset freezes, restrictions on financial transactions and can deliver an immediate form of reputational impact on the sanctioned individuals. In the context of Belarus, the European Union, US, UK, and Canada have imposed sanctions against Belarusian officials, judges, security personnel, and State-affiliated entities implicated in repression and electoral fraud.<sup>26</sup> Sectoral sanctions have also been imposed on Belarus's petroleum, potash, and financial industries, aimed at curbing the regime's sources of revenue.<sup>27</sup>

Sanctions serve deterrent purposes (seeking to deter further abuses), denouncing (by naming and shaming perpetrator), preventive (by limiting and disrupting the regime's ability to fund and sustain repression<sup>28</sup>) and punitive purposes (through diplomatic isolation and restricting access to essential resources or technologies). However, sanctions also raise challenges.<sup>29</sup> Their impact may be limited if not widely coordinated, they may have unintended effects on the general population, and prevent travel and consequently apprehension of perpetrators to be tried abroad. Furthermore, they have also prompted concerns related to due process, transparency, the ability of individuals or entities to challenge their listing, and the rights to a fair hearing and effective remedy.<sup>30</sup>

- **Truth-seeking initiatives.** These mechanisms aim to establish an authoritative account of abuses, thus contributing to healing within affected communities and acknowledging the wrongdoing and suffering of victims and survivors. They include truth commissions and public inquiries.<sup>31</sup>
- **Criminal prosecutions.** The most direct form of accountability involves the investigation and prosecution of individuals accused of serious international crimes, seeking to punish perpetrators and deter future violations of human rights. Avenues include the ICC, hybrid tribunals (such as the Special Court for Sierra Leone), and domestic courts, prosecuting alleged perpetrators based on national or universal jurisdiction.<sup>32</sup>

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25 In the context of international human rights law and international criminal law, accountability refers to the processes and mechanisms by which those responsible for serious wrongdoing are identified, and brought to justice, in a manner that ensures appropriate penalties, enables redress for victims, affirms victims' dignity, and prevents future violations.

26 EEAS Press Team, Belarus: Joint Statement by the EU, the US, Canada and the UK on the 4th anniversary of the fraudulent presidential elections, 9 August 2024. See also: [Timeline](#) - EU sanctions against Belarus, European Council and Council of the European Union; U.S. Department of the Treasury, [Treasury Targets Belarusian State-Owned Enterprises, Government Officials, and Lukashenka's Aircraft](#), 24 March 2023.

27 See, for example: Council of the EU, 9 March 2022, Russia's military aggression against Ukraine: EU agrees [new sectoral measures](#) targeting Belarus and Russia; UK Government, The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019, [Explanatory memorandum](#).

28 Anton Moiseienko, [Crimes and Sanctions: Beyond Sanctions as a Foreign Policy Tool](#), p. 23, 2024.

29 REDRESS, Human Rights First, OSF, Raoul Wallenberg Centre for Human Rights, and PADF, [Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis](#), November 2023.

30 The absence of adequate legal remedies and insufficient procedural safeguards for individuals listed under UN sanctions, which resulted in violations of fundamental rights, led to the lifting of sanctions in cases such as *Kadi and Others v. Council of the European Union*, as determined by the judgment of the Court of First Instance on 11 July 2007. *Al-Bashir Mohammed Al-Faqih and Others v Council of the European Union*, [Judgment](#) of the General Court (Second Chamber) of 29 September 2010, T-135/06 to T-138/06.

31 International Centre for Transitional Justice (ICTJ), [Civil Society-Led Truth-Seeking Initiatives: Expanding Opportunities for Acknowledgment and Redress](#), April 2022.

32 Human Rights Watch, [Increased International Scrutiny over Belarus Crimes](#), 22 October 2024.

- **Inter-State cases before the ICJ.** Inter-State complaints to the ICJ provide a formal mechanism for one State to challenge another's interpretation of a treaty, including human rights treaties that the parties have ratified without reservations concerning the ICJ's jurisdiction prior to the dispute. Based on the notion that the protection of human rights is owed to the international community as a whole ('obligations *erga omnes*'), this process aims to ensure compliance and enforcement of human rights commitments, promoting accountability and fostering dialogue between states.
- **Individual complaints to UN Human Rights Treaty Bodies.** Victims of human rights violations may also submit individual complaints to human rights treaty bodies, provided the State has recognised the respective Committees' competence through Optional Protocol or declaration.<sup>33</sup> Findings of these bodies, so-called 'views', are not legally binding, but provide authoritative assessments of whether a State Party has violated treaty provisions, and outline non-enforceable steps the State should take to remedy violations.
- **Reparative and restorative processes.** Often taking place alongside other mechanisms, these processes focus on the needs and rights of victims, including reparations, memorialisation, rehabilitation, and institutional reforms.<sup>34</sup> Their purpose is to repair harm and support the reintegration of survivors into society. They may take a variety of formats, including administrative reparation programs, registers of damage, or claims commissions.

## C. What Do We Mean by Accountability?

In the context of international human rights law and international criminal law, accountability refers to the processes and mechanisms by which those responsible for serious wrongdoing are identified, and brought to justice, in a manner that ensures appropriate penalties, enables redress for victims, affirms victims' dignity, and prevents future violations.<sup>35</sup> Accountability can be pursued at two levels: **State responsibility** and **individual criminal responsibility**. These operate under distinct legal frameworks and serve different, albeit complementary, purposes:

- **State responsibility.** At the State level, international law recognises the responsibility of States for wrongful acts of their officials, agents, or representatives, including violations of international human rights, criminal and humanitarian law.<sup>36</sup> A State may be held accountable for policies or systemic practices that violate its international obligations —such as the prohibition of torture, enforced disappearances, or repression of dissent.<sup>37</sup> Remedies may include reparations to victims or society at large, public acknowledgment of wrongdoing, institutional reforms, and guarantees of non-repetition.<sup>38</sup> State accountability is typically addressed through inter-State litigation before regional or international courts, such as the ICJ.<sup>39</sup>

<sup>33</sup> See chapter IV, B.

<sup>34</sup> See generally, *Guidance Note of the UN Secretary General: United Nations Approach to Transitional Justice*, March 2010.

<sup>35</sup> OHCHR, *UN 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*, Article 2, I, 2, 16 December 2025.

<sup>36</sup> ILC, *Responsibility of States for Internationally Wrongful Act*, 2001.

<sup>37</sup> ILC, *Draft articles on Responsibility of States for Internationally Wrongful Acts*, with commentaries, 2001.

<sup>38</sup> UN Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, UN Doc. A/HRC/30/42 para. 20(c), 7 September 2015.

<sup>39</sup> Eugenia Andreyuk and Anonymous, *International Mechanisms for Accountability for Human Rights Violations in Belarus* p. 2, January 2022.

- **Individual criminal responsibility.** At the individual level, accountability is reflected in the principle of individual criminal responsibility, which includes those who directly committed international crimes, as well as those who share responsibility as indirect or co-perpetrators, or bear secondary liability by instigating, aiding and abetting, or failing to prevent or punish such crimes as commanders or superiors. Individual criminal responsibility aims to impose penal sanctions on perpetrators and reinforces the principle that no one is above the law. The principle of individual criminal responsibility is delivered through judicial mechanisms such as the ICC, domestic courts applying national criminal law (including universal jurisdiction or active and passive personality principles), or special tribunals, whether international, national or hybrid in nature.

## D. Why Is Accountability Important?

Impunity presents the greatest obstacle to achieving justice and reparations for victims and survivors, perpetuating further human rights violations. In contrast, accountability ensures that perpetrators are brought to justice and issued appropriate penalties, and it can serve as a powerful deterrent against future abuses.

When State agents and political leaders are held accountable for serious abuses, it signals that such actions are unacceptable and will have consequences. This is also crucial for the reparation, rehabilitation and healing of survivors. Moreover, effective accountability measures play a vital role in (re)building public trust and restoring the moral foundation of society. Through public trials, truth-telling mechanisms, and reparations, the relationship between individuals and the State can be repaired, facilitating broader reconciliation and democratic renewal.

### Survivors' perceptions of justice

Recent research conducted by the Human Rights Center Viasna and the International Committee for the Investigation of Torture in Belarus (ICIT) provides critical insight into how Belarusian survivors of State-sponsored violence conceptualise justice and accountability.<sup>40</sup> The findings highlight that survivors perceive justice as extending beyond the mere punishment of perpetrators.

For many, justice entails public recognition of the harm suffered, formal acknowledgment of the wrongdoing by State institutions,<sup>41</sup> compensation for material and moral damage, and access to medical and psychological rehabilitation.<sup>42</sup> Survivors also view justice as a collective social process, linking individual experiences of abuse to broader efforts to dismantle the repressive structures that facilitated such violations.<sup>43</sup> These findings point at the importance of transitional justice for victims of State-perpetrated crimes, and give insights into the role of criminal accountability efforts as an important part of obtaining full and reparative justice.

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40 Viasna and ICIT, Belarus: How Survivors of Torture and/or Cruel Treatment Perceive Justice, p. 20, 2024.

41 Viasna and ICIT, Belarus: How Survivors of Torture and/or Cruel Treatment Perceive Justice, p. 8, 2024.

42 Viasna and ICIT, Belarus: How Survivors of Torture and/or Cruel Treatment Perceive Justice, p. 31, 2024.

43 Viasna and ICIT, Belarus: How Survivors of Torture and/or Cruel Treatment Perceive Justice, p. 24, 2024.

## Accountability and the right to reparation

International law consistently links accountability to the right to reparation and underscores the duty of States to provide reparations as part of accountability.<sup>44</sup> Regional and international courts often rule on reparations as part of their findings on State accountability, as do courts or tribunals at the national level, ordering reparations for victims as part of their judgement or settlement.<sup>45</sup>

The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law articulate five forms of reparation: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.<sup>46</sup> These measures aim not only to address the material harm suffered by victims but also to reaffirm their dignity and societal worth.<sup>47</sup>

In the Belarusian context, survivors have expressed strong support for reparation being part of any accountability efforts. More than 75% of participants have identified material and moral compensation, psychological care, and the public restoration of victims' reputations as key manifestations of justice.<sup>48</sup> Additionally, a majority have called for the judicial review of political cases and the rehabilitation of all those wrongfully convicted for exercising their constitutional rights.<sup>49</sup>

## E. Challenges with Securing Accountability in Belarus

Despite sustained efforts by domestic and international actors to lay the groundwork for justice, securing meaningful accountability for international crimes committed in Belarus continues to face political, legal, and practical challenges:

- **Yielding international attention and political will.** At the international level, the human rights landscape has shifted dramatically since 2020, with the international armed conflicts in Ukraine and Gaza commanding political, legal and media attention. This has contributed to decrease international attention to the ongoing repression in Belarus.<sup>50</sup>
- **Jurisdictional constraints of international mechanisms.** One of the central challenges to securing criminal accountability is the limited jurisdiction of international courts. Belarus is not a State Party to the Rome Statute,

44 OHCHR, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 10 December 1984 by UN General Assembly resolution 39/46. See further, CAT, General Comment No. 3 (2012) on the implementation of article 14 by States Parties, UN Doc. CAT/C/GC/3, 13 December 2012. See also, for instance, Universal Declaration of Human Rights, art. 8; International Covenant on Civil and Political Rights, art. 2; International Convention on the Elimination of All Forms of Racial Discrimination, art. 6; International Convention for the Protection of All Persons from Enforced Disappearance, art. 24; Convention (IV) respecting the Laws and Customs of War on Land, art. 3; International Committee of Red Cross Customary International Humanitarian Law Rules, Rule 150.

45 ICC, Rome Statute, arts. 75-79.

46 UN General Assembly, 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, Resolution adopted by the General Assembly on 16 December 2005, UN Doc. A/RES/60/147, 21 March 2006.

47 See generally, REDRESS, Practice Note 10: Reparation for Torture Survivors, February 2024.

48 Viasna and ICIT, Belarus: How Survivors of Torture and/or Cruel Treatment Perceive Justice, p. 31, 2024.

49 Viasna and ICIT, Belarus: How Survivors of Torture and/or Cruel Treatment Perceive Justice, p. 30, 2024.

50 International Accountability Platform for Belarus (IAPB), Seventh Progress Report 1 April 2024 to 30 September 2024, p. 14, 2024.

which precludes direct ICC jurisdiction in the absence of a referral from the UN Security Council. However, in a notable development, Lithuania has submitted a referral to the ICC in September 2024 to assess jurisdiction over crimes against humanity, including the crimes of deportation, persecution and other inhumane acts, committed by Belarusian officials since at least May 2020, arguing that aspects of these crimes occurred on the territory of ICC member states, thus invoking the precedent of the Myanmar/Bangladesh situation.<sup>51</sup> While the Referral is a significant step, if accepted, it would cover only a subset of the crimes allegedly committed in Belarus.<sup>52</sup>

- **Identification and linkage of perpetrators.** One of the most technically complex aspects of pursuing accountability for serious international crimes lies in the identification of perpetrators and establishing their legal linkage to specific crimes. To mitigate this, the IAPB has intensified its focus on linkage evidence collection and analysis.<sup>53</sup>
- **Lack of universal jurisdiction legislation.** Some states lack universal jurisdiction (UJ) legislation. Without such laws, national courts are unable to investigate or prosecute crimes committed abroad when there is no direct link to their territory or nationals. According to the Center for Justice and Accountability, 40 countries have not yet criminalised a single core international crime such as genocide, crimes against humanity or war crimes, or recognised any form of jurisdiction over such crimes committed outside their borders. This legal gap limits the number of jurisdictions available to pursue justice when international mechanisms are inaccessible or ineffective.<sup>54</sup>
- **Institutional hesitation and legal uncertainty.** Although some European states have initiated proceedings under the principle of universal jurisdiction, progress remains slow and several jurisdictions with access to survivors and functioning legal frameworks remain hesitant to open investigations. This hesitation may stem from resource limitations, political sensitivities, or uncertainties surrounding the legal framing of the crimes committed.<sup>55</sup> To address this, the IAPB offers support to national prosecution services, seeking to reduce the capacity gap.<sup>56</sup>
- **Inexistent or underfunded atrocity crimes units.** Another significant obstacle to advancing accountability through universal jurisdiction is the limited capacity of national justice systems. Very few countries have established specialised war crimes units, and when they do exist, they are frequently tiny in size, sometimes comprising just one or two dedicated individuals, and often underfunded, understaffed, and ill-prepared given the complexity of such cases.<sup>57</sup>
- **Inadequate or non-existent witness protection.** A further challenge to securing accountability under universal jurisdiction is the absence of effective witness protection frameworks. Social media, language barriers and cultural differences can complicate protection efforts, and relocation procedures are often lengthy, costly and psychologically difficult for witnesses and their families. Addressing these issues requires coordinated

51 ICC, Letter submitted by the Minister of Justice of the Republic of Lithuania to the ICC concerning the State Party Referral of the Situation in Belarus, 30 September 2024.

52 IAPB, Widescale repression continues in Belarus, but opportunities towards advancing accountability emerge, 7 November 2024.

53 IAPB, Seventh Progress Report 1 April 2024 to 30 September 2024, p. 11, 2024.

54 Clooney Foundation for Justice, Justice Beyond Borders.

55 International Accountability Platform for Belarus (IAPB), Seventh Progress Report 1 April 2024 to 30 September 2024, p. 14, 2024.

56 International Accountability Platform for Belarus (IAPB), Eighth progress report to supporting States, 1 October 2024 – 31 March 2025, p. 4, 2025.

57 Trial International, EU: Bolster Justice Efforts Worldwide, 23 May 2022.



action between states, tailored national protection programmes and practical measures such as issuing travel documents to high-risk witnesses.<sup>58</sup>

- **Travel bans as sanctions.** Arrests under universal jurisdiction and by the ICC are often opportunistic, taking place when alleged perpetrators travel abroad for holidays, conferences or other private visits. These situations create openings for authorities in states with the political will to arrest them. However, when travel bans are imposed as part of sanctions, perpetrators are less likely to enter such jurisdictions, reducing the chances of apprehension and prosecution.
- **Political entrenchment and repressive State infrastructure.** At the national level, one of the most persistent obstacles is the continued consolidation of authoritarian rule by the Belarusian authorities. Since the disputed 2020 presidential election, the government has engaged in a systematic campaign of repression characterised by widespread torture, politically motivated prosecutions, and suppression of civil society,<sup>59</sup> targeting also those involved in documentation and accountability initiatives.<sup>60</sup>

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58 Eurojust, *Conclusions of the 35th Meeting of the Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes*, 16-17 April 2024.

59 Amnesty International, *Belarus: Authorities hold presidential election in climate of total fear and repression*, 24 January 2025.

60 Viasna, *In 2024, 89 “extremist formations” were recognised, including media, a theatre troupe, and a public organisation*, 10 January 2025.

# III. INDIVIDUAL ACCOUNTABILITY

## A. International Criminal Court (ICC)

### What is the International Criminal Court?

The International Criminal Court (ICC) is an independent international court that investigates and prosecutes individuals for the most serious international crimes of concern to the international community: war crimes, crimes against humanity, genocide, and the crime of aggression.<sup>61</sup> These crimes are defined in the Rome Statute, the international treaty that established the Court. The ICC holds individuals—not States—accountable. It operates under the principle of complementarity, meaning proceedings can begin only when State Parties<sup>62</sup> are unwilling or unable to prosecute such crimes genuinely.<sup>63</sup>

The Belarusian situation was referred to the ICC by the Lithuanian government in September 2024 (Referral). The Referral requested that the Office of the Prosecutor of the ICC (OTP) investigate crimes against humanity, including deportation, persecution, and other inhumane acts, committed at the behest of senior Belarusian officials from at least 1 May 2020.<sup>64</sup>

While Belarus is not a State Party to the Rome Statute, Lithuania—an ICC State Party—argued that aspects of the crimes occurred on its territory as well as potentially on the territory of other State Parties, thereby establishing territorial jurisdiction under Article 12(2)(a) of the Statute.<sup>65</sup> The OTP has now begun a preliminary examination to determine whether there is reasonable basis to proceed with opening an investigation.<sup>66</sup> The situation of the Republic of Lithuania/ Republic of Belarus (Lithuania/Belarus) is hence presently at preliminary examination stage at the ICC.<sup>67</sup>

Other ICC State Parties can choose to formally join Lithuania’s referral, thereby reinforcing the call for accountability. While joint referrals do not enjoy any specific privileges with the legal regime or practice of the ICC, a group referral regarding the situation in Lithuania/Belarus would solidify the support for the request to investigate the alleged international crimes committed by Belarusian authorities. It may further signal to the Prosecutor that the Referral is not based on political considerations by a single State but on the interests of justice shared by several States. Moreover,

61 ICC Rome Statute, art. 1.

62 States Parties are countries that have ratified or acceded to the Rome Statute of the ICC, thereby accepting the Court’s jurisdiction. As of July 2025, there are 125 States Parties.

63 ICC Rome Statute, art. 17(1)(a).

64 ICC, Letter submitted by the Minister of Justice of the Republic of Lithuania to the ICC concerning the State Party Referral of the Situation in Belarus, 30 September 2024.

65 ICC, Letter submitted by the Minister of Justice of the Republic of Lithuania to the ICC concerning the State Party Referral of the Situation in Belarus, 30 September 2024.

66 ICC, Statement of ICC Prosecutor Karim A.A. Khan KC on receipt of a referral by the Republic of Lithuania, 30 September 2024.

67 ICC, Preliminary examination Republic of Lithuania/ Republic of Belarus.

it would serve to emphasise the ICC's unique role in the international justice system to deliver justice in cases of mass atrocities,<sup>68</sup> including against high-ranking officials, as no immunity is granted under Article 27 of the Rome Statute.

Joining the Referral would also allow States to express their readiness to cooperate with the ICC, by providing information or witness evidence, though participation is not dependent on having such material. Lastly, this action would send a strong message of solidarity with victims and Belarusian human rights defenders, affirming international support for their pursuit of justice.

#### IAPB's Briefing on the Referral of the Situation in Belarus to the ICC

Detailed information on the way in which jurisdiction, admissibility and justice thresholds may be established in the Lithuania/ Belarus case can be found in the IAPB's [Briefing on the referral of Lithuania of the situation in Belarus to the ICC](#) titled '*The International Criminal Court and Belarus: Understanding Lithuania's Referral and Why ICC Member States Must Act to Bring Justice to Belarusian Victims*'. The briefing also makes recommendations to States as to how they can support the referral and continue investigating and prosecuting crimes committed in Belarus through universal jurisdiction.

## How does the ICC work?

The ICC is made up of four main organs:

- **The Presidency** is composed of the President and two Vice-Presidents (all judges). It is responsible for the overall administration of the Court and represents the institution externally. It also ensures that sentences are enforced and that judicial matters are coordinated smoothly.
- **The Office of the Prosecutor (OTP)** operates independently from the rest of the Court. It is responsible for receiving and assessing information on alleged crimes, conducting investigations, and prosecuting cases. The OTP can receive referrals from States, the UN Security Council, or act on its own initiative (*proprio motu*), and it must act impartially, regardless of political pressure.
- The **Judges** are divided into three **Chambers**:
  - The **Pre-Trial Chamber** oversees the early stages of proceedings, including decisions on arrest warrants and whether the evidence supports sending a case to trial.
  - The **Trial Division** conducts trials, ensuring fairness, due process, and the rights of both the accused and victims.
  - The **Appeals Chamber** handles appeals from parties or victims on key judicial decisions and delivers final judgments.

<sup>68</sup> IAPB, "The International Criminal Court and Belarus: [Understanding Lithuania's Referral](#) and Why ICC Member States Must Act to Bring Justice to Belarusian Victims," page 13, February 2025.

- **The Registry** supports all other organs and ensures that proceedings run fairly and efficiently. The Registry manages court services, logistics, security, budget, and external communications. Most importantly for victims, the Registry plays a central role in supporting their participation and protection. Other offices that are part of the Registry are:
  - The **Victims Participation and Reparations Section (VPRS)** informs victims of their rights, assists them in applying to participate in proceedings or claim reparations, and assigns legal representation. It also ensures victims' identities are protected when needed.
  - The **Victims and Witnesses Unit (VWU)** provides protection and psychological support to witnesses, victims who testify, and their families, especially in high-risk situations.
  - The **Office of Public Counsel for Victims (OPCV)** offers legal support to victims and can represent them directly in proceedings when appointed.
  - The **Office of Public Counsel for the Defence (OPCD)** provides legal assistance to defence teams and protects the rights of accused persons.

## What are the stages of procedure at the ICC?

### Initiating a situation before the ICC

Under the Rome Statute, a situation can be initiated in three ways:

- **Based on a State Party referral.** Under **Article 14** of the Rome Statute, any State Party may refer a situation involving crimes within the jurisdiction of the Court to the Prosecutor. The referral need not specify particular perpetrators but must identify the general scope and timeframe of the alleged crimes; establish a territorial or personal nexus to a State Party; and set out available documentation or factual background.
- **Based on a UN Security Council referral.** Under Article 13(b), the ICC may exercise jurisdiction over any crime listed in Article 5, if the situation involving one or more such crimes is referred to the Prosecutor by the UN Security Council acting under Chapter VII of the UN Charter, irrespective of whether the relevant State is a State Party to the Rome Statute.
- **At the Prosecutor's own initiative.** Under Article 15, the Prosecutor may initiate investigations *proprio motu* on the basis of information received on crimes within the jurisdiction of the Court.

### Preliminary examination

Under Article 53(1) of the Rome Statute, following a referral, the Prosecutor conducts a preliminary examination to determine whether there is a reasonable basis to proceed with a formal investigation. The preliminary examination phase is not judicial but investigative and is often lengthy, as it involves analysis of a broad range of legal, factual, and contextual information. It involves assessing:

- **Jurisdiction** (requiring that territorial, personal, temporal, and subject-matter jurisdiction are all established);
- **Admissibility** (complementarity and gravity);
- **Whether an investigation would serve the interests of justice.**

There is no statutory deadline for completing a preliminary examination. In practice, this phase has ranged from a few months to several years. For instance, one preliminary examination opened in 2004 and concluded only in 2021—a span of 17 years—after a cooperation agreement with the Colombian government.<sup>69</sup> In another case, the OTP conducted a preliminary examination from 2014 to 2020 before concluding that there was a reasonable basis to proceed with an investigation into crimes in Crimea and Eastern Ukraine.<sup>70</sup>

## Jurisdiction

The jurisdictional requirements of the Rome Statute provide that the alleged crimes being considered by the OTP during the preliminary examination phase must fall within its temporal, territorial, subject matter, and personal jurisdiction:

- **Temporal jurisdiction.** The OTP can only investigate crimes within the jurisdiction of the Court, i.e. crimes committed after 1 July 2002 (the date that the Rome Statute establishing the Court came into force).<sup>71</sup>
- **Territorial jurisdiction.** The OTP can only exercise its investigative functions in the territory of State Parties to the Rome Statute (States who have ratified it),<sup>72</sup> non-State Parties that consent to the Court’s jurisdiction,<sup>73</sup> or non-State Parties that are referred by the UN Security Council to the Court.<sup>74</sup>
- **Subject matter jurisdiction.** The OTP can only investigate war crimes, crimes against humanity, genocide, or the crime of aggression.<sup>75</sup>
- **Personal jurisdiction.** The OTP can only investigate and prosecute ‘natural persons’ who are over the age of 18.<sup>76</sup> It cannot investigate or prosecute governments, corporations, political parties, or rebel movements, but may investigate individuals who are members of such entities.

69 Reuters, [ICC closes preliminary war crimes examination into Colombia after 17 years](#), 28 October 2021.

70 ICC, [Statement](#) of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination in the situation in Ukraine, 11 December 2020.

71 ICC, [Rome Statute](#), art. 11.

72 ICC, [Rome Statute](#), art. 12(2)(a).

73 ICC, [Rome Statute](#), art. 12(3).

74 ICC, [Rome Statute](#), art. 13(b). Article 12 is the central legal source when it comes to determining the territorial jurisdiction of the ICC (Jurisdiction *ratione loci*), but it may be pierced, or otherwise extended, only by the referral of a situation to the prosecutor by the UN Security Council. See further, ICC Commentary (CLICC), [Article 12](#), para. 175.

75 ICC, [Rome Statute](#), art. 5.

76 ICC, [Rome Statute](#), arts. 25-26.

Territorial jurisdiction is a key challenge in the context of Belarus. Lithuania's referral is based on the reasoning that some of the alleged crimes against humanity, including deportation and persecution, were partially committed on Lithuanian territory as well as potentially on the territories of other State Parties. This mirrors a legal precedent established in the Myanmar/Bangladesh case, where the Court accepted jurisdiction based on cross-border elements of deportation.<sup>77</sup>

### The Bangladesh/Myanmar Precedent

In the Bangladesh/Myanmar case, the ICC ruled that it had jurisdiction despite Myanmar not being a State Party to the Rome Statute. This was because elements of the alleged crime, specifically the cross-border deportation of the Rohingya, occurred in Bangladesh, which is a State Party. The Pre-Trial Chamber accepted the Prosecutor's argument that part of the crime took place on the territory of a State Party, allowing the Court to assert jurisdiction for the first time in such a cross-border situation.<sup>78</sup>

### Admissibility

In addition to jurisdictional requirements, any case must meet the admissibility tests under the Rome Statute.<sup>79</sup> These include:

- **Complementarity.** Article 17(1)(a–c) enshrines the principle of complementarity, under which the ICC acts only when national authorities are unwilling or unable genuinely to investigate or prosecute the same conduct. The burden rests on the Prosecutor to assess the existence and adequacy of any such domestic proceedings.<sup>80</sup>
- **Gravity of the crimes.** The Prosecutor must assess whether the crimes meet the gravity threshold under Article 17(1)(d), which should be considered against the backdrop of the likely “potential case(s)” that would arise from investigating the situation.<sup>81</sup> This includes considering: (i) the persons potentially subject to investigation are likely those who bear the greatest responsibility; (ii) the large scale of the crimes; (iii) the serious nature of the crimes; (iv) the systematic, widespread, discriminatory, and cruel manner of commission of the crimes; and (v) the impact of the alleged violations on victims.<sup>82</sup>

77 ICC Pre-Trial Chamber I, Request under Regulation 46(3) of the Regulations of the Court, Decision on the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute”, Case No. ICC-RoC46(3)-01/18, 6 September 2018.

78 ICC, Pre-Trial Chamber I, Decision on the Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute, Case No. ICC-RoC46(3)-01/18, para. 71, 6 September 2018; ICC, Pre-Trial Chamber I, Prosecutor’s Request for Ruling on Jurisdiction under Article 19(3) of the Statute, Case No. ICC-RoC46(3)-01/18-1, 9 April 2018.

79 ICC Appeals Chamber, Situation in the Islamic Republic of Afghanistan, Judgment on the appeal against the decision on the authorisation of an investigation into the situation in the Islamic Republic of Afghanistan, Case No. ICC-02/17-138 05-03-2020 1/35 NM PT OA4, para. 28, 5 March 2020.

80 OTP, Policy Paper on Complementarity and Cooperation, para. 151, April 2024. See further, ICC Pre-Trial Chamber II, The Prosecutor v. Uhuru Muigai Kenyatta and Mohammed Hussein Ali, Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19(2)(b) of the Statute, Case No. ICC-01/09-02/11, para. 39, 30 May 2011.

81 ICC Pre-Trial Chamber II, Situation in the Republic of Kenya, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, Case No. ICC-01/09, para. 58, 31 March 2010.

82 ICC Pre-Trial Chamber II, Situation in the Republic of Kenya, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, Case No. ICC-01/09, para. 52, 31 March 2010.

- **Interests of justice.** Article 53(1)(c) requires the Prosecutor to determine whether an investigation would serve the interests of justice by reviewing the scale, nature, manner, and impact of the alleged crimes, taking into account the views of victims and the broader context.

Given that the court acts as a last resort, the OTP will have to determine during the preliminary examination phase whether there are any ongoing and genuine investigations at national level, whether by authorities of Belarus, Lithuania or any other State with jurisdiction, in relation to the situation in Lithuania/Belarus and, if so, whether these would preclude the OTP from advancing the Referral to an investigation. Lithuania stressed that the crimes outlined in the Referral have not been investigated anywhere to date.<sup>83</sup>

## Opening an investigation

If the preliminary examination confirms a reasonable basis to proceed, and the situation has been **referred by a State Party** or the **UN Security Council**, the Prosecutor may initiate an investigation **without seeking judicial authorisation**.<sup>84</sup> This would apply to the facts outlined in the Referral (which would mean that the situation could proceed more quickly).

If the Prosecutor acts *proprio motu* (on their own initiative), i.e., in the Belarusian context, concluded that there is a reasonable basis to proceed with an investigation beyond the facts outlined in the Referral, authorisation from the Pre-Trial Chamber would be required.<sup>85</sup> Decisions on requests for authorisation to proceed with an investigation under Article 15 must be rendered within 120 days.<sup>86</sup>

## Conducting an investigation

Once an investigation is opened, the OTP moves into the investigative phase, where it collects admissible evidence, identifies suspects, and builds cases. This may involve:

- Cooperation with States Parties for witness protection, arrests, and access to information;<sup>87</sup>
- Requests to civil society groups and international bodies for documentation and testimony; and forensic analysis and digital evidence gathering.<sup>88</sup>

The length of this phase varies widely. For example, the investigation into the situation in Libya, initiated in 2011, is projected to conclude by the end of 2025.<sup>89</sup> In the context of Sudan, investigations commenced in 2005;

<sup>83</sup> Remarks at a meeting at the Embassy of Lithuania in the Netherlands in the Hague 'On the legal responses of the international community to the crimes against humanity committed by the current authoritarian regime of Belarus' on 1 October 2024.

<sup>84</sup> ICC, Rome Statute, art. 53(1).

<sup>85</sup> ICC, Rome Statute, art. 15(3).

<sup>86</sup> ICC, Chambers Practice Manual, 2024, para. 2.

<sup>87</sup> See generally, ICC ASP, Report of the Court on Cooperation, UN Doc. ICC-ASP/23/21, 24 October 2024.

<sup>88</sup> ICC, Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisation, September 2022; FIDH and CICC, Civil Society and the International Criminal Court: Pathways to Collaborative and Genuine Engagement, December 2024.

<sup>89</sup> UN News, ICC Prosecutor outlines roadmap to complete Libya war crimes probe, 14 May 2024.

arrest warrants for senior officials, including former President Omar al-Bashir, were issued in 2009 and 2010, but enforcement remains pending as of 2025.<sup>90</sup>

## Requesting arrest warrants or summonses

If sufficient evidence is available, the Prosecutor may request that the Pre-Trial Chamber issue an arrest warrant,<sup>91</sup> or summonses for an individual to appear before the Court.<sup>92</sup>

These requests must demonstrate reasonable grounds to believe the individual committed crimes within the Court's jurisdiction. The Pre-Trial Chamber must also be satisfied that the arrest of the person appears necessary to ensure the person's appearance at trial, that the alleged perpetrator does not obstruct or endanger the investigation, and – where applicable – to prevent the person from continuing with the commission of the crime.<sup>93</sup> If either requirement is not satisfied, the Pre-Trial Chamber will reject the application in its entirety. This is true even if it concludes that the “reasonable grounds” requirement is satisfied but that arrest is not necessary to ensure the suspect's appearance.<sup>94</sup>

As the Appeals Chamber made clear in the *Katanga* case, the Pre-Trial Chamber has no authority to issue a summons instead of an arrest warrant when the Prosecutor has sought only the latter.<sup>95</sup> For summonses, the Pre-Trial Chamber need only be satisfied that this measure is sufficient to ensure the person's appearance.<sup>96</sup>

While there is no fixed timeline, decisions on such requests have historically taken at least a month. For instance, the ICC issued arrest warrants against Russian President Vladimir Putin and Maria Lvova-Belova (Russia's Commissioner for Children's Rights) for the unlawful deportation of children on 17 March 2023 when the application for its issuance was made by the Prosecutor on 22 February 2023.

## Pre-trial proceedings

After a suspect is arrested or voluntarily appears before the ICC, their initial appearance before the Pre-Trial Chamber or Single Judge normally takes place within 48 to 96 hours after arriving at the Court. During this hearing, the Pre-Trial Chamber ensures that the accused fully understands the charges in a language they speak and comprehend. The accused is also informed of their right to apply for interim release, and the Court may consider such an application promptly. Finally, at this initial appearance, the judges decide when and how the confirmation of charges hearing will take place, which determines if the case will proceed to trial.

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90 ICC, *Darfur, Sudan – Al Bashir Case*.

91 ICC, *Rome Statute*, art. 58.

92 ICC, *Rome Statute*, art. 58(7).

93 ICC, *Rome Statute*, art. 58(1)(b).

94 *OpinioJuris*, A Brief Note on Arrest Warrants and Summonses at the ICC, 24 June 2024.

95 ICC Appeals Chamber, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Judgment in the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release, Case No. ICC-01/04-01/07 OA 4, para. 13, 9 June 2008.

96 *OpinioJuris*, A Brief Note on Arrest Warrants and Summonses at the ICC, 24 June 2024.



The next key step is the confirmation of charges hearing under Article 61 of the Rome Statute. Here, the Prosecutor presents evidence to show there is enough proof to move forward to trial. The judges then decide whether to confirm, reject, or amend the charges. If the charges are confirmed, the case goes to trial.

The confirmation of charges hearing is not just procedural. It involves critical decisions (as in the Bangladesh/Myanmar case, where core decisions about extra-territorial jurisdiction were made at this stage). The Pre-Trial Chamber confirms the identity of the accused, examines the charges and facts, and considers any procedural objections. It makes key factual and legal findings, deciding whether there are substantial grounds to believe the accused committed the crimes. This includes assessing events, conduct, and whether the acts meet the legal definitions of crimes under the Rome Statute. The outcome determines which charges proceed to trial. Importantly, the scope of the confirmed charges may also determine which victims can participate, as their harm must be linked to the charges.

The length of this phase can vary depending on the complexity of the case. Cases involving multiple suspects, widespread crimes, or large amounts of evidence may take longer. During this time, the Court may also deal with issues like victims' participation, protective measures for witnesses, or challenges to the Court's jurisdiction.

## **Trial and sentencing**

At the start of the trial, the charges are read to the accused, who is then asked to confirm understanding and to enter a plea. If the accused admits guilt, the Trial Chamber must ensure the admission is informed, voluntary, and supported by evidence. If these conditions are met, the Chamber may convict; if not, the trial proceeds.

During the trial, the Prosecution presents its case first, aiming to prove guilt beyond reasonable doubt through documents, witness testimony, and other evidence. The Defence can question prosecution witnesses and present its own evidence and witnesses. The accused is presumed innocent, and has the right to challenge the evidence and present a full defence under equal conditions to the Prosecution. The trial continues until both sides have presented their cases, after which the judges deliberate and deliver a verdict.

The trial stage is crucial for victims. When their personal interests are affected, victims can have their views and concerns presented to the Court through their legal representatives. (See section 'How are victims and civil society organisations involved?') The Chambers Practice Manual indicates that written decisions on conviction or acquittal should be rendered within 10 months from the end of the closing statements.<sup>97</sup> Subsequently, sentencing decisions are to be delivered within four months of the conviction decision.<sup>98</sup>

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<sup>97</sup> ICC, Chambers Practice Manual, 2024, para. 89.

<sup>98</sup> ICC, Chambers Practice Manual, 2024, para. 90.

## Reparations stage

At the end of a trial, if there is a conviction, the Trial Chamber may order a convicted person to pay reparations to the victims of the crimes of which the person was found guilty. Collective and/or individual reparations can include:<sup>99</sup>

- **Restitution.** Restoring the victim's original situation.
- **Compensation.** Monetary awards for physical, emotional, or material harm.
- **Rehabilitation.** Provision of medical or psychological care and support services.
- **Measures of satisfaction.** Satisfaction refers to measures that acknowledge the violation and safeguard the dignity of the victims.

Reparations may be awarded individually or collectively and are supported by the Trust Fund for Victims (TFV), which can implement reparative measures even where the convicted person is indigent.<sup>100</sup>

## Appeal proceedings

Parties may appeal decisions on convictions, acquittals,<sup>101</sup> or reparations<sup>102</sup> by filing a notice of appeal within 30 days<sup>103</sup> and an appeal brief within 90 days of the notification of the decision.<sup>104</sup> Judgments on appeals against conviction, acquittal, or reparations orders should be rendered within 10 months from the filing of the response to the appeal brief.<sup>105</sup> If an oral hearing has occurred, the judgment should be rendered within 10 months of the hearing's conclusion.<sup>106</sup> Appeal proceedings can add considerable time to the overall proceedings.

## What are possible outcomes of the ICC proceedings?

The proceedings at the ICC can lead to the following outcomes:

- Conviction of individuals found to bear responsibility for crimes within the ICC's mandate, who may be sentenced to a term of imprisonment (up to a maximum of 30 years or, when justified by the extreme gravity of the crimes, a term of life imprisonment), and subjected to a fine and forfeiture;<sup>107</sup> or
- Acquittal, if the liability of the accused cannot be established beyond reasonable doubt.
- Reparations may be determined by the Court, and facilitated through the TFV.

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99 See Lubanga Principles, Order for Reparations, ICC-01/04-01/06-3129-AnxA 03-03-2015 1/20 NM A A2 A3. These were the first reparations principles developed by the ICC in the Thomas Lubanga case.

100 The Trust Fund for Victims, Reparations Mandate.

101 ICC, Rome Statute, art. 81.

102 ICC, Rome Statute, art. 82(4) (only a "legal representative of victims, the convicted person or a bona fide owner of property adversely affected" by a reparations order may appeal against an order for reparations).

103 ICC, Rules of Procedure and Evidence, rule 89.

104 ICC, Regulations of the Court, regulation 58(1).

105 ICC, Chambers Practice Manual, 2024, para. 91.

106 ICC, Chambers Practice Manual, 2024, para. 91.

107 ICC, Rome Statute, art. 77.

## What is the added value of proceedings at the ICC?

While other accountability mechanisms exist, the ICC brings distinct advantages in the Lithuania/ Belarus context, particularly as it could lead to attributing personal accountability to those who bear the greatest responsibility for the crimes.<sup>108</sup> Its involvement can significantly bolster accountability efforts through several key contributions:

- **Arrest warrants.** If the ICC determines there are reasonable grounds to believe individuals are responsible for serious international crimes, it may issue arrest warrants.<sup>109</sup> Such warrants would oblige all 124 States Parties to the Rome Statute to comply with ICC requests to arrest and surrender the individuals if they enter their jurisdictions.<sup>110</sup> These may include high-level officials, commanders, and others with command or superior responsibility. Arrest warrants may also serve as a symbolic recognition of the gravity of the crimes and show the potential culpability of the named individuals.
- **Protections against immunity.** The ICC Statute, specifically Article 27, explicitly states that immunities or special procedural rules under national or international law do not bar the Court from exercising its jurisdiction over individuals, including those acting as heads of State or government.
- **Determination of criminal responsibility.** In the event of the arrest of alleged perpetrators and transfer to The Hague, the ICC will conduct trials to determine the guilt or innocence of the accused. These trials offer the potential for perpetrators to be found responsible for their crimes and sentenced, bringing justice to victims.

### Viasna and ICIT Report 'How Survivors of Torture and/or Cruel Treatment Perceive Justice'

In the report on the perceptions of justice by Belarusian survivors of torture published by Viasna and ICIT, criminal investigation and prosecution of those responsible is identified as a key aspect of justice. The report underscores the relevance of the ICC as a court that determines the criminal responsibility of those accused before it, as a possible avenue for accountability that reflects the expectations of Belarusian survivors.<sup>111</sup>

- **Legal authority and global legitimacy.** As the world's first permanent international court dedicated to prosecuting individuals for core international crimes, the ICC brings unparalleled legal authority to the pursuit of justice. The Referral affirms that the situation in Lithuania/ Belarus is of international concern and opens the door for an official ruling that the events amount to crimes against humanity.<sup>112</sup>
- **Victim participation.** Victims have a meaningful role before the ICC. Under Article 68(3) of the Rome Statute, they may participate in proceedings where their personal interests are affected. This includes making representations

108 ICC, *Understanding the International Criminal Court*, 2020, para. 12.

109 ICC, Rome Statute, art. 58.

110 ICC, Rome Statute, art. 89.

111 Viasna and the International Committee for Investigation of Torture in Belarus, *How Survivors of Torture and/or Cruel Treatment Perceive Justice*, 2024.

112 Council on Foreign Relations, *The Role of the ICC*, 27 March 2025.

during key stages (such as confirmation of charges or sentencing), submitting their views through legal representatives, and accessing relevant case documents.

### The Prosecutor v. Thomas Lubanga Dyilo Case

Thomas Lubanga Dyilo, a militia leader from the Democratic Republic of the Congo, was the first individual convicted by the ICC. In 2012, he was found guilty of recruiting and using children under 15 in armed conflict. During the proceedings, 146 victims were granted the right to participate, enabling them to express their views and concerns.

- **Reparations.** The ICC is unique among international courts in offering a reparations mandate. Article 75 of the Rome Statute enables the Court to award reparations to victims following a conviction. The Chamber has emphasised that reparations must be “transformative” and responsive to the specific harms experienced by victims, particularly survivors of sexual and gender-based violence, who were prioritised in implementation plans.<sup>113</sup>

### The Prosecutor v. Dominic Ongwen Case

On 24 February 2024, Trial Chamber IX awarded collective reparations to thousands of victims of atrocities committed by Ongwen in northern Uganda, setting the financial liability of Mr. Ongwen to €52,429,000.<sup>114</sup> These included victims of sexual and gender-based violence, child soldiers, and those affected by attacks on internally displaced persons camps. The reparation scheme, funded through the Trust Fund for Victims, included collective community-based reparations including:

- Mental health and trauma rehabilitation;
  - Access to education and vocational training;
  - Symbolic €750 EUR for all eligible victims;
  - Income generating activities;
  - Support for housing and community rebuilding.
- **Development of international legal norms.** The ICC’s jurisprudence contributes to the evolution of international criminal law, influencing national legal systems and helping to embed international criminal justice standards in nation States. An ICC ruling on crimes against humanity would assist national jurisdictions in demonstrating that the necessary threshold has been reached. By setting legal precedents, the Court also aids in harmonising laws across jurisdictions, enhancing the global framework for protecting fundamental rights.

<sup>113</sup> ICC Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Reparations Order, Case No. ICC-02/04-01/15, 28 February 2024, paras. 605, 637.

<sup>114</sup> ICC Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Reparations Order, Case No. ICC-02/04-01/15, 28 February 2024, para. 795.

- **Prompting national prosecutions under universal jurisdiction principles.** ICC proceedings may serve to complement ongoing accountability efforts in national jurisdictions under the principle of universal jurisdiction. Where national courts are unwilling or unable to prosecute, ICC proceedings can act as a catalyst encouraging States to fulfil their own international obligations through undertaking national investigations and prosecutions.
- **Deterrence of future crimes.** The prospect of ICC prosecution can serve as a deterrent to potential perpetrators of international crimes.<sup>115</sup> By signalling that the international community is willing to act firmly against impunity, the Court contributes to the prevention of future atrocities.

## How are victims and civil society organisations involved?

The ICC's victim-centred approach offers a rare opportunity for survivors to engage meaningfully with an international criminal justice process.<sup>116</sup> Unlike many national systems that relegate victims to the role of witnesses, the ICC enables victims to actively participate in proceedings, seek reparations, and contribute meaningfully to the pursuit of justice.

ICC proceedings provide a formal platform for survivors to submit evidence within the scope of the investigation, be recognised as participating victims, and potentially benefit from reparations.

Civil society organisations and individual victims may submit information directly to the OTP under Article 15(1) which can prompt the Prosecutor to open an investigation or help to strengthen the evidentiary basis in an existing referral, including during the preliminary examination stage. Submissions cover a wide range of circumstances, and can include:

- Requesting the Prosecutor to investigate a situation involving crimes within the jurisdiction of the Court;
- Supplying valuable documentation to support jurisdiction and gravity assessments;
- Providing survivor testimony, documentary evidence, and visual or digital evidence;
- Drawing the Prosecutor's attention to patterns of violations or underreported violations;<sup>117</sup> and
- Identifying patterns of violations and high-level perpetrators for case selection.

Civil society organisations also have an important role to play in ensuring that evidential integrity is maintained at the ICC. This can include coordinating data-sharing protocols with the OTP,<sup>118</sup> as well as ensuring that evidence gathered by the civil society body has informed consent and is securely stored.

During the trial stage victims can have their views and concerns presented to the Court through their legal representatives when their personal interests are affected. This can include participating in hearings, presenting evidence related to the accused's guilt or innocence, and challenging the relevance or admissibility of evidence, though these rights primarily belong to the Prosecution and Defence.

<sup>115</sup> International Crisis Group, *The Deterrent Effect of the ICC on the Commission of International Crimes by Government Leader*, 6 October 2012.

<sup>116</sup> See, e.g., REDRESS, *Avocats Sans Frontières*, Global Survivors Fund, FIDH, and The Institute of Peace and Strategic Studies, Gulu University, *Survivor-Centred ICC Reparations for Victims of Dominic Ongwen's Crimes*, August 2024.

<sup>117</sup> ICC, Rome Statute, Article 15(1).

<sup>118</sup> The Office of the Prosecutor, *Policy on Complementarity and Cooperation*, April 2024.

Victims must show that their participation is directly connected to the harm they have suffered and consistent with the accused's right to a fair trial. Their involvement is subject to strict rules, including disclosure obligations and judicial approval. Victims are usually grouped and represented by common legal counsel, either chosen by the victims or appointed by the Court, ensuring both efficiency and inclusion of diverse perspectives.<sup>119</sup>

At the victim reparation stage of the proceedings, victims are also represented by a lawyer who will be in a position to present relevant information to the Chamber on behalf of their clients. At the appeal stage, victims can participate in procedures following appeals filed by the Prosecutor or the Defence, and they can also directly appeal decisions on reparations.

## B. Belarus and the ICC Investigation into the Situation in Ukraine

### What is the focus of the ICC investigation in Ukraine and how is it relevant for Belarus?

A preliminary examination of the situation in Ukraine, conducted between April 2014 and December 2020, was triggered by two declarations of the government of Ukraine accepting the jurisdiction of the Court with respect to crimes allegedly committed on its territory from 21 November 2013 onwards.<sup>120</sup> In December 2020, the Office of the Prosecutor of the ICC (OTP) found that there was a reasonable basis to believe that war crimes and crimes against humanity were committed in Ukraine and that there was a reasonable basis for investigation, subject to judicial authorisation.<sup>121</sup>

On 2 March 2022, shortly after the Russian Federation's full-scale invasion of Ukraine, the OTP opened an investigation into Ukraine, following a joint referral from a group of 39 States (later joined by four additional States, bringing the total number of referring States to 43).<sup>122</sup> The referral covered "any acts of war crimes, crimes against humanity and genocide alleged to have occurred on the territory of Ukraine from 21 November 2013 onwards, including any allegations of current and ongoing crimes occurring throughout the territory of Ukraine".<sup>123</sup> On 25 October 2024, Ukraine ratified the Rome Statute, thereby becoming a State Party to the ICC, with the ratification entering into force on 1 January 2025.<sup>124</sup>

In February 2023, the OTP requested arrest warrants against two individuals, Vladimir Putin, President of the Russian Federation, and Maria Lvova-Belova, Commissioner for Children's Rights in the Office of the President in the Russian

119 For the process, see ICC, Rules of Procedure and Evidence, Rule 89; ICC, Chambers Practice Manual, paras. 96-97.

120 ICC, Ukraine accepts ICC jurisdiction over alleged crimes committed since 20 February 2014, 8 September 2025.

121 ICC, Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination in the situation in Ukraine, 11 December 2020.

122 ICC, Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Additional Referrals from Japan and North Macedonia, 11 March 2022; Contact portal launched for provision of information; Letter submitted by the Embassy of Montenegro to the ICC concerning the Group state Party referral of the Situation in Ukraine, 21 March 2022; Letter submitted by the Embassy of Chile to the ICC concerning the Group State Party referral of the Situation in Ukraine, 1 April 2022.

123 ICC, Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation, 2 March 2022; State Party Referral under Article 14 of the Rome Statute.

124 ICC, Country page: Ukraine.

Federation, for alleged war crimes involving the unlawful transfer and deportation of children from the territory of Ukraine to the Russian Federation.<sup>125</sup> The crimes were allegedly committed on the Ukrainian occupied territories at least from 24 February 2022.

According to the Prosecutor, there are reasonable grounds to believe that Putin bears individual criminal responsibility for these crimes, for having committed the acts “directly, jointly with others and/or through others” and for “his failure to exercise control properly over civilian and military subordinates who committed the acts, or allowed for their commission, and who were under his effective authority and control”.<sup>126</sup> The arrest warrants were approved by the Pre-Trial Chamber in March 2023.<sup>127</sup>

In March 2024, further arrest warrants were issued, namely against Sergei Kobylash, Commander of the Long-Range Aviation of the Aerospace Force, and Viktor Sokolov, Commander of the Black Sea Fleet,<sup>128</sup> and - in June the same year – against Sergei Shoigu, Minister of Defence of the Russian Federation, and Valery Gerasimov, Chief of the General Staff of the Armed Forces and the First Deputy Minister of Defence of the Russian Federation.<sup>129</sup> All four individuals are sought by the ICC on suspicion of having committed war crimes and crimes against humanity, “involving directing attacks at civilian objects, causing excessive incidental harm to civilians or damage to civilian objects, and other inhumane acts”.<sup>130</sup>

The Pre-Trial Chamber publicly disclosed the existence of the arrest warrants, the name of the suspects, the crimes for which the warrants were issued and the modes of liability as this may contribute to the prevention of further crimes. However, to protect survivors and witnesses and to safeguard the investigation, the precise content of the arrest warrants remains secret.

The PACE has repeatedly drawn attention to the complicity of the Belarusian leadership in the war of aggression against Ukraine, noting that “Belarus has allowed Russia to use its territory to perpetrate an act of aggression against Ukraine.”<sup>131</sup> While the ICC does not have jurisdiction to try the crime of aggression,<sup>132</sup> this is relevant for the OTP’s investigation, for instance, insofar as the attacks on Ukraine’s civilians were carried out with support or from the territory of Belarus. According to the UN Independent International Commission of Inquiry on Ukraine, Belarus “allowed the Russian Federation to fire missiles from its territory, enabled transportation of Russian military personnel, [...] allowed Russian military aircraft to fly over its airspace into Ukraine, [...] and allowed it to use its infrastructure”.<sup>133</sup>

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125 ICC, Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova, 17 March 2023. Arrest warrants referred to Articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute.

126 ICC, Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova. Arrest warrants referred to Articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute, 17 March 2023.

127 ICC, Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova, 17 March 2023.

128 ICC, Situation in Ukraine: ICC judges issue arrest warrants against Sergei Ivanovich Kobylash and Viktor Nikolayevich Sokolov, 5 March 2024.

129 ICC, Situation in Ukraine: ICC judges issue arrest warrants against Sergei Kuzhugetovich Shoigu and Valery Vasilyevich Gerasimov, 25 June 2024.

130 Under Articles 8(2)(b)(ii), 8(2)(b)(iv) and 7(1)(k) of the Rome Statute; See ICC, Situation in Ukraine: ICC judges issue arrest warrants against Sergei Kuzhugetovich Shoigu and Valery Vasilyevich Gerasimov, 25 June 2024.

131 PACE, Resolution 2605 (2025), Legal and human rights aspects of the Russian Federation’s aggression against Ukraine, para 4.2, 2025. See also: PACE, Resolution 2433 (2022), Consequences of the Russian Federation’s continued aggression against Ukraine: role and response of the CoE, para 7, 2022.

132 The ICC’s jurisdiction over the crime of aggression requires that both the victim and the aggressor states are States Parties to the Rome Statute and have ratified the Kampala amendments with respect to the crime of aggression, or the situation is referred by the UN Security Council.

133 OHCHR, Conference room paper of the Independent International Commission of Inquiry on Ukraine, A/HRC/52/CRP.4, para 88, 29 August 2023.

Belarus's involvement in the alleged transfer and deportation of children and other civilians from Ukraine to the Russian Federation and allegedly also to Belarus<sup>134</sup> has also been documented by human rights groups,<sup>135</sup> researchers,<sup>136</sup> the UN Monitoring Mission in Ukraine,<sup>137</sup> and been highlighted by the European Parliament.<sup>138</sup> The latter adopted a resolution in May 2025, in which it condemned “the complicity of Belarus in the mistreatment of Ukrainian children, including murder, forced transfer and deportation, illegal adoption, sexual abuse and exploitation, forced Russification and militarisation” and stressed that “these acts form part of a genocidal strategy to erase Ukrainian identity”.<sup>139</sup> In October 2024, a group of human rights CSOs made a submission to the OTP on the complicity of Belarus in the forcible transfer of Ukrainian children. The submission communicated evidence about children taken from Ukraine to Belarus and identified Alexander Lukashenko as one of those responsible, as he reportedly personally signed a decree allowing the children to be transferred to Belarus.<sup>140</sup>

By virtue of the ongoing investigation into the Situation in Ukraine, the OTP has the option of examining the responsibility of Belarusian officials – Lukashenko or others in that context. At the same time, any such effort does not preclude the OTP from examining crimes allegedly committed by the Belarusian authorities against its own population as part of the Belarus-specific investigation (as discussed in Chapter II. A, International Criminal Court), as the two situations cover different subject matters.

## What are possible outcomes of the ICC investigation into the Situation in Ukraine for Belarusian accountability?

If the OTP were to examine the responsibility of Belarusian officials, it could request arrest warrants against them, provided there is sufficient and reliable evidence. If requests for arrest warrant(s) were approved by the Pre-Trial Chamber, the suspect(s) might eventually be arrested or surrendered, and tried by the ICC. However, the crimes addressed in the ongoing trials are focused on violations of international humanitarian and criminal law affecting the Ukrainian population within Ukraine, thus not offering a direct path to accountability for Belarusian victims of international crimes in Belarus. Consequently, Belarusian victims would in most circumstances be excluded from participating in the proceedings (except potentially as witnesses to the crimes in Ukraine), and they would not have the opportunity to express their views and concerns to the Court as victim-participants. Furthermore, they would not be eligible for any reparations that might be granted to victims through the ICC process.

134 Yale School of Public Health, Conflict Observatory, *Belarus' Collaboration with Russia in the Systematic Deportation of Ukraine's Children*, 12 December 2023.

135 See: Zmina, *Ukrainian human rights groups accuse Belarus of militarizing Ukrainian children in ICC*, 25 September 2024; Freedom House, *Stolen Childhood: How the Belarusian Regime is Erasing Ukrainian Children's Identity through Displacement*, October 2024.

136 Yale School of Public Health, Conflict Observatory, *Belarus' Collaboration with Russia in the Systematic Deportation of Ukraine's Children*, 12 December 2023.

137 UN Monitoring Mission in Ukraine, *Press briefing on Ukraine by Matilda Bogner, Plight of civilians in Ukraine*, 10 May 2022.

138 European Parliament, *European Parliament resolution of 8 May 2025 on the return of Ukrainian children forcibly transferred and deported by Russia*, 8 May 2025.

139 European Parliament, *European Parliament resolution of 8 May 2025 on the return of Ukrainian children forcibly transferred and deported by Russia*, 8 May 2025.

140 Freedom House, Regional Centre for Human Rights (RCHR), BelPol, Human Rights Centre Viasna, and ZMINA, *Report, "Stolen Childhood: How the Belarusian Regime Erases the Identity of Ukrainian Children Through Displacement, Re-education and Militarization"* October 2024. See also: JusticeInfo, *Suddenly, Belarus wakes up with two complaints before the ICC*, 3 October 2024.



The proceedings at the ICC can lead to the following outcomes:

- Conviction and sentencing of Belarusian officials found to bear responsibility for crimes within the ICC’s mandate;
- Acquittal, if the liability of Belarusians accused of crimes cannot be established beyond reasonable doubt; and
- Reparations, which may be determined by the Court, and facilitated through the Trust Fund for Victims. As described above, reparations are unlikely for Belarusian victims who were subjected to crimes in Belarus.

## C. Universal Jurisdiction (UJ)

### What is universal jurisdiction?

In principle, States exercise jurisdiction over crimes committed within their own territory or involving their own nationals, whether as perpetrators or victims. However, certain international crimes are considered so grave that such a territorial or personal link is not required. Under the principle of UJ, prosecution of the most serious international crimes before national courts may, under specific circumstances, be permitted regardless of where those crimes occurred, and regardless of the nationality of the perpetrator(s) and the victim(s).

The principle of UJ derives from both customary international law and treaty law. Customary international law recognises UJ over certain crimes, also known as core international crimes, including contextual crimes such as torture, war crimes, crimes against humanity, genocide, as well as torture and enforced disappearance as standalone crimes.<sup>141</sup> For instance, international tribunals and domestic courts have consistently confirmed in their decisions that States may exercise UJ over crimes against humanity, particularly where the State with primary jurisdiction is unwilling or unable to investigate or prosecute.<sup>142</sup> In addition, various multilateral treaties establish treaty-based forms of UJ.<sup>143</sup> For example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) requires State Parties to exercise jurisdiction over a person suspected of committing an act of torture or – alternatively - to extradite them to a State able and willing to do so – a requirement known as “*aut dedere aut judicare*” principle.<sup>144</sup>

Numerous investigations and prosecutions on the basis of the principle of UJ have been conducted across various jurisdictions, encompassing a wide range of contexts, crimes and conduct by both low-ranking individuals and high-level officials. In 2024, 14 countries exercised UJ in relation to international crimes committed outside of their territories, with the vast majority of suspects being investigated or prosecuted in six countries: Argentina, Belgium, France, Germany, Sweden, and the UK.<sup>145</sup> The steady rise in such cases over the last decade strongly indicates the

141 Torture may also constitute an underlying act in the commission of these contextual crimes, for example as a war crime, a crime against humanity, or, when committed with the requisite special intent, an act of genocide.

142 For decisions of international tribunals, see e.g., *Prosecutor v Tadić*, IT-94-1-T, *Decision on the Defence Motion on Jurisdiction*, 10 August 1995, para. 42; *Prosecutor v Ruto and Sang, Decision on Defence Applications for Judgments of Acquittal*, ICC-01/09-01/11-2027-Red-Corr, 5 April 2016, para. 458. For decisions from domestic courts, see e.g., *Case of Anwar Raslan*, Higher Regional Court Koblenz, 13 January 2022.

143 Notable examples of such treaties include the Geneva Conventions of 1949 along with their Additional Protocols, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft.

144 OHCHR, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Article 7.

145 TRIAL International, *UJAR 2025*.

recognition of UJ as a credible and effective mechanism for ensuring accountability where domestic remedies are inadequate or unavailable.

### The Yuri Harauski Case

One of the recent examples of universal jurisdiction proceedings is the case against Yuri Harauski, prosecuted in Switzerland in 2023.<sup>146</sup> The former member of a Belarusian paramilitary unit stood trial for his alleged involvement in the enforced disappearance of three opposition leaders in Belarus in 1999. The Swiss court was able to adjudicate the case, despite it having no direct connection to Switzerland. Harauski had previously arrived in Switzerland to seek asylum, claiming that his life was at risk in Belarus, given his willingness to speak about his previous involvement with an elite unit of the troops of the Belarusian Ministry of Internal Affairs.<sup>147</sup>

## What are the conditions to exercise universal jurisdiction?

In order to exercise jurisdiction over the most serious international crimes, States need to incorporate the principle of UJ into their national legal frameworks either by amending the existing Criminal Codes or by introducing a new law. For example, in 2002, Germany adopted a special Code for Crimes against International Law (Völkerstrafgesetzbuch) to enable the prosecution of genocide, crimes against humanity and war crimes irrespective of the nationality of the victim or perpetrator, or any other connections to Germany.<sup>148</sup>

States have adopted various approaches to establishing jurisdiction over core international crimes. Some States have incorporated the full range of core international crimes, including crimes against humanity, war crimes, genocide, torture and enforced disappearance into domestic legislation, while others have limited their legal frameworks to certain crime categories. For instance, some States recognise torture as a stand-alone crime in accordance with their obligations under the UN Convention against Torture, without extending their jurisdiction to include torture as a constituent act of crimes against humanity.<sup>149</sup> Yet, an increasing number of States are demonstrating a commitment to combating impunity for international crimes by extending their jurisdiction over all core international crimes. Germany, Sweden, Norway, and Switzerland, for example, have established broad jurisdictional bases to address core international crimes, including both crimes against humanity and torture as a stand-alone crime, which is particularly relevant in the Belarus context.

In addition to establishing a legal basis for UJ, various States have introduced specific requirements that must be satisfied to initiate a case. These may include, for example, the presence of the suspect within the territory, as required in the Netherlands,<sup>150</sup> or the requirement of double criminality, as mandated in Canada.<sup>151</sup> Additional

146 Trial International, *BELARUS: Acquittal of Lukashenka regime henchman in Switzerland*, 28 September 2023.

147 Trial International, *Yuri Harauski*, September 2025.

148 Federal Ministry of Justice, *Code of Crimes against International Law (CCAIL)* of 26 June 2002.

149 E.g. the United Kingdom can exercise universal jurisdiction over torture as a stand-alone offence under the Section 134 of the Criminal Justice Act, which implements the Convention against Torture.

150 Open Society Justice Initiative, *'Universal Jurisdiction: Law and Practice in the Netherlands'*, April 2019.

151 Open Society Justice Initiative, Trial International *'Universal Jurisdiction: Law and Practice in the Netherlands'*, April 2020.

considerations may emerge through the exercise of prosecutorial discretion, influencing the decision to proceed based on factors such as political context, evidentiary issues, and resource limitations.

Cases based on UJ are often highly complex and require specialised expertise. This complexity arises from various factors, including the geographical and contextual distance between the forum State and the location where the crimes occurred, difficulties in identifying perpetrators and obtaining reliable evidence linking the perpetrators to the crime(s), and the necessity to apply relevant international law. In response to these challenges, several countries—including Germany, France, the Netherlands, and Sweden—have established specialised units within their domestic police and prosecution services dedicated to international crimes. These units facilitate the development of specialised institutional expertise and operational capacity, thereby enhancing the effectiveness of investigations and prosecutions conducted under the principle of UJ.<sup>152</sup>

## What steps need to be taken to open a universal jurisdiction case?

In most jurisdictions that recognise UJ, the prosecutor can open an investigation on their own initiative based on the information that may be obtained from various sources, including a formal complaint filed by a victim or their legal representative, information provided by CSOs or other groups, media reports, or information from other government bodies.<sup>153</sup> In some jurisdictions, such as Belgium and the Netherlands, the Ministry of Justice can request the prosecutor to initiate an investigation into international crimes.<sup>154</sup> Victims, their legal representatives, or civil society organisations may file a complaint or submit information to the relevant criminal justice authorities, which, depending on the jurisdiction, may include the police, the prosecutor's office, or an investigative judge.

It is then the responsibility of the competent authority to assess the information and decide whether to initiate a formal investigation.

### Country Examples of Belgium, France, the Netherlands and Germany

In Belgium, victims of 'common or domestic' crimes have the right to initiate criminal proceedings by qualifying as a civil party and filing a complaint directly with an investigative judge. However, this right has been curtailed in relation to victims of serious international crimes. Unless there is a strong link to Belgium, a judicial investigation into such crimes can only be initiated at the request of the Federal Prosecutor's Office.<sup>155</sup>

<sup>152</sup> Eurojust, 20 Years On: 20 Years in the Fight Against Impunity for Core International Crimes in the EU, p. 10, May 2022.

<sup>153</sup> These include asylum authorities in exercise of Article 1F of the Geneva Refugee Convention, according to which an individual is excluded from the protection afforded by the Convention if they are considered to have committed crimes against peace, war crimes, or crimes against humanity, as defined by international instruments. See 1951 Convention Relating to the Status of Refugees. The same article stipulates that individuals who have committed serious non-political crimes outside the country of refuge before being admitted as a refugee are also excluded. However, other human rights protections such as non-refoulement continue to apply.

<sup>154</sup> Open Society Justice Initiative, Trial International 'Universal Jurisdiction: Law and Practice in the Netherlands', p. 13, April 2020; Human Rights Watch, Universal Jurisdiction in Europe, p. 8, June 2006.

<sup>155</sup> Open Society Justice Initiative, Trial International 'Universal Jurisdiction: Law and Practice in the Netherlands', p. 31 April 2020.

In France, the situation is similar with respect to crimes enshrined in the Rome Statute: the prosecutor holds extensive discretionary authority to decline prosecution of these crimes. Victims, however, can initiate proceedings themselves in cases of standalone crimes of torture or enforced disappearance, which constitute an exception to this rule.<sup>156</sup>

In the Netherlands and Germany, investigations can be opened on the initiative of the prosecutor, including on the basis of a criminal complaint filed by victims, information provided by CSOs, or other sources. It is worth noting that most ongoing investigations in Germany have been opened on the basis of information provided by the migration authorities.<sup>157</sup> In the Netherlands, investigations are often opened on the basis of information provided by victims or CSOs, identifying the presence of an alleged perpetrator on Dutch territory.<sup>158</sup>

When opening a formal investigation, the authorities may choose to open an investigation against a specific, individual suspect or a so-called '*structural investigation*'. A structural investigation allows for investigative authorities and prosecutors to start building a case before having identified specific suspects.

EU Member States have the collaborative tool of Joint Investigation Team (JIT) at their disposal when conducting criminal investigations across borders, as is typical for investigations into crimes against humanity, war crimes and genocide.

### Joint Investigation Teams

A Joint Investigation Team (JIT) is a temporary, collaborative tool established between competent law enforcement and judicial authorities of two or more EU Member States to conduct criminal investigations across borders, often with support from Eurojust and Europol. Composed of investigators, prosecutors, and other judicial officials from participating States, a JIT focuses on a particular investigation or group of related cases that require cross-border evidence gathering, including core international crimes such as crimes against humanity, war crimes, and genocide.

A JIT facilitates the combination of national prosecutions with coordinated multinational evidence gathering. Each State can pursue parallel prosecutions under its own universal or extraterritorial jurisdiction powers while benefiting from increased practical investigative capability, the pooling of knowledge, and the ability to use evidence collected by other EU Member States. Instead of sending formal mutual legal assistance (MLA) requests back and forth, a JIT enables States with a joint investigative objective to work together over a defined period, typically between 12 and 24 months, extendable if necessary.

<sup>156</sup> Open Society Justice Initiative, Trial International 'Universal Jurisdiction: Law and Practice in the Netherlands,' April 2020.

<sup>157</sup> Open Society Justice Initiative, Trial International 'Universal Jurisdiction: Law and Practice in the Netherlands,' p. 15, April 2020.

<sup>158</sup> REDRESS, Interview with Dutch TIM, February 2025.

This approach removes the delays associated with formal MLA channels, which can take weeks or months, allowing for evidence to be exchanged directly between JIT team members. Participating States can benefit from Eurojust's coordination and Europol providing intelligence and analysis, including the option of EU funding to cover some operational costs. Furthermore, collaboration prevents duplication, such as two countries unknowingly interviewing the same witness twice. This is relevant in contexts such as Belarus, for example regarding interviews of insider witnesses among Belarusian law enforcement, as well as when establishing the crimes against humanity threshold, which requires proving that violations constitute a widespread or systematic attack directed against a civilian population and that perpetrators are aware their actions are part of such an attack. At the same time, repetitive interviews and re-traumatisation of victims can be reduced through this collective approach.

While MLAs are request-based and sequential, involving one State asking another to perform a specific investigative act and then waiting for the results, a JIT cooperation is direct and concurrent. It engages investigators from different States in one operational group. In MLA processes, evidence is gathered under the law of the executing State, which may not meet the procedural standards of the requesting State, potentially leading to inadmissibility and the need for re-collection. Conversely, in a JIT, procedures are agreed upon in advance so that evidence collected by any member is admissible in other participating jurisdictions.

In conclusion, evidence gathered and preserved for multiple jurisdictions through a JIT saves resources and increases the chances of prosecution somewhere.

Examples include the Joint Investigation Team focusing on alleged core international crimes in Ukraine, established in March 2022 by Lithuania, Poland, and Ukraine, and later joined by Estonia, Latvia, Slovakia, Romania, and the ICC with support from Eurojust; and a more informal JIT initiative on Syria between European States and mechanisms like the UN International, Impartial and Independent Mechanism (IIIM) that has allowed universal jurisdiction prosecutions in Germany, France, and Sweden.

At the national level, one or more national experts to the JITs Network are appointed by each EU Member State representing the judicial (prosecutors, judges, Ministries of Justice) and law enforcement (police officers, Ministries of Interior) dimensions of a JIT, acting as 'contact points' whom practitioners wishing to set up a JIT can address.<sup>159</sup>

Further reading:

- [Council Framework Decision 2002/465/JHA](#)
- Eurojust JITs Network Secretariat, which supports and stimulates the activities of the [JITs Network](#)
- [Guidelines](#) on the Network of National Experts on Joint Investigation Teams

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<sup>159</sup> Eurojust, [JITs Network](#).

The structural investigation format provides a flexible and open-ended framework that enables investigators to organise and centralise extensive evidence, establish contextual elements, identify patterns and categories of crimes, and link multiple suspects to the broader criminal context. Several jurisdictions, including Germany, Sweden, France, Canada, and Lithuania, have used the format of structural investigations to address complex situations encompassing numerous alleged crimes.<sup>160</sup>

## How are universal jurisdiction cases investigated and prosecuted?

While criminal procedure varies across jurisdictions, most UJ cases follow a similar sequence of procedural steps.<sup>161</sup>

Once an investigation is opened, the investigating authorities collect evidence, including witness testimonies, to build a case against (an) alleged perpetrator(s). The authorities may issue an arrest warrant if the evidence collected is sufficient and other conditions, such as the suspect posing a risk of flight or interference with witnesses, are met. If the investigation is taking place in a Member State of the EU, the authorities may also apply for a European Arrest Warrant (EAW).<sup>162</sup> The EAW is a simplified cross-border judicial surrender procedure. It is issued by a judicial authority in a first Member State (issuing Member State) to a judicial authority in a second requested Member State (executing Member State) for the purposes of a criminal prosecution (or the execution of a custodial sentence).<sup>163</sup>

If the suspect is located in a country that has concluded an extradition treaty with the State that issued the arrest warrant, a formal request for extradition may be submitted. While States might be required to extradite or prosecute individuals suspected of certain crimes under international law, including torture and other serious international crimes,<sup>164</sup> in practice, securing an extradition can be difficult. A State that is unwilling to prosecute such crimes itself may also be unlikely to extradite suspects to another State that is conducting an investigation. If the extradition from that State is not possible, the arrest warrant may still be enforced, if the individual travels to a third State that maintains an extradition agreement with the issuing State.

If the investigating authorities conclude that they have gathered significant and consistent evidence indicating that the suspect has participated in the commission of the international crime, they may present charges against the suspect, after which a judge will decide whether to indict the suspect. In the context of proceedings based on UJ, this stage usually commences once the suspect is in custody or otherwise present in the prosecuting State, since trials *in absentia* are permitted in only a few jurisdictions<sup>165</sup> and raise concerns regarding fair trial rights and the extent to which they fulfil retributive or restorative justice aims.<sup>166</sup>

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160 Eurojust, *Conclusions of the 31st meeting of the Network for investigation and prosecution of genocide, crimes against humanity and war crimes*, 6-7 April 2022.

161 More information about national legal frameworks relating to universal jurisdiction is available in *Universal Jurisdiction in Universal Jurisdiction Law and Practice Briefing Papers* published by TRIAL International, as well as a mapping tool launched by Clooney Foundation for Justice (CFJ). TRIAL International, *Universal Jurisdiction Law and Practice Briefing Papers*; Clooney Foundation for Justice (CFJ), *Justice Beyond Borders: A Mapping Tool*.

162 TRIAL International, April 2019. *Universal Jurisdiction Law and Practice Paper: Germany*, p. 23.

163 Eurojust, *European Arrest Warrant*.

164 International Law Commission, *Preliminary report on the obligation to extradite or prosecute (aut dedere aut judicare)*, A/CN.4/571.

165 Trials in absentia are, under certain circumstances, permitted in several national jurisdictions, such as in Belgium and Czech Republic.

166 Council of Europe (CoE), Committee of Experts on the Operation of European Conventions on Cooperation in Criminal Matters, *Questionnaire concerning judgments in absentia and the possibility of retrial*, 28 April 2014.

During the trial, the court hears evidence from both the prosecution and the defence, including by hearing witness testimonies. The accused is given the opportunity to respond to the charges, and the court ultimately determines guilt or innocence, and, if applicable, imposes a sentence. Given the complexity of international crimes and the gravity of the allegations, such trials often take considerable time to ensure a thorough and fair judicial process.<sup>167</sup>

## What is the outcome of a universal jurisdiction case?

Prosecutions based on UJ result in either a conviction or an acquittal of the accused. The convicted person has the right to appeal the verdict, which means that the decision made by the judge will be reviewed by a higher court. On appeal, the higher court may uphold or overturn the conviction, modify the sentence, or order a retrial. If the conviction is upheld, the judgement becomes final. In case of an acquittal in the lower court, the prosecution may also have the right to appeal, depending on the applicable national legal framework.

Victims may have the possibility to claim reparation following a conviction, typically by pursuing a civil claim for compensation against the accused. The right to compensation is enshrined in Article 14 of the UN Convention Against Torture as well as the EU Victims' Rights Directive of 2012, which also stipulates that victims have the right to receive information about how and under what conditions they can access compensation.<sup>168</sup> Such claims are governed by the applicable rules of civil law.

In some States such as Belgium, Germany and the Netherlands, the claim for reparation is only admissible if the accused is found guilty. In other States, such as Sweden and France, compensation can be awarded even in case of an acquittal.

Often, however, victims seeking reparation for the crimes they have suffered face two main challenges: the accused may be unable to provide compensation due to a lack of financial means, and the victims may not be eligible for compensation through State-funded schemes or there may not be one.

The EU Council Directive of 2004 relating to compensation to crime victims requires all EU member States to set up a national scheme of compensation for all crime victims.<sup>169</sup> However, as the Compensation Directive applies only to victims of crimes committed within the territory of the EU, such compensation schemes generally do not allow victims of core international crimes committed outside the EU to apply for compensation. As a result, very few victims in UJ cases prosecuted in the EU receive compensation. Typically, this can only be achieved when the prosecuting authorities manage to identify and confiscate assets of the convicted individual and allocate them to satisfy the compensation claims.

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167 The Al-Khatib trial in Germany against Anwar Raslan began on 23 April 2020 and concluded on 13 January 2022, spanning 108 court days over nearly 21 months.

168 Article 4 (e) of the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 (EU Victims' Rights Directive) establishing minimum standards on the rights, support and protection of victims of crime.

169 EU, Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, 29 April 2024.

Even where a prosecution under UJ results in a conviction, victims may face significant delays in obtaining a decision on compensation, and even greater uncertainty as to when such a decision will or can be enforced.

## What role can victims play in universal jurisdiction proceedings?

The role of victims in UJ cases is determined by the respective national legal framework and varies significantly across different jurisdictions. Victims' experience with criminal proceedings in a particular jurisdiction is also shaped by the procedural role accorded to them, and by the conduct of relevant actors, including authorities and legal practitioners.

In Germany and Sweden, for example, victims can participate as full procedural parties to the criminal proceedings (as a joint plaintiff in Germany<sup>170</sup> and as an injured party in Sweden<sup>171</sup>). Joining as a party allows victims to exercise important procedural rights, for example, the right to appeal against the verdict and sentence. In France and Belgium, victims can participate in criminal proceedings as civil parties. They benefit from considerable procedural rights that allow them to influence the course of an investigation or prosecution, including, for example, the right to request access to the criminal file or to appeal decisions concerning the conduct of the investigation.

In the Netherlands, by contrast, victims are not considered procedural parties to the proceedings. They have certain limited rights, such as the right to present documents in order to establish the harm they have suffered, and the right to question witnesses and experts, but they cannot call witnesses or appeal against the decision on guilt or sentence.<sup>172</sup>

### **Switzerland: Conviction of the former Gambian Minister of Interior for Crimes Against Humanity**

On 15 May 2024, the Swiss Federal Criminal Court (FCC) convicted Ousman Sonko, the former Gambian Minister of Interior, for crimes against humanity committed between 2000 and 2016. The FCC found Sonko guilty of crimes committed during the rule of the former Gambian President Yahya Jammeh, particularly the killing of a political opponent in 2000, torture and illegal detention, deprivation of liberty, acts of torture against peaceful demonstrators, and other crimes. He was sentenced to 20 years in prison in the first instance, with an appeal still pending.<sup>173</sup>

Ousman Sonko is the highest-ranking official ever convicted in Europe for international crimes under the principle of universal jurisdiction. He was arrested in January 2017, following a criminal complaint filed with the Swiss authorities by TRIAL International after receiving information about Sonko's presence in Switzerland.

170 Open Society Justice Initiative, Trial International 'Universal Jurisdiction: Law and Practice in Germany,' p. 25, April 2019.

171 Civil Rights Defenders, *Reporting Grave International Crimes*.

172 REDRESS, *Breaking down Barriers: Access to Justice in Europe for Victims of International Crimes*, p. 82, April 2020.

173 Trial International, *Ousman Sonko*, June 2025.



## Belarus: Ongoing Investigation in Lithuania for Alleged Acts of Torture Committed against Peaceful Demonstrators during the Protests in 2020

On 9 December 2020, Lithuania's General Prosecutor opened an investigation into alleged acts of torture based on a complaint from Belarusian citizen Maksim Kharoshyn, who was detained and reportedly tortured by Belarusian security forces in Minsk on 13 October. Reports have highlighted the involvement of Belarusian officials, including Nikolai Karpenkov<sup>174</sup>. In 2021, the Lithuanian authorities heard several witnesses.<sup>175</sup> According to a media article published in October 2024, the Prosecutor's office appears to have "gathered evidence from 60 victims and identified dozens of perpetrators".<sup>176</sup>

## D. Jurisdiction Based on the Active or Passive Personality Principle

### What is jurisdiction based on the active or passive personality principle?

While the principle of UJ requires no territorial or personal link to the prosecuting State, extraterritorial jurisdiction enables States to assert jurisdiction over crimes committed abroad by their nationals (active personality principle) or against their nationals or permanent residents (passive personality principle), based on the active and passive personality principles.

A total of 98 States can exercise jurisdiction over their nationals for core international crimes committed outside the country's borders, while 73 States permit some form of jurisdiction over such crimes when the victim is a national.<sup>177</sup> However, this jurisdictional route provides access to justice only for a small group of victims, specifically, those who possess the nationality of the State where proceedings can take place, or where the alleged perpetrator is a national of that State. In the context of mass crimes, this contributes to selective accountability, whereby only a limited number of victims can achieve justice and redress.

The application of these principles is often governed by conditions and limitations shaped by the national legal framework.<sup>178</sup> For instance, some jurisdictions, such as France, introduced a double criminality requirement to prosecute crimes based on active and passive personality principles, requiring the criminalisation of the conduct both in the State of nationality and the State where the conduct has occurred.<sup>179</sup> However, as certain crimes – such as torture – are subject to universal prohibition under international law, jurisdiction should still be exercised even if the conduct is not explicitly criminalised in the territorial State.

174 TRIAL International, *UJAR 2022*, p. 70.

175 TRIAL International, *UJAR 2022*, p. 70.

176 LRT.lt, *Behind Lithuania's push to take Lukashenko to court, 2024*.

177 Clooney Foundation for Justice (CFJ), *Justice Beyond Borders: A Mapping Tool*.

178 Clooney Foundation for Justice (CFJ), *Justice Beyond Borders: A Global Mapping Tool*, p. 8.

179 Eurojust, *At a Glance: Universal Jurisdiction in EU Member States, 2023*, p. 3.

Investigations and prosecutions based on the active or passive personality principles usually follow similar procedural steps to those described in the section on universal jurisdiction (see above Chapter II. C, Universal jurisdiction), in line with the applicable domestic criminal procedure framework. However, they are more likely to be person-specific<sup>180</sup> from the outset.

### **Active Personality Principle Example:**

#### **Prosecution of War Crimes Committed in Syria by Dutch Nationals**

Dutch authorities prosecuted Dutch nationals who returned to the Netherlands from Syria and Iraq on the basis of the active personality principle, for example in the case of Hasna Aarab, a Dutch woman and alleged former member of ISIS.<sup>181</sup>

In 2015, Hasna Aarab travelled to Syria from the Netherlands with her four-year-old son. In Syria, she married a Moroccan ISIS fighter and stayed at her husband's acquaintance's house in Raqqa, where a Yazidi woman was subjected to forced labour in the household. In November 2022, Hasna Aarab was repatriated back to the Netherlands, along with 11 other women. She was arrested upon return and charged with the crime against humanity of enslavement, and with membership in a foreign terrorist organisation.

The Dutch prosecutors relied on evidence provided by the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), including the testimony provided by the victim.<sup>182</sup> On 11 December 2024, a first instance court in The Hague convicted Hasna Aarab of the crime against humanity of enslavement, membership in a foreign terrorist organisation, promotion of terrorist crimes and child endangerment, sentencing her to 10 years' imprisonment. This case marked the first conviction in the Netherlands for crimes against Yazidis. An appeal to contest the verdict is pending.<sup>183</sup>

180 A person-specific investigation is an investigation focused on the potential criminal responsibility of an identified individual, whereas a structural investigation addresses a broader situation.

181 Overheid.nl, Decision of the Minister of Foreign Affairs of 25 September 2024, No. BZ2401394, repealing the decision of 7 December 2016, No. MinBuZa-2016.847749, designating Ms. Hasna Aarab as a person to whom the Terrorism Sanctions Regulation 2007-II applies, 25 September 2024.

182 Journal of International Criminal Justice, UN Accountability Mandates in International Justice, July 2023.

183 Interlinkages Database, Case: Hasna A., 71/256885-24 - 1st Inst. Verdict – Appeal Pending.

## Passive Personality Principle Examples:

### Lithuanian Investigation Into the Killing of a Lithuanian Filmmaker in Ukraine

An example of an international crimes case based on the passive personality principle is the ongoing investigation in Lithuania into the killing of Lithuanian filmmaker Mantas Kvedaravičius in Mariupol in the context of the Russian war against Ukraine.

When Mantas Kvedaravičius went to Mariupol to shoot footage for his documentary, he was reportedly captured in March 2022 while helping to evacuate civilians from the besieged city, presumably by members of Russian-backed armed groups. A few days later, he was found dead. Lithuanian authorities opened an investigation in April 2022, presumably focusing on charges of war crimes. No suspect has been formally charged as of June 2025; the investigation remains ongoing.<sup>184</sup>

### Investigation into the Ryanair Flight Forcibly Diverted to Minsk

In May 2021, Belarusian air traffic controllers falsely claimed that there was a bomb on board a Ryanair flight to Vilnius and forced the aircraft to make a landing at Minsk airport. Upon landing, Belarusian authorities arrested Belarusian opposition activist Roman Protasevich and his partner Sofia Sapega, who were among the passengers.

Polish and Lithuanian authorities set up a joint investigation team (JIT) to investigate the incident.<sup>185</sup> The JIT interviewed multiple witnesses, including the aircraft crew members and passengers, and obtained recordings and photographs taken during the incident. Eurojust organised coordination meetings among JIT members and facilitated the execution of European Investigation Orders (EIOs) in Bulgaria, Greece and Romania to secure evidence, as well as legal assistance requests to Switzerland, Norway and the United States.

After a three-year investigation, on 6 September 2024, the Polish authorities charged three Belarusian nationals for deceitfully seizing a Polish aircraft and unlawfully depriving 132 people of their liberty through terrorist acts and intending to seriously intimidate numerous people, including groups opposed to the Belarusian regime. The individuals sought by Poland are the former director of the Belarusian air navigation agency, the shift manager of the Minsk air traffic control at the time, and the head of the Belarusian national intelligence and internal security agency (KGB).

<sup>184</sup> TRIAL International, *UJAR* 2023, p. 71. Kvedaravičius's fiancée, Hanna Bilobrova, and her Lithuanian lawyer are supported by the European Center for Constitutional and Human Rights (ECCHR).

<sup>185</sup> Eurojust, Three Belarusian nationals charged for forcing Polish plane to land to arrest dissident, 6 September 2024.

## What is the added value of criminal proceedings under the active or passive personality principle?

Cases in which the perpetrator or the victim are nationals of the investigating State may benefit from a clearer jurisdictional connection; however, they still encounter practical challenges similar to UJ cases, including obstacles in gathering evidence overseas and reluctance from territorial States to cooperate with proceedings or extradite suspects.

## What is the role of victims in such criminal proceedings?

The role of victims in these proceedings depends on the legal framework of the prosecuting State, including whether victims are granted procedural standing, such as the right to participate as civil parties, submit evidence, or seek reparation (for information on victims' rights in selected jurisdictions, see Chapter II. C, Universal Jurisdiction).

## E. Belarusian National Courts

While there is no reasonable expectation that, under the current regime, the Belarusian authorities will genuinely investigate and prosecute alleged human rights violations and international crimes, the prospect of future national accountability in Belarus, however distant, cannot be dismissed. Many survivors interviewed by Belarusian organisations regard the achievement of meaningful justice as inextricably linked to political transformation, including a post-authoritarian transition and the reconstitution of a legitimate, independent judiciary.<sup>186</sup>

A future democratic transition in Belarus could pave the way for accountability to become a central element of a comprehensive transitional justice process. This may involve:

- **Criminal trials in national courts** for those responsible for committed crimes;
- **Truth-telling processes** and historical inquiries;
- **Incentives for full disclosure and cooperation** in the elucidation of crimes committed, e.g. amnesty provisions or reduced sentencing;
- **Rehabilitative justice** and the reversal of politically motivated convictions.

Given the scale and complexity of the crimes committed, a future process towards transitional justice and reconstitution of the judicial system may require or benefit from international assistance.

A constitutional transition from authoritarian rule will also require a process of reassessment and possible removal of judges and prosecutors who are unwilling or unable to serve with integrity, impartiality and competence under a democratic system. Processes of screening the judiciary, such as vetting, lustration, competitive reappointment processes and truth commission inquiries, have been conducted in several transitional contexts, for example, in Argentina, Chile, the Czech Republic, El Salvador, Estonia, Guatemala, Germany, Hungary, Kenya, Pakistan and South Africa.<sup>187</sup>

<sup>186</sup> Viasna and ICIT, Belarus: How Survivors of Torture and/or Cruel Treatment Perceive Justice, p 31, 2024.

<sup>187</sup> Bingham Centre for the Rule of Law, Projects: Special Processes for the Reassessment and Removal of Judges in Constitutional Transitions.

## F. Council of Europe Special Tribunal for the Crime of Aggression against Ukraine

### What is the Special Tribunal for the Crime of Aggression against Ukraine?

The Special Tribunal for the Crime of Aggression against Ukraine (Tribunal) is an international tribunal established to address the consequences of Russia's war of aggression against Ukraine, with a mandate to investigate, prosecute and try political and military leaders who planned, prepared, initiated, committed or attempted to commit the crime of aggression.<sup>188</sup>

Mirroring Article 8bis of the Rome Statute, Article 2 of the Tribunal's Statute defines the crime of aggression as "the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations".<sup>189</sup>

Following protracted and complex negotiations, the Tribunal was established within the framework the CoE in order to ensure its independence, impartiality and legitimacy. The idea, initially conceived by leading international lawyer Philippe Sands, was spearheaded by the Government of Ukraine.<sup>190</sup> The PACE was the first international body to call for the establishment of such a tribunal in April 2022, just two months after Russia's full-scale invasion.<sup>191</sup>

On 25 June 2025, Ukraine's President Volodymyr Zelenskyy signed a bilateral agreement on the establishment of the Special Tribunal with the CoE's Secretary General Alain Berset.<sup>192</sup> Following this, interested parties, including CoE member States, non-member States from around the world, and the EU, will consider joining an Enlarged Partial Agreement (EPA) on the management of the Special Tribunal. Once interested States have indicated their desire to participate, the Committee of Ministers will resume its work to establish the EPA.<sup>193</sup> The Tribunal is expected to commence its operations in 2026.

The Tribunal will complement the work of the ICC and other international and national accountability mechanisms. The ICC will enjoy primacy when a person subject to an ICC arrest warrant is detained by the ICC.<sup>194</sup> The Tribunal may enter into arrangements or agreements with the ICC, as well as with the United Nations, and other international organisations and bodies.<sup>195</sup>

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188 Council of Europe Council of Ministers, Statute of the Special Tribunal for the Crime of Aggression Against Ukraine, Articles 2(1), 24 June 2025.

189 Council of Europe Council of Ministers, Statute of the Special Tribunal for the Crime of Aggression Against Ukraine, Articles 2(2), 24 June 2025.

190 Financial Times, Putin's use of military force is a crime of aggression.

191 European External Action Service, Resolution 2436 (2022), The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes, 28 April 2022.

192 European External Action Service, Agreement between the Council of Europe and Ukraine on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine, CM(2025)104-final, 24 June 2025, Art 9. The Verkhovna Rada of Ukraine has ratified the Agreement between Ukraine and the Council of Europe on the establishment of the Special Tribunal for the Crime of Aggression against Ukraine on 15 July 2025.

193 Council of Europe, Press release, 'Ukraine and the Council of Europe sign Agreement on establishing a Special Tribunal for the Crime of Aggression against Ukraine,' 25 June 2025.

194 Statute, Article 46 (2).

195 Statute, Articles 46 and 47.

The jurisdiction of the Special Tribunal will be based on Ukrainian territorial jurisdiction.<sup>196</sup>

The Tribunal's foundational legal documents include:

- A Statute, i.e. the core legal text that will govern the functioning of the Tribunal, provide the definition of the crime of aggression, the court's jurisdiction, applicable law, key parameters related to investigation, prosecution and trials, as well as questions related to immunities;<sup>197</sup>
- A bilateral agreement between the Government of Ukraine and the CoE establishing the Tribunal, defining its legal standing, powers, and cooperation.<sup>198</sup>
- An Enlarged Partial Agreement, an international treaty covering various aspects of the management of the Tribunal.<sup>199</sup>

A novel feature of the Tribunal, as defined in its Statute, is the reliance of the Tribunal's Prosecutor on cases to be referred by the Prosecutor General of Ukraine following his assessment on whether a person should be charged with the crime of aggression.<sup>200</sup>

The Tribunal will follow its statutory documents and, where relevant, other treaties, customary international law and general principles of law to ensure compliance with internationally recognised standards of international criminal law.<sup>201</sup>

The Statute explicitly excludes the application of 'functional immunity', stipulating that heads of State or government, members of government or parliament, elected representatives or government officials shall not be immune from being investigated by the Special Tribunal.<sup>202</sup> However, due to personal immunity enjoyed by so-called 'troika' leaders, namely Heads of State, Heads of Governments and Foreign Ministers, these persons can only be brought to justice when they are no longer in office or their immunity has been waived.<sup>203</sup> Despite this, investigations and evidence collection can be conducted beforehand, as well as indictments be prepared to enable prosecution and trial if and when circumstances allow.

Where immunities do not preclude the Tribunal from proceeding to the trial stage, it may conduct *in absentia* trials where "the accused waived his right to be present in an unequivocal manner [...]; or if all reasonable steps have been taken to secure his/her appearance and inform the person of the charges [...]", provided that procedural safeguards for such trials are in place, such as the notification requirement, the right to defence, and the right to re-trial in case of conviction.<sup>204</sup>

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196 Statute, Article 1.

197 Council of Europe, Statute of the Special Tribunal for the Crime of Aggression against Ukraine, 24 June 2025,.

198 *Opinio Juris*, The Road Not (Yet) Taken: A Special Tribunal for the Crime of Aggression against Ukraine, 16 April, 2025.

199 Draft Resolution CM/Res(2025) establishing the Enlarged Partial Agreement on the Management Committee of the Special Tribunal for the Crime of Aggression against Ukraine, 18 June 2025.

200 Statute, Art 23.

201 Statute, Art 3.

202 Statute, Article 4 (2), Art 23(4).

203 Statute, Article 23 (5).

204 Statute, Article 28 (procedural safeguards for in absentia trials comply with the ECtHR).

The Tribunal will engage in co-operation agreements with States, who will subsequently be bound by international law to ensure respect for its rulings and warrants.<sup>205</sup>

The Tribunal will be financially supported and governed by Members and Associate Members of the Enlarged Partial Agreement.

## What is the added value of the Special Tribunal in relation to the accountability of Belarusian alleged perpetrators?

The Tribunal will address an accountability gap left by the ICC, which cannot exercise jurisdiction over the alleged crime of aggression committed by Russian, Belarusian, or North Korean leaders, as they are nationals of non-ratifying States to the Rome Statute. In light of the ICC's jurisdictional constraints, the Tribunal is a complementary international mechanism that seeks to reinforce the global order based on international law and deter future acts of aggression by State leaders.

The Tribunal's work can contribute to a historical record detailing Russia's violations of the crime of aggression and the involvement of its leaders alongside the leaders of Belarus and North Korea, serving as a countermeasure to Russia's disinformation. Moreover, it can contribute to legal precedent that strengthens international criminal law regarding the prosecution of the crime of aggression and facilitate future prosecutions, while also having a deterrent effect on State leaders in other parts of the world.

In light of the Tribunal's jurisdiction over State leaders who engaged in the crime of aggression against Ukraine, the Tribunal may also investigate Belarusian and North Korean nationals if there is sufficient evidence that they played a significant role in the crime of aggression against Ukraine.<sup>206</sup>

The PACE has drawn attention to the complicity of Belarusian leadership in the war of aggression against Ukraine, noting that "Belarus has allowed Russia to use its territory to perpetrate an act of aggression against Ukraine, which amounts in itself to an act of aggression." (para 4.2.). It further stated that "the political and military leadership of the Russian Federation, Belarus and North Korea have committed and are committing a crime of aggression against Ukraine, which entails individual criminal responsibility for the leaders concerned irrespective of their official position, including Heads of State and Government" (para. 4.5.)<sup>207</sup> See also Chapter II. F, Council of Europe Special Tribunal for the Crime Of Aggression against Ukraine.

One of the points of criticism directed against the Tribunal is that it will concentrate on a limited number of prosecutions against high-level perpetrators, with little prospect that these persons can be apprehended.<sup>208</sup> Furthermore, persons of interest to the Tribunal may also be under investigation by the ICC,<sup>209</sup> which would enjoy primacy over the Tribunal in the event of their arrest. With a preliminary examination by the ICC pending regarding alleged crimes against

205 CoE, [Frequently Asked Questions](#) - Special Tribunal for the Crime of Aggression against Ukraine.

206 CoE, [Frequently Asked Questions](#) - Special Tribunal for the Crime of Aggression against Ukraine.

207 Council of Europe, [Legal and human rights aspects of the Russian Federation's aggression against Ukraine](#).

208 Andrew Forbe, [The Road Not \(Yet\) Taken: A Special Tribunal for the Crime of Aggression against Ukraine](#), 16 April 2025.

209 ICC, [Situation in Ukraine](#).

humanity committed by the Belarusian authorities, similar concerns about overlapping proceedings also arise in relation to Belarusian leaders.<sup>210</sup>

## What are possible outcomes of the work of the Tribunal?

The work of the Tribunal can lead to a number of outcomes:

- Conviction and sentencing of political and military leaders found guilty of the crime of aggression against Ukraine.
- Acquittal, if the criminal liability of the accused cannot be established beyond a reasonable doubt.

While the Statute of the Tribunal does not provide for the right of victims to claim reparations, it stipulates that funds collected through fines or confiscation measures following the conviction of an individual(s) will be transferred to a compensation mechanism established under Resolution 11/15 of the UN General Assembly for reparation for damage, loss or injury, and arising from the internationally wrongful acts of the Russian Federation in or against Ukraine.<sup>211</sup> As the first step toward the establishment of a Claims Commission, the CoE has established the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, which is mandated to collect claims on damage, loss or injury caused, on or after 24 February 2022, in the territory of Ukraine by the Russian Federation's internationally wrongful acts in or against Ukraine (See Chapter V. A, Register of Damages).<sup>212</sup> However, Belarusian citizens are unlikely to benefit unless they were residing in Ukraine.

## How are victims and civil society organisations involved?

The crime of aggression is by its nature a crime directed against the State subjected to the unlawful use of force by another State(s). While the crime does not target individual victims per se, they may suffer serious harm as result of the crime. The Statute of the Tribunal provides for the possibility of victim participation under condition that they are "specially affected" by the conduct forming the basis of the crime as specified in the indictment.<sup>213</sup> Such narrow scope of victim participation is to preclude mass victim participation, as the entire population of Ukraine could otherwise claim participatory rights.<sup>214</sup> In exceptional cases, the Tribunal can allow victims to participate in the proceedings if they are collectively represented by a legal counsel, ensuring due safeguards of the rights of the accused to a fair trial.

Unlike the provisions related to victim participation under the Rome Statute, victim participation is framed in the Statute as a possibility and not a right. The implementation of this provision will therefore depend upon judicial interpretation of the scope and limits of the victim participation framework.

Civil society organisations often play an important role in international tribunals providing support to victims, compiling documentation, and promoting awareness about the Tribunal's activities.

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210 International Criminal Court, Preliminary examination Republic of Lithuania/Republic of Belarus.

211 Statute, Article 37. See also: Recommendation for a Council Decision authorising the European Commission to participate, on behalf of the EU, in the negotiations of the international instrument setting up the International Claims Commission for Ukraine.

212 Council of Europe, Register of Damage for Ukraine.

213 Statute, Article 22.

214 Asser Institute, The Special Tribunal for the Crime of Aggression against Ukraine, Legal assessment and policy recommendations, p. 32, 25 June 2025.



## IV. STATE RESPONSIBILITY

According to public international law, including international human rights and international criminal law, States are bound by international treaties they have ratified or otherwise acceded to, as well as by peremptory norms of international law (*jus cogens*). Belarus has agreed to be bound by several international human rights treaties, including ICCPR, ICESCR, ICERD, UN CEDAW, UNCAT, UNCRC, and UNCRPD.<sup>215</sup>

Belarus initially accepted the individual complaints procedure of both the ICCPR and of UN CEDAW, but withdrew from the former in 2022 (see in more detail in the chapter on UN Treaty Bodies and on the International Court of Justice).

With regard to *jus cogens* norms -defined as norms accepted and recognised by the international community of States as norms from which no derogation is permitted, one example includes the absolute and universal prohibition of torture, which is also enshrined in the UN Convention against Torture.<sup>216</sup> The prohibition of aggression, genocide, and crimes against humanity also constitute *jus cogens* norms under international law.<sup>217</sup> While some of the norms that reached the status of *jus cogens* are contained in the international treaties, for instance, in the UNCAT, the ICCPR, and the Rome Statute, States are bound by such norms even if they have not acceded to the relevant international treaty.

Moreover, as a member of the United Nations, Belarus is party to the ICJ and is bound to comply with its decisions.<sup>218</sup>

### A. International Court of Justice (ICJ)

#### What is the role of ICJ?

The International Court of Justice (ICJ) was established by the Charter of the United Nations in June 1945, and constitutes its principal judicial organ, created to peacefully settle disputes between States.<sup>219</sup> According to the UN Charter, “all Members of the United Nations are *ipso facto* parties to the Statute of the ICJ,”<sup>220</sup> and “undertake to comply with the decision of the International Court of Justice in any case to which [they are] a party.”<sup>221</sup> The Statute

<sup>215</sup> OHCHR. Status of ratification.

<sup>216</sup> OHCHR, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984.

<sup>217</sup> International Law Commission, Report of the International Law Commission on the work of its seventy-first session (29 April–7 June and 8 July–9 August 2019), UN Doc A/74/10 (2019) ('ILC 2019 Report').

<sup>218</sup> UN, UN Charter, Article 93 and 94.

<sup>219</sup> ICJ, Statute of the International Court of Justice, Art. 4.

<sup>220</sup> UN, United Nations Charter, Article 93(1).

<sup>221</sup> UN, United Nations Charter, Article 94(1).

of the ICJ, which elaborates on the general principles laid down in the UN Charter, was annexed to it, making it an integral part of the UN framework.

The ICJ's mandate is to solve disputes between States, i.e. it deals with State accountability as opposed to individual accountability (see Chapter II), and only States can be parties in legal disputes before the Court (so-called “contentious cases”). Individuals, non-governmental organisations or other private entities cannot invoke the ICJ.

Certain human rights obligations are recognised as obligations *erga omnes*, meaning that their protection is owed to the international community as a whole. Consequently, all States have a legal interest in ensuring compliance with these obligations, even if they have not suffered direct injury,<sup>222</sup> and can pursue international dispute settlement mechanisms, including proceedings before the ICJ.

## When can a case be brought before the ICJ?

The most relevant avenue in the context of Belarus relates to the competence of the ICJ to settle disputes based on relevant provisions contained in international treaties, provided that they have been ratified without reservations concerning the ICJ's jurisdiction prior to the dispute. Such a case would be brought before the Court through a written application, a document that indicates the subject of the dispute and the parties, and specifies the provision of the relevant international treaty which invokes the jurisdiction of the Court.<sup>223</sup>

### Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)

State-sponsored torture and other cruel, inhuman and degrading treatment or punishment by Belarusian security forces of real or perceived opponents of the government is well-documented.<sup>224</sup> Amongst others, the CAT, which is the treaty body responsible for overseeing State Parties' compliance with the Convention, concluded, as documented in its summary of an Article 20 inquiry procedure published in May 2024, that torture in Belarus constitutes a “systematic practice”, is “habitual, widespread and deliberate”, and is facilitated by law enforcement officials and prosecutors,<sup>225</sup> (For more on this CAT inquiry procedure see Chapter IV.B, UN Treaty Bodies).

Article 30(1) of the UNCAT provides that a dispute between State Parties concerning the interpretation or application of the Convention can be submitted to the ICJ, unless the State party in question has made a reservation in relation to this article. Upon ratification of the UNCAT on 13 March 1987, Belarus made a reservation to the dispute settlement clause, however, it withdrew this reservation on 19 April 1989.<sup>226</sup>

222 International Court of Justice, Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, Reports 2012 (II), p. 449, para. 68, 20 July 2012.

223 ICJ, Statute of the International Court of Justice, Art. 40, para. 1; Rules, Art. 38.

224 United Nations High Commissioner for Human Rights, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath [Report], A/HRC/55/61, 15 March 2024; United Nations High Commissioner for Human Rights, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath [Report], A/HRC/55/61, 3 February 2023; Organization for Security and Co-operation in Europe. OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus by Professor Dr. Wolfgang Benedek, 5 November 2020.

225 Committee against Torture, Report of the Committee against Torture (79th session, 13 May 2023–10 May 2024), UN Doc A/79/44, par. 45, 2024.

226 United Nations Treaty Collection, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Status at 22 July 2025.

To pursue State accountability of Belarus for torture and other cruel, inhuman or degrading treatment or punishment, States could initiate ICJ proceedings against Belarus on the basis of relevant provisions of the UNCAT.

### **Convention against Torture: Canada and the Netherlands v. Syria**

In September 2020, the Netherlands announced its intention to pursue Syria's accountability for violations under the UNCAT. The Dutch government informed its Syrian counterpart of this decision via a diplomatic note, reminding Syria of its international obligations under the UNCAT and asking it to enter negotiations.<sup>227</sup> In 2021, Canada joined these efforts. Over the following two years, both States took the required steps – negotiations and attempted agreement on arbitration prior to resorting to the ICJ.<sup>228</sup>

When the Parties could not reach an agreement on the organisation of arbitration within six months,<sup>229</sup> on 8 June 2023, the two States submitted a written application to the ICJ, claiming a range of violations of the UNCAT<sup>230</sup> and requesting the Court to order provisional measures.<sup>231</sup> Following the submission, Syria informed the Court of its decision not to participate in the oral proceedings,<sup>232</sup> however, on 10 October 2023, Syria submitted its written observations on provisional measures.<sup>233</sup> Four months later, the ICJ issued provisional measures, ordering that Syria takes all measures necessary to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment, ensures that no one under its control commits such acts, and takes measures to ensure that evidence is preserved.<sup>234</sup>

The Syria Justice and Accountability Centre has provided information and evidence on the Syrian government's policies and practices of torture against the civilian population to support the Netherlands and Canada in initiating the proceedings based on testimonies of victims and witnesses.

Following requests from the State Parties, in December 2024, the ICJ extended the time limits for the filing of Parties' written submissions until June 2025 and October 2026 (for Canada and the Netherlands, and Syria respectively), in light of the change of government in Syria.<sup>235</sup>

227 Government of the Netherlands, *The Netherlands holds Syria responsible for gross human rights violations*, 18 September 2020.

228 OHCHR, *Accountability in Syria under the Convention against Torture: The Joint Canada/Netherlands' Initiative*, December 2021.

229 International Court of Justice *Joint Application Instituting Proceedings* filed in the Registry of the Court on 8 June 2023, *Application of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and The Netherlands v. Syrian Arab Republic)*, para. 13, 8 June 2023.

230 In particular, Articles 2, 2(1), 10, 11, 12, 13, 14, 15, 16 and 19 of the Convention. See: International Court of Justice, *Application Instituting Proceedings under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic)*.

231 ICJ, *Press release No. 2023/28*, Canada and the Kingdom of the Netherlands jointly institute proceedings against the Syrian Arab Republic and request the Court to indicate provisional measures, 12 June 2023.

232 ICJ, *Summary 2023/6 of the Order of 16 November 2023*, *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic)*, 16 November 2023.

233 *Letter from the Charged' Affaires of the Embassy of the Syrian Arab Republic in Brussels addressed to the Registrar of the International Court of Justice* Brussels, 10 October 2023.

234 ICJ, *Summary 2023/6 of the Order of 16 November 2023*, *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic)*, 16 November 2023.

235 ICJ, *Order of 17 December 2024*, 17 December 2025.

## Convention on the Elimination of All Forms of Discrimination Against Women (UN CEDAW)

According to multiple reports published by the OHCHR, Special Rapporteurs, and CSOs, Belarus has consistently failed to uphold its obligations under the UN CEDAW, particularly in light of the ill-treatment of women political prisoners,<sup>236</sup> repression against female relatives of political prisoners,<sup>237</sup> and torture and ill-treatment of women arrested on politically motivated grounds, including gendered forms of psychological violence such as threats of rape and sexually abusive comments.<sup>238</sup> In its ninth periodic review (February 2025), CEDAW expressed serious concern about Belarus's failure to comply with the UN CEDAW obligations, noting a set of specific discriminatory practices against women.<sup>239</sup>

While at the time of ratification of the UN CEDAW on 4 February 1981 Belarus made a reservation to the dispute settlement clause (Article 29) concerning the referral of disputes to the ICJ,<sup>240</sup> this reservation was withdrawn in 1989.<sup>241</sup> This implies that State Parties to the UN CEDAW could bring Belarus's non-compliance with its UN CEDAW obligations before the ICJ, provided its legal interest in bringing such a claim is established.

Despite the absence of ICJ jurisprudence under this Convention, a recent initiative<sup>242</sup> by Germany, Australia, Canada, and the Netherlands to hold Afghanistan accountable for UN CEDAW violations illustrates both the relevance of resorting to an inter-State dispute settlement for breaches of this Convention, and the emerging consensus that certain obligations under the UN CEDAW constitute obligations *erga omnes partes*.

## The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime<sup>243</sup>

According to the Lithuanian government, the Belarusian regime orchestrated migrant smuggling by increasing flights from the Middle East and other regions, issuing visas, and providing accommodation. Once in Belarus, many migrants were reportedly escorted by Belarusian security forces to the Lithuanian border and pressured or forced to cross illegally, often in dangerous or even life-threatening conditions.<sup>244</sup>

236 Office of the United Nations High Commissioner for Human Rights, Belarus: Alarming ill-treatment of women prisoners and life-threatening condition of Viktoria Kulsha, say UN experts [Press release], 3 March 2025. See also: Viasna, They Decided to Wipe Us Off the Face of the Earth, Women's testimonies on gender discrimination in Belarusian prisons.

237 According to the latest report of the Group of Independent Experts on Belarus, most of those detained during the January 2024 crackdown on the relatives of political prisoners (under article 24.15 of the Code of Administrative Offences - use of foreign donations to carry out extremist activities - for having received groceries paid for by a foreign non-profit organization supporting political prisoners and their families) were women. See: Office of the United Nations High Commissioner for Human Rights. (2025, February 7). Report of the Group of Independent Experts on the Situation of Human Rights in Belarus (A/HRC/58/68—advance edited version), para 36.

238 Office of the United Nations High Commissioner for Human Rights. (2025, February 7). Report of the Group of Independent Experts on the Situation of Human Rights in Belarus (A/HRC/58/68—advance edited version), para 46, 7 February 2025.

239 United Nations, Concluding observations on the ninth periodic report of Belarus - Committee on the Elimination of Discrimination against Women, CEDAW/C/BLR/CO/9, 27 February 2025.

240 United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women (Vol. 1249, p. 13), 18 December 1979.

241 United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women (Vol. 1249, p. 13), 18 December 1979.

242 Federal Foreign Office. (2025, 13 January). Initiative on accountability for Afghanistan's violations of the UN Convention on the Elimination of All Forms of Discrimination against Women, 13 January 2025.

243 United Nations, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000.

244 Ministry of Foreign Affairs of the Republic of Lithuania, Lithuania refers Belarus to the International Court of Justice in The Hague over the international law violating migrant crisis caused by the Lukashenko regime [Press release], 19 May 2025.

In May 2025, therefore, Lithuania initiated ICJ proceedings against Belarus<sup>245</sup> based on the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, which both Belarus and Lithuania ratified in 2003.<sup>246</sup> According to Lithuania's written application, Belarus breached its obligations under the Protocol by "facilitating, supporting, and enabling the smuggling of migrants" through Belarus into Lithuania.<sup>247</sup>

## What procedural steps are required to initiate the proceedings before the ICJ?

Proceedings under the Court's jurisdiction can be initiated by a State Party to an international treaty, focusing solely on resolving issues explicitly outlined in the treaty in question. Proceedings aim to address violations of the treaty's provisions and are hence limited to the specific aspects of the treaty, excluding judgment on a dispute's broader political context.<sup>248</sup>

To satisfy the requirement for a case to be considered by the ICJ, most relevant international treaties require that two sequential conditions are met at the time of submitting a written application:

- a. A failed attempt at negotiations; and
- b. A failed attempt at arbitration or if the Parties are unable to agree on the organisation of the arbitration after six months.

The State that wishes to initiate the proceedings is required first to negotiate in good faith. This has been interpreted by the Court as being able to demonstrate a genuine attempt to negotiate; that the subject-matter of the negotiations and the dispute were related; that the negotiation was conducted with the purpose to resolve the dispute; and that all reasonable efforts at negotiation were made but ultimately failed.<sup>249</sup> For instance, statements in international fora or in presidential press briefings are not typically considered to be part of a negotiation.<sup>250</sup> Finally, to demonstrate that the negotiations failed, they must be at a point of failure, deadlock or futility.<sup>251</sup>

If required by the international treaty invoked, the State must subsequently attempt to settle the dispute through arbitration.<sup>252</sup> However, if the State Parties are unable to agree on the organisation of the arbitration within six months, they may proceed to the ICJ.

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245 International Court of Justice, Request for the indication of provisional measures submitted by Lithuania in the Case concerning Alleged Violations of the Convention on the Prevention and Punishment of the Crime of Genocide (Lithuania v. Belarus, A 200–2025/05/19), 19 May 2025.

246 United Nations, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000.

247 International Court of Justice, Application instituting proceedings submitted by Lithuania under the Convention on the Prevention and Punishment of the Crime of Genocide (Lithuania v. Belarus, A 200 – 2025/05/19), 19 May 2025.

248 Boston College International & Comparative Law Review, *Keeping Good Faith in Diplomacy: Negotiation and Jurisdiction in the ICJ's Application of the CERD*, 2012

249 International Court of Justice Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), para 159-162, Judgment of 1 April 2011, 1 April 2011.

250 ICJ, Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), para 181, Judgment of 1 April 2011, 1 April 2011.

251 International Court of Justice, Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), 8 November 2019.

252 However, some conventions don't require to attempt both negotiation and arbitration; for instance, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), under Article 22, requires that the State must demonstrate that the dispute is "not settled by negotiation or by the procedures expressly provided for in [CERD]". In this case, the Court accepted that the attempt by Ukraine to settle the dispute through negotiations was sufficient.

Once these conditions are met, a State may submit a written application to the ICJ, detailing the relevant treaty provisions that the dispute in question is related to; the substance of the dispute; the efforts that have been taken by the State initiating the proceedings to settle the case through negotiations or arbitration; and the relief sought.

### **Georgia and the Russian Federation before the ICJ: Challenges relating to Demonstrating an Attempt at Negotiations and Arbitration**

In 2008, Georgia claimed that the Russian Federation violated the Convention on the Elimination of All Forms of Racial Discrimination (CERD) during its interventions in South Ossetia and Abkhazia from 1990 to 2008. However, the application was declined by the Court as Georgia did not succeed in demonstrating that it had taken measures to negotiate the dispute with the Russian Federation first.<sup>253</sup>

### **Ukraine and the Russian Federation before ICJ: “Genuine attempt” at Negotiations**

In *Ukraine v. Russian Federation*, the Court recognised that Ukraine had extended several invitations to Russia for negotiations, resulting in three rounds of talks held in Minsk. These negotiations, spanning roughly two years, encompassed both diplomatic correspondence and in-person meetings. The Court determined that these efforts amounted to a ‘genuine attempt’ at negotiation. Considering that Ukraine’s and Russia’s positions regarding the dispute had not changed, the Court found that negotiations had become futile.<sup>254</sup>

## **What added value does the Court have in international justice efforts?**

The ICJ constitutes an avenue for States to raise inter-State disputes on the interpretation and application of international law, which can include international human rights law. Under its jurisdiction in so-called ‘contentious cases’, the ICJ has examined alleged breaches of States’ international obligations arising under human rights treaties or other relevant legal frameworks.<sup>255</sup> States that are parties to such proceedings are bound to comply with ICJ judgements, as well as with orders of provisional measures by the Court.

In ‘contentious cases’, the Court also has the power to order provisional measures to protect the rights of either party from “imminent and irreparable prejudice”,<sup>256</sup> which are legally binding upon State Parties. In practice, provisional measures have been ordered to protect victims of violations under the relevant treaty invoked. For example, in the case of Canada and the Netherlands v. Syrian Arab Republic, the Court ordered provisional measures, which included requiring Syria to prevent acts of torture, citing “enhanced risk for detainees of being subjected to torture

253 ICJ, Georgia institutes proceedings against Russia for violations of the Convention on the of All Forms of Racial Discrimination, August 12, 2008.

254 International Court of Justice, Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), para 119-120, 8 November 2019.

255 See for example: ICJ. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia) (Judgment) [2015] ICJ Rep 3. Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda) (Judgment) [2005] ICJ Rep 168. Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) (Judgment) [1986] ICJ Rep 14.

256 Article 41, ICJ Statute.

and other cruel, inhuman or degrading treatment or punishment”.<sup>257</sup> Other examples of provisional measures have included: preserving evidence relevant to the case (*Canada and the Netherlands v. Syrian Arab Republic*<sup>258</sup>) and facilitating humanitarian assistance (*South Africa v. Israel*<sup>259</sup>).

Additionally, the Court can issue advisory opinions on legal questions at the request of UN bodies and specialised agencies. In exercising its advisory function, the Court has also interpreted the scope and application of international human rights law.<sup>260</sup> While advisory opinions are not legally binding, they provide important guidance to the requesting body and often hold significant influence in international law. In the context of accountability efforts for Belarus, this function offers added value as advisory opinions may guide States and other stakeholders in their response to violations of international human rights law and the commission of crimes under international criminal law.

## What are the possible outcomes of the ICJ proceedings?

State Parties are obliged to implement the Court’s judgments rendered in ‘contentious cases’. A State’s failure to implement the judgment may prompt the other party to raise the issue of non-compliance before the UN Security Council. Subsequently, the Security Council may “make recommendations or decide upon measures to be taken to give effect to the judgment.”<sup>261</sup> However, to date, the Security Council has not used its power to take measures to enforce the ICJ judgments.

While individuals cannot directly approach the ICJ for their cases, its actions can influence State behavior and contribute to better adherence to international human rights obligations, consequently benefiting victims. ICJ judgments may lead to policy changes that benefit victims, result in interpretation of international treaties that clarifies obligations relating to the protection of victims, and promote measures of non-repetition to prevent future violations. ICJ judgements ordering the payment of reparations<sup>262</sup> to a State may also trickle down to the benefit of victims should such payments be later distributed to them.<sup>263</sup>

## What role can victims play in ICJ proceedings?

Given the inter-State nature of ICJ disputes, victims and civil society organisations do not have standing before the Court.<sup>264</sup> This means that victims and CSOs cannot participate in proceedings or submit information directly to the Court.<sup>265</sup>

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257 International Court of Justice. *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic)*, Request for the Indication of Provisional Measures, 16 November 2023.

258 ICJ, *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 16 November 2023.

259 ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip*, 24 May 2024.

260 See for example: ICJ. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion)* [2004] ICJ Rep 136, 9 July 2004. *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Advisory Opinion)* [2024] ICJ Rep 136, 19 July 2024.

261 Article 94(b), ICJ Charter.

262 ICJ, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) Reparations*, 9 February 2022.

263 *Avocats Sans Frontières*, Press release: International Court of Justice Ruling in the DRC v. Uganda Case: Ensuring a Victim-Focused and Effective Implementation of the Reparations Order, 29 March 2022.

264 ICJ Statute, Article 34(1): “Only states may be parties in cases before the Court”.

265 ICJ, *Rules of Court*, Rule 69(4).

However, individuals and CSOs can advocate for ICJ proceedings to be initiated by a State or group of States, and may provide substantive input for a respective application, as demonstrated in the example above relating to *Canada and the Netherlands v. Syria*. In several proceedings before the Court, States have referred explicitly to reports prepared by CSOs, including in the case of *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*,<sup>31</sup> *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*,<sup>32</sup> *South Africa v. Israel*,<sup>33</sup> and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*.<sup>34</sup> The Court has accepted such material when it was found to be corroborated by other sources and grounded in primary evidence.<sup>35</sup>

In addition, the Applicant State may choose to submit witness evidence from victims, either in the form of written statements or, where appropriate, through in-person testimony during the oral proceedings.

## B. The International Labour Organisation (ILO)

### What is the International Labour Organisation?

The International Labour Organisation (ILO) is a specialised UN agency whose mandate is to advance social and economic justice. It sets international labour standards and monitors Member States' compliance through a regular supervisory mechanism and special procedures.<sup>266</sup>

International labour standards, as outlined in ILO conventions, encompass individual rights at work including safety, wage standards, social security, non-discrimination and freedom from forced work, as well as collective labour rights such as the right to join a trade union or bargain collectively. Obligatory provisions of ILO conventions are accompanied by ILO *recommendations* and *declarations* as categories of standard-setting documents issued by ILO.<sup>267</sup>

The International Labour Conference, composed of representatives of governments, workers, and employers from ILO Member States and held annually, serves as the highest decision-making body and reflects the ILO's unique tripartite structure.

The ILO routinely reviews how its standards are implemented by Member States and identifies areas for improvement. To this end, the ILO has established two sets of mechanisms that monitor whether Member States are complying with these standards: the ILO regular oversight system, and special procedures which include a complaints mechanism (Art. 26-34 ILO Constitution), the freedom of association supervisory mechanism (through the ILO's Committee on Freedom of Association) and the representation procedure (Art 24 ILO Constitution).

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<sup>266</sup> ILO, ILO supervisory system/mechanism.

<sup>267</sup> Notably, the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022, and the Declaration concerning the Aims and Purposes of the International Labour Organization (the Declaration of Philadelphia) (1944) hold a special status, as they codify ILO fundamental principles as a part of customary international law in the field of labour.



The regular and special oversight procedures of ILO are intricately connected, with the regular processes often serving as the catalyst for initiating special measures. When regular procedures uncover significant or ongoing non-compliance with ILO standards and states fail to respond sufficiently, they may trigger the commencement of special procedures. Findings within the regular review process often provide the evidential foundation for launching special procedures, which are subsequently monitored through the regular system, establishing a feedback loop that enhances compliance and accountability.

### The ILO's regular oversight system

The ILO's regular oversight system involves (i) the Conference Committee on the Application of Standards (CAS) and (ii) the Committee of Experts on the Application of Conventions and Recommendations (CEACR).<sup>268</sup> The CAS, a standing committee of the ILO, is made up of representatives of Government and employers as well as worker delegates, whereas the CEACR is an expert body of 20 jurists appointed by the Governing Body.<sup>269</sup>

Reviewing periodic reports submitted by Member States and information provided by authorised representatives of workers and employers, both bodies review measures taken by Member States to implement the ILO Conventions they have ratified and publish their findings in annual reports.

In doing so, the CEACR provides impartial evaluations of the application of international labour standards in ILO member states. It issues two types of comments to governments: observations, which address fundamental issues with a convention's application, and direct requests for technical questions or further information. The CAS examines the CEACR's annual report during the International Labour Conference in a tripartite setting, drawing on information provided by the examined government and selecting observations for discussion.<sup>270</sup> It publishes discussions and conclusions recommending specific steps to remedy a problem in its annual report.<sup>271</sup>

### The ILO's Regular Supervisory Mechanism and Belarus

As part of its regular supervisory work, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) expressed serious concerns over the repression of independent trade unions in Belarus. Drawing on reports of the Belarusian Congress of Democratic Trade Unions (BKDP) and the International Trade Union Confederation (ITUC), the Committee noted that violations of freedom of association and civil liberties have not only persisted but worsened, with the government systematically targeting the workers' movement. Independent unions can no longer function, and individuals involved in their activities risk criminal prosecution, facing penalties of up to 10 years in prison.<sup>272</sup>

268 ILO, ILO supervisory system: [Regular supervision](#).

269 See: ILO, Committee of Experts on the Application of Conventions and Recommendations (CEACR). The Committee of Experts is formed from 20 eminent jurists appointed by the Governing Body for renewable three-year terms. The experts come from different geographic regions, legal systems and cultures.

270 ILO, [Conference Committee](#) on the Application of Standards.

271 ILO, [Rules of the game: An introduction to the standards-related work of the International Labour Organization](#), pp. 106-107, 2019.

272 ILO, [Report](#) of the Committee of Experts on the Application of Conventions and Recommendations, ILC.113/III(A), para. 119, 2025.

In its 2025 report, the Committee considered that a number of political prisoners having been pardoned in mid-2024 does not amount to a genuine restoration of rights, particularly as the pardons required admission of guilt.<sup>273</sup> The Conference Committee on the Application of Standards (CAS), in 2025, highlighted the Belarusian Government's persistent disregard of the guidance, conclusions, and recommendations issued by the Commission of Inquiry, supervisory bodies, and the Governing Body, and its refusal to accept and implement them.

The Committee also expressed deep concern and regret regarding the use of criminal sanctions against trade unionists engaged in legitimate trade union activities, as well as the judicial harassment of trade union members, including arrests, prosecutions, and imprisonment. It “deplore[d] the repression against independent trade unions and the imprisonment of trade unionists” and “firmly urge[d] the Government to immediately release all trade union leaders and members arrested for participating in peaceful assemblies or for exercising their civil liberties pursuant to their legitimate trade union activities, and to drop all related charges.”<sup>274</sup>

## The ILO complaints mechanism

Apart from the regular review process, a complaints mechanism was established by Article 26 of the ILO Constitution, which allows for action in cases of non-compliance with ratified conventions. Such complaint may be filed by an ILO Member State that has ratified the relevant convention, by a delegate to the International Labour Conference, or by the ILO Governing Body.<sup>275</sup>

If the complaint is found to be admissible, the Governing Body may decide to establish a Commission of Inquiry composed of three independent experts who conduct an investigation, gather all relevant facts, and issue recommendations to address the identified issues.<sup>276</sup> To stabilise the situation on the ground, encourage voluntary compliance, and prevent escalation while the formal inquiry is ongoing, the Governing Body may explore interim measures (procedural tools and diplomatic actions such as changes in the provision of technical assistance, urgent statements from the Director-General, etc.). If the complaint concerns freedom of association, the Governing Body may forward it to the Committee on Freedom of Association (CFA).

As the ILO's most significant investigative tool, a Commission of Inquiry is generally convened when a Member State faces repeated accusations of severe and ongoing violations of ILO Conventions and has failed to take corrective action.<sup>277</sup> To date, 14 such commissions have been set up in the history of the ILO,<sup>278</sup> including one on Belarus in 2003.<sup>279</sup>

273 ILO, Report of the Committee of Experts on the Application of Conventions and Recommendations, ILC.113/III(A), para. 119, 2025.

274 ILO, Application of International Labour Standards, p. 115, 2025.

275 ILO Constitution, Article 26(4).

276 ILO, Complaint procedure (Art.26).

277 ILO, Complaint procedure (Art.26).

278 ILO, Complaints/Commissions of Inquiry (Art. 26). See also: ILO, The ILO supervisory system: a guide for constituents. Special procedures, Art. 26.

279 ILO, Report of the Commission on Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the Observance by the Government of the Republic of Belarus of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 6 November 2004.

Commissions of Inquiry can request written submissions, gather evidence, interview witnesses, visit the country in question if permitted by the government, and conduct hearings.<sup>280</sup> According to Article 27 of the ILO Constitution, all Member States are obligated to cooperate with a Commission, regardless of their direct involvement in the case.

Following the investigation, the Commission compiles a comprehensive report detailing its findings and providing time-bound recommendations to the State relating to the identified violations, which may include legislative or policy reforms.

The report is submitted to the Governing Body and shared with the government concerned which has three months to accept the recommendations or refer the matter to the ICJ. No case has yet been referred to the Court.

### **Article 26 of the ILO Constitution Invoked against Belarus**

In 2003, an ILO Commission of Inquiry was established to investigate non-compliance by the Government of Belarus with the Convention on Freedom of Association and Protection of the Right to Organise<sup>281</sup> and the Convention on the Right to Organise and Collective Bargaining<sup>282</sup>. The Commission found that the trade union movement has been the subject of interference on the part of authorities, with union leaders facing harassment and arbitrary detention.<sup>283</sup>

Since then, 16 reports have been issued in relation to the complaint on measures taken by the Belarusian government in response to the recommendations.<sup>284</sup> In the latest report, dated 20 March 2025, the Committee on Freedom of Association (CFA) found that “violations of freedom of association and civil liberties have not only not been addressed by the Government but have worsened due to the State campaign of persecution of the leaders and activists of the workers’ movement”, noting that “It is now impossible for independent trade unions and their members to carry out their activities in Belarus.”<sup>285</sup> It reiterated its request “to immediately release all trade union leaders and activists, who (...) were prosecuted for exercising their legitimate trade union activities (...) and to drop all related charges.”<sup>286</sup> In conclusion, it noted the “total lack of progress in implementing the recommendations of the 2004 Commission of Inquiry”.<sup>287</sup>

280 Investigations conducted by a Commission of Inquiry do not adhere to fixed procedural rules; rather, commissions can determine their own process guided by the ILO Constitution, general principles, and precedents set by previous Commissions.

281 ILO, C087 - Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948.

282 ILO, C098 - Right to Organise and Collective Bargaining Convention, (No. 98), 1949.

283 ILO, Report of ILO Commission of Inquiry says trade union independence has been undermined in Belarus, 8 October 2024.

284 ILO, Belarus.

285 ILO, 410th Report of the Committee on Freedom of Association, para. 50, 20 March 2025.

286 ILO, 410th Report of the Committee on Freedom of Association, para. 46 20 March 2025.

287 ILO, 410th Report of the Committee on Freedom of Association, para. 55, 20 March 2025.

The ILO subsequently monitors the implementation of recommendations.<sup>288</sup> If a Member State fails to implement the recommendations of the Commission of Inquiry, the ILO's Governing Body may invoke Article 33 of the ILO Constitution, recommending suitable measures to the International Labour Conference to ensure compliance. The instrument was invoked for the first time relating to Myanmar in 2000, when the Governing Body urged the Conference to take steps to put pressure on Myanmar to end its use of forced labour, and a Commission of Inquiry confirmed that forced labour was being used on a widespread and systematic scale in the country.<sup>289</sup>

### **Measures Recommended by the Governing Body under Article 33 of the ILO Constitution relating to Belarus**

Following the inquiry in 2003 under Article 26, the International Labour Conference adopted measures against Belarus under Article 33 of the ILO Constitution in June 2023 given repeated non-compliance of Belarus with the Commission's recommendations.

The list of recommendations was adapted, both for the international community (e.g. to reassess relations with Belarus and prevent the misuse of ties that result in violation of labour rights and to ensure that the principle of *non-refoulement* is respected, especially in relation to trade unionists and human rights defenders *in exile*) and for the Belarusian government. As a procedural measure, the decision was made to appoint a special envoy to Belarus - Mr. Lelio Bentes Corrêa (Brazil)<sup>290</sup> - with the mandate to engage with the Government and social partners to facilitate the release of detained trade unionists, promote the rerecognition of the Belarusian Congress of Democratic Trade Unions, collaborate with UN agencies to ensure coordinated action and report back to the ILO Governing Body within 2025.<sup>291</sup>

Finally, it urged the Belarusian government to receive an international humanitarian mission to ensure that independent doctors can visit all imprisoned trade unionists to assess their health and offer medical assistance, and an ILO tripartite mission to gather information on the implementation of recommendations.<sup>292</sup>

### **The ILO freedom of association supervisory mechanism**

Another special procedure is entrusted to the ILO's Committee on Freedom of Association (CFA), a tripartite body composed of government, employer, and worker representatives, with an independent chairperson. It can examine complaints about violations of freedom of association, even in countries that have not ratified the relevant ILO Conventions.<sup>293</sup>

288 Oxford Public International Law, *Supervisory and Review Procedures*: International Labour Organization (ILO), April 2020.

289 ILO, *Practice on the use of article 33 of the ILO Constitution*.

290 ILO, *Decisions* adopted by the Governing Body at its 354th Session, GB.354/Decisions, par. 11(g). 14 June 2025.

291 ILO, *Decision* concerning the follow-up to the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus, GB.353/INS/7(Rev.1)/Decision, 17 March 2025.

292 ILO, *Resolution* concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus, ILC.111/Resolution I, 12 June 2023.

293 ILO, *Committee on Freedom of Association (CFA)*. See also: ILO, *Special procedures* for the examination in the International Labour Organization of complaints alleging violations of freedom of association. Also, ILO, *The ILO supervisory system: a guide for constituents. Special procedures, Complaints to CFA*. Also, ILO, *Rules of the game: An introduction to the standards-related work* of the International Labour Organization International Labour Office, pp. 114-115, 2019.

Complaints against a Member State may be filed by employers' and workers' organisations. After discussing with the government, the CFA creates a report, generally approved by the Governing Body, which includes recommendations and forwards the issue for appropriate follow-up in case a violation of freedom of association has been found.

When a complaint is deemed urgent, the CFA may take specific steps to expedite the process, including preliminary contacts with the government and on-site missions. This has been applied to cases involving human life or personal freedom, new or changing conditions affecting the freedom of action of a trade union movement as a whole, cases stemming from an ongoing state of emergency and cases involving the dissolution of an employers' or worker's organisation.<sup>294</sup>

### The ILO representation procedure

The representation procedure under Article 24 of the ILO Constitution allows associations of employers or workers to file a representation with the ILO Governing Body alleging that a Member State has failed to effectively observe a ratified ILO Convention. An *ad hoc* three-member tripartite committee of the Governing Body may be set up to examine the representation and the government's response, concluding with recommendations.

If the government fails to implement the required measures, the case may be referred to the CEACR for follow-up. In more severe situations, it could escalate to a formal complaint, prompting the Governing Body to establish a Commission of Inquiry.<sup>295</sup>

## What is the added value of ILO mechanisms?

While the ILO mandate is limited to violations of labour rights, its procedures are a useful tool to seek accountability for related human rights violations. In Belarus, where a sustained crackdown on independent trade unions has led to arrests, criminal charges, and trade union dissolutions since at least 1995, ILO mechanisms represent an avenue that can bring focused attention to freedom of association, the right to organise and collective bargaining, for example.<sup>296</sup>

Further, the ILO's mechanisms benefit from a tripartite structure that includes governments, employers' and workers' representatives. Information being provided by these three actors, along with their involvement in the voting process at the International Labour Conference and the Governing Body, strengthens the credibility and weight of ILO decisions.

The ILO framework also includes active tripartite interaction beyond the formal ILO procedures described above. For example, tripartite follow-up measures have been established in connection with the application of Article 33 to

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<sup>294</sup> ILO, The ILO supervisory system: a guide for constituents. Special procedures, Complaints to CFA.

<sup>295</sup> ILO, Representation procedure (Art.24). See also, ILO, Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution of the International Labour Organization. Also, ILO, The ILO supervisory system: a guide for constituents. Also, ILO, Rules of the game: An introduction to the standards-related work of the International Labour Organization International Labour Office p. 110-111, 2019.

<sup>296</sup> Amnesty International, Belarus: Authorities target independent trade unions to root out dissent, 29 April 2021.

Belarus (e.g. holding high-level tripartite meetings outside of Belarus with the involvement of governments of ILO Member States, providing recommendations on measures that may be taken by ILO Member States, etc.).<sup>297</sup>

## What is the role of the victims and CSOs in the process?

ILO mechanisms do not permit victims or CSOs to file complaints, participate directly in the fact-finding process or be accredited for participation, except for trade unions. Given the ILO's unique tripartite structure, reports and other information can only be introduced by the three actors - governments, employers' and workers' organisations at both national and international levels. Victims and CSOs can play a supportive role by furnishing information and documentation on labour rights violations to these actors while adhering to the ILO mandate.

CSOs can advocate for State action at the ILO level and leverage ILO reports for advocacy<sup>298</sup> within the ILO's mandate, which focuses specifically on labor rights and standards rather than broader civil and political rights.

Given the interaction of ILO bodies with other international institutions, victims and CSOs may also be able to carry out ILO-related advocacy through these institutions. In the case of Belarus, a working group has been established as a result of the Article 33 procedure composed of the ILO and other UN institutions "to coordinate and bolster joint action towards the implementation of the recommendations of the Commission of Inquiry and the supervisory bodies."<sup>299</sup>

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<sup>297</sup> ILO, Decision concerning the follow-up to the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus, GB.349/INS/13(Rev.1)/Decision, 8 November 2023. See also, ILO, Decision concerning the follow-up to the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus, GB.350/INS/10(Rev.1)/Decision, 11 March 2024. Also, ILO, Follow-up to the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus, GB.352/INS/10(Rev.1), 28 October 2024. Also, ILO, Decision concerning the follow-up to the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus, GB.353/INS/7(Rev.1)/Decision, 17 March 2025.

<sup>298</sup> Oxford Public International Law, Supervisory and Review Procedures: International Labour Organization (ILO), April 2020.

<sup>299</sup> ILO, Decision concerning the follow-up to the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Belarus, GB.353/INS/7(Rev.1)/Decision, 17 March 2025.

## V. MECHANISMS TO SUPPORT ACCOUNTABILITY EFFORTS

### A. UN Group of Independent Experts on the Human Rights Situation in Belarus

#### What is the role of the UN Group of Independent Experts?

United Nations-mandated investigative bodies are increasingly being used to respond to situations of serious violations of international human rights law, whether protracted or resulting from sudden events, to promote accountability and to counter impunity for violations.<sup>300</sup> Established by organs of the UN including the Security Council, General Assembly, Secretary-General, or Human Rights Council, most of them have been country-specific.<sup>301</sup> They may take the form of fact-finding missions, commissions of inquiry, and other types of investigative bodies, are led by independent, unpaid experts, appointed in their personal capacity, and supported by the Office of the United Nations High Commissioner for Human Rights (OHCHR).<sup>302</sup>

The GIEB was created in April 2024,<sup>303</sup> replacing the OHCHR examination of the human rights situation in Belarus (OEB), which was established in March 2021 and ended in March 2024.<sup>304</sup> Having their mandate renewed on 4 April 2025, the three experts—Karinna Moskalenko (chair), Susan Bazilli, and Monika Platek—are authorised to:<sup>305</sup>

- investigate and establish the facts, circumstances and root causes of all alleged human rights violations and abuses committed in Belarus since 1 May 2020, including their gender and age dimensions and their impact on victims and survivors;
- collect, consolidate, preserve and analyse evidence of such violations and abuses, and, where possible, to identify those responsible in view of relevant judicial and other proceedings, including criminal proceedings in courts and tribunals that have competent jurisdiction;

300 OHCHR, International Commissions of Inquiry, Commissions on Human Rights, Fact-Finding missions and other Investigations.

301 OHCHR, International Commissions of Inquiry, Commissions on Human Rights, Fact-Finding missions and other Investigations.

302 OHCHR, International Commissions of Inquiry, Commissions on Human Rights, Fact-Finding missions and other Investigations. The OHCHR provides expertise and support to investigative mechanisms, including advising on mandate development, investigation methodology and applicable international law, setting up secretariats with specialist staff and providing administrative, logistical and security support.

303 UN General Assembly, Resolution adopted by the Human Rights Council on 4 April 2024, UN-Doc. A/HRC/RES/55/27, para. 8, 4 April 2024.

304 OHCHR, OHCHR examination of the human rights situation in Belarus.

305 UN General Assembly, Resolution adopted by the Human Rights Council on 4 April 2024, UN-Doc. A/HRC/RES/55/27, para. 9; and UN General Assembly, Resolution adopted by the Human Rights Council on 3 April 2025, UN-Doc. A/HRC/RES/58/19, 4 April 2025.

- 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;
- engage with all relevant stakeholders, in particular Belarusian stakeholders, and with regional and international civil society, international human rights organisations, UN agencies, the OSCE and relevant companies and States, with a view to exchanging information.

The GIEB’s framework for assessment is “international human rights law, including customary human rights law and the human rights treaty obligations assumed by the Republic of Belarus or any other states who may be involved in human rights violations in Belarus”.<sup>306</sup>

The GIEB examines violations occurring within the Republic of Belarus or under its jurisdiction. Additionally, it may explore root causes and circumstances of an extraterritorial nature, including violations outside the country that directly impact on, are inherently connected to, or arise directly from human rights violations and abuses in Belarus.<sup>307</sup>

Building on the work of the OEB, the GIEB has been gathering testimonies from victims,<sup>308</sup> including testimonies provided by the International Accountability Platform for Belarus. Any external use or sharing of this information is subject to informed consent.<sup>309</sup>

### IAPB Support to the OEB

The IAPB has provided extensive and tailored support to the OEB. This included facilitating OEB’s access to victims and witnesses, sharing its open-source information on incidents of interest, granting remote access to its entire collection of information and evidence, and responding to specific OEB requests. IAPB also shared details about survivors and other potential witnesses, and gave substantial logistical assistance that enabled OEB investigators to conduct numerous interviews.<sup>310</sup>

## What are the possible outcomes of the work of the GIEB?

**Reports to the UN Human Rights Council.** The GIEB publishes its findings annually in a comprehensive report which is presented at the UN Human Rights Council, followed by an interactive dialogue.<sup>311</sup> Such dialogue involves a structured discussion where Council members, UN experts, and civil society representatives, engage in a focused exchange of views on specific human rights situations or thematic issues. In its report to the Human Rights Council, the GIEB issues recommendations to the Belarusian government as well as to UN Member States.

306 OHCHR, Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference, page 5.

307 OHCHR, Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference, page 1.

308 OHCHR, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, 7 February 2025, pp. 2–3.

309 OHCHR, Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference, p. 3.

310 IAPB, Third progress report to supporting States, 2022.

311 OHCHR, Group of Independent Experts on the Human Rights Situation in Belarus.



## Report of the Group of Independent Experts on the Situation of Human Rights in Belarus (GIEB)

In its first report to the Human Rights Council published in February 2025, the GIEB examined the root causes of human rights violations committed in Belarus since May 2020. It noted that the violent response to mass protests following the 2020 presidential election was the latest manifestation of a long-standing pattern of repressive governance.

The Group found that these violations continued through 2023 and 2024 and affected an ever-increasing number of people. It observed that the Belarusian authorities continued to restrict civic and democratic space in anticipation of the 2025 presidential election.

The report stated that the government of Belarus had continued to rely on arbitrary arrests and detentions, frequently accompanied by torture or ill-treatment, as its primary method of silencing dissent. It also documented that thousands of individuals arrested and tried on politically motivated grounds had been systematically subjected to a separate and harsher regime of detention, intended to punish and humiliate. These practices, along with increased surveillance and credible fears of rearrest, continued to force many people into exile. An increasing number of those in exile were reported to be facing criminal proceedings *in absentia*.

Drawing on the work of the OEB, the Group found further evidence of crimes against humanity. Specifically, it concluded that the crimes of imprisonment and persecution had been perpetrated against a significant portion of the population, based on their real or perceived political views.<sup>312</sup>

**Documentation and storage of evidence.** The GIEB is collecting, analysing, and storing evidence of human rights violations, creating a valuable archive that may support future accountability processes, whether at the national, regional, or international level.<sup>313</sup> Information and evidence collected is preserved in accordance with international standards, using professional and secure data storage systems that ensure confidentiality, integrity, and long-term protection.

**Press releases and public statements.** The GIEB can enhance public awareness through press releases and public statements. For instance, in January 2025, the Group issued a statement expressing concern over the re-election of President Lukashenko, highlighting the absence of international observers and the potential for further deterioration of human rights.<sup>314</sup> Such statements can impact international reactions, steer media coverage, and create avenues for civil society advocacy. By drawing attention to specific issues, the GIEB plays a crucial role in shaping global discourse and promoting accountability.

312 OHCHR, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, 7 February 2025.

313 OHCHR, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, 7 February 2025.

314 OHCHR, Belarus: Outcome of presidential elections, Experts say.

**Conference room papers.** Additionally, the GIEB can address a variety of issues through the publication of conference room papers, elaborating on thematic topics or findings covered in its mandate reports.

## What is the added value of the UN Group of Independent Experts?

UN-mandated investigative bodies create historical records of human rights violations, contributing to accountability, deterring future offenses, promoting legal compliance, and providing justice and redress avenues for victims.<sup>315</sup>

The GIEB provides distinct advantages compared to the former OHCHR Examination of the human rights situation in Belarus (OEB). As an independent UN mechanism, it operates autonomously, conducting its own investigations independently of the OHCHR and formulating its own factual and legal findings and recommendations.<sup>316</sup>

Its mandate encompasses civil and political rights, as well as economic, social, and cultural rights.<sup>317</sup> This is significant because Belarus, while a State Party to ICESCR, has not accepted the individual complaints procedures.<sup>318</sup> The GIEB's work therefore offers an alternative avenue to document and investigate these violations.

The geographic scope includes an extraterritorial dimension, allowing the GIEB to document human rights violations occurring outside Belarus, provided they are linked to abuses in Belarus or affect individuals there.<sup>319</sup> This enables the Group to, for instance, document human rights violations targeting Belarusians in exile.

The Group is tasked to also investigate circumstances and root causes of human rights violations, considering longstanding political, structural, historical, legal, social, or economic factors, including preexisting patterns.<sup>320</sup>

The GIEB has a mandate to “investigate the conduct by Belarusian authorities, but also third states, and any other human rights duty holders that may amount to or contribute to human rights violations in Belarus”, and interprets its mandate to include abuses of human rights related to companies, including private military and security companies, non-State armed actors and other non-State entities.<sup>321</sup> This broadens the scope beyond the Belarusian state, acknowledging the role of external support or commercial interests in facilitating violations.

The material scope of the GIEB's mandate emphasises special consideration of gender as well as age dimensions of human rights violations, in particular children, young adults and older persons, as well as “physical, psychological, social, economic, legal and other impacts on victims and survivors”.<sup>322</sup>

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315 OHCHR, *Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law*, Guidance and Practice, p. 7.

316 OHCHR, *Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference*, page 4.

317 OHCHR, *Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference*, page 2.

318 OHCHR, *UN Treaty Body Database*.

319 UN, *Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath*, 25 March 2024, paras. 47–48; and *Report of the Group of Independent Experts on the Situation of Human Rights in Belarus*, UN-Doc. A/HRC/58/68, 7 February 2025.

320 OHCHR, *Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference*, page 2.

321 OHCHR, *Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference*, page 1.

322 OHCHR, *Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference*, page 2.

The GIEB is tasked with collecting, preserving, and analysing evidence of human rights violations, thereby contributing to the preservation of evidence. In line with their nature and mandate as UN-mandated commission, the GIEB is not obligated to establish guilt in the same manner as courts and, therefore, are not required to apply a criminal law standard of proof like “beyond reasonable doubt.” Instead, GIEB employs the “reasonable grounds to believe” standard of proof, which is commonly adopted by such commissions.<sup>323</sup>

The work of the GIEB helps ensure that the human rights situation in Belarus remains on the international agenda and under continued scrutiny. The visibility of the findings, including the identification of patterns of violations and possible perpetrators, can contribute to international pressure and promotes accountability.

## What is the role of the victims and civil society organisations in the process?

Attentive to protection concerns, the GIEB’s engagement with victims and survivors is guided by the principle of ‘do no harm’ (not to jeopardize the life, safety, freedom and well-being of victims, witnesses and other cooperating persons).<sup>324</sup>

While there are no formal rules of procedure for victim and civil society engagement for UN investigative mechanisms, their work is guided by principles and good practices outlined in the OHCHR’s *Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law Guidance and Practice*.<sup>325</sup>

The GIEB issues calls on its website in which it invites individuals, groups and organisations to submit information and documentation relevant to its mandate through a secure cloud created for this purpose and providing a template to organise information submitted in English and Russian languages.<sup>326</sup>

Victims and CSOs also have the opportunity to engage with the GIEB in consultations. In writing its most recent report, the Group conducted interviews with victims, providing a platform for various stakeholders, including victims, to discuss and share information.<sup>327</sup>

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323 OHCHR, Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference, page 5. See also OHCHR, Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law, Guidance and Practice, p.62.

324 OHCHR, Group of Independent Experts on the Human Rights Situation in Belarus – Terms of Reference, page 3.

325 OHCHR, Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law, Guidance and Practice.

326 OHCHR. Call for submitting information to the Group of Independent Experts on the human rights situation in Belarus.

327 OHCHR, Report of the Group of Independent Experts on the Situation of Human Rights in Belarus, p. 3, 7 February 2025.

## GIEB and the International Accountability Platform for Belarus

In the Report of the Group of Independent Experts on the Situation of Human Rights in Belarus published in February 2025, the Group acknowledged the contribution of the IAPB in providing materials relevant to the Group's assessment of the human rights situation in Belarus. This highlights one of the ways in which CSOs, especially those involved in documentation and evidence collection, can collaborate with the Group.

The collaboration between the IAPB and GIEB is guided by a Memorandum of Understanding, including aspects such as access to IAPB's closed-source data, minimisation of retraumatisation, confidentiality and security, and transitional arrangements to ensure compliance with these principles in case of termination of the GIEB's mandate.

## B. UN Treaty Bodies

### What is the role of the UN treaty bodies?

There are currently nine international human rights treaties (often referred to as core international treaties) that create human rights obligations for States that have acceded to or ratified them: International Covenant on Civil and Political Rights (ICCPR),<sup>328</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>329</sup> International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),<sup>330</sup> Convention on the Elimination of All Forms of Discrimination against Women (UN CEDAW),<sup>331</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT),<sup>332</sup> Convention on the Rights of the Child (UNCRC),<sup>333</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW),<sup>334</sup> Convention on the Rights of Persons with Disabilities (UNCRPD),<sup>335</sup> and International Convention for the Protection of All Persons from Enforced Disappearance (CPED).<sup>336</sup>

Each core international treaty has established a corresponding UN treaty body responsible for overseeing States' adherence to the treaty's obligations. These committees are composed of independent experts who are mandated to monitor State Party implementation of the relevant international human rights treaties. The Optional Protocol to the Convention against Torture (OPCAT),<sup>337</sup> designed to prevent torture and other cruel, inhuman, or degrading treatment or punishment, establishes a system of regular visits to places of detention by national mechanism as well as the Subcommittee to Prevent Torture.

328 United Nations, *International Covenant on Civil and Political Rights*, 16 December 1966.

329 United Nations, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966.

330 United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965.

331 United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979.

332 United Nations, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984.

333 United Nations, *Convention on the Rights of the Child*, 20 November 1989.

334 United Nations, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 18 December 1990.

335 United Nations, *Convention on the Rights of Persons with Disabilities*, 13 December 2006.

336 United Nations, *International Convention for the Protection of All Persons from Enforced Disappearance*, 20 December 2006.

337 OHCHR, *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, 18 December 2002.

The mandate of UN treaty bodies includes a regular review mechanism of State Parties' compliance with the respective human rights obligations known as periodic review. It is conducted on the basis of a State-issued report and other information such as parallel ('shadow') reports submitted by civil society organisations, and results in concluding observations with recommendations regarding the implementation of relevant human rights obligations.

Eight treaty bodies (CCPR, CERD, CAT, CEDAW, CRPD, CED, CESC and CRC)<sup>338</sup> may, under certain conditions, receive and examine individual complaints or communications. This procedure allows individuals who were subject to violations of their rights under one of the treaties to submit complaints to the relevant Committee if this Committee's competence has been recognised by the State – through ratification of the respective Optional Protocol or declaration.

### Belarus and UN Individual Complaints Procedures

Belarus is a State Party to ICCPR, ICESCR, ICERD, UN CEDAW, UNCAT, UNCRC, and UNCRPD.<sup>339</sup> In 1992, Belarus accepted the individual complaints procedure of the ICCPR and that of UN CEDAW in 2004.<sup>340</sup> However, in 2022, Belarus denounced the First Optional Protocol of the ICCPR, effectively withdrawing from its individual complaints procedure.<sup>341</sup> This means that currently only the individual complaints procedure of UN CEDAW is applicable to Belarus.

Moreover, CESC, CEDAW, CAT, CRPD, CRC, and CED can conduct country inquiries.<sup>342</sup> In the case of Belarus, only CAT and CEDAW have the competence to initiate such an inquiry. This is because Belarus has ratified the respective treaties without communicating reservations towards Article 20 of UNCAT and Article 8 of the UN CEDAW Optional Protocol that would exclude the inquiry competence of these committees.

## What steps need to be taken to initiate treaty bodies' procedures?

Each of the tools of treaty bodies to monitor human rights compliance and address country-specific human rights violations has its own stages:

- **Periodic reviews** are scheduled every four to five years according to a long-term plan determined by each treaty body, although delays often extend the cycle to eight years or beyond.<sup>343</sup> In 2022, the treaty body chairs collectively agreed to adopt a predictable review schedule, setting an eight years' cycle for comprehensive

338 For the Committee on Migrant Workers (CMW) the individual complaint mechanism has not yet entered into force. See: Office of the United Nations the High Commissioner for Human Rights, Human Rights Treaty Bodies: Individual Communications.

339 Office of the United Nations the High Commissioner for Human Rights, Status of ratification.

340 Office of the United Nations the High Commissioner for Human Rights, UN Treaty Body Database.

341 Office of the United Nations the High Commissioner for Human Rights, [Belarus' withdrawal](#) from individual complaints procedure a serious setback for human rights protection, UN Human Rights Committee says, 25 November 2022.

342 Office of the United Nations the High Commissioner for Human Rights, Treaty Bodies: [What treaty bodies do](#).

343 See, for instance: International Covenant on Civil and Political Rights, [Schedule of Sessions for CCPR](#).

reviews, with interim follow-up assessments in between.<sup>344</sup> During each cycle, the State submits a report to the Committee detailing progress made in implementing the related treaty. CSOs and National Human Rights Institutions (NHRI) can provide alternative or ‘shadow’ reports, offering insights into the country’s human rights situation and evaluating the State’s adherence to its human rights obligations. The Committee then conducts a session to assess the State’s performance and issues concluding observations that include recommendations.

- **Individual complaints (communications)** can be filed by individuals whose rights under a covenant or convention have been violated by a State Party that has recognised the committee’s authority to address such grievances. Complaints can also be lodged by third parties on behalf of individuals if these individuals have provided written consent or are unable to do so.<sup>345</sup> Claimants need to demonstrate they have exhausted domestic remedies, unless those remedies are unavailable, ineffective, or subject to unreasonable delays. Furthermore, they must demonstrate that no other international body or court is adjudicating the same matter.<sup>346</sup>

At present, CEDAW is the only treaty body with the authority to review individual complaints concerning Belarus. There is no deadline for submitting a complaint. However, complaints must be identifiable, non-anonymous, and submitted in writing to Committee. CEDAW has the discretion to adopt interim measures to prevent irreparable harm to the author.<sup>347</sup>

- **Country inquiries** are initiated by a treaty body when there are reliable indications of grave or systematic violations and may entail a country visit, interaction with victims, CSOs, and government officials. For Belarus, only CAT and CEDAW can initiate such inquiries. The procedure for CAT is detailed in Article 20 of the UNCAT.<sup>348</sup> Recently, the CAT carried out a confidential inquiry regarding Belarus (see below para. 286). For CEDAW, the inquiry process is established in Article 8 of the Optional Protocol to the UN CEDAW Convention. Individuals or groups can initiate an inquiry by submitting “reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention”.<sup>349</sup>

## What are possible outcomes of UN treaty body work?

UN human rights treaty bodies can report on the implementation of human rights obligations and formulate recommendations to State Parties, examine and decide on individual complaints (where this competence has been accepted by the State), and undertake confidential country inquiries in case of well-founded indications of systematic human rights violations.

344 OHCHR, Conclusions of the Chairs of the treaty bodies at the 34<sup>th</sup> meeting of the Chairs of the treaty bodies, 17 June 2022; see also: OHCHR, Human Rights Committee: Predictable Review Cycle.

345 OHCHR, Treaty Bodies: Complaints procedures under the human rights treaties.

346 OHCHR, Guidance for submitting an individual communication to UN treaty bodies.

347 UN, Rules of procedure of the Committee on the Elimination of Discrimination against Women, Rule 63.

348 Article 20 Convention Against Torture, para 1. Stating, “If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned”.

349 Article 8, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.

**Concluding observations:** The outcome of periodic reviews is the publication of so-called concluding observations by the respective treaty body, which are written reports that include the Committees’ main findings and recommendations to the State Parties.

On 16 September 2024, the Committee on the Elimination of All Forms of Racial Discrimination published its concluding observations on Belarus, noting, among other findings, “unfair dismissals, in fields such as health care, education and culture, to penalize persons who participated in peaceful protests and other activities to express opinions”, as well as repressions against civil society organisations and independent trade unions.<sup>350</sup>

### **CEDAW: Widespread Human Rights Violations in Belarus, Amounting to Crimes against Humanity**

In 2025, CEDAW, in its Concluding Observations on the 9<sup>th</sup> periodic review of Belarus noted the “active role [of the Belarusian government] in suppressing human rights advocacy, with reports of severe reprisals against women human rights defenders, political activists, and journalists”. The Committee identified arbitrary detention, harassment, censorship, forced exile, and deprivation of parental rights as among the many forms of reprisals, characterising such acts as amounting to crimes against humanity.<sup>351</sup>

**(Confidential) country inquiries:** Findings are shared only with the State Party under examination unless it agrees with the publication of the report. However, the Committee conducting the inquiry may include a summary of the findings in their annual report to the UN General Assembly.<sup>352</sup>

### **The Committee Against Torture’s Confidential Inquiry Relating to Belarus**

In July 2022, at its 74th session, the Committee Against Torture decided to initiate a confidential inquiry pursuant to Article 20 (2) of the Convention, following a submission by the Human Rights Center Viasna and the Belarusian Helsinki Committee.<sup>353</sup> Information was subsequently received and collected by two Rapporteurs, including the report of the 2020 OSCE Moscow Mechanism (see Chapter IV. D, OSCE Moscow Mechanism ), the Human Rights House Foundation, Human Rights Watch, the International Accountability Platform for Belarus, the International Rehabilitation Council for Torture Victims, Reporters without Borders, and the World Organisation against Torture.

350 Committee on the Elimination of All Forms of Racial Discrimination (CERD), Concluding observations on the seventh periodic report of Belarus, para 11, 23 and 27, 16 September 2024.

351 Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the ninth periodic report of Belarus, para 25(a), 27 February 2025.

352 OHCHR, Human Rights Bodies – Complaints Procedures: Inquiries.

353 The document was submitted on 4 September 2020 and signed by 47 citizens of Belarus and contained an attachment with the testimonies of 112 alleged victims of torture. See: General Assembly, 2024. Report of the Committee against Torture, Seventy-seventh session (10–28 July 2023), Seventy-eighth session (30 October–24 November 2023), Seventy-ninth session (15 April–10 May 2024), para 36, 2024.

In its report to the UN General Assembly on its 77<sup>th</sup>, 78<sup>th</sup> and 79<sup>th</sup> sessions, the Committee included a summary account. It noted that the information collected leads “to the inescapable conclusion that torture is a systematic practice in Belarus.”<sup>354</sup> The Committee noted, amongst others, that “it is apparent from the information received or available to it that the torture cases reported have not occurred fortuitously in a particular place or at a particular time but are seen to be habitual, widespread and deliberate in at least a considerable part of the territory of the country in question” and that it was “routinely carried out as a deliberate practice to intimidate detainees, extract incriminating statements and punish political dissenters and peaceful protesters.”<sup>355</sup> Among its key recommendations were calls to investigate all allegations of torture and to provide compensation to victims.

In its reply to the report’s findings, the government of Belarus disagreed with the conclusions of the Committee and denied all allegations.<sup>356</sup>

**Decisions on individual complaints:** Where this procedure applies, in the case of Belarus, CEDAW can issue decisions on individual cases which usually include recommendations specific to the case and in general. They may include, for example, conducting a fair and effective investigation into the violations, bringing to justice those responsible, providing reparations to victims, or making changes to the country’s legislative framework to prevent the occurrence of similar violations in the future.<sup>357</sup>

### **CEDAW: Belarusian Woman Journalist Draws Attention to Discriminatory Ill-Treatment in Detention**

In October 2007, Belarusian journalist Inga Abramova was arrested for peaceful activism and detained in degrading, unhygienic conditions, including being held in a cold cell with an exposed toilet and enduring humiliating treatment by an all-male prison staff. After unsuccessfully attempting to seek justice through the domestic legal system, in April 2009 she submitted a complaint to CEDAW. In September 2011, the Committee found that the treatment she suffered amounted to discrimination on the grounds of gender.<sup>358</sup>

Since 2020, the Human Rights Committee (HRC) has issued several decisions on individual complaints related to Belarus, which are publicly available.<sup>359</sup> These include findings of violations of the rights to freedom of expression, peaceful assembly, and political participation. In *Babaryka v. Belarus* (2023), the Committee found that Belarus had

354 General Assembly, 2024. Report of the Committee against Torture, Seventy-seventh session (10–28 July 2023), Seventy-eighth session (30 October–24 November 2023), Seventy-ninth session (15 April–10 May 2024), para 46, 2024.

355 General Assembly, 2024. Report of the Committee against Torture, Seventy-seventh session (10–28 July 2023), Seventy-eighth session (30 October–24 November 2023), Seventy-ninth session (15 April–10 May 2024), paras 43 and 45, 2024.

356 General Assembly, 2024. Report of the Committee against Torture, Seventy-seventh session (10–28 July 2023), Seventy-eighth session (30 October–24 November 2023), Seventy-ninth session (15 April–10 May 2024), para 48, 2024.

357 Office of the United Nations the High Commissioner for Human Rights, Treaty Bodies: Complaints procedures under the human rights treaties.

358 OHCHR, *Abramova v. Belarus*, CEDAW/C/49/D/23/2009, 25 July 2011.

359 UN Treaty Body Database.



unlawfully obstructed a presidential candidate through politically motivated charges.<sup>360</sup> In *Katorzhevsky v. Belarus* (2023), it ruled that penalising a citizen for sharing a news link online violated freedom of expression.<sup>361</sup> Similarly, in *Kulakov et al. v. Belarus* (2023), the Committee held that detentions and fines imposed on peaceful protesters breached their rights under Articles 19 and 21 of the ICCPR.<sup>362</sup>

**Press releases and public statements** allow CEDAW and other UN treaty bodies to publicly highlight urgent or serious human rights situations. They serve to increase public awareness, generate media interest, and put pressure on States to address the issue. While not a formal function of the treaty bodies, press releases are an important tool for visibility, advocacy, and accountability. For example, in November 2022, the HRC issued a press release on Belarus' withdrawal from the Optional Protocol to the ICCPR, stating that this move deprived victims of an important opportunity to seek justice and resulted in "a serious and unfortunate setback for human rights protection under the Covenant".<sup>363</sup>

## What is the added value of UN treaty bodies in international justice efforts?

Reports, findings and recommendations of UN treaty bodies enjoy a high degree of credibility due to the high level of expertise of its experts, their independence and impartiality. Moreover, UN treaty bodies can engage directly with the respective government during the periodic review, as well as with civil society.

While the effectiveness of this tool depends on the degree of cooperation and good faith of the respective State, the work of UN treaty bodies has a unique value, as it serves to:

- Create a credible and public record of violations. The outputs of treaty bodies, such as concluding observations, general comments, and views or decisions on individual complaints are publicly available. They serve as a record of human rights violations, which provides a sense of justice to victims by recognising their experiences and harm they suffered. It may also encourage other accountability efforts.
- Bring attention to human rights violations. Findings raise awareness of compliance or non-compliance, putting pressure on governments to address these issues.

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360 OHCHR, *Viktar Babaryka v Belarus*, 24 January 2024.

361 OHCHR, *Pavel Katorzhevsky v Belarus*, 12 February 2024.

362 OHCHR, *Leonid Kulakov and other v Belarus*, 3 December 2024.

363 OHCHR, Press release, "Belarus' withdrawal from individual complaints procedure a serious setback for human rights protection, UN Human Rights Committee says," 25 November 2022.

### Possible Influence of Treaty Body Findings

The possible weight of treaty body reports is demonstrated by a case concerning the involuntary psychiatric institutionalisation and alleged ill-treatment of a minor in Moldova.<sup>364</sup> In its decision of 26 March 2024, the European Court of Human Rights (ECtHR) cited Concluding Observations of CAT, CRC and CRPD that highlighted systemic rights violations of persons with disabilities in such institutions in Moldova. Drawing on these findings, as well as the findings of other human rights bodies and the Court's prior jurisprudence, the ECtHR ruled that the applicant's rights to freedom from torture and to an effective remedy had been violated.

## What is the role of victims and civil society organisations?

Victims and CSOs can engage with UN treaty bodies in different ways. In the process of periodic reviews, they can provide information about human rights at different stages of the reporting process, such as during the preparation and adoption of the list of issues (LOIs) and list of issues prior to reporting (LOIPRs), during the examination of a State Party's report, and during the follow-up procedure. Their submissions can highlight implementation gaps, raise concerns not addressed by the State, and provide concrete recommendations. Committees also usually meet with CSOs during the session and prior to the examination of the State Party's report, for which they had submitted information.

Well-founded CSO submissions can prompt treaty bodies to initiate country inquiries, as demonstrated in the case of the Committee against Torture. To be considered, the information must be reliable and indicate grave or systematic violations of the treaty.

Finally, victims can file individual complaints regarding violations they suffered, on their own or with the help of their legal representatives. Complaints may also be filed by third parties on behalf of individuals under the condition that they have given their written consent or where they are incapable of giving such consent. Treaty bodies may request additional clarification during the registration process.

As legal aid is not provided by the mechanism, and victims may be unable to afford private legal counsel, CSOs often assist in preparing these submissions and provide support throughout the process. Some CSOs also help with follow-up efforts to ensure implementation of decisions.

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<sup>364</sup> European Court of Human Rights, Decision in *V.I. v. Republic of Moldova*, no. 38963/18, para 69-71, 26 June 2024.

## C. UN Special Procedures

### What are UN Special Procedures?

Special Procedures of the UN Human Rights Council are independent human rights experts tasked with investigating, reporting, and advising on human rights issues. They operate through thematic or country-specific mandates. Thematic mandates focus on particular human rights concerns worldwide, while country mandates generally address a broader range of issues within a specific State. Special Procedures include Special Rapporteurs, Independent Experts, and Working Groups.<sup>365</sup>

Mandates of Special Procedures are created through resolutions adopted by the UN Human Rights Council, subject to the votes of its members.<sup>366</sup> Mandate holders are appointed by the Human Rights Council and serve in their personal capacity.

As of November 2024, there are 46 thematic and 14 country mandates, including the Special Rapporteur on the situation of human rights in Belarus, currently held by Nils Muižnieks.<sup>367</sup> The mandate was established in July 2012, with the UN General Assembly expressing concern over the systemic human rights violations that have occurred since 19 December 2010. It is mandated to monitor the human rights situation in the country and make recommendations for its improvement. The mandate also includes supporting the implementation of recommendations by the High Commissioner, assisting the government in meeting its human rights obligations, and providing support to civil society. In April 2025, the UN General Assembly extended the mandate for another year.<sup>368</sup>

Other thematic mandates relevant to the situation in Belarus include **the Working Group on Arbitrary Detention (WGAD)**, **the Working Group on Enforced or Involuntary Disappearances (WGEID)**, **the Special Rapporteur on torture**, and **the Special Rapporteur on extrajudicial, summary or arbitrary executions**. Below are a few examples of how these mandates have engaged with or covered Belarus:

- Since the 2020 presidential election, the **WGAD** has issued 10 legal opinions concerning the detention of Belarusian citizens.<sup>369</sup> The WGAD found these detentions to be arbitrary under multiple categories, such as violations of the right to a fair trial, discrimination based on political affiliation, and the exercise of fundamental freedoms.<sup>370</sup>
- At its 134<sup>th</sup> session in September 2024, the **WGEID** considered and transmitted to the Government of Belarus a general allegation<sup>371</sup> concerning so-called short-term enforced disappearances of demonstrators in 2020, as well

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<sup>365</sup> OHCHR, Manual of Operations of the Special Procedures of the Human Rights Council.

<sup>366</sup> International Justice Resource Center. [Special Procedures of the UN Human Rights Council](#).

<sup>367</sup> OHCHR, Special Rapporteur on Belarus.

<sup>368</sup> United Nations, [Resolution adopted by the Human Rights Council](#) on 3 April 2025, 4 April 2025.

<sup>369</sup> The WGAD issues public legal opinions on cases submitted by individuals, families, NGOs, or states, assessing the arbitrariness of detention under five categories and recommending remedies such as release from detention, reparation, and guarantees of non-repetition, with follow-up conducted within six months.

<sup>370</sup> For instance, the WGAD issues opinions in the cases of Sergey Tihanovski ([no.23/2021](#)), Maksim Znak ([no.24/2022](#)), Bialiatiski ([no. 3/2024](#)), Maria Rabkova ([no. 54/2024](#)), among others.

<sup>371</sup> The WGEID regularly transmits to States a summary of allegations received or gathered from States, reliable sources, such as relatives of disappeared persons, or credible non-governmental organizations with regard to obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearances.

as disappearances of high-profile political prisoners in the detention facilities since. The WGEID noted that such allegations echoed the findings in the March 2024 report of the UN High Commissioner for Human Rights on the situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath. This included the practice of detaining persons without access to a lawyer or without informing their families of their whereabouts, as well as the prolonged incommunicado detention of persons.<sup>372</sup>

- The **Special Rapporteur on torture** has engaged with Belarus by raising concerns about the treatment of women detained in connection with the 2020 protests. In March 2025, the Rapporteur, along with other experts, urged the Belarusian authorities to address ongoing allegations of ill-treatment in correctional colonies.<sup>373</sup>
- The **Special Rapporteur on extrajudicial, summary or arbitrary executions** has addressed Belarus in relation to its continued use of the death penalty. The Rapporteur condemned the execution of three individuals while their complaints were still pending before the UN Human Rights Committee.<sup>374</sup>

## What are the possible outcomes of the work of UN Special Procedures?

**Reporting.** Special Procedures report annually to the Human Rights Council, and most mandates also submit annual reports to the General Assembly. These reports are formally presented during sessions of the Human Rights Council and, where applicable, the General Assembly. Following each presentation, an interactive dialogue is held, allowing States and other stakeholders to engage directly with the mandate holder on the findings and recommendations.<sup>375</sup>

**Communications.** Special Procedures may send communications in the form of allegation letters or urgent appeals in response to specific violations. Urgent appeals seek to prevent imminent harm or stop ongoing violations, while letters of allegation address past abuses and seek clarification or redress. Communications are sent to States or non-State actors and aim to prompt action, such as the release of individuals, policy changes, or official investigations.<sup>376</sup>

**Amicus curiae.** Special Procedures mandate holders can prepare *amicus curiae*<sup>377</sup> for domestic and international legal proceedings. Their expert opinions and legal findings have been formally submitted in landmark cases, such as U.S. federal rulings on Guantánamo detainees and various proceedings before the ECtHR, where they have clarified international norms on arbitrary detention, torture, and *non-refoulement*, among others. In cases involving Belarus, their jurisprudence and expertise could be pivotal in supporting universal jurisdiction proceedings and other accountability mechanisms.<sup>378</sup>

372 OHCHR, WGEID 134<sup>th</sup> session, general allegation transmitted to Belarus, 16-25 September 2024.

373 OHCHR, Belarus: Alarming ill-treatment of women prisoners and life-threatening condition of Viktoria Kulsha, say UN experts, 26 March 2025.

374 OHCHR, Belarus: UN human rights experts condemn Belarus executions, 12 December 2018:

375 OHCHR, *Manual of Operations of the Special Procedures of the Human Rights Council*.

376 OHCHR, What are Communications?

377 An *amicus curiae* (Latin for “friend of the court”) refers to a submission by a person or organization with an interest in or views on the subject matter at hand to a court providing additional information, expertise, or insight that might assist the court in its decision.

378 For instance, *Amicus curiae of the Special Rapporteur on Torture to the US Court of Appeals*; *Joint submission of 5 mandate holders to the European Court of Human Rights in the case C.O.C.G. and Others v. Lithuania*.

**Referrals.** Where practices of enforced disappearances may amount to crimes against humanity, the WGEID is mandated to assess the evidence and, when appropriate, refer the matter to competent authorities for further action.<sup>379</sup> This may include international bodies such as the ICC, regional or subregional mechanisms, or domestic jurisdictions with universal jurisdiction statutes.

**Country visits.** Special Procedure mandate holders may, with the consent of the country, conduct country visits to assess the human rights situation. These visits allow for direct engagement with government officials, civil society, and victims.<sup>380</sup>

### UN Special Procedures and Belarus

Since 2010, various mandate holders have sent at least 86 communications to Belarus regarding numerous human rights violations, including ill-treatment of detainees, designation of CSOs as extremists, and severe restrictions on freedom of expression and peaceful assembly. Of these, Belarus has only responded to 53 with the responses to the most recent communications being denials of allegations, challenges to the admissibility of the complaint, and lack of cooperation as regards requested interim measures.<sup>381</sup>

Regarding country visits, the most recent visit to Belarus was by the Special Rapporteur on the human rights of migrants in July 2022.<sup>382</sup> The Special Rapporteur on the situation of human rights in Belarus and the Working Group on discrimination against women and girls requested a visit in January 2021 and September 2024, respectively, but have yet to receive a response from the Belarusian government. Additionally, the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment requested a visit in 2005, which was formally declined in February 2021.<sup>383</sup>

Previously, the WGAD conducted a country visit to Belarus in August 2004. In its report, the Group raised concerns about the use of administrative detention to punish individuals peacefully exercising their rights to assembly, expression, and information. It also highlighted the use of the Code of Administrative Offences to repress political opponents and noted that detention was sometimes used to extract information from witnesses or potential future defendants.<sup>384</sup>

**Recommendations.** Following a country visit, the mandate holder submits a detailed report to the Human Rights Council. This report outlines the findings of the visit and includes recommendations addressed to the respective government and other stakeholders. These recommendations often relate to legislative reform, institutional changes, and the protection of vulnerable groups. Though not legally binding, they carry significant weight and can contribute

379 UN, *WGEID revised methods of work*, A/HRC/WGEID/1, para. 43, 28 September 2023.

380 OHCHR. Country and other visits.

381 OHCHR. Communication and report search.

382 OHCHR, A/HRC/53/26/ADD.1: *Visit to Poland - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales*, 21 April 2023.

383 OHCHR. Country visits of Special Procedures of the Human Rights Council since 1998.

384 United Nations, *Report of the Working Group on Arbitrary Detention – Mission to Belarus*, 25 November 2024.

to national and international advocacy. Recommendations may also be issued by mandate-holders in their reports, not necessarily requiring a prior country visit.

### Recommendations Relating to Accountability Made by Mandate Holders

In a 2015 report on the Democratic People's Republic of Korea (DPRK), the Special Rapporteur on the situation of human rights in the DPRK encouraged member States to apply the principle of universal jurisdiction to help prevent further crimes against humanity in the country.<sup>385</sup> A 2024 report from the same mandate urged member States to take additional steps toward referring the situation in the DPRK to the ICC through the Security Council.<sup>386</sup>

A 2024 report by the Special Rapporteur on the situation of human rights in Eritrea emphasised the need for coordinated international action, urging Member States to exercise universal jurisdiction over alleged crimes against humanity and grave human rights violations when an alleged offender is present on their territory.<sup>387</sup>

In a 2024 report on Belarus, the Special Rapporteur urged the international community to make greater use of universal jurisdiction to launch criminal proceedings and issue international arrest warrants against those suspected of committing serious human rights violations in the country.<sup>388</sup>

**Press releases.** Special Procedures use press releases as a way to publicly highlight urgent or serious human rights situations that require wider attention. Press releases serve to increase public awareness, generate media interest, and put pressure on authorities to respond or take action. While not a formal function, press releases are an important tool for visibility, advocacy, and accountability.<sup>389</sup>

**Findings of Special Procedures feed into UPR.**<sup>390</sup> Expert findings are sometimes reflected in or contribute to the Universal Periodic Review (UPR) process. The UPR is based on three sources of information, one of which is a compilation prepared by the Office of the High Commissioner for Human Rights. This compilation includes information from UN human rights mechanisms, including the reports of Special Procedures, treaty bodies, and other UN entities. As such, observations and recommendations made by experts may inform the assessment of a State's human rights situation and shape the recommendations made during the review.<sup>391</sup>

385 OHCHR, Report of The Special Rapporteur on The Situation of Human Rights In The Democratic People's Republic of Korea, Marzuki Darusman, 18 March 2015.

386 OHCHR, Report of The Special Rapporteur on The Situation of Human Rights In The Democratic People's Republic of Korea, Marzuki Darusman, 18 March 2015.

387 OHCHR, Situation of Human Rights In Eritrea :Report of The Special Rapporteur on The Situation of Human Rights In Eritrea. 6 May 2022.

388 OHCHR, Situation of human rights in Belarus - Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin, 9 May 2024

389 For example, in a joint press release, UN experts expressed alarm over the ongoing repression of trade unionists in Belarus, 5 June 2025.

390 The UPR was established when the Human Rights Council was created on 15 March 2006 by the UN General Assembly in resolution 60/251. The mechanism was further refined during the review process through resolution 16/21 and decision 17/119. These two documents provided the necessary modifications of modalities for the review in the second and subsequent cycles.

391 OHCHR, Basic facts about the UPR.

## What is the added value of the UN Special Procedures?

Thematic UN Special Procedures can investigate, report, and engage on human rights issues in any UN Member State, regardless of that State's treaty obligations or level of cooperation.

Country-specific mandates benefit from privileged access to national actors and are able to engage directly, regularly, and without delay with national authorities which is a level of interaction that broader, theme-focused mechanisms may not be able to achieve.<sup>392</sup>

With the exception of country missions, the ability of Special Procedures to act is not dependent on a State's consent, ratification, or recognition, which allows them to respond more flexibly and promptly to emerging or ongoing human rights concerns across all countries. For country visits, as of 31 December 2023, 128 Member States and 1 non-Member Observer State have extended a standing invitation to thematic special procedures, however, not including Belarus.<sup>393</sup>

Another benefit of the Special Procedures is capacity and flexibility to react quickly when human rights violations occur. Through their communications procedure, they receive information about and in urgent situations can respond within 24 to 48 hours. This is particularly important in situations where there is an imminent threat to life or safety of complainants.<sup>394</sup>

Specifically, the WGAD has played a critical role in highlighting a widespread pattern of arbitrary detention in Belarus, particularly following the 2020 presidential election. Through its legal opinions, the WGAD confirmed that the detention of opposition figures, peaceful protesters, journalists, and human rights defenders violates fundamental rights and freedoms such as freedom of expression and assembly, and fair trial guarantees. While its opinions and deliberations are not legally binding, they carry strong moral and legal authority and are often cited in advocacy campaigns and international accountability efforts.<sup>395</sup>

A core added value of the Special Procedures is their role in formally notifying authorities of specific cases, thereby establishing an official record that the government was aware of the alleged violations. This is particularly significant for the WGEID because a specific element of enforced disappearance is the State's refusal to acknowledge the deprivation of liberty or to disclose the fate or whereabouts of the victim despite having knowledge of the case. WGEID communications satisfy this criterion by placing the State on notice; any subsequent failure to investigate or respond transparently can amount to a continuing violation and potentially support findings of State responsibility or complicity.<sup>396</sup>

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<sup>392</sup> Journal of Human Rights Practice Volume 15, Issue 3,, *Treaty Bodies and Special Procedures: Can They Work Better Together?*, Pages 784–793, November 2023.

<sup>393</sup> OHCHR, *Standing Invitations*.

<sup>394</sup> ISHR Academy, *What are the key differences between the UN bodies that monitor human rights?*

<sup>395</sup> For instance, in the Al Hassan case (ICC01/1201/18), the Office of the Prosecutor of the ICC acknowledged WGAD's Deliberation No. 9 and its understanding of incommunicado detention as both arbitrary and cruel, noting that "prolonged incommunicado detention in a secret place may amount to torture".

<sup>396</sup> WGEID general comment on the definition of enforced disappearance, *A/HRC/7/2* (para.26) and general comment on enforced disappearance as a continuous crime, *A/HRC/16/48* (para.39).

## What is the role of victims and civil society organisations in engaging with UN Special Procedures?

Victims and civil society organisations play a key role in engaging with Special Procedures. They can submit information on alleged violations through an [online form](#). Templates and confidentiality options are available to support safe and effective reporting.<sup>397</sup> Based on such submissions, Special Procedure experts can transmit communications to governments and non-State actors.<sup>398</sup> The communications may address past abuses, ongoing or potential violations, or laws and policies that appear inconsistent with international human rights standards. The goal is to bring attention to the alleged violations, call for thorough, impartial, and independent investigations, and request adequate redress and guarantees of non-recurrence.

In addition to the communications, the WGAD and WGEID each operate distinct procedures based on their respective methods of work.<sup>399</sup> Based on information received from complainants, the WGAD issues public legal opinions determining whether a deprivation of liberty is arbitrary, while the WGEID requests information from States and, where relevant, non-State actors regarding the fate and whereabouts of individuals who have been forcibly disappeared.

At the onset of the process, submissions can be transmitted to mandate holders by individuals, groups, civil society organisations, or national and intergovernmental bodies. The mandate holders decide whether to act on a case based on the credibility, detail, and objectivity of the information, provided it is not politically motivated, abusive in tone, or based solely on media reports.

Unlike the complaints procedure of the Treaty Bodies, they do not require the exhaustion of domestic remedies or treaty ratification by the concerned State. Communications generally include the names of victims unless confidentiality is specifically requested due to security concerns.

All communications and responses are later summarised in reports submitted to the Human Rights Council, with identifying details omitted in sensitive cases. While urgent cases may be addressed swiftly, there is no individual follow-up, and those who submit information are encouraged to monitor the publicly available communications database for updates.

Victims and civil society organisations can also engage with relevant mandate holders to advocate for country visits. When such visits take place, they offer an opportunity to provide background information, share testimonies directly with the expert, and later use the mission's findings and final report as a tool for national and international advocacy.<sup>400</sup>

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397 OHCHR, [What are Communications?](#)

398 OHCHR, [Special procedures communications database](#).

399 OHCHR, [Individual complaints to the WGAD; Reporting a disappearance to the WGEID](#).

400 ISHR Academy, [Understanding the special procedures](#).



## D. OSCE Moscow Mechanism

### What is the OSCE Moscow Mechanism?

The Organization for Security and Cooperation in Europe (OSCE) has developed several tools to monitor the implementation of commitments made by its participating States relating to human rights, the rule of law and democratic institutions, collectively referred to as the ‘Human Dimension’.<sup>401</sup> Two of the tools that can be invoked when needed by an individual participating State or a group of States are the Vienna Mechanism and the Moscow Mechanism.

The **Vienna Mechanism** allows participating States to raise questions relating to the human dimension situation in other OSCE States.<sup>402</sup> Agreed in the Vienna Concluding Document of 1989, the mechanism sets out an obligation to provide a written response to requests for information by other participating States.

The **Moscow Mechanism** allows OSCE participating States to establish *ad hoc* missions of independent experts to assist in the resolution of a specific human dimension problem, either on their own territory or in other OSCE participating States.<sup>403</sup>

The Vienna Mechanism may be employed on its own or can precede the Moscow Mechanism, but it has also been used to follow up on recommendations.

The Rapporteurs appointed within the Moscow Mechanism are selected from a resource list (roster of experts) maintained by the OSCE Office for Democratic Institutions and Human Rights (ODIHR).<sup>404</sup> Each OSCE participating State may nominate up to three experts to the list, which needs to comprise at least 45 experts to be operational.<sup>405</sup> Nationals and residents of the State under consideration or the self-invoking State may not be appointed in the respective missions.

While OSCE institutions are not involved in the missions and enquiries at the substantive level, Moscow Mechanisms are facilitated by ODIHR, which includes logistical support, the provision of a list of CSO contacts to the appointed rapporteur(s), translation of reports into local languages and the establishment of a mission-specific mailbox to which information and evidence can be directed.

Rapporteurs are requested to establish facts, report on them and give advice on possible solutions to the questions raised” (Moscow Mechanism, para. 11), hence rapporteurs have consistently included recommendations in their reports, directed to the State under examination, but also to OSCE participating States and to the international community.

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401 OSCE Office for Democratic Institutions and Human Rights (ODIHR), What Is the human dimension.

402 OSCE, Vienna Mechanism, adopted at the Vienna follow-up meeting in 1989.

403 OSCE, Moscow Mechanism, adopted at the third stage of the OSCE Conference on the Human Dimension in 1991.

404 OSCE, List of Experts for the Human Dimension Mechanism Appointed by OSCE participating States as of 15 January 2025.

405 OSCE, Moscow Mechanism, para. 3, 1 December 1991.

Before finalisation, reports are shared with the self-invoking State, or – in the case of invocation by other States - the State under consideration ('requested State'), providing them with the opportunity to deliver comments within two weeks, which will be attached to the respective report. It is customary to translate the report from English into the local language of the relevant State, thereby enhancing its accessibility and usability for local audiences, including civil society groups.

Upon the aforementioned, strict timelines for Moscow Mechanism missions, the report is to be placed on the agenda of the next meeting of the OSCE Permanent Council (para. 11). Convening on a weekly basis, this enables the presentation – and publication - of the rapporteur(s)' report without delay. The reports do not require adoption,<sup>406</sup> and are made public upon their deliberation in the Permanent Council.

Reports have regularly been presented and discussed at OSCE meetings following their publication, including at side events of the Warsaw Human Dimension Conference.

The costs of mission have to be covered by the requesting States (para. 14), which usually distribute them amongst themselves, including a lump sum provided to the rapporteur(s), travel and translation costs.

## What steps need to be taken to invoke the Moscow Mechanism?

The Moscow Mechanism can be applied via self-invocation or be invoked by a group of participating States. It can represent a co-operative or contentious approach, depending on the willingness of the requested State to cooperate with the mission.

Firstly, OSCE participating States may self-invoke the mechanism with the aim "to address or contribute to the resolution of questions in its [own] territory relating to the human dimension" (Moscow Mechanism, para. 4). In such case, the State that initiates the process may select up to three independent experts from the resource list to form a mission, excluding nationals or residents of the self-invoking State.

A second option is that one or more participating States request that another participating State invites a mission of experts "to address a particular, clearly defined question on its territory relating to the human dimension" (para. 8). Should this other State consent, the mission of experts is set up following the same procedure as in the case of self-initiation. In this setting, the inviting State selects three experts to take part in the mission and produce a report within three weeks, again excluding its own nationals or residents.

Thirdly, the mechanism may be invoked by a requesting State with the support of at least five other participating States to investigate the facts and give advice on possible solutions (para 12). Here, the requesting States appoint one expert to serve as a rapporteur. The State under scrutiny may then nominate a second expert, and together, these

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406 Wolfgang Benedek, "The Moscow Mechanism of the OSCE: Rules, Practice, and Possible Improvements", in OSCE Insights, eds. Cornelius Friesendorf and Argyro Kartsonaki (Baden-Baden: Nomos, 2025), p. 5.

two experts choose a third rapporteur from ODIHR's resource list. In this scenario, a report is to be produced within two weeks following the appointment of the last rapporteur. In case of lack of co-operation by the requested State, the mission may be composed only of the one, initially appointed rapporteur.

Finally, under Paragraph 13, at the request of any participating State, the OSCE Permanent Council<sup>407</sup> can invoke the Moscow Mechanism. This option requires consensus amongst all 57 participating States of the OSCE and has not been applied to date.

The scope of the mission of the rapporteur(s) is determined by the invoking State(s).

## What have been the outcomes of the Moscow Mechanism regarding Belarus to date?

To date, the Moscow Mechanism has been triggered 15 times,<sup>408</sup> three of which related to the human rights situation in Belarus.<sup>409</sup>

In April 2011, 14 participating States triggered the Moscow Mechanism under paragraph 12. Rapporteur Professor Emmanuel Decaux noted the seriousness, duration and scale of gross and systematic human rights violations following the events of 19 December 2010,<sup>410</sup> pointing to a "long list of individual cases of great concern, as 'political detainees', but [also] a system of social control, by fear and harassment, torture and blackmail, phone tapping, false evidences and forced confessions, with arbitrary and discriminatory measures and sanctions against persons and families. Professor Decaux also found that "there is neither independent justice, nor rule of law".<sup>411</sup>

On 17 September 2020, the Moscow Mechanism was invoked under paragraph 12 by 17 OSCE participating States in response to credible reports of human rights violations in Belarus before, during, and after the 9 August presidential election. Professor Wolfgang Benedek concluded, among others, that "there were evident shortcomings of the presidential election which did not meet the basic requirements established on the basis of previous election monitoring." Moreover, he found allegations of major human rights abuses "to be massive and systematic and proven beyond doubt", referring in particular to well-documented cases of torture and ill-treatment in the crackdown by the security forces on political dissent. Prof. Benedek also found the freedom of the media, the safety of journalists, freedom of assembly and association and the right to liberty and security to be "under massive attack."<sup>412</sup>

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407 The Permanent Council (referred to as Permanent Committee of the CSCE in the Moscow Mechanism document) is the principal decision-making body for regular political consultations and for governing the day-to-day operational work of the OSCE between the meetings of the Ministerial Council. It implements, within its area of competence, tasks defined and decisions taken by OSCE Summits and the Ministerial Council.

408 OSCE, Human dimension mechanisms.

409 OSCE, Human dimension mechanisms.

410 Following the 19 December 2010 presidential election in Belarus, where Alexander Lukashenko claimed a landslide victory with nearly 80 percent of the vote, widespread allegations of electoral fraud sparked mass protests in Minsk. That night, thousands gathered in the capital to denounce the results. The authorities responded with violent force as riot police beat demonstrators with batons, injured dozens, and carried out mass arrests. Opposition candidate Vladimir Neklyayev was abducted from hospital after being severely beaten during an earlier rally, and seven of the nine presidential candidates were detained. See: 'Protesters try to storm government HQ in Belarus,' BBC News, 20 December 2010.

411 OSCE Office for Democratic Institutions and Human Rights, OSCE Rapporteur's Report on Belarus, 28 May 2011.

412 OSCE Office for Democratic Institutions and Human Rights, OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus, 5 November 2020.

In March 2023, 38 OSCE participating States invoked the third Moscow Mechanism in relation to Belarus. As its Rapporteur, Professor Hervé Ascencio documented repression, suggesting a “concerted effort within the State authorities targeting demonstrators, political opponents, human rights defenders, journalists, trade unionists, and lawyers”, and a wave of liquidation of associations. He found there to be a “broad policy of arbitrary arrest and detention incompatible with international standards, including mass arrests in people’s homes, the use of violence to gain access to personal data later used against individuals, the extensive application of criminal offences lacking precision and predictability, and the disproportionality observed between the punishment and the alleged violation.” Moreover, he noted that torture and inhuman or degrading treatment “occurred on a regular and organised basis in places of detention and are particularly targeted at those perceived as political opponents.”<sup>413</sup>

**“As an example of best practice, the establishment of the International Accountability Platform for Belarus (IAPB) has served as a follow-up to the report on human rights violations related to the presidential election of 2020. It is based on a joint declaration by nineteen States, seventeen of which had already invoked the Moscow Mechanism in the case of Belarus, and was also supported by the European Union.<sup>34</sup> The IAPB was founded in response to a recommendation made in the report on Belarus to ensure accountability for human rights violations and to prevent a culture of impunity.”**

– Wolfgang Benedek, “The Moscow Mechanism of the OSCE: Rules, Practice, and Possible Improvements”:<sup>414</sup>

In November 2021, the Vienna Mechanism was applied by 35 participating States on the implementation of the recommendations made by the Moscow Mechanism rapporteur to Belarus in 2020. Questions related to freedom of peaceful assembly, media freedom, continued arbitrary or unjust arrests or detention, the forced diversion and landing of Ryanair Flight FR4978 on 23 May 2021 for the apparent purpose of arresting journalist Roman Protasevich and his partner, targeting of opposition figures, torture, and the political instrumentalisation of migrants and refugees by the Belarusian authorities. With reference to Belarus’s OSCE commitments, States enquired whether any steps had been taken by the Belarusian authorities to investigate allegations and requested to detail any actions taken.<sup>415</sup>

## What is the added value of invoking the Moscow Mechanism another time?

It has been noted that the Moscow Mechanism “ensures a fast procedure with quick results, cannot be obstructed and is very flexible in its implementation”, and that the report “is swiftly discussed in the Permanent Council and published on the OSCE website”, signaling “to victims and human rights defenders that their situation will be given the necessary attention.”<sup>416</sup> Moreover, reports include the rapporteurs’ recommendations which enable follow-up by human rights organisations.

413 OSCE Office for Democratic Institutions and Human Rights, Report on the serious threat to the OSCE human dimension in Belarus since 5 November 2020, 11 May 2023.

414 Nomos E Library, OSCE Insights, Securing States and People.

415 Wolfgang Benedek, The Moscow Mechanism of the OSCE: Rules, Practice, and Possible Improvements”, In OSCE Insights, p. 6, with reference to the joint letter of the thirty-five participating States to Belarus.

416 Wolfgang Benedek, The Moscow Mechanism of the OSCE: Rules, Practice, and Possible Improvements”, In OSCE Insights, eds. Cornelius Friesendorf and Argyro Kartsonaki (Baden-Baden: Nomos, 2025).

Although the Moscow Mechanism has previously been activated for Belarus, most recently during 2023, serious human rights violations persist in the country. A renewed invocation would provide an important opportunity to update fact-finding and assessment of the human rights situation, and enhance the available information regarding ongoing violations of international law.

Alternatively, a Rapporteur could be mandated to enquire into human rights violations not examined on previous occasions, such as trans-national repression against the Belarusian exiled population, including their persecution through trials and sentences *in absentia*, threats and intimidation of those in exile as well as relatives remaining in Belarus, and the unlawful seizure and confiscation of property, and to assess them against the framework of international human rights and international criminal law with a view to offer recommendations.

In doing so, while previous mechanisms were activated under paragraph 12 of the Moscow Document, such mandate could be initiated, e.g. by neighbouring States to Belarus under paragraph 8, tasking a Rapporteur to document violations against the exiled Belarusian community on its/ their territory. The procedural framework in this scenario provides an advantage: while in previous missions Belarus declined to appoint a second rapporteur, resulting in a lone expert generating a report within two weeks, an inquiry under paragraph 8 would permit the inviting State to appoint three experts. They would then have three weeks to conduct their investigation, ensuring a more comprehensive assessment. The mission would be able to collect evidence and conduct interviews in person, directly engaging with victims, Belarusian human rights defenders and civil society organisations.

A new invocation of the Moscow Mechanism would also be advantageous at this point if it included or emphasised an evaluation in relation to international criminal law, thereby complementing previous reporting under OSCE mechanisms that has primarily focused on human rights law.

## What is the role of victims in the process?

While victims do not have a formal role in the Moscow Mechanism, survivors and human rights organisations may still engage in several ways.

For each Moscow Mechanism, ODIHR sets up an email box where victims, CSOs, and other actors can submit testimonies, documents and reports. ODIHR also compiles a list of relevant CSOs with contact details to facilitate the Rapporteur's interaction with civil society.

CSOs can support the use of the Moscow Mechanism through encouraging States to invoke or support invocations of the Moscow Mechanism. Further, CSOs and survivors of human rights violations can provide testimony and evidence to a mission, through the above-mentioned mailbox or interviews conducted by the rapporteur(s) during missions.

In past reports, victims have provided testimonies directly or through human rights organisations, and rapporteurs have regularly met with representatives of organisations that collect testimonies. Notably, Professor Hervé Ascencio

recognised the International Accountability Platform for Belarus (IAPB) for having provided “highly reliable” information in support of the examination.

**Report on the Serious Threat to the OSCE Human Dimension in Belarus since 5 November 2020, 11 May 2023, by Professor Hervé Ascensio**

[...] 28. In this regard, the work of the International Accountability Platform for Belarus (IAPB), established in 2021 in response to the last OSCE Moscow Mechanism report [19], should be highlighted. The Rapporteur received precise information on their processes, and he has had personal access to a significant part of the data, corresponding to their work on open-source documents and to a sample of confidential sources on individual cases, including testimonies and decisions of Belarusian courts. He is convinced that the information gathered is highly reliable.

Recommendations to the International Community:

- Support initiatives aimed at reporting and documenting human rights violations in Belarus, and notably the work of the International Accountability Platform for Belarus (IAPB) [...].

Finally, while the Moscow Mechanism itself does not provide a direct avenue to reparations or legal redress, victims can make use of the findings of Moscow Mechanism reports and recommendations contained therein, including to advocate for accountability mechanisms and reparative measures.

# VI. NEW MECHANISMS THAT COULD BE CONSIDERED

## A. Register of Damages

### What are registers of damage?

A register of damages, in the given context, serves as a record of harm caused by violations of human rights, international criminal or humanitarian law, affecting individuals, entities, and even States, as exemplified by the Register of Damage for Ukraine. Its purpose is to gather claims and supporting evidence for resolution through an eventual compensation mechanism, ensuring victims' rights to effective remedies and reparation.

Under international law, compensation is a form of effective reparation, alongside restitution, rehabilitation, satisfaction, and guarantees of non-repetition. It should cover any economically assessable damage, including physical or mental harm, lost opportunities, material damages, loss of earnings, and the costs of necessary legal, medical, and psychological assistance.<sup>417</sup>

Currently, only two such registers exist in the context of international criminal and humanitarian law: the UN Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory (UNRoD) and the CoE (RD4U).<sup>418</sup> Earlier similar initiatives included, for instance, the work conducted by the UN Conciliation Commission for Palestine (UNCCP) between 1952 and 1964, identifying and valuating properties owned by Palestinian refugees on what is presently the territory of Israel.<sup>419</sup>

The UNRoD was created as a subsidiary organ of the UN General Assembly operating under the administrative authority of the UN Secretary-General.<sup>420</sup> It was established following an advisory opinion of the International Court of Justice in 2004 on the Israeli Construction of a Wall in the West Bank, which recognised the obligation of States to make reparation for an internationally wrongful act not just to another State but also to individual victims (natural persons).<sup>421</sup> The UNRoD operates with administrative support by the United Nations Office at Vienna (UNOV) with the mandate to “serve as a record, in documentary form, of the damage caused to all natural and legal persons

<sup>417</sup> General Assembly resolution 60/147, UN 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 16 December, 2025.

<sup>418</sup> See United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory (UNRoD); Council of Europe, Register of Damage for Ukraine. See also Verkhovna Rada, Law of Ukraine No. 2923-IX.

<sup>419</sup> Tamari, Salim, and Elia T. Zureik. “Linking the Four Data Sources on Palestine Refugees (Republished).” Jerusalem Quarterly, Issue 93 (Spring 2023). Institute for Palestine Studies, Digital Section: Remembrances.

<sup>420</sup> General Assembly resolution ES-10/17, Establishment of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory, 24 January 2007.

<sup>421</sup> International Court of Justice (ICJ), Advisory Opinion of 9 July 2004, ‘Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 9 July 2004. It also concluded that Israel has a legal obligation to provide reparation for the damage resulting from its unlawful conduct, including appropriate compensation for individuals whose homes or agricultural holdings have been destroyed.

concerned as a result of the construction of the Wall by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem”.<sup>422</sup>

The RD4U was established through a CoE resolution adopted in May 2023, which mandated the Register to “serve as a record, in documentary form, of evidence and claims information on damage, loss or injury caused, on or after 24 February 2022, in the territory of Ukraine [...], by the Russian Federation’s internationally wrongful acts in or against Ukraine”.<sup>423</sup> It records damage caused to natural and legal persons, as well as to the State of Ukraine. The ‘Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of Russian Federation against Ukraine’ permits any member or observer State of the CoE to join the Register as either participant or associate member,<sup>424</sup> along with other States that supported the UN General Assembly resolution on remedy and reparation for Ukraine.<sup>425</sup>

## What are possible outcomes of registers of damage?

The two registers of damage created to date can receive claims and document supporting evidence. While they cannot assess claims on their merits or adjudicate compensation payments, they can result in the following outcomes:

- Creation of a reliable and lasting record of damages caused by violations of human rights or international law to victims, which, depending on the mandate of the register, can be natural or legal persons;
- Preservation of evidence supporting individual compensation claims, for the purpose of their future examination by a competent mechanism.

### Register of Damage for Ukraine: RD4U

The objective of the RD4U is to gather claims and supporting evidence from individuals, entities, and the State of Ukraine seeking compensation for damages, losses, and injury resulting from the full-scale invasion of Ukraine by the Russian Federation.

Not being a court, tribunal, claims commission or compensation fund, it can receive, but not examine or evaluate the claims it receives on their merits, assess their value, or order any payments. Rather, these functions will have to be delivered by an international compensation mechanism yet to be established. In the interim, RD4U processes and organises claims, and determines their eligibility for consideration by a future compensation mechanism.

<sup>422</sup> UN, General Assembly resolution ES-10/17, Establishment of the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory, 24 January 2007.

<sup>423</sup> Council of Europe, Resolution CM/Res(2023)3 (“Resolution establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine”), 12 May 2023.

<sup>424</sup> The Conference of Participants (COP), currently consisting of 41 participants and three associate members, governs the Register, appoints its board, and adopts the annual budget.

<sup>425</sup> UN, General Assembly resolution ES-11/5 (“Resolution adopted by the General Assembly on 14 November 2022”), 15 November 2022.



## What is the added value of registers of damage?

While most documentation mechanisms focus on the type and details of violations and on identifying alleged perpetrators, damage registers address a gap relating to the documentation of specific damages suffered by victims of violations and prepare documentation for associated reparation claims.

## What is the role of victims and civil society organisations?

Victims can put forward claims, supported by evidence, within the scope of the registers' work and determination as to who may submit such claims. For the RD4U, for example, claims can be submitted both by natural and legal persons, as well as the State of Ukraine, and must pertain to damages, losses, or injury occurring on or after 24 February 2022 within Ukraine's territory (as defined by its internationally recognised borders, including territorial waters). Indirect victims may submit claims in certain categories, such as "death of an immediate family member" or "missing family member".<sup>426</sup>

Civil society organisations may provide assistance in filing claims and can act as intermediaries between victims and the respective register of damage.

# B. International (Special) Tribunal for Belarus

## What are international (special) tribunals?

After the Second World War and its mass-scale atrocities, international tribunals have emerged as an instrument to bring high-ranking perpetrators of international crimes to justice. During the 1990s, such tribunals were established by the UN Security Council to respond to atrocities committed in the former Yugoslavia and Rwanda, laying the foundation for various other tribunals in situations of mass atrocities. In the last 25 years, a dozen of *ad hoc* international and hybrid (or internationalised) tribunals have been established, such as the Special Court on Sierra Leone, the Extraordinary Chambers of Cambodia, the East Timor Special Panels for Serious Crimes, the Kosovo Specialist Chambers, the Bosnia and Serbian War Crimes Chambers, the Special Tribunal for Lebanon, and the Iraqi High Tribunal.

*International ad hoc tribunals* have typically been established by a resolution of the UN Security Council. Examples include the International Criminal Tribunal for the former Yugoslavia (ICTY)<sup>427</sup> and the International Criminal Tribunal for Rwanda (ICTR).<sup>428</sup> The establishment of fully international tribunals has encountered obstacles, including blockages at the UN Security Council due to the veto powers of permanent members.

*Hybrid* (or internationalised) *tribunals* can be set up based on an agreement between the UN and the host State, or an agreement between the host State and a regional organisation, such as the CoE or the African Union. In most

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<sup>426</sup> Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine, Rules Governing the Submission, Processing and Recording of Claims.

<sup>427</sup> Security Council Resolution 827, 1993.

<sup>428</sup> Security Council Resolution 955, 1994.

cases, the host State signing the agreement with an international or regional organisation is the State where the crimes in question took place.

## Hybrid Tribunals

*Hybrid tribunals* (also called ‘internationalised’ or mixed criminal tribunals) are courts combining international and national components, providing an alternative to a fully domestic or fully international judicial process to hold perpetrators to account for mass atrocities.<sup>429</sup> This can result from the way they were established (e.g. agreement between the host State and the UN, or between the host State and a regional organisation such as the African Union or the CoE), their subject matter-jurisdiction (they can try both international and national crimes), and/ or their staff composition (composed of both local and international lawyers, judges and prosecutors).

While common features of hybrid tribunals include jurisdiction over international crimes, a mix of international and national staff, and application of international procedural and substantive law, there is no universal model of a hybrid tribunal. Each hybrid court reflects a compromise reached by the parties, often the UN and the host State, and the unique needs of the specific situation, and may be internationalised in different ways.<sup>430</sup>

Examples of hybrid tribunals:

- The *Special Court for Sierra Leone* (SCRL) was founded by an international agreement concluded between the Government of Sierra Leone and the UN Secretary-General. In this case, the Secretary-General acted on the basis of a UN Security Council resolution, however, without reference to Chapter VII of the Charter.<sup>431</sup>
- The *Special Tribunal for Lebanon* (STL) was created based on an agreement between the UN and Lebanon.<sup>432</sup>
- The *Kosovo Specialist Chambers* (KSC) were established on the basis of an exchange of letters between the President of Kosovo and the EU High Representative for Foreign Affairs and Security Policy.<sup>433</sup>
- The *Special Criminal Court in Central African Republic* (SCC) was created based on a Memorandum of Intent signed between the Ministry of Justice of the Central African Republic (CAR) and the UN Secretary-General.<sup>434</sup>
- The *Special Tribunal for the Crime of Aggression against Ukraine* is an international tribunal established in June 2025 within the framework the CoE based on Ukrainian territorial jurisdiction to address the consequences of Russia’s war of aggression against Ukraine<sup>435</sup> (See Chapter II. F, Council of Europe Special Tribunal for the Crime of Aggression against Ukraine).

429 International Center for Transitional Justice, ‘Committing to Justice for Serious Human Rights Violations: Lessons from Hybrid Tribunals’ 2010.

430 International Center for Transitional Justice, ‘Committing to Justice for Serious Human Rights Violations: Lessons from Hybrid Tribunals’ 2010.

431 John Cerone, The Special Court for Sierra Leone: Establishing a New Approach to International Criminal Justice, in *ILSA Journal of International & Comparative Law*, Vol. 8, pp. 379-381, 2002.

432 UN, *Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon*, 2007.

433 Kosovo Specialist Chambers & Specialist Prosecutor’s Office, *The Kosovo Specialist Chambers in a Nutshell*, p. 10, 2022.

434 UN, *Letter dated 19 December 2014 from the Secretary-General addressed to the President of the Security Council*, 22 December 2014.

435 Council of Europe Council of Ministers, *Statute of the Special Tribunal for the Crime of Aggression Against Ukraine*, Articles 2(1), 2025.

Alternative methods to establish tribunals have been considered in other contexts. In the case of Syria, the idea of forming an international tribunal through a treaty among a group of States has been explored.<sup>436</sup> This tribunal, referred to as a ‘pooled jurisdiction tribunal,’ could consolidate the existing jurisdictions of States already investigating these crimes under the principle of universal jurisdiction.<sup>437</sup> In the context of the Russian aggression against Ukraine, a special tribunal tasked with investigating and prosecuting the crime of aggression has been set up,<sup>438</sup> with the key difference that the State responsible for the crime in question is not a party to the founding agreement.

## What are possible outcomes of International (Special) Tribunals?

International and hybrid tribunals usually result in the following outcomes:

- **Establishing the facts:** Tribunals may establish facts related to crimes within the scope of their mandate. They can review witness testimonies, analyse forensic data, and evaluate other types of evidence. These efforts help create a historical record and lay the groundwork for future transitional justice initiatives.
- **Holding perpetrators accountable:** Tribunals are mandated to hold individuals accountable, usually regardless of their position. Earlier tribunals have indicted heads of State, prime ministers, government ministers and other high-profile government and military officials.
- **Opportunity for victims to be heard:** Tribunals may provide victims the opportunity to be heard, preserve their testimonies and lay the foundation for transitional justice.
- **Ordering reparations:** International tribunals can usually order reparations as part of their verdicts to address the harm caused to victims. Reparations can take various forms, such as compensation, restitution, rehabilitation, measures of satisfaction, and guarantees of non-repetition.

## What would be the added value of an International (Special) Tribunal for Belarus?

Since the 2020 presidential election and the ensuing human rights crisis in Belarus, civil society groups have regularly called for the establishment of an international tribunal that could prosecute crimes committed in Belarus,<sup>439</sup> helping to overcome the limitations of universal jurisdiction cases, challenges relating to immunities etc.

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436 Eugenia Andreyuk, Anonymous, *International Mechanisms for Accountability for Human Rights Violations in Belarus*, 18 January 2022.

437 Syria Justice and Accountability Center, *Consideration of a “Pooled Jurisdiction” Tribunal for Syria* 25 November 2020.

438 Council of Europe, *Ukraine and the Council of Europe sign Agreement on establishing a Special Tribunal for the Crime of Aggression against Ukraine*, 25 June 2025.

439 Sergei Golubok, *iSANS Special Tribunal for Belarus: Legal and Policy Implications*, 26 July 2023.

Others have suggested that the recently created CoE Special Tribunal for the Crime of Aggression against Ukraine could deal with the criminal responsibility of Belarusian leaders.<sup>440</sup> Indeed, the Statute of this Special Tribunal authorises it to examine the involvement of Belarusian leaders in planning and executing the crime of aggression against Ukraine. However, its mandate is restricted to the crime of aggression within Ukraine's territorial jurisdiction and requires referrals by Prosecutor General of Ukraine (PGA). Accordingly, it cannot address international crimes against Belarusian people in Belarus or in (non-Ukrainian) exile, resulting in an accountability gap for Belarusian victims and survivors. Additionally, the Special Tribunal's victim participation is limited to those 'specially affected' by the conduct outlined in the indictment, excluding Belarusian victims unless affected as Ukrainian residents. Furthermore, Belarusian citizens are unlikely to receive compensation from an envisaged future mechanism based on claims collected by the Register of Damage Caused by the Aggression of Russian Federation against Ukraine, unless they were residing in Ukraine.

## How would victims be involved?

While the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) only allowed victims to come before courts in the role of witnesses, the ICC became the first international tribunal to enshrine victim participatory rights in its Statute.<sup>441</sup> The adoption of the Rome Statute with its strong framework of victim participation became a turning point in terms of victim participation at international and hybrid tribunals created subsequently.<sup>442</sup> (See Chapter II. A, International Criminal Court).

The forms of victim participation in international and hybrid tribunals vary. In most cases, victims may either act as participants, expressing their views and concerns, or serve as civil parties to the proceedings, allowing them to exercise many of the same rights as the prosecution or defence. While the Extraordinary Chambers in the Courts of Cambodia (ECCC) serve as a landmark example of an *ad hoc* tribunal with a robust victim participation framework, the statutes of the following tribunals also incorporate provisions for victim participation: Special Tribunal for Lebanon, East Timor Special Panels, United Nations Interim Administration Mission in Kosovo Panels, and the Kosovo Specialist Chambers.<sup>443</sup>

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440 Parliamentary Assembly of the Council of Europe (PACE), PACE unanimously demands an international tribunal to prosecute Russian and Belarusian leaders for the crime of aggression against Ukraine, 26 January 2023.

441 ICC, Rome Statute, Article 68.

442 Extraordinary Chambers in the Courts of Cambodia (ECCC), Practice Direction 02/2007/Rev.1, Victim participation. For instance the Extraordinary Chambers in the Courts of Cambodia (ECCC) established in 2003 by an agreement between the government of Cambodia and the United Nations allows victims to participate as full parties to the proceedings.

443 Mariana Peña, 'Victim Participation in International Criminal Proceedings', in Max Planck Encyclopedia of International Procedural Law, 2024.

for

Belarus

**Cover illustration by Siarhei Ramanau**

*Ramanau is a Belarusian artist and political prisoner. An activist in the anarchist movement, he was sentenced in 2021 by the Minsk Regional Court to 20 years of imprisonment in a maximum-security penal colony. At the time of publishing this report, he is no longer allowed to draw in prison.*

**About the IAPB**

The IAPB is a coalition of independent Belarusian and international non-government organisations that have joined forces to collect, consolidate, verify, preserve and analyse evidence of gross human rights violations constituting crimes under international law allegedly committed by Belarusian authorities and others in the run-up to the 2020 presidential election and its aftermath.

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