

Why Belarus Keeps Capital Punishment

On 27 June 2013, at the session of the Council of Europe Parliamentary Assembly Belarusian authorities stated that Belarus would not abolish the death penalty and will continue to shoot convicts. Western demands to impose a moratorium seem to follow a certain ritual without any realistic expectations.

Belarus remains the only country in Europe and on the territory of the former Soviet Union which still uses the death penalty. The data provided by the Interior Ministry states that Belarusian courts sentenced 102 people to death between 1998 and 2010. The death penalty procedure remains so secret that the authorities do not even return the bodies of the executed. Several years ago two death convicts hung themselves in their cells in order to avoid being shot, so that the authorities would give their bodies to their families.

It should be noted that the idea of death penalty as a fair punishment remains quite popular in Belarus. On the other hand, the position of religious institutions and human rights defenders has become more noticeable in society. The recent speech of head of the [Belarusian Orthodox Christians Filaret](#) for the abolishment of the death penalty has become a considerable event in Belarus.

How Does Death Penalty Look Like

Execution by shooting remains the form of death penalty execution in Belarus. Most of the executed are criminals that committed crimes with aggravating circumstances. The aggravating circumstances usually mean the homicide of children or elderly people, pregnant women or homicides with rape. The authorities shoot from two to nine people annually –

much less than in 1990s.

Capital Punishment in Belarus (1990-2010)																
Number	20	24	24	29	47	13	4	7	4	4	2	9	4	2	2	3
Year	1990	1992	1994	1996	1998	1999	2000	2001	2002	2003	2004	2006	2007	2008	2009	2010

Source: Ministry of Internal Affairs

The decision whether to sentence someone to capital punishment depends on a concrete judge. Andrei Zhuk, executed for a cruel homicide, wrote to his mother that the court sentenced one person for the similar crime to 25 years of imprisonment, another one – to life in prison, and him – to death.

Very often, about a year passes between the verdict until the actual execution. Aleh Alkayeu, former head of Minsk pre-trial detention centre and death sentences executor, describes the procedure of shootings in Belarus in details in his book “The Shooting Team”.

The Commission consisting of a Public Prosecutor, a Head of a detention centre and an Interior Ministry’s representative calls the deathrow convict to the office. In the office, the Commission informs about the rejection of the convict’s pardon appeal, then policemen put a black bandage on his eyes and lead him to the next office. There, the executioner brings the convict to his knees and shoots him in the back of the head. The whole procedure takes about two minutes.

The authorities never give the bodies of the executed to their relatives or inform them of the place of burial. Often, the relatives of the executed go around Minsk cemeteries in order to find fresh graves there, after having received written notification with information that the convict was dead. It gives no results. Relatives of one of the executed buried his personal belongings instead of the body and put a tomb stone just to have a place to commemorate the dead.

The UN Human Rights Committee demanded that the Belarusian authorities should give the bodies of the executed convicts to

their families several times. However, the authorities continue to ignore these demands.

The Attitude of the Society

The death penalty has remained an issue of little importance for Belarusian society for many years. The problem of execution by shooting in Belarus proceeded to the national level only once, after the execution of Dzmitry Kanavalau and Uladzislau Kavalyou. The court sentenced them both to death for [the blast in Minsk metro](#) on 11 April 2011, which took the lives of 15 people.

According to the data provided by the Independent Institute of Socio-Economic and Political Studies, 37% of Belarusian population did not believe in [the convicts' guilt](#). This caused a wave of moods for abolition of death penalty in the society. According to IISEPS, since September 2012, 40.7% Belarusians stand up for the abolition of the death penalty, while 49.1% want to preserve it.

Human rights defenders and intellectuals stand for the death penalty's abolition rather prominently in Belarus. The Catholic Church and the Belarusian Orthodox Church raise their voices against the authorities' policy very rarely, however, as for this issue, both denominations pursue the death penalty's abolition.

However, Belarusian society still holds to the idea that the death penalty should remain. Moreover, the Belarusian authorities have some instruments of the informational influence over the people. When the state media systematically show the pictures of cruel murders, it raises the pro-death penalty mood amongst the populace almost automatically.

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Will Belarus Abolish the Death Penalty?

The European Union has been trying to convince Belarus to abolish the death penalty for a long time. The Parliamentary Assembly of the Council of Europe set up the introduction of a Moratorium as the only condition for returning the status of specially invited to Belarus. Belarus lost this status in 1996, when the referendum made the death penalty legal. The West did not recognise the results of that referendum.

Belarus has shown no reaction to the demands of the European structures so far. The officials often say privately that “Let the EU and the Council of Europe teach the U.S. some humanity, and then demand something from Belarus”.

Although as the chart above shows, the number of executions has dropped significantly since 1990s, Alexander Lukashenka personally often said he would not go for the introduction of a moratorium as most Belarusians would object. Also, the Belarusian leader has no plans to become a member of the Council of Europe, as it would bring no major benefits for his regime. If Lukashenka wants to mend the relations with the West, he would release political prisoners and it would be enough.

Neither the Belarusian authorities nor society seems to be ready for the death penalty's abolition yet. It may take a while before Belarus will stop being the only country in Europe using death penalty.

Belarus Fights Photo Extremism

On 18 April district court of Ašmiany concluded a trial of Belarus Press Photo – 2011 album. The KGB, which initiated the case, argued that the album contains extremist elements and the court agreed with it.

Belarus enacted the Law on Counteraction against Extremism 2007. Security services elaborated it in order to prevent potential colour revolution in Belarus, but subsequently they rarely applied it. On a few occasions over the last five years they deployed this law. But the judiciary did not always take the side of the KGB. In some cases it declined KGB demands to declare extremism.

The Law against Colour Revolution

The Belarusian KGB prepared The Law on Counteraction against Extremism in 2006. It aimed to prevent mass protests and another colour revolution in the post-Soviet space. Civil society perceived the law as political instrument which gave additional grounds for political repression.

Apart from usual concepts of terror, violent seizure of power, paramilitary formations, fomenting racial, religious and other kinds of antagonisms, it counteracts “mass unrest on the grounds of political and ideological antagonism”.

What is more important, it qualifies the act of “humiliation of national honour and dignity” as extremist activity. The law also provides a definition of “extremist materials” – informational product which promotes extremist action.

So, the judiciary can qualify practically every political action directed against the regime as extremist. Equally, it can qualify media and information products as extremist if they involve political elements. Practical sense of the law in legal terms looks unclear, since all main extremist concepts already exist in criminal code of Belarus.

However, the application of the law did not appear as cruel as many expected. Improvement of relations with the West in 2007-2010 prevented it from being fully deployed. Yet the KGB tried to use the law occasionally to deal with certain undesirable publications such as books, CDs, bulletins and newspapers. The recent case of Belarus Press Photo – 2011 gives a good illustration of such selective application.

Belarus Press Photo – the Extremist Album

Belarus Press Photo is an annual contest of photos taken for mass media. The album of 2011 (available online [here](#)) contest contains numerous photos of protest after elections in 2010 as well as “silent protests” of 2011. However, most of the photos in the album cover national traditions, army, sport, art and other issues far from politics.

In November 2012, Belarusian customs office confiscated 41 photo albums, which Belarusian journalists carried with them after a European tour. Ironically, the publishers printed the albums abroad and imported them to Belarus a year ago. They conducted all formal procedures, paid customs duties, and faced no problems at that time.

This time the customs took a different view on the album and decided to destroy it. But, somewhat unexpectedly, they changed their mind and passed the case to the KGB.

The KGB established an expert commission in order to evaluate the album. The commission included a representative of ideology department of the local executive authority, a criminology professor, a linguistics professor and an art

lecturer, all from Hrodna university.

After examining the album, the commission rendered the following verdict:

The album Belarus Press Photo – 2011 contains deliberately distorted images of Belarusian politics, economy and social life, which humiliates national honour and dignity of citizens of the Republic of Belarus. It belittles the authority of Belarusian state and undermines the trust of foreign states and international organisations in Belarusian government.

Hence, according to the Law on Counteraction against Extremism, humiliation of national honour and dignity forms an act of extremism.

The court summoned to the trial the organisers of Belarus Press Photo contest Julija Daraškevič, Vadzim Zamiroŭski and Aliaksandar Vasiukovič. The court took the side of KGB and on 18 April declared the album to be extremist. It ordered to destroy 41 copies of the album.

The Dissent of Belarusian Judiciary

Over the last few years, the courts had a few opportunities to apply the Law on Counteraction against Extremism. Most of them had a similar plot: customs officers checked materials which people carried through the border, and then passed them to the KGB for evaluation. The KGB would then initiate court proceedings. Yet the outcomes of those trials break the myth of the total politicisation of Belarusian judiciary and its inferiority to security services.

On several occasions, only one court ruled that the submitted materials were of extremist nature. The case involved compact discs with films “Lesson of Belarusian language”, the concert “Solidarity with Belarus” in Warsaw, and photos of 2010

protests in Minsk. In all other cases in the past, the courts dared to disappoint KGB.

For instance, in 2008, the KGB did not like the article "War in Georgia" published in Svaboda newspaper. They argued that the article discredited domestic and foreign policies of Belarus and promoted extremism and genocide of Ossetian people. The court of Iŭje district recognised it as extremists and ordered to destroy 5,000 copies of the issue. However, on appeal the lower court decision was set aside.

The trial of Arche journal, publication of Belarusian intellectuals, presents a more complicated case. Customs confiscated it in 2008 on Belarusian-Polish border and as usual, KGB filed an action. According to them, the journal contained a number of publications with extremist content. Three of them presented analysis of Belarusian politics, and the fourth, a review of Andrzej Wajda's Katyn film on the massacr of Polish officers by the Soviets in 1940.

The KGB argued that "the analysis of the materials showed that the journal materials damage the image of government, increase social and political antagonism in society, encourage mass unrest and thus threaten national security of Belarus".

At first, the court of Brest recognised the journal as extremist and ordered to destroy it, but higher court subsequently returned the case for review. The KGB demanded another trial, but after expert evaluation of the materials the proceedings were terminated.

These facts reveal interesting processes inside the Belarusian security and judiciary systems. KGB continues to hunt for witches occasionally, but it does not implement any comprehensive programs to combat dissent. The cases rather depend on initiative of particular department and district.

Second, the courts do not always follow the political needs of the regime and may do their job fairly. Of course, this does

not concern largest and most notorious trials, which Lukashenka controls personally. But local and minor issues can be resolved in favour of citizens, not the authorities.

Belarusian “Terrorists” On Trial: Any Hope for Justice?

On November 30, a Belarusian court is likely to issue the death sentence to the alleged perpetrators of the April terrorist act in the Minsk metro. Many in Belarus remain unconvinced that the suspects, two young men from the northern province of Vitebsk, are guilty of such serious crimes.

The premature verdict could have major repercussions for the legitimacy of the Lukashenka regime. Contrary to official claims, there remains considerable uncertainty about the identity and the aims of the masterminds of the multiple bombings in Vitebsk and Minsk in 2005-2011. Admitting this uncertainty would undermine the official narrative of national security and stability that underpins the 'social contract' between the authoritarian government and the people.

Since 2005, a series of attacks has shattered confidence in public security. The 2005 Vitebsk terror attacks were downplayed by the authorities at the time as acts of hooliganism. The bombing on a national holiday in 2008, which resulted in scores of wounded casualties, already had a more detrimental impact. The attack on the central station of the Minsk subway last April, which killed 15 people and wounding 387 others, dealt a final blow to public confidence.

The public prosecution office has charged one of the

defendants, Dmitry Konovalov, as the perpetrator of the Minsk bombing. He is also accused of illegally acquiring and storing explosives as well as producing at least twelve improvised explosive devices (IEDs). The prosecutors accuse the second defendant, Vladislav Kovalev, of being Konovalov's accomplice in the 2011 Minsk bombing.

“Confession of the accused is the queen of evidence”

In total, the accused face 23 charges. According to the prosecution, Konovalov and Kovalev have committed a total of ten crimes over the past decade, including four major bombings. A criminal dossier presented in the courtroom even refers to crimes committed when the suspects were just 14 years old. Many among the Belarusian public find these allegations dubious.

The popular blogger Budimir voiced the thoughts of many Belarusians when he asked how Konovalov, a silent and passive blue-collar worker, managed to lead a ten-year terror campaign and succeeded in detonating a bomb some 100 meters from the president at a 2008 public event. The defendant himself has literally cited a paragraph in the Criminal Code to define his motives: “To destabilize the situation in the Republic of Belarus.” The investigators failed to identify any affiliation of either of the suspects with a political party or ideology.

Notably, some victims of the 2011 terrorist attack testified that they did not consider the suspects proven guilty. A dissident and former investigator, Zmicier Petrushkevich, stressed that the only evidence is found in the defendants' confessions. Apparently, the Belarusian system of justice, like its Soviet predecessor, operates according to the principle of Stalin's hangman Vyshinsky: taking confessions from the accused as its best evidence. In most developed countries, the reliability of such evidence would be questionable. In fact, Konovalov claims he was tortured and endured psychological pressure.

Petrushkevich points out numerous contradictions in the prosecutor's claims. For instance, investigators have found no traces of explosives in the defendant's flat despite allegations that Konovalov had produced them at home. The bag in which the accused allegedly brought the bomb to the site has also mysteriously disappeared. Oddly, the investigators did not consider the possibility that the bomb might already have been brought to the site by someone else prior to Konovalov's arrival.

Perhaps most astounding is the fact that the bomb used in Minsk on Liberation Day in 2008 was most certainly produced under professional laboratory conditions. The cellar identified by investigators as Konovalov's 'lab' certainly does not live up to these standards. Other details are also dubious. Konovalov's attorney has stated that the videotape showing the defendant before and during the explosion was edited. But the court denied the request to use this videotape. For unexplained reasons, the court also refused to summon the police officers who had arrested the alleged terrorists.

Who trusts the Belarusian judiciary?

The court case raises the acute issue of capital punishment. President Lukashenka likes to refer his foreign critics to the 1996 referendum, in which 80.44% of Belarusians voted against abolition of the death penalty. Although the vote was denounced as fraudulent by international observers, Lukashenka stresses his respect for the will of the Belarusian people and points out that the decisions adopted by referendum are above the constitution.

This time, however, the doubts about the guilt of the accused are simply too great. This past Saturday, Lukashenka seemed to partially acknowledge this reality. Though once again demanding the harshest punishment for 'terrorists', the president suggested for the first time that capital punishment

for Konovalov and Kovalev might be substituted with life imprisonment.

Lukashenka may be reacting to public discontent. In April, more than 60 percent of respondents at tut.by, the most popular Belarusian web-portal, [said](#) the explosions were organized by the government. The court proceedings only increased public skepticism about the defendants' guilt. The doubts are not so much caused by the minutiae of the investigation or the allegations of torture as by lack of public trust in the police and security agencies.

Yet Another Vitebsk Case?

This lack of trust can be led back to the many known [cases](#) of violent interrogation in Belarus. One of the most spectacular is the so-called 'Vitebsk case'. In 1971-85, 36 women in Vitebsk region were murdered, and the local courts sentenced 14 men for the crimes that, as later turned out, were committed by one man. One of the 14 suspects was executed, another became blind in prison, and the rest endured years of incarceration. Their admission of guilt was an inevitable outcome of the unfair system of justice. The analogy with today's terror case is evident.

While there is concern that innocent men may be executed, the continuing uncertainty about who actually committed the Minsk bombings has raised concerns about public safety as well. This strikes at the very heart of the legitimacy of the Lukashenka regime – security is a basic concern for every human being, and the regime knows it needs to provide this public good.

To be fair, the stories about the Russian involvement or provocation by the Belarusian security agencies seem implausible. But the public prosecutor's claim put forward in court is no more convincing. This suggests a more problematic reality: the government exerts less control over Belarus than it often claims.