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Lustration for Belarus

(Concept)

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Summary

Lustration is an element of transitional justice. This procedure involves vetting individuals for their links to the repressive bodies of the previous regime to cleanse the state apparatus and protect the new democracy.

Three types of lustration are distinguished. In the first case, a person who falls under the criteria of unreliable is not entitled to hold a legally protected position. In the second case, the holder or applicant for a legally protected position is obliged to declare whether he or she falls under the criteria of unreliability. The prohibition to hold these positions is established only for providing false information. In the third case, lustration is reduced to the identification of unreliable citizens, with the compilation and publication of their lists, without any other legal consequences for those being checked. Most controversy and legal disputes are caused by the lustration of the first, prohibitive type.

This paper describes in more detail the lustration practices in four countries - Lithuania, Latvia, Poland, and Ukraine – mentally and historically close to Belarus, which introduced lustration after the collapse of the Soviet Union. These countries present different examples of lustration procedures, with variations in the legal framework, areas of application, and effectiveness. The study of these cases will help to identify key factors that contribute to the success or failure of lustration, which may be useful for future lustration in Belarus.

The experience of these countries before the European Court of Human Rights (ECHR) in the context of lustration is also examined. The analysis of lustration cases identifies possible human rights violations, such as discrimination or lack of due process, and draws conclusions on how to avoid such problems in the lustration process.

Lustration in Belarus is driven by the need to overcome the legacy of the authoritarian regime and strengthen democratic institutions. It is proposed to use the second approach to lustration in Belarus based on self-declaration.

To verify the accuracy of the information provided, it is proposed to establish an independent body. A ban on holding public office would be imposed if the review reveals that false information was submitted in the declaration.

The expected results of lustration can only be achieved if it is carried out fairly, objectively, and by international human rights standards. Lustration should not be an instrument of political reprisal, but a part of a comprehensive reform process aimed at building a democratic society in Belarus.

Analytical Overview of the Lustration Mechanism

Lustration as a Tool of Transitional Justice

Transitional justice is a set of judicial and non-judicial measures designed to address the consequences of human rights violations that occurred during periods of conflict, authoritarianism, or repression. These measures may include prosecutions, truth commissions, reparations programs, institutional reforms, and lustration. The ultimate goal of transitional justice is to ensure accountability, establish the rule of law, and facilitate the democratization process. [1]

One of the founding fathers of transitional justice research is Yale University Professor Ruti G. Teitel.[2] In her monograph "Transitional Justice", she examined the experience of the transition of European countries from authoritarianism to democracy in the 20th century. Her work "Transitional Justice Genealogy"[3] identifies three historical moments and, according to them, describes three milestones in the development of the modern concept of transitional justice.

According to Prof. Teitel, the origins of the concept can be traced back to the First World War, which marked the first historical period. The second, during which transitional justice began to play a greater role, started in 1945 – post-war transitional justice. The next phase was the post-Cold War transitional justice and the period of democratization of the countries that left the Soviet Union and the Warsaw Pact countries. It started in 1989.

Transitional justice has two main areas of work:

1. Rehabilitation of the regime's victims. This restoration of justice may consist of financial compensation to victims or their relatives, as well as "moral" rehabilitation. Knowing and disseminating the stories of victims to the general public, honoring those who were active in the dissident movement, may be the best prevention against authoritarian temptations of those in power, and it is important for creating liberal and democratic values in new democracies.

2. Accountability represents the other side of transitional justice. From the retroactive law perspective, accountability for basic crimes (murder, torture, abuse of power, corruption, etc.) is not a problem because these were crimes even under the previous regime.

[1] ICTJ, 2022. What Is Transitional Justice? | International Center for Transitional Justice. www.ictj.org. Online. 2022. Available from: https://www.ictj.org/what-transitional-justice

[2] Ruti G. Teitel, [no date]. New York Law School. Online. [Accessed April 23, 2023]. Available from: https://www.nyls.edu/faculty/ruti-g-teitel/

[3] TEITEL, R., 2003. Transitional Justice Genealogy (Symposium: Human Rights in Transition). papers.ssrn.com. Online. 2003.... page 70 Available from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4041414.

A holistic approach to implementing these areas is based on 4 pillars essential to any transitional process: the right to truth, the right to justice, the right to reparations, and guarantees of non-recurrence.[4]

To ensure that the goals of transitional justice are met and to effectively monitor procedures of restorative justice for human rights violations, the UN Special Procedures structure includes a Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence. The Special Rapporteur plays a key role in monitoring human rights violations around the world. He acts independently of the Office of the UN High Commissioner for Human Rights, which gives him a greater degree of independence in researching and analyzing legal issues.

The mandate of the Special Rapporteur encompasses a wide range of tasks. First, he or she must promote the principles of truth, justice, reparation, and guarantees of non-recurrence. To this end, the Special Rapporteur advises the UN Human Rights Council, prepares reports, conducts research, makes recommendations, and participates in conferences and seminars on transitional justice issues.[5]

As part of his work, the Special Rapporteur visits various countries to directly research local situations and engage in dialogues with governments, civil society, and other stakeholders. This approach provides the Special Rapporteur with a comprehensive understanding of the context and enables him to assess the effectiveness of measures to restore justice. The Special Rapporteur also actively engages with experts and academics to develop the most effective recommendations for countries in transition.

The key mechanisms of transitional justice are:

Judicial proceedings – criminal tribunals established at the international and national levels. This mechanism has its origins in the Nuremberg Trials. The purpose of judicial proceedings, depending on the court's mandate, is to put an end to international crimes, crimes against humanity, or serious human rights violations. However, judicial proceedings do not always fulfill their objectives due to the magnitude of rights violations, insufficient evidence due to the length of time that has elapsed, and the deliberate destruction of evidence by the former regime.

Lustration – legislative restrictions on the political elite of the former regime that restrict members and collaborators of former repressive regimes from holding a number of public offices, public administration positions, or other positions of high public influence (e.g., in the media or academia) after the fall of an authoritarian regime.[6] Lustration, unlike judicial proceedings, is collective in nature with respect to those to whom it is applied.

Vetting – a set of procedures designed to assess "an individual's integrity as a means of determining his or her suitability for public employment."[7] In the transitional period when vetting

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[4] OHCHR | OHCHR: Transitional justice and human rights, [no date]. *OHCHR*. Online. Available from: https://www.ohchr.org/en/transitional-justice

[5] OHCHR | Special Rapporteur on truth, justice and reparation, [no date]. *OHCHR*. Online. Available from: https://www.ohchr.org/en/special-procedures/sr-truth-justice-reparation-and-non-recurrence

[6] HORNE, Cynthia M., [no date]. Transitional justice: Vetting and lustration. *Research Handbook on Transitional Justice*. P. 424-442. DOI https://doi.org/10.4337/9781781955314.00030. p. 10

[7] Alexander Mayer-Rieckh and Pablo de Greiff (eds), Justice as Prevention: Vetting Public Employ- ees in Transitional Societies (Social Science Research Council, 2007) 524.

applies, integrity refers to "a person's adherence to relevant standards of human rights and professional conduct, including her or his financial propriety."[8] Such screening of civil servants or candidates for public office aims to determine whether their past behavior and, more importantly, (dis)respect for human rights justify their exclusion from public service. Unlike historical purges or mass dismissals, which target people because of their membership or affiliation with a particular group (e.g., a political party), vetting involves an assessment of individual behavior, requires personal consideration, and provides at least some procedural safeguards for those subject to vetting.

Truth commissions – a temporary, non-judicial, collegial body whose practice can complement and contribute to other mechanisms. Such commissions are formally authorized temporary investigative bodies. They are given a relatively short period of time to gather testimony, conduct investigations, review materials, and publicly hear cases before they complete their work and issue a final report.[9]

All of the above mechanisms contribute to the overall process of dealing with the past, playing an important role in how the state deals with its history. And it is a very complex process, connected to other equally important ones, such as opening archives, changing history textbooks, and creating memorial museums. This process directly affects the vision of history, its public perception, and shapes the future of the country.

Lustration is one of the most important elements of transitional justice. It is used in various post-conflict and post-authoritarian contexts and can be used in conjunction with other measures such as trials, truth commissions, and amnesties. Finally, it should be noted that although the word "lustration" itself is derived from the Latin "lustratio" – purification through sacrifice – it is not a ritual sacrifice but a legislative or executive decision that uses special methods or procedures, as well as screening to address past abuses and protect current or future public office.[10]

Two of the most popular approaches used in lustration research are the concepts of "transitional justice" and "democratic transition". Lustration in the context of transitional justice is seen as a set of different measures (judicial and non-judicial) to overcome the consequences of large-scale human rights violations in the past. Lustration in the context of the transitological paradigm is considered a component of democratization processes.

Researchers[11] substantiate that lustration has a positive impact on the democratization process both at the stage of formation of a new state and in the context of consolidation of democracy. Lustration practices contribute to an institutionalized process of parting with the past in political, legal, and cultural (symbolic) aspects.

Lustration can make a society more democratic. According to the 2022 Democracy Index of countries with lustration practices, Lithuania ranks 39th with a score of 7.77, Latvia ranks 38th with

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[8] Ibid

[9] United Nations, 2016. *Rule-of-law Tools for Post-conflict States*. United Nations. ISBN 9789210576710. HR/PUB/06/1, 2006

[10] ROŽIČ, P., NISNEVICH, Y.A. Lustration Matters: a Radical Approach to the Problem of Corruption. St Comp Int Dev 51, 257-285 (2016). https://doi.org/10.1007/s12116-015-9179-1

[11] Cynthia Horne, "The Impact of Lustration on Democratization in Postcommunist Countries." International Journal of Transitional Justice, Vol. 8, No. 3, 2014.

Roman David, "Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland". Philadelphia: University of Pennsylvania Press, 2011.

a score of 7.78, Poland ranks 46th with a score of 7.27, the Czech Republic ranks 25th with a score of 7.94, and Ukraine ranks 87th with a score of 5.94. By comparison, Belarus, which in the 90s did not even discuss the need for lustration, ranks 153rd with a score of 2.16, belongs to the category of authoritarian regimes and neighbors Eritrea and Iran.[12]

The Concept of Lustration

There are several definitions of lustration.

Prof. Horne defines lustration as legislative restrictions on the political elite of a former government that restrict members and collaborators of former repressive regimes from holding a range of public offices, positions in public administration, or other positions of strong public influence (e.g., in the media or academia) after the fall of an authoritarian regime.[13]

Professor Karsterdt defines lustration as mass selection procedures that are carried out against collaborators, party members, or employees of state organizations (e.g. police, security forces), mostly from the middle and lower levels of the hierarchy.[14]

Prof. Offe, for his part, defines lustration as legal acts aimed at depriving categories of offenders of material assets and/or civil status.[15]

This concept uses the first definition, as it covers a broader context and most fully corresponds to its purpose. The main objective of lustration is to restrict access to state power to those representatives of the former political elite who have not shown commitment to democratic principles in the past and do not demonstrate motivation to adopt them in the present. This is necessary to build confidence in the institutions of power and ensure the democratic development of society.

A. Czarnota, Associate Professor at the University of New South Wales, outlines three components of lustration: 1) vetting for cooperation; 2) publicizing and disseminating information (names and facts); and 3) excluding certain categories of persons from public administration in the new state.[16]

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[12] Democracy index *Frontline democracy and the battle for Ukraine*, [no date]. Online. [Accessed April 23, 2023]. Available from: https://pages.eiu.com/rs/753-RIQ-438/images/DI-final-version-report.pdf?mkt_tok=NzUzLVJJUS00MzgAAAGK7R2vipVzbvSzEVib3M25QQFrpnwLVtBSEMfPJt2gZhvLypBzkTVsQ7BlvL4Kupnt58LMLppWgLxR0BNiITRE3vtoBvfjHU6DodgMdKYobOMdmg

[13] HORNE, Cynthia M., 2017. Transitional justice: Vetting and lustration. *Research Handbook on Transitional Justice*. January 2017. P. 424-442. DOI https://doi.org/10.4337/9781781955314.00030.

[14] KARSTEDT, Susanne, 1998. Coming to Terms with the Past in Germany after 1945 and 1989: Public Judgments on Procedures and Justice. *Law Policy*. January 1998. Vol. 20, no. 1, p. 15-56, p 16 DOI https://doi.org/10.1111/1467-9930.00041.

[15] CLAUS OFFE, 1997. *Varieties of transition : the East European and East German experience*. Cambridge (Mass.): Mit Press. ISBN 9780262650489. p 88

[16] Czarnota, A. (2009). Lustration, Decommunization and the Rule of Law. Hague Journal on the Rule of Law

The subject of lustration is recognized as either the fact of work or cooperation in the bodies recognized as objects of lustration, or concealment of the truth or false filling of the lustration certificate.

Lustration involves the vetting of potentially unreliable persons. Those who lack certain integrity criteria are forcibly removed from their positions, prevented from taking up new positions, induced to voluntarily resign, or face public disclosure of their past, or alternatively required to confess to past involvement as a form of accountability.[17]

The choice of lustration mechanism is largely determined by the political configuration accompanying the transition period.[18] It is assumed that lustration measures establish a break with the past and provide opportunities for state and societal recovery and reconciliation. It is also believed that lustration reduces opportunities for corruption of former elites and limits the political participation of former authoritarian actors.[19]

Goals of Lustration

The goals of lustration reflect the desire of societies to overcome the legacy of repressive regimes and ensure a transition to democratic values:

1. **Revealing the truth about the past and restoring justice.** This includes publicizing repression and the people responsible for it, thereby helping to restore justice to the victims of repression.

2. **Restoring trust in state institutions.** Lustration aims to ensure that key positions are held by individuals who are committed to democratic values and have not been involved in human rights abuses or support for state terror.

3. **Protecting the new democracy.** Lustration promotes reform of state structures by removing the influence associated with previous repressive regimes and enabling the emergence of democratically oriented institutions and procedures.

4. **Curbing opportunities for blackmail and manipulation.** Lustration serves to prevent the possibility of blackmailing high-ranking individuals who may have cooperated with previous regimes and security services, which could jeopardize the new democratic order.

5. **Preventing a return to authoritarianism.** Through lustration, societies seek to prevent a return to totalitarian practices by ensuring that people responsible for repression cannot hold key positions in the state apparatus.

6. **Moral and symbolic purification of society.** Lustration is seen as an act of moral and symbolic cleansing, helping society to reflect on and overcome its repressive past and to

[17] HORNE, Cynthia M., 2017. Transitional justice: Vetting and lustration

[18] From Prague to Baghdad: Lustration Systems and their Political Effects 1.DAVID, Roman, 2006. From Prague to Baghdad: Lustration Systems and their Political Effects. *Government and Opposition*. 2006. Vol. 41, no. 3, p. 347-372. DOI https://doi.org/10.1111/j.1477-7053.2006.00183.x. Accessed 2023-03-31

[19] HORNE, Cynthia M., 2017. Transitional justice: Vetting and lustration

strengthen a new identity based on the principles of democracy and the rule of law. This facilitates public reconciliation by condemning past crimes and restoring justice.

The motivation behind lustration in Central and Eastern Europe was to uncover the truth about the past and to restore justice, as well as to exclude the threat of the resurgence of anti-democratic forces and a return to totalitarianism. Lustration helped to eliminate the threat of the restoration of old nomenklatura networks and strengthen their economic and political influence. It served to protect democracy, restore confidence in the public sphere, and empower society.

The importance of addressing this issue in post-communist European countries has been recognized by the Parliamentary Assembly of the Council of Europe. PACE Resolution No. 1096 (1996) "Measures to Dismantle the Heritage of Former Communist Totalitarian Systems"[20] established an international standard of human rights that should be preserved when adopting national regulations aimed at resolving the past. The absence of mechanisms to protect democratic stability and preserve the former methods of exercising power may have led to corruption and oligarchic practices in the countries of Central and Eastern Europe and, consequently, to the destabilization of the entire region. The use of criminal and administrative liability as mechanisms of transitional justice is explicitly authorized by PACE.

The Parliamentary Assembly recommended that Member States should eliminate the legacy of former communist totalitarian regimes by restructuring old legal and institutional systems. This process should be based on the principles of demilitarization, decentralization, especially at local and regional levels and within state institutions,[21] demonopolization and privatization, which are central to building market economies and pluralistic societies, de-bureaucratization to reduce communist totalitarian over-regulation and to transfer power from bureaucrats back to citizens.

The resolution describes the compatibility of transitional justice and lustration with the democratic rule of law.

Lustration laws aim to achieve specific goals in transitional societies. Within the context of Central and Eastern Europe in the late 1990s, one of the primary objectives was to prevent the persistence of the communist system and its negative effects on society by removing people associated with the communist party and intelligence services from public administration.

It is important to note that while lustration laws can play a role in promoting democracy and accountability, they are not the only factor contributing to a country's democratic development. Other factors such as respect for the rule of law, protection of human rights, and freedom of expression are also important.

Lustration can promote accountability in several ways:

[20] Resolution 1096 (1996). Measures to dismantle the legacy of former communist totalitarian systems. https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16507

[21] Parliamentary Assembly of the Council of Europe (1996). Resolution 1096 (1996) on measures to dismantle the legacy of former communist totalitarian systems, CoE Doc. 1096 (June 27, 1996), par 4.

1. Lustration can help identify those responsible for past human rights violations and corruption. This can lead to further investigation and legal action against these individuals, holding them accountable for their actions.[22]

2. Lustration can lead to public disclosure of past violations, helping create a culture of transparency and accountability.[23] It can also help increase public trust in public institutions as citizens see that those responsible for past violations are held accountable.

3. Lustration can help remove compromised officials from positions of power, which can help prevent further abuse and corruption. It can also send a strong signal that such behavior will not be tolerated in the future.

4. Lustration can lead to the establishment of independent oversight mechanisms, such as anti-corruption commissions and ombudsman offices. These mechanisms can help prevent future abuse and corruption by providing independent oversight of public institutions.

These goals reflect the diversity of motivations and approaches to lustration in different countries that seek to ensure the transition to democratic governance and protect the new society from threats posed by the legacies of the past.

Models of Transitional Justice and Lustration

There is no one-size-fits-all approach to lustration that is equally effective in all countries. Stephen Garrett[24] has proposed a taxonomy of transitional justice models, organizing them along an axis with reconciliation (amnesty and non-alienation from the past) at one end and retribution at the other. He identifies four main models:

1. The Amnesia Model, where the newly created democracy deliberately avoids trials of criminals and discussion of the crimes committed, for the sake of a process of democratic transition (Spain after the death of General Franco);

2. The Historical Clarification Model, where the crimes of the previous regime are described, but the specific perpetrators are not identified (Guatemala);

3. The Mixed Memory and Punishment Model, whereby general amnesties are excluded but a person can avoid criminal responsibility if he or she discloses details of the crimes committed (South Africa);

[22] Yuliya Zabyelina. "Lustration Beyond Decommunization: Responding to the Crimes of the Powerful in Post-Euromaidan Ukraine." *State Crime Journal*, vol. 6, no. 1, 2017, pp. 55-78. *JSTOR*, https://doi.org/10.13169/statecrime.6.1.0055. Accessed 23 Apr. 2023, p 4

[23] LAWTHER, Cheryl, MOFFETT, Luke and JACOBS, Dov, 2017. *Research Handbook on Transitional Justice*. Edward Elgar Publishing. ISBN 9781781955314, p 424

[24] Garrett Stephen A.: Models of Transitional Justice - A Comparative Analysis. Columbia University Press, 2000.

4. The Selective Punishment Model, where legal sanctions are applied to the top leadership of the previous regime and members of the security services who committed the most radical human rights violations (Greece).

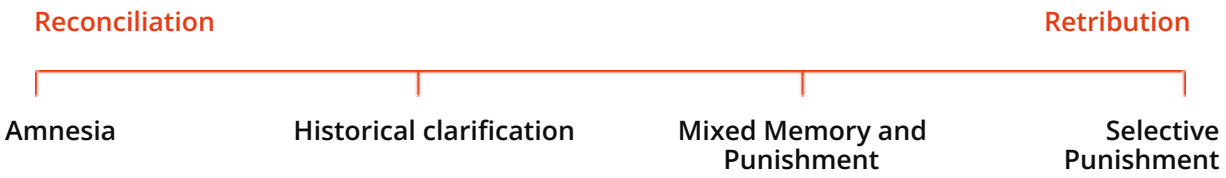

Figure 1. The axis of transitional justice models, according to Stephen Garrett

Within the framework of transitional justice, researchers classify lustration systems according to the type of legal consequences of the applied interventions.

Classification of Lustration Systems[25]

Type of lustration: Exclusive

Introduced measure: removal from office. Two lists are drawn up, one of which includes positions and professions "protected" from unreliable elements, and the other of which includes the grounds for classifying persons as such unreliable elements. A person falling under the criteria of unreliable is not entitled to hold a protected position.

Examples:
Czechoslovakia (since 1991): Czech and Slovak Federal Republic: Lustration Act No. 451/1991; Act adopted by the Czech National Council "On Some Further Prerequisites for Certain Positions Filled by Appointment or Designation of Officers of the Police of the Czech Republic and Officers of the Penitentiary Service of the Czech Republic", Act No. 279/1992.

Lithuania (since 1991): Decree on the Prohibition for KGB Officers and Informants to Hold Public Office No. 418, 1991; Law on the Screening of the USSR Committee for State Security (NKVD, NKGB, MGB, KGB) and the Current Activities of Its Employees, 1998.

Latvia (since 1994): Law on the Electoral Process for City, District, and Regional Councils, 1994; Law on Elections to the Saeima (Parliament), 1995.

Estonia (since 1995): Citizenship Act, 1995; Lustration Act, 1995.

Georgia (since 2011): Law of Georgia "Charter of Freedom", 2011

Ukraine (since 2014): Law of Ukraine No. 4378-1 "On Restoring Trust in the Judicial System of Ukraine"; Law of Ukraine No. 1682-VII "On Government Cleansing" (commonly known as the Lustration Law).

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[25] *Roman David*, Lustration and Transitional Justice. Personnel systems in the Czech Republic, Hungary and Poland.

Zabyelina Yu. Lustration Beyond Decommunization: Responding to the Crimes of the Powerful in Post-Euromaidan Ukraine // State Crime Journal. - 2017. - Vol. 6, No. 1, pp. 60-61.

Bobrinsky, N. A. (2015). International standards in the field of lustration. Reality or well-wishing? // Constitutional Review. 2015. No 6. C. 13-29.

Germany (since 1945): During the denazification process, directives of the Allies were in force, as well as provisions adopted by the federal government, which excluded Nazis from public and government positions.

Iraq after the fall of Saddam Hussein's regime (since 2003): In 2003, a de-Ba'athification law was adopted, aimed at removing members of the Ba'ath Party from managerial positions and excluding them from public administration.

Type of lustration: Inclusive

Introduced measure: self-disclosure and own confession. Persons holding or applying for protected positions are required to disclose whether they are associated with the former repressive regime, such as whether they collaborated with the intelligence services. A ban on holding office is imposed only for a false declaration. This type of lustration is meant to incentivize honesty and cooperation with the new government, not to punish.

Examples:
Poland (since 1997): Lustration Act (Law “On Disclosure of Information on Service or Work for State Security Authorities or Cooperation with Them between 1944 and 1990 with Respect to Certain Persons Performing Public Functions”), 1997; Act “On Amendments”, 2007.

Type of lustration: Reconciliation

Measure introduced: publication of lists of unreliable citizens without legal consequences for their career or status. The purpose is to promote reconciliation and social healing, not punishment.

Examples:
Hungary (since 1994): Act XXIII of 1994 “On the Screening of Holders of Important Public Positions”;

Germany (GDR, since 1991): Stasi Records Act, adopted in 1991 (German: Stasi-Unterlagen-Gesetz).

Type of lustration: "Silent"

Measure introduced: public condemnation without formal lustration measures, or limited forms of condemnation and exposure. This type of lustration does not introduce bans, but promotes public debate and symbolic rejection of the past regime.

Examples:
Romania (since 1992): "Ticu Dumitrescu Law" (Law “On Access to Personal Files and the Disclosure of the Securitate as Political Police” No. 187/1999), with amendments in 2008 following the Constitutional Court of Romania’s partial ruling of unconstitutionality; Law No. 303 “On the Status of Judges and Prosecutors”, 2004 (with amendments in 2008);

Bulgaria (since 1992): Law “On Credit and Banking Activity”, 1992 (declared unconstitutional by the Constitutional Court of Bulgaria in 1992); Law “On Temporary Introduction for Members of Executive Bodies of Scientific Organizations and the Higher Attestation Commission” ("Panev Law"), 1992 (declared unconstitutional by the Constitutional Court of Bulgaria in 1995); Law “On Classified Information”, 2002; Law “On Access and Disclosure of Documents and Announcing Certain Citizens of Bulgaria as Affiliated with State Security and Intelligence Services of the Bulgarian National Army”, 2006.

Type of lustration: "Amnesia"

Introduced measure: complete abandonment of lustration measures, which is accompanied by a policy of oblivion and non-application of any restrictions to former participants of repressive regimes. It is an approach in which society decides not to remember the past.

Examples:
Spain after the death of General Franco; Russia; Belarus.

Thus, in the first case, lustration is a ban on certain individuals from holding certain positions; in the second case, it is a mandatory declaration of information about oneself under the threat of liability for false declaration; in the third case, it is a formal establishment and disclosure of facts about certain individuals without imposing any restrictions on them or on certain positions. In the remaining cases – formal or informal rejection of the lustration process.

Lustration of the first ("prohibitive") type causes the most controversy and legal disputes. It can be said that the second and third types represent a punishment not for the past, but for the current lies against the past. The evaluation of past behavior is in many respects transferred to the moral plane and, as it were, transmitted to society.

Lustration is based on either accusations (charges) or confessions. The former makes accusations based on evidence of cooperation with the former regime obtained from archival and other sources of information. In contrast, confession-based lustration allows individuals to disclose their past collaboration with the totalitarian regime before the prosecutor files charges. In this way, it resembles a plea bargain, giving lustrates the opportunity to continue their political activities in exchange for admitting their past activities and thus prove their loyalty to the new democratic regime and eliminate the possibility of blackmail.[26] Confession-based lustration sanctions only past association with the totalitarian regime, which was kept secret from the public, and not the cooperation that the lustrates admit to.

These examples show the diversity of approaches to lustration, which depend on the historical and political context of each country, as well as the degree of repressiveness of previous regimes and the challenges facing new democratic governments.

Tools Used in Lustration

The following tools or mechanisms used in lustration can be identified:

1. **Vetting**
   The procedure of vetting civil servants and candidates for public office for their links to the previous repressive regime, the individual's compliance with relevant standards of human rights and professional behavior.

2. **Data publication**
   The compilation and publicization of lists of individuals associated with the repressive organs of the previous regime, without additional legal consequences. This method is used for public condemnation and pressure.

[26] Nalepa, 'Lustration', n 1, 47-48.

3. **Establishment of special commissions and agencies**
   Establishment of special bodies, such as the Federal Office for Stasi Documents (BStU) in Germany or the Institute of National Remembrance (Instytut Pamięci Narodowej, IPN) in Poland, to manage archives and vet employees of state institutions.

4. **Opening archives**
   Making the archives of repressive bodies accessible to victims of repression, researchers, and the public. This allows the truth about the past to be established and promotes transparency.

5. **Banning public office**
   The imposition of bans on individuals associated with the former regime from holding certain positions. These bans may be permanent or temporary, depending on the national laws.

6. **Self-declaration**
   The obligation for holders or applicants for "protected" positions to self-declare their past collaboration with repressive authorities. Liability is provided for false information.

7. **Monitoring of lustration**
   Monitoring of the lustration process and its compliance with international standards and the rule of law principles. This tool ensures the independence and transparency of the process.

These tools reflect the diversity of approaches and methods used in different countries to cleanse the state apparatus from the influence of former repressive regimes and to ensure a transition to democratic governance.

Examples of Lustration Laws and ECHR Practice

Lithuania

In Lithuania, the Law “On the Evaluation of the USSR Committee for State Security (NKVD, NKGB, MGB, KGB) and the Current Activities of the Employees of This Organization”, adopted in 1998 and in force since 1999, established rules for the assessment of the activities of former employees of the KGB and other Soviet intelligence services, covering the period from 1940 to 1990.

A special lustration commission was established in Lithuania to implement the provisions of the Lustration Law. This commission considered applications from former employees of the KGB and other Soviet special services, determining their status and deciding on the application of the restrictions established by law. The commission was authorized to investigate, gather evidence, and decide whether individuals were subject to the lustration law.

Article 2 of the Law provided for restrictions against former members of the USSR intelligence services: for 10 years, they could not work in public positions in the Republic of Lithuania, including public authorities, police, prosecutor's offices, courts, diplomatic service, customs, national defence institutions, and educational organizations. They were also prohibited from

practicing law, working in banks and other credit organizations, as well as in companies related to security or detective services.[27]

Article 3 of the Law established exceptions to these restrictions, especially for those who had stopped working for the KGB before March 11, 1990, or who were only involved in criminal investigations.[28]

The law also divided former employees into two categories:

1) Those who confessed to their cooperation with the KGB. There were no legal restrictions for them, but information about the confession was kept secret, except in cases involving high-ranking positions;

2) Those who did not confess but were identified by the lustration commission. In this case, their information was published, and their employment was restricted.

There was a separate law on registration, recognition, and protection of persons who confessed to secret cooperation with the KGB and other special services of the USSR. It provided for similar restrictions on employment in state institutions, educational institutions, courts, banks, and other important sectors of the economy, as well as protection from blackmail and recruitment by foreign intelligence services.[29]

Despite the existing laws, in 2005, Lithuania had about 5,000 internal affairs officers, including the KGB, who were not subject to the restrictions of the lustration law.[30]

Lithuania has twice been a defendant before the European Court of Human Rights in connection with this law. One of the cases concerned two applicants, Lithuanian nationals Juozas Sidabras and Kęstutis Džiautas. They had both worked in the Lithuanian branch of the KGB. After 1990, the first applicant, Sidabras, found work as a tax inspector in the Tax Administration, and the second applicant, Džiautas, worked as a prosecutor in the Lithuanian Prosecutor General's Office, investigating cases of organized crime and corruption.

In May 1999, it was established that the applicants had the status of "former KGB officers" and were subject to the restrictions laid down in Article 2 of the Law on the Assessment of the Activities of the USSR State Security Committee (NKVD, NKGB, MGB, KGB). As a result of those restrictions, both applicants were dismissed from their posts.[31]

The European Court of Human Rights (hereinafter - the ECHR) held that Lithuania had committed a violation of Article 8 of the European Convention on Human Rights (hereinafter - the Convention)[32]

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[27] Law of the Republic of Lithuania of 16 July 1988, No. VIII-858 "On the Evaluation of the USSR Committee for State Security (NKVD, NKGB, MGB, KGB) and the Current Activities of the Employees of This Organization"

[28] Law of the Republic of Lithuania "On the Evaluation of the USSR Committee for State Security (NKVD, NKGB, MGB, KGB) and the Current Activities of the Employees of This Organization"

[29] Law of the Republic of Lithuania No. VIII-1726 of November 23, 1990 "On Registration, Recognition, Registration, and Protection of Persons Confessed to Secret Cooperation with the Special Services of the Former USSR", art. 3.

[30] Marko Krtolica, The Influence Of The Lustration Processes On The Postcommunist Transitions In Europe, art. 51.

[31] ECHR, Case Of Sidabras and Džiautas V. Lithuania, Applications no. 55480/00 and 59330/00, 27th July 2004, § 11-23.

[32] European Convention on Human Rights https://www.echr.coe.int/documents/d/echr/Convention_RUS.

due to excessive interference in private and family life. The ECHR held that the ban on former KGB officers from working in certain areas was overly broad and disproportionate. The Court noted that, when referring to specific professions, it was impossible to establish any reasonable connection between the positions concerned and the legitimate aims pursued by the prohibition of those positions. In the Court's view, such a legislative scheme constituted a lack of the necessary safeguards to prevent discrimination.

The Court also considered relevant the fact that the 1999 Law entered into force almost ten years after Lithuania declared its independence, and the applicants had resigned from the KGB many years before the 1999 Law entered into force. The Court found that prohibiting the applicants from seeking employment constituted a disproportionate measure. Therefore, by five votes to two, the Court held that there had been a violation of Article 14 in conjunction with Article 8 of the Convention.[33]

In the second case, Rainys and Gasparavicius v. Lithuania, both applicants had held positions in the KGB until 1991. Pursuant to the law imposing employment restrictions on former KGB officers, the first applicant, who had become a lawyer in a private telecommunications company, was dismissed from his job in 2000. The second applicant, who worked as an attorney, was disbarred from practice in 2001. They both unsuccessfully filed administrative claims against their dismissals. The second applicant admitted that he had worked for the KGB, but argued that the work restrictions should not have applied to him because he had only been involved in criminal (not political) investigations while working for the KGB. The Regional Administrative Court rejected his claim in non-public proceedings because he had not stopped working for the KGB immediately after Lithuania's independence, which was a condition for the restrictions not to apply. The Supreme Administrative Court upheld the decision in a public hearing.[34]

The case is almost identical to Sidabras and Džiautas v. Lithuania. The Court recognized a violation of Articles 8 and 14 of the Convention, but found the application inadmissible under three others – Articles 6.1 and 6.2, and 6.3.[35] Under Articles 6.2 and 6.3, the Court found the application inadmissible on account of the civil rather than criminal nature of the contested proceedings. The presumption of innocence and other rights of defense under those provisions were incompatible ratione materiae.

Poland

The Law “On Disclosure of Information on Service or Work for State Security Authorities or Cooperation with Them between 1944 and 1990 with Respect to Certain Persons Performing Public Functions” (hereinafter referred to as the Lustration Act) consists of forty articles in six chapters and an annex. There is no legal definition of lustration in the text of the law.

The Law of April 11, 1997 obliges persons born before May 11, 1972 – that is, all those who were of legal age before the transfer of power in 1989 – holding or applying for listed public office to make a statement about their work and cooperation with the intelligence services (state security

[33] Sidabras and Džiautas V. Lithuania, § 38 - 62

[34] Case Of Rainys and Gasparavičius v. Lithuania, Applications no. Lithuania, Applications no. 70665 /01 and 74345/01, April 7, 2005, European Court of Human Rights, § 9-21.

[35] Decision as to the admissibility OF Rainys and Gasparavičius v. Lithuania, § 1 - 5. Lithuania, § 1 - 5

agencies) between 1944 and 1990[36] The obligation to make a positive or negative lustration statement is imposed on a wide range of persons holding leading positions in the state or important positions in the state administration, including the President of the Republic, members of parliament, senators, judges, prosecutors, lawyers, as well as persons holding key positions in Polish Public Television, Polish Public Radio, Polish Press Agency, and Polish News Agency. [37]

Lustration applications consist of parts A and B, as set out in the annex to the law. Part A is simply a statement that the person worked or did not work for or cooperated with state security institutions. Part B (not made public) includes details of the work or cooperation in the case of a positive statement. The names of those making affirmative statements are published in the official gazette Monitor Polski or, in the case of candidates for the presidency and the lower or upper house of parliament, in election proclamations. Names are published without details about the type of cooperation. Thus, those who claim to have been members of or knowingly collaborated with the secret services can still be candidates for public office, while the decision on their future remains in the hands of the voters.

Two cases brought against Poland before the ECHR can be distinguished in relation to this law: Bobek v. Poland and Luboch v. Poland. In Bobek v. Poland, the ECHR considered a complaint by Wanda Bobek, a lawyer, alleging a violation of her right to a fair trial (Article 6 of the Convention). Bobek had been subjected to lustration for allegedly concealing the fact that she had cooperated with the communist secret services after 1953. The Court recognized that the trial against Bobek did not comply with the principles of fairness and publicity.[38]

The Court drew attention to the lack of access to the case file: Bobek could not fully familiarize herself with classified materials, while the Prosecutor's Office had full access. She was only allowed to use a pen and a notebook to take notes, which were then confiscated on her way out. The ECHR also noted that the court hearings were closed, without public scrutiny, which violated the fundamental principle of publicity of proceedings.[39]

The ECHR held that Poland had violated Article 6 of the Convention by failing to ensure Bobek a fair trial and adequate access to evidence. The Court also emphasized the importance of public hearings for protection against judicial abuse.

The ECHR ordered Poland to grant Bobek full access to the court file, including copies of documents, and to ensure the publicity of the proceedings. The Court's decision confirmed the need for openness and equality of arms in judicial proceedings.[40]

In the second case cited, the applicant, Zbigniew Luboch, claimed that in the 1980s he had traveled abroad to visit his family and work, and during that period had maintained a friendly relationship with an old colleague who claimed to be a teacher but in fact worked as a secret employee of the Security Service. When Luboch became aware of this, he broke off the

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[36] Law "On the Detection of Work or Service in or Cooperation with State Security Agencies in 1944-1990 by Persons Holding Positions in State Power and Administration", April 11, 1997, http://orka.sejm.gov.pl/proc2.nsf/ustawy/499_u.htm, art. 7.

[37] ibid., Article 3

[38] ECHR, Case Of Bobek v. Poland, Application no. 68761/01, July 17, 2007, § 6 - 17

[39] Bobek v. Poland, §56 - 75

[40] ibid.

relationship, but his name had already been entered in the card index as an accomplice of the security services, and a few years later, his name was also included in the lustration file.[41]

Appealing to the ECHR, Luboh complained under Article 6 of the Convention about an unfair trial and the lack of public hearings, as well as the fact that the courts refused to call all his witnesses. He also claimed that he had not had equal access to the information contained in the secret archives.[42]

Luboch claimed that the principle of equality of arms had not been respected in his case. He was prevented from accessing the case file and therefore could not properly defend himself against the charges brought by the Commissioner for the Public Interest (hereinafter the Commissioner). Furthermore, he was completely deprived of the opportunity to participate in the proceedings before the Commissioner, who failed to inform him of the proceedings against the applicant. He could not ask questions of the witnesses heard by the Prosecutor and had no access to the case file at that stage.

As to the trial stage of the proceedings, the complainant complained that all his requests to call important witnesses to rebut the allegation of his alleged cooperation with the security services had been rejected. As a result, he was unable to challenge the version of events put forward by the Commissioner. He challenged the fact that a key witness had not been heard during the lustration proceedings at first instance. In addition, he argued that the rights of the defense had been severely curtailed during the lustration process. In this regard, he claimed that the entries made in the secret journal of the lustration court could not be seized and that he was not allowed to make any copies.[43]

In considering the case, the Court held that it could not be held as if there was a continuing and real public interest in restricting access to material that had been classified as confidential by previous regimes. This is because lustration procedures are by their nature aimed at establishing facts relating to the communist era and are not directly linked to the ongoing functions and activities of the security services.

Lustration procedures inevitably depend on the examination of documents relating to the activities of former communist security agencies. If the party to which the classified material relates is denied access to all or most of the relevant material, its ability to refute the intelligence services' version of the facts will be severely limited. In this part, the present Polish legislation was found to be incompatible with the fairness of the lustration procedure, including the principle of equality of arms. At a time when Luboch did not have proper access to the documents, the Polish Commissioner for Public Interest had such access.[44]

Although it is not disputed by the parties that the applicant was allowed to take notes when familiarizing himself with the case file, all notes made by Luboch could only be made in special notebooks, which were subsequently sealed and placed in a secret register. Those notebooks could not be removed from that register and could only be opened by the person who had made them.

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[41] ECHR, Case Of Luboch v. Poland, Application no. Poland, Application no. 37469/05, January 15, 2008, § 6 - 27.

[42] Luboch v. Poland § 44, 50 - 51

[43] Luboch v. Poland § 51

[44] Luboch v. Poland § 59-73, 74-77

The Court concluded that there had been a violation of Article 6 of the Convention. The Court also noted that the violation could not be said to have resulted from a single legal provision or even a clearly defined set of provisions. Rather, it resulted from the way in which the relevant laws were applied to the applicant's case.

Latvia

In January 1991, the newly independent Government of Latvia outlawed the Communist Party of Latvia. At the end of 1993 the Law on Registration of Public Organizations was amended to prohibit any public organization whose activities would contravene the Constitution, in particular communist and Nazi organizations.

The main lustration law in Latvia is the Law "On Preservation and Use of Documents of the State Security Committee (KGB) and on Establishment of the Fact of Collaboration with the KGB", adopted on May 19, 1994, and entered into force on June 3, 1994.[45]

This law defined KGB employees in Article 3, which also included tenants, owners of secret apartments, and their proxies, officials of members of the Communist Party of the Soviet Union, the Communist Party of Latvia, and Soviet institutions that controlled and ensured the activities of the KGB.

If, in cases stipulated by law or employment contract, a person has declared that he or she was not a KGB employee or informant, but it is established by a court that he or she nevertheless was an employee or informant of the KGB, this person shall be deprived of his/her office or mandate as a deputy, and labor or service relations with this person shall be terminated. [46]

The Latvian Law on Saeima Elections of May 25, 1995, established a ban on the election of persons who "are or were full-time employees of security services, intelligence services or counterintelligence services of the former USSR, the Latvian SSR or foreign countries, or whowere active in the Communist Party of the Soviet Union (CPSU) after January 13, 1991.[47]

The law also prohibited the nomination of any citizen who continued to be actively involved in a Communist Party or other post-Soviet organization.

On January 13, 1994, the Saeima adopted the Law "On Elections to City Duma, District Duma, and Parish Duma", which contained similar provisions.

In the case of Latvia, attention should be paid to the case of Tatyana Zhdanok (Tatjana Ždanoka) before the ECHR. During the Soviet period, Tatyana Zhdanok was a member of the Communist Party of Latvia. The restoration of the independence of the Republic of Latvia was proclaimed in May 1990. In 1994 and 1995, the Latvian Parliament adopted two laws on municipal and parliamentary elections, respectively, which stated that persons who had actively participated in the activities of the Communist Party of Latvia (CPL) after January 13, 1991, could not be

[45] U.S. Department of State, Latvia Country Report On Human Rights Practices For 1996, At 1009-11, https://1997-2001.state.gov/global/human_rights/1996_hrp_report/latvia.html.

[46] Saeima of the Republic of Latvia, "On Preservation and Use of Documents of the State Security Committee (KGB) and on Establishment of the Fact of Collaboration with the KGB", December 1, 1995, Article 16.

[47] Larin Alexander, 2014. Lustration as a ground for limitation of suffrage. *Theory and Practice of Social Development*, https://cyberleninka.ru/article/n/lyustratsiya-kak-osnovanie-ogranicheniya-izbiratelnogo-prava

candidates in elections. Such participation had to be established by a court upon application by the Prosecutor General.[48]

In 1997, the applicant was able to participate in local elections and was elected to the Riga City Council. She had to withdraw her candidacy in the 1998 parliamentary elections.[49] In 1999, on the application of the Prosecutor General's Office, the domestic courts ruled that the applicant had personally participated in the activities of the CPL after the critical date of January 13, 1991. Tatyana Zhdanok was automatically disqualified from standing for election and lost her seat in the Riga City Council. Her appeal was declared inadmissible in February 2000. The applicant's name was removed from the list of candidates submitted for the 2002 parliamentary elections.[50]

Latvia became a member of the European Union on May 1, 2004. The applicant was allowed to stand for election to the European Parliament, which took place on 12 June 2004. She was elected.

Tatyana Zhdanok brought an action against Latvia before the European Court of Human Rights. She claimed that the Communist Party remained legal until September 1991, and she stayed because she believed that the Communist Party would be part of a democratic multi-party system and "considered it unfair to leave her party because of the hard times".

The applicant complained to the Court that the deprivation of her right to stand for election to the national parliament on the ground that she had been active in the CPL after January 13, 1991, constituted a violation of Article 3 of Protocol No. 1 to the European Convention on Human Rights, which provides: "The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice ofthe legislature."[51]

In determining whether the requirements of Article 3 of Protocol No. 1 had been met, the Court focused on two criteria: whether there had been arbitrariness or lack of proportionality and whether the State's interference was contrary to the right of the people to freedom of expression. In addition, the Court emphasized the need to assess any electoral legislation in the light of the political evolution of the country concerned, since a result that appears unacceptable in the context of one system may be justified in the context of another.[52]

The Court considered that the applicant's former position in that party, combined with her position at the time of the events of 1991, still justified her exclusion as a candidate for the national parliament. Although such a measure could hardly be considered acceptable, for example, in a country with an established system of democratic institutions dating back many decades or centuries, it could nevertheless be considered acceptable in Latvia, given the historical and political context which had led to its adoption and given the threat to the new democratic order.[53] Nevertheless, the Court concluded that the Latvian Parliament had a duty to keep the effect of the legislative restriction under constant review with a view to ending it as soon as

[48] ECHR, Case Of Ždanoka v. Latvia, Application no. 58278/00, March 16, 2006, § 18 - 31

[49] Ždanoka v. Latvia, § 33 - 34

[50] Ždanoka v. Latvia, § 37-45

[51] European Court of Human Rights, Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Paris, 20 March 1952.

[52] Ždanoka v. Latvia § 132 - 136

[53] Ždanoka v. Latvia § 132 - 136

possible. This conclusion was all the more justified given the greater stability that Latvia now enjoyed, in particular as a result of full European integration. The failure of the Latvian legislature to take active steps in this regard may therefore lead the Court to a different conclusion.

Ukraine

The Verkhovna Rada adopted the Law "On Government Cleansing" after the Revolution of Dignity in 2014 to combat corruption and disloyalty.

According to Article 1, government cleansing (lustration) is a ban on individuals from holding certain positions (being in service) in state and local self-government bodies, established by the Law or a court decision.[54]

Lustration is carried out in order to prevent the state from being run by persons who, through decisions, actions, or omissions, participated in the usurpation of power by the President of Ukraine Viktor Yanukovych.[55]

Article 2 of the Law provides an extensive list of positions that must go through lustration.[56] It includes the Prime Minister of Ukraine and the Government, law enforcement bodies (the Prosecutor General, the Head of the Security Service of Ukraine, the Head of the Foreign Intelligence Service of Ukraine, members of the Supreme Council of Justice, members of the High Qualification Commission of Judges of Ukraine, judges), military officials of the Armed Forces of Ukraine and other military formations formed under the laws, except for conscripts and conscripts during mobilization, members of the Central Election Commission, the National Council of Ukraine on Television and Radio Broadcasting, as well as individuals applying for any of the aforementioned positions.

The Law prohibits the following groups from holding public office for ten years: (1) individuals who held high public office for at least one year between February 2010 and 2014; (2) individuals who held certain positions in the military, police, judiciary, or media between November 2013 and February 2014 (the period of the Euromaidan protests); (3) individuals who were high-ranking communist officials or KGB agents during the Soviet era; and (4) individuals found to have violated certain provisions of the Ukrainian anti-corruption law.

However, this ban can be lifted by participating in the anti-terrorist operation in the Donetsk and Luhansk regions.

The Law also bans for five years the activities of certain officials: (1) judges, prosecutors, and law enforcement officials who participated in the suppression of Euromaidan protests; (2) central and local government officials who, by action or inaction, attempted to prevent Euromaidan protests or restrict their ability to peacefully assemble; and (3) officials found to have cooperated with foreign governments in undermining Ukraine's territorial integrity and national security or otherwise violating human rights.

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[54] Law of Ukraine 682-VII, September 16, 2014 "On Government Cleansing", Article 1

[55] CASTY, ROBERT, 2019. Developments in Ukrainian Lustration. *Columbia Journal of Transnational Law.* https://www.jtl.columbia.edu/bulletin-blog/developments-in-ukrainian-lustration-1

[56] Law of Ukraine "On Government Cleansing" Articles 1 and 2

It is important to note that the Venice Commission of the Council of Europe gave a negative assessment of this law, noting separately that compelling reasons must be given to justify lustration against persons involved in the communist regime. According to the Ukrainian authorities, during the Maidan events, the communist faction in the Ukrainian parliament had acted in violation of fundamental rights, which justified its being seen as a real threat.[57] The Venice Commission noted that even assuming that the lustration law targets these individuals, the lustration measures are based only on their past communist involvement and not on their actual behavior, making the adoption of lustration measures questionable. This criticism will be important for future decision-making on the groups covered by the lustration law in Belarus.

Cases against Ukraine in the ECHR require a separate consideration. One such case is Polyakh and others v. Ukraine.

The applicants in the case are five civil servants who were dismissed under Ukraine's Law "On Government Cleansing", adopted after the resignation of Viktor Yanukovych and his administration in the wake of the 2014 Euromaidan.

Civil servants who held their positions for at least one year under the Yanukovych regime, held certain positions in the Communist Party before 1991, or failed to apply for lustration were to be dismissed with a maximum ban on civil service for 10 years.[58]

The first three applicants were dismissed because of their employment during the Yanukovych regime. The fourth applicant was dismissed because of an untimely lustration application. The last one lost his job due to serving as the second secretary of the Communist Party at the district level until 1991.

The applicants alleged that their dismissal violated Article 8 of the Convention and, in respect of the first three applicants, Article 6, the right to a fair trial, because of the failure of the domestic courts to entertain their complaints. The second applicant also alleged a violation of Art. 13, right to an effective domestic remedy.[59]

The Court found a violation of Art. 6(1) because of the length of the proceedings in the three applicants' cases. In total, the proceedings against the first three applicants lasted more than four and a half years at one level of jurisdiction. Despite the complexity of the cases, the Court found that such length of time was not considered "reasonable."[60]

Also, the Court found a violation of Art. 8 (right to respect for private life) in respect of all the applicants. They were dismissed with a ban on holding positions in the civil service for 10 years, and their names were published in the Lustration Register. For the applicants' professional and private lives, this combination of measures had very serious consequences. It was not disputed by the Court, when considering the interference under Article 8, that the interference took place under Article 8(1). In relation to Article 8(2), the main issue was whether the dismissals pursued a legitimate aim and were necessary in a democratic society.

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[57] Interim Opinion on the Law on Government Cleansing (Lustration Law) of Ukraine adopted by the Venice Commission at its 101st Plenary Session (Venice, 12-13 December 2014) https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)044-e.

[58] ECHR, Case Of Polyakh and others v. Ukraine, Application no. 58812/15,October 17, 2019 §6 - 15

[59] Polyakh and others v. Ukraine, §24 - 35

[60] Polyakh and others v. Ukraine, §135 - 146

The Court considered the question of necessity. It proceeded on the presumption that the measures in question did pursue certain aims which were regarded as legitimate. However, the first three applicants were dismissed on the basis of the group categories to which they belonged (collective responsibility for working for Yanukovych). The measures were restrictive and broad, but the Government demonstrated that the circumstances were sufficiently serious to justify the means.

As regards the fourth applicant, the Court found that dismissal for a minor delay in submitting a lustration application was not necessary in a democratic society.[61]

In relation to the last applicant, the Court held that sufficient reasons had not been given that his dismissal on the basis of his employment with the Communist Party was justified without any specific allegations. His dismissal was therefore found to be disproportionate. A violation of Art. 8. of the Convention was proved in respect of all the applicants.[62]

Another case filed because of violations related to this law is Samsin v. Ukraine. Samsin was first appointed as a judge in 1987. In 1995, he was appointed to the Supreme Court. In 2003, this appointment was confirmed until his retirement.

The Law “On Government Cleansing” (Lustration Act) came into force on October 16, 2014. Its stated purpose was to eliminate negative developments with respect to democracy, the rule of law, and human rights in the civil service during Viktor Yanukovych's tenure as President of Ukraine.

During the proceedings before the Supreme Court, Samsin argued that he had not applied for lustration because anything he wrote in the application would have resulted in his dismissal. He also pointed out that, in any event, he had already been removed from the High Qualification Commission of Judges in 2014 on the basis of the Law “On Restoring Confidence in the Judiciary”, which provided for the termination of the powers of the members of the High Qualification Commission of Judges and new elections for those positions.[63]

The applicant complained of a violation of his rights under Article 8 of the Convention following his dismissal from his position as a Supreme Court judge.

In deciding this case, the ECHR referred to the previous judgment in the case of Polyakh v. Ukraine.

In Polyakh, the Court held that the application of measures under the Law constituted an interference with the applicants' right to respect for their private life, that it was "in accordance with the law," and was presumably for the legitimate aims of protecting national security and public safety, preventing disorder and protecting the rights and freedoms of others.[64]

In Polyakh, the Court found a violation of Article 8, holding that the application of measures of considerable severity to the applicants under the Law “On Government Cleansing” had not been based on an individualized assessment of their conduct, in the absence of compelling reasons for

[61] Polyakh and others v. Ukraine, § 217 - 220

[62] Polyakh and others v. Ukraine, § 316-322

[63] ECHR, Case Of Samsin v. Ukraine, Application no. 38977/19, October 14, 2021, § 2 - 22

[64] Samsin v. Ukraine, § 51 - 59

such an approach and in the absence of a sufficiently narrow focus of those measures on the "pressing social need" that was to be pursued.

The Court rejected the Government of Ukraine's argument that an individualized assessment of Samsin's role and conduct was not possible because he had not applied for lustration. His membership of the Commission between 2010 and 2014 had been a matter of public record. The court also rejected their argument that his failure to file a statement showed disregard for the law and was incompatible with his work as a Supreme Court judge. The goal of eliminating those who could be linked to negative events during the previous president's mandate had already been achieved through the implementation of the Law “On Restoring Confidence in the Judiciary”, and Samsin had asked to be allowed to resign from his position on the Supreme Court. The Court found that in the absence of any evidence or known misconduct on Samsin's part, the accomplishment of the objectives would not have been prevented by the acceptance of his resignation. The imposition of the measures of the Law “On Government Cleansing” (Lustration Act) on the applicant was not necessary in a democratic society.

Criticism of Lustration and Lessons Learned

While assessing the role of lustration, it is impossible not to mention the possible drawbacks of the application of this institution.

Although lustration is an instrument of transitional justice, it has been criticized for the fact that it can target innocent people who were not directly involved in abuses. Extensive lustration measures have often led to mistakes, and in Poland, secret police files have been used for political gain.[65] Critics argue that lustration violates due process principles and can lead to the loss of qualified personnel in government positions.[66] Identification during lustration is usually based on documents and archival materials created by communist or dictatorial regimes, but such sources often contain inaccuracies and may be incomplete.[67]

Critics argue that the effectiveness of transitional justice measures, including lustration, declined several decades after the transition to a more democratic system.[68] As the years pass, the people responsible for past violations withdraw from active positions, archival data lose relevance, and new challenges, such as economic development or social reforms, begin to take center stage. In the new political reality, lustration may be perceived as an outdated tool, especially if the original goals, such as cleaning up state structures or preventing a return to authoritarianism, have already been achieved.

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[65] CORISSAJOY, 2016. Lustration. *Beyond Intractability*. Online. July 13, 2016. Available from: https://www.beyondintractability.org/essay/lustration

[66] CORISSAJOY, 2016. Lustration. *Beyond Intractability*. Online. July 13, 2016. Available from: https://www.beyondintractability.org/essay/lustration

[67] Ibid.

[68] HORNE, C. M., 'Transitional Justice in Support of Democratization', Building Trust and Democracy: Transitional Justice in Post-Communist Countries, Oxford Studies in Democratization (Oxford, 2017; online edn, Oxford Academic, 18 May 2017), https://doi.org/10.1093/oso/9780198793328.003.0008.

While lustration can promote transparency, accountability, and democracy, it can also be used to target political opponents. It may also be ineffective in promoting democracy or may be inappropriate or necessary in all contexts. Ultimately, the success of lustration depends on its implementation and the context in which it is used.

In general, although lustration aims to restore moral and political justice, its implementation has been subject to criticism related to the ethical, legal, and practical aspects of the process. Here are the main arguments of the critics of lustration:

- ➔ **Violation of human rights:** Lustration may violate human rights such as the right to privacy, the right to work, and the right to a fair trial.[69] Some criticize lustration for collective punishment without taking into account the individual circumstances and merits of each person. Bans on holding office can be applied without sufficient evidence and a judicial process, which is contrary to the principles of fairness and the rule of law.

- ➔ **Problems with defining the criteria:** Determining who is subject to lustration and for what actions can be complex and contentious, leading to numerous legal and ethical dilemmas. Difficulties in defining clear and fair criteria for lustration can lead to arbitrary and unfair decisions. Without clear criteria, lustration can become chaotic and unpredictable.

- ➔ **Political instrumentalization:** Lustration can be used as a tool for political revenge and the elimination of political opponents. Government bodies can manipulate lustration laws to eliminate competitors and consolidate their power. In some countries, lustration laws have been used selectively to discredit and eliminate political opponents.

- ➔ **Personnel shortages:** Mass dismissals and bans on holding positions can lead to a shortage of qualified personnel in state structures, which negatively affects the functioning of state institutions. Some countries have experienced shortages of experienced professionals in governance and the judiciary following lustration.

- ➔ **Ineffectiveness and symbolism:** Some criticize lustration for not addressing the underlying problems of the system and not contributing to the long-term consolidation of democracy. Lustration can be ineffective if it is not accompanied by deep institutional reforms. In some cases, lustration remains a symbolic act that does not lead to real change in society.

These arguments show that lustration, despite its goals and objectives, faces serious criticism and problems that need to be taken into account in its implementation.

It should be noted that lustration is a complex and controversial process that has both potential advantages and disadvantages. Lustration can be effective in removing individuals associated with past authoritarian regimes from power, which can promote democratic values and restore trust in state institutions.[70] However, the implementation of lustration mechanisms can be difficult and may face resistance from those at whom they are aimed.[71]

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[69] HORNE, Cynthia and LEVI, Margaret, 2004. Does Lustration Promote Trustworthy Governance? An Exploration of the Experience of Central and Eastern Europe. January 1, 2004. DOI https://doi.org/10.1057/9781403981103_4

[70] DAVID, Roman, 2006, From Prague to Baghdad: Lustration Systems and their Political Effects. Government and Opposition. 2006. Vol. 41, no. 3p. 347-372. DOI 10.1111/j.1477-7053.2006.00183.x. p. p. 349

[71] Ibid. p. 350

In addition, lustration mechanisms may have unintended consequences, such as perpetuating divisions in society and hindering reconciliation efforts and national unity. Also, lustration mechanisms can be controversial.

Despite these problems, lustration is still seen as a mechanism for dealing with past authoritarian regimes, especially in Central and Eastern Europe, where it has been widely used.[72]

The trade-off between respect for individual rights and transitional justice is a dilemma for many societies with a legacy of dictatorship and state terror.[73] The desire to hold accountable those who supported a discredited regime and actively participated in the era of terror is understandable. However, credible governance is based on due process and justice, whereas revenge and punishment often contradict these principles.

Complete regime change is extremely rare, and where the removal of every agent of power or influence is simply not possible, there will always be people in leadership positions in a transitional or final democratic system who have been involved in abuses in the past or sanctioned them by silence.

The old regime and its supporters are able to influence political and social conditions and, to some extent, dictate the terms of transition, leaving the new elites with limited options. The need to avoid confrontation becomes a reason to replace criminal prosecution and harsh lustration with a policy of forgiveness. The successor government and its democracy are too vulnerable to reject the exoneration of the former elite.[74]

Prosecuting and punishing members of the security services, police, or military, who are often not fully neutralized, could trigger a coup d'état and undo all the gains of an unstable democracy. In addition, if retaliation fails for any reason, developing democracies may lose public support as well as the respect of the armed forces that the new regime is trying to control.[75]

Factors of the success of lustration:

- ➔ **Timeliness:** Lustration laws were passed shortly after the regime change, allowing the process of purging state structures to begin quickly;

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[72] HUYSE, Luc, 1995, Justice after Transition: On the Choices Successor Elites Make in Dealing with the Past. Law & Social Inquiry. 1995. Vol. 20, no. 1p. 51-78. DOI 10.1111/j.1747-4469.1995.tb00682.x.

[73] Hereinafter, the term "State terror" will be understood to mean a policy or practice of systematic use of violence, repression and intimidation by a State against its citizens or certain groups of people in order to suppress dissent, consolidate power or achieve political, ideological or economic objectives. Such terror may include mass arrests, torture, executions, enforced disappearances and other forms of human rights violations carried out by or with the approval of state authorities. Terrorism: A History. Randall D. Law. Polity Press 2016.

[74] Huyse, Luc, 1995. "Justice after Transition: On the Choices Successor Elites Make in Dealing with the Past," Law and Social Inquiry, Vol. 20, No. 1, pp. 51-78.
Stepan, Alfred, 1986. "Paths toward Redemocratization: Theoretical and Comparative Considerations" pp. 64-84 in O'Donnell, Guillermo - Schmitters, Philippe C. - Whitehead, Laurence, (eds.) Transitions from Authoritarian Rule: Comparative Perspectives. Baltimore: John Hopkins University Press.

[75] Cohen, Stanley, 1995. "State Crimes of Previous Regimes: Knowledge, Accountability, and the Policing of the Past," Law and Social Inquiry, Vol. 20, No. 1, pp. 7-50.

Berat, Lynn - Shain, Yossi, 1995. "Retribution or Truth-Telling in South Africa? Legacies of the Transitional Phase", Law and Social Inquiry, Vol. 20, No. 1, pp. 165-189.

- ➔ **Political will:** Success stories show that the determination of the political leadership is key to the effective implementation of lustration;
- ➔ **Transparency and accessibility of information:** Opening archives and publicizing cooperation with repressive regimes helped to restore public trust;
- ➔ **Establishment of specialized bodies:** The introduction of bodies such as the BStU in Germany has ensured a systematic and transparent lustration process;
- ➔ **Sanctions for false statements:** Strict measures for providing false information incentivized honesty and contributed to the transparency of the process.

The major reasons for the failure of lustration:

- ➔ **Political instability and lack of consensus:** Frequent changes of governments, lack of unified political will, and lack of consensus among the ruling elite hindered the consistent implementation of lustration measures;
- ➔ **Legal and legislative shortcomings:** Imperfect legislation and lack of clear criteria for lustration led to numerous legal disputes and court challenges;
- ➔ **Corruption and sabotage:** Corruption and sabotage by authorities and public institutions undermined the lustration process, leading to unreliable results of inspections and concealment of persons subject to lustration;
- ➔ **Unfairness and selectivity:** Lustration was applied selectively and unevenly, leading to accusations of unfairness and political bias;
- ➔ **Political manipulation:** The use of lustration measures for political struggle and settling scores led to discrediting the process and reducing public trust.

The Lustration Concept for Belarus

1. Introduction

1.1 Justification of Lustration

The issue of the lustration procedure in Belarus becomes relevant against the background of the ongoing political crisis in the country. After the presidential election in August 2020, mass protests started all over Belarus. Independent observers said that the victory was won by Sviatlana Tsikhanouskaya,[76], who entered the election race after the detention of her husband, Siarhei Tsikhanouski. However, the Central Election Commission announced that Aliaksandr Lukashenka, who has been president since 1994, won 80 percent of the vote in the first round[77] The OSCE and the EU did not recognize the results of this presidential election.[78]

A wave of protests was followed by harsh detentions, which the OSCE called "torture." Nearly five years later, state terror continues in Belarus. In the report on the situation in Belarus,[79] the UN High Commissioner for Human Rights concludes that the nature and scale of human rights violations, including arbitrary detention, torture, enforced disappearances, sexualized and gender-based violence, ill-treatment, and repression, suggest that these actions may qualify as crimes against humanity. The report points to the systematic and organized nature of state repression against those deemed to be in opposition or critical of the authorities. These violations are accompanied by policies aimed at suppressing and intimidating real or perceived opposition. In the High Commissioner's view, there are reasonable grounds to believe that these actions could be recognized as the crime of persecution, which is a type of crime against humanity.

According to OHCHR, 5 deaths of protesters were recorded, linked to the excessive use of force during the 2020 events and the lack of protection for the lives of detainees. The report also identified more than 100 cases of sexual and gender-based violence, including 4 cases involving minors, as well as 44 threats of sexual violence. Separately, it noted that victims were hit with hands and feet, resulting in serious injuries: concussions, fractures, hematomas, and damage to internal organs. Some victims had to lie in bed for months or were unable to walk.[80]

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[76] According to a study by the Golas Platform, at least three million people voted for Svetlana Tikhanovskaya, or 56% of the electorate, taking into account the actual turnout. Lukashenka got 34%, and other candidates received another 10%. https://drive.google.com/file/d/1kSprtBUUtS1vb-W_jc4QJkPkoZPJBWxd/view

[77] Information on voting results on August 9, 2020 https://rec.gov.by/ru/itogi-vyb2020-ru

[78] Benedek, Wolfgang. "Report of the Organization for Security and Cooperation in Europe Rapporteur of the OSCE Office for Democratic Institutions and Human Rights under the Moscow Mechanism on Alleged Human Rights Violations Related to the August 9, 2020 Presidential Election in Belarus," 2020. https://www.osce.org/files/f/documents/2/b/469539.pdf.

[79] 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," presented at the Fifth Fifth Session of the Human Rights Council, February 26-April 5, 2024, https://documents.un.org/doc/undoc/gen/g24/045/31/pdf/g2404531.pdf.

[80] Report of the High Commissioner for Human Rights "Situation of Human Rights in Belarus in the Run-up to the 2020 Presidential Election and in Its Aftermath" A/HRC/52/68 General Assembly

The beatings were accompanied by psychological violence, including death or rape threats, sexual comments, and verbal humiliation. The report indicates that some of these crimes may qualify as crimes against humanity because they were part of a large-scale or systematic attack on civilians.

About 65,000 people were detained on political grounds between 2020 and 2024, more than 74,000 facts of repression were recorded during this period (searches, short- and long-term detentions, interrogations, and other), and at least 6,971 persons are known to be involved in criminal cases. The number of political prisoners has increased 55.5 times in four years: on August 9, 2020, there were 25, by late 2024 – 1,385. More than 2,000 people already have the status of former political prisoners. Six political prisoners have died behind bars. Five people have died during protests and detentions. Not a single criminal case has been opened for torture and deaths of protesters and political prisoners.[81] Under the pressure of state terror, 500-600 thousand people will emigrate from Belarus between 2020 and 2024[82] This is more than 5% of the country's population.

To better understand the need for lustration and to fully realize the scale of state terror in Belarus, it is important to analyze both the modern repression of the Lukashenka regime and the tragic events of the past. The lustration process should cover all periods of Belarusian history, in which massive human rights violations and state terror took place, including Stalin's repressions and later human rights violations during the Soviet period, which left a deep trace in the fate of the nation.

Historian Ihar Kuzniatsou[83] provides frightening figures confirming the scale of Stalinist repressions on the territory of Belarus. He estimates that between 1917 and 1953, about 370,000 people were shot in the Belarusian SSR – 10 times more than the official figures indicate. Kuznetsov also claims that at least 1.4 million people were repressed on political grounds in the republic, which is approximately 17% of the BSSR population by the end of the 1950s.

Kuzniatsou found no less than 124 sites of mass shootings in Belarus, many of which were under NKVD control, including 12 in and around Minsk. These data were presented in the historian's research and confirm the scale of the tragedy, which affected almost every Belarusian family. Archival restrictions in Belarus, as Kuzniatsou and other researchers point out, make it difficult to fully reconstruct this history, but already existing data show the catastrophic scope of repression, which many call genocide against the Belarusian people.

The systematic character of human rights violations, crimes against humanity, and their scale at all levels of power raise the question: what to do after the change of power with those who are involved in serious violations of human rights? The transition to democracy cannot be successful if such violations are not adequately addressed by the new government. This is the essence of transitional justice.

The introduction of lustration in Belarus is conditioned by the need to overcome the legacy of the authoritarian regime and strengthen democratic institutions. It is a procedure aimed at purging the civil service of persons who took part in the repressive policy of the former regime and preventing their influence on the new democratic system.

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[81] Infographics: four years of mass repression https://spring96.org/ru/news/115957

[82] How many Belarusians emigrated after 2020: latest data https://www.dw.com/ru/skolko-grazdan-rb-emigrirovali-posle-2020-goda-poslednie-dannye/a-70423532

[83] Historian Ihar Kuzniatsou named 124 places of mass shootings of victims of Soviet repressions in Belarus https://nashaniva.com/?c=ar&i=183956&lang=ru

First, lustration contributes to the restoration of justice and the rule of law. In post-socialist countries of Eastern Europe, such as Poland, the Czech Republic, and Germany, lustration has played a key role in ensuring transitional justice, preventing the recurrence of totalitarian practices, and facilitating democratic development. For Belarus, this experience is particularly important, given the long years of authoritarian rule accompanied by human rights violations, political repression, and restrictions on civil and political freedoms.

Second, lustration is necessary to strengthen citizens' trust in state institutions. Without lustration, many representatives of the former regime may retain their positions in the government, which could undermine public confidence in the new government and hamper democratic reforms.

Third, lustration is an important tool for preventing relapses into authoritarianism. In countries where effective lustration measures have not been implemented, there are tendencies to restore former political structures and practices, as happened in some post-Soviet countries.

Thus, lustration in Belarus is a necessary step to ensure a sustainable transition to democracy, strengthen the rule of law, and restore citizens' trust in state institutions.

1.2 Goals of Lustration

The main goal of lustration in Belarus is to ensure a successful transition to democratic governance. The introduction of lustration measures should contribute to a sustainable, transparent, and accountable state system free from the influence of the former authoritarian regime. It is also necessary to restore citizens' trust in state institutions and public service.

1.3 Principles of Lustration

Lustration in Belarus should be based on the principles of fairness, legality, and transparency, balancing the need to clean up the state apparatus with the protection of human rights.

The key principles of lustration are:

- ➔ **Legality:** Lustration should be carried out solely on the basis of a law adopted by the parliament. The lustration law should be in line with international human rights standards;
- ➔ **Objectivity and impartiality:** Objective and impartial criteria for assessing the performance of individuals should be applied in the conduct of lustration. Decisions on the application of lustration measures should be based on a comprehensive and objective analysis of the evidence presented;
- ➔ **Proportionality:** Lustration measures should be proportionate to the purpose for which the restriction is applied;
- ➔ **Transparency:** Lustration procedures should be as open and understandable to the public as possible. Information on the lustration process and its results should be available to the public within the limits established by law;
- ➔ **Temporary nature:** Lustration should not be of an indefinite nature. The duration of lustration restrictions shall be set for two electoral cycles from the moment the law enters

into force.[84] After the expiration of this period, the parliament should conduct a review, assessing the goals achieved. Based on an analysis of the effectiveness of the process and public demand, a decision may be made to end lustration or extend it for another term, but no longer.

1.4 Approach to Lustration in Belarus

At the beginning of the transition period, Belarus will face a number of unique challenges due to the historical and current situation of the country, which determines the choice of approach to lustration.

The country has been ruled by totalitarian and authoritarian regimes for more than a century, and the consequences will be profound: state terror, massive and systematic human rights violations, and the involvement of state structures in the suppression of civil and political freedoms have left a serious imprint.

Violent acts against citizens were not rare exceptions but part of official policy. Hundreds of thousands of people participated in state terror. The task of cleaning up state institutions will require a comprehensive approach, as trust in state structures is minimal and the population is tired of a system where rights and freedoms are not protected.

An additional challenge will be the likely destruction of archival data and the closure of remaining information that could serve as evidence. With little documentary evidence and incomplete data, it will be difficult to determine the exact extent to which specific officials were involved in repressive actions. Without reliable evidence, it will be difficult to conduct fair procedures, which may lead to distrust in lustration itself.

Courts, accustomed to working to protect the ruling authorities rather than human rights, will also require extensive reform, since without an independent judiciary, there can be no effective investigation and no fair rulings. Without an effective judicial system, it will be difficult to ensure the legality and transparency of the lustration measures, which may negatively affect their legitimacy.

Many authorities, state structures, and officials were involved in one way or another in falsifying the results of elections and referendums, in carrying out state terror, and in propaganda justification of these actions. This means that the lustration process may affect a wide range of individuals, and it will be necessary to carefully consider how to carry out the purge without paralyzing state institutions. Lack of qualified personnel could also become a serious problem. The country will not have a sufficient number of trained professionals to immediately replace all members of the former totalitarian regime, especially in key positions.

The continuing threat of authoritarian resurgence will require special caution. When choosing a model of lustration, it is important to find a balance between fairness and stability, so as not to provoke a split in society and prevent the forces of the past from using the situation to their advantage.

[84] The strategy of transition to a new Belarus assumes that the transition period will cover two electoral cycles. Only the second honest and fair elections can serve as a criterion that the situation in the country tends to transition to sustainable democracy. https://tsikhanouskaya.org/strategiya_perehoda_nb_ru.pdf

This whole situation at the beginning of the transition period influences the choice of a lustration model. It is necessary to develop an approach that takes into account the scale and depth of past violations, the complexity of the historical context, and the need to restore trust between the state and citizens. This requires balanced decisions and adaptation of international experience to the unique Belarusian situation.

An inclusive approach based on self-declaration is proposed for lustration in Belarus. This approach assumes that all persons who hold or aspire to hold legally established "protected positions" are obliged to voluntarily fill in a declaration and provide information about their activities during the previous authoritarian regime. Those who complete the declaration will continue to hold their positions. Those who refuse to complete the declaration will be dismissed on the basis of the legal requirements for holding office.

Independent lustration bodies will be established to verify the accuracy of the information provided. These bodies will conduct a detailed verification of declarations, using archival documents and other sources of information. If false information is found, sanctions will be applied, including disqualification from holding public office for a certain period of time.

The chosen model of self-declaration allows for to realization of the main task of lustration – to free the state power from the influence of those who violated the rights of citizens and are not ready to admit it, proving their loyalty to the new democratic system

The transformation of power will take place in stages, which will make the process manageable and consistent. At the first, the fastest stage, self-purification will take place: some of the persons who will not be willing to provide information about their activities during the periods of state terror will leave their positions of their own volition. Thus, those who are not ready for openness will immediately leave the system.

At the second stage, those who, contrary to the requirements of the law, refuse to fill in the declaration will be dismissed. This approach will minimize the risks of staff shortages, as these will be targeted dismissals of those who clearly do not want to follow the new democratic principles.

The third stage of lustration will be the final and more gradual one: it involves thorough verification of declarations by independent lustration bodies. The checks will identify those who have provided false information about their past. This will make it possible to conduct the final stage of cleansing, preserving the manageability of processes in state bodies, and protecting the public interest.

This model creates a basis for voluntary transparency and personal responsibility: those who are willing to speak openly about their past and not hide their activities during the period of repression will be able to continue working. This approach does not require the immediate dismissal of all officials and law enforcement officers, which will help avoid staff shortages and ensure the gradual restoration of manageability in state bodies.

The threat of authoritarian resurgence also requires a balanced approach. The self-declaration model helps prevent a quick and abrupt abandonment of all previous cadres, which could cause chaos and give proponents of authoritarian rule grounds for criticism and attempts to return to past authoritarian practices. Instead, the approach seeks to strengthen democratic institutions and requires every civil servant and member of the security forces to respect the new democratic standards. This balance avoids possible internal conflicts and divisions.

1.5 Period of Activity Subject to Lustration Checks

The lustration check covers two historical periods during which state bodies and officials carried out repressive, anti-democratic, or anti-constitutional activities that violated the fundamental rights and freedoms of citizens.

The first period begins on January 1, 1919 – the date of the establishment of the Socialist Soviet Republic of Belarus[85] – and covers the entire period of Soviet power until December 26, 1991, when the Soviet of Nationalities of the Supreme Soviet of the USSR adopted Declaration No. 142-N, in which it officially stated that with the establishment of the Commonwealth of Independent States, the Soviet Union as a State and a subject of international law ceased to exist.[86] During this time, the executive, party, and administrative bodies of Belarus were an integral part of the repressive mechanism of the Soviet Union. Repression, mass deportations, extermination of political opponents, persecution of dissidents, forced collectivization – all these crimes were committed under the administration of power structures, including party committees, state security bodies, the prosecutor's office, and executive bodies at all levels.

The second period begins on December 29, 1995, and covers the time up to the date of entry into force of the Law on Lustration. The key moment determining the beginning of this period was the Order of the President of the Republic of Belarus No. 259 of December 29, 1995, "On Compliance with the Norms of the Decrees of the President of the Republic of Belarus". This order instructed the Cabinet of Ministers and other state bodies to ensure unconditional implementation of the presidential decrees listed in the order, which were considered by the Constitutional Court and were recognized as fully or partially inconsistent with the Constitution and laws of the Republic of Belarus.[87]

Contrary to the norms of the Constitution of the Republic of Belarus (Article 129) and the Law "On the Constitutional Court of the Republic of Belarus" (Article 38), according to which the conclusions of the Constitutional Court are final and binding on all state bodies and officials, these decisions were not implemented, and the decrees contradicting the Constitution continued to be applied. This indicates the beginning of the systematic dismantling of the constitutional legal order, ignoring the rule of law and concentration of power in the hands of the President, bypassing legislative and judicial institutions.

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[85] https://archives.gov.by/blog/news/1033608

[86] Council of the Republics of the Supreme Soviet of the USSR, Declaration in Connection with the Establishment of the Commonwealth of Independent States of December 26, 1991, No. 142-N https://ru.wikisource.org/wiki/%D0%94%D0%B5%D0%BA%D0%BB%D0%B0%D1%80%D0%B0%D1%86%D0%B8%D1%8F_%D0%A1%D0%BE%D0%B2%D0%B5%D1%82%D0%B0_%D0%A0%D0%B5%D1%81%D0%BF%D1%83%D0%B1%D0%BB%D0%B8%D0%BA_%D0%92%D0%A1_%D0%A1%D0%A1%D0%A1%D0%A0_%D0%BE%D1%82_26.12.1991_%E2%84%96_142-%D0%9D.

[87] Conclusion of the Constitutional Court of the Republic of Belarus of April 29, 1996, No. Z-35/96 "On Compliance with the Constitution and Laws of the Republic of Belarus of the Presidential Decree of December 29, 1995, No. 259 of the President of the Republic of Belarus "On Compliance with the Decrees of the President of the Republic of Belarus" http://www.kc.gov.by/document-11533.

2 Identification of Subjects for Lustration

2.1 List of Protected Posts Requiring Lustration Checks

A protected position is a public position, the occupation of which requires mandatory submission of a lustration declaration and a lustration check. If false information is found in the lustration declaration, such persons are prohibited from holding a protected position.

It is proposed to include the following in the list of protected positions, the occupation of which should provide for voluntary completion of the declaration:

2.1.1. judges, including judges of the Constitutional Court and the Supreme Court

To understand the necessity of lustration against the judicial corps of Belarus, one should take into account that the very formation of the judicial system of Belarus under the repressive demands of the executive power has been repeatedly criticized by the international community. In particular, the UN Human Rights Committee has repeatedly urged the Belarusian authorities to pay attention to the fact that the judicial power in the country largely depends on the President of the Republic of Belarus.[88]

The appointment of judges of courts of general jurisdiction and their dismissal on the grounds provided for by law in the Republic of Belarus is carried out by the President of the Republic of Belarus on the proposal of the Chairman of the Supreme Court of the Republic of Belarus or with the consent of the Council of the Republic of the National Assembly of the Republic of Belarus.[89]

After the 2022 referendum on amendments to the Constitution, the All-Belarusian People's Assembly was declared the supreme representative body of the people's power of the Republic of Belarus. However, not being an independent body of power, it appoints, on the proposal of the President:[90]

- ➔ Chairman, Deputy Chairman, and judges of the Constitutional Court;
- ➔ The President, Vice-Presidents, and judges of the Supreme Court.

A significant number of politically motivated criminal cases are heard by regional or Minsk City courts at first instance. Regional (Minsk City) courts are also courts of appeal in politically motivated criminal cases heard by district courts at first instance.

The Supreme Court of the Republic of Belarus heads the system of courts of general jurisdiction and is the highest judicial body, which administers justice in civil, criminal, administrative, and economic cases, supervises the judicial activity of courts of general jurisdiction, and exercises other powers in accordance with legislative acts.

It is the Supreme Court that bears the main responsibility for the liquidation of civil society organizations and opposition political parties, and systematic decisions aimed at destroying

[88] United Nations Office Of Commissioner For Human Rights CCPR/C/BLR/CO/5: Concluding observations on the fifth periodic report of Belarus, page 9, paragraph 39 https://www.undocs.org/en/CCPR/C/BLR/CO/5.

[89] Code of the Republic of Belarus No. 139-Z June 29, 2006 On the Judiciary and the Status of Judges

[90] Constitution of the Republic of Belarus as amended on February 27, 2022, art. 89.

independent trade unions, human rights organizations, and political parties opposing the authoritarian regime. Its activities have become an instrument of repression, making lustration in the judiciary a prerequisite for restoring the rule of law and the independence of justice in a democratic Belarus.

From the beginning of the 2020 presidential election until now, judges in Belarus have convicted at least 5,947 citizens on political grounds in criminal proceedings[91] and more than 50,000 in administrative proceedings. As a result, most of those convicted have been imprisoned or their freedom has been restricted. The fact of conviction in politically motivated criminal cases becomes the basis for their inclusion in the List of Citizens Involved in Extremist Activity (at the time of preparation of this concept, there are 4,523 entries in the document published on the website of the Ministry of the Interior, and the list is steadily growing). This, in turn, entails the restriction of rights for the duration of the criminal record and for another five years after it has been expunged.

The Constitutional Court of the Republic of Belarus also deserves attention. On August 25, 2020, the Constitutional Court of the Republic of Belarus, in violation of the Constitution of the Republic of Belarus, exceeding its own powers, adopted the document "Constitutional and Legal Position on the Protection of the Constitutional Order"[92] This document became the basis for criminal prosecution of political opponents, as it stated the illegality and unconstitutionality of the Coordination Council, which was created by that time and aimed at holding negotiations to overcome the political crisis that had developed after the presidential election.

Subsequently, the lawyer Maksim Znak and the head of the election headquarters of Viktar Babaryka Maryia Kalesniava were sentenced to long prison terms on charges of creating and participating in an extremist formation, conspiracy to seize power by unconstitutional means, and calls for actions aimed at harming the national security of the Republic of Belarus.

The adoption of the document titled "Constitutional and Legal Position on the Protection of the Constitutional Order" is a direct abuse of power by the judges of the Constitutional Court of the Republic of Belarus, who took part in its proclamation, aimed at suppressing peaceful protests and persecution of political opponents of A. Lukashenka.[93]

Attention should also be paid to the use by the Constitutional Court of the Republic of Belarus of its powers of compulsory preliminary constitutional control of compliance of laws adopted by the Parliament of the Republic of Belarus with the Constitution of the Republic of Belarus, international legal acts ratified by the Republic of Belarus - before the signing of these laws by the President of the Republic of Belarus.

Thus, in the course of 2021-2022, the legislation on counteraction to extremism and terrorism in the Republic of Belarus was significantly changed towards its toughening. Several new offenses were introduced into the Criminal Code of the Republic of Belarus. The Code of Criminal

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[91] Human Rights Situation in Belarus. September 2024 https://spring96.org/ru/news/116395

[92] The Constitutional Court of the Republic of Belarus, guided by Article 116 of the Constitution of the Republic of Belarus, Article 6 of the Code of the Republic of Belarus on the Judicial System and the Status of Judges, Articles 44-45 of the Law of the Republic of Belarus "On Constitutional Judicial Proceedings", expressed its constitutional and legal position on the protection of the constitutional order http://www.kc.gov.by/document-67563.

[93] Dainis Jalimas, Conclusion on the "Constitutional-Legal Position on the Protection of the Constitutional Order" adopted by the Constitutional Court of the Republic of Belarus on August 25, 2020 https://ru.ehu.lt/wp-content/uploads/2020/10/20201029_--alimas_RU.pdf.

Procedure of the Republic of Belarus provides for the possibility of conducting special proceedings against persons who are being prosecuted but are outside the country.[94] It has become possible to deprive persons who acquired citizenship by birth of their citizenship in the event of a court verdict that has entered into legal force, provided that they are not in Belarus.[95]

Judges are legal experts who were obliged to realize that by passing politically motivated verdicts they violate the basic civil and political rights of Alexander Lukashenko's opponents (freedom of expression, freedom of association, freedom of peaceful assembly, right to participate in public affairs, right to a fair trial and others).

2.1.2. officials of the penitentiary system of Belarus

The penitentiary system of Belarus has for many years recorded systemic human rights violations, including torture and ill-treatment of prisoners. These problems became particularly visible after the mass protests of 2020, when thousands of people were detained and many of them were placed in pre-trial detention centers and prisons. According to reports by human rights organizations such as Amnesty International[96], Viasna[97], International Committee for the Investigation of Torture in Belarus[98], detainees were beaten, electroshocked, forced to stand for hours in uncomfortable positions, deprived of food and water.

Overcrowded cells and appalling living conditions are another form of torture of detainees. In the first days after the 2020 elections, detainees were held in catastrophically overcrowded detention centers. According to testimonies, people were stuffed "like herrings in a barrel": for example, a 3×5 meter cell held about 30 people without a toilet. In the terribly overcrowded Minsk prison on Akrestsina Street, 35 women were held in a cell designed for four. The guards denied people water, food, and access to the toilet – some of them had to urinate right in the cell.[99]

Separately, human rights activists emphasize the practice of incommunicado detention of some political prisoners. Since 2022, dozens of opposition leaders, journalists, and activists have been held in prolonged solitary confinement without communication with the outside world, with no calls, letters, or visits.[100]

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[94] Report of the High Commissioner for Human Rights, "Situation of Human Rights in Belarus in the Run-up to the 2020 Presidential Election and in Its Aftermath," https://undocs.org/en/A/HRC/52/68

[95] Law of the Republic of Belarus No 165-3 of May 13, 2022 “On Amending the Criminal Code of the Republic of Belarus”

[96] Belarus: "You are not human beings". State-sponsored impunity and unprecedented police violence against peaceful protesters. Amnesty international
https://eurasia.amnesty.org/wp-content/uploads/2021/01/belarus-you-are-not-human-beings.pdf

[97] News on the topic: torture. Human Rights Center "Viasna” https://spring96.org/ru/tags/836
[98] Torture and ill-treatment in Gomel women's colony #4. Public investigation
https://legin.info/uploads/20241022_671763dd5b447.pdf

[99] Belarus: Systematic Beatings, Torture of Protesters.
https://www.hrw.org/news/2020/09/15/belarus-systematic-beatings-torture-protesters#:~:text=where%2035%20women%20were%20crammed,water%20over%20all%20of%20them

[100] INCOMMUNICADO: The meter must stop. Legal Initiative. https://legin.info/counters/2020incommunicado

In many cases, political prisoners are deprived of timely medical care, even when their lives are in danger. For example, in 2023, artist Ales Pushkin died in the colony – the administration ignored his complaints about deteriorating health. He was sentenced behind closed doors to five years in the colony for participation in an exhibition in Hrodna and a performance in Kyiv in the spring of 2021. In Hrodna Prison No. 1, Ales Pushkin developed a perforated ulcer, but the necessary medical care was not provided in time.[101]

2.1.3. law enforcement and state security officers

Law enforcement agencies (police, special units of the Ministry of Internal Affairs, prosecutor's offices, Investigative Committee, etc.) and state security agencies (KGB, Operations and Analysis Center under the President of the Republic of Belarus) played a central role in the repressive system of Belarus. They are the direct executors of the policy of suppression: they carry out surveillance of opposition-minded citizens, disperse peaceful protests with disproportionate violence, carry out illegal detentions, and initiate fabricated criminal prosecutions.

The KGB, which has essentially retained Soviet methods and approaches, acts as a political police force, harassing dissenters under the pretext of protecting state security. In close cooperation with the KGB, the Ministry of Internal Affairs and its subordinate structures (including AMAP [the riot police] and HUBAZiK [the organized crime and corruption unit of the MIA]) carry out mass intimidation campaigns – from forceful suppression of demonstrations to torture of detainees. The coordinated activities of law enforcement and special services created an atmosphere of fear and impunity, becoming the foundation of the authoritarian regime.

It is important to emphasize that the current repressive practices of law enforcement agencies and the KGB have a long historical continuity. After the collapse of the USSR, no real reform of law enforcement structures was carried out in Belarus: the State Security Committee retained the Soviet name and personnel structure, continuing to operate according to the previous methods. During the years of A. Lukashenka's rule, the law enforcement agencies were systematically used to crack down on the political opposition and civil society. Suffice it to recall the uninvestigated disappearances of a number of opposition leaders in 1999-2000. During this period, former Minister of Internal Affairs Yury Zakharanka, politician Viktar Hanchar (together with businessman Anatol Krasouski), and journalist Dzmitry Zavadski disappeared, which, according to independent investigations, representatives of the security services were involved in.[102]

From time to time, the authorities also resorted to open mass repression: for example, after the 2006 and 2010 elections, dozens of opposition politicians, activists, and even presidential candidates were arrested and convicted on trumped-up charges. These episodes demonstrate that law enforcement and state security agencies have traditionally served not the law, but the political orders of the country's leadership. The entrenched impunity for past violations gave rise to a sense of permissiveness, which largely predetermined the extreme brutality of the 2020 repression.

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[101] "No statute of limitations applies to such crimes". Anniversary of the death of artist Ales Pushkin. https://spring96.org/ru/news/115725

[102] Disappeared persons in Belarus. Doc. 10062, February 4, 2004. Report Committee on Legal Affairs and Human Rights. Parliamentary Assembly https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10456&lang=EN

Thus, the current system of repression is based on the established practices of violence and arbitrariness rooted in the Soviet era. This continuous reproduction of repressive methods only confirms the need for lustration. Only by cleansing state institutions of representatives of power structures tainted by their participation in repression is it possible to break with the past and ensure the implementation of truly democratic reforms.

2.1.4. senior and middle commanders of the Armed Forces of the Republic of Belarus

The army in a democratic society should be politically neutral and subject to civilian control. However, under the authoritarian rule of Aliaksandr Lukashenka, the Armed Forces of Belarus became an important instrument of power retention, and their commanders participated in the regime's repressive policy and violation of international obligations.

According to confirmed information, during the peaceful protests in 2020, at least in the city of Brest, the military in civilian clothes were introduced and used their tactical weapons to kill. Thus, they shot Hendaz Shutau, who later died in the hospital.[103] In Minsk, a cordon of military personnel in full uniform was set up against peacefully protesting citizens.[104]

In addition to its domestic role, the Armed Forces of Belarus have been involved in international crimes related to Russia's aggression against Ukraine. In 2022, the territory of Belarus was made available for Russian troops to deploy and conduct an attack on Ukraine, making Belarus complicit in the war. The military command of Belarus provided logistical and operational support for the aggression, coordinated with the Russian General Staff, and provided military infrastructure. These actions directly violate the Constitution of the Republic of Belarus and international agreements of Belarus, including the Treaty on Friendship, Good Neighborliness and Cooperation between Ukraine and the Republic of Belarus of July 17, 1995, as well as contradict the interests of Belarus as an independent state.

The introduction of the lustration procedure will allow Belarus to build an army that meets the standards of democratic states and is capable of performing its functions without interfering in domestic politics.

2.1.5. officials of the executive power

The executive power in Belarus has served as an instrument of suppression and control for decades, starting from the Soviet era and ending with the years of Alexander Lukashenko's rule.

Archival documents of the National Archives of the Republic of Belarus directly point to the participation of the executive authorities in the crimes of the Soviet period. The minutes of the executive committees' meetings for 1937-1938 record decisions to include citizens in the lists of "enemies of the people", which led to arrests and shootings. NKVD reports show that local officials independently identified "socially dangerous elements" among peasants, teachers, and priests. The repressive practice did not stop even after the war. Thus, in 1949, the Minsk Regional Executive Committee authorized the expulsion of families of "nationalists" to Siberia.

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[103] Protests in Belarus (2020-2021). Wikipedia https://ru.wikipedia.org/wiki/Протесты_в_Беларуси_(2020-2021)

[104] Chronology of protests in Belarus (2020-2021). Wikipedia. https://ru.wikipedia.org/wiki/Хронология_протестов_в_Беларуси_(2020-2021)

After the collapse of the Soviet Union, Belarus, unlike many neighboring countries, did not lustrate the communist nomenclature. According to the first leader of independent Belarus, Stanislau Shushkevich, the country "did not go down the path of lustration," which allowed former party cadres to retain control over administration.[105] These very people became the basis of Lukashenko's administrative system, which inherited from the BSSR both the institutions of power and the mechanisms of suppression. As a result, the state apparatus turned into an instrument of the president's personal power, where decisions on persecution are made at the level of ministries and local administrations.

In 2004, an investigation by the Parliamentary Assembly of the Council of Europe confirmed the involvement of high-ranking Belarusian officials in the disappearances of political opponents. The report of MP Christos Pourgourides named the names of the State Secretary of the Security Council Viktar Sheiman, Interior Minister Yury Sivakou, and special unit commander Dzmitry Paulichenka, who were suspected of liquidating former Interior Minister Yury Zakharanka, politician Viktar Hanchar, and businessman Anatol Krasouski.[106] Despite international demands to investigate these crimes, the authorities in Belarus continue to keep them silent, which confirms their involvement in the repressive system.

Local authorities use administrative measures to control citizens and prevent opposition activity. This includes forced participation of public sector employees in pro-government events, forced subscription to state media, and membership in pro-government organizations. There are also cases of pressure on employees for establishing and joining independent trade unions and opposition organizations, which manifests itself in the form of dismissals, layoffs, and other repressive measures.[107]

The use of administrative resources reached its peak during elections. The International Federation for Human Rights (FIDH) documented the coercion of students, military personnel, and employees of state enterprises to vote early because such ballots are easier to control and falsify. Local executive committees, using the dependence of citizens on the state system, forced budgetary employees and workers of state enterprises to become observers and members of election commissions, where they participated in falsifications in favor of pro-government candidates.[108] Such a system allowed for to falsification of the results of elections many times, which is confirmed both by Belarusian human rights activists and international organizations.

The heads of large state enterprises also play an important role in political control. Plants and factories in Belarus traditionally have large collectives, often residing in single-industry towns. The directors of such enterprises have effectively become part of the nomenklatura and are responsible for the "correct" political behavior of their employees. Evidence shows that employees were massively forced to participate in pro-government rallies and vote early.

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[105] Belarus Will Soon Be Liberated. Interview with Stanislau Shushkevich. https://demokratizatsiya.pub/archives/12_1_12_1_SHUSHKEVICH.pdf#:~:text=go%20the%20way%20of%20lustration,don't%20think%20we%20could%20have%20have

[106] Disappeared Persons in Belarus, Report by the Committee on Legal Affairs and Human Rights, Rapporteur: Mr. Christos Pourgourides, Cyprus, Group of the European People's Party https://www.refworld.org/reference/countryrep/coepace/2004/en/12607.

[107] Human Rights in Belarus. https://ru.wikipedia.org/wiki/Права_человека_в_Беларуси

[108] FIDH - Belarus: Restrictions on the Political and Civil Rights of Citizens Following the 2010 Presidential Election https://www.fidh.org/IMG/pdf/rapport_Belarus_En_web.pdf#:~:text=have%20the%20opportunity%20to%20observe,and%20international%20specialists%20insisted%20on.

The executive branch used not only forceful methods but also economic leverage. The state monopoly in the economy became a means of controlling citizens. After the 2020 protests, Lukashenko openly demanded to "restore order" and fire all disloyal employees. In 2022, this approach was legally enshrined: a new decree obliged the heads of state agencies to fire "unreliable" employees, otherwise they themselves were threatened with punishment.[109]

One of the most striking examples of economic coercion was the 2015 decree on "deadbeats," which obliged citizens not employed in the state economy to pay a special levy. In fact, it became a punishment for attempting to conduct independent activity. In 2017, mass protests against the decree were violently suppressed. In the 2020s, the policy of discrimination against the unemployed continued: such citizens are denied preferential loans, housing subsidies, and are also obliged to pay for utilities at full cost. This is reminiscent of the Soviet practice of combating "deadbeats", when the unemployed could be held criminally liable. Despite the change of mechanisms, the essence remains unchanged, keeping citizens dependent on the state and forcing them to be loyal.

The executive power of Belarus, including top officials, regional leaders, and directors of state enterprises, is directly responsible for the establishment and maintenance of the authoritarian regime. Repression, human rights violations, and suppression of independent economic activity have become the norm of governance. Many of these individuals, descended from the Soviet nomenklatura, have spent decades honing management methods that are incompatible with the principles of democracy and the rule of law.

2.1.6. rectors, their deputies, and deans of public higher education institutions

The higher education system in Belarus dates back to the Soviet period, when universities were fully subordinated to the ideological requirements of the Communist Party. Rectors and party committees of universities served as guides of the state ideology, and academic freedom was absent – curricula were strictly regulated, the basics of Marxism-Leninism were taught everywhere, and dissent was suppressed.

In the early 2000s, the authorities openly returned ideological control to the modern educational process. In 2003, universities introduced a mandatory course "Fundamentals of the Ideology of the Belarusian State" – a kind of analog of the Soviet "scientific communism". Staff positions of ideological workers appeared in universities. The task of pro-rectors for educational work actually became the political education of young people in the spirit of loyalty to the regime.

At the same time, the authorities eliminated alternative sources of education: for example, in 2004, the independent European Humanities University (EHU) in Minsk, a private university known for its liberal atmosphere, was closed. Thus, the regime made it clear that it would not tolerate independent educational initiatives. State universities have turned into "regime pillars" where the administration acts as an extension of the state apparatus.

One of the most dangerous roles of university administrators has become participation in repressive campaigns against students and teachers with opposing views. Even before the events of 2020, there were numerous cases when active citizens were expelled from universities or dismissed on political grounds. For example, in 2007, in Homiel State University named after F. Skaryna, the first vice-rector Yury Kulazhenka expelled student Dzmitry Zhaleznichenka, an

[109] Belarus Country Report 2024. https://bti-project.org/en/reports/country-report/BLR

excellent student and activist of the opposition BPF party, immediately after he had served an administrative arrest for participating in a peaceful rally.[110]

According to the Honest University portal, between 2020 and 2023, 1,639 students and teachers were victims of repression or faced pressure inside universities, 287 students were expelled and 201 teachers were fired for political reasons, 53 students and 3 teachers were recognized as political prisoners and are serving criminal sentences of 1.5 to 4.5 years in prison.[111]

The authorities send lists to universities of "unreliable" employees whom the university is obliged to dismiss. Teachers with an active position are not renewed their contracts because of their participation in post-election protests or because they support their own students. For example, in 2022, Kiryl Dauharukau, who was previously sentenced to 13 days of arrest for "supporting the protesters in his thoughts," was forced to resign from his position as a BSU teacher.[112]

Thus, rectors, vice-rectors, and deans of state higher education institutions, holding key positions in the education system and possessing significant power, are responsible for creating and maintaining an atmosphere of suppression of academic freedom and participating in political repression at universities. Their actions both violate the rights of students and teachers and undermine the foundations of quality education and the democratic development of Belarusian society.

2.1.7. heads and deputy heads of state TV channels, radio stations, newspapers, and Internet portals, editors-in-chief and editors of departments of state mass media.

State mass media in Belarus have for decades fulfilled not so much an informative as a propagandistic function. Back in the Soviet era, the state media in Belarus were under the strict control of the Communist Party. The press, radio, and television served as propaganda mechanisms, and their editors were actually ideological censors. Information was strictly filtered, and any dissent was suppressed.

In modern Belarus, the state media, which are under the direct control of the authorities, are a powerful tool of propaganda, disinformation, and suppression of freedom of speech. Senior positions in these media outlets are directly responsible for disseminating biased and distorted information, inciting hatred against the opposition, and concealing the truth about events in the country, especially after the 2020 presidential election.

In the period after the 2020 election, the state media launched a large-scale campaign to discredit political opponents of the regime, human rights defenders, independent journalists, and active citizens. They were portrayed as "zmahars," "traitors," "extremists," "enemies of the people," "fugitives," and the "fifth column," using hate speech and hate rhetoric. The state media actively justified the brutal actions of the security forces against peaceful protesters, presenting the violence as a necessary measure to "restore order" and "protect the state from external and

[110] Rector of BelSUT, who carried out repressions against students and teachers, dies. https://news.zerkalo.io/life/85790.html?c

[111] Higher Education in Belarus: Expensive and Dangerous. https://www.dw.com/ru/vyssee-obrazovanie-v-belarusi-dorogo-i-opasno/a-66927090

[112] Status of the Belarusian Academy of Education in 2022. Zadzinochannem Belarusian Students https://drive.google.com/file/d/187oxyipGwW4VNsUH4b5KuJaTr0kHT7Kc/view

internal enemies." They glossed over the facts of torture, ill-treatment of detainees, and other human rights violations committed by the authorities. The propaganda activities of the state media contributed to the creation of an atmosphere of fear and self-censorship in society, suppressing freedom of expression and critical thinking.

Heads and deputy heads of state media, editors-in-chief and department editors, in their leadership positions, are directly responsible for the editorial policy and content disseminated by state media. They determine the agenda, the choice of topics, the tone of publications, and the quality of information reaching the public. Their role in disseminating propaganda and disinformation is not passive, but an active participation in maintaining the authoritarian regime and violating the rights of citizens to reliable information and freedom of expression.

2.1.8. members of the Central Election Commission, chairpersons, their deputies, and secretaries of territorial and precinct election commissions

The electoral system is the basis of democracy, and election commissions should ensure the fairness and transparency of elections. However, in Belarus, the Central Election Commission (CEC), territorial and precinct commissions for decades performed the opposite function - they did not protect the right of the people to free expression of their will, but systematically participated in falsifications and legitimization of illegitimate power decisions.

The formation of election commissions in Belarus is a strictly controlled process, completely subordinated to the interests of the authorities and organized in order to legitimize the predetermined results of fake elections. For example, according to the organization BelPol[113] , long before the official announcement of the date of the presidential "elections" of 2025, lists of members of election commissions were drawn up. These lists were approved after loyalty checks in the structures of the KGB and the Interior Ministry. Such a preliminary organization indicates that the election commissions are pre-packed with people fully controlled by the regime.

The key element of the system of falsification is the so-called "troika", which consists of the chairman of the commission, his deputy, and the secretary. These three officials play a central role in election fraud, as they are the ones who organize the transmission of the results data.

Commission chairpersons, deputy chairpersons, and secretaries not only engage in vote rigging but also exert pressure on other commission members. Election commissions, as a rule, are formed from employees of the same institution, and the commissions are usually headed by heads of enterprises or organizations, whose employees are members of the commission. The same organizations send to the commission supposedly independent observers to simulate the electoral process. However, these employees are formally delegated from different organizations, such as pro-government political parties and pro-government non-governmental organizations (NGOs). The careers, financial status, and even the continuation of employment contracts of the rank-and-file commissioners are directly dependent on the chairperson. This system of control creates a climate of fear in which people are forced to submit to the demands of the leadership, including participation in rigging.

The tools used by the troikas include organizing non-transparent vote counting, manipulation of early and home voting, and the transmission of distorted data to higher authorities. These actions

[113] Report "On Preparedness of the System of Falsification of the Presidential Elections of the Republic of Belarus in 2025" https://belpol.pro/bezvybory-2025-dodlad-belpol/

make the electoral process in Belarus fully manageable, in which the announced results are determined by the instructions of the leadership rather than by the vote of the electorate.

Cleansing the electoral system of compromised individuals is a necessary condition for building a fair and transparent electoral system that will reflect the true will of the citizens.

2.1.9. members of parliament

Lustration does not normally concern members of the legislature, as these positions are elected. The leadership of the Parliamentary Assembly of the Council of Europe (PACE) believes that lustration should not be applied to elected positions unless the candidate himself or herself has requested it[114] Basically, such restrictions apply to former employees of the USSR special services, as it was the case in Latvia with the adoption of the 1995 Saeima Election Law, which restricted the election of persons associated with the Communist Party of the Soviet Union or the Soviet special services.

At the same time, the National Assembly (Parliament) of Belarus and the All-Belarusian People's Assembly are not considered independent institutions of power because of their involvement in state terror and adoption of laws contrary to human rights. OSCE reports on the 2018 Belarus election noted that the candidate registration process was too restrictive and discouraged opposition participation. In February 2024, OSCE member states, including the United Kingdom, Canada, the United States, and others, issued a joint statement condemning the repression of political opponents and the restriction of rights and freedoms in the run-up to parliamentary elections. They emphasized that under the current conditions, it is impossible to hold democratic elections in Belarus.[115]

In 2022, the Parliament adopted a number of laws, which intensified state terror.

Amendments to the Law of the Republic of Belarus "On Citizenship of the Republic of Belarus"[116] allow forthe deprivation of citizenship those who are recognized as "participating in extremist activities" or "causing harm" to state interests. Given that more than 11,000 cases have been brought on political grounds, the law is considered politically motivated and aimed at suppressing protests.

Amendments to the Criminal Procedure Code of the Republic of Belarus[117] allow criminal cases to be brought against persons in exile on charges such as terrorism, treason, and sabotage. These laws have already resulted in politically motivated convictions, including the sentencing of Sviatlana Tsikhanouskaya, the democratic opposition leader, to 15 years in prison.

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[114] paragraph "e" of the Guidelines to ensure that lustration laws and similar administrative measures meet the requirements of a state based on the rule of law Doc. 7568 June 3, 1996 https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=7506&lang=EN

[115] Speech. Repression in Belarus: joint statement to the OSCE, February 2024. https://www.gov.uk/government/speeches/repression-in-belarus-joint-statement-to-the-osce-february-2024

[116] Law of the Republic of Belarus "On Citizenship of the Republic of Belarus" http://world_of_law.pravo.by/text.asp?RN=H10200136

[117] Criminal Procedure Code of the Republic of Belarus https://etalonline.by/document/?regnum=hk9900295

The death penalty has been introduced for "attempted terrorism," and its use has been extended for "high treason."

A bill has been passed, giving the State Security Committee (KGB) of Belarus the right to restrict exit from the country on various grounds, including financial claims in court, administrative processes, and state security.

These actions of the National Assembly (Parliament) of Belarus demonstrate the strengthening of repressive policy and restriction of civil liberties and violation of international standards, which emphasizes the problem of legitimacy and democracy of the legislative bodies of Belarus.

2.1.10. the President of the Republic of Belarus

The President of the Republic of Belarus occupies a central place in the system of state administration, determining both domestic and foreign policy of the country. Since Aliaksandr Lukashenko came to power in 1994, an authoritarian regime has gradually been established in Belarus, characterized by concentration of power in the hands of the President, restriction of political freedoms, suppression of the opposition and independent mass media, as well as systematic violations of human rights.

During Lukashenka's rule, not a single election was recognized by international organizations as free and fair. As commander-in-chief and top official, the President authorized the use of brutal measures against peaceful protesters from 2020 to 2024, including torture, killings, and illegal detentions. Under his leadership, security forces have committed what international organizations describe as crimes against humanity aimed at intimidating civil society.

Through the authorities under his control, the President initiated the liquidation of independent media, non-governmental organizations, political parties, and human rights associations. Repressive laws passed under his control criminalized dissent and turned Belarus into a state with total censorship. In addition, the President created a clan-based system of governance, where loyalty to him became the main condition for access to budgetary resources.

Under the leadership of the President, Belarus became an accomplice in aggressive actions against Ukraine, including the deployment of Russian troops and missile systems on its territory, which violated the country's international obligations and jeopardized its sovereignty. It is the President who bears primary responsibility for the political crisis in Belarus, massive human rights violations, polarization of society, and international isolation of the country.

Lustration of the office of the President is a necessary step to restore citizens' trust in the institution of the presidency and the state power as a whole. Without recognizing the responsibility of the highest official for past violations and abuses of power, it is impossible to build a state based on the rule of law and ensure the democratic development of Belarusian society.

2.1.11. officials of the bodies implementing lustration procedures

In order for the lustration process to be fair and just, it should be carried out by specially created bodies. But an important question arises: who will work in these bodies and who will check them? If the lustration commissions are headed by people who used to participate in falsifications or persecute dissidents, there will be no trust in their decisions. That is why those who are engaged in lustration should also be checked and fill out a lustration declaration.

If a person hides his participation in the regime's crimes and gets into the lustration commission, he can use his position to protect the people he needs, turn a blind eye to their past actions, and thus sabotage the process. There is also a risk that such people will use lustration not to restore justice, but to settle personal scores or to fight politically.

To avoid this, all those who hold positions in the lustration bodies must fill out a lustration declaration. This means that they are obliged to honestly report whether they have participated in repression, falsifications, or other violations. If it turns out that someone has provided false information, he or she will not be able to work in the lustration bodies and will be subjected to lustration himself or herself. This approach ensures that the process of purging the power system will be controlled by people who are genuinely interested in justice rather than in protecting their old ties and privileges.

Thus, lustration should start with those who carry it out. If everyone is checked except those who make decisions, it will make the whole process meaningless. Only when the lustration bodies are fully transparent and independent will it be possible to talk about a real renewal of power and the building of a state based on the rule of law.

2.2 Lustration Declaration

The lustration declaration is a document necessary to ensure transparency and honesty among persons applying for protected positions. It is not an instrument of punishment, but aims to reveal a person's possible links with the former repressive regime, such as cooperation with intelligence services, participation in political repression, or execution of orders that violated citizens' rights. The main requirement of the declaration is honesty. A ban on holding a position is imposed only in case of providing false information, not for the fact of working in certain structures.

The declaration contains information necessary for the precise identification of the person providing the information. The candidate is obliged to disclose all the places of his/her work during the declared period, including service in the authorities, law enforcement agencies, and state institutions. It is important not to conceal positions that may have been associated with the former regime, as the declaration requires openness to the public rather than justification of one's activities in the past. The new authorities are interested in cooperation, but this requires full disclosure.

A person must disclose whether he or she cooperated with the state security agencies, carried out their assignments, or had contacts with foreign intelligence services. The mere fact of such cooperation does not mean an automatic ban on the position – it is only important that the candidate openly and honestly recognizes his or her connection with these structures. Hiding this information, on the contrary, will lead to disqualification from holding a protected position.

The declaration includes a list of actions that may have been committed during the period of service or work: participation in election fraud, use of violence against civilians, political persecution, or propaganda of repression. The person must honestly indicate if he or she was involved in these processes and give explanations. The information provided in the declaration cannot be used as evidence in criminal proceedings.

The candidate signs a declaration that all information provided is true. Violation of this principle is the only basis for prohibition from holding a protected position. Thus, the lustration declaration does not punish for the past, but requires a person to be honest before society and the new authorities.

The meaning of the lustration declaration is not to remove from work all those who had something to do with the past regime, but to give a chance for cooperation to those who are ready to honestly recognize their activities and work for the benefit of the new Belarus. This is a mechanism that ensures the transparency of the authorities and prevents the influence of unscrupulous officials who hide their involvement in the repressive system.

The form of the declaration is established by the law on lustration. An example of a possible declaration is presented in the annex to this Concept.

The lustration declaration is a temporary instrument, valid only during the period established by the law on lustration. As long as this law is in force, all submitted declarations and related documents are kept in the prescribed manner and are used exclusively for lustration verification.

Once the lustration law is finalized, these documents may be transferred to archival collections and begin to be governed by the general rules of the legislation on archiving. This means that access to them will be determined by archival rules, including possible restrictions on the publication of personal data and conditions for their use for research or historical purposes.

The limited retention period of declarations within the lustration process is necessary to ensure legal certainty and to protect the rights of persons who have been vetted. It also prevents misuse and uncontrolled use of this data after the lustration process is completed. In this way, the system remains balanced: on the one hand, it ensures the transparency of the authorities during the transition period, and on the other hand, it ensures that, over time, personal data will not be used outside the lustration context.

3. Lustration Procedure

3.1 Bodies Implementing Lustration Procedures

Institute of National Remembrance of Belarus

The Institute of National Remembrance of Belarus (INRB) is a state research organization that studies and documents the history of Belarus in the 20th–21st centuries, especially those periods associated with violence and repression. A Lustration Bureau is established within the INRB, responsible for lustration declaration and verification of lustration declarations.

Authority:

- ➔ research and popularization of knowledge about the Belarusian history of the XX-XXI centuries, with a focus on the totalitarian past and resistance of the Belarusian people;
- ➔ collecting, storing, processing, and analyzing archival materials and other documents related to political repressions and activities of totalitarian regimes;
- ➔ verification of lustration declarations of persons holding or applying for protected positions;
- ➔ cooperation with judicial and law enforcement bodies in order to bring the perpetrators to justice.

3.2 Procedures for Conducting Lustration Checks

The main stages and procedures for conducting a lustration check include the following:

3.2.1 verification (vetting)[118] of judges

The judiciary plays a key role in any society, as it is judges who must ensure justice, protect the rights of citizens, and ensure that laws are applied fairly and impartially. However, for many years in Belarus, the judicial system was under the control of authoritarian power, and many judges not only failed to fulfill their duties to society, but also became an instrument of repression. They made illegal decisions, sent innocent people to prison, deprived citizens of their rights, and acted not in the interests of the law, but at the behest of the authorities. Therefore, after a regime change, there is a need to vet judges to determine who is truly capable of serving justice and who has discredited themselves and cannot remain in the judiciary.

The vetting of judges is not about revenge or mass dismissal of all indiscriminately. The purpose of this procedure is to clarify the personal responsibility of each judge and to give the opportunity to stay in the system only to those who have not stained themselves with gross violations of the law and human rights. Therefore, the review will be individualized, taking into account specific facts and circumstances. Judges will not be dismissed just because they worked under the previous regime, but if it turns out that someone has made knowingly unjust decisions, participated in political repression, or used the court as a tool of pressure, he or she will not be able to continue to hold his or her position.

In addition to involvement in repression and human rights violations, the vetting will also include an assessment of the professional competence of judges. Insufficient qualifications, systematic violation of procedural norms, lack of necessary knowledge and skills, as well as the inability to make decisions in accordance with the principles of the rule of law, can all be grounds for disqualifying a judge from continuing in office. The new judiciary must be both independent and professional, which means that judges must meet high standards of justice.

The procedure would be organized in such a way as to exclude arbitrariness and subjectivity. The check will be carried out either by the National Council of Justice of the Republic of Belarus,[119] if it is created by that time, or by a special commission created for this very purpose. It will include both Belarusian lawyers and international experts, who will help to make the procedure as objective and independent as possible. Each judge undergoing the vetting will have an opportunity to explain his/her decisions, present evidence of his/her integrity, and prove that he/she really meets high standards of justice. Judges who successfully pass the vetting procedure will retain

[118] Vetting is the procedure of verifying the reliability, competence and trustworthiness of candidates for certain positions. It is particularly important in the context of the civil service, law enforcement agencies and political structures, where it is necessary to exclude persons involved in corruption, criminal activity or human rights violations. In some countries, vetting is part of lustration. Source: Alexander Mayer-Rieckh and Pablo de Greiff, Justice as Prevention: Vetting Public Employees in Transitional Societies (New York: Social Science Research Council, 2007).
https://s3.amazonaws.com/ssrc-cdn1/crmuploads/new_publication_3/%7B57EFEC93-284A-DE11-AFAC-001CC477EC70%7D.pdf

[119] Draft Organic Law "On the National Council of Justice of the Republic of Belarus"
https://kanstytucyja.online/index.php/laws/1009-nacpravo

their position and will be appointed indefinitely. This would strengthen the independence of the judiciary and protect it from political influence.

This stage is proposed to be implemented through a separate law and a separate procedure, without being tied to the lustration law, which is based on self-declaration. Such an approach will ensure prompt restoration of confidence in the judiciary in Belarus and create guarantees for judges who truly comply with the principles of justice. At the same time, the lustration law should provide for the exclusion of duplication of the declaration requirements for those judges who have already been vetted. This will make it possible to avoid unnecessary bureaucratic procedures and focus on the main task – the formation of a professional, independent, and fair judiciary.

The vetting of judges is an important step towards the restoration of justice. Therefore, it is important not just to change people in the system, but to create conditions under which judges will make decisions based on the law and conscience instead of out of fear or profit. This is the only way to restore trust in justice and build a democratic state where everyone is protected from injustice and arbitrariness.

3.2.2 self-declaration

All persons holding or aspiring to hold legally protected positions at the time of the beginning of the lustration process (see p.2.1) are obliged to voluntarily complete a declaration, providing detailed information about their activities during the period subject to lustration inspection (see p.1.5). The period to be declared and the content of the information to be declared (see p.2.2) are determined by law.

The law establishes specific deadlines for filing declarations, depending on the category of office and the current status of the person (incumbent or candidate for office).

The form of the lustration declaration and the procedure for its completion and submission are established by law. The declarations are submitted to the INRB for verification. INRB issues a certificate to the person confirming the fact of filing the declaration.

3.2.3 verification of declarations

INRB verifies all declarations using archival documents, databases, and other sources of information. The law establishes conditions under which declaration verification is prioritized, such as for candidates for elected office.

In the course of reviewing a case, the INRB has the right to:

- ➔ request additional information or documents from the person against whom the verification is being conducted;
- ➔ request and receive information from public bodies, organizations, and individuals necessary to verify the lustration declaration;
- ➔ conduct interviews with witnesses;
- ➔ study archival materials and other sources of information;
- ➔ conduct expert examinations.

A person in respect of whom a lustration check is conducted shall have the right to familiarize himself/herself with the materials of the check, submit explanations, give testimony, and make petitions.

3.2.4 documenting the results of the verification of declarations

Based on the results of the verification, each declaration is accompanied by a report that contains conclusions on the accuracy of the information provided. In the event that irregularities are found, an act is drawn up detailing the discrepancies or false information found.

3.3 Decision on Lustration

If the Lustration Bureau of the Institute of National Remembrance of Belarus finds that the declarant has provided false information in his/her declaration, it draws up an official document detailing the violation. After that, the declarant is sent a notice explaining the situation so that he can explain himself and provide additional evidence in his defense. This is subject to a statutory deadline.

If the explanations do not confirm the truthfulness of the information in the declaration, the Lustration Bureau decides to ban the person from holding legally protected positions. Such a ban may last from five to ten years, depending on the seriousness of the violation.

A person against whom a decision on lustration has been taken has the right to disagree with this decision and file a complaint with the court within the time limit established by law. The court considers all the circumstances of the case, examines the evidence, and listens to the arguments of both parties. The declarant has the full right to familiarize himself with the materials of his case, including all the evidence on which the inspection is based, and the "secret" label cannot serve as a basis for denying access to these materials in the procedure of appealing the case to the court.

If the court decides that the ban was rightfully imposed, it remains in force. If the decision is found to be erroneous, it is reverse,d and the individual retains the right to hold a protected position. In this way, the procedure remains transparent and everyone has the opportunity to protect their rights.

4. Measures of Lustration Impact

The following types of lustration restrictions may be imposed on persons subject to lustration:

- ➔ **Dismissal from protected positions:** Failure to have a filing certificate within the time limits established by law is grounds for dismissal from a protected position or denial of appointment to a position. Possession of a filing certificate is grounds for continued occupancy of a protected position;
- ➔ **Ban on holding a protected position for a period of 5 to 10 years** for providing false information in the lustration declaration;

➔ **Rehabilitation and training programs:** Persons subject to lustration restrictions may be referred to mandatory rehabilitation and training programs aimed at rethinking their role in repressive actions and forming new values. Participation in such programs may be a condition for the relaxation or removal of certain restrictions.

Expenses related to lustration shall be financed from the state budget.

5. Publicity and Public Control

Informing the public about the lustration process is a key element to ensure transparency and increase confidence in the process. Regular and open provision of information will help prevent speculation, promote public scrutiny, and support the active participation of civil society.

Society is involved in the process. For example, anyone can inform the Institute of National Remembrance of Belarus about those who, in their opinion, should be subject to lustration. This will help find those who try to hide their past. Citizens can also come to public hearings, where lustration issues are discussed, and express their opinion. And if people have ideas on how to make the lustration laws better, they can propose changes. In this way, society becomes part of the process, not just a spectator.

But with all this openness, it is important to protect personal information. All data submitted in declarations and information obtained during lustration checks are confidential and subject to protection, except in cases provided for by the law on lustration. The Institute of National Remembrance of Belarus is obliged to ensure this protection, which prevents abuses, such as the use of data in criminal proceedings, which is expressly prohibited by the Concept. For this purpose, the lustration declarations submitted by candidates for legally protected positions are divided into two parts: public and non-public.

The public part is what everyone can know about applicants for public office. This includes where the person worked or served during the declared period, especially if it was the authorities or law enforcement agencies. It also indicates whether he or she cooperated with state security agencies or had contacts with foreign intelligence services and whether he made a confession about past violations (without details). Also, public information is available about the application of lustration sanctions to a person who submitted false information in the declaration. All this is posted on the website of the Institute of National Remembrance of Belarus. Citizens should see who is applying for public office and what their past is, as well as for whom there is a ban on occupying legally protected positions. The goal is simple – for society to trust those who will come to power.

The non-public part of the declaration remains closed. This is personal data (e.g., contact information) that is not needed by everyone, but is important for the lustration check. This also includes details about work or other details that do not affect public scrutiny.

In addition to lustration checks, access to declarations will be granted for research purposes to those whose work involves special rules of conduct and statutory restrictions, such as lawyers, journalists, or academics. It will only be possible to use this data in an aggregated form. It is important for enlightenment, history, or science, but not to accuse someone personally.

In the end, the Lustration Concept for Belarus tries to combine openness and protection of privacy. The society learns only what is necessary for trust and control. And everything else – personal details or secret information – remains confidential information. In this way, lustration will take place honestly, involving people, but without unnecessary harm to someone's privacy.

6. Final Provisions

It is important to note that lustration is not a one-off event. It is a process that should include both lustration checks and other transitional justice measures, such as rehabilitation of victims of repression, educational programs aimed at improving the legal culture of citizens, and other activities aimed at preventing the repetition of past mistakes.

In any case, lustration should be carried out carefully and in a balanced manner, taking into account all possible consequences. Lustration in Belarus is expected to lead to the following results:

- ➔ strengthening of democratic institutions in Belarus;
- ➔ increasing public confidence in the state authorities;
- ➔ preventing repression from recurring in the future.

It is important to note that the expected results of lustration can be achieved only if it is carried out fairly, objectively, and in accordance with international standards of human rights protection. Lustration should not be an instrument of political retribution, but should be part of a comprehensive reform process aimed at building a democratic society in Belarus.

In addition to the above, the expected results of lustration include:

- ➔ reduction of corruption in state bodies;
- ➔ improved efficiency of the state bodies;
- ➔ improved investment climate in Belarus;
- ➔ strengthened position of Belarus on the international stage.

It is important to note that lustration is a complex and contradictory process that can have both positive and negative consequences. In order for lustration in Belarus to produce the desired results, it is necessary to:

- ➔ ensure respect for the rule of law and human rights in the lustration process;
- ➔ conduct a broad explanatory work among citizens;
- ➔ facilitate social adaptation of persons subjected to lustration;

➔ use lustration as a tool for building a democratic society and not as a tool for political revenge.

Only if these conditions are met can lustration become an effective tool for overcoming the authoritarian past and building a just future. It is important that these consequences are positive and contribute to democracy in the country.

Annex 1

SAMPLE DECLARATION

(For a legally protected position. The information in this declaration may not be used as evidence in criminal proceedings).

Surname, First Name, Patronymic: _____

Date of Birth: _____

Place of Birth: _____

Nationality *(specify all available)***:** _____

Passport details: _____

Residential address: _____

1. labor activity

List all places of employment (including service) where you worked during the declared period:

Period	Organization/institution	Position	Main duties

2. Cooperation with state security agencies

Did you agree to cooperate secretly with the KGB, submit reports, and fulfill assignments with or without remuneration?

☐ **No**

☐ **Yes** *(if* **yes,** *please specify the period and nature of cooperation):*

3. Connections with special services of foreign countries

Have you had connections with the intelligence and security services of another country (worked in such services, provided them with information, carried out their orders, or cooperated in any other way)?

☐ **No**

☐ **Yes** *(if* **yes,** *please specify the country, period, nature of ties):*

4. Statement of non-involvement in violations

During the declared period, I have not committed or ordered to commit any acts that may be qualified as:

4.1 Falsification of elections and/or referendums, including:

4.1.1. willful alteration of the final protocols of the election commissions;

4.1.2. replacement or additional ballot stuffing;

4.1.3. distortion of the results of vote counting;

4.1.4. forcing voters to vote for a certain candidate or obstructing their legal expression of will.

I confirm that I am not involved in these actions:

☐ Yes ☐ *No (If "No", indicate the specific circumstances below)*

4.2 Unlawful use of violence or threat of violence against peaceful citizens, including:

4.2.1. personally participating in, ordering, or complicit in physical violence (beatings, torture, degrading treatment) to suppress peaceful protest or dissent;

4.2.2. organizing or assisting in unlawful detention, abduction, intimidation (including threats to life, health, or property);

4.2.3. organizing or assisting in systematic actions that violate the fundamental rights and freedoms of citizens (freedom of assembly, speech, expression, etc.).

I confirm that I am not involved in these actions:

☐ Yes ☐ *No (If "No", indicate the specific circumstances below)*

4.3 Political persecution and suppression of dissent, including:

4.3.1. supporting or initiating criminal/administrative cases based on political opinion or peaceful opposition activities;

4.3.2. forcing dismissal, expulsion, or otherwise restricting rights and freedoms (e.g., access to labor, education, health services, etc.) on political grounds;

4.3.2. sanctioning practices aimed at persecuting independent journalists, human rights defenders, members of opposition organizations, or their families.

I confirm that I am not involved in the above actions:

☐ Yes ☐ *No (If "No", indicate the specific circumstances below)*

4.4 Propaganda and incitement of enmity or hatred, as well as public justification of repression or state terror, including:

4.4.1. direct call for violence against certain groups on political, religious, or other grounds;

4.4.2. systematic use of mass media, educational and public institutions to disseminate knowingly false or derogatory information about political opponents or dissidents;

4.4.3. publicly endorsing, supporting, or justifying torture, violence, illegal deprivation of liberty, or other grave violations of human rights.

I confirm that I have not been involved in these actions:

☐ Yes ☐ No. *(If "No", indicate the specific circumstances below)*

Explanation of circumstances (to be completed if necessary):

5. Confirmation of information reliability

All information provided in this declaration is true.

I am notified that knowingly providing false information will result in legal consequences, including debarment from protected positions.

Date of submission: _____

Signature: _____