

OPEN LETTER - THE OBSERVATORY

Open Letter to Mr. Andrius Kubilius Prime Minister of Lithuania

Paris-Geneva, August 11, 2011

Re: Arbitrary detention of Mr. Ales Bialatski, President of the Human Rights Centre "Viasna" and FIDH Vice-President, following the transfer of Lithuanian bank account details by the Lithuanian Ministry of Justice

Your Excellency,

The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), condemns the ongoing arbitrary detention of Mr. **Ales Bialatski**, FIDH Vice-President and President of the Belarusian Human Rights Centre "Viasna".

Mr. Ales Bialatski was arrested on August 4, 2011 by the police representative of the Department of Financial Investigations. On the same day, a search was carried out in his house. On August 5, 2011, Mr. Bialatski was remanded in prison for ten days in the detention centre of the Interior Ministry, which is known for its harsh conditions of detention and where he remained detained as of August 10, 2011.

This detention is related to a criminal case opened against Mr. Bialatski for supposed "tax evasion under Article 243, part 2, of the Criminal Code of the Republic of Belarus ("concealment of profits on an especially large scale"), which provides for up to seven years' imprisonment with confiscation of property.

As you know, the Belarusian authorities were able to open this case on the basis of information related to Mr. Bialatski's bank account, registered at DnB NORs bank in Vilnius, Lithuania. The Belarusian tax authorities interpreted the amount on the account of Mr. Bialatski's as his personal income and accused him of concealing it.

In reality, this money, which was transferred by international organisations, was by no means used as personal funds but to finance the legitimate human rights activities of the HRC "Viasna", such as assistance provided to victims of the political repression in the post-electoral context. It is indeed only because Belarusian independent human rights organisations, including the HRC "Viasna", are confronted with systematic refusals of registration, and because Article 193.1 of the Criminal Code of Belarus criminalises activities "as part of an unregistered organisations", that the funds dedicated to the human rights activities of the HRC "Viasna" had to be transferred on this Lithuanian bank account.

In Belarus, the legitimate use of these funds is in reality made illegitimate by repressive laws aiming to silence civil society activities. The information disclosed by the Lithuanian Ministry of Justice to the Belarusian authorities could therefore lead to further judicial harassment against Mr. Bialatski.

The Observatory deplores the fact that this case could be brought against FIDH Vice-President and HRC "Viasna" President on the basis of information that was provided by the Lithuanian Ministry of Justice to the Belarusian authorities.

We are appalled by the fact that the Ministry of Justice of Lithuania, a member-State of the European Union (EU), did not consider the safety of Mr. Bialatski before facilitating the transfer of information of his Lithuanian bank account to the authorities of Belarus.

While taking note of the recent announcement by your Ministry of Justice of the suspension of its legal assistance to Belarus in this case, the Observatory strongly regrets that by transferring this data, Lithuania directly put a Belarusian human rights defender at risk, in breach of the EU Guidelines on Human Rights Defenders, which provide on the contrary that the aim of the EU and its member-States is - inter alia - to "effectively work towards the promotion and protection of human rights defenders in third countries".

Considering the responsibility of the Republic of Lithuania in these tragic developments, the Observatory:

- is asking you which steps and demarches have been taken by your Government to contribute to the unconditional release of Mr. Bialatski, whose arbitrary detention manifestly aims at sanctioning his human rights activities;
- is calling on you to urgently put in place safeguards to prevent similar incidents in the future, and to ensure the safety of human rights defenders both in Lithuania and in third countries.

The Observatory recalls that Mr. Bialatski has always acted in accordance with the provisions of the United Nations Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998, which state that "everyone has the right, individually and in association with others":

- "to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" (Article 1);
- "to form, join and participate in non-governmental organizations, associations or groups" and "to communicate with non-governmental or intergovernmental organizations" (Article 5(b) and (c));
- "to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms" (Article 9.3(c));
- "to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means" (Article 13).

We express our sincere hope that you will take these considerations and requests into account and we thank you in advance.

Yours sincerely,

Souhayr Belhassen
FIDH President

Eric Sottas
OMCT Secretary General