

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) requests your urgent intervention in the following situation in Belarus.

Brief description:

The Observatory has been informed that the Belarusian Helsinki Committee (BHC) is under threat of being closed down because of tax evasion accusations brought against it by the Belarusian authorities.

These accusations follow an investigation conducted by tax inspectors of the Moscow District of Minsk between August 2003 and January 2004. Inspectors investigated the Committee's financial history since its creation in 1995.

The inspectors concluded that the BHC had committed "tax evasion for an important amount" of funds received from the European Union's TACIS Technical Assistance Programme between 2000 and 2002. The Committee was requested to pay over 385,000,000 Belarus Rubles (approx. \$180,000). The Tax Inspection of the Moscow District of Minsk based its decision on Decree No. 8, art. 12 concerning "Receipt and Use of Foreign Financial Assistance", and the "omission to register foreign financial assistance...". However, Decree No. 8 does not apply to international technical assistance, such as the TACIS Programme. In fact, according to the General Rules agreed upon by Belarus and the European Union in the "Memorandum on Financing" from 10 May 1994, assistance under this program is exempt from taxation.

The Belarusian Helsinki Committee appealed this decision to the Minsk Tax Inspection. On March 29, 2004, the Minsk Tax Inspection overruled the original decision and referred the case back to the Tax Inspection of the Moscow District of Minsk, which reduced the amount to be paid to 155,000,000 Belarus Rubles (approx. \$80,000). The Helsinki Committee appealed this decision to the Economic Court of Minsk, which heard the case on June 1, 9, and 14.

During the hearings, the Tax Inspection based its argument on Presidential Edict N°460, adopted on October 22, 2003, which refers to the "obligation to get the approval of the national authorities prior to the implementation of any international agreement". The Committee argued that the Edict was adopted after the signature and implementation of the TACIS programme, and it was not applicable in this case, while the Tax Inspection stated that the Committee should have complied with the terms of this decree retroactively. In addition, the Helsinki Committee contested the impartiality of an officer of the Ministry of Economy, who was called as an "independent expert" by the judge. The Committee's protest was rejected. On June 14, Judge Oksana Mikhnick heard the two parties again but suspended the audience and postponed it to an indefinite date.

On the basis of the same investigation, the Department of Financial Investigation of the Minsk Committee of State Control opened a criminal case against Ms. Tatsiana Protska, Chair of the Committee, and Tatsiana Rutkevitch, chief accountant, on March 17, 2004. These charges are based on article 243 § 2 of the Criminal Code concerning "tax evasion". They both risk up to seven years imprisonment and confiscation of property; the Committee's bank account may be closed and its property also confiscated.

The Observatory is very concerned at this new judicial case against a human rights NGO in Belarus. This situation is a flagrant violation of the provisions of the Declaration on Human Rights Defenders adopted by consensus by the UN General Assembly on December 9, 1998, in particular article 1,

which states 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", and its article 13 which provides that "[e]veryone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, (...)".

The Observatory recalls that in August 2003 the Belarusian Helsinki Committee received a warning from the Ministry of Justice for the use of headed paper and a stamp failing to comply with the statutes of the association (see the Observatory's Annual Report 2003). The Observatory also recalls that the Belarus Justice Minister confirmed that 51 associations had been liquidated in 2003 for alleged illegal activities (see International observation mission report of the Observatory, "Belarus: The liquidation of the independent civil society", April 2004) and reiterates its concern over the measures taken by the Belarusian authorities to silence and shut down human rights NGOs in the country.

Actions requested:

Please write to the Belarusian authorities and ask them to:

- i. Ensure that the decision of the Tax Inspection Authorities be cancelled and that the charges against Ms. Protska and Ms. Rutkevitch be dropped;
- ii. Put an immediate end to the repression against human rights NGOs and civil society representatives;
- iii. Conform to the provisions of the Declaration on Humans Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, in particular article 1 and 13 mentioned above;
- iv. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards.

Addresses:

The Office of the President of Belarus ; Fax (+375 17) 2260610

The Ministry of Foreign Affairs of Belarus ; Fax (+375 17) 2274521 ; mail@mfabelar.org.by

The Economic Court of the City of Minsk ; Fax (+375 17) 2224004 ; hozsud@ncpi.gov.by

Paris – Geneva, June 17, 2004

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need.

The Observatory was the winner of the 1998 Human Rights Prize of the French Republic.

To contact the Observatory, call the emergency line:

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