



Fédération internationale des ligues des droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,
DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation
for Human Rights

Federación Internacional
de los Derechos Humanos

الغدرالبة الدولية لحقوق الانسان

A l'attention du Président Alexandre
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VILLE: Paris/France

LETTRE OUVERTE AU PRÉSIDENT ALEXANDRE LOUKACHENKO

Paris, 25 novembre 2011

M. le Président,

Je vous écris pour appeler à la libération immédiate et inconditionnelle de M. **Ales Bialiaski** et à l'abandon de toutes les charges retenues contre lui. M. Bialiatski, vice-président de la FIDH et directeur du Centre de défense des droits de l'homme « Viasna », a été condamné hier par le Tribunal du district de Pervomaïski (ville de Minsk) à une peine de quatre années et demie d'emprisonnement dans une colonie à régime sévère et à la confiscation de ses biens, y compris les bureaux de Viasna, pour « évasion fiscale de grande ampleur ».

À travers ses activités légitimes de défense des droits de l'homme, M. Bialiatski a toujours défendu dans la transparence la plus totale les droits des victimes de violations des droits de l'homme. Il a été condamné sur la base de preuves et de témoignages sans rapport avec le sujet, à l'issue d'un procès politique initié par le KGB pour mettre fin à ses activités de défense des droits de l'homme ainsi qu'à celles de son organisation, le Centre de défense des droits de l'homme Viasna.

M. Bialiatski est détenu arbitrairement depuis le jour de son arrestation, le 4 août 2011.

J'ai été consternée d'apprendre que, pendant son procès, M. Bialiatski a été la cible d'une campagne massive de diffamation diffusée par les médias d'État, qui l'ont dépeint sous les traits d'un ennemi public et d'un

traître à la nation.

J'appelle les autorités biélorusses à libérer immédiatement et inconditionnellement M. Bialiatski, à lever toutes les charges pesant contre lui et à autoriser la société civile du Bélarus à conduire librement ses activités de défense des droits de l'homme, conformément au droit international. La répression systématique des activités de défense des droits de l'homme ternit significativement l'image du Bélarus.

Vous trouverez avec ce courrier le communiqué de presse de la FIDH du 24 novembre 2011, les communiqués de presse et les appels urgents de l'Observatoire pour la protection des défenseurs des droits de l'homme¹ datés du 24 novembre 2011, du 9 novembre 2011 et du 9 août 2011, qui condamnent la détention arbitraire et la condamnation de M. Bialiatski, ainsi que la campagne médiatique de dénigrement lancée contre lui.

J'espère fermement que vous tiendrez compte de ces requêtes et considérations.

Bien à vous,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, identifying Souhayr Belhasse.

Souhayr BELHASSEN,
Présidente de la FIDH

¹Un programme conjoint de la Fédération internationale des droits de l'homme (FIDH) et de l'Organisation mondiale contre la torture (OMCT).

Outrage and indignation: FIDH Vice-President, Ales Bialiatski, sentenced to 4 and a half years imprisonment under strict regime

Minsk-Paris, 24 November 2011 - Today, Ales Bialiatski, FIDH Vice-President and President of the Belarusian Human Rights Center "Viasna" (Viasna), was sentenced to four and a half years strict regime detention, the payment of a fine, as well as the confiscation of his property, including Viasna's offices and property registered with members of his family. FIDH calls for his immediate and unconditional release and for all charges against him to be abandoned.

"We condemn this decision by the Belarusian justice system as arbitrary and politically motivated. Worse, the hearing proved once again that this trial was directly ordered by the regime; the KGB letter initiating this legal harassment and presented at the trial is clear evidence of this" declared FIDH President, Mrs Souhayr Belhassen. ***"This letter, dating back to 28 October 2010, also shows that the crackdown on Belarusian civil society, of which Ales Bialiatski's case is a most flagrant and symbolic demonstration, was planned and prepared to silence human rights defenders long before the catastrophic 19 December 2010 presidential elections"*** she continued. ***"We fear that other members of Viasna will be targeted as part of this violent repression. FIDH reiterates its strong solidarity with Ales, his family and all Viasna members"***, Belhassen concluded.

Ales Bialiatski is a human rights defender, arbitrarily detained. FIDH urges all States and international organisations to take urgent and firm action for the immediate and unconditional release of Ales Bialiatski, for the abandon of all charges against him and for the freedom to act for the respect of international human rights standards for Viasna and other independent NGOs.

From the courtroom: details of the trial

Bialiatski's trial, presided over by Judge Bondarenko, took place from 2 to 24 November in Minsk's Pervomaiski District Court. An observation mission of the Observatory for the Protection of Human Rights defenders attended the whole trial.

FIDH strongly condemns the Belarusian State's refusal to issue visas to its President, Mrs Souhayr Belhassen, and its Honorary President, Mr Patrick Baudouin, as well as to other international observers. FIDH further denounces the use at the trial of illegally obtained personal and professional email exchanges between FIDH representatives and Viasna members.

"Despite lengthy preparation, the accusation [against Bialiatski] was so poorly prepared and documented that it was literary falling apart" stated Artak Kirakosyan, FIDH Secretary General, who observed the trial in Minsk: ***"documents presented had no relation to the charges or were neither signed nor stamped, and the Lithuanian Ministry of Justice declared in an official letter in August 2011 that the documents transmitted by them in March 2011 and used by the Belarusian authorities against Mr Bialiatski do not correspond to the reality. However, they were still used at the trial. Some of the witnesses cited by the prosecution declared that they were not aware of the Bialiatski case at all"***. He continued: ***"This whole trial was a poorly prepared demonstration of a systematic politics seeking to weaken and criminalise human rights defenders who continue their legitimate and courageous efforts in the context of growing authoritarianism in Belarus"***.

Throughout the trial Bialiatski and others were repeatedly asked openly political questions by the prosecution. Questions centred on how Viasna works, how it receives funds and how those funds are disseminated, with witnesses repeatedly being asked about their membership of Viasna – a point having no relevance to the tax evasion charges at issue. On 10 November, the trial took an openly political turn with the accused being interrogated on his knowledge of Presidential Decree No. 24, de facto prohibiting any financial support to associations without presidential approval. The trial was subsequently interrupted by the announcement of further charges, declared by the prosecutor to be significantly different from the original trial charge. However, when the trial resumed on 16 November the new charges were negligibly different pertaining merely to preliminary agreements to a charge of non-declared income.

On 23 November 2011, defence lawyers highlighted that some pages from the bank accounts lodged in evidence were photocopies without certification that they were true to the original documents transmitted. In contravention of Belarus' Code of Criminal Procedure, other documents presented in the prosecution file,

including a contract between HRC Viasna and a donor, came from “an anonymous source”. Indeed, many documents had no connection whatsoever to the charges. The defence also emphasized that the Belarusian State’s inquiries with Lithuanian and Polish banks was made prior the initiation of a criminal case, violating the Legal Protection Act and constituting the illegal reception of evidence.

In a speech, Ales Bialiatski depicted the situation of growing authoritarianism in Belarus, where civil society, including human rights defenders, lawyers and journalists, work under the permanent threat of state sanction. As FIDH Vice President, he also highlighted the dire situation of human rights defenders regionally, pointing out that criminalisation of human rights defenders has become commonplace in the region : 8 members of FIDH’s member organisation in Uzbekistan are in prison on trumped up charges, whilst Russian human rights defenders are judicially harassed or killed. Bialiatski went on to give HRC Viasna’s history, underlining that it has always worked with transparency to help thousands of people.

Bialiatski concluded by publically announcing that the documents in his file confirmed that the case against him had been instigated and lead directly by the KGB. The KGB had met with tax and Prokuratura officials (including the Procurator who represented the accusation later at his trial) in November 2010 to discuss how Ales Bialiatski might be prosecuted, finally deciding to peruse prosecution under Article 243. This evidences the political character of Ales Bialiatski's prosecution – pre-planned to put an end to his human rights activities.

For more information, visit the following website : freeales.fidh.net

BELARUS: Human rights defender Ales Bialiatski sentenced to 4.5 years of imprisonment, a sad day for the defence of human rights in the world

Paris-Geneva, November 24, 2011. *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 sentencing to prison of Mr. Ales Bialiatski, FIDH Vice-President and President of the Human Rights Centre (HRC) “Viasna”, and denounces it as a move to silence the Belarusian civil society.*

Today, the Pervomaiski District Court of Minsk sentenced human rights defender **Ales Bialiatski** to four and a half years of imprisonment under strict regime conditions, the confiscation of property and a fine for “concealment of profits on an especially large scale in pursuance of prior agreements” under Article 243, part 2, of the Criminal Code. The trial was monitored by a delegation of the Observatory.

The Observatory considers that the trial and detention of Mr. Ales Bialiatski, held since August 4, 2011 at the preventive detention centre No. 1 in Minsk, amounts to judicial harassment of a human rights defender for carrying out purely legitimate human rights activities, protected under all international human rights standards. This criminal case was fabricated to intimidate and silence the Belarusian civil society, in the current post-electoral repression of all voices dissenting with the regime.

“In Belarus, human rights organisations which carry out independent human rights monitoring, including the HRC “Viasna”, are systematically denied the right to exist and carry out ordinary activities. The Belarusian law and its implementation by the authorities blatantly violates international human rights standards binding Belarus”, says Souhayr Belhassen, FIDH President. “Human rights organisations cannot register and Article 193.1 of the Criminal Code even criminalises activities performed by non-registered organisations. Under these circumstances, following its closure in 2003, HRC “Viasna” had no other choice than open a bank account abroad or cease to exist”.

The criminal case was based on information provided to the Belarusian authorities by the Lithuanian Ministry of Justice and Attorney General of Poland, concerning accounts opened by Mr. Bialiatski in foreign banks to operate HRC “Viasna”. The Belarusian tax authorities wrongly considered the money on the account of Mr. Bialiatski's as his personal income and accused him of concealing it. This money, which was transferred by organisations for the purpose of funding ordinary human rights activities, was by no means used as personal funds but to finance legitimate activities of the HRC “Viasna”, such as election monitoring and assistance provided to victims of political repression.

“There was never any doubt that the authorities knew that those were no private funds as all questioning of witnesses during the trial focused on “Viasna””, says Gerald Staberock, OMCT Secretary General. “It is sad that the political persecution of one of the leading human rights defenders in the region resulted from the cooperation of EU member States delivering sensitive banking information to the Belarusian authorities. If the EU Guidelines on Human Rights Defenders are to mean anything there need to be immediate measures within the EU to prevent mutual legal assistance when there is a real risk to human rights defenders”.

The Observatory firmly denounces the sentencing of Mr. Bialiatski and calls upon the Belarusian authorities to immediately and unconditionally release him as his detention is arbitrary, guarantee in all circumstances his physical and psychological integrity, and stop any kind of harassment - including at the judicial level - against human rights defenders, in line with the United Nations Declaration on Human Rights Defenders, the Universal Declaration of Human Rights and international human rights instruments ratified by Belarus.

For more information on this case, please see: <http://freeales.fidh.net/> as well as the previous Urgent Interventions issued by the Observatory.

Massive public media campaign targeting Mr. Ales Bialiatski

The Observatory has been informed by reliable sources of a massive campaign through public media that is targeting Mr. Ales Bialiatski, President of the Human Rights Centre (HRC) "Viasna" in Belarus and Vice-President of FIDH, and that could undermine his right to a fair trial by influencing the judge as his trial resumes on November 10.

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), has received new information and requests your intervention in the following situation in Belarus.

New information:

According to the information received, since November 5, 2011, Mr. Ales Bialiatski is the target of an insulting defamation campaign on public media, which questions the sincerity of its commitment and depicts him as clearly guilty of large scale tax evasion, stealing the budget of donors and revealing his private photos and information obtained illegally by the KGB and obviously transmitted to the official media.

In a video broadcast on the national channel STV on November 5, Mr. Bialiatski was presented as "the Chairman of the non registered organisation Viasna", and it was implied that Mr. Bialiatski deliberately decided not to register the organisation in order to earn money.

In reality, it is the Belarusian Ministry of Justice that liquidated HRC Viasna in 2003, and each further attempt at registering the organisation has always been rejected by the authorities since then.

Moreover, this video violates the private life of Mr. Ales Bialiatski, by showing private pictures of the 2010 new year's eve celebration held in Viasna's premises, which were found in the computers of Viasna's members after they were confiscated during the night of December 19 to 20, 2010[1].

In addition, since the beginning of this week, some State-owned newspapers such as Mahiliouskiya Vedamastsi, Prydniaprouskaya Niva, Vitebski Rabochy and Narodnaye Slova have been publishing an article entitled "Secrets of political business: How “human rights defender” "Bialiatski made a nice life for himself”.

Such article was allegedly written by “Dzianis Paliavanau” (it is not known whether it is a real name), and falsely depicts Mr. Bialiatski as a criminal who “appropriated other people's money and, correspondingly, deceived western taxpayers, being not the one he claimed to be”.

The author of this defamatory article reports large sums, transferred through Mr. Bialiatski's account, but does not mention any amounts. However, he calls Mr. Bialiatski a "wealthy gentleman", who secretly brought currency in cash together with all staff of the Human Rights Centre “Viasna” and handed it out to obscure persons. He also insinuates that Mr. Bialiatski's wife was appointed as an accountant of Viasna in order to facilitate the criminal scheme. All this information is a pure invention.

Several other slanderous articles were published on the Internet, in particular on the website

predateli.com (which means in Russian “traitors.com”). On this website, entitled “Traitors of Belarus”, posts are regularly added, with all kinds of what is believed to be compromising information on political and human rights activists of Belarus, together with their personal data, contact information and photos. In the three most recent articles published on the website, not only dirty insinuations were made on Mr. Ales Bialiatski, his family and colleagues, but even on the “chat” forum, remarks were posted to give the impression that people are “calling” for a severe sentence against him. However, stylistically, all the posts make believe that one person or several persons advised by the same one were behind them.

This website had also previously mentioned other members of HRC Viasna and some other human rights defenders from other organisations.

The Observatory expresses its deepest concern about this defamation campaign, and fears it could undermine Mr. Bialiatski’s right to a fair trial by influencing the judge as his trial resumes on November 10. Accordingly, the Observatory recalls the right for Mr. Bialiatski to benefit to the presumption of innocence, and to protect its private life from arbitrary accusations.

Background information:

Mr. Bialiatski was arrested on August 4, 2011 by the police representative of the Department of Financial Investigations, and detained since this day. He is charged of 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. His trial is to resume on November 10, 2011.

This case was opened on the basis of information related to Mr. Bialiatski’s bank account at a bank in Vilnius, Lithuania, which was provided by the Lithuanian Ministry of Justice to the Belarusian authorities. 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 activities of the HRC “Viasna”, such as assistance provided to victims of the political repression in the post-electoral context.

Actions requested:

The Observatory urges the authorities of Belarus to:

- i. Guarantee in all circumstances the physical and psychological integrity of Mr. Ales Bialiatski as well as of all human rights defenders in Belarus ;
- ii. Release Mr. Ales Bialiatski immediately and unconditionally since his detention is arbitrary as it seems to merely sanction his human rights activities ;
- iii. Put an end to all forms of harassment against him, included the attempts to influence the course of his trial by the spread of false rumors against him, and more generally against all human rights defenders in the country ;
- iv. Comply with all the provisions of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, which provides in particular 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).
- v. More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights and with international and regional human rights instruments ratified by Belarus.

Addresses:

· President Alexander Lukashenko, ul. Karla Marksa, 38, 220016 Minsk, Belarus, Fax: + 375 172 26 06 10 or + 375 172 22 38 72, Email: infogrp@president.gov.by

- Head of the Administration of the President of Belarus, Mr. Vladimir Vladimirovich Makei, Ul. K. Marksa 34, 220016 Minsk, Fax: + 375 17 226-06-10
- General Prosecutor, Grigory Alekseevich Vasilevich, Internatsionalnaya str. 22, 220050 Minsk, Belarus, Fax: + 375 17 226 42 52
- Minister of Justice of Belarus, Mr. Viktor Grigorevich Golovanov, Ul. Kollektornaya, 10, 220004 Minsk, Belarus, Email kanc@minjust.by
- President of the Supreme Court of Belarus, Mr. Valentin Olegovich Sukalo, Ul. Lenina, 28, 220030 Minsk, Belarus, Email: scjustrb@pmrb.gov.by
- Permanent Mission of Belarus to the United Nations in Geneva, 15 avenue de la paix, 1211 Geneva 20, Switzerland, Fax: +41 22 748 24 51. Email: mission.belarus@ties.itu.int
- Embassy of Belarus in Brussels, 192 avenue Molière, 1050 Ixelles, Belgium, Fax : + 32 2.340.02.87, Email : embbel@skynet.be

Please also write to the diplomatic mission or embassy of Belarus in your respective country.

Paris-Geneva, November 9, 2011

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

To contact the Observatory, call the emergency line:

* E-mail: Appeals@fidh-omct.org * Tel and fax FIDH + 33 (0) 1 43 55 25 18 / +33 1 43 55 18 80 * Tel and fax OMCT + 41 (0) 22 809 49 39 / + 41 22 809 49 29

[1] See Observatory Press Release, December 20, 2010 and Observatory Annual Report 2011.

Ongoing arbitrary detention of Mr. Ales Bialatski

The Observatory has been informed of the ongoing arbitrary detention of Mr. Ales Bialatski, President of the Human Rights Centre (HRC) "Viasna" and Vice-President of FIDH.

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), has received new information and requests your intervention in the following situation in **Belarus**.

New information:

According to the information received, as of August 9, 2011, Mr. **Ales Bialatski** remained detained in the detention centre of the Interior Ministry, located in Valadarski street, and which is known for its harsh conditions of detention.

The Observatory recalls that Mr. 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 Mr. Bialatski's house. Meanwhile, the police was waiting at the offices of the HRC "Viasna", where Mr. Bialatski was to be brought just after the search of his home, for a search of the office.

On August 5, 2011, Mr. Bialatski was transferred to a cell within the Financial Investigation Department of the State Control Committee, before being remanded in prison for ten days in the detention centre of the Interior Ministry.

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.

This case was opened on the basis of information related to Mr. Bialatski's bank account at a bank in Vilnius, Lithuania, which was provided by the Lithuanian Ministry of Justice to the Belarusian authorities. 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 activities of the HRC "Viasna", such as assistance provided to victims of the political repression in the post-electoral context.

The Observatory calls for the immediate and unconditional release of Mr. Bialatski, as his arbitrary detention seems to merely aim at sanctioning his human rights activities.

The Observatory recalls in particular that the United Nations Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998 provides 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).

Background information:

On August 4, 2011, at around 2 p.m., a group of people in plain clothes surrounded the office of the HRC "Viasna" in Minsk. Members of the HRC "Viasna" went out of the office and locked the door. They heard one of the plain-clothes individual report saying through his phone that "Bialtski [was] not [t]here".

Subsequently, at about 4.30 pm, Mr. Bialatski was arrested in the street in the city centre of Minsk by the police representative of the Department of Financial Investigations.

Actions requested:

The Observatory urges the authorities of Belarus to:

- i. Guarantee in all circumstances the physical and psychological integrity of Mr. Ales Bialatski as well as of all human rights defenders in Belarus;
- ii. Release Mr. Ales Bialatski immediately and unconditionally since his detention is arbitrary as it seems to merely sanction his human rights activities;
- iii. Put an end to all forms of harassment against him, and more generally against all human rights defenders in the country;
- iv. Comply with all the provisions of the United Nations Declaration on Human Rights Defenders, in particular with articles mentioned above;
- v. More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights and with international and regional human rights instruments ratified by Belarus.

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· President of the Supreme Court of Belarus, Mr. Valentin Olegovich Sukalo, Ul. Lenina, 28, 220030 Minsk, Belarus, Email: scjustrb@pmrb.gov.by

· Permanent Mission of Belarus to the United Nations in Geneva, 15 avenue de la paix, 1211 Geneva 20, Switzerland, Fax: +41 22 748 24 51. Email: mission.belarus@ties.itu.int

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Paris-Geneva, August 9, 2011

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