



International Federation for Human Rights

**Briefing for the European Parliament Foreign Affairs Committee  
Exchange of Views on EU approach towards Belarus**

*12 January 2012*

*"Let's put an end to this... there will not be any more of this senseless democracy"*

President Lukashenko (January 2011).

**A year after the elections, Lukashenko's crackdown project approaches last stage**

A year after the presidential elections in Belarus, the situation is worse than ever. Political liberties in the country have strongly deteriorated and an ever intensifying repression of independent voices in Belarus aims to silence human rights defenders, opposition members and journalists. Demonstrators are regularly beaten, arrested and sentenced to imprisonment; lawyers defending them lose their licenses; court proceedings are conducted with gross violations of procedures, laws, and international standards; independent journalists are under pressure while State media launch constant defamation campaign against all independent voices, including Human Rights Defenders (HRDs) who are harassed. A general climate of fear extends in the population in a context of total impunity.

The emblematic case of Ales Bialiatski...

Ales Bialiatski, President of Viasna (the main Belarussian human rights NGO), and Vice-President of FIDH was sentenced on 24 November 2011 to four and a half years of 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. Ales Bialiatski was condemned after a poorly prepared but highly politicized trial on the basis of anonymous and uncertified documents, in many instances unrelated to the charges of tax evasion. The case was instigated and lead directly by the KGB, in the context of a crackdown planned long before the December 2010 elections. As mentioned during the trial, the KGB, accusing Viasna of financing the "radical opposition", had indeed met with tax and Prosecutor General officials (including the Prosecutor who represented the accusation later at Bialiatski's trial) in November 2010 to discuss how Ales Bialiatski might be prosecuted, finally deciding to apply the prosecution under Article 243, tax evasion.

The Belarusian authorities were able to open this “tax evasion” case on the basis of information related to Mr. Bialatski's bank accounts registered at DnB NORs bank in Vilnius, Lithuania and in Poland. The Lithuanian and Polish Ministries of Justice were directly involved in the transmission of sensitive information to the Belarusian tax authorities, who interpreted the money on the account of Ales 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 activities of 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 Viasna, are confronted with systematic refusals of registration, and because Article 193.1 of the Criminal Code of Belarus criminalises activities “on behalf of an unregistered organisation”, that the funds dedicated to the human rights activities of Viasna had to be transferred on this Lithuanian bank account.

### ...a further tightening of the repressive cycle

Several Human Rights activists campaigning for the release of Ales Bialatski have been harassed and prevented from expressing criticisms around the trial, showing that the arrest of Viasna President corresponds to a well planned new wave of repression aiming at silencing the most prominent Human Right Defenders of the country. On 23 December 2011, it was the turn of Valiantsin Stefanovich, Vice-Chairman of the Human Rights Centre Viasna, to be condemned to a fine of 53 million rubles (about 4,840 Euro)<sup>1</sup>. The Tax Inspection alleged that Mr. Valiantsin Stefanovich failed to declare sums of money that it considered as “personal incomes”. These sums, which were transferred on bank accounts in Lithuania by international organisations such as Amnesty International and the Danish Institute for Human Rights to support the activities of Viasna, were however only used in the framework of legitimate human rights activities of Viasna. As in the Ales Bialatski case, the authorities of Belarus were able to open this case following the transfer of banking information by the Lithuanian Ministry of Justice to the Ministry of Taxes of Belarus. The documents sent by Poland and Lithuania also provided information on other Human Rights Defenders that the Belarus authorities can now use at ease. It had been a long time that the authorities have been hunting Valiantsin Stefanovich's resources, as the dissolution of the Human Rights Center Viasna in 2003 has forced its members to continue their activities without registration and to fund activities on the basis of private accounts<sup>2</sup>.

Nearly simultaneously, the Ministry of Taxes and Duties initiated the process of closing down the Belarus Helsinki Committee (BHC), one of the few officially registered human rights organisations in Belarus<sup>3</sup>. On 21 December 2011, Aleh Hulak, BHC Chairman, was informed by the Ministry of

1 FIDH: Sentencing of Viasna Vice-Chairman Valiantsin Stefanovich, 23 December 2012, at:

<http://www.fidh.org/Sentencing-of-Viasna-Vice-Chairman>

2 The Observatory for the Protection of Human Rights Defenders: Public Human Rights Association “Nasha Viasna” v. Ministry of Justice of Belarus – Judicial Observatory Report, September 2009, at:

<http://www.fidh.org/IMG//pdf/Belarusobseptembre09-2.pdf>

3 FIDH: Process initiated to close down the Belarus Helsinki Committee, 30 December 2012, at:

Justice that it had been requested by the Ministry of Taxes and Duties to dissolve the organisation. This move comes after BHC had received two written warnings, one for violating the Law on Civic Organisations and Mass Media by “spreading dubious information discrediting the law enforcement and justice agencies of Belarus” in January 2011, and another one in June 2011 for alleged violation of the tax law. The second warning requested BHC to pay more than 240 million Belarusian rubles (about 21,842 Euro) of taxes and fines for receiving a grant from the European Commission in 2002-2003.

It appears clearly that judicial harassment based on tax law is now one of the key instruments chosen by the Belarus authorities to proceed to a methodical elimination of the remaining Human Rights Defenders of the country. In the other end of the repressive spectrum, the Belarus authorities have recently amended the Law on Social Organisations in order to put more pressure on the last active independent organisations. A year after the elections, the repression cycle gets more and more tight around the neck of the Belarussian population.

### **Making EU pressure efficient: the need for coherence between the EU approach and actions by Member States and EU-based business companies**

#### Negligence destroying a coordinated approach towards Belarus: the EU/Member States coherence challenge

Immediately after Ales Bialiatski's condemnation, the international community of States and Civil Society's mobilisation for the unconditional release of FIDH Vice-President stepped up. Mobilisation under the FIDH appeal has taken place in more than 30 cities on all continents. Demonstrations in Russia were forbidden and dispersed by the authorities. FIDH welcomes the strong statements calling for immediate release by HR/VP Catherine Ashton, Commissioner for Enlargement and Neighborhood Stefan Füle, Head of the Delegation to Belarus Maria Mora, the European Parliament, and the EU Member States, among others. On 16 December, the EU extended its sanctions against Belarus (asset freeze and visa bans) to the Judge and Public Prosecutor involved in the condemnation of Ales Bialiatski, bringing the number of people subject to EU targeted sanctions to 210.

The Ales Bialiatski case represents a direct coherence challenge for the EU and EU Member states, as the condemnation of the prominent Human Rights Defender was allowed by information transmitted by EU Member States to an authoritarian regime, without them questioning the validity of the transfer demand. In the Ales Bialiatski case, a few Member States administrations' negligence was enough to nullify all the EU coordination effort on a strong common approach towards the situation in Belarus.

This is, however, not a unique example of EU Member States' indirect involvement in the consolidation of the Lukashenko's regime. Another flagrant example resides in the contradiction represented by the fact that EU-based companies heavily invest in the authoritarian regime, leading to a watering down of the efficiency of EU-imposed targeted sanctions.

#### Investing in the authoritarian regime under sanction: the EU/companies coherence

For years, President Lukashenko has managed to maintain Belarus in a relatively prosperous economic and social situation, on the basis of privileged relations with Russia (an opening for Belarus exports and a source of under-priced gas and oil) and an omnipresence of the State in the economy. Now that the economic crisis severely affects the financial situation of the country and that Russia's interests are seeking to take control over key Belarusian companies, the Lukashenko regime depends more than ever on Western private investments in the companies it directly or indirectly controls. Channeling funds towards the Lukashenko network is a vital element in the maintaining of the President's control of the country's economy and politics. The current financial crisis the regime is facing, in the context of a growing dissatisfaction of the Belorussian population with the regime, represents a window of opportunity the EU should not downgrade by reviving the regime through private and public investments that benefit the Lukashenko system.

The coherence imperative is a major element here. In 2011, the EU has sanctioned three companies involved in the financing of Lukashenko's repressive activities (Sport-Pari, PUE BT Telecommunications – controlled by Vladimir Peftiev, the richest Belorussian individual, a close associate to President Lukashenko – and Beltechexport). Yet, companies from some EU Member States, including UK, France, Germany and Austria, continue to be major investors in the Belarus economy. Targeted sanctions against just three Belorussian companies can have no visible effect in cutting the channeling of funds to the regime if at the same time President Lukashenko and his associates keep benefiting from investments by EU-based companies, especially in the banking system<sup>4</sup>. Banks like the Deutsche Bank, Raiffeisen Bank, Société Générale and BNP Paribas invest massively in the country. In 2009, President Lukashenko, who was rather satisfied of the French conciliatory position towards Belarus, proposed to Société Générale to get involved in commercial and modernisation activities of several dozen Belorussian companies, whose assets are now managed by the French bank, present in the country through Belrosbank. Deutsche Bank has been present for twenty years in Belarus and has organised the sale of 1.8 billion dollars of Belarus Eurobonds. The Royal Bank of Scotland – a bank whose main shareholder is the UK government, BNP Paribas and Deutsche Bank, have purchased for several hundred millions of Euro of bonds from Belarus. BNP Paribas is one of the main creditors of suppliers of oil to the Belorussian market. It is also linked to Belarusbank through a framework agreement which opens prospects for long-term attraction of French capital to Belarus. Raiffeisen Bank created a holding in 2002 with the

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4 Committee on International Control over the Situation with Human Rights in Belarus: International Support for the Democratic Future of Belarus: The Time to Act is Now. An Intermediary Report by the Working Group on Foreign Investment of the Committee on International Control, 12 September 2011.

Belorussian Priorbank OAO – a bank whose shares were also held by the European Bank for Reconstruction and Development (EBRD), which led to the attraction of massive investments to Belarus, including Telekom Austria. In 2005, Raiffeisen granted a syndicated untied credit of 32 million dollars to the Republic of Belarus. Raiffeisen is also a key partner of Belorusneft, a company which is subjected to US sanctions for its cooperation with an Iranian national oil company.

One should also note that the European Commission proposal for the 2007-2013 perspectives concerning the European Investment Bank envisaged extending the EIB mandate to several non-democratic countries, including Belarus. This possibility was later abandoned after first reading but Belarus is still on the list of “potentially eligible countries” which can be examined under the next MFF. A resuming of EIB and EBRD programs in Belarus would certainly offer a few more years of oxygen to the Lukashenko regime and send a message that no human rights violation is strong enough to prevent public and private investment in the country.

**Recalling the call for coherence made by the European Parliament in 2011<sup>5</sup>, FIDH calls on the European Union and its Member States:**

- to increase pressure on the Belarus government with a view to obtaining the release of imprisoned political prisoners and Human Rights Defenders, including Viasna President and FIDH Vice-President Ales Bialiatski.
- not to enter in the hostage trade-off with the Belarusian authorities. The release of all political prisoners and the end of harassment against Human Rights Defenders and the Belarusian civil society in general are a matter of principle, not of negotiation. The end of the crackdown on civil society should be the pre-condition for any future resuming of relations with Belarus and cannot be traded for loans or the lifting of sanctions.
- to step-up its political and financial support to Belarusian Human Rights Defenders in the context of the crucial moment Belarus is facing. The EU should pay particular attention to ensure that the money channeled to HRDs do not put them in danger. Member States should take concrete measures to prevent the transfer of sensitive information concerning Human Rights Defenders to the Belarus authorities, as happened in the cases of Ales Bialiatski and Valientsin Stefanovich.

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5 “The European Parliament [...] 15. Expects EU Member Countries not to weaken the EU action with bilateral initiatives with the Belarusian regime that undermine the credibility and effectiveness of the European foreign policy”.

European Parliament resolution of 20 January 2011 on the situation in Belarus, at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0022+0+DOC+XML+V0//EN>

- to ensure that respect for the rule of law and human rights be an intangible pre-condition for investments and loans by European entities such as the European Bank for Reconstruction and Development and the European Investment Bank in Belarus. The EU and Member States should also use their influence within international financial institutions such as the International Monetary Fund and the World Bank to make sure that similar conditions apply before any possible financial support is extended, which would otherwise benefit the dictatorial regime.
- to conduct a study to assess the destination of the investments led by EU-based business companies and banks in Belarus and to take necessary measures to prevent that investments lead to the consolidation of the authoritarian repressive regime. The EU should also work on fine-tuning the existing targeted sanctions to ensure that no individual or entity linked with the financing of the regime is able to exercise money-laundering or bypass the visa ban<sup>6</sup>.

**More information:**

- Free Ales Bialiatski web site: <http://freeales.fidh.net/>
- FIDH page on Belarus: <http://www.fidh.org/-Belarus,284->
- Human Rights Center Viasna web site: <http://spring96.org/en>
- FIDH Report: Belarus, Restrictions on the Political and Civic Rights of Citizens following the 2010 Presidential Elections, [http://www.fidh.org/IMG/pdf/rapport\\_Belarus\\_En\\_web.pdf](http://www.fidh.org/IMG/pdf/rapport_Belarus_En_web.pdf) (also available in French and Russian)
- FIDH Film “Bitter Winter in Belarus”: <http://www.fidh.org/Bitter-Winter-in-Belarus>
- FIDH: Sentencing of Viasna Vice-Chairman Valiantsin Stefanovich, 23 December 2012, at: <http://www.fidh.org/Sentencing-of-Viasna-Vice-Chairman>
- The Observatory for the Protection of Human Rights Defenders: Public Human Rights Association “Nasha Viasna” v. Ministry of Justice of Belarus – Judicial Observatory Report, September 2009, at: <http://www.fidh.org/IMG/pdf/Belarusobseptembre09-2.pdf>
- FIDH: Process initiated to close down the Belarus Helsinki Committee, 30 December 2012, at: <http://www.fidh.org/Process-initiated-to-close-down>
- Committee on International Control over the Situation with Human Rights in Belarus: International Support for the Democratic Future of Belarus: The Time to Act is Now – An Intermediary Report by the Working Group on Investments of the Committee on International Control, 12 September 2011.

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6 The sons of Lukashenko are for example able to bypass the EU sanctions which target them by using their positions on the National Olympic Committee of Belarus. This has given them access to money laundering structures.