

CAT questions Belarus on allegations of reprisals against human rights defenders

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On 9 and 10 November 2011, Belarus was examined by the Committee Against Torture (the Committee) in relation to its compliance to its responsibilities and obligations under the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment (the Convention). Belarus ratified the Convention in March 1987.

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The Committee raised numerous concerns with Belarus, including its treatment of human rights defenders and lawyers. Specifically, in the List of Issues,[1] the committee asked Belarus to comment on allegations of widespread harassment of human rights defenders and journalists by law enforcement officials. The Committee referred to specific cases where human rights defenders and journalists had been allegedly arrested including the arrest and detention of the Chair of a human rights NGO, the Belarusian Helsinki Committee (BHC). In its written reply, Belarus did not address the allegations regarding the Chair of the BHC, however in relation to the allegations concerning the journalists, Belarus claimed that the journalists had been afforded due process.

During the examination, the Vice-Chairperson of the Committee and Rapporteur on Belarus, Ms Gaer, noted the absence of a full reply in relation to the above allegations and requested Belarus to comment. The second country Rapporteur, Ms Sveaass, stated that there was a general sentiment of danger associated with being a human rights defender in Belarus and noted examples of human rights defenders being detained in psychiatric hospitals and arrests of journalists to support her statement. In reply to Ms Gaer and Ms Sveaass, the Belarusian delegation stated that it did not agree in principle with the use of the phrase 'human rights defenders'. Ms Gaer took issue with this point and referred to the UN Declaration on Human Rights Defenders[2] to point out that everyone has the right to promote and protect human rights and that the definition of 'human rights defenders' is not a closed category of individuals. The delegation commented that for the purposes of justice, 'it doesn't matter who the State is dealing with when the law is being violated' and cautioned against the presumption that human rights defenders are always 'good guys', demonstrating a fairly limited understanding of the concept of human rights defenders.

The List of Issues on Belarus had also raised concerns relating to allegations of intimidation of the BHC by State officials including allegations that KGB officers had searched the BHC offices and that official warnings had been sent to BHC for spreading false information. During the examination, Belarus replied to these allegations and claimed that BHC itself had recognised its own wrongdoing in relation to the activities for which the warnings were issued - namely, use of official stamps for which it did not have permission.

The Committee also raised concerns regarding a number of lawyers who had been harassed, detained, and expelled from their bar associations. Some of the lawyers at the centre of the allegations had been representing high profile individuals, including presidential candidates and journalists, and others had been representing individuals who took part in protests in December 2010. Belarus addressed this concern during the examination and stated that the Ministry of Justice had carried out investigations of the Bar of Lawyers in December 2010 and had expelled 89 lawyers from the Bar Association for violations of the legislation relating to the legal profession. It stated further that only 5 of the 89 lawyers expelled had given assistance to individuals involved in the December protests. In relation to one of the specific cases raised by the Committee, the expulsion of Pavel Sapelka from the Minsk Bar Association, Belarus commented that the Ministry of Justice had terminated his license but his license had been rendered ineffective in any event as Sapelka had been expelled at the decision of the Minsk Bar Association itself. The Minsk Bar Association had expelled Mr

Sapelka due to his 'negative attitude' which Belarus stated had been determined following his departure from Belarus at a time when he was required to provide assistance to a client.

In the Committee's advanced unedited version of its concluding observations, the Committee notes that it remains 'deeply concerned about numerous and consistent allegations of serious acts of intimidation, reprisals and threats against human rights defenders and journalists, as well as the lack of information provided on any investigations into such allegations'.^[3]

[1] Committee Against Torture, *List of issues to be considered during the examination of the fourth periodic report of BELARUS*, UN Doc. CAT/C/BLR/Q/4.

[2] *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, UNGA Res 53/144, UN Doc A/RES/53/144, 8 March 1999.

[3] At para 25, document available at <http://www2.ohchr.org/english/bodies/cat/cats47.htm>