Krasovskaya vs. Belarus

Facts

The authors of the communication are Irina Krasovskaya and Valeriya Krasovskaya. They submit the communication on behalf of Anatoly Krasovsky, respectively their husband and father, as well as claiming that they are victims of violation of their rights. The alleged victim, Mr Krasovsky, provided financial and other support to political opposition during the 1990s whilst also being a friend. On 19 September 1999, Mr. Krasovsky’s friend, Mr. Gonchar, was planning to chair an extended session of Parliament to hear the findings of a Special Parliamentary Commission on grave crimes allegedly committed by President Lukashenko. Both were approached by unidentified individuals and forced into driving a car to unknown destination. The authors point to a clear political motive to this disappearance. On 20 September 1999 the Prosecutor’s Office launched a criminal investigation into the disappearance of Mr Krasovsky. On 20 January 2003 a prosecutor decided to close the case following a development in another case of investigation of abduction which indicated “clear efforts of collusion and cover-up during the investigation”. As the authors appealed against the closure of the case, the case was officially reopened, although no tangible results have been reached to date. The authors receive a letter every three months confirming that the investigation is still ongoing. There are indications that Belarusian officials are responsible for the enforced disappearance of Mr Krasovsky and Mr. Gonchar, however “the police was kept from disclosing or acting upon this information by high-ranking government officials”. The authors have submitted numerous complaints and all the domestic remedies have been exhausted and unreasonably prolonged.

The authors claim that the State party has violated Art. 6 of the Covenant in relation to Mr Krasovsky’s extrajudicial killing. They further invoke Art. 7, as an enforced disappearance constitutes cruel and degrading treatment of the victim and his direct relatives. They also claim that the State party has breached Art. 9 over arbitrary abduction and unlawful arrest of Mr Krasovsky, and Art. 10 as he was likely to be killed while in the hands of State officials.

The State party claims that the complaint is based on speculations about Mr Krasovsky’s disappearance. The Prosecutor’s Office had launched a criminal investigation. Despite the measures taken, the whereabouts of Mr Krasovsky remain unknown. The investigation is ongoing but the information remains confidential until it is completed. Therefore the State party claims that the alleged inaction and discontinuance of the investigation are groundless. And because the investigation is still ongoing, the authors have not exhausted all the domestic remedies.

The authors rebut to State party’s observations. They emphasise that the State party did not properly investigate Mr Krasovsky’s disappearance. Furthermore, the investigation did not yield any tangible results over ten years.

Consideration of admissibility

The Committee considers that the authors’ claims in the communication are sufficiently substantiated for the purposes of admissibility. The Committee further rejects the State party’s argument that the authors have not exhausted the domestic

Key words

- Right to life
- Torture and ill-treatment
- Arbitrary detention
- Conditions of detention
- Right to an effective remedy

Relevant Provisions

- Art.6
- Art.7
- Art.9
- Art. 10
- Art. 2 §3

Violated Provisions

- Art. 2 §3, in conjunction with Arts. 6 and 7
remedies, underlying “the lack of effectiveness of the investigation by the Prosecutor’s Office”, without any result since 1999. In that specific context, the Committee considers that domestic remedies have been unreasonably prolonged (see also Lalith Rajapakse v. Sri Lanka).

Consideration of merits

**Arts. 6, 7, 9, and 10:** The Committee notes that “the submissions before it do not contain sufficient information to clarify the cause of Mr Krasovsky’s disappearance or presumed death, or the identity of any person who may have been involved”. Therefore the Committee concludes that the allegations were not sufficient to establish a violation by the State party of Arts. 9 and 10 in relation to the disappearance of Mr Krasovsky.

**Art. 2.3 (in conjunction with art. 6 and 7):** The Committee recalls that the State party has an obligation of protection of individuals against violations of Covenant rights. Further, the Committee’s General Comment No 31 stipulates States “to establish appropriate judicial and administrative mechanisms for addressing claims of human rights violations” (paragraph 15). In that particular case, the State party has failed to conduct a proper investigation and to arrest or prosecute a perpetrator after numerous complaints filed by the authors. Furthermore, in the absence of an explanation as to the stage and progress of the investigation, the Committee concludes that the State party has violated its obligations under Art. 2 §3 in conjunction with Arts. 6 and 7 (see also Pestaño v. Philippines).

Conclusions

The Human Rights Committee is of the view that Belarus has violated Art. 2 §3, read in conjunction with Arts. 6 and 7 of the Covenant. In accordance, the State party is under an obligation to provide the author with an effective remedy, including “a thorough and diligent investigation of the facts, the prosecution and punishment of the perpetrators, adequate information about the results of its enquiries, and adequate compensation to the authors”. The State Party is requested to provide the Committee with information on the measures taken to implement the Committee’s Views within 180 days.

Dissent/Concurrence opinion

Mr Salvioli dissents from the Committee’s decision in this communication. He stresses his view that ‘the victims’ representatives cannot be placed under an obligation to present evidence that is impossible to obtain without due cooperation from the State’. In particular, the State’s own inaction led the Committee to have no means of finding the State directly responsible for the disappearance of Mr Krasovsky. The Committee needs to review and discuss the criteria for appraising evidence for determining the international responsibility of States.