

Minister of Justice
Republic of Belarus

Your Excellency,

**CONCERNS REGARDING THE REMOVAL OF LICENCE FROM SEVERAL BELARUSIAN
LAWYERS BY THE MINSK MUNICIPAL BAR ASSOCIATION AND ATTEMPTS AT
PREVENTING THEM FROM CARRYING OUT THEIR PROFESSIONAL DUTIES**

We, the undersigned Ministers of Justice of the United Kingdom, Bulgaria, the Czech Republic, Denmark, Finland, Hungary, The Netherlands, Poland, Romania, Slovakia and Sweden are writing to express our serious concern over the continuing instances of harassment and persecution of lawyers in Belarus. Of particular concern are the initiation and endorsement of disbarment proceedings against several lawyers by the Minsk Municipal Bar Association at the request of the Ministry of Justice or directly by the Ministry of Justice, and attempts at preventing them from carrying out their professional duties with respect to their clients. We are especially concerned that by disbarring the lawyers, the state is interfering in the detainee's right to legal access which is guaranteed under international human rights law, specifically Article 14 of the International Covenant for Civil and Political Rights (ICCPR) of which Belarus is a signatory. This Article states that "all persons shall be equal before the courts...[and] everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law".

We are aware that at least five lawyers – Pavel Sapelka, Vadzimer Toustsik, Tamara Harayeva, Tatsyana Aheyeva and Aleh Aheyev – have been disbarred. They have had their licences revoked in what we understand are deliberate attempts by the Government to hamper fair trials. Four of these lawyers were defending people charged in connection with protests on 19 December 2010 against the elections. Elections which were found by the OSCE, once more, to not conform with international standards.

We understand also that lawyers had their attempts to hold private meetings with their clients continually frustrated or refused, they failed to receive copies of essential procedural documentation regarding their clients' cases, and were not informed about their clients being moved from one detention facility to another.

We have further concerns over the introduction of extraordinary qualification exams this summer for already qualified lawyers of the Minsk City bar and regional bars. Such mechanisms may pose a serious threat for lawyers who risk losing their ability to perform their professional role for political reasons, despite possessing the necessary academic and professional qualifications. Such action will have an adverse impact on lawyers' sense of security and seriously affect their actions as defence counsellors.

The risk is increased as the examinations are assessed by commissions composed not only of members of the bar associations but also Justice Ministry representatives. We believe this raises serious concerns over the impartiality of the reviews and threatens to directly interfere with the conduct of independent lawyers. As such we believe the introductions of these reviews contravene Article 14 of the ICCPR as mentioned above.

Taking into account the recent actions carried out by the Minsk Bar Association and the Ministry of Justice, we, the undersigned European Ministers of Justice, respectfully urge you to reinstate the licences of Pavel Sapelka, Vadzimer Toustsik, Tamara Harayeva, Tatsyana Aheyeva and her son Aleh Aheyev and to ensure that lawyers in Belarus are able to perform their professional functions without fear of retaliation or any other negative consequences such as disciplinary sanctions. More broadly, we urge to ensure that all forms of pressure on lawyers seeking to carry out their duties is curtailed.

In this context, we wish to draw to your attention the United Nations Basic Principles on the Role of Lawyers (1990) which you will find enclosed.



Kenneth Clarke
Lord Chancellor and
Secretary of State for
Justice
UNITED KINGDOM

Margarita Popova
Minister for Justice

BULGARIA



Jiří Pospíšil
Minister of Justice
CZECH REPUBLIC



Lars Barfoed
Minister of Justice
DENMARK



Anna-Maja Henriksson
FINLAND



Tibor Navracsics
Deputy Prime Minister
Minister of Public
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HUNGARY

I.W. Opstelten
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KINGDOM OF THE
NETHERLANDS



Krzysztof Kwiatkowski
Minister for Justice
POLAND



Lucia Zitňanská
Minister of Justice
SLOVAKIA

Lidia BARAC
Secretary of State



Beatrice Ask
Minister for Justice
SWEDEN

United Nations Basic Principles on the Role of Lawyers (1990):

Article 16

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 21

It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.

Article 28

Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.