



The Law Society  
of England and Wales



**Submission to the United Nations Universal Periodic Review** of the Republic of Belarus

50<sup>th</sup> Session of the UPR Working Group

UN Human Rights Council

Submitted by Human Rights Center “Viasna”, the International Federation for Human Rights (FIDH),  
the Law Society of England and Wales, and the Paris Bar Association (Barreau de Paris)

7 April 2025

## **ORGANIZATIONS AUTHORIZING THE REPORT**

### **Human Rights Center “Viasna”**

Human Rights Center “Viasna” is a leading Belarusian human rights organization founded in 1996 by Nobel Peace Prize laureate Ales Bialiatski. Since 2020, Viasna has documented the severe human rights violations committed by the Belarusian authorities, including torture and ill-treatment, and provides legal and humanitarian assistance to victims of politically motivated persecution and their families. Viasna is a member organization of the International Federation for Human Rights (FIDH), and forms part of the International Accountability Platform for Belarus (IAPB).

### **International Federation of Human Rights (FIDH)**

The International Federation for Human Rights (FIDH) is an international human rights NGO that unites 188 member organizations from 116 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights.

### **Law Society of England and Wales**

The Law Society of England and Wales is the independent professional body representing approximately 200,000 lawyers in England and Wales. Established by Royal Charter in 1825, it has been run by and for its members for 200 years to promote the value of the profession, protect the justice system and support its members. As part of its international focus, the Law Society promotes the rule of law and access to justice globally through supporting lawyers who are hindered in carrying out their professional duties and face human rights violations as a result of their work.

### **Paris Bar Association (Barreau de Paris)**

The Paris Bar is the professional association of over 32,000 lawyers in Paris. Founded in 1340, it is one of the oldest bar associations in Europe. One of the main missions of the Paris Bar is to defend the interests of lawyers and promote the rule of law in France and worldwide. It also intervenes around the world whenever there is a need to support the independence of the judiciary and human rights.

# Introduction

## History of the last UPR sessions of Belarus

1. The last Universal Periodic Review (UPR) of Belarus took place in 2020, while the country was experiencing a massive crackdown on freedoms following the disputed Presidential election and the mass protests organized in reaction to said election. Since then, many international observers have denounced the widespread and systematic violations of international human rights law by the Belarusian government.
2. None of the recommendations supported by Belarus during the UPR sessions regarding the justice system have been implemented. In 2010, Belarus supported Brazil's recommendation to reinforce the independence of the judiciary. Five years later, the country supported recommendations to ensure that the judiciary is free from any interference from other branches of Government (Switzerland) and to continue promoting, by all appropriate means, the independence and impartiality of the judiciary (Senegal). In 2020, Belarus reiterated its commitment by supporting a recommendation to take measures to guarantee, both in law and in practice, the total independence of the judiciary (Albania). Belarus also expressed its commitment to continue efforts to ensure respect for the foundations of the country's political and legal system and preserve constitutional norms (Syria).<sup>1</sup>
3. This report focuses on the loss of independence of the Bar associations, the obstacles to the practice of law for the legal profession, the repression against lawyers, and the deterioration in citizen's access to justice.

## General context of repression in Belarus

4. Since 2020, the repression against lawyers, human rights defenders, journalists, and dissidents has been overwhelming, leading to thousands of arrests and inappropriate and abusive legal proceedings. Six lawyers are still detained in the country, all serving long-term prison sentences.
5. According to Amnesty International, more than 350,000 people have left Belarus since 2020<sup>2</sup>. However, evidence shows that Belarussian authorities have continued their repression of citizens outside of their own borders.
6. In its report "*Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath*" published in February 2023, the UN Human Rights Council pointed out that the rights to due process and a fair trial are systematically violated and that the judiciary in Belarus lacks independence.
7. This report aims to provide updated information and to urge members of the Human Rights Council to use their influence to address the critical situation for lawyers and the threats on the rule of law in Belarus. It builds on the findings of the report published in January 2025 by the Coalition for the International Day of the Endangered Lawyer that local lawyers face systematic harassment and

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<sup>1</sup> These recommendations and the response made by the State under review were found in the UPR Info Database, consulted on 2 April 2025: [https://upr-info-database.uwazi.io/fr/library/?q=\(types:!\(%275d8ce04361cde0408222e9a8%27\),limit:30,order:desc,sort:creationDate,types:!\(%275d8ce04361cde0408222e9a8%27\)\)](https://upr-info-database.uwazi.io/fr/library/?q=(types:!(%275d8ce04361cde0408222e9a8%27),limit:30,order:desc,sort:creationDate,types:!(%275d8ce04361cde0408222e9a8%27)))

<sup>2</sup> Belarus 2023, Amnesty International: <https://www.amnesty.org/en/location/europe-and-central-asia/eastern-europe-and-central-asia/belarus/report-belarus/>

interference with their professional activities. The report also gives recommendations, urging the Belarusian authorities to comply with international human rights law obligations and standards, such as those contained in the International Covenant on Civil and Political Rights (ICCPR), and the UN Basic Principles on the Role of Lawyers.

## I. Applicable legal framework

8. The Byelorussian Soviet Socialist Republic (former name of Belarus) was one of the 51 Founding Member States of the United Nations. The country signed and ratified the Charter of the United Nations and Statute of the International Court of Justice in 1945.
9. The United Nations Basic Principles on the Role of Lawyers were set in 1990 to assist UN Member States in their task of promoting and ensuring the proper role of lawyers. The preamble states that they “*should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general.*”
10. Since 1945, Belarus has signed and ratified 11 International Human Rights Treaties. With respect to the protection of lawyers, Belarus ratified the International Covenant on Civil and Political Rights and its protocol on 12 November 1973. On the same day, Belarus also ratified the International Covenant on Economic, Social and Cultural Rights. Finally, Belarus ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1985.

The present report outlines how Belarus breaches its obligations to protect the rights guaranteed in these conventions.

## II. Total loss of independence of the Belarus Bar Associations

11. According to the United Nations Basic Principles on the Role of Lawyers, “*Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.*”
12. Principle 26 of the above-mentioned principles states that “*Codes of professional conduct for lawyers shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognized international standards and norms*”.
13. Additionally, Article 22 of the International Covenant on Civil and Political Rights guarantees the right to freedom of association with others to everyone.

### 1. The growing powers of the Ministry of Justice

14. Already since the adoption of the Law of the Republic of Belarus “On the Bar and the Practice of Law in the Republic of Belarus” on December 30, 2011, further referred as “the Law on the Bar”, the Ministry of Justice has been gaining significant powers in relation to the local bar associations and the Belarusian Republican Bar Association (BRBA).
15. The amendments to the Law on the Bar of May 27, 2021, significantly expanded the Ministry of Justice's control over the legal profession. Among key changes is the power of the Ministry to establish the rules governing professional ethics for lawyers. Furthermore, officials from the Ministry of Justice now have the right to participate in bar association activities and request any documents from the bar or individual lawyers<sup>3</sup>.
16. As part of the government's broader effort to prevent independent lawyers from representing clients deemed undesirable by the authorities, lawyers have been prohibited to work independently or to establish law firms; instead, they are required to practice as part of so-called legal consultation offices overseen by regional bar associations.
17. These amendments also expanded the Ministry of Justice’s powers regarding the election and appointment of bar association leaders. The ministry has the final say in candidate approval, making the Council of the Bar Association entirely dependent on its decisions. As a result, the bar association can no longer protect lawyers' independence and it is instead used to discipline or exclude those who oppose the authorities.

## 2. Bars used as tools of repression

18. According to the Law on the bar, the requirements to the practice of law are the following:

- citizenship of the Republic of Belarus,
- higher legal education,
- preliminary training/internship,
- qualification exam passed,
- special permit (licence),
- membership in the territorial bar association.

19. Legal incapacity, limited legal capacity, and a record of intentional crimes disqualify a person from practicing as a lawyer. According to the Law About licensing adopted on October 14<sup>th</sup> 2022 in Belarus, individuals previously dismissed from the Bar or from other positions under discrediting circumstances may not be allowed to sit for the exam until at least three years have passed. Additionally, lawyers whose licence to practise law or provide legal services were revoked without their consent must wait at least one year before reapplying.

20. A jurist with a higher education who does not have the aforementioned restrictions must complete a mandatory internship with the Bar before sitting the exam. Following amendments to the Law on the Bar in 2021, candidates seeking to become trainee lawyers must now be approved by the Ministry of Justice. This approval process is entirely discretionary, as there are no clearly defined criteria for accepting or rejecting candidates. This leads to arbitrary refusals for internship placements. No later than six months after completing the internship, the intern's report, the supervisor's evaluation, and other documents verifying the formal requirements for becoming a lawyer must be submitted to the Qualification Commission. The Commission reviews these documents and is responsible for granting permission for the applicant to sit the exam.

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<sup>3</sup> Report of the Coalition for the International Day of the Endangered Lawyer, 24 January 2025: <https://www.nycbar.org/wp-content/uploads/2025/01/International-Day-of-the-Endangered-Lawyer-Belarus-Joint-Report-FINAL.pdf>

The Qualification Commission is established by and operates under the Ministry of Justice. Lawyers are underrepresented among the members of the Commission, in which representatives of different state bodies are a majority.

21. Since 1 March 2016, in accordance with Presidential Decree No. 475 of 26 November 2015, lawyers' licenses are granted indefinitely. However, lawyers must undergo an "ordinary qualification" procedure before a Qualification Commission of the Ministry of Justice every five years. They can also be subjected to an "exceptional qualification" to evaluate their professional competence if there is evidence of insufficient qualifications, which can result in the disbarment of the candidate.
22. This process includes a review of the lawyer's work and an oral interview, which can vary in complexity and duration.<sup>4</sup> For example, based on the results of the re-certification, the Qualification Commission of the Ministry of Justice decided on March 22, 2023, that lawyer Inesa Alenskaya cannot perform lawyer's duties "due to insufficient qualifications".<sup>5</sup> Alenskaya was renowned for defending political prisoners. Overall, more than 140 lawyers have been disbarred on politically motivated grounds since 2022.<sup>6</sup>
23. These disbarments contravene the Basic Principles on the Role of Lawyers which state that "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."
24. Additionally, the Ministry of Justice has gained significant influence over the bar associations' governing bodies and decisions. For instance, under Article 38 of the Belarusian Law on the Bar, the Ministry of Justice has the power to suspend any decision made by a bar association's general meeting, conference, or council if it deems the decision unlawful or procedurally improper. If the association does not voluntarily revoke the suspended decision, the Ministry can petition the court to annul it.
25. Furthermore, the Law on the Bar allows the Ministry of Justice to propose the early removal of a bar association's chairperson if it determines that the chairperson has violated legal requirements or the association's statutes. If the general meeting rejects this proposal, the Ministry can still unilaterally dismiss the chairperson, provided the Qualification Commission supports their decision.<sup>7</sup>

As a result, the bar associations have become a tool to repress and punish any dissent among lawyers.

### ***Recommendations***

- I. *Ensure that Belarus' legal framework complies with international standards protecting the independence of lawyers.*
- II. *Amend the Law on the Bar to guarantee the independence of the bar associations and cancel the control of the Ministry of Justice over the election and appointment of bar leaders.*

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<sup>4</sup> Report of the Coalition for the International Day of the Endangered Lawyer, *Ibid*

<sup>5</sup> Deterioration of legal profession in Belarus: facts, reasons, assessments, Viasna, 31 October 2024: <https://spring96.org/en/news/116599>

<sup>6</sup> Human Rights Center "Viasna", "Deterioration of legal profession in Belarus: facts, reasons, assessments", 31 October 2024, available at <https://spring96.org/en/news/116599>, accessed on 31 March 2025

<sup>7</sup> Report of the Coalition for the International Day of the Endangered Lawyer, *Ibid*

III. *Put an end to arbitrary disbarments and reinstate lawyers disbarred for political reasons.*

IV. *Permit a qualification or certification procedure relating to the professional skills of lawyers only. Ensure that sanctions are applied by professional bodies only, without interference from public authorities.*

### III. Obstacles to the practice of law

#### 1. No freedom to choose forms of legal practice

26. Being a State Party to the International Covenant on Economic, Social and Cultural Rights, Belarus should “*recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts*” (Article 6). However, these rights are not guaranteed for lawyers working in Belarus.

27. After the adoption of the Law on the Bar of December 30, 2011, many lawyers chose attorneys bureau and individual legal practice as forms of conducting their activities. At the beginning of 2021, these lawyers made up more than 30% of all lawyers in Belarus, demonstrating an upward trend. However, the amendments made to the Law on the Bar on May 27, 2021, stated that individually practicing lawyers and attorneys' bureaus were to cease operations and to transform to legal consultation offices controlled by the Ministry of Justice. Bar associations assigned lawyers from attorneys' bureaus to legal consultation offices at their own discretion, often without taking into account the desire of lawyers to work in one team or another.

28. The liquidation of attorneys' bureaus and individual legal practice had a number of negative effects on the activities of lawyers. A significant number of lawyers have been deprived of the opportunity to organize their work in accordance with their own ideas of efficiency and preferred practice area. As a result of the liquidation of attorneys bureaus, numerous teams of lawyers, business ties and networks of lawyers were destroyed<sup>8</sup>.

#### 2. Restricted access to clients

29. The 16<sup>th</sup> basic principle of the United Nations Basic Principles on the Role of Lawyers provides that “*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*”.

30. Since 2020, despite legal guarantees granted by the Procedural and Executive Code of the Republic of Belarus on Administrative Offenses, lawyers in administrative cases have been denied access to detained clients on trumped-up grounds, including under the pretext of COVID-19 restrictions. Usually, detainees remain in isolation centers and participate in court hearings remotely via

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<sup>8</sup> The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense, Center for Constitutionalism and Human Rights of the European Humanities University, Right to Defense project, Human Constanta, Helsinki Foundation for Human Rights, 8 March 2023: <https://drive.google.com/file/d/1cGbBv2r6bt5rCg7fOLAmGFoQLUBQQBvx/view>

videoconference, while their defendant is present in the courtroom,<sup>9</sup> which severely limits lawyer-client communication.

31. Furthermore, lawyers have also been arbitrarily denied access to their clients charged with criminal cases during both pre-trial detention and following the announcement of the verdict. In particular, contrary to Article 83-6 of the Penal Code, which foresees that meetings with a lawyer shall be granted “at the request of the convicted person”, penal administrations routinely argue that a written request is needed.<sup>10</sup> Additionally, many political prisoners, including lawyers, have been or are being held *incommunicado* and thus without access to their lawyers,<sup>11</sup> preventing them from filing complaints about potential ill-treatment in detention.

### 3. Restrictions on the confidentiality of lawyer-client exchange

32. The Law on the Bar guarantees the principle of confidentiality of the lawyer-client relationship. However, in practice, correspondence and exchanges between lawyers and clients are monitored and, in some cases, even recorded<sup>12</sup> by prison authorities, violating professional secrecy. Searches of lawyers and the confiscation of confidential documents are commonplace.
33. In addition, when receiving legal assistance from lawyers who were forced to move to legal consultation offices under the management of a head approved by the Ministry of Justice, clients are deprived of the opportunity to have the degree of confidentiality that attorneys’ bureau where the managing partner was elected without outside interference allowed to provide<sup>13</sup>.

### 4. Restrictions on freedom of expression

34. Basic Principle 23 of the United Nations Basic Principles on the Role of Lawyers provides that *“lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.”*
35. However, the new Rules of Professional Ethics for Attorneys adopted in 2021 considerably curtail the freedom of expression of lawyers. Lawyers can no longer comment publicly on the cases they defend, nor criticize current legislation, with many lawyers being asked to sign non-disclosure agreements prohibiting any outside communication on the case. Any expression of opinion can be qualified as “extremism”, exposing lawyers to criminal sanctions.
36. For example, in October 2020, lawyer Aliaksandr Pylchanka was informed of the revocation of his license after an interview he gave to a local media outlet. In the interview, Mr Pylchanka commented

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<sup>9</sup> HRW, “‘I Swear to Fulfill the Duties of Defense Lawyer Honestly and Faithfully’. Politically Motivated Crackdown on Human Rights Lawyers in Belarus”, 27 May 2024, available at <https://www.hrw.org/report/2024/05/27/i-swear-fulfill-duties-defense-lawyer-honestly-and-faithfully/politically>.

<sup>10</sup> American Bar Association, “Belarus: The Crisis of the Legal Profession Continued Repressions 2022 – 2023”, January 2024, available at [https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf), p. 6.

<sup>11</sup> Human rights situation in Belarus. February 2025, Viasna, 5 March 2025: <https://spring96.org/en/news/117568>

<sup>12</sup> HRW, “‘I Swear to Fulfill the Duties of Defense Lawyer Honestly and Faithfully’. Politically Motivated Crackdown on Human Rights Lawyers in Belarus”, *Ibid*.

<sup>13</sup> The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense, *Ibid*

on which actions should be taken by law enforcement officials and the judicial system in Belarus following the use of violence against civilians by these agencies<sup>14</sup>.

### **Recommendations**

- V. *Grant lawyers unhindered access to their clients.*
- VI. *Guarantee the confidentiality of lawyer-client exchanges and put an end to surveillance of lawyers.*
- VII. *Ensure that lawyers are not prosecuted for statements made in good faith while representing their clients.*
- VIII. *Ensure that lawyers can participate freely in public debates and join or create national and international organizations without fear of reprisal.*

## **III. Examples of persecution of lawyers**

37. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that “*Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.*” (Article 11). It later provides that the State Parties should prevent in any territory under their jurisdiction other acts of cruel, inhuman or degrading treatment or punishment, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (Article 16).

When it comes to the arrest and detention of lawyers, Belarus has reportedly not been complying with the commitments made under the above-mentioned Convention.

38. As noted by Human Rights Center “Viasna”, mass prosecution of lawyers in administrative and criminal cases began in the second half of 2022. Criminal cases were initiated against lawyers for "leaking the data of security forces" under Article 130 of the Criminal Code (inciting other social hatred), for participating in protest marches under Article 342 of the Criminal Code (active participation in actions grossly violating public order), for "calls for sanctions" under Article 361 of the Criminal Code, for "facilitating extremist activities" under to Articles 361-4 of the Criminal Code, and for "disclosure of data" under Article 407 of the Criminal Code<sup>15</sup>.

Since the end of 2020, 23 lawyers have been arrested, 11 were prosecuted, and six remain imprisoned, namely:

### **39. Maksim Znak**

Maksim Znak, lawyer and member of Viktor Babaryka’s election team, was arrested in September 2020 and charged with multiple offenses, including "calls to actions aiming to harm national security" and

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<sup>14</sup> Joint letter Revocation of licenses to practice law of Aliaksandr Pylchanka and Yulia Levanchuk, Law Society of England and Wales and Lawyers for Lawyers, 3 November 2020:

<sup>15</sup> Deterioration of legal profession in Belarus: facts, reasons, assessments, Viasna, 31 October 2024: <https://spring96.org/en/news/116599>

"conspiracy to seize power by unconstitutional means." He was sentenced in September 2021 to 10 years in a penal colony. His sentence was upheld by the Supreme Court in December 2021, and he was later transferred to a penal colony near Viciebsk. In 2022, the UN Working Group on Arbitrary Detention deemed his imprisonment unlawful<sup>16</sup>, yet Belarusian authorities escalated his punishment, adding him to a terrorist list and repeatedly placing him in a punishment cell. The experts of the UN Working Group stressed that "Prolonged incommunicado detention, in addition to creating a heightened risk of ill-treatment, can itself constitute torture". By early 2023, he had spent most of his time in solitary confinement under harsh conditions.

#### **40. Aljaksei Barodka**

Aljaksei Barodka was arrested in late January 2023. He was initially arrested for 15 days under an administrative report, and then he was re-arrested as a criminal case defendant. After the arrest, the lawyer's profile was removed from the website of the Belarusian Republican Bar Association. Later it became known that on April 21, 2023, his license was revoked. His trial began on May 15, 2023. Judge Tatsiana Falkouskaya was to hear the case in the Minsk City Court. Aliaksei Barodka was accused of 'inciting other social hatred' under Article 130 of the Belarusian Criminal Code. In June 2023, it became known that Aliaksei Barodka was sentenced to six years of imprisonment in a medium-security penal colony.

#### **41. Aliaksandr Danilevich**

Aliaksandr Danilevich was arrested on May 20, 2022. Shortly before his detention, he signed the anti-war appeal of Belarusian lawyers concerning the war in Ukraine, which led to disciplinary proceedings against him. In early January 2023, the case file was handed over to the prosecutor for referral to court. According to the investigation, Danilevich called for sanctions against Belarusian sports and engaged in "discrediting domestic enterprises in the eyes of foreign partners." He was charged with "supporting extremist activities". Sentenced to 10 years imprisonment in a medium-security penal colony first, his sentence was later reduced to six years by the court of appeals.

#### **42. Vital Brahinets**

Vital Brahinets was placed under prolonged administrative arrest on May 20, 2022, shortly before the beginning of the trial against his client, human rights lawyer Andrei Machalou. Subsequently, criminal charges were brought against Vital Brahinets. In January 2023, his trial began, and by February, he was sentenced to eight years in a medium-security penal colony. His appeal was considered behind closed doors in April but was unsuccessful. By June 2023, he was sent to serve his sentence in penal colony Nr. 17 in Škloŭ, Mahilioŭ region. Additionally, in August 2022, Vital Brahinets was disbarred by the Qualification Commission.

#### **43. Anastasiya Lazarenka**

Anastasiya Lazarenka was detained in early June 2022 for allegedly leaking personal data of police officers to a Telegram channel. Initially charged with 'incitement of hatred' under Article 130 of the Criminal Code, she was later also indicted under Article 203-1 ("illegal actions regarding privacy information") and part 1 of Article 342 ("organization and preparation of actions grossly disrupting public order") for providing legal advice pro bono to the relatives of the detainees near the notorious Akrestina detention center. On May 11, 2023, Anastasiya Lazarenka was sentenced to six years of imprisonment in a general-security penal colony.

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<sup>16</sup> Opinion No. 24/2022 concerning Maksim Znak (Belarus)

#### 44. Yuliya Yurhilevich

Yuliya Yurhilevich is a well-known lawyer who had defended several political prisoners, and was disbarred in February 2022, after which she left the country. Yurhilevich was arrested in late August 2022 upon her return to Belarus from Poland. In July 2023, she was accused under part 2 of Article 361-4 of the Criminal Code (“facilitation of extremist activities, committed repeatedly by a group of persons based on a previous conspiracy”). She was sentenced to six years of imprisonment in a general-security penal colony. Yuliya Yurhilevich stated that she was kept in inhuman conditions and was not allowed to read her case file.

#### ***Recommendations***

- IX. Immediately release all imprisoned lawyers and guarantee the safety of lawyers who are threatened for carrying out their professional duties.*

## IV. Deteriorated access to justice and impact on litigants

### 1. Restrictions on choice of lawyer

45. According to the data from ‘Right to Defence’ project, the number of lawyers in Belarus has fallen from 2,200 in 2020 to 1,603 attorneys in 2024<sup>17</sup>, leaving roughly 1 lawyer per 5,700 inhabitants<sup>18</sup>. As a result of the amendments to the Law on the Bar adopted in 2021, a quarter of the lawyers who practiced in attorneys’ bureaus (90 lawyers) and 13% of the number of individual practicing lawyers (36 lawyers) left the bar<sup>19</sup>.

### 2. Lack of effective legal aid

46. Lawyers in Belarus are prevented from offering free services or waiving fees for clients as the Law on the Bar states that legal assistance must be provided on a reimbursable basis and under a formal agreement. Key elements of this agreement include the types of legal services offered, as well as the payment procedure and amount. This provision effectively prevents lawyers from offering free legal services or waiving fees for clients. However, there are exceptions to this general rule. In certain situations where no formal agreement is made, the payment for legal services may be covered by the budget (either local or national) or the territorial bar association.
47. There is essentially no state-funded system for free legal assistance. While legal aid in some criminal cases may be funded by the budget, these expenses are later recovered from the convicted individuals. In other cases, as defined by law, free legal assistance is funded by the bar associations, meaning the lawyers themselves bear the cost.
48. Therefore, many individuals, particularly those involved in politically sensitive cases, are left without adequate legal representation. This lack of defense not only undermines the fairness of judicial proceedings but also raises serious concerns about access to justice and human rights. Without proper legal support, individuals facing charges may be more vulnerable to unfair trials,

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<sup>17</sup> For the first time since 2020, the number of attorneys in Belarus has increased, Right to Defence, 28 August 2024: <https://www.defendersbelarus.org/for-the-first-time-since-2020-the-number-of-attorney-increased>

<sup>18</sup> <https://www.hrw.org/report/2024/05/27/i-swear-fulfill-duties-defense-lawyer-honestly-and-faithfully/politically>

<sup>19</sup> The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense, *Ibid*

wrongful convictions, and political persecution, highlighting the urgent need for reform in legal aid policies.

### **3. Systematic denial of legal defense as a tool to persecute Belarusians, including Belarusian lawyers, abroad**

49. On July 20, 2022 the Criminal Procedure Code of the Republic of Belarus introduced a mechanism allowing to conduct *in absentia* prosecution and trials against Belarusians abroad (“special proceedings”). In practice, these provisions are applied to persecute those opposing or perceived as opposing the Belarusian authorities, with hundreds of criminal cases opened, and over 110 persons convicted *in absentia* as of November 2024,<sup>20</sup> including exiled Belarusian lawyers.
50. Although Belarusian law does not prescribe that a public defender must be appointed in proceedings conducted *in absentia*, in practice, the possibility to choose a defense lawyer is significantly limited by various circumstances. First, since those persecuted *in absentia* are not notified about the proceedings against them, they are precluded from contacting a lawyer of their choosing. Additionally, as described above, not many lawyers ready to defend a person accused on political grounds are left in Belarus, with many disbarred or forced into exile. Finally, due to economic sanctions or the inclusion of the accused in the list of persons involved in terrorist activities, it is impossible for Belarusians abroad to make bank transfers to the account of the bar association in favor of a lawyer.
51. As a result, in the absence of the accused, a defense lawyer is appointed by the relevant bar association, however, the name of the defense lawyer is routinely not disclosed to the accused. Moreover, appointed defense lawyers and their clients are deprived of the opportunity to coordinate positions on the case. Even if clients actively seek to establish communication with their counsel, lawyers systematically refuse to communicate with their clients and to take into consideration the opinion of the accused on the charges, fearing reprisals. Furthermore, appointed defense lawyers routinely do not hand over procedural documents, including the verdict, and do not discuss their contents with their clients. As a result, the decision to appeal the verdict is left to the discretion of the defense counsel.

### ***Recommendations***

- X. Guarantee free choice of lawyer, including in criminal and political cases.*
- XI. Establish accessible and independent legal aid.*
- XII. Guarantee lawyers unrestricted access to all information and documents relevant to effective legal representation before all courts and for all offences.*
- XIII. Immediately end the intimidation, harassment, and persecution of lawyers both in Belarus and abroad, quash the unjust verdicts against them, and provide effective remedies for victims of human rights violations.*

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<sup>20</sup> Human Rights Center “Viasna”, 112 people convicted in absentia in Belarus, three of them twice, 22 November 2024, available at <https://spring96.org/en/news/116750>, accessed on 27 March 2025.