



# **Report of the Coalition for the International Day of the Endangered Lawyer**

**24th January 2025**

**15th Edition – BELARUS**

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# 1. Introduction

Since 2010, the International Day of the Endangered Lawyer has been observed on 24 January around the world. This date was chosen because, on 24 January 1977, four lawyers and one of their co-workers were murdered at their address at Calle Atocha 55 in Madrid, an event that came to be known as the Massacre of Atocha. Each year, this day is organised by the Coalition for the International Day of the Endangered Lawyer, a network of national and international legal organisations and bar associations. The purpose of this International Day is to draw the attention of government officials, international institutions, civil society, the media, and the general public to the plight faced by lawyers as a result of their work in a particular focus country. In 2025, the International Day of the Endangered Lawyer focusses on Belarus. Belarus was chosen as the focus country as the situation confronting lawyers in the country is extremely dire.

Following the 2020 Presidential election and mass protests, a crackdown by the government has resulted in the targeting of lawyers, journalists, human rights defenders, and dissidents. Vague and overbroad national security laws have been applied to silence critics of the government and those upholding the rule of law. Thousands of people have been subjected to arbitrary arrest, detention, and prosecution, and have been sentenced following unfair trials. Our organisations are also gravely concerned about reports of widespread torture and other ill-treatment, as well as incidents of enforced disappearance. Constitutional and legislative changes have further eroded the independence of the judiciary and legal professional bodies, tightening the executive branch's control of these bodies. The Belarus Republican Bar Association and territorial bar associations lack independence and rather than protecting and supporting their members, these associations are being used by the Ministry of Justice to crack down on lawyers who take on human rights and politically sensitive cases.

Belarus also has a poor record of engagement with the international and regional human rights mechanisms. It has consistently refused to accept and implement recommendations aimed at addressing the lack of independence of the judiciary and legal profession and to take action to ensure access to justice.

This report will:

1. Outline the applicable legal framework, highlighting the United Nations Basic Principles on the Role of Lawyers and human rights conventions to which Belarus is a signatory.
2. Provide an overview of the legal landscape in Belarus, including governing legislation, requirements to practise, disciplinary procedures, and the functioning of bar associations.
3. Provide information about individual cases of lawyers at risk, and the specific ways in which they have been targeted.



4. Make demands and recommendations to improve the situations of lawyers in Belarus and around the world.

## 2. Applicable legal framework

International law expressly recognizes the unique role that lawyers play in any society. Given that lawyers serve as the guardians of justice for all, international law accords lawyers special protections.<sup>1</sup> For example, the United Nations Basic Principles on the Role of Lawyers (hereafter, U.N. Basic Principles) provide that “[l]awyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.”<sup>2</sup> In other words, clients’ positions and causes are not to be attributed to their counsel. The U.N. Basic Principles also provide that governments are to “ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.”<sup>3</sup> In addition, “[w]here the security of lawyers is threatened as a result of discharging their functions,” lawyers “shall be adequately safeguarded by the authorities.”<sup>4</sup> Further, the U.N. Basic Principles prohibit discrimination in lawyer licensing based on criteria such as sex, ethnic origin, religion and “political or other opinion.”<sup>5</sup> The U.N. Basic Principles provide that governments are to ensure that “access to lawyers [is] provided for all persons within their territory.”<sup>6</sup>

The U.N. Basic Principles explicitly recognize the “vital role” that legal professional associations play, “protecting [their] members from persecution and improper restrictions and infringements.”<sup>7</sup> The U.N. Basic Principles also underscore lawyers’ rights of “freedom of expression, belief, association and assembly,”<sup>8</sup> and specifically state that bar associations must be permitted to “exercise [their] functions without external interference.”<sup>9</sup>

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<sup>1</sup> See generally United Nations Basic Principles on the Role of Lawyers (7 Sept. 1990), <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>; cf. United Nations Basic Principles on the Independence of the Judiciary (6 Sept. 1985), <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary>; United Nations Guidelines on the Role of Prosecutors (7 Sept. 1990), <https://www.ohchr.org/en/instruments-mechanisms/instruments/guidelines-role-prosecutors>; United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (9 Dec. 1998) (“U.N. Declaration on Human Rights Defenders”), <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-and-responsibility-individuals-groups-and>.

In addition to the special rights and protections to which they are entitled, lawyers – like all people – are endowed with the rights set forth in the Universal Declaration of Human Rights, as well as the International Covenant on Civil and Political rights and other treaties to which Belarus is a party.

<sup>2</sup> See U.N. Basic Principles on the Role of Lawyers, Principle 18.

<sup>3</sup> See U.N. Basic Principles on the Role of Lawyers, Principle 16.

<sup>4</sup> See U.N. Basic Principles on the Role of Lawyers, Principle 17.

<sup>5</sup> See U.N. Basic Principles on the Role of Lawyers, Principle 10.

<sup>6</sup> See U.N. Basic Principles on the Role of Lawyers, Principle 2.

<sup>7</sup> See U.N. Basic Principles on the Role of Lawyers, Preamble.

<sup>8</sup> See U.N. Basic Principles on the Role of Lawyers, Principle 23.

<sup>9</sup> See U.N. Basic Principles on the Role of Lawyers, Principle 24(1).



Like all lawyers everywhere, the lawyers of Belarus are entitled to these rights and protections.  
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Furthermore, Belarus has signed and ratified human rights treaties that protect all individuals, including lawyers, from human rights abuses. On 12 November 1973, Belarus ratified the International Covenant on Civil and Political Rights<sup>10</sup> which provides for protection against arbitrary arrest or detention (Article 9) and the protection of freedom of expression and assembly (Article 19 and 21).<sup>11</sup> On 12 November 1973, Belarus ratified also the International Covenant on Economic, Social and Cultural Rights. Article 6 of this covenant protects an individuals' right to work, including the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and has undertaken appropriate steps to safeguard this right.<sup>12</sup>

The violations of lawyer's rights outlined below breach Belarus' obligation to protect the rights protected in these conventions.

### 3. An overview of the legal profession in Belarus

#### A. Governing legislation

From 1923 until the end of 1991, the Republic of Belarus was part of the Union of Soviet Socialist Republics (USSR).<sup>13</sup> On 25 August 1991, Belarus declared full independence from the USSR by granting the Declaration of State Sovereignty the status of constitutional law.<sup>14</sup> The dissolution of the Soviet Union and the formation of the Commonwealth of Independent States was formally declared on 8 December 1991.

This led to the reform of the judicial and legal system. On 23 April 1992, the Parliament endorsed the Concept of the Judiciary and Legal Reform<sup>15</sup> outlining a step-by-step program of reforms to the legal system of Belarus. These reforms included establishing an independent judiciary as the principal guarantor of rights and freedoms of individuals and the effectiveness

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<sup>10</sup> On 8 November 2022, the UN Secretary General registered Belarus's notice of withdrawal from the Optional Protocol to the International Covenant on Civil and Political Rights, making 8 February 2023 the final day Belarusians could submit complaints to the Human Rights Committee: Right to Defense: <https://www.defendersbelarus.org/tpost/lfr88ut381-february-8-marks-the-anniversary-of-bela> accessed 17 January 2025

<sup>11</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR): [International Covenant on Civil and Political Rights | OHCHR](#) accessed 16 January 2025.

<sup>12</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR): [International Covenant on Economic, Social and Cultural Rights | OHCHR](#) accessed 16 January 2025.

<sup>13</sup> Alexander Vashkevich, 'Judicial "Independence" in Belarus: Theory and Practice' (Gdańskie Studia Prawnicze: Rok XXIV. nr 4 (48)/2020), p. 43.

<sup>14</sup> Tom Balmforth, 'Belarus and the Independence Day That Wasn't' (*Radio Free Europe, Radio Liberty* 25 August 2011): [Belarus And The Independence Day That Wasn't](#) accessed 16 January 2025.

<sup>15</sup> The Concept of Judicial and Legal Reform (adopted by the Decree of the Supreme Council of the Republic of Belarus 23 April 1992, No. 1611-XII, "On the Concept of judicial and legal reform", section I, part 4.



of laws.<sup>16</sup> A special section of the Concept (prepared with the involvement of the bar representatives) was devoted to the bar,<sup>17</sup> stressing the importance of the independence of lawyers in the process of justice.<sup>18</sup>

The Law on the Bar<sup>19</sup>, adopted in 1993, received positive evaluations from the Council of Europe due to its alignment with both domestic and international legal standards. It incorporated principles that ensured the protection of lawyers from undue interference and guaranteed their independence. Key provisions included a prohibition against interference in a lawyer's professional activities, safeguards for attorney-client privilege, and provisions granting lawyers the right to defend clients before all courts and mechanisms. The law also provided civil immunity for lawyers in their professional conduct, ensured their right to access clients, and allowed them to request necessary information in order to prepare an effective defence for their clients. Additionally, it mandated the state's duty to protect the independence of the legal profession and prevent persecution or harassment of lawyers for their professional activities. The bar association was given legislative initiative rights, and access to the profession was based on general legal qualifications without additional restrictions. Disciplinary proceedings against lawyers were to be carried out by a body created by the lawyers themselves as the professional associations were to ensure that professional ethics was observed. The law allowed lawyers to work in organisational forms other than legal advice offices, subject to approval by the relevant bar association.<sup>20</sup>

A new Constitution of the Republic of Belarus was enacted in March 1994. It confirmed the principle of the separation of powers, incorporated the notion of the judicial branch of government and recognized its independence (art. 6 of the Constitution).<sup>21</sup>

Four months after the Constitution was adopted, on 10 July 1994 Alexander Grigoryevich Lukashenko won the presidential election. In 1995, 1996 and 2004, Lukashenko organised and won three referendums that proposed changes to the Constitution. The binding force of the 1996 referendum was pronounced unconstitutional in a Conclusion of the Constitutional Court, but Lukashenko ignored it. The referendums were also condemned by international organisations including the Parliamentary Assembly of the Council of Europe,<sup>22</sup> the OSCE

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<sup>16</sup> Official Journal of the Supreme Council of the Republic of Belarus 1992, No. 16, art. 270

<sup>17</sup> The Concept of Judicial and Legal Reform (adopted by the Decree of the Supreme Council of the Republic of Belarus 23 April 1992, No. 1611-XII, "On the Concept of judicial and legal reform section VI, part 1.

<sup>18</sup> Center for Constitutionalism and Human Rights of the European Humanities University, Right to Defense project, Human Constanta, The Polish Helsinki Foundation for Human Rights, *'The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense'* (8 March 2023): [English Translation of the Report "The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense" Is Published](#) accessed 16 January 2025.

<sup>19</sup> Law of the Republic of Belarus, June 15, 1993, No. 2406-XII "On the Bar".

<sup>20</sup> On the basis of the provisions of this law, the Minsk City Bar Association introduced the "Regulations on Other Organisational Forms of Legal Practice" on August 17, 2010, and registered attorneys' bureaus. This action was met with extreme hostility from the Ministry of Justice, which demanded that the Bar Association revoke its decisions.

<sup>21</sup> Alexander Vashkevich, 'Judicial "Independence" in Belarus: Theory and Practice' (Gdańskie Studia Prawnicze: Rok XXIV. nr 4 (48)/2020), p. 44

<sup>22</sup> Recommendation 1441 (2000) of the OSCE Parliamentary Assembly of 26 January 2000 and report of the Political Affairs Committee (doc. 8606): [PACE website](#) accessed 16 January 2025.



Parliamentary Assembly<sup>23</sup> and the European Commission for Democracy Through Law (Venice Commission)<sup>24</sup> since they fell far short of democratic standards. These referendums have undermined and eroded the rule of law and threaten the separation of powers in Belarus.<sup>25</sup>

In May 1997, following the adoption of the Presidential Decree "On Certain Measures to Improve Legal and Notarial Activities in the Republic of Belarus"<sup>26</sup>, many provisions of the Law on the Bar were repealed, and the Bar once again fell under state control. Shortly thereafter, the Minister of Justice was granted authority to directly interfere in the activities of bar associations<sup>27</sup>, including powers over licensing, admission to the profession, and the revocation of the right to practise law.<sup>28</sup>

A new law, "On the Bar and Practice of Law in the Republic of Belarus" was adopted on 30 December 2011.<sup>29</sup> This law was introduced against a landscape of repressions against lawyers who defended the political opponents of the government elected in 2010, and in response to the city bar association's defence of these lawyers.<sup>30</sup> The main objective of the state was to unite all lawyers in the Belarusian Republican Bar Association (BRBA) in order to make state control more effective. The new law introduced new forms of legal practice, namely, attorneys' bureaus and individual practice. 'Individual legal practice' referred to situations in which a lawyer personally provided legal assistance to clients independently.<sup>31</sup> An attorneys' bureau is a non-profit organisation with the status of a legal entity, established by partner lawyers.<sup>32</sup> After

<sup>23</sup> OSCE Parliamentary Assembly, 'Report on Parliamentary Elections in Belarus of 14 and 28 May 1995': <https://www.oscepa.org/en/documents/election-observation/election-observation-statements/belarus/statements-4/2009-1995-parliamentary-first-a-second-round/file> accessed 16 January 2025; OSCE, 'OSCE Troika Ministers issue statement on Belarus' (16 November 1996): [OSCE Troika Ministers issue statement on Belarus | OSCE](https://www.osce.org/files/f/documents/a/1/38401.pdf) accessed 16 January 2025; OSCE Parliamentary Assembly, 'International Election Observation Mission Republic of Belarus Parliamentary Elections' (17 October 2004): <https://www.osce.org/files/f/documents/a/1/38401.pdf> accessed 16 January 2025.

<sup>24</sup> Council of Europe, Opinion on the Referendum of 17 October 2004 in Belarus, Opinion no. 314/2004 (8 October 2004), CDL-AD(2004)029: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2004\)029-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2004)029-e) accessed 16 January 2025; Council of Europe, Opinion on the amendments and addenda to the Constitution of the Republic of Belarus (18 November 1996), CDL-INF(96)8: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF\(1996\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF(1996)008-e) accessed 16 January 2025.

<sup>25</sup> Alexander Vashkevich, 'Judicial "Independence" in Belarus: Theory and Practice' (Gdańskie Studia Prawnicze: Rok XXIV. nr 4 (48)/2020), p. 45

<sup>26</sup> Decree of the President of the Republic of Belarus (3 May 1997) No. 12 "On some measures to improve the lawyer and notarial activities in the Republic of Belarus"

<sup>27</sup> Regulation on the Qualification Commission on Advocacy in the Republic of Belarus (approved by the Minister of Justice of the Republic of Belarus on 4 June 1997)

<sup>28</sup> United Nations Human Rights Committee's View on Communication No. 1316/2004 CCPR/C/103/D/1316/2004: <https://digitallibrary.un.org/record/719693?ln=en&v=pdf> accessed 16 January 2025; Mieczysław Hryb v. Belarus CCPR/C/103/D/1316/2004: <https://juris.ohchr.org/casedetails/1225/en-US> accessed 16 January 2025.

<sup>29</sup> Law of the Republic of Belarus "On the Bar and the Practice of Law in the Republic of Belarus" dated December 30, 2011, No. 334-3

<sup>30</sup> In 2011 the Presidium of the Minsk City Bar Association refused to initiate disciplinary proceedings on the demand of the Ministry of Justice against lawyers Tamara Sidorenko, Pavel Sapelka, Marianna Semeshko and Vladimir Tolstik. After the licences of lawyers Oleg Ageev, Tatyana Ageeva, Vladimir Tolstik and Tamara Goraeva were revoked in February 2011, the chairman of the Minsk City Bar Association, Aliaksandr Pylchanka, on behalf of the Presidium of the Bar, publicly addressed the threat to the independence of lawyers and the legal profession posed by the Ministry of Justice.

<sup>31</sup> 'Individual legal practice' refers to a lawyer acting independently without the right to hire other lawyers but with the possibility of hiring assistants and technical staff, independently managed their funds and opened their own bank accounts.

<sup>32</sup> An attorneys' bureau had a right to accept other lawyers as partners, hire lawyers based on an employment contract, as well as assistants and employees. The contract for legal assistance was concluded between the client and attorneys' bureau which determined any number of lawyers to provide legal assistance and organized their activities. The Attorney's bureau



the adoption of the Law of 2011 many lawyers chose attorney bureau and individual legal practice as forms of their professional activities. At the beginning of 2021, the number of such lawyers was more than 30% of all lawyers in Belarus, and there was an upward trend.<sup>33</sup>

On 27 May 2021 amendments to the Law on the Bar were introduced.<sup>34</sup> These amendments dramatically increased the executive branch's control over the work of lawyers and made it impossible for many lawyers to represent clients in human rights and political dissidence cases. In line with the government's systematic efforts to prevent independent lawyers from representing clients who are disapproved of by the authorities, the amendments explicitly barred lawyers working independently or within law firms from handling cases related to criminal or administrative offences. Representation in such cases is now restricted to "consultations" managed by regional bar associations.<sup>35</sup>

The new amendments significantly expanded the Ministry of Justice's control over the legal profession in Belarus. Key changes include:

- each candidate for the bar now requires approval from the Ministry of Justice, including candidates for the bar association chair.
- the Ministry is empowered to establish the rules governing professional ethics for lawyers.
- the Ministry gained the authority to monitor lawyers, law firms, and bar associations for compliance with these ethical standards and to initiate disciplinary proceedings in cases of perceived violations.
- candidates for the position of bar association chair must be approved by the Ministry of Justice.
- the Ministry also has the power to remove bar association chairs if the Qualification Commission, which is under the Ministry's control, determines that they have violated professional ethics.
- 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.

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was managed by a managing partner, who was elected by the partners without any outside interference. The Attorney's bureau independently managed its funds and had its own bank accounts.

<sup>33</sup> Center for Constitutionalism and Human Rights of the European Humanities University, Right to Defense project, Human Constanta, The Polish Helsinki Foundation for Human Rights, *The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense* (8 March 2023), p. 91: [English Translation of the Report "The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense" Is Published](#) accessed 16 January 2025

<sup>34</sup> Law of the Republic of Belarus of May 27, 2021, No. 113-Z (National Legal Internet Portal of the Republic of Belarus, 05/29/2021, 2/2833)

<sup>35</sup> Law on Amendments to the Law on the Bar, Law of the Republic of Belarus No. 113-3 (27 May 2021)



The new law abolished the attorneys' bureaus and the individual legal practice, allowing lawyers to practise in legal advice offices only. The legal advice office is created as a separate subdivision of a territorial bar association without the status of a legal entity. By decision of the bar, lawyers are assigned to a particular legal advice office. Contracts for legal assistance are signed between a lawyer and a client. The legal advice office does not have current bank accounts and does not manage funds received for legal assistance – this is conducted by the accounting department of the bar association. The management of the legal advice office is carried out by the head, appointed with the consent of the Ministry of Justice, who has broad control and administrative powers in relation to the lawyers of the relevant advice office.

A five-month period (until 29 October 2021) was given, in which individually practising lawyers and attorneys' bureaus were to cease their activities and move to legal advice offices. More than 100 attorney bureaus were forced to cease operations by November 2021.<sup>36</sup> After attorneys' bureaus were banned, some lawyers were permitted to establish legal advice offices that had related limited companies that employed lawyers (who were not members of the bar) to provide a significant amount of legal assistance but were not allowed to represent clients in court. The creation of new legal advice offices and the selection of their members were coordinated by the Ministry of Justice. This was done at the Ministry of Justice's discretion, often disregarding the lawyers' preferences to work with specific teams.<sup>37</sup>

As a result of the changes to the Law on the Bar, a quarter of the lawyers practising in attorneys' bureaus (90 lawyers) and 13% of individual practitioners (36 lawyers) left the bar. According to a targeted survey of these lawyers, the primary reason for their departure was their refusal to transition to legal advice offices. They also cited several other concerns including: the inability to maintain their previous level of activity and confidential client communication; the lack of response from state bodies to clear violations of citizens' rights; the revocation of licences for colleagues who spoke out against violence or defended political prisoners; the threat of sanctions against them<sup>38</sup>; and the additional oversight of a head of said legal advice offices appointed by the Ministry of Justice.<sup>39</sup>

Between November 2021 and September 2023, official data<sup>40</sup> indicates that individuals holding the status of bar member lawyers have dropped from over 2,000 to 1616. On 1 January 2023 there was only one lawyer for every 5,693 people.<sup>41</sup>

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<sup>36</sup>Center for Constitutionalism and Human Rights of the European Humanities University, Right to Defense project, Human Constanta, The Polish Helsinki Foundation for Human Rights, *The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense* (8 March 2023), p. 92: [English Translation of the Report “The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense” Is Published](#) accessed 16 January 2025

<sup>37</sup> Ibidem

<sup>38</sup> Ibidem

<sup>39</sup> Ibidem, pg. 93

<sup>40</sup> Right to Defence, ‘The exodus of lawyers from the Belarusian Bar continues’ (21 July 2022): <https://www.defendersbelarus.org/news/tpost/rv3xsl66e1-advokatu-aleksandru-danilevichu-prisudil> accessed 16 January 2025

<sup>41</sup> Ibidem





A new minimum number of lawyers in Belarus was established by the decree of the Ministry of Justice No. 16 dated 05 April 2024. According to the previous resolution of the Ministry of Justice, there should have been at least 1,313 lawyers in Belarus, and according to the new document, the number was 1,454.<sup>42</sup> According to data published by the Belarusian Republican Bar Association (accurate as of 16 January 2025) there are currently 1599 lawyers operating in Belarus.<sup>43</sup>

Following the amendments of 27 May 2021, the election of bar association chairpersons and all members of the bar association councils must now be approved by the Ministry of Justice. If the Ministry rejects proposed candidates twice, it will then put forward its own candidates. Should these Ministry-proposed candidates be rejected twice at a general meeting (or conference) of the bar association, they will be automatically considered elected in any case. This means that there is no effective process to challenge the candidates appointed by the Ministry. Additionally, the appointment of heads of legal advice offices by the bar association council also requires the Ministry's approval.<sup>44</sup>

Consequently, the amendments of 27 May 2021 effectively gave the Ministry of Justice decisive control over the formation of all executive bodies of the bar associations, significantly expanding the already extensive powers of the Ministry of Justice over the Bar.

#### *Rules of Professional Ethics of a Lawyer*

Furthermore, the Ministry of Justice adopted a new version of the Rules of Professional Ethics of a Lawyer on 30 September 2021, without prior consultation with lawyers or approval from the bar associations. This new version entrenches previous restrictive practices and adds several constraints:

- **Elimination of Immunity Clause:** The guarantee that statements made by a lawyer which do not violate these Rules are not subject to prosecution was removed. This contradicts the Basic Principles on the Role of Lawyers, which protects legal immunity in the performance of the professional duties of a lawyer.<sup>45</sup>
- **Prohibition on Statements About Guilt or Innocence:** The new Rules explicitly forbid lawyers from commenting on the guilt or innocence of an accused person they do not represent. This measure formalises previous arbitrary interpretations applied against lawyers like Dmitri Laevski.
- **Media Communication and Internet Restrictions:** Lawyers are now required to disseminate only "accurate and reliable" information and to provide information from

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<sup>42</sup> Viasna, 'Deterioration of legal profession in Belarus: facts, reasons, assessments' (31 October 2024): <https://spring96.org/en/news/116599> accessed 16 January 2025

<sup>43</sup> Belarusian Republican Bar Association (BRKA), 'Find a Lawyer': <https://www.brka.by/lawyers/> accessed 16 January 2025

<sup>44</sup> Law of the Republic of Belarus "On the Bar and the Practice of Law in the Republic of Belarus" dated December 30, 2011, No. 334-3

<sup>45</sup> Ibidem



a legal standpoint. They cannot publicly make statements not backed by verified facts and case materials, broadening the scope for subjective interpretation and punishment.

These regulations allow for highly flexible and arbitrary interpretations, effectively banning the expression of any civil, political, or otherwise critical opinions by lawyers. This broad reach means lawyers' routine defence activities, such as highlighting torture or wrongful actions by state officials, can be deemed violations if not supported by exact facts and case documents, which might be inaccessible due to attorney-client privilege or investigation secrecy.

## B. Functioning of Bar Associations

Membership in a territorial bar association (TBA) is mandatory in Belarus. There are seven TBAs covering the city of Minsk and each of the six regions of Belarus: Minsk, Mogilev, Grodno, Gomel, Vitebsk, and Brest. According to the Law on the Bar, TBAs are recognized as non-profit organisations, established to provide legal assistance, represent the interests of lawyers before state bodies and other organisations, and to monitor compliance with the law, including adherence to the Rules of Professional Ethics for Lawyers. The executive body of the TBA is its Council, a collegial body elected by the general assembly (or a conference with delegates representing a certain number of lawyers) of the bar association's members.

The central self-governing body is the Belarusian Republican Bar Association (BRBA), a non-profit organisation made up of the compulsory membership of territorial bar associations. The governing bodies of the BRBA consist of the Council, composed of two representatives from each TBA, who are elected from candidates approved by the Ministry of Justice. The BRBA Chairperson is elected by the members of the BRBA Council for a four-year term, subject to the approval of the Ministry of Justice. Chairs of the TBAs also serve on the BRBA council ex officio and an audit commission is elected within the BRBA to oversee the financial and economic activities of the TBAs.

This structure fails to meet international standards as the BRBA is susceptible to state influence and interference, compromising its independence. The process remains undemocratic and heavily influenced by the executive branch, limiting the bar associations' ability to defend the independence of the profession and their members adequately.<sup>46</sup> The key concerns can be summarised as follows:

- Extensive Ministry of Justice Control: The 2021 amendments to the Law on the Bar expanded the Ministry of Justice's influence, undermining the independence of bar associations.

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<sup>46</sup>UNGA, 'Report of the Special Rapporteur on the independence of judges and lawyers' A/71/348 (22 August 2016), paragraph 85: <https://documents.un.org/doc/undoc/gen/n16/264/93/pdf/n1626493.pdf> accessed 16 January 2025



- Candidate Approval: The Ministry approves candidates for bar council positions and can propose its own candidates who are appointed if its selections are rejected twice by the bar association in question, compromising the independence of the election process.
- Control and Disciplinary Action: The Ministry can initiate disciplinary measures, suspend, or terminate lawyer licences, placing lawyers in a vulnerable position.
- Intervention in Bar Decisions: The Ministry can suspend bar association decisions it deems illegal, with the power to seek court annulment, exerting control over bar rulings due to a lack of judicial independence.
- Early Termination of Leadership: The Ministry can initiate the removal of bar association leaders, furthering its control over the leadership structure.

Various international bodies have also recognized the lack of independence in the Belarusian bar. The UN Human Rights Committee has expressed concerns about the relationship between bar associations and the Ministry of Justice, which undermines the independence of the legal profession.<sup>47</sup> The UN High Commissioner for Human Rights highlighted the threats of disbarment or disciplinary sanctions against lawyers defending politically sensitive cases.<sup>48</sup> The Special Rapporteur on the situation of human rights in Belarus has reported systemic interference with lawyers' professional activities.<sup>49</sup> The Observatory for the Protection of Human Rights Defenders noted that Belarusian legislation places the legal profession under state supervision, stripping bar associations of their primary function to guarantee independence.<sup>50</sup> The Council of Bars and Law Societies of Europe (CCBE) has stated that key self-governing bodies of lawyers have become instruments of state repression.<sup>51</sup>

## C. Requirements for admission to practice law

In the Republic of Belarus, the following requirements have been established for admission to the practice of law:

- citizenship of the Republic of Belarus,

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<sup>47</sup> OHCHR, 'Concluding observations of the Human Rights Committee on the fifth periodic report of Belarus' CCPR/C/BLR/CO/5 (22 November 2018), paragraph 41: <https://www.ohchr.org/en/documents/concluding-observations/ccprcblrc05-concluding-observations-fifth-periodic-report-belarus> accessed 16 January 2025

<sup>48</sup> OHCHR, Report of the United Nations High Commissioner for Human Rights 'The situation with human rights in Belarus in the context of the presidential elections of 2020', A/HRC/46/4 (2021), paragraph 59: <https://www.ohchr.org/en/documents/reports/ahrc464-situation-human-rights-belarus-context-2020-presidential-election-report> accessed 16 January 2025

<sup>49</sup> OHCHR, 'Report of the Special Rapporteur about human rights in Belarus, Anais Marin' 4 May 2021, A/HRC/47/49 (4 May 2021), paragraph 57: <https://www.ohchr.org/en/documents/country-reports/ahrc4749-report-special-rapporteur-situation-human-rights-belarus-anais> accessed 16 January 2025

<sup>50</sup> The Observatory for the Protection of Human Rights Defenders, The Paris Bar Association, Viasna, 'Belarus: Control Over Lawyers Threatens Human Rights' (June 2018): [rapport-belarus-ve.pdf](https://www.observatoryforhumanrights.org/en/rapport-belarus-ve.pdf) accessed 16 January 2025

<sup>51</sup> Helsinki Foundation for Human Rights, OMCT, Article 19, Council of Bars and Legal Societies of Europe (CCBE), 'Statement on the mounting repression against Belarusian lawyers and the disbarment of Dmitriy Laevski', (2 August 2021): [https://hfhf.pl/en/news/statement-on-the-mounting-repression-against-belarusian-lawyers-and-the-disbarment-of-dmitriy?utm\\_source=chatgpt.com](https://hfhf.pl/en/news/statement-on-the-mounting-repression-against-belarusian-lawyers-and-the-disbarment-of-dmitriy?utm_source=chatgpt.com) accessed 16 January 2025



- higher legal education,
- preliminary training/internship,
- qualification exam passed,
- special permit (licence),
- membership in the territorial bar association.<sup>52</sup>

The Law on the Bar outlines specific conditions that disqualify a person from practising as a lawyer.<sup>53</sup> These include common barriers such as legal incapacity, limited legal capacity, and a record of intentional crimes. 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.<sup>54</sup>

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. Previously, the recruitment of interns was managed by the lawyers' self-governing bodies. However, 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.<sup>55</sup> 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.<sup>56</sup>

The procedure and program for the qualification examination are established by the Ministry of Justice.<sup>57</sup> The qualifying exam consists of two stages. First, candidates take a written exam. Then, if the candidates are successful in the written stage, they will take the oral exam. However, interns who have worked in courts, prosecution offices, the Ministry of Justice, law enforcement agencies, or as secretaries in these bodies, and whose candidacy is endorsed by the heads of these relevant bodies, are required to take only the oral exam.<sup>58</sup>

The exam is administered by the Qualification Commission, which is not an independent body for several reasons, such as:

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<sup>52</sup> Law of the Republic of Belarus "On the Bar and the Practice of Law in the Republic of Belarus" dated December 30, 2011, No. 334-3, Chapter 2, art. 7 section 1.

<sup>53</sup> Ibidem, Chapter 2, art. 8

<sup>54</sup> Law of Republic of Belarus "About licensing" of October 14, 2022, No. 213-Z, Section II, Chapter 10

<sup>55</sup> Ibidem, Chapter 6, art. 38

<sup>56</sup> Law of the Republic of Belarus "On the Bar and the Practice of Law in the Republic of Belarus" dated December 30, 2011, No. 334-3, Chapter 2, art. 9

<sup>57</sup> Ibidem

<sup>58</sup> Ibidem



- it is established by and operates under the Ministry of Justice,
- it is chaired by the Deputy Minister of Justice, who holds the decisive vote in the event of a tie,
- lawyers are a minority on the Commission (with only eight representatives from the Bar), while the remaining members represent the state. The state representatives include one representative each from the Supreme Court, the General Prosecutor's Office and other state bodies, five representatives from the Ministry of Justice, and two representatives from scientific organisations, which in practice are state-affiliated; the regulations and composition of the Qualification Commission shall be approved by the Ministry of Justice.<sup>59</sup>

The Qualification Commission exercises considerable discretion in evaluating the oral part of the exam, and its decisions are not subject to judicial review.

Upon successfully passing the exam, the Ministry of Justice issues a special permit (licence) for the right to practise law. The licensee must then apply to the Territorial Bar Association (TBA) for acceptance.<sup>60</sup> Only after the TBA approves the application, which is formalised by a decision from the TBA Council, does the licensee become a lawyer and gain the right to practise. Thus, in Belarus, the state (represented by the Ministry of Justice) exerts complete control over the entire process of admission to the legal profession.

Although licences do not have an expiration date, lawyers in Belarus must undergo requalification<sup>61</sup> at the Qualifications Commission of the Ministry of Justice, or on its behalf at the territorial bar association, every five years. Regardless of passing the regular requalification, a special requalification may be required upon the recommendation of the Minister of Justice if "*facts indicating the lawyer's insufficient qualification*" are revealed. Specifically, additional requalification may be conducted in the following circumstances:

- when evidence of improper performance of professional duties by a lawyer is uncovered,
- if two or more complaints about the lawyer's actions (or inaction) are received within a single calendar year, and these complaints, upon review, are found to be justified.

The qualification process involves the Qualifications Commission reviewing submitted materials related to the lawyer's compliance with legal requirements and professional activities. During an oral interview, the Commission may assess the lawyer's legal knowledge.

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<sup>59</sup> Ibidem, art. 14.

<sup>60</sup> Ibidem, art. 11

<sup>61</sup> Law of the Republic of Belarus "On the Bar and the Practice of Law in the Republic of Belarus" dated December 30, 2011, No. 334-3, Chapter 2, art. 14



There is no set list of questions; inquiries may cover any area of law, irrespective of the lawyer's specialisation.

## D. Disciplinary procedures

The disciplinary commissions of the BRBA and territorial bar associations existed until 30 November 2021. However, with the implementation of new amendments to the Law on the Bar, their functions were transferred to the councils of the territorial bar associations and the BRBA. The council of the territorial bar association now handles disciplinary violations by lawyers,<sup>62</sup> while the BRBA council addresses disciplinary violations committed by the chairmen and members of the territorial bar association councils, as well as reviewing complaints against decisions made by these territorial councils.<sup>63</sup> Decisions of the BRBA council on such complaints can be appealed in court within one month.

The Law on the Bar and the Regulation on Licensing grant the Ministry of Justice several powers that can be arbitrarily exercised against any bar member, including members of bar councils. These powers include:

- obtaining information and documents from bar associations, legal advice offices, and individual lawyers,
- initiating disciplinary proceedings against a lawyer and suspending them from practising law during the course of the proceedings,
- proposing to the Qualification Commission that a lawyer undergo an extraordinary attestation to assess their ability to fulfil professional duties "in cases where evidence of insufficient qualifications is revealed". An "extraordinary attestation" is a review of materials about the lawyer's professional activities, including an oral interview checking the lawyer's knowledge of legislation. They can vary in complexity and duration,
- suspending or revoking a lawyer's licence to practise law.<sup>64</sup>

Human Rights Watch, together with the Belarusian Association of Human Rights Lawyers and the Right to Defence Project, analysed more than 140 cases of lawyers losing their licenses based on publicly available data and interviews.<sup>65</sup>

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<sup>62</sup> Ibidem, art. 43

<sup>63</sup> Ibidem, art. 47

<sup>64</sup> Ibidem, Chapter 6, art. 38

<sup>65</sup> Human Rights Watch, 'Belarus: Crackdown on Human Rights Lawyers' (27 May 2024):

[https://www.hrw.org/news/2024/05/27/belarus-crackdown-human-rights-lawyers?utm\\_source=chatgpt.com](https://www.hrw.org/news/2024/05/27/belarus-crackdown-human-rights-lawyers?utm_source=chatgpt.com) accessed 16 January 2024



The potential use of these measures places lawyers who are members of bar association governing bodies in a vulnerable position and increases their dependence on the Ministry of Justice.

Article 38 of the Law on the Bar grants the Ministry of Justice the authority to suspend any decision made by the general meeting, conference, or council of a bar association if the Ministry believes the decision is either unlawful or was made in violation of established procedures. If the bar association does not revoke the suspended decision on its own, the Ministry of Justice has the right to petition the court to annul it.<sup>66</sup>

Moreover, under the Law on the Bar, the Ministry of Justice has the authority to propose to the general meeting the early removal of the chairperson of the bar association if the Ministry believes the chairperson has violated legal requirements or the bar association's statutes. If the general meeting declines to approve this proposal, the Ministry of Justice can unilaterally terminate the chairperson's position based on a decision supported by the Qualification Commission's conclusion.<sup>67</sup>

Additionally, the Law on the Bar allows for the termination of not only the chairperson of the bar association but also its council members at the proposal of the Ministry of Justice to the general meeting (or conference). If the meeting (or conference) is not convened within a month, the powers of the bar association's governing bodies are automatically terminated. If the general meeting (or conference) decides not to remove the council members, the Ministry of Justice can appeal this decision to the court.<sup>68</sup> In the absence of an independent judiciary, such an appeal is likely to succeed, leading to the termination of the council members' powers as proposed by the Ministry.

The Commission can decide that a lawyer is unfit to perform their professional duties due to insufficient qualifications. This decision serves as grounds for the termination of the lawyer's licence.

As demonstrated above, the Ministry of Justice, as an executive body, exerts control over the mandatory professional association of lawyers. This control undermines the independence of lawyers and works to erode the rule of law. These disciplinary proceedings are problematic for a several reasons: they lack transparency, the Ministry of Justice's decisions do not have to be justified, there is no effective right of appeal, the process can be used arbitrarily to target specific lawyers, and it is often used as a punitive measure against lawyers who defend political opponents or express critical views.

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<sup>66</sup> Law of the Republic of Belarus "On the Bar and the Practice of Law in the Republic of Belarus" dated December 30, 2011, No. 334-3, Chapter 6, art. 38

<sup>67</sup> Ibidem

<sup>68</sup> Ibidem, art. 43



## E. Hindering free legal assistance

The Law on the Bar stipulates that legal assistance in Belarus must be provided on a reimbursable basis and based on a formal agreement. Essential terms of this agreement include the types of legal assistance provided, as well as the procedure and amount of payment.<sup>69</sup> This rule effectively prevents lawyers from offering free legal services or waiving fees for clients. However, there are exceptions to this general rule. In certain cases where no formal contract is made, payment for legal services may be covered by the budget (either local or national) or by the territorial bar association.<sup>70</sup>

There is effectively no system of free legal assistance funded by the state. While legal aid in certain criminal cases may be covered by the budget, these costs are later recovered from the convicted individuals. In other instances, specified by law, free legal assistance is funded by the bar associations, meaning it is covered by the lawyers themselves.

## 4. Individual cases of lawyers at risk in Belarus

The following section outlines some of the individual cases of lawyers who have been targeted in Belarus. This section is inexhaustive and does not outline the situation of every Belarusian lawyer who has been targeted because of their work. These lawyers have faced a multitude of abuses, including arbitrary arrest and detention, disciplinary proceedings, and denial of their freedom of expression and assembly. Currently, seven lawyers are convicted and behind bars:

The charges against these lawyers typically involved articles of the Criminal Code used by Belarusian authorities against political dissenters and those exercising their civil rights. Commonly invoked articles included:

- **Article 342 of the Criminal Law:** Organization and preparation of actions that grossly violate public order, or active participation in them.
- **Article 130 of the Criminal Law:** Incitement of social hatred and discord
- **Article 361-4 of the Criminal Law:** Assistance with extremist activities
- **Article 361-1 of the Criminal Law:** Creation of an extremist formation or participation in it
- **Article 243 of the Criminal Law:** Evasion of taxes and fees

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<sup>69</sup> Ibidem, Chapter 4, art. 27

<sup>70</sup> Ibidem, art. 28





## **Maksim Znak & Maria Kolesnikova<sup>71</sup>**

Maksim Znak is a former lawyer of the Minsk Regional Bar Association, and a former professor of law at the Belarusian State University. In May 2020, the presidential elections were scheduled to be held in August that year.<sup>72</sup> Viktor Babryka announced his intention to nominate his candidacy, and shortly after, Mr Znak became Viktor Babryka's legal representative. Viktor Babryka soon became the main opposition figure to the re-election of Lukashenko's regime. On 18 June 2020, while Mr Babryka was travelling to the election commission, he was arrested and taken into custody (ultimately resulting in his sentencing in July 2021 to 14 years in prison). Mr Znak continued to provide him with legal representation and appealed against the authority's refusal of his presidential campaign. Mr Znak was also the lawyer for other prominent opposition figures: Svyatlana Tsikhanouskaya, a former presidential candidate who had fled to Lithuania; Siarhei Tsikhanouski, Svyatlana's husband who has been imprisoned since May 2020; and Maryia Kolesnikova, a prominent opposition leader. Lukashenko was re-elected on 9 August 2020.

After the elections, against a backdrop of mass protests and the violent repression of the protestors, the Opposition Coordination Council (OCC) was set up in an attempt to peacefully overcome the political crisis in Belarus. Mr Znak was a member of the Board of Directors and the lawyer for the OCC. Mr Znak lodged an appeal with the Supreme Court to have the election results invalidated, arguing in particular that there had been irregularities in the vote count. By September 2020, all members of the board had been either arrested (Liliya Ulasava, Maryia Kolesnikova, Syarhei Dyleuski, Maksim Znak) or forced to leave the country (Pavel Latushka, Volha Kavalkova). The last of the Board members, Svetlana Alexievich, had to leave Belarus a few weeks later. The State Prosecutor General immediately initiated criminal proceedings against the Council, describing it as a "threat to national security". Maksim Znak was summoned for questioning at the headquarters of the State Security Investigation Committee in Minsk, and then arrested on 9 September by masked men for "calling for actions to undermine national security" (article 361-3 of the Criminal Code). On the same day, Ilya Salei, Maria Kolesnikova's previous lawyer, was arrested.

On 10 February 2021, two more serious charges were added for "plotting to seize state power unconstitutionally" (article 357-1 of the Criminal Code) and "creating and leading an extremist group" (article 361 -1). However, the indictment contains no details of the actions Maksim Znak is alleged to have taken, nor of any actions he may have intended to take in the future. Nor is any indication provided as to why the Belarusian authorities consider the OCC to be "extremist in nature". There are no examples or evidence of calls for "actions aimed at undermining national security" in the investigation documents. Dzmitry Layeuski, Maksim Znak's lawyer, has stated that this was retaliation for his "professional activity, for expressing a legal opinion and promoting the rule of law". Despite this, three months later, on 12 May

<sup>71</sup> These individuals appear in this report together as they were tried together.

<sup>72</sup> MaksimZnak.org, 'Who is Maks and why it matters?': [maksimznak.org](https://maksimznak.org) accessed 16 January 2025.



2021, the authorities declared that the investigation was closed and that Znak would be brought before a court, where he would face up to 12 years in prison. Maksim Znak went on hunger strike for 10 days during his eight months in detention to draw attention to his fate. His lawyer, who has had access to the case file since 7 May 2021, has called for additional investigative measures or for the charges to be dropped. His lawyer has reported that he was not authorised to reveal the details of the investigation, or the names of the investigators.

On 4 August 2021, after nearly eleven months in detention, the trial of Maksim Znak and Maria Kolesnikova opened before the Minsk Regional Court. Maksim Znak pleaded not guilty. He was sentenced on 6 September 2021 to 10 years imprisonment.<sup>73</sup> He was prosecuted under article 361-3 (calls for action against national security), article 357-1 (conspiracy to seize State power by unconstitutional means) and article 361-1 (creation and management of an extremist group). Throughout the investigation and trial, the constituent elements of the charges were not made public. Their lawyers had to sign a non-disclosure agreement. The court hearings were closed to the public. Maria Kolesnikova was sentenced to 11 years in prison.

The announcement of the verdict provoked reactions in many countries. The President of the European Parliament, David Sassoli, stated: "We condemn the verdict against the Belarusian activists Maria Kolesnikova and Maxim [sic] Znak. Defending freedom and democracy will never be a crime! Parliament calls for their immediate release and will continue to support the opposition in Belarus.

On 24 December 2021, the Supreme Court upheld the sentences handed down to Maria Kolesnikova and Maksim Znak. The judgement stipulated that Maria Kolesnikova was to serve her 11-year sentence in a general security penal colony, but that Maksim Znak was to serve his 10-year sentence in a higher security penal colony. In February 2022, Maksim Znak was transferred from the pre-trial detention centre on Valadarski Street in Minsk to the penal colony Vitba.

The UN Working Group on Arbitrary Detention concluded in April 2022 that the detention of Maksim Znak violated several articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, deeming the actions against him as arbitrary.<sup>74</sup>

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<sup>73</sup> Amnesty International, 'Belarus: Maryia Kalesnikava and Maksim Znak sentenced to jail over historic protests' (6 September 2021): <https://www.amnesty.org/en/latest/news/2021/09/belarusian-opposition-leaders-maryia-kalesnikava-and-maksim-znak-sentenced-to-10-and-11-years-respectively/> accessed 16 January 2025

<sup>74</sup> UN Human Rights Council Working Group on Arbitrary Detention, 'Opinions adopted by the Working Group on Arbitrary Detention at its ninety-third session 30 March–8 April 2022' Opinion No. 24/2022 concerning Maksim Znak (Belarus) (25 May 2022): <https://www.ohchr.org/sites/default/files/2022-06/A-HRC-WGAD-2022-24-BLR-AEV.pdf> accessed 16 January 2025



Maksim Znak is now being held incommunicado. He is not being allowed to see his family, independent medical personnel, or his lawyers during his confinement.<sup>75</sup>

Until very recently, Maria Kolesnikova had also been held incommunicado. In early November 2024, after more than six hundred days of being denied visits, calls and other correspondence with her family or lawyer, a photo of Maria Kolesnikova meeting with her father was released.<sup>76</sup>

Maksim Znak has been awarded the Council of Bars and Law Societies of Europe's (CCBE) 2021 Human Rights Award, along with other Belarusian lawyers Lilya Vlasova, Dmitry Laevski and Leanid Sudalenko<sup>77</sup>, the Lawyers for Lawyers Award 2021<sup>78</sup> and the International Bar Association Human Rights Award 2021<sup>79</sup>, both along with Liudmila Kazak, and the 2024 European Criminal Bar Association Scott Crosby Human Rights Award, along with other Belarusian lawyers Vitaly Braginets and Aliaksandr Danilevich<sup>80</sup>.

### **Vitaly Braginets**

Vitaly Braginets is a lawyer who was involved in the defence of Ales Byalyatsky, a Belarusian human rights activist, and his colleague Andrei Mochalov. Vitaly Braginets was sentenced to 8 years imprisonment on 1 February 2023, for various charges including participation in "extremist formations" and "incitement of hatred". His arrest coincided with the classification of the Telegram chat room "Belaruskiya Advakaty" as an extremist formation.<sup>81</sup> The cumulative sentence includes eight years' imprisonment under the enhanced regime: 1 year and 6 months' imprisonment for "active participation in actions seriously undermining public order" (art. 342, part 1 of the Criminal Code), 4 years' imprisonment for "creating or participating in an extremist group" (art. 361-1, part 1, of the Criminal Code, 7 years' imprisonment for "incitement to hatred" (art. 130, part 3, of the Criminal Code) plus 5 years' imprisonment for "serious breach of public order" (art. 361, part 3, of the Criminal Code). His trial had been held behind closed doors.

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<sup>75</sup> International Bar Association, 'IBHARI sends open letter to Belarusian authorities to end incommunicado detention of lawyer Maksim Znak' (21 February 2024): <https://www.ibanet.org/IBAHRI-sends-open-letter-to-Belarusian-authorities-to-end-incommunicado-detention-of-lawyer-Maksim-Znak> accessed 16 January 2025

<sup>76</sup> Sarah Rainsford, 'First sighting of Belarusian political prisoner in more than 600 days', *BBC News* (12 November 2024): <https://www.bbc.co.uk/news/articles/ckg792d6yp4o> accessed 16 January 2025

<sup>77</sup> Council of Bars and Law Societies of Europe's, <https://www.ccbe.eu/actions/human-rights-portal/human-rights-award/> accessed 16 January 2025

<sup>78</sup> Lawyers for Lawyers, Maksim Znak & Liudmila Kazak, [https://www.lawyersforlawyers.org/141\\_awards/maksim-znak-liudmila-kazak/](https://www.lawyersforlawyers.org/141_awards/maksim-znak-liudmila-kazak/) accessed 16 January 2025

<sup>79</sup> International Bar Association, <https://www.ibanet.org/Belarus-Lawyers-Ludmila-Kazak-and-Maksim-Znak-win-the-2021-IBA-Human-Rights-Award> accessed 16 January 2025

<sup>80</sup> European Criminal Bar Association, <https://www.ecba.org/content/index.php/working-groups/human-rights> accessed 16 January 2025

<sup>81</sup> American Bar Association Center for Human Rights, Belarusian Association of Human Rights Lawyers, Center for Constitutionalism and Human Rights, Lawyers for Lawyers, International Bar Association, Right to Defense, 'Belarus The Crisis of the Legal Profession Continued Repressions 2022-2023' (January 2024) P.g.16: <https://www.lawyersforlawyers.org/wp-content/uploads/2024/02/chr-belarus-legal-profession-continued-repressions-report.pdf> accessed 16 January 2025



On 23 May 2022, he was arrested by KGB agents while taking part in a demonstration. According to a police report, he was taken to the Partizanski district police station "to be checked for his involvement in protest activities", but he was immediately accused of swearing, shouting and trying to escape, thereby committing rebellion against a lawful order from a police officer (article 24.3 of the code of administrative offences). On 25 May 2022, the Partizanski district court in Minsk found that the offence had been committed and sentenced Braginets to 15 days' administrative detention.

Vitaly Braginets was placed under administrative detention the day before the hearing at which he was due to defend a colleague, Andrei Mochalov (who was disbarred in 2021 and accused of forgery). A postponement of Andrei Mochalov's proceedings was requested at the start of the trial as Vitaly Braginets was due to be released on the morning of 7 June. However, the court refused to postpone the hearing until the date on which the administrative sanction expired and forced Andrei Mochalov to find another lawyer.

Vitaly Braginets was not released on the date announced and he has since been charged with other offences and kept in detention. Criminal proceedings have been opened against him for "active participation in actions seriously undermining public order" among other charges. On 5 August 2022, the Lawyers' Qualification Commission of the Ministry of Justice revoked his licence, and he was disbarred in Minsk "for having committed offences incompatible with the title of lawyer".

Vitaly Braginets has been awarded the 2024 European Criminal Bar Association Scott Crosby Human Rights Award, along with other Belarusian lawyers Maksim Znak and Aliaksandr Danilevich<sup>82</sup>.

### **Aliaksandr Danilevich**

Aliaksandr Danilevich, aged forty-eight, was arrested on 20 May 2022 and detained at the KGB centre. Although no official indication was given as to the reason for the arrest, it was possible, based on information from the schedule of hearings, to assume that he may be charged with making "calls for actions aimed at undermining the national security of the Republic of Belarus" and "dissemination of material containing such calls". His arrest followed his signing, in his professional capacity, a public petition against the war in Ukraine and the police brutality against peaceful protesters in the summer of 2020. He has also made statements on social networks and in the media, condemning the prosecution of people active in opposing the war and defending human rights. The Belarusian authorities are also accusing him of trying to "discredit Belarusian entities in the eyes of foreign companies" because he sent documents and written letters in his capacity as a lawyer to the Norwegian company "Yara", a buyer of Belarusian fertiliser, as part of his legal services, in which he called on Yara to comply with

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<sup>82</sup> European Criminal Bar Association, <https://www.ecba.org/content/index.php/working-groups/human-rights> accessed 16 January 2025



the 2011 United Nations Guiding Principles on Business and Human Rights.<sup>83</sup> Aliaksandr Danilevich has also been targeted because of this legal representation of Aleksandra Herasimenia and Aliaksandr Apeikin, athletes and founders of the Belarusian Sports Solidarity Fund (BSSF). The BSSF was founded in August 2020 to assist athletes who faced harassment for opposing the disputed re-election of President Lukashenko. The athletes have been sentenced in absentia to 12 years in prison for “actions aimed at harming Belarus' national security”.<sup>84</sup> As a result of his legal services to the two athletes, Aliaksandr Danilevich was charged with “assisting in public calls for actions aimed at causing harm to the national security of the Republic of Belarus.”<sup>85</sup>

Aliaksandr Danilevich is accused of committing offences under articles 361 and 361-4 of the Belarusian Criminal Code (calls for actions to undermine national security and support for extremist activity). His trial began on 10 March 2023. According to the prosecution: *"Despite a higher legal education and legal practice, [Aliaksandr Danilevich] decided to support extremists and followers of legal nihilism. Having cooperated with representatives of destructive cells, [...] he actively advised and facilitated the processes of forming public calls by extremists to harm the national security of the Republic of Belarus."* According to the indictment: *"One of the most striking examples of Danilevich's criminal activity is the drafting of letters and documents intended for the Norwegian company "Yara", which is a major reliable buyer of Belaruskali production - potash fertilisers. In his 'letters', he deliberately provided false information about the political, economic, and social situation in Belarus".*

During the trial, Danilevich pleaded not guilty, stressing that the “actions committed by him as a part of his professional duties as a lawyer did not amount to [a] national security threat.” He also stressed that he neither drafted nor edited the letters, but only provided legal advice to his clients after reading the documents. He was sentenced on 10 April 2023 to 10 years' imprisonment in a medium-security penal colony. On 14 July 2023, the Court of Appeal reduced the sentence to 6 years.<sup>86</sup>

Outside of his criminal prosecution, Aliksandr Danilevich has also been subjected to other violations. In April 2022, disciplinary proceedings were opened against Aliksandr Danilevich following his opposition to the Russian invasion of Ukraine. He was reprimanded at this stage, and then following the entry into force of his sentence, the Minsk Bar Association decided to disbar him. In October 2023, the Qualification Commission of the Ministry of Justice decided to terminate his licence because of the disciplinary sanction. In April 2022,

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<sup>83</sup> International Observatory of Lawyers (OIAD), ‘BELARUS: The Observatory denounces the decision to sentence Belarusian lawyer Aliaksandr Danilevich to 10 years’ imprisonment for criticising the Russian invasion of Ukraine’, (6 June 2023): <https://protect-lawyers.org/en/item/aliaksandr-danilevich-4/> accessed 16 January 2025

<sup>84</sup> Inside the Games, ‘Belarus Supreme Court upholds 12-year jail sentences of exiled BSSF founders Herasimenia and Apeikin’, (25 March 2023): <https://www.insidethegames.biz/articles/1135168/belarus-upholds-jail-bssf-founders> accessed 16 January 2025

<sup>85</sup> Right to Defence, ‘Lawyer Aliaksandr Danilevich was sentenced to 10 years in prison’, (10 April 2023) <https://www.defendersbelarus.org/news/tpost/rv3xsl66e1-advokatu-aleksandru-danilevichu-prisudil> accessed 16 January 2025

<sup>86</sup> Right to Defence, ‘Criminal Prosecution of lawyers in the Republic of Belarus - Aliaksandr Danilevich’, (7 February 2024): [https://defendersbelarus.org/criminal\\_prosecution\\_2020#danilevich](https://defendersbelarus.org/criminal_prosecution_2020#danilevich) accessed 16 January 2025



after 20 years as an academic, he was dismissed as an associate professor at the Belarusian State Faculty of International Relations.

Aliaksandr Danilevich has been awarded the 2024 European Criminal Bar Association Scott Crosby Human Rights Award, along with other Belarusian lawyers Maksim Znak and Vitaly Braginets<sup>87</sup>.

### **Anastasiya Lazarenka<sup>88</sup>**

Anastasiya Lazarenka worked in the Moskovsky district legal advice office in Minsk. She was arrested on 2 June 2022. A video published by law enforcement agencies on 3 June 2022 shows security forces from the Main Directorate for Combating Organised Crime and Corruption (GUBOPiK) breaking into her house with weapons and smashing the door and window. Anastasiya Lazarenka was charged under art. 130 § 3 of the Belarusian Criminal Code allegedly for passing on information about the Belarusian security forces to news channels. She was also charged under article 203-1 of the Criminal Code (unlawful acts with information on private life) and article 342 of the Criminal Code (organisation and preparation of actions undermining public order). She was accused of organising an unauthorised mass gathering, preparing actions that were "blatantly" aimed at disrupting social order by giving legal consultations near the Okrestina detention centre in Minsk in August 2020, and "misusing" the personal data of Belarusian police officers and judges, in particular by publishing information about police officers on the Telegram social media platform. The first two charges stemmed from Lazarenka's provision of free legal advice to imprisoned activists outside the Minsk Okrestina detention centre in 2020. The third charge alleged that Lazarenka had published information about police officers on the Telegram social media platform. Her trial began on 2 May 2023. On 11 May 2023, the Minsk City Court found her guilty of the charges and she was sentenced on 11 May 2023 to six years' imprisonment in a general regime colony.<sup>89</sup> The Minsk Bar Association has pronounced her disbarment because of "the entry into force of a court decision finding her guilty of committing an intentional crime". On 21 December 2023, the Lawyers' Qualification Commission took the decision to terminate Anastasia Lazarenko's licence to practise as a lawyer, with a view to disciplinary action by the Minsk Bar Association, on the grounds of "misconduct incompatible with the title of lawyer".

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<sup>87</sup> European Criminal Bar Association, <https://www.ecba.org/content/index.php/working-groups/human-rights> accessed 16 January 2025

<sup>88</sup> Institut des Droits de l'Homme des Avocats Européens, Institut des Droits de l'Homme du Barreau de Bordeaux, 'Bielorussie. Ces avocats emprisonnés, traqués, persécutés', L'Observatoire (2024), p. 23: <https://www.idhbb.org/pdf/suppbelarus2024.pdf> accessed 16 January 2025; see also, Human Rights Watch, Belarusian Association of Human Rights Lawyers, Right to Defence Project, "'I Swear to Fulfill the Duties of Defense Lawyer Honestly and Faithfully'" Politically Motivated Crackdown on Human Rights Lawyers in Belarus' (May 2024), p. 50: [https://www.hrw.org/sites/default/files/media\\_2024/05/belarus0524web\\_0.pdf](https://www.hrw.org/sites/default/files/media_2024/05/belarus0524web_0.pdf) accessed 16 January 2025

<sup>89</sup> Right to Defence, 'Lawyer Anastasia Lazarenko sentenced to 6 years in prison', (11 May 2023): <https://www.defendersbelarus.org/news/tpost/3z2obxrmg1-advokatku-anastasiyulazarenko-prigovori> accessed 16 January 2025



## **Aliaksei Barodka<sup>90</sup>**

In June 2023, the Minsk City Court sentenced lawyer Aliaksei Barodka, who represented clients in politically sensitive cases, to six years in a penal colony with a heightened security regime on charges of “inciting hatred and enmity.” Barodka was first arrested in January 2023 and has been detained since then. The full details of his case are unknown as his lawyer could not share relevant information for fear of breaching the non-disclosure agreement. Barodka is also on the KGB list of “persons involved with terrorist activities.”

## **Uladzimir Labkovich**

Uladzimir Labkovich was the lawyer for Viasna Human Rights Centre, a human rights organisation based in Minsk, and a member of the International Federation for Human Rights in Belarus (FIDH). He was arrested on 14 July 2021 and held in detention in appalling conditions. His access to his lawyers, medical assistance and communication was severely restricted. On 3 March 2023, Uladzimir Labkovich was convicted on charges of “smuggling by an organised group” and “financing of group actions grossly violating the public order” by the Leninsky District Court in Minsk alongside Ales Bialatski, president of Viasna and 2022 Nobel Peace co-laureate, and Valiantsin Stefanovic, member of Viasna and co-president of FIDH. Uladzimir Labkovic was sentenced to seven years of imprisonment.<sup>91</sup>

## **Yuliya Yurhilevich<sup>92</sup>**

Yulia Yurhilevich, who has practised as a lawyer for 18 years and defended human rights activists and opponents of the regime, has been disbarred. This decision was taken at the request of the Grodno deputy prosecutor, who challenged Yulia Yurgilevich's professional qualifications. On 23 February 2022, the Grodno Regional Bar Council disbarred her for "systematic violations of the law". In the course of her career since 2004, there had been no complaints about her work as a lawyer. She has defended political prisoners including Ales Pushkin, Artem Boyarsky, Igor Bantser, Andrei Osievich and Andrei Sokolovsky. In February 2022 she left Belarus to take refuge in Poland, but she returned to her country and was arrested on 30 August 2022, for giving the so called “extremist”<sup>93</sup> journalist Pavel Mazheika information, which was already in the public domain, about Belarusian political prisoners, in

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<sup>90</sup> Human Rights Watch, Belarusian Association of Human Rights Lawyers, Right to Defence Project, “‘I Swear to Fulfill the Duties of Defense Lawyer Honestly and Faithfully’ Politically Motivated Crackdown on Human Rights Lawyers in Belarus” (May 2024) pg. 57. [https://www.hrw.org/sites/default/files/media\\_2024/05/belarus0524web\\_0.pdf](https://www.hrw.org/sites/default/files/media_2024/05/belarus0524web_0.pdf) accessed 16 January 2025

<sup>91</sup> OHCHR, ‘Belarus: A year after conviction of Viasna Chair and members concerns about the fairness of trial remain’, (8 March 2024): <https://www.ohchr.org/en/press-releases/2024/03/belarus-year-after-conviction-viasna-chair-and-members-concerns-about> accessed 16 January 2025

<sup>92</sup> Institut des Droits de l’Homme des Avocats Européens, Institut des Droits de l’Homme du Barreau de Bordeaux, ‘Bielorussie. Ces avocats emprisonnés, traqués, persécutés’, L’Observatoire (2024), p. 7: <https://www.idhbb.org/pdf/suppbelarus2024.pdf> accessed 16 January 2025; see also, Human Rights Watch, Belarusian Association of Human Rights Lawyers, Right to Defence Project, “‘I Swear to Fulfill the Duties of Defense Lawyer Honestly and Faithfully’ Politically Motivated Crackdown on Human Rights Lawyers in Belarus” (May 2024), p. 53: [https://www.hrw.org/sites/default/files/media\\_2024/05/belarus0524web\\_0.pdf](https://www.hrw.org/sites/default/files/media_2024/05/belarus0524web_0.pdf) accessed 16 January 2025

<sup>93</sup> Pavel Mazheika is well-known figure in Belarus in his capacity as director of Belsat TV. The Belarusian authorities have deemed him an “extremist”.



particular the dissident artist Ales Pushkin. After 11 months in detention, on 10 July 2023, Yulia Yurgilevich appeared in court in Grodno alongside Pavel Mazheika, who had been sentenced in 2002 to two years' imprisonment for "defaming the President", before becoming press attaché to presidential candidate Alexander Milinkévitch in 2006. During the court hearing, which was marred by numerous irregularities, Yurhilevich and his co-defendant turned their backs to the courtroom in protest. Yurhilevich was wearing her prison gown with the words "punishment cell No. 2" written on the back, showing that she had been held in solitary confinement during her pre-trial detention. On 26 July 2023, the Grodno court sentenced Yulia Yurhilevich to six years' imprisonment in a penal colony for "complicity in extremist activities", under article 361-4 of the Belarus criminal code. The journalist received the same sentence. The Belarusian courts considered that by sharing this information Pavel Mazheika and Yulia Yurhilevich had collaborated in "extremist activities" and "invalidated the values and objectives of [Belarusian] society and the State" by "knowingly disseminating false information". According to the Belarusian Association of Human Rights Lawyers, the case against Yurhilevich and Mazheika was orchestrated "exclusively to intimidate lawyers and prevent them from any publicity in their professional activities".

Yulia Yurhilevich has been awarded the 2023 Ludovic Trarieux International Human Rights Prize<sup>94</sup>.

### **Natallia Burakouskaya<sup>95</sup>**

Natallia Burakouskaya was a lawyer and partner in the firm Parada+Partners. She was disbarred and sentenced to three years' imprisonment by the Minsk District Court under Part 1 of Article 342 of the Criminal Code (organisation and preparation of actions that grossly violate public order, or active participation in them) and Part 2 of Article 243 of the Criminal Code (tax evasion). She was sentenced on 1 December 2023. Natallia was released on 10 January 2025.<sup>96</sup>

### **Natallia Vantsovich<sup>97</sup>**

On 29 September 2021, Natallia Vantsovich agreed to defend a suspect in a high-profile criminal case. It is believed that her phone conversation with the client was intercepted by special services. The following morning, on 30 September, representatives of the Ministry of Justice informed her of the initiation of disciplinary proceedings and suspended her

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<sup>94</sup> Ludovic Trarieux, <http://www.ludovictrarieux.org/uk-page3.callplt2023.htm> accessed 16 January 2025

<sup>95</sup> Viasna, *Natallia Burakouskaya*: <https://prisoners.spring96.org/en/person/natallja-mikalayeuna-burakouskaja> accessed 16 January 2025

<sup>96</sup> Viasna, 'Natallia Burakouskaya', <https://prisoners.spring96.org/en/person/natallja-mikalayeuna-burakouskaja> accessed 17 January 2025

<sup>97</sup> Right to Defence, 'Natallia Vantsovich's suspension — Defenders Belarus' (7 February 2024): <https://defenders.by/lawyers-persecution-2020#vantsovich> accessed 16 January 2025; see also Institut des Droits de l'Homme des Avocats Européens, Institut des Droits de l'Homme du Barreau de Bordeaux, 'Bielorussie. Ces avocats emprisonnés, traqués, persécutés', L'Observatoire (2024) p. 38: <https://www.idhbb.org/pdf/suppbelarus2024.pdf> accessed 16 January 2025





professional duties. This suspension prevented her from meeting with the client before her disciplinary review on 13 October 2021.

### **Natallia Matskevich<sup>98</sup>**

Natallia Matskevich had been working as a practicing lawyer in Minsk, since 1994 until she was suspended from her duties on 12 October 2021, following disciplinary proceedings initiated by the Minister of Justice. This suspension occurred during the final stages of a lengthy trial where she was the sole defender of prominent activist Sergey Tihanovski. Her case was reviewed on 25 October 2021 and on 27 October 2021, the Council of the Minsk City Bar Association approved the decision of the Disciplinary Commission to disbar her<sup>99</sup> in relation to her representation of former presidential candidate Viktor Babaryka in 2020 and 2021. The formal grounds for the disbarment included two incidents of “interruptions of an investigator”, speaking while an investigator was speaking, and objecting to the statements of the lawyer of a witness for the prosecution. These actions were considered by the Disciplinary Commission as constituting a “breach of the order of conducting investigative actions” and “unethical actions towards participants of a procedure.”

### **Aliaksandr Pylchanka**

Aliaksandr Pylchanka, the lawyer of detained opposition leaders Viktor Babaryka and Maria Kalesnikava, received a notification from the Ministry of Justice about the revocation of his licence on 7 October 2020. The notification explained that the decision had been made because of Mr Pylchanka’s involvement in “the commission of a misdemeanor incompatible with the title of lawyer,” namely, “the commission of actions discrediting the bar.”

Prior to this date, Mr Pylchanka had received no official communication from the Ministry of Justice informing him of the complaints against him. The evidence for the revocation of his licence was only shared with Mr Pylchanka on 9 October 2020. These documents indicated that the evidence against him consisted of an interview he gave, published on the TUT.BY internet portal on 14 August 2020. In the interview, Mr Pylchanka commented on what 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>100</sup>

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<sup>98</sup> Right to Defence, ‘Sergey Tihanovski’s defense and lawyer Natallia Matskevich’s suspension - Defenders Belarus’: <https://defenders.by/> accessed 16 January 2025; see also, Institut des Droits de l’Homme des Avocats Européens, Institut des Droits de l’Homme du Barreau de Bordeaux, ‘Bielorussie. Ces avocats emprisonnés, traqués, persécutés’, L’Observatoire (2024) p. 36: <https://www.idhbb.org/pdf/suppbelarus2024.pdf> accessed 16 January 2025

<sup>99</sup> Council of Bars and Law Societies Europe, International Commission of Jurists, Helsinki Foundation for Human Rights, Lawyers for Lawyers, Center for Constitutionalism and Human Rights, European Association of Lawyers, Human Rights Embassy, ‘Belarus : Bar Association should reinstate disbarred lawyer Natalia Matskevich’: [https://www.ccbe.eu/fileadmin/speciality\\_distribution/public/documents/Statements/2021/EN\\_20211028\\_Belarus-statement\\_Matskevich.pdf](https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/Statements/2021/EN_20211028_Belarus-statement_Matskevich.pdf) accessed 16 January 2025

<sup>100</sup> Lawyers for Lawyers, ‘Possible revocation of license Aliaksandr Pylchanka’ (14 October 2020): <https://www.lawyersforlawyers.org/possible-revocation-of-license-aliaksandr-pylchanka/> accessed 16 January 2025



The Qualification Commission considered these comments a violation of professional ethics.<sup>101</sup> Specific allegations were not clarified prior to the meeting, denying him a fair opportunity to prepare a defence.

### **Liudmila Kazak**<sup>102</sup>

Liudmila Kazak was the lawyer of opposition leader Maria Kolesnikova. Ms Kazak was detained on 24 September 2020 in Minsk by three unknown masked men, forced into an unmarked car and taken to the Central District Department of Internal Affairs. This happened the day before she was due to have appeared in court with her client Ms Kolesnikova. On 25 September 2020, Ms Kazak appeared in court where state authorities alleged that she had been detained ‘on suspicion’ of participating in an unauthorised protest and failed to obey the command of a police officer. Ms Kazak rejected the charges. However, the court held Ms Kazak administratively liable for disobeying police officers based on testimony given by anonymous masked witnesses who appeared via Skype. She was sentenced to a fine under article 23.4 of the Belarusian Administrative Code and released on 26 September 2020.

On 11 February 2021, she was notified of a pending disciplinary proceeding against her before the Qualification Commission for legal practice in the Republic of Belarus. This action occurred despite Kazak already being reprimanded by the Minsk City Bar Association disciplinary commission in November 2020.<sup>103</sup> On 19 February 2021, the Qualification Commission disbarred Ms. Kazak. Ms. Kazak appealed the decision, but she learned on 15 April 2021 that appellate court upheld the district court decision. At the time of the disbarment, Ms Kazak has been a lawyer for 22 years.

Liudmila Kazak has been awarded the Lawyers for Lawyers Award 2021<sup>104</sup> and the International Bar Association Human Rights Award 2021<sup>105</sup>, both along with Maksim Znak.

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<sup>101</sup> Law on the Bar, paragraph 6 of article 14; Licensing regulation, paragraph 107.

<sup>102</sup> International Federation for Human Rights (FIDH), ‘Belarus: Sentencing and release of Ms. Liudmila Kazak’, (28 September 2020): <https://www.fidh.org/en/issues/human-rights-defenders/belarus-sentencing-and-release-of-ms-liudmila-kazak> accessed 16 January 2025; Lawyers for Lawyers, ‘Concerns about disbarment Liudmila Kazak’ (14 April 2021): <https://www.lawyersforlawyers.org/concerns-about-disbarment-liudmila-kazak/> accessed 16 January 2025 ; IBAHRI ‘Belarus: IBAHRI calls for reinstatement of Lyudmila Kazak after concerning ruling upholds disbarment’ (16 April 2021): <https://www.ibanet.org/article/09fa9c9f-1e27-4e55-983c-3f4e112a569f> accessed 16 January 2025

<sup>103</sup> Law on the Bar, Article 14, paragraph 2.

<sup>104</sup> Lawyers for Lawyers, Maksim Znak & Liudmila Kazak, [https://www.lawyersforlawyers.org/141\\_awards/maksim-znak-liudmila-kazak/](https://www.lawyersforlawyers.org/141_awards/maksim-znak-liudmila-kazak/) accessed 16 January 2025

<sup>105</sup> International Bar Association, <https://www.ibanet.org/Belarus-Lawyers-Ludmila-Kazak-and-Maksim-Znak-win-the-2021-IBA-Human-Rights-Award> accessed 16 January 2025



### **Maria Kolesava-Hudzilina<sup>106</sup>**

Maria Kolesava-Hudzilina holds a law degree from the Belarusian State University (2011)<sup>107</sup>. She was a criminal lawyer in Belarus where she defended blogger Eduard Palchis, Dmitry Popov (social media moderator of "A Country to Live in" project), former investigator Yevgeny Yushkevich, singer Tima Belorusskih and other high-profile opposition figures<sup>108</sup>. On 21 April 2022, was deemed not to have passed certification by the Qualification Commission of the Ministry of Justice. On 10 May 2022 her licence had been revoked by the Bar Association and she was forced to leave Belarus. In April 2023, she became president of the Belarusian Association of Human Rights Lawyers, set up by lawyers who had fled Belarus for fear of reprisals. In September 2024, the Belarusian Ministry of Information added Maria Kolesova-Hudzilina's Instagram account to the list of "extremist" publications. On 8 October 2024, the media reported that KGB and OMON officers searched the apartment, located in Zhodino, where she is registered<sup>109</sup>.

### **Mikhail Kiryliuk**

Mikhail Kiryliuk had his licence terminated in November 2020 for internet postings that the Ministry of Justice deemed rude and incorrect against state officials and constituting "a misdemeanour incompatible with the title of lawyer." Ultimately, Kirilyuk was forced to leave Belarus for Poland with his family under threat of arrest and disbarment.<sup>110</sup>

### **Andrei Machalou**

Andrei Machalou was disbarred for asserting in a video interview that his client Olga Zolotar was tortured by GUBOPiK officers. Machalou faced disciplinary actions for allegedly spreading "unreliable information."<sup>111</sup>

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<sup>106</sup> Institut des Droits de l'Homme des Avocats Européens, Institut des Droits de l'Homme du Barreau de Bordeaux, 'Bielorussie. Ces avocats emprisonnés, traqués, persécutés', L'Observatoire (2024) p. 40: <https://www.idhbb.org/pdf/suppbelarus2024.pdf> accessed 16 January 2025

<sup>107</sup> De Hoon, M., Vasiliyev, A., & Kolesava-Hudzilina, M. 'Crimes against humanity in Belarus. Legal analysis and accountability options' (2023), p. 5: <https://pure.uva.nl/ws/files/186173751/Report-on-Crimes-against-humanity-.pdf> accessed 16 January 2025

<sup>108</sup> Right to Defense, 'Search conducted in the apartment where disbarred attorney Maria Kolesava-Hudzilina is registered', (9 October 2024): <https://www.defendersbelarus.org/tpost/j1crunvik1-search-conducted-in-the-apartment-where> accessed 16 January 2025

<sup>109</sup> Ibidem; see also International Observatory of Lawyers, 'Belarus: raids on the home of human rights lawyer Maryia Kolesova-Hudzilina' (11 October 2024): <https://protect-lawyers.org/en/item/maryia-kolesova-hudzilina/> accessed 16 January 2025

<sup>110</sup> Lawyers for Lawyers, 'Belarusian lawyer Mikhail Kirilyuk: "We should never stop resisting"' (15 December 2021): <https://www.lawyersforlawyers.org/belarusian-lawyer-mikhail-kirilyuk-we-should-never-stop-resisting/#:~:text=To%20mark%20this%20day%2C%20we.had%20a%20call%20with%20him>, accessed 16 January 2025

<sup>111</sup> OMCT, 'Andrey Machalou: "The Belarusian authorities have unleashed a scorched earth policy"', (6 August 2021): <https://www.omct.org/en/resources/news/andrey-machalou-the-belarusian-authorities-have-unleashed-a-scorched-earth-policy> accessed 16 January 2025



## **Sergej Ivanov**

Sergej Ivanov was removed from his duties after posting on Facebook about undermining public trust in authorities and law enforcement. The MCBA deemed these posts as acts incompatible with the title of a lawyer.

## **Siarhej Zikratski<sup>112</sup>**

Following the protests in 2020, Siarhej Zikratski took on cases of persons unlawfully detained in the aftermath.<sup>113</sup> In March 2021, Zikratski was penalised for his critical public statements regarding law enforcement actions and judicial proceedings in protest cases. He was called for an “extraordinary attestation,” a review of materials about the lawyer’s professional activities, including an oral interview checking the lawyer’s knowledge of legislation. He was found to fail resulting in his disbarment.

## **Dmitri Laevski**

Dmitri Laevski was expelled from the Minsk City Bar Association (MCBA) on 9 July 2021, for what was described as "systematic violation of the requirements and conditions for the exercise of advocacy." Two primary reasons for this were cited. First, for his critique on social media: Laevski was reprimanded and then expelled for criticising draft amendments to the Law on the Bar and arguing against the abolition of attorney bureaus and individual practice forms. The disciplinary commission considered his opinions defamatory towards lawyers and heads of legal advice offices. Secondly, for his courtroom speech, on 22–23 June 2021, during the court debate in defence of politician Viktor Babaryka, Laevski expressed a position about the innocence of other accused individuals, contrary to their own guilty pleas, and their defenders’ legal strategies, which the commission viewed as a violation of professional ethics.<sup>114</sup>

Dmitry Laevski has been awarded the Council of Bars and Law Societies of Europe’s (CCBE) 2021 Human Rights Award, along with other Belarusian lawyers Maksim Znak, Lilya Vlasova, and Leanid Sudalenko<sup>115</sup>.

## **Yauheni Pylchanka**

On 2 November 2021, Yauheni Pylchanka, another defender of Viktor Babaryka, was expelled from the Minsk City Bar Association for similar reasons. His statements during judicial debates

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<sup>112</sup> Right to Defense, ‘Five IOC lawyers were detained this morning’ (14 June 2022) :

<https://defenders.by/news/tpost/1j54km9zt1-segodnya-utrom-bili-zaderzhani-pyat-advo>

accessed 16 January 2025

<sup>113</sup> Human Rights Defenders, ‘Siarhej Zikratski’: <https://en-humanrightsdefenders.freiheit.org/siarhej-zikratski-belarus/>

accessed 16 January 2025

<sup>114</sup> Lawyers for Lawyers, ‘Joint statement on the repression against Belarusian lawyers and the disbarment of Dmitriy Laevski’ (2 August 2021): <https://www.lawyersforlawyers.org/joint-statement-on-the-repression-against-belarusian-lawyers-and-the-disbarment-of-dmitriy-laevski/> accessed 16 January 2025

<sup>115</sup> Council of Bars and Law Societies of Europe’s, <https://www.ccbe.eu/actions/human-rights-portal/human-rights-award/> accessed 16 January 2025



were deemed an improper public assessment of the legal positions of other defenders in the same criminal process.<sup>116</sup>

### **Kanstantsin Mikhel<sup>117</sup>**

Kanstantsin Mikhel faced administrative punishment and subsequent licence termination by the Ministry of Justice for participating in peaceful assemblies, under Article 23.24 of the Code of Administrative Offences.

### **Siarhei Pichukha<sup>118</sup>**

Siarhei Pichukha's licence was revoked for participating in a peaceful assembly. Despite only receiving a reprimand in March 2021, subsequent actions led to the harsher penalty of licence termination.

### **Boris Leskovski<sup>119</sup>**

Boris Leskovski was detained and administratively penalised for his participation in the Unity March on 6 September 2020. This led to an extraordinary certification, which he failed on 24 March 2021, resulting in the loss of his professional status.

## **5. Conclusion**

The evidence in this report indicates a persistent and troubling trend in Belarus where legal practitioners face increasing criminal sanctions, arbitrary detentions, and systemic interference in their professional duties. This escalation began notably with the detentions of Maksim Znak and Illia Salei in 2020 and has since intensified with a marked increase in the prosecution of lawyers.

The Belarusian state's actions contravene both national laws and international standards. These actions include misusing ethical standards to sanction lawyers for their professional and public expressions, thereby stifling dissent and curbing lawful advocacy. This systemic assault is aimed at silencing the legal community and inhibiting its ability to uphold democratic principles and human rights effectively.

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<sup>116</sup> Center for Constitutionalism and Human Rights of the European Humanities University, Right to Defense project, Human Constanta, The Polish Helsinki Foundation for Human Rights, 'The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense' (8 March 2023) p.9.: [English Translation of the Report "The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense" Is Published](#) accessed 16 January 2025

<sup>117</sup> Right to Defense, 'Human Rights activists report that the Ministry of Justice is preparing to clean up the lawyers' corporation' (9 February 2021): <https://defenders.by/news/tpost/a7s9hnjae1-pravozaschitniki-soobschayut-cto-minyus> accessed 16 January 2025

<sup>118</sup> Ibidem

<sup>119</sup> Ibidem



Furthermore, the combination of state bodies, bar associations, and state media has created an atmosphere of intimidation that severely impacts the legal profession's integrity. Such an atmosphere not only targets individual lawyers but also seeks to inhibit the entire legal community from effectively performing their duties, thus directly infringing on the rights of clients, and compromising the integrity of legal defence, especially in politically sensitive cases.

Additionally, the process of terminating a lawyer's licence in Belarus highlights significant procedural flaws lacking in transparency, representation, and impartiality. These flaws underscore structural issues that undermine the independence of the legal profession and restrict lawyers' abilities to perform their duties without undue interference. The arbitrary and non-transparent nature of these proceedings fosters an environment where lawyers operate under the constant threat of losing their professional status.

In conclusion, the legal framework and practices currently observed in Belarus violate lawyers' rights by imposing excessive restrictions on freedom of expression, arbitrary interpretation and application of restrictions which violate international standards, and which penalise participation in lawful international activities. There is a critical need for reform and strict adherence to legal principles that protect the independence and professional activities of lawyers to restore fairness and justice within the legal system in Belarus.

## 6. Demands and recommendations

Given the difficult situation that Belarusian lawyers face, the undersigned organisations express the following demands and recommendations:

**1. Protection of Legal Practice:** The Belarusian government should ensure that lawyers are able to perform their professional duties without intimidation, harassment, or interference. Lawyers should not be subjected to prosecution, sanctions, or other penalties for actions performed in the course of their professional practice. All proceedings against lawyers for their professional work should be halted, and those imprisoned for such reasons should be released.

**2. Non-identification with Clients:** Lawyers must not be associated with their clients' cases or causes as a result of their professional duties. They should not face charges for representing their clients, regardless of the nature of the accusations against their clients.

**3. Independence of Professional Associations:** Lawyers should have the right to establish and join independent self-governing professional associations to safeguard their interests and promote professional development. The executive body of these associations should be elected by the members and should function without external interference. The Belarusian government must cease its interference with these associations.



**4. Access to Lawyers and Legal Services:** Everyone must have the right to access legal services and lawyers of their choice to defend their rights. Lawyers should be able to assist clients without improper interference, in line with legal standards and professional ethics. This right must be protected without discrimination. Professional associations must be empowered and sufficient resources and funding must be allocated to ensure that legal services are available to all.

**5. Impartial Disciplinary Processes:** Disciplinary proceedings against lawyers should be overseen by impartial bodies—whether within the legal profession itself, an independent authority, or a court—and subject to challenge by the lawyer concerned before an independent and impartial court of tribunal established by law. The Belarusian government must not interfere with these proceedings. Codes of conduct for lawyers should be established by the legal profession or by legislation through the appropriate bodies.

**6. Non-Discrimination in the Legal Profession:** There must be no discrimination regarding entry into or continued practice in the legal profession based on race, ethnicity, gender, religion, political opinion, or any other status.

**7. Lawyer Safety:** The Belarusian government must ensure the safety of lawyers who face threats as a result of fulfilling their professional duties.

**8. Freedom of Expression in Legal Practice:** Lawyers should not face legal repercussions for statements made in good faith in the course of representing their clients, whether in written or oral form before courts or legal authorities.

**9. Freedom of Association and Expression:** The Belarusian government must guarantee the freedom of expression, association, and assembly for lawyers. Lawyers should be free to engage in public discussions, particularly concerning law, politics, and government matters, and to join or form national and international organisations without fear of professional retaliation.

**10. Rights of the Accused:** Anyone charged with a criminal offence should be informed of the charges immediately and have the right to access a lawyer of their choice. The Belarusian government must ensure that all arrested or detained individuals, regardless of charge, have prompt access to a lawyer.

**11. Access to Information:** Lawyers should have unrestricted access to all relevant information, files, and documents necessary for effective legal representation, across all courts and offences. The Belarusian government must uphold the confidentiality of all communications between lawyers and their clients.

**12. Right of Representation:** No court or administrative body should refuse to recognize a lawyer's right to represent their client.



**13. Release Imprisoned Lawyers:** Finally, the Coalition for the Day of the Endangered Lawyer urges the immediate reinstatement of lawyers disbarred due to political motivations and the release of lawyers imprisoned for political reasons.

**List of signatories:**

1. Avocats Sans Frontières (ASF)
2. Berlin Bar Association
3. Barreau de Bruxelles, Ordre Français
4. Council of Bars and Law Societies of Europe (CCBE)
5. Defense Sans Frontière (Defense Without Borders) (DSF-AS)
6. European Association of Lawyers for Democracy and World Human Rights (ELDH)
7. European Criminal Bar Association (ECBA)
8. European Democratic Lawyers (AED)
9. Geneva Bar Association
10. Giuristi Democratici
11. Institut des Droits de l'Homme des Avocats Européens (IDHAE)
12. Institut des droits de l'homme du barreau de Bruxelles - Institute for HR of the Brussels Bar
13. Institut des Droits de l'Homme du Barreau de Bordeaux
14. International Association of Young Lawyers (AIJA)
15. International Association of People's Lawyers (IAPL)
16. International Bar Association's Human Rights Institute (IBAHRI)
17. International Criminal Bar
18. International Observatory for Lawyers in Danger (OIAD)
19. Lawyers for Lawyers (L4L)
20. Lawyers' Rights Watch Canada
21. New York City Bar Association
22. Ordine degli Avvocati di Venezia (Venice Bar Association)





23. Philippines National Union of Peoples' Lawyers
24. Republican Lawyers Association, Germany (RAV)
25. Syndicat des Avocats pour la Democratie, Belgium (SAD)
26. The Defence Commission of the Barcelona Bar Association
27. The Federation of European Bars
28. The Foundation of the Day of the Endangered Lawyer
29. The German Bar Association (Deutscher Anwaltverein)
30. The Law Society of England and Wales
31. The National Bar Council of Poland
32. Institute for the Rule of Law of the International Association of Lawyers (UIA-IROL)
33. Unione delle Camere Penali Italiane (UCPI)
34. Union of People's Lawyers in Mindanao
35. Vereinigung Demokratischer Juristinnen und Juristen e.V. (VDJ)

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INTERNATIONAL ASSOCIATION OF YOUNG LAWYERS



Human Rights Institute



Barreau Pénal International Criminal Bar



INTERNATIONAL OBSERVATORY FOR LAWYERS



