

To:

Belarus Ministry of Foreign Affairs ([mail@mfa.gov.by](mailto:mail@mfa.gov.by))

Belarus General Prosecutor's Office ([info@prokuratura.gov.by](mailto:info@prokuratura.gov.by))

Belarus Department of Corrections of the Ministry of Internal Affairs ([pismo@din.gov.by](mailto:pismo@din.gov.by))

Amsterdam, 26 June 2024

**Subject: Public letter to the Belarusian authorities on the arbitrary detention of Maksim Znak**

Your Excellencies,

On the International Day in Support of Victims of Torture, we are writing to you on behalf of Lawyers for Lawyers (L4L) to express our deep concern regarding the ongoing incommunicado detention of lawyer Maksim Znak for over 17 months. We urge the Belarusian authorities to abide by international legal standards and accordingly immediately release Maksim Znak.<sup>1</sup>

L4L is an independent and non-political foundation which seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession. We support lawyers worldwide who face reprisals, improper interferences or unreasonable restrictions in the execution of their profession. L4L was granted Special Consultative status with the UN Economic and Social Council in July 2013.

Maksim Znak is a prominent lawyer who represented political opposition candidate Viktor Babaryka and later Sviatlana Tsikhanouskaya, on whose behalf he challenged the validity of Lukashenka's electoral victory before the Supreme Court of Belarus in August 2020. He spoke out openly about democratic rights and fair elections. In 2021, he was awarded the Lawyers for Lawyers Award 2021, jointly with Liudmila Kazak, and he is a laureate of awards by the Council of Bars and Law Societies in Europe (CCBE) and the International Bar Association's Human Rights Institute (IBAHRI). L4L has repeatedly shared its concern about Maksim Znak's arbitrary detention.<sup>2</sup>

According to reports, Maksim Znak was arrested on 9 September 2020. On 6 September 2021, following a trial behind closed doors, he was convicted and sentenced to 10-years imprisonment for "conspiring to seize state power", "creation of an extremist formation" and "calls for actions aimed at causing harm to the national security of the Republic of Belarus" under Articles 357(1), 361-1(1), and 361(3) of the Criminal Code of Belarus respectively. The evidence on which the Maksim Znak's conviction was stooled were not made public.

On 24 December 2021, the Supreme Court upheld the sentence against Mr Znak, and he was subsequently transferred to penal colony No. 3 in the village of Vitba, Vitebsk region. We understand he remains there to date. During his confinement, he has allegedly repeatedly been placed in a punishment cell. Since February 2023, Maksim Znak has reportedly been held in incommunicado detention and deprived of all contact with the outside world. His access to his family members, his lawyer(s) and independent medical personnel has been denied.

L4L has strong reasons to believe that Mr Znak's detention and conviction are directly related to his professional duties. Notably, in May 2022, the UN Working Group on Arbitrary Detention found the arrest and detention of Mr Znak to be arbitrary as it was 'based on discrimination resulting from his political opinion and his status as a lawyer of the political opposition party'.<sup>3</sup> It requested that Mr Znak be released immediately and be granted reparation and compensation in accordance with international law.<sup>4</sup>

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<sup>1</sup> Please note that this is a public letter and will be published on our respective websites.

<sup>2</sup> L4L, 'Tortured and unlawfully imprisoned: Lawyers for Lawyers demands justice for Maksim Znak' (30 December 2023) available at <<https://lawyersforlawyers.org/tortured-and-unlawfully-imprisoned-lawyers-for-lawyers-demands-justice-for-maksim-znak/>>; L4L, Arrest and detention of lawyers Maksim Znak and Ilia Salei (22 September 2020) available at <<https://lawyersforlawyers.org/wp-content/uploads/2020/09/Letter-Belarus-22-september-Law-Society-L4L.pdf>>.

<sup>3</sup> United Nations Human Rights Council, Opinions adopted by the Working Group on Arbitrary Detention at its ninety-third session (30 march-8 April 2022) A/HRC/WGAD/2022/24, paras 109-110.

<sup>4</sup> Ibid, para 114.

L4L recalls that Belarus has ratified and is therefore bound by, inter alia, the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR). We therefore respectfully remind you that Belarus must respect and fulfil international human rights law, standards, and norms, including, but not limited to, those standards relating to the prevention of torture and the right to liberty.

Numerous UN human rights bodies and mechanisms, including the UN Human Rights Committee and the UN Working Group on Arbitrary Detention, have held that prolonged incommunicado detention can itself constitute torture and ill-treatment. The latter has considered incommunicado detention for four months to be ‘prolonged’ based on factual circumstances. The prohibition of torture and ill-treatment is absolute and non-derogable.<sup>5</sup> In addition, Mr Znak’s continued incommunicado detention also contravenes Article 10(1) ICCPR, which imposes a positive obligation on State parties to treat all persons deprived of their liberty with humanity and respect for their dignity.<sup>6</sup>

Moreover, prolonged incommunicado detention is conducive to and facilitates the perpetration of torture and ill-treatment, creating a heightened risk of such treatment. States are obliged to take effective legislative, administrative, judicial or other measures to prevent acts of torture and ill-treatment in any territory under its jurisdiction under Articles 2(1) and 16 CAT. Prompt and regular access to lawyers of one’s choice, independent medical personnel and family members of detainees at all stages of detention are essential and necessary safeguards against torture and ill-treatment that States must ensure in order to comply with the above obligations.

According to the UN High Commissioner for Human Rights, Maksim Znak’s prolonged incommunicado detention – extending up to 17 months as of today – and the lack of information on his whereabouts and condition due to the denial of access to family members and independent legal counsel, may amount to enforced disappearance. Moreover, it stated that the intense psychological suffering of family members caused by this seemingly punitive treatment of their loved ones, without being able to ascertain even whether they remain alive, may amount to torture.<sup>7</sup>

**In light of the above, and with particular reference to the United Nations Basic Principles on the Role of Lawyers,<sup>8</sup> we call on the Belarusian authorities to:**

- Immediately and unconditionally release Maksim Znak, quash his conviction and ensure the right to an effective remedy in accordance with international law;
- Respect and fulfil his right to access to medical services, independent legal representation, and contact with his family to, inter alia, respect the prohibition and ensure the prevention of torture and ill-treatment;
- Ensure the independent and prompt investigation and prosecution of torture and ill-treatment of Maksim Znak, in accordance with applicable international standards.

Thank you for your attention to this crucial matter. We would be grateful to receive your assurances that you have received this letter and that these concerns will be addressed as a matter of urgency.

Your sincerely,

Sophie de Graaf, **Director Lawyers for Lawyers**



<sup>5</sup> Article 7 ICCPR in conjunction with Article 4(2) ICCPR, and Article 2(2) CAT.

<sup>6</sup> Report of the Special Rapporteur on torture, UN Doc. E/CN.4/1995/34, para. 926; Report of the Special Rapporteur on the question of torture, E/CN.4/2004/56/Add.20 (6 February 2004) para 66: “Since incommunicado detention creates conditions that facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture, the incommunicado regime should be abrogated”.

<sup>7</sup> Report of the United Nations High Commissioner for Human Rights, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, A/HRC/55/61 (15 March 2024) para 35.

<sup>8</sup> Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, Basic Principles on the Role of Lawyers (7 September 1990).