



right to defence



Belarus

Joint submission to the Universal Periodic Review of Belarus 50th Session

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Information on the submitting organisations:

Lawyers for Lawyers (L4L) is an independent, non-political and not-for-profit lawyers' organisation established in 1986. Its mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognised norms and standards by supporting lawyers who are at risk as a result of discharging their professional duties. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.

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Belarusian Association of Human Rights Lawyers (BAHRL):

The Belarusian Association of Human Rights Lawyers is a community that unites lawyers deprived of the right to practice their profession in Belarus, as well as lawyers who care about the issues of the Belarusian Bar and the right to defence. The Association's mission is to restore and further preserve the Belarusian Bar as an independent institution by international human rights standards, and to support lawyers in exile.

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Right to Defence Project:

The 'Right to Defence' project is aimed at providing information support to lawyers, human rights defenders and any persons in need of protection of their rights, freedoms and interests in the conditions in which the Belarusian legal system finds itself. Our mission is to create in the Republic of Belarus an informed and aware community of lawyers capable of protecting not only clients but also their own professional rights, as well as to promote international standards of advocacy and advocacy activities in the national legislation and practice.

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I. Introduction

1. Lawyers for Lawyers, the Belarusian Association of Human Rights Lawyers, and the Right to Defence welcome the opportunity to submit written information to the UN Human Rights Council for the 4th cycle Universal Periodic Review of Belarus. This report is based on information collected through ongoing research, including interviews with legal professionals in Belarus, and engagement with and reports from lawyers and other local and international stakeholders.
2. Since the last UPR review, the rule of law and the administration of justice in Belarus have undergone serious degradation. The aftermath of the contested 2020 presidential elections saw unprecedented repression by the authorities against the opposition and civil society at large, with lawyers facing systematic harassment, arbitrary arrests, and widespread disbarment for defending political opposition figures and human rights defenders.¹ Authorities have progressively taken steps to subjugate the legal profession to state control, weakening due process and hampering the effective administration of justice.
3. Considering the above, this submission will focus on the following issues:
 - a. Interference with the independence of the legal profession
 - b. Restrictions to the right to an effective defence
 - c. Harassment and prosecution of lawyers
4. Relevant fourth cycle UPR recommendations not yet implemented include the following:
 - a. Recommendations supported by Belarus:
 - *138.103 Take immediate measures to prevent all torture and cruel, inhuman and degrading treatment or punishment, investigate promptly and impartially all allegations of torture and other cruel, inhuman or degrading treatment or punishment, and ensure that the perpetrators are held accountable (Canada);*
 - *138.143 Refrain from intimidation, harassment, arbitrary arrest of and the disproportionate use of force against people exercising their right to freedom of expression and peaceful assembly (Belgium);*
 - *138.151 Fulfil its obligations under the international human rights treaties regarding freedom of expression, freedom of the media, free and fair elections, peaceful assembly, and protection against reprisals, ill-treatment or torture (Romania);*
 - *138.162 Abide by the obligation under international law to respect the rights of journalists, human rights defenders and other individuals to exercise their freedom of expression, peaceful assembly and association (Finland);*
 - *138.193 Ensure full enjoyment of freedom of expression, speech, association and peaceful assembly, and progress towards full, impartial and transparent investigation of all allegations of arbitrary deprivation of life, enforced disappearance, arbitrary detention, torture and ill-treatment and use of excessive force against peaceful demonstrators (Czechia);*
 - b. Relevant recommendations regrettably only noted by Belarus include those concerning the right to fundamental freedoms, such as freedom of expression, association, peaceful assembly, and media freedom.² Belarus took note of the majority of recommendations calling for a ban on arbitrary detention and the release of political prisoners and human rights defenders, without offering any additional comments.³ The same stance was applied to recommendations addressing the harassment of human rights defenders and the need to ensure they can carry out their professional activities without undue interference.⁴ Finally, Belarus also noted recommendations aimed at guaranteeing the right to a fair trial and ensuring proper access to justice.⁵

II. Interference with the independence of the legal profession

Amendments to the Law on the Bar and Advocacy

5. Although concerns about the independence of the legal profession in Belarus predate the 2020 presidential elections, subsequent legislative changes have further undermined the ability of lawyers to freely and independently carry out their professional activities.⁶ In May 2021, Belarus adopted Law No 113-3 ‘On Amendments to the Laws on the Issues of Advocacy’, which entered into effect in November of the same year⁷ and imposed severe restrictions on the rights and independence of lawyers.⁸ The recent legislative amendments abolished key organizational forms of legal practice, including lawyers’ bureaus and individual practice. As a result, lawyers are now only permitted to operate within so-called ‘legal consultation offices’, which are governed by regional Bar associations.⁹ The effective elimination of independent forms of practice significantly reduces access to legal aid. As of December 2023, eight out of the 118 districts of Belarus had no lawyers at all, and 38 had only one lawyer.¹⁰ Besides restricting the profession’s capacity to independently take on cases, this has significantly reduced equitable access to justice throughout the country.¹¹ An attorney has to work in a legal consultancy office; other forms are excluded. However, being bound to a specific legal consultation does not deprive an attorney of the possibility of assisting in another city or region.
6. The amendments also bolstered the Ministry of Justice’s oversight and regulatory power over the legal profession. Article 38 was amended to change the procedure for adopting the Rules of Professional Ethics of Attorneys: while the MOJ previously drafted and approved the Rules in coordination with the Belarusian Republican Bar, it now does so in cooperation with the Bar but approves them independently.¹² Following these changes, the MOJ initiated the adoption of new rules that expanded the scope of sanctionable conduct of lawyers, including broadly defined actions that could ‘damage the Bar’s integrity’ or ‘undermine its credibility’, making it vulnerable to misuse.¹³ The MOJ is able to monitor lawyers on their compliance with these professional ethics and subject them to disciplinary procedures in cases of alleged violations.¹⁴ Furthermore, the new law grants the MOJ two distinct powers: it must approve each candidate lawyer before admission, and it is responsible for establishing the procedures for periodic and extraordinary attestation of practicing lawyers.¹⁵
7. The heightened executive control is underscored by the amendments to Article 43 of the Law on the Bar and Advocacy, which grant the MOJ the prerogative to approve or reject candidates for Bar leadership.¹⁶ Specifically, if the MOJ refuses all the Bar’s nominees for leadership positions twice, it may directly propose its own candidate, who is automatically deemed elected if rejected twice by the Bar’s general meeting.¹⁷ It can also dismiss the chairs of bar associations if the Qualification Commission deems they violated ethical standards.¹⁸ MOJ officials also have the right to participate in activities of the bar associations and request any documents from bar associations or individual lawyers to be able to fulfil these powers.¹⁹ Regional bar associations are required by Belarusian law to be members of the BRBA.²⁰ As such, the control of the MOJ over the shaping, monitoring, and enforcing the ethical standards underlying the legal profession, including the governance of the regional bar, facilitates far-reaching executive interference and thereby fundamentally undermines the independence of the legal profession.
8. The amended Law on the Bar and Advocacy ultimately grants MOJ full control over the admission and regulation of the legal profession, in contravention of international standards, particularly the UN Basic Principles on the Role of Lawyers (Principles 10, 24-28). With authority over key leadership appointments in bar associations, it effectively disables the Bar’s function as a self-regulating institution and severely restricts the ability of its leadership to defend members’ professional interests without government interference. This intentional subordination of the legal profession to the authority of government is further illustrated by statements reportedly made by President

Lukashenko, who characterized lawyers as ‘government men’ bound to base their actions solely ‘on the law, rather than some made-up norms like freedom of speech, and other freedoms’.²¹

Complete lack of professional autonomy of the Belarusian Republican Bar Association

9. As a result of the extensive pressure exerted by the state on lawyers since the autumn of 2020 and the changes in legislation that came with it, as of the end of 2021 the territorial bar associations and the Belarusian Republican Bar Association (BRBA) had lost the main signs of independence and were structures dependent on the Ministry of Justice.²² This is evident in the Bar’s management’s increased engagement in government-aligned activities in contrast to its customary mandate of representing and defending the rights of lawyers.²³ In recent years, the BRBA has been performing an ideological function through its official communications and by participating in events endorsing the official state point of view, including discussions around the new ideological narrative - ‘genocide of the Belarusian people’.²⁴ The official website and Telegram-channel of the BRBA regularly publish reports of official state media, the channel of the President’s press service ‘Pul Pervogo’ and the openly propagandistic channel ‘Zheltya Slivy’.²⁵
10. Lawyers are forced to participate in events supporting the current government, to discuss the activities of President Lukashenka and state bodies, and to report about it in public space. In response to signing an ‘anti-war’ petition condemning the Russian invasion of Ukraine, lawyers were summoned and questioned by their bar associations by means of intimidation.²⁶ Thus, the leadership of the Bar actively interferes in the lives of lawyers outside the exercise of their professional duties and violates their freedom of opinion. In response to this, the EU sanctioned the BRBA Chairman, Aleksey Shvakov, for his role in shaping the Bar’s policies to systematically repress attorneys involved in politically motivated cases and for positioning the Bar in line with governmental stances.²⁷
11. In addition, the Young Lawyers’ Council (YLC), an autonomous organisation originally dedicated to defending the rights and interests of fellow lawyers within management bodies of the BRBA, has frequently espoused pro-government views in public forums.²⁸ For instance, the YLC launched an informal campaign advocating accountability for ‘extremist crimes’ during the 2024 parliamentary election campaign, a category of crimes broad enough to include voters expressing political views contrary to those of the government.²⁹ Notably, the YLC also co-produced a video project on ‘countering extremism’ with a representative of the Main Department of the Ministry of Internal Affairs for Combating Organized Crime and Corruption (GUBOPiK), the very agency responsible for detaining multiple lawyers in politically motivated cases. The YLC leadership has further demonstrated its alignment with state structures through symbolic agreements with organisations affiliated with the government, such as the Belarusian Republican Youth Union and the Youth Parliament. These actions perpetuate a chilling effect on attorneys, conditioning young lawyers to prioritize loyalty to the state over the independent exercise of their professional duties.³⁰

Certification and disciplinary proceedings as a means of reprisals

12. The extremely broad powers of the MOJ in relation to both the Bar as a whole and individual lawyers, facilitate the executive’s use of disbarment and re-certification procedures to remove or intimidate lawyers perceived as ‘disloyal’ to the state. In this regard, disciplinary measures taken against lawyers in Belarus are implemented through three procedures: (a) termination of the license by the Ministry of Justice on the basis of the conclusion of the Qualification Commission under the Ministry; (b) disciplinary procedures of bar associations; and (c) regular or extraordinary attestation in the Ministry of Justice. All these procedures have significant defects that make them incompatible with the principle of lawyers’ independence.³¹
13. Since the last UPR, Belarus has witnessed a sharp and unprecedented rise in the number of disbarred lawyers, particularly those representing political opponents and protestors or speaking publicly on human rights concerns. Between 2020 and 2024, more than 14 lawyers faced disbarment or license revocation, while others were effectively barred from exercising their profession due to non-renewal of their licenses.³² Disciplinary proceedings are typically brought before the

Qualification Commission and local Bar councils, which demonstrate a readiness to accept without criticism any allegations by state bodies that a lawyer has committed unlawful acts.³³

14. Such disbarments frequently stem from vaguely defined alleged infringements, such as ‘violations of professional ethics’ or ‘improper fulfilment of professional duties’.³⁴ Detention and certain administrative offences (‘petty hooliganism’, ‘disobedience to a lawful order or demand of an official’ or ‘distribution of extremist materials’) are regarded as an unconditional ground for disbarment by the boards of bar associations, regardless of the actual circumstances and the lawyer’s position in such cases.³⁵ It is precisely this approach that has enabled and facilitated the practice of arbitrary attention of lawyers, often on spurious grounds, which subsequently leads to lawyers’ disbarment and the termination of their licence. As a result, their clients are often abruptly deprived of their legal counsel. The following cases are illustrative of this pattern:

- a. Lawyer **Dmitri Laevsky** was one of the lawyers defending Viktor Babaryka, the ex-presidential candidate who was sentenced to 14 years in prison on 6 July 2021.³⁶ Two days later, on 8 July 2021, Laevsky was disbarred by the Minsk City Bar Disciplinary Commission for allegedly violating the Rules of Professional Ethics during his defence of Viktor Babaryka, by basing part of his argumentation on the presumed innocence of other individuals involved in the case.³⁷ His expulsion was confirmed by the Bar Association the following day.³⁸
- b. Lawyer **Natalia Matskevich** also represented Viktor Babaryka and was disbarred on 27 October 2021 following disciplinary proceedings initiated by the MOJ. The formal grounds for disbarment were ‘breach of the order of conducting investigative actions’ and ‘unethical actions towards participants in proceedings’.³⁹ These related to Matskevich’s defence of Viktor Babaryka in 2020 and 2021. At the time of her disbarment, she was representing Sergei Tikhanovsky, another well-known opposition leader.

15. Attacks on the legal profession extend beyond disbarments and disciplinary processes. Since 2020, at least 36 lawyers have reportedly lost their licenses following extraordinary re-certification examinations before the Qualification Commission.⁴⁰ These proceedings have occurred outside the standard five-year cycle and often feature vaguely defined accusations such as ‘improper fulfilment of duties’ or ‘offences incompatible with the title of a lawyer’, which points to a political instrumentalization of the certification process for lawyers deemed ‘disloyal’ to the government. As of September 2022, only 8 of the 21 members of the Qualification Commission were lawyers, while the remaining seats were held by government appointees — raising serious concerns about the independence and impartiality of the body responsible for evaluating lawyers’ competence.⁴¹ Subjecting lawyers to arbitrary re-certification by an executive-controlled body violates their right to practice without intimidation or interference, as established under the UN Basic Principles and other international standards.⁴²

III. Restrictions on the right to an effective defence

16. Prior to the 2020 presidential elections, several significant restrictions were already in place that compromised lawyers’ ability to provide an effective defence in Belarus. Alongside the amendments to the Law on the Bar and Advocacy, these restrictions have since deepened, further restricting access to clients, case materials, and evidence, along with increased pressure on lawyer-client confidentiality and the growing practice of holding trials in absentia. Such measures undermine the right to a fair trial and the principle of equality of arms, enshrined in Article 14 of the ICCPR, and contravene the UN Basic Principles on the Role of Lawyers (Principles 7, 8, 16, 21, and 22).

Denial of access to clients and case-related materials

17. While the Constitution of the Republic of Belarus formally guarantees the right to legal assistance 'at any time'⁴³ throughout criminal and administrative proceedings, including while serving sentences in correctional institutions,⁴⁴ reports received indicate that, in practice, detained and imprisoned individuals have repeatedly been denied prompt access to legal counsel. Instead, state authorities impose an arbitrary 'admission procedure' to authorise lawyers to participate in a case.⁴⁵ A ban on visits to temporary detention and isolation centres, introduced in 2020 ostensibly as an anti-epidemic measure, continues to restrict lawyers' access to clients during administrative proceedings.⁴⁶ Detainees involved in administrative proceedings are not brought to court but instead participate in hearings via videoconferencing.⁴⁷ This arrangement deprives lawyers of in-person access to their clients during the preparatory stage of cases, severely hampering the right to an effective defence.
18. Unimpeded access of lawyers to clients serving sentences in penal colonies is not ensured. Lawyer visits are frequently denied on the pretext that there is no written request from the client (which cannot be verified) or for failing to specify the exact month in which the visit is to occur, despite there being no legal obligation for clients to do so.⁴⁸ The available evidence suggests that the widespread introduction of such restrictions is intended to minimise lawyers' visits to penal colonies, the provision of legal assistance to prisoners and the monitoring of their conditions of detention. This way, the state does not respect its obligations under Article 14 of the ICCPR, as well as UN Basic Principles (7, 16).⁴⁹
19. Grave concerns persist over documented cases of prolonged incommunicado detention of political opponents and civil activists, including lawyers. These detainees have reportedly been held in penal colonies since 2023, in complete denial of correspondence and in-person communication with legal counsel, and have been deprived of medical care.⁵⁰ Under international law, such conditions may amount to torture and enforced disappearance. An emblematic case is that of lawyer **Maksim Znak**, who is serving a 10-year prison sentence for representing presidential candidates opposed to the government. He has been deprived of any form of contact with the outside world since February 2023.⁵¹ On 7 March 2025, a group of UN experts marked the second anniversary of the enforced disappearance and prolonged incommunicado detention of Maksim Znak, and other political prisoners in Belarus, underscoring the right of detainees to have legal representation and unrestricted communication with their lawyers.⁵²

Violations of lawyer-client confidentiality

20. The principle of lawyer-client confidentiality is still not adequately ensured and subject to increasing violations by the state, despite its explicit protection under the Law on the Bar and Legal Profession in the Republic of Belarus (Articles 17(2), 16)⁵³, as well as safeguards enshrined in the Criminal Procedure Code (Article 41(2)(7))⁵⁴ and international standards. Colony administrations have reportedly required lawyers to disclose their documents before meeting clients or bring no documents at all, with refusals potentially resulting in the lawyer's expulsion from the facility.⁵⁵ Such violations impact lawyers' ability to communicate with their clients as guaranteed under Article 14 ICCPR and the UN Basic Principles (22).
21. Lawyers who are themselves subject to arbitrary detention (see section IV) are subject to body searches, searches at their place of residence, and seizure of mobile phones, computer equipment, and documents. In such cases, materials protected by attorney-client privilege are subject to inspection and seizure. In light of the continuing pressure on opposition figures including targeted arrests and detentions, there is reason to assume that access to above-mentioned materials is one of the purposes of the detaining authorities.⁵⁶ In one case in 2022, GUBOPiK officers detained a lawyer, confiscated her mobile phone and computer, and forced her to provide the passwords to those devices. Other privileged materials were later seized from her home without consent or legitimate justification.⁵⁷

Trials in absentia and the weaponisation of non-disclosure agreements

22. Since the introduction of 'special proceedings' under the Criminal Procedure Code in 2022, authorities have increasingly initiated criminal proceedings against individuals residing abroad, exposing them to imprisonment in case of return.⁵⁸ Over one hundred people have been reportedly convicted during trials in absentia since 2022, further uprooting dissent and discrediting opposition in exile as a form of reprisal.⁵⁹ Reports indicate that defendants subjected to these special proceedings are often not informed of the charges and are unable to access the case file, thereby precluding them from the right to an effective defence. Although Article 46 of the Criminal Procedure Code guarantees the right to a defence lawyer for all individuals, appointed lawyers reportedly refrain from contacting their clients, rendering the right illusory in practice. The proceedings are often conducted in complete secrecy, with no opportunity for meaningful participation by the accused.⁶⁰ A group of Special Rapporteurs has expressed concern in 2025 over the growing use of trials in absentia without fair trial guarantees, particularly when employed without prior justification and when used as a form of reprisal.⁶¹
23. Another tactic reportedly employed by authorities against legal professionals handling sensitive cases is the arbitrary imposition of non-disclosure agreements.⁶² Lawyers risk criminal prosecution for sharing even routine information concerning proceedings and cases, such as the applicable Criminal Code provisions, a client's status, or the name of the investigator. In the case of lawyer Alexander Danilevich, individuals privy to case details were required to sign non-disclosure agreements under the threat of criminal liability for any disclosure of information pertaining to the case.⁶³ Such measures raise serious concerns regarding fair trial guarantees and impede lawyers' ability to practice their profession, contrary to the UN Basic Principles on the Role of Lawyers, notably Principle 16.

IV. Harassment and prosecution of lawyers

24. The Law on the Bar and Advocacy in the Republic of Belarus ('Law on the Bar and Advocacy') governs the legal profession and does not contain norms directly obliging the state to ensure the protection of lawyers for the performance of professional duties. Nevertheless, Article 4 of the Law proclaims that interference with the work of lawyers by investigative bodies, other state agencies, or private entities and officials is inadmissible.⁶⁴ Article 37(1) provides that 'the state guarantees lawyers the opportunity to practice law' and creates the necessary conditions for this.⁶⁵ Furthermore, the Constitution of Belarus prescribes the inviolability of legal aid under Article 62.⁶⁶ While these provisions continue to exist in writing, subsequent legislative amendments and state practices (some of which are described in sections II and III) have hollowed out their meaning.⁶⁷
25. Since the run-up to the 2020 presidential election and in its aftermath, lawyers in Belarus working on sensitive cases have faced arbitrary arrests and detention, criminal prosecution, prolonged and sometimes incommunicado imprisonment, and unfair trials. Authorities not only fail to protect lawyers but actively target them, unlawfully identifying them with their clients or their clients' cause. As a result, lawyers in Belarus are effectively prohibited from carrying out their professional duties independently, in violation of the ICCPR, as well as the UN Basic Principles (16, 17). Such harassment through judicial means has led to an overall chilling effect of human rights protection through judicial recourse, further undermined by eroding procedural guarantees and lack of adequate legal representation.

Arrest, detention, and criminal prosecution of lawyers

26. Since 2020, at least 30 lawyers have been subjected to arbitrary detention, with most ultimately convicted of administrative offences. While in 2020 most cases of lawyers' imprisonment were related to exercise of their right to freedom of peaceful assembly,⁶⁸ and in 2021 there were almost

no detentions, a new trend emerged in 2022. Law enforcement agencies (mainly GUBOPiK) detain lawyers and draw up protocols on administrative offences against them on spurious grounds, which subsequently serve as a basis for expulsion from the Bar.⁶⁹ From 2024 onwards, the number of arrests has ostensibly stagnated as repression reached its heights. The following cases are illustrative:

- a. On 20 March 2023, GUBOPiK officers simultaneously detained at least six lawyers, all of which had represented political prisoners, including Maksim Znak and Viktor Babaryka. They were interrogated, searched, and their equipment was seized. The lawyers faced administrative sanctions ranging from 3-15 days of detention to fines. Soon after their detention, all the detained lawyers were deprived of their practicing licence or left the Bar themselves, and most of them left the country for security reasons.⁷⁰
- b. Approximately twelve attorneys were arrested on 28 February 2024, with the majority soon thereafter released.⁷¹ The whereabouts and charges faced by those who remained in custody were not disclosed. This pattern reflects a purposeful strategy by enforcement agencies to remove lawyers from specific cases and prevent them from assisting particular clients.

27. Between 2020 and 2024, at least eleven lawyers have been criminally prosecuted for their legal practice and lawful exercise of their civil rights.⁷² The six lawyers who remain in detention are serving prison terms ranging from 6-10 years, with numerous others facing pending charges in connection with their professional activities.⁷³ The documented cases of lawyers criminally convicted reveal that they were charged under the same articles of the Criminal Code that are used against political opponents and citizens who dissent from the regime.⁷⁴ In particular, charges such as Article 361-1 (creation of an extremist formation or participation in it), Article 361-4 (assistance with extremist activities), or Article 342 (active participation in actions that grossly violate public order) underscore a pattern of politically motivated prosecutions.⁷⁵ At the same time, the circumstances of the criminal prosecution of lawyers indicate that the reasons for their prosecution were not only the realisation of civil and political rights, but in fact the exercise of their professional activities as a lawyer. The following case illustrates this:

- a. Lawyer **Aliaksandr Danilevich** was detained on 20 May 2022⁷⁶ and convicted of 'assistance with extremist activities' and complicity in 'calls for sanctions' for providing 'legal advice in the field of international sports law' to two Belarusian athletes who called for sanctions against the National Olympic Committee in Belarus. The prosecution explicitly emphasised that Danilevich performed these actions 'being a lawyer, PhD in law, having special knowledge in the field of jurisprudence'.⁷⁷

28. Among the six imprisoned lawyers, Maksim Znak has been held incommunicado since February 2023. He was sentenced to 10 years of imprisonment for 'harm to national security', 'conspiracy to seize power by unconstitutional means' and the 'creation and leading of an extremist organisation' under Articles 361(3), 361-1(1), and 357(1) of the Criminal Code of Belarus.⁷⁸ These charges were brought in relation to his professional activities as a lawyer, defending notable opposition members such as Viktor Babaryka. Despite the UN Working Group on Arbitrary Detention's 2022 opinion calling for Znak's immediate release in light of his unlawful arrest, Znak remains imprisoned in penal colony No. 3 in the Viciebsk region.⁷⁹ Throughout 2022, the colony administration has repeatedly, for spurious reasons, imposed penalties on him in the form of deprivation of meetings with relatives and placement in a punishment cell. At the end of November 2022, the administration moved him to solitary confinement,⁸⁰ and, since February 2023, completely deprived him of contact with the outside world, prohibiting correspondence, phone calls and visits of relatives and lawyers.⁸¹ The lawyer who visited Znak in the colony during 2022, was unable to obtain a meeting with him in February and early March 2023. On 20 March 2023, the same lawyer was detained and

subsequently deprived of his lawyer status.⁸² To date, no information has been received from Maksim Znak for more than two years.

Incommunicado detention, torture and ill-treatment, and enforced disappearance

29. Prolonged incommunicado detention is conducive to and facilitates the perpetration of torture and ill-treatment, creating a heightened risk of such treatment. According to the UN High Commissioner for Human Rights, Maksim Znak's prolonged incommunicado detention – extending up more than 24 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.⁸³

Restrictions on the rights to freedom of expression, association, and assembly

30. Lawyers in Belarus are often subjected to harassment and improper interference because of their expressed views or peaceful assembly and association.⁸⁴ Whereas the Constitution of Belarus safeguards individuals' right to freedom of expression under Article 33,⁸⁵ its implementation and enforcement for legal professionals remains inadequate. Moreover, the recently amended Rules of Professional Ethics of Lawyers, approved by the MOJ, impose additional restrictions on freedom of expression. Particularly, the broad standard set out in paragraph 3, which prohibits lawyers from engaging in conduct that 'may damage the integrity of the bar', is frequently used to limit a lawyer's own right to free expression.⁸⁶ Moreover, the government has interpreted the obligation under paragraph 9 for lawyers to rely strictly on credible data when interacting with the media in ways that restrict lawyers' ability to speak freely or criticise the legal system.⁸⁷ For example, lawyer **Yuliya Yurhilevich** was imprisoned for allegedly assisting with extremist activities, based partly on the fact that she provided information to a journalist regarding the revocation of her license and disbarment, which does not constitute a secret protected by law, as well as details about the court verdict and the sentence imposed on political prisoner Ales Pushkin, which was publicly available information.⁸⁸ Such restrictive measures undermine the safeguards and rights of lawyers to freedom of expression, belief, and association in public discussion concerning the law or administration of justice, thus violating Articles 19 and 21 of the ICCPR and the UN Basic Principles on the Role of Lawyers (particularly Principle 23).

31. Beyond the public sphere, private communication channels used by lawyers have also been subjected to state repression. On 25 August 2022, the Telegram chat 'Belarusian Lawyers', was labelled as extremist material by a district court in Minsk,⁸⁹ and on 12 September 2022, it was formally designated as an extremist formation.⁹⁰ This chat was used by lawyers to share experiences and exchange information to expedite the search for legal representation for detainees. The classification of the Telegram chat as extremist material, and the subsequent discouragement of its use, also curtails lawyers' right to freedom of association. In April 2023, the Belarus Association of Human Rights Lawyers was established to unite lawyers in exile. However, on 19 April 2024 the Association's Telegram channel was also labelled as extremist materials.⁹¹ Moreover, the website of the project 'Right to Defence', created at the initiative of lawyers to spread information regarding the state of the Bar and legal system, has been repeatedly blocked in Belarus,⁹² and was designated as extremist material on 4 June 2024.⁹³ These actions not only constitute a restriction on lawyers' freedom of expression, including the right to receive and impart information without interference, but also reflects a broader censorship of information that is not generated by government bodies or aligned with state discourse.

Chilling effect and the ensuing lack of access to legal aid

32. As a result of a long history of intimidation, arbitrary detention, disbarment, and fundamental legislative changes affecting the legal profession, the quantitative and qualitative composition of bar

associations has changed significantly. In addition, many lawyers have been forced to cease their practice as a result of disciplinary proceedings to which they have been subjected, while others have chosen to leave in response to the oppressive environment.⁹⁴ The Special Rapporteur on the situation of human rights in Belarus reported in 2022 that a large number of lawyers fled following the introduction of restrictive legislative amendments.⁹⁵ This downward trend in the number of practicing lawyers has well continued in subsequent years. As of July 2022, 1,780 people held the status of a lawyer in Belarus. This number fell to 1,616 lawyers by September 2023 and further declined to 1,605 lawyers as of 26 February 2025.⁹⁶ Based on data on the population of Belarus as of 1 January 2025 - 9,109,280 people, there is only 1 lawyer for every 5,675 residents.⁹⁷

33. The shortage of lawyers has prompted the BRBA and the Ministry of Justice to adopt controversial measures aimed at 'attracting young and promising specialists', although in practice these measures impose strict governmental control over new admissions.⁹⁸ Due to the impossibility of practicing law without undue governmental interference and the declining prestige of the legal profession, the addition of new lawyers to the Bar is mainly made up of former employees of law enforcement agencies and courts. They are admitted on the basis of state referrals with a significantly reduced internship period and bypassing the standard process that typically includes written examinations. Some of the newly admitted lawyers were previously even involved in politically motivated trials in their capacities as judges or other positions in state bodies.⁹⁹
34. As a direct result of these developments, many individuals in Belarus struggle to secure adequate legal assistance, since the continuous persecution of lawyers has made it virtually impossible to find legal representation, particularly in politically motivated cases. The appointment of underqualified individuals as lawyers with the purpose of furthering state narratives has led to a severe erosion of the legal profession's independence. This has, in turn, created an environment where legal aid is scarce, thereby impairing citizens' right to a fair trial and due representation as enshrined under the ICCPR.

V. Recommendations

35. The submitting organisations call on UN member states to make the following recommendations to Belarus:
 - a. Revise the Law on Advocacy and Advocacy Activities to ensure its compliance with international standards, eliminating any provisions that undermine the independence of the legal profession in Belarus.
 - b. Cease all executive interference in admission procedures for lawyers, ensure that disciplinary proceedings are free from executive interference, and immediately reinstate all licenses of lawyers unjustly disbarred or sanctioned for exercising their professional duties without requiring additional examination or certification, in accordance with international law and standards.
 - c. Refrain from any actions that may constitute harassment, persecution, or undue interference in the work of lawyers, including their arrest or criminal prosecutions on improper grounds such as the expression of critical views or the nature of the cases the lawyer is involved in.
 - d. Ensure the immediate and unconditional release of all lawyers and human rights defenders who have been arbitrarily detained or prosecuted for carrying out their legitimate professional activities.
 - e. Guarantee lawyers' fundamental rights to freedom of expression, assembly, and association as outlined in ICCPR Articles 19 and 21, as well as Principle 23 of the UN Basic Principles on the Role of Lawyers and cease the systematic censorship of all lawful activities related to association and expression, and free exchange of ideas between lawyers.

- f. Take immediate measures to ensure that lawyers have unrestricted access to their clients and maintain the full confidentiality of their communications, including during pre-detention and detention, and when lawyers' offices and residences are subject to searches by investigative authorities.
- g. Take immediate action to guarantee due process and fair trial rights, including by providing lawyers with full access to case files without undue delay or restrictions, both in law and practice.
- h. Conduct independent and impartial investigations into all allegations of torture and ill-treatment, bring any suspected perpetrators to justice in fair trials, to ensure accountability for officials responsible for these violations in compliance with international law.

¹ A/HRC/52/68 (3 February 2023) available at: <https://www.ohchr.org/en/documents/country-reports/ahrc5268-belarus-run-2020-presidential-election-and-its-aftermath-report>.

² Report of the Working Group on the Universal Periodic Review of Belarus (Addendum) A/HRC/46/5/Add.1. It concerns the following recommendations: 138.150 (Portugal), 138.152 (Slovenia), 138.163 (France), 138.168 (Ireland), 138.174 (Spain). With regard to the small number of recommendations of this nature that Belarus did accept, it found these to already be implemented with respect to ensuring the right to freedom of expression and association: 138.151 (Romania), (Ireland), 138.193 (Czechia).

³ Report of the Working Group on the Universal Periodic Review of Belarus (Addendum) A/HRC/46/5/Add.1. It concerns the following recommendations: 138.112 (United Kingdom), 138.125 (Austria), 138.132 (Japan), 138.133 (Ukraine), 138.135 (Luxembourg), 138.137 (Norway), 138.138 (Poland), 138.139 (United States).

⁴ Report of the Working Group on the Universal Periodic Review of Belarus (Addendum) A/HRC/46/5/Add.1. It concerns the following recommendations: 138.108 (Luxembourg), 138.185 (Slovakia).

⁵ Report of the Working Group on the Universal Periodic Review of Belarus (Addendum) A/HRC/46/5/Add.1. It concerns the following recommendations: 138.196 (Finland), 138.198 (Germany), 138.199 (Greece), 138.205 (New Zealand), 138.210 (Romania), 138.211 (Slovakia).

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⁸ Joint Report 2021 (n 6), 20.

⁹ See Law on Amendments to the Law on the Bar and Advocacy in Belarus, Law of the Republic of Belarus No. 113-3 (27 May 2021), amending the Law on the Bar and Advocacy No. 334-01 (2011), Art 29, parts 3 and 6.; Right to Defence, 'Changes to the Law on Lawyers and Advocacy' (30 August 2021) <https://www.defendersbelarus.org/changes-to-the-law-on-lawyers-and-advocacy>; Joint Report 2021 (n 6).

¹⁰ Joint Report 2024 (n 6), 33; Right to Defence, 'Киты, на которых держится районная адвокатура, и юрконсультации Шредингера: что происходит в адвокатуре' (24 March 2023) <https://www.defendersbelarus.org/kity-na-kotorych-derjitsa-rajonnaja-advokatura>.

¹¹ Ibid.

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¹³ Rules of Professional Ethics for Attorneys of Belarus (2021), paragraph 3; Right to Defence, 'Council of the Republic Approves New Rules of Professional Ethics for Belarusian Lawyers' www.defendersbelarus.org/new_rules_of_prof_ethics.

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¹⁶ Law on the Bar and Advocacy, art 43.

¹⁷ Ibid.

¹⁸ Law on the Bar and Advocacy, art 3.

¹⁹ Law on Amendments to the Law on the Bar and Advocacy in Belarus, Law of the Republic of Belarus No. 113-3 (27 May 2021), amending the Law on the Bar and Advocacy No. 334-01 (2011), art 3(27).

²⁰ Law "on the Bar and Practice of Law in the Republic of Belarus," No 334-3, adopted December 30, 2011, <https://etalonline.by/document/?regnum=H11100334>.

²¹ Right to Defence, 'Lukashenko states that the bar should be controlled' (4 May 2022) <https://defendersbelarus.org/tpost/6jvsnm1gv1-lukashenko-states-that-the-bar-should-be>.

²² Joint Report 2022 (n 6), section 4.

²³ Joint Report 2024 (n 6), 26-29.

²⁴ Following the 2020 protests, official rhetoric began promoting the notion of a "genocide of the Belarusian people" as a counterpoint to alleged Western involvement. In April 2021, the Prosecutor General's Office opened a criminal case concerning genocide during and after the Great Patriotic War (<https://www.prokuratura.gov.by/ru/activity/rassledovanie-ugolovnogo-dela-o-genotside/>). Subsequently, the Law 'On the Genocide of the Belarusian People' (5 January 2022) criminalised denial of this genocide and mandated ongoing state efforts to disseminate reliable information and educate citizens; in June 2022, a book on the subject was published under the Prosecutor General's editorship.

²⁵ Joint Report 2024 (n 6), 26-27. Examples of such communications are: https://t.me/brka_news/1224; https://t.me/brka_news/1466; https://t.me/brka_news/1416; https://t.me/brka_news/3066; https://t.me/brka_news/2862; https://t.me/brka_news/3598; https://t.me/brka_news/3603.

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- ²⁹ Ibid.
- ³⁰ Ibid.
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- ³⁴ Right to Defence, 'Persecution of lawyers in Belarus after the elections in 2020' (7 February 2024) https://www.defendersbelarus.org/persecution_lawyers_belarus.
- ³⁵ Joint Report 2024 (n 6), Chapter 2; Joint Report 2022 (n 6), Chapter IV.
- ³⁶ DW, Viktor Babariko: Belarus jails former presidential contender (6 July 2021), <https://www.dw.com/en/viktor-babariko-belarusjails-former-presidential-contender/a-58171056>.
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- ³⁸ Joint Report 2022 (n 6), 10.
- ³⁹ Lawyers for Lawyers, Joint statement: Bar Association of Belarus should reinstate disbarred lawyer Natalia Matskevich (28 October 2021), <https://lawyersforlawyers.org/en/joint-statement-bar-association-of-belarus-should-reinstate-disbarred-lawyer-natalia-matskevich/>.
- ⁴⁰ Joint report 2022 (n 6), 12-13; 4 Right to Defence, Persecution of lawyers in Belarus after the elections in 2020 (last updated on 7 February 2024) https://www.defendersbelarus.org/persecution_lawyers_belarus.
- ⁴¹ Joint Report 2022 (n 6), 12. This has been laid down in Article 14.2 of the Law of the Republic of Belarus On the Bar and Advocate Activity in the Republic of Belarus 334-3 (2011). According to the latest information, there are currently 21 members sitting on the Commission. See https://www.defenders.by/attestacija_izmeneniya.
- ⁴² Ibid.
- ⁴³ Constitution of the Republic of Belarus, art 62: 'Everyone shall have the right to legal assistance to exercise and protect his rights and freedoms, including the right to make use, at any time, of assistance of lawyers and his other representatives in court, other state bodies, other organisations and also in relations with officials and citizens. In the instances specified by law, legal assistance shall be rendered at the expense of state funding'.
- ⁴⁴ Criminal Procedure Code, art 41(2) paras 6–7; art 43(2) paras 5–6; Procedural and Executive Code on Administrative Offences, art 4.1(1) paras 5–6.
- ⁴⁵ The report "The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense" (n 6), section 2.2.2.
- ⁴⁶ Centre for Constitutionalism and Human Rights, 'The Crisis of the Legal Profession in Belarus: Final Report' (March 2023) https://cchr.online/wp-content/uploads/2023/03/The-Crisis-of-the-Legal-Profession-in-Belarus_Final.pdf accessed 27 February 2025.
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- ⁵² OHCHR, 'Belarus: Experts mark second anniversary of enforced disappearance of Siarhei Tsikhanouski, demand action' (7 March 2025) <https://www.ohchr.org/en/press-releases/2025/03/belarus-experts-mark-second-anniversary-enforced-disappearance-siarhei>.
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- ⁵⁴ Criminal Procedure Code (Belarus 2012), art 41(2)(7).
- ⁵⁵ Joint Report 2024 (n 6), 9.
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- ⁵⁸ Belarusian Association of Journalists (BAJ), 'Special Proceedings: Absentia Trials' (1 July 2024) <https://baj.media/en/mediyaprava/special-proceedings-absentia-trials/>.
- ⁵⁹ UN OHCHR, 'Belarus: UN Experts Alarmed about Widespread Absentia Trials' (Press release, 22 January 2025) available at: www.ohchr.org/en/press-releases/2025/01/belarus-un-experts-alarmed-about-widespread-absentia-trials#:~:text=Margaret%20Satterthwaite%2C%20Special%20Rapporteur%20on,extrajudicial%2C%20summary%20or%20arbitrary%20executions.
- ⁶⁰ Viasna, 'Special Proceedings in Belarus Explained' (8 August 2024) <https://spring96.org/en/news/115953>; BAJ Media, 'Special Proceedings: Absentia Trials'.

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