



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

14 November 2003

President

Justice Arthur CHASKALSON, South Africa

Vice-President

Lord William GOODHART, United Kingdom

Executive Committee

Dr. Rajeev DHAVAN, India
Justice John DOWD, Australia (Chairperson)
Prof. Jochen A. FROWEIN, Germany
Ms Gladys Veronica LI, Hong Kong
Dr. Hipolito SOLARI YRIGOYEN, Argentina
Prof. Yozo YOKOTA, Japan

Other Commission Members

Prof. Abdullahi AN-NA'IM, Sudan
Dr. Alejandro ARTUCIO RODRIGUEZ, Uruguay
Justice Solomy BALUNGI BOSSA, Uganda
Ambassador Julio BARBOZA, Argentina
Justice Ian BINNIE, Canada
Prof. Alexander BRÖSTL, Slovakia
Prof. Juan Antonio CARRILLO SALCEDO, Spain
Prof. Antonio CASSESE, Italy
Ms Christine CHANET, France
Lord COOKE OF THORNDON, New Zealand
Dato' Param CUMARASWAMY, Malaysia
Dr. Dalmo DE ABREU DALLARI, Brazil
Prof. Vojin DIMITRIJEVIC, Serbia and Montenegro
Ms Louise DOSWALD-BECK, Switzerland
Ms Vera DUARTE, Cape-Verde
Prof. Paula ESCARAMEIA, Portugal
Ms Elisabeth EVATT, Australia
Dr. Gustavo GALLÓN GIRALDO, Colombia
Mr Stellan GÄRDE, Sweden
Prof. Ruth GAVISON, Israel
Prof. Jenny E. GOLDSCHMIDT, Netherlands
Ms Asma JAHANGIR, Pakistan
Ms Asma KHADER, Jordan
Prof. David KRETZMER, Israel
Prof. Kazimierz Maria LANKOSZ, Poland
Prof. Ewa LETOWSKA, Poland
Ms Kathurima M'INOTI, Kenya
Ms Karinna MOSKALENKO, Russia
Dr. Adnan B. NASUTION, Indonesia
Dr. Pedro NIKKEN, Venezuela
Prof. Manfred NOWAK, Austria
Dr. Margarita RETUERTO BUADES, Spain
Prof. Andrei RICHTER, Russia
Justice Michèle RIVET, Canada
Sir Nigel RODLEY, United Kingdom
Mr A.K.M. SADEQUE, Bangladesh
Mr Claes SANDGREN, Sweden
Mr Jerome SHESTACK, U.S.A.
Prof. Anne-Marie SLAUGHTER, U.S.A.
Mr Raji SOURANI, Palestine
Prof. Daniel THÜRER, Switzerland
Prof. U. Oji UMOZURIKE, Nigeria
Prof. Vilenas VADAPALAS, Lithuania
Prof. Theo VAN BOVEN, Netherlands
Dr. José ZALAQUETT, Chile

Vladimir Vladimirovich Putin
President of the Russian Federation
Kremlin, Moscow
Russian Federation

Fax: +7 095 206 62 77; 206 85 10; 206 51 73; 230 24 08

Your Excellency,

The International Commission of Jurists (ICJ) consists of jurists who represent all the regions and legal systems in the world working to uphold the rule of law and the legal protection of human rights. The ICJ's Centre for the Independence of Judges and Lawyers (CIJL) is dedicated to promoting the independence of judges and lawyers throughout the world.

We are writing to you to express our concern at the search carried out at the offices of Mr. Anton V. Drel, lawyer for some companies within the Menatep Group and for Mr. Boris Khodorkovskiy, Yukos' former Chief Executive. We are also worried that Mr. Drel was summoned to testify against two of his clients. The search and the two summonses against him are a violation of international human rights guarantees and standards on the role of lawyers.

According to the information we have received, members of the investigative team of the Office of the General Prosecutor entered Mr. Drel's offices on 9 October and conducted a search, for which they had no valid warrant. The illegal search, which lasted approximately ten hours, resulted in the seizure of several documents related to Mr. Drel's defence of Mr. Platon Lebedev, a partner at Yukos company. Mr. Drel's computer, mobile phone and electronic phonebook were also seized and several cabinets were broken with crowbars.

The *International Covenant on Civil and Political Rights* (ICCPR), to which the Russian Federation is a party, establishes the right to be free from unlawful interferences with a person's home. As the Human Rights Committee said, the term "home" is to be understood to indicate the place where a person resides or carries out his usual occupation (General Comment 16, 8/4/88). Unless

there is a valid warrant emanating from a judge, a lawyer's office is protected against searches by the security services. The ICCPR states:

Article 17.1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

Article 17.2. Everyone has the right to the protection of the law against such interference or attacks.

We are furthermore worried that on 16 October and 25 October Mr. Drel received two summonses to be questioned as a witness in the cases against Mr. Lebedev and Mr. Khodorkovskiy respectively. Even though we welcome the first summons' subsequent withdrawal, we are concerned that the second subpoena has not been withdrawn. Moreover, both citations to Mr. Drel to testify against his clients violate the attorney-client privilege. In this regard, we would like to draw your attention to the *United Nations Basic Principles on the Role of Lawyers*, adopted by the U.N. General Assembly in 1990, which state:

Principle 22. Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

The ICJ/CIJL believes that both the illegal search and the summonses are just a form of harassment of Mr. Drel for discharging his professional duties. Targeting a lawyer in this manner constitutes a violation of the aforementioned *Principles*, which establish that Governments have the duty to ensure that lawyers can fulfil their functions without fear of harassment or improper interference. The *Principles* state:

Principle 16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

We therefore call on your Government to stop harassing Mr. Drel and to allow him to discharge his professional duties according to international human rights standards.

We will continue to closely monitor this situation.

Please accept, Your Excellency, the assurances of my highest consideration.

Yours sincerely,

Ernst Lueber
Acting Secretary-General

Cc: HE Mr. Leonid Skotnikov
Permanent Mission of the Russian Federation to the UN Office in Geneva
Avenue de la Paix 15
1211 Geneva 20

Fax: 022 734 4044

Mr. Yuri Tchaika
Minister of Justice
Vorontsovo Pole
109830 Moscow
Russian Federation

Fax: +7 095 916 2903

Mr. Boris Gryzlov
Minister of Internal Affairs
Ul. Zhitnaya, 16
117049 Moscow
Russian Federation

Fax: +7 095 925 20 98

Ms. Ella Pamfilova
Chair of the Presidential Human Rights Commission of the Russian Federation
Ipatevskii Per. 4/10
103132 Moscow
Russian Federation

Fax: +7 095 206 4855