

# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

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## COMMUNIQUE DE PRESSE – COMUNICADO DE PRENSA

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### **Belarus: ICJ Calls for End to Harassment of Lawyers**

The International Commission of Jurists today expressed its concern at the increasing instances of harassment and persecution of lawyers in Belarus following the recent suppression of protests at the outcome of the presidential elections. The attacks include the initiation and endorsement of disbarment proceedings against lawyers by the Ministry of Justice and attempts to stifle their exercise of freedom of expression. "Such state-sanctioned attacks against lawyers, aimed at preventing them from carrying out their professional duties and representing the interests of their clients, threaten the effective functioning of the legal profession as a whole", Róisín Pillay, Senior Legal Adviser for the ICJ Europe Regional Programme, said today.

On 19-20 December 2010, after the protests in Minsk following the 19 December presidential elections, hundreds of people were arrested including eight out of ten alternative presidential candidates. On 29 December, in an official statement posted on its website, the Ministry of Justice announced that certain lawyers defending those who participated in the 19-20 December events had "committed gross violations of the Rules of Lawyers' Professional Ethics, current legislation, as well as the law of the Republic of Belarus *On the Bar*". The Ministry further alleged that "some lawyers, abusing their right to protect others, present in a distorted light information about the course of the investigation and the possibilities for their defendants to enjoy their right to legal aid, state of their health and conditions of their detention, tendentiously present information about the operation of the law enforcement agencies of the country". In a motion to the Bar Association, the Ministry of Justice pointed to the "low professional level of certain lawyers" and demanded that urgent measures should be taken to ensure respect for the Rules of Professional Ethics and relevant legislation.

On 5 January 2011, the Ministry of Justice Collegium in another statement, "endorsed" the annulment of the license of lawyer Valentina Busko as a result of "participation in an unsanctioned meeting". With regard to Pavel Sapelko, lawyer of Andrey Sannikov, an ex-presidential candidate, the Ministry announced that it had filed a motion to the Bar Association that it take disciplinary measures as well as re-consider his membership in the Presidium of the Minsk Bar Association, as he had made "incorrect statements with regard to the Bar as an independent legal institution, and had questioned the actions of the Ministry of Justice as a state licensing body, saying that 'this is state pressure on the state lawyers.'" According to the Ministry of Justice statement, "[o]ther lawyers were warned about making more correct statements in the Media, which would not give rise to distortion of real facts and information received."

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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The ICJ underlines that government attempts to control the work of lawyers is a longstanding problem in Belarus. In 2001, the then UN Special Rapporteur on the Independence of Judges and Lawyers expressed concerns “about the targeting of certain advocates for the defence of their clients” and recommended that the Government uphold relevant guarantees under the UN Basic Principles.

The ICJ calls on the Belarus Government to ensure that lawyers are able to perform their professional functions without fear of retaliation or any other negative consequences such as disciplinary sanctions. The Government should revoke its motions against lawyers related to statements made in the discharge of their professional functions, or in relation to the legitimate exercise of their freedom of expression. “It is essential to the work of defence lawyers that they be able to present arguments concerning the rights of their clients in detention, their state of health and conditions of detention. If lawyers are prevented from raising these issues, then in certain cases an effective legal defence will be impossible, and violations of human rights will be committed with impunity,” said Róisín Pillay.

## BACKGROUND

The generally poor human rights situation in Belarus recently rapidly deteriorated: more than 700 protesters have been arrested; the OSCE office was closed down; lawyers were increasingly targeted; and EU is considering reintroducing sanctions against Belarusian officials. The ICJ has previously received reports of lawyers facing harassment for defence of their clients. The general climate in which lawyers operate in Belarus became extremely difficult when a Presidential Decree of 1997 banned private bar associations and made membership in associations controlled by the Ministry of Justice a condition of practicing law. Currently lawyers are prevented from forming independent bar associations; the Ministry of Justice controls the bar association, regulates entry to the profession and the operation and governance of the bar, and considers complaints leading to disciplinary measures.

Under the UN Basic Principles on the Role of Lawyers, it is the duty of governments to ensure that lawyers “are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ... and ... shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.” The Basic Principles also require states to guarantee lawyers’ freedom of expression and assembly and recognise that lawyers “have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights”. They specify that “[l]awyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.”

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