

Open statement in connection with the detention of Belarusian lawyers Ilya Salei and Maksim Znak

September 10, 2020

We express our deep concern at the detention of lawyers Ilya Salei and Maksim Znak on September 9, 2020, in Belarus, in a criminal case which is undeniably politically motivated. We consider this to be a gross violation of professional rights and privileges and improper interference with their professional legal activities and with their rights to express professional opinions, as established by international legal standards. This case is a direct consequence of a dire situation, problems and violations of professional rights of attorneys and lawyers and overall functioning of the legal profession in the Republic of Belarus. These problems were highlighted by both international organizations and representatives of the legal community before.¹

According to information posted on the website of the Main Investigation Department of the Investigative Committee of the Republic of Belarus, *“the investigation of the criminal case was opened by the General Prosecutor’s Office of the Republic of Belarus under Part 3 of Art. 361 of the Criminal Code of the Republic of Belarus. At the moment, in the course of the investigation, evidence has been obtained that testify to the commission by individuals of a non-governmental organization called the Coordination Council, of actions aimed at destabilizing the socio-political, economic situation and public awareness in the country, causing harm to the national security of the Republic of Belarus. These actions were carried out using the media and internet resources. With regard to the suspects Maria Kolesnikova and Maksim Znak, with the approval of the prosecutor, a preventive measure was chosen in the form of detention. Ilya Salei was also detained on suspicion of committing this crime.”*²

However, detained Ilya Salei is a lawyer of Maria Kolesnikova, one of the leaders of the Belarusian protest movement and a member of the Presidium of the Coordination Council, who is also in jail.³ Second detained lawyer Maksim Znak was representing Viktor Babariko, who ran for the President of the Republic of Belarus, but was not allowed to register as a candidate and was recognized as a political prisoner. Maksim Znak was also an attorney for the former presidential candidate Svetlana Tikhonovskaya, on whose behalf he created the Coordination Council. As a member of the Presidium of the Coordinating Council, Maxim Znak was providing legal assistance as an attorney. Maxim Znak’s lawyer Dmitry Laevsky notes: “all his statements,

¹ See <https://www.hfhr.pl/en/report-on-the-situation-of-legal-profession-in-belarus/>
<https://probusiness.io/law/7462-kogda-slesari-bastuyut-advokatam-stydno-molchat-obrashchenie-advokatskogo-soobshchestva-belarusi.html>, <https://fondadvokatov.ru/belarus>

² See <https://sk.gov.by/ru/news-ru/view/sledstvennym-komitetom-prodolzhaetsja-rassledovanie-ugolovnogo-dela-o-publichnyx-prizyvax-k-dejstviyam-9248/>

³ Coordination Council – public initiative, created with the goal of overcoming political crisis in Belarus and ensuring peace and understanding, and also for protection of sovereignty and independence of the republic of Belarus. More information about the Council please see <https://rada.vision/en>

appeals, comments were public, transparent, their content was absolutely legal and did not carry any illegal intentions."⁴

We would like to emphasize that, in accordance with the United Nations Basic Principles on the Role of Lawyers⁵, governments must ensure that lawyers can perform all of their professional functions without intimidation, hindrance, harassment, or improper interference. Lawyers, like other citizens, are entitled to freedom of expression, belief, association and assembly. In particular, they 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, and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful actions or their membership in a lawful organization.

The Belarusian Helsinki Committee appealed to the UN Special Rapporteur on the independence of judges and lawyers with a report about the situation of lawyers Maksim Znak and Ilya Salei.⁶ The report called for urgent action to be taken in connection with the detention of the lawyers and requested to send an urgent message to the Government of Belarus on the need to comply with the Basic Principles concerning the role of lawyers.

Belarusian lawyers and jurists have made an open statement in connection with the detention of their colleagues.⁷

We urge the authorities of the Republic of Belarus to:

- immediately release lawyers Maksim Znak and Ilya Salei and comply with international legal standards of the independence of legal profession and the exercise of the right to defense;
- stop the persecution of lawyers and attorneys who are exercising their constitutional right of freedom of expression by expressing their opinions⁸ while performing their professional functions;
- strictly observe the provisions of Art. 62 of the Constitution of the Republic of Belarus: "everyone has the right to exercise and protect rights and freedoms, including the right to use at any time the assistance of lawyers and their other representatives in court, other state bodies, local government bodies, at enterprises, institutions, organizations, public associations and in relations

⁴ See <https://news.tut.by/economics/699898.html>

⁵ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, see https://www.un.org/ru/documents/decl_conv/conventions/role_lawyers.shtml

⁶ See <https://belhelcom.org/be/node/1244>

⁷ <https://news.tut.by/economics/699922.html>

⁸ Article 33 of the Constitution of the Republic of Belarus https://kodeksy-by.com/konstitutsiya_rb/33.htm

with officials and citizens. Opposition to the provision of legal assistance in the Republic of Belarus is prohibited by law."⁹

Signatories:

1. Helsinki Foundation for Human Rights, Poland
2. ARTICLE 19, United Kingdom
3. The Council of Bars and Law Societies of Europe
4. The Bar Association of Luxembourg
5. The Swedish Bar Association
6. The French and German speaking bars association of Belgium AVOCATS.BE
7. The European Association of Lawyers AEA-EAL
8. Lawyers for Lawyers, The Netherlands
9. Lawyers' Committee for Human Rights YUCOM, Serbia
10. OMCT World Organisation Against Torture, Belgium
11. Human Rights House Foundation, Norway
12. Centre de la protection internationale, France
13. Human Rights Monitoring Institute, Lithuania
14. International Partnership for Human Rights (IPHR), Belgium
15. The Norwegian Helsinki Committee
16. Freedom Now, USA
17. Crude Accountability, USA
18. All-Ukrainian Association of Lawyers Providing Free Legal Aid - Odesa Division, Ukraine
19. Center for the Development of Democracy and Human Rights, Russia
20. Pskov Regional Human Rights Environmental Public Movement "Svobodnyi Bereg", Russia
21. Kharkiv Regional Foundaion Public Alternative, Ukraine
22. German-Russian Exchange in St. Petersburg
23. Stichting CAAT Projects, The Netherlands
24. MEMORIAL Deutschland e. V. Haus der Demokratie und Menschenrechte, Germany
25. Legal Policy Research Center, Kazakhstan
26. Public Association Dignity, Kazakhstan
27. Human Rights Movement "Bir Duino-Kyrgyzstan"
28. Belarusian Helsinki Committee
29. Human Constanta, Belarus
30. Center for Participation and Development, Georgia
31. Helsinki Citizens' Assembly - Vanadzor, Armenia
32. Association of Ukrainian Human Rights Monitors on Law Enforcement, Ukraine
33. SOVA Center for Information and Analysis, Russia
34. Souchastiye v Sud'be, Blagotvoritel'nyy Tsent, Russia
35. Human Rights Embassy, Moldova
36. Libereco Partnership for Human Rights, Germany

⁹ See https://kodeksy-by.com/konstitutsiya_rb/62.htm

37. Public Verdict Foundation, Russia
38. Human Rights Group "Grazhdanin, armia, pravo"
39. DRA – German-Russian Exchange, Germany
40. Social Action Centre, Ukraine
41. Helsinki Committee of Armenia
42. Helsinki association, Armenia
43. Macedonian Helsinki Committee
44. Swedish OSCE-network
45. Albanian Helsinki Committee
46. Bulgarian Helsinki Committee
47. Women of the Don, Russia
48. Moscow Helsinki Group, Russia
49. Human Rights House Zagreb, Croatia
50. Human Rights Center, Georgia
51. Mogilev Human Rights Center, Belarus
52. Netherlands Helsinki Committee
53. Human Rights Center ZMINA, Ukraine
54. The Barys Zvozkau Belarusian Human Rights House
55. "Ekumena" Center
56. Youth Memorial - Perm, Russia
57. Human Rights House in Chernihiv, Ukraine
58. The Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims
59. Östgruppen - Swedish initiative for democracy and human rights, Sweden

60. Khusanbai Saliev, lawyer, Bir Duino-Osh, Kyrgyzstan
61. Valerian Vakhitov, lawyer, Bir Duino-Osh, Kyrgyzstan
62. Lyudmila Ulyashina, Human Rights Advocate, PhD in Law, Associate Professor, European Humanities University
63. Lyubov Moseyeva-Elye, Legal Adviser, Kaluga Movement For Human Rights, Russia
64. Magomed Mutsolgov, journalist and human rights activist, Ingushetia, Russia