



BY AIRMAIL

President

Alexander Grigoryevich Lukashenko

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Republic of Belarus

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22 September 2020

Re: Arrest and detention of lawyers Maksim Znak and Illia Salei

Your Excellency,

The Law Society of England and Wales (the “Law Society”) is the professional body representing more than 180,000 solicitors in England and Wales. Its concerns include upholding the independence of the legal profession, the rule of law and human rights throughout the world. The Law Society holds special consultative status with the Economic and Social Council of the United Nations since 2014.

Lawyers for Lawyers is an independent lawyers’ organization which seeks to promote and protect the independence of the legal profession through the support of lawyers around the world, who face reprisals, improper interferences or restrictions in carrying out their professional functions. Lawyers for Lawyers has Special Consultative status with the UN Economic and Social Council since 2013.

We are concerned about the arrest and detention of lawyers Maksim Znak and Illia Salei in the Republic of Belarus. According to our information, Maksim Znak and Illia Salei were arrested on 9 September 2020. Law enforcement officers have also conducted searches in the apartments of the lawyers. The lawyer Maksim Znak is currently a suspect and was taken into custody; the lawyer Illia Salei is detained without having been informed of the offences that he is alleged to have committed. On 18 September, a detention hearing took place in the case against Maksim Znak. It was reported that Mr. Znak was charged under the Criminal Code of Belarus for allegedly having committed the offence of “calls to actions seeking to undermine national security”.

Over the last months, Maksim Znak and Illia Salei have been providing legal assistance to Viktor Babariko (who was a potential candidate for the Presidency of the Republic of Belarus, but was not allowed to formally register as a candidate), and Maria Kolesnikova, who have been associated with the opposition against the Government in Belarus. Maksim Znak also legally represented former presidential candidate Svetlana Tikhanovskaya.

We believe that the arrest and detention of these two lawyers is directly related to their professional activities and constitutes improper interference with such activities. As such, these actions taken against the lawyers constitute a violation of the internationally



recognised principle of the need to guarantee the independence of the legal profession. In addition, these actions taken against the two lawyers violate the right to a fair trial of the clients they represent, because it deprives them of legal representation of their own choosing, as well as restricts access to justice of citizens of Belarus in an impermissible manner.

There are a number of international legal obligations and standards, which are applicable to Belarus.

Belarus ratified the **International Covenant on Civil and Political Rights (ICCPR)** on 12 Nov 1973, which states:

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law...
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to



have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law

Article 19

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

The **United Nations (UN) Basic Principles on the Role of Lawyers**¹ (Basic Principles) provide:

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

18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall 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

¹ The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly "welcomed" the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly.



meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

We urge the relevant authorities in Belarus to:

1. Immediately and unconditionally release Maksim Znak and Ilia Salei, drop any charges and put an end to all acts of harassment against them, including judicial harassment, unless credible evidence is presented in proceedings that comply with international fair trial standards;
2. Pending their release, to guarantee the psychological and physical integrity of both lawyers and comply with international standards on conditions of detention; and
3. Guarantee that all lawyers in Belarus are able to carry out their professional duties without intimidation, hindrance or improper interference.

We will continue to monitor the situation of Maksim Znak and Ilia Salei in Belarus, as well as the situation of other members of the legal profession there.

Yours sincerely,

The Law Society of England and Wales
Lawyers for Lawyers

CC.

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