



Dear **Ms. Margaret Satterthwaite**  
Special Rapporteur on the independence of judges and lawyers

The Right to Defence Project extends warm greetings and sends this letter to the United Nations Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, to provide written inputs for the next thematic report on safeguarding the independence of judicial systems in the face of contemporary challenges to democracy. The issues depicted in this letter revolve around situation with attorneys and advocacy in the Republic of Belarus.

The period following the falsification of the elections in 2020 was marked by unparalleled violence perpetrated by the Belarusian authorities against peaceful protesters, as well as a complete breakdown of justice and legality, not only within the law enforcement bodies but also within the investigative bodies, prosecutor's office, and courts.

The following submission continues the submission previously sent to the Special Rapporteur dating the 5<sup>th</sup> of May 2023. In addition, detailed information about what is happening in the legal profession in Belarus is contained in the Report “The Crisis of the Legal Profession in Belarus: How to Return the Right to Defense”<sup>1</sup> and the Report “The Crisis of the Legal Profession Continued Repressions 2022-2023”<sup>2</sup>.

### Summary of the situation in the bar

Pressure is exerted on attorneys in almost all areas of attorney's activity: from detention to creation of obstacles in their work.

As for today, the number of attorneys deprived of the right to profession exceeds 130<sup>3</sup>. The number of certified professionals dropped by at least 431 since 2021<sup>4</sup>. Based on the data on the population of Belarus as of January 2023, there is only 1 attorney per 5,693 people<sup>5</sup>.

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<sup>1</sup> <https://drive.google.com/file/d/1cGbBv2r6bt5rCg7fOLAmGFoQLUBQQBvx/view>

<sup>2</sup> [https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf)

<sup>3</sup> [https://defendersbelarus.org/persecution\\_lawyers\\_belarus](https://defendersbelarus.org/persecution_lawyers_belarus)

<sup>4</sup> [https://www.defendersbelarus.org/rezultaty\\_likvidacii](https://www.defendersbelarus.org/rezultaty_likvidacii)

<sup>5</sup> <https://defendersbelarus.org/schrodinger-advice-bureaus>

Since 2020, at least 30 attorneys have been arbitrarily detained, at least 9 of them were criminally convicted. The reasons for their prosecution have been the attorneys' professional activities<sup>6</sup>.

Following attorneys' involvement into helping the victims of arbitrary detentions in the aftermath of 2020-protests, the authorities reimagined their policy towards attorneys. In November 2021, legislation on the bar amendments came into force, further increasing its dependence and controllability by state bodies, especially by the Ministry of Justice. The relevant legislative amendments can be boiled down to the following:

- one can become an attorney only upon consent of the Ministry of Justice, issued according to a non-transparent procedure;
- extremely broad powers of the Ministry of Justice which interfere in the activities of the bar;
- the Ministry of Justice appoints absolutely all heads of bar associations;
- expansion of mechanisms for certification conducted by the Ministry of Justice, which are used as a way for reprisals against unwanted professionals;
- mandate of subjecting attorneys to disciplinary responsibility belongs solely to the professional bodies with members appointed by the Ministry of Justice;
- approval of the Rules of Professional Ethics for Attorneys by the Ministry of Justice alone<sup>7</sup>.

However, in addition to the general picture, we would like to draw attention of the Special Rapporteur to a new phenomenon in the Belarusian bar: active inclusion of attorneys in the work of state propaganda, involvement of professionals in the pre-election process, legitimization of violations of the principle of free and genuine elections.

## Propaganda

Over the past years, the leadership of the bar has been demonstrating its loyalty to the political ideals of the current government, which have been repeatedly condemned by the international community as inconsistent with democratic values. Demonstration of such loyalty by attorneys' self-governing bodies is often accompanied by a disregard for the principle of independence of the bar as a separate institution with its own structure and regulatory system. The performance of ideological functions by attorneys, participation in pro-state events, and expression of support for illegitimate and illegal practices carried out by the state, its administrative, law-making and law enforcement departments have become a disappointing trend<sup>8</sup>.

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<sup>6</sup> [https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf) p. 14-15.

<sup>7</sup> <https://defendersbelarus.org/what-is-going-on-bar>

<sup>8</sup> [https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/justice-defenders/chr-belarus-legal-profession-continued-repressions-report.pdf) p. 26

## Participation of the Bar in the pre-election process 2023-2024

### 1. Context

On February, 25, 2024, elections of deputies to the House of Representatives of the National Assembly and local Councils of Deputies will be held in Belarus.

The elections will be held in an atmosphere of repression of the opposition. By now, human rights NGOs have already recorded the following violations of the citizens' electoral rights:

- there will be no independent observers at any voting station<sup>9</sup>
- citizens abroad can no longer vote in embassies, which will lead to the loss of more than 1.8 million Belarusian voters<sup>10</sup>.
- election commissions were formed behind closed doors with numerous violations<sup>11</sup>
- a ban has been introduced on taking photographs of voting ballots by a voter<sup>12</sup>, etc.

The institution of the legal profession is involved in the process of legitimizing legislation, which is aimed at creating conditions for unfree elections and depriving a significant part of Belarusian citizens of their voting rights. Thus, in news channels dedicated to the legal profession in Belarus the following information about such activities can be found:

- meetings with **labor collectives** of several Smorgon enterprises. At the meetings, special attention is paid to early voting (in case of impossibility of voting on the Unified Voting Day on February 25, 2023)<sup>13</sup>. The mechanism of early elections in the Republic of Belarus is used to simplify the process of falsification during counting.

- meeting with **residents** of Gortol and Telekhany towns, **students** of the Pinsk State Agrarian College, **labor collectives** of Urban Network Systems, TVSAT and Bank BelVEB<sup>14</sup>. Attention was paid to the “legal features” of the 2024 elections, the “peculiarities” of voting abroad (that is, the lack of it).

- to general meeting of personnel of the Kamenets regional department for emergency situations, employees of the Kamenets regional center for hygiene and epidemiology and Kamenets housing and communal services, employees of the Kuzlitmash enterprise<sup>15</sup>. At the meetings, attorneys spoke on liability for committing “extremist crimes” in the field of election legislation, which is used in Belarus as a mechanism of intimidation and persecution for political stance.

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<sup>9</sup> <https://elections2024.spring96.org/en/news/113867>

<sup>10</sup> <https://elections2024.spring96.org/en/news/113507>, p.3

<sup>11</sup> <https://elections2024.spring96.org/en/news/113790>

<sup>12</sup> <https://elections2024.spring96.org/en/news/113507>

<sup>13</sup> [https://t.me/brka\\_news/4124](https://t.me/brka_news/4124)

<sup>14</sup> [https://t.me/brka\\_news/4114](https://t.me/brka_news/4114)

<sup>15</sup> [https://t.me/brka\\_news/4054](https://t.me/brka_news/4054)

- to employees of the enterprise of the free economic zone Brest “Vastega”<sup>16</sup>. The attorneys urged those present to take part in “the selection of those who will represent their interests.” At the same time, as the media and observers note, the 2024 elections look like a mere formality.

- to young workers and specialists of JSC TAIM<sup>17</sup>, labor collective of the Design Research Republican Unitary Enterprise “NII Belgiprotopgaz”<sup>18</sup>, labor collective of JSC Minsk Car Repair Plant<sup>19</sup>, employees of the State Institution “Nursery-Garden No. 1 of Oshmyany”<sup>20</sup>, the workforce of the management company of the holding “Belstroytsentrholding”, employees of the Ivanovo district department of the Investigative Committee, employees of Kobrinsky Housing and communal services, students of Baranovichi State University<sup>21</sup>, workers of the Belarusian Metallurgical Plant<sup>22</sup> and so on.

Meetings aimed at promoting illegitimate legislation and the electoral procedure take place not only at the local level, but also at the level of the Belarusian Republican Bar Association (BRBA). Thus, with the participation of the deputy chairman of the Central Election Commission (the body responsible for holding unfree and illegitimate elections) Vadim Ipatov (included in the list of sanctioned persons), a “dialogue platform” dedicated to the election campaign was held<sup>23</sup>. The event was attended by attorneys from the Minsk City and Minsk Regional Bars, as well as representatives of the Councils of Young Attorneys (CoYA). Following the discussion of legislation aimed at limiting the range of voters of the “undesirable” category of citizens, Vadim Ipatov received gratitude from the head of the BRBA A.Shvakov “for long-term and fruitful cooperation with the BRBA.”

In the run-up to the elections, state television channels broadcast campaign shows whose hosts promote hate speech and social hatred. However, the chairman of the CoYA of the BRBA, Olga Kalina, took part<sup>24</sup> in one of these shows “Yes! But” on the topic: “Increasing the legal literacy of the population of Belarus: preparation for the 2024 election campaign” together with the pro-government employee of the state media Grigory Azarenok, who is notoriously known for his hateful rhetoric, promotion of repeated threats of physical violence against opponents of the authorities. The attorney pointed out the importance of attracting a certain category of young people to participate in elections - those who are “sincerely ready to make their choice.” “But every citizen of the Republic of Belarus must understand that participation in the election process is a certain responsibility!! That is, each of us must understand that no unauthorized mass events should be held,” Olga Kalina emphasized. In this context, we consider it important to recall that international organizations, UN quasi-judicial bodies, as well as human rights and legal

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<sup>16</sup> [https://t.me/brka\\_news/4041](https://t.me/brka_news/4041)

<sup>17</sup> <https://t.me/smabrka/3489>

<sup>18</sup> <https://t.me/smabrka/3487>

<sup>19</sup> <https://t.me/smabrka/3481>

<sup>20</sup> <https://t.me/smabrka/3470>

<sup>21</sup> [https://t.me/brka\\_news/3902](https://t.me/brka_news/3902)

<sup>22</sup> [https://t.me/brka\\_news/3889](https://t.me/brka_news/3889)

<sup>23</sup> [https://t.me/brka\\_news/4072](https://t.me/brka_news/4072)

<sup>24</sup> [https://t.me/brka\\_news/3995](https://t.me/brka_news/3995)

organizations have repeatedly recognized Belarusian legislation on mass events as repressive and inconsistent with international standards.

The project by the CoYA of the BRBA “The Right to Choose” deserves special attention, which, according to the description, is aimed at legal education of citizens in the field of election law. At the moment, there are 4 issues in the public domain - and not one of them is devoted to an explanation of electoral rights, not one of them talks about possible ways to protect the interests of citizens violated during the elections, or to appeals against detected illegal manipulations with ballots and voter lists. On the contrary, young attorneys do not miss the opportunity to remind Belarusians of the criminal and administrative responsibility of voters, which takes a “key place in the mechanism of legal protection” of elections. The issues are about:

- Responsibility for obstructing the exercise of electoral process or the work of the Central Election Commission, voting polls, violation of legislation on elections, referendums, the exercise of the right of legislative initiative of citizens (first issue of the project);

- Responsibility for “mass riots”. Young attorneys call on Belarusians to be “prudent and not to react to possible calls for participation in mass riots posted in instant messengers and other Internet resources” (second issue);

- Responsibility for dissemination and production of extremist information, violation of the procedure for organizing or holding mass events. Olga Kalina admits that, indeed, citizens are brought to administrative responsibility for “reposting” on social media or sending content in private messages, subscribing to an Internet resource, liking it, etc. In the same issue, young attorneys insist that “society and the state cannot develop harmoniously if the principle of the rule of law is violated” (third issue). It is hoped that this reminder was addressed to those who actually violate the rule of law by promoting illegitimate repressive legislation.

- Responsibility for violation of restrictions during election campaigning, referendum campaigning (fourth issue).

“Young attorneys of the country are for stability, peace and prosperity of their homeland” - this is the motto of the project.

## Conclusions

Principle 16 of the Basic Principles on the Role of Lawyers<sup>25</sup> states that it is the duty of the government to ensure that lawyers are able to perform all their professional duties in an environment free from threats, hindrance, intimidation or unwarranted interference.

The principle of independence of the legal profession is not even mentioned in the current legislation on the Bar. However, the right of each person to legal assistance depends directly on the independence of lawyers in their work. If lawyers

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<sup>25</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>

lose the opportunity to carry out their work in an environment free from obstacles, the rights of their clients remain unprotected<sup>26</sup>.

The bar associating itself with the state, systematically supporting the current governmental policies, participating in promoting illegitimate and unfree elections lead to citizens developing an idea of attorneys as government allies. Consequently, an even greater decrease of public trust in the institution of the bar is expected, which may lead to the attorneys' clients' hesitancy when submitting complaints on elective rights violations or their elective rights defence in courts. The lack of a real opportunity to get help from an independent and qualified specialist entails the impossibility of exercising the right to defence, contributing to an increased threat to democratic values and human rights.

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<sup>26</sup> [https://www.defendersbelarus.org/examination\\_as\\_a\\_filtering\\_mechanism](https://www.defendersbelarus.org/examination_as_a_filtering_mechanism)