

Belarus, Friday, 24 July 2020: Situation with legal assistance and lawyers

Situation in Belarus is becoming more and more complicated. Would you please see the latest information on the situation with Belarusian lawyers.

These notes have been recently consulted and confirmed by lawyers. I do not use any names since we try to keep confidentially to avoid possible harm to lawyers and their clients.

In brief: General existing problems of the legal assistance institute in Belarus (dependency on the Ministry of Justice and other state's agencies, low number of lawyers, fear and self censorship of lawyers) have caused even lower efficiency and increased vulnerability of those lawyers who dare to provide legal assistance to persons involved - directly or indirectly into the Presidential election 2020.

The Belarusian Bar Association which is under a strict control of the government is not able to influence the situation in ensuring that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

Nowadays, dozens Belarusian lawyers are at risk, especially those representing/defending clients who are:

- charged with penal offence for their participation in the peaceful gathering (around 719 people),
- political activities/candidates within the Presidential Election campaign 2020,
- complaining about the decisions of the Central Election Committee.

Worryings of 101 Belarusian lawyers were clearly expressed in an open appeal (June, 2020) to the Chairman of Belarusian Republican Bar Association. The lawyers stated that the State authorities do not provide conditions under which justice can be maintained. In fact, there are no legal remedies to get access to their clients nor efficient complaint procedures. They referred to the Art 62 of the Belarusian Constitution and demanded from the leadership of the Bar Association to react to the occurring obstruction to rendering legal assistance and reminded them that this happening is prohibited in the Constitution of Republic of Belarus. They ask to apply national legislation and to take urgent steps in order to ensure timely and equal access of lawyers to all persons without any distinction based on political opinion during the current Presidential pre election campaign. Lawyers shared worrying information that there are facts of physical and psychological pressure as well as ill-treatment acts against their clients' integrity.

The appeal has received a negative reaction from the chairman Mr. Viktor Chaichits (who is also a deputy member of the Up Chamber in the Belarusian parliament) of the Bar Association of the lawyers' association. Instead of assisting with furthering the ends of justice and protecting members of the Bar from improper restrictions and requirements providing legal services to all in need, the chairman demanded from lawyers to "comply with subordination", stay "beyond the politics" and even warned them by stating "perhaps, some lawyers do not want to continue their practice".

The most acute problems in performing professional duties towards the people/public interest are groups and resented as a following list:

1. *A low efficiency and increased vulnerability of lawyers who provide legal assistance.* The government does not ensure the people' right to have the assistance of, and consult with legal counsel. Nowadays, lawyers still do not get access to their clients when they need that. The state agents explain that there are not enough meeting rooms. As a result, lawyers'waiting time may last up to

several days and clients remain out of legal assistance (KGB's pretrial centre), consultations lawyers with their clients in designated rooms of pretrial centres (SIZO N 1) are not confidential. In administrative cases (in some cases arrests may last 75 days), authorities deny the right of lawyers to access their clients by referring to the COVID 19. Meanwhile, there is no formal quarantine in the country: all procedural activities are conducted and defence lawyers shall be present during court trial/clients' interrogations. However, right to legal counsel is significantly restricted, almost eliminated in administrative cases. Defence lawyers do not do not receive any information about the time and place of the court hearings, state bodies ignore petitions and more.

2. *Lawyers are denied the right of expression and the ban occurs in different forms:*

- Lawyers are obliged to sign non-disclosure documents within the criminal investigations;
- Lawyers are "recommended" not to appeal publicly about unlawful actions. As an example: while persecutor officers and some governmental officials produce mass-media materials to discredit the arrested political opponents, lawyers are not allowed to comment and argue publicly the mentioned actions as violation of the principle of presumption of innocence;
- The latest trend is that the authorities prevent lawyers from pleading publicly. Court administration/judges announce court hearings either as closed procedures or conduct them in small rooms with no possibility for to public audience to attend the hearings;
- The Bar Association calls lawyers to tolerate the restrictions, refrain from public discussions, "stay in the legal field" and obey the national legislation regardless of its compliance with constitutional guarantees and international human rights obligations.

3. *Lawyers are constantly discredited, intimidated and harassed:*

- Persecutors and investigating officers intentionally distribute spoiling messages to the persons who complain about detention conditions or unfair trial conditions. The state officials are saying that the client's hard situation and conditions are caused by lawyers's omissions, mistakes and/or "wrong" attitude which harmed the client's position.
- Lawyers are identified with their clients and their professional behaviour is qualified as being "political" one.
- Lawyers are warned by the leadership of the Republican Bar Association directly/indirectly that their active position may be assessed as lawyers' decision "to leave the legal practice".

Despite the problems lawyers are committed to continue their work. They ask colleagues of lawyers' professional associations for solidarity and support. Belarusian lawyers believe that the lawyers' associations statements, calls and actions on behalf of those endangered Belarusian lawyers will help to strengthen joint efforts to defend Belarusian peoples in need and bring justice to Belarus.

P. S.

Today, Monday, 31 August 2020, the state of the Belarusian Bar association and lawyers remains the same. New challenges and additional complications occurred after 9-11 August in Belarus and influenced the state and the spirit of Belarusian lawyers will be elaborated in my next letter.

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