



International Observation Mission
of the Committee on International Control over
the Situation with Human Rights in Belarus

Analytical review No. 3-1
“Realization of the right to protection and freedom
of the legal profession in the light of the events
in the Republic of Belarus
during December 2010 – January 2011”

as of January 20th, 2011

*This document is a systematic compilation of facts of interference in the activity of
the bar in the Republic of Belarus.*

I. Introduction

Lawyers which on the legal grounds perform protection of individuals and their guaranteed rights and freedoms on the basis of international standards (first of all, those secured under the UN Declaration “On the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” and confirmed by the OSCE documents) should be considered equal to human rights defenders and, therefore, are subject to special protection.

Institute of the bar should be independent from the state authorities as its main purpose is to provide individuals with legal protection including in cases of their disputes with the authorities. Its activity should be based on the principles of legality, independence, self-governing, corporative solidarity and equality of lawyers.

As it is established in the International Bar Association’s Standards for the Independence of the Legal Profession adopted by the IBA Conference in September 1990, New York:

“6. Subject to the established rules, standards and ethics of the profession the lawyer in discharging his or her duties shall at all times act freely, diligently and fearlessly in accordance with the legitimate interest of the client and without any inhibition or pressure from the authorities or the public.

7. The lawyer is not to be identified by the authorities or the public with the client or the client’s cause, however popular or unpopular it may be.

12. The independence of lawyers in dealing with persons deprived of their liberty shall be guaranteed so as to ensure that they have free, fair and confidential legal assistance, including the lawyer’s right of access to such persons. Safeguards shall be built to avoid any possible suggestion of collusion, arrangement or dependence between the lawyer who acts for them and the authorities.

13. Lawyers shall have all such other facilities and privileges as are necessary to fulfill their professional responsibilities effectively, including ... the right freely to seek, to

receive and, subject to the rules of their profession, to impart information and ideas relating to their professional work”¹.

In accordance with the Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990:

“7. Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.

8. All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.

14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; 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.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

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

20. Lawyers 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”².

Any pressure towards the lawyers puts under question the access to effective legal assistance for their clients and can put obstacles on the way to a fair trial, which according to the Belarus authorities' declarations is their goal.

The Report on the mission to Belarus of the Special Rapporteur on the Independence of Judges and Lawyers in 2000 states as follows: “Similarly, there is excessive executive control of the legal profession, particularly by the Ministry of Justice. Such control undermines the core values of an independent legal profession and the Basic Principles on the Role of Lawyers. Such control leads to abuses, resulting in allegations of harassment, intimidation and interference by the executive. The Government should enable lawyers to form self-governing associations and refrain from excessive control of the profession. There is no objection to the formation of a single unified profession as provided for by legislation. However, the controlling power must be

¹ http://www.ibanet.org/About_the_IBA/IBA_resolutions.aspx

² <http://www2.ohchr.org/english/law/lawyers.htm>

a body composed in its majority of practising members of the legal profession. The Special Rapporteur is concerned about the targeting of certain attorneys in law for defending the interests of their clients. The prosecution or threat of prosecution of bar lawyers for professional activities contravenes principle 20 of the Basic Principles on the Role of Lawyers. The Special Rapporteur considers that the persecution of these attorneys for their human rights related work is a violation of the right to freedom of expression and a violation of principle 14 of the Basic Principles on the Role of Lawyers. Lawyers must be allowed to practise their profession without any harassment, intimidation, hindrance or improper interference from the Government or any other quarter. In this regard, the Government should take note of its obligations under principles 16, 17 and 18 of the Basic Principles on the Role of Lawyers”³.

Submission of a petition by the Ministry of Justice of Belarus to the Minsk City Bar Association⁴, in which the Ministry demanded application of disciplinary measures towards certain lawyers which defended politicians and public figures, forces to pay a special attention to lawyers as a vulnerable group in connection with the events on December 19th, 2010. Analysis of the situation with the observance of the freedom of legal profession is the subject of this report.

II. Statement of the Ministry of Justice of the Republic of Belarus “On the violation of the legislation on the legal profession” and further actions by the Ministry

On December 29th, 2010 a statement on the violation of the legislation on the legal profession was published at the official website of the Ministry of Justice of the Republic of Belarus. It states the following: “Certain lawyers that defended individuals ... who participated in organizing mass riots followed with an attempt to capture state offices, as well as property destruction and armed resistance to state authorities, commit flagrant violations of **the Rules of the Bar Lawyers’ professional ethics** and acting legislation, including the Law of Belarus “On the bar”. Particularly, some lawyers misuse their right to defend other persons by distortion of information about investigation process and possibilities of realization of the clients’ rights to legal assistance, likewise their level of health and conditions of custody. Moreover, they disseminate information about the work of law enforcement bodies tendentiously”⁵. The actions of lawyers were estimated as having a low professional level and violating the Rules of professional ethics. On these grounds the Ministry submitted a petition to the presidency of the Minsk City Bar Association to take the immediate measures for unconditional observance of the legislation and requirements of professional ethics by lawyers.

On January 3rd, 2011 the member of the Grodno Regional Bar Association **Valentina Busko** was disbarred from practice for participation in an unsanctioned meeting on December 19th, 2010 in the centre of Minsk. Valentina Busko together with her son Eugeniy took part in the meeting of opposition on December 19th and both were arrested. Valentina was sentenced by the court of the Moscow district to 10 days of administrative arrest. The lawyer plans to lodge an appeal against the Association to

³ [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/571f50b9b848e6e8c1256a2300526b5c/\\$FILE/G0111054.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/571f50b9b848e6e8c1256a2300526b5c/$FILE/G0111054.pdf).

⁴ http://www.minjust.by/ru/site_menu/news?id=734.

⁵ http://www.minjust.by/ru/site_menu/news?id=734.

the court. According to her, no penalty was imposed on her during the 15 years of work⁶.

According to the information of the Ministry of Justice, on January 4th, 2011 the Board of the Ministry approved the decision of the Qualifying Commission on the Bar in the Republic of Belarus from January 3rd, 2011 on disbarment of the lawyer of the Grodno Regional Bar Association Busko V.A. Furthermore, in the statement of the Ministry of Justice it is mentioned that the member of the Minsk City Bar Association **Sapelko P.V.** allowed improper comments about the Bar as independent legal institution, questioned legal grounds of actions of the Ministry of Justice as a state licensing body declaring that it constitutes “pressure of authority on the state Bar”. The Ministry sent the petition to impose measures of disciplinary liability on him and a proposal to examine a question of termination of his functions in the presidency of the Minsk City Bar Association. It is worth mentioning that his clients are the former presidential candidate Andrey Sannikov and Vitaliy Rymashevskiy, chief of the pre-election headquarter of the presidential candidate Pavel Severinec⁷.

Moreover, the Ministry marked that some mass media distort the information received from lawyers. The Ministry stressed that the lawyers of the Minsk City Bar Association **Burak I.S., Semeshko M.N.** did not communicate with mass media and were not interviewed. It was declared that other lawyers were informed about more correct comments in mass media, that gives no grounds for distortion of the real facts and received information⁸.

Information from **Pavel Sapelko** which was published in different mass media gave rise to complaint from the Ministry. It was as following: Pavel Sapelko estimated the level of health of his client Andrey Sannikov as hard. “Sannikov was dramatically beaten and hardly can move”. Besides, despite to subscription to non-disclosure of case papers, he has stated that former presidential candidate “is entirely innocent and all suspicions that he charged with are absolutely groundless. Everything that has happened during meeting, we, the defendant party, consider as pure provocation”. Also he informed about the plans to appeal in procurement body unmotivated use of force during detention⁹. Furthermore, P. Sapelko told that during investigation proceeding his client was forced “to stay in horrible conditions and made isolation due to the fact that he did not have the information about either his spouse or his child, even to react on the election results”¹⁰. The lawyer is shocked by the position of the Ministry of Justice and its petition from December 29th, 2010 towards the lawyers, accused and suspected in commitment of offences in connection with events on December 19th, 2010. For the first time in his life he encountered “the occurrence of the pressure on the state lawyers from the authorities”¹¹.

On January 12th, 2011 the Ministry of Justice informed on its official site that publications of certain mass media with references on lawyers, which “distort the information about realization be the clients of their right to legal support and tendentiously describe the work of law enforcement bodies”, are regarded as the

⁶ <http://udf.by/news/society/37405-u-lishennoy-licenzii-advokata-za-plechami-15-let-bezuprechnoy-praktiki.html>.

⁷ http://www.minjust.by/ru/site_menu/news?id=737.

⁸ http://www.minjust.by/ru/site_menu/news?id=737.

⁹ <http://telegraf.by/2010/12/sapelko-sannikov-predstavljaet-iz-sebja-uzhasnoe-zrelische.html>.

¹⁰ http://news.date.bs/incidents_210553.html.

¹¹ <http://www.oboz.by/articles/detail.php?article=2831>.

violation of the Law of Belarus "On mass media" and constitute the grounds to fill a petition to the Ministry of Information of Belarus¹².

In the same statement the Ministry admitted that it has submitted the application about her possible participation in the protest rally on December 19th, 2010, but declared that the Grodno Regional Bar Association "on its own motion decided on inadmissibility of her further practicing and being a member to lawyer association. The decision was issued on the next day after completion of sentence"¹³.

On January 14th, 2011, the lawyer Sapelko P.V. published on the site of newspaper "**Belarusian partisan**" # 15-1-05/4 an official rebuttal of materials allocated in mass media with references on him (newspaper "Obozrevatel" #52 from [31.12.2010](#) in the article "Commencement of accusation of those arrested on December 19-20th"; sites telegraf.by, 23.12.2010, belaruspartizan.org 23.12.2010 and news.date.bs, 27.12.2010)¹⁴.

On January 14th, 2011 the Ministry of Justice of the Republic of Belarus created a working group on elaborating a new edition of the Rules of Bar Lawyers' Professional Ethics. The members of all bar associations are invited to propose their amendments to the Rules till January 25th, 2011¹⁵.

On January 17th, 2011, according to the information of newspaper "Nasha Niva" the Minsk City Bar Association did not find any breaches in the actions of the colleagues, and hereby rejected the petition of the Ministry of Justice towards four bar lawyers including Pavel Sapelko, who support the clients accused in participating in mass riots on December 19th, 2010. **According to Alexander Pylchenko**, Chairman of the Association, the petition from the Ministry to dismiss Pavel Sapelko from the Presidency of the Association was not lodged¹⁶.

The Minsk City Bar Association twice gave to the Ministry of Justice refusals to institute disciplinary proceedings. As a means of pressure the Ministry of Justice organized a large inspection of all the bar lawyers and legal consulting services of the Minsk City Bar Association.

The reactions to the report of the Ministry of Justice "On the violation of the legislation on the legal profession" were declarations of international lawyers' associations. **On January 11th, 2011** the Board of the **Ukrainian Bar Association** on its official website expressed its concern about the pressure to bar lawyers going from the Ministry of Justice as well as the hope that the Republic of Belarus as a state will guarantee the independence of lawyers, which is the basis of protecting human rights and freedoms¹⁷. Then, **on January 12th, 2011, the International Commission of Jurists** in its declaration 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 expression¹⁸. **On January 17th, 2011 the Human Rights Houses Network** addressed a letter to national and international bar associations where it gave a review of facts of pressure on attorneys and self-

¹² http://www.minjust.by/ru/site_menu/news?id=744.

¹³ http://www.minjust.by/ru/site_menu/news?id=744.

¹⁴ <http://www.belaruspartizan.org/bp-forte/?page=100&backPage=6&news=74815&newsPage=0>.

¹⁵ http://www.minjust.by/ru/site_menu/news?id=745.

¹⁶ <http://nn.by/?c=ar&i=49093>.

¹⁷ <http://uba.ua/rus/news/1240>.

¹⁸ http://icj.org/default.asp?nodeID=349&sessID=&langage=1&myPage=Legal_Documentation&id=23655.

government bar organizations as well as the call to solidarity with Belarusian lawyers¹⁹. In addition, the Danish Bar and Law Society expressed its solidarity with Belarusian colleagues. **On January 26th the Human Rights Commission of the Supreme Bar Council of the Republic of Poland** addressed an official message to the ambassador of the Republic of Belarus in Poland where it announced as inadmissible the inhibition by the state into the work of lawyers²⁰.

¹⁹ <http://humanrightshouse.org/Articles/15814.html>.

²⁰ <http://belarus.regnum.ru/news/1368336.html>

III. Appeal of the Belarusian Helsinki Committee to the UN Special Rapporteur on the Independence of Judges and Lawyers

On January 12th, 2011 the Belarusian Helsinki Committee addressed an appeal to the UN Human Rights Council Special Rapporteur on the Independence of Judges and Lawyers Ms. Gabriela Knaul, where it described the actions of the Ministry of Justice regarding lawyers²¹.

The following cases were described in the appeal:

- the appeal of the Ministry from December 29th, 2010;
- the request from January 5th, 2011 to Tamara Sidorenko with request on public disclaim until January 15th, 2011 according to the message based on her words and published on the Internet on December 24th about the prohibition to meet with the defendant;
- the same request regarding Pavel Sapelko;
- the debarment of Valentina Busko on January 4th, 2011 by the Grodno Regional Bar Association because of her participation in the actions on December 19th, 2010 in Minsk;
- initiation of proceedings against Michail Volchek by the Prosecutor General's Office from January 10th, 2011 because of disclosure of information of the proceeding performed by chief investigator of Prosecutor General's Office Svetlana Baikova.

All the mentioned cases were considered by the organization as cases of pressure on lawyers and threat to the independence of the legal profession.

In half an hour after publishing the news about the appeal of the Belarusian Helsinki Committee to the UN Special Rapporteur a letter from the Ministry of Justice was sent to the BHC office by fax with a proposal to provide the text of the appeal within 30 minutes. The fax letter was signed by the Chairperson of the department of NGOs A.O. Kirichenko²².

After that on **January 12th, 2011** the Ministry of Justice published a release on its web-site where it evaluated the information of BHC as “non-objectively reflecting the work of state and law-enforcement agencies on maintaining stability and order in the Republic, purposely distorting the real situation in the country, attempt to discredit the Republic of Belarus in the view of the world public”. In this relation the Ministry of Justice issued a written preventing notice to the human rights organization²³, that in consideration of articles 28 and 29 of the Law “On public associations” the Ministry of Justice has the right to appeal to the court for suspension and then for dissolution of the organization²⁴.

According to the president of BHC Oleg Gulak, the organization will appeal against the decision of the Ministry of Justice to issue the written notice to the Supreme Court²⁵.

IV. Observance of the right to defense

According to Article 44, paragraph 4 of the Code of Criminal Procedure of the Republic of Belarus, “An attorney at law can participate in a criminal proceeding from

²¹ <http://belhelcom.org/?q=ru/node/7425>

²² <http://www.belhelcom.org/?q=ru/node/7436>

²³ http://www.minjust.by/ru/site_menu/news?id=744

²⁴ <http://www.belhelcom.org/?q=node/7435>

²⁵ <http://www.belhelcom.org/?q=ru/node/7438>

the moment of pronouncement of provision of institution of the criminal proceeding in relation to the person and from the moment of real detention, application of measure of restraint, declaration person suspected or indictment". Article 48, paragraph 2 of the Code of Criminal Procedure of the Republic of Belarus provides that "An attorney at law has the right: <...> meet defendant without obstruction in private and confidentially without limitation of number and duration of such meetings"²⁶. Thereby, the national law guarantees the realization of the right to defense for a person suspected and accused under criminal cases.

On December 23rd, 2010 the lawyers of the arrested presidential candidates sent a claim to the Prosecutor General of Belarus Grigoriy Vasilevich as they were deprived of the possibility to realize the legal right to meet with their defendants. The appeal was signed by the bar lawyers Tamara Sidorenko (defendant Vladimir Neklyaev), Pavel Sapelko (defendants Andrey Sannikov and Pavel Severinets), Irina Minina (defendant Andrey Dmitriev) and Oleg Ageev (defendant Alexey Michalevich). Attorneys also left a notice in a complaint book of duty office of the KGB about "existing order violating the right of meeting with defendants"²⁷.

In relation with claims of criminal proceeding participants on violation of the right to defense of persons accused under the Article 293 "Organization of mass disorders" of the Criminal Code of the Republic of Belarus on the fact of the events on December 19th, 2010, the **prosecutor's office** of Minsk conducted an examination of the materials of the criminal case. As the deputy chief of the prosecutor's office department Sergej Borisenko declared in the "Panorama" programme of the First Channel on **January 14th, 2011**, there is no violation of procedural law by the criminal prosecution authority; all persons detained and suspected in the crime are provided with access to bar lawyers²⁸.

At the same time, the information about the impossibility of defendants who are suspected and accused under the case of mass disorders on December 19th, 2010 to meet their attorneys is still coming.

As the attorney of Vladimir Neklyaev, Tamara Sidorenko, said, the attempts to visit her defendant on December 22nd, 23rd, 24th and 31st, 2010, and January 4th, 13th and 17th, 2011 did not have success. The reason is the constant occupancy of the chamber for meetings in the KGB investigative isolation ward when the attorney was permanently one of the first persons in the waiting list (the second on January 13th, and the first on January 17th).^{29,30} Sidorenko claimed three times to the Prosecutor General's Office against the actions of the officers of investigative isolation ward of KGB putting obstacles to meet the defendant. The Prosecutor General's Office transferred the claims to the prosecutor's office of Minsk. This prosecutor's office responded that these actions should be appealed against. In addition, Tamara Sidorenko addressed petitions to the administration of the investigative isolation ward, but without any result³¹.

²⁶ <http://pravo.by/webnpa/text.asp?RN=HK9900295#&Article=44>

²⁷ <http://news.21.by/politics/2010/12/24/219118.html>

²⁸ <http://news.tut.by/society/211666.html>

²⁹ <http://news.tut.by/politics/211503.html>

³⁰ <http://www.belaruspartisan.org/bp-forte/?page=100&backPage=13&news=74907&newsPage=0>

³¹ [http://arche.by/by/33/110/4310/%D0%A2%D0%B0%D0%BC%D0%B0%D1%80%D0%B0-%D0%A1%D1%96%D0%B4%D0%B0%D1%80%D1%8D%D0%BD%D0%BA%D0%B0-%D0%9D%D1%8F%D0%BA%D0%BB%D1%8F%D0%B5%D1%9E-%D1%85%D0%BE%D1%87%D0%B0-%D1%81%D1%83%D1%81%D1%82%D1%80%D1%8D%D1%87%D0%B0%D1%9E-%D0%B7-%D0%B0%D0%B4%D0%B2%D0%B0%D0%BA%D0%B0%D1%82%D0%B0%D0%BC%D1%96-\(-%D0%B2%D1%96%D0%B4%D1%8D%D0%B0\).htm](http://arche.by/by/33/110/4310/%D0%A2%D0%B0%D0%BC%D0%B0%D1%80%D0%B0-%D0%A1%D1%96%D0%B4%D0%B0%D1%80%D1%8D%D0%BD%D0%BA%D0%B0-%D0%9D%D1%8F%D0%BA%D0%BB%D1%8F%D0%B5%D1%9E-%D1%85%D0%BE%D1%87%D0%B0-%D1%81%D1%83%D1%81%D1%82%D1%80%D1%8D%D1%87%D0%B0%D1%9E-%D0%B7-%D0%B0%D0%B4%D0%B2%D0%B0%D0%BA%D0%B0%D1%82%D0%B0%D0%BC%D1%96-(-%D0%B2%D1%96%D0%B4%D1%8D%D0%B0).htm)

On January 14th, 2011 Tamara Sidorenko sent a request to ensure a meeting with the defendant to the Preliminary Investigation Unit of the Minsk City Police Department.³²

According to a well-known bar lawyer Garri Pogoniajlo, the main obstacle is a lack of free rooms for meetings in the KGB investigative isolation ward, and it is a problem only of the KGB but not of the attorneys and their clients³³.

On January 17th, 2011 Tamara Sidorenko received a response to the claims of attorneys with request to ensure the right to defense of persons, the claims were sent to the Prosecutor General's office on December 22nd, 23rd and 24th, 2010. The text of claims contains a proposal to the chief of the KGB investigative isolation ward to find a possibility to ensure the attorneys' right to meet their defendants. But neither Tamara Sidorenko nor Tatiana Stankevich, attorney of Nikolaj Statkevich, visited their defendants³⁴.

V. General overview of the situation with attorneys' meetings with their defendants

A number of mass media constantly publish the information about the impossibility of the attorneys to meet with their defendants from the number of ex-candidates for presidency, as well as other persons accused and suspected under the criminal cases related to the events that took place on December 19th, 2010.

At the moment of writing³⁵ all the information about the meetings of attorneys with defendants relates only to their presence during investigation procedures, in spite of the provisions of the Code of Criminal Procedure guaranteeing the right to defense without limitations on time and number of meetings with attorneys, and meetings with defendants in private are critical for elaboration of a legal position and ensuring the right to defense:

No	Name of defendant	Name of attorney	Meetings which were reported
1.	Vladimir Niekliaev	Tamara Sidorenko and Vladimir Bukshtynov	On December 29th, 2010 the attorney was present during the investigation procedures. After that there is no information about meetings with the attorney. ^{36 37}
2.	Andrey Sannikov	Pavel Sapelko	On December 29th, 2010 the attorney was present during the investigation procedures. After that there is no information about meetings with the attorney. ³⁸

³² <http://www.belaruspartizan.org/bp-forte/?page=100&backPage=13&news=74907&newsPage=0>

³³ <http://svobodaby.net/by/97/politics/826/%D0%93%D0%B0%D1%80%D1%8B-%D0%9F%D0%B0%D0%B3%D0%B0%D0%BD%D1%8F%D0%B9%D0%BB%D0%B0-%E2%80%9C%D0%A3%D1%81%D1%8E-%D0%BA%D1%80%D0%B0%D1%96%D0%BD%D1%83-%D0%B7%D0%B0-%D0%BA%D1%80%D0%B0%D1%82%D1%8B-%D0%BD%D0%B5-%D0%BA%D1%96%D0%BD%D1%83%D1%86%D1%8C%E2%80%A6%E2%80%9D.htm?tpl=251>

³⁴ <http://belaruspartizan.org/bp-forte/?page=100&backPage=13&news=75020&newsPage=0>

³⁵ <http://nn.by/?c=ar&i=49022>

³⁶ <http://www.interfax.by/news/belarus/86045>

³⁷ <http://news.tut.by/politics/211503.html>

3.	Nikolay Statkevich	Tatiana Stankevich	On December 29th, 2010 the attorney was present during the investigation procedures. After that there is no information about meetings with the attorney.
4.	Dmitry Bondarenko	Marianna Semeshko	On December 29th, 2010 the attorney was present during the investigation procedures. After that there is no information about meetings with the attorney. ³⁹
5.	Alexander Otroshenkov	Marianna Semeshko	On December 29th, 2010 the attorney was present during the investigation procedures. After that there is no information about meetings with the attorney.
6.	Pavel Severinets	Pavel Sapelko	On December 29th, 2010 the attorney was present during the investigation procedures. After that there is no information about meetings with the attorney. ⁴⁰
7.	Anatoly Lebedko	Irina Burak	On December 29th, 2010 the attorney was present during the investigation procedures. After that there is no information about meetings with the attorney. The attorney has signed an engagement of non-disclosure. ⁴¹
8.	Alexander Arastovich	Nadezhda Kurbasova	On December 29th, 2010 the attorney was present during the investigation procedures.
9.	Irina Khalip	Vladimir Tolstik	On December 30th, 2010 the attorney was present during the investigation procedures ⁴² , the attorney has signed an engagement of non-disclosure of information on the case and can not give any information to the parents of the defendant ⁴³ .
10	Vladimir Kobets	Yury Stashkevich	On January 3rd, 2011 the attorney was present during the investigation procedures. After that

³⁸ <http://www.interfax.by/news/belarus/86045>

³⁹ <http://baj.by/m-p-viewpub-tid-1-pid-9732.html>

⁴⁰ <http://www.belsat.eu/be/wiadomosci/a,1168,tatstsiana-sieviaryniets-my-niebiaspiechnyia-dlia-ulady-iak-sviedki-padzieiau.html>

⁴¹ <http://new.racyja.com/news/anatol-lyabedzka-tretsi-dzen-trymae-galadouku-u-izalyatary>

⁴² <http://www.rian.ru/society/20110114/321602936.html>

⁴³ <http://n->

europe.eu/topics/2011/01/11/intervyu_s_babushkoi_danily_syna_andreya_sannikova_i_iriny_khalip

			there is no information about meetings with the attorney. The attorney has signed an engagement of non-disclosure ⁴⁴ .
11	Sergej Vozniak	Larisa Atamanchuk	On January 13th, 2011 the attorney was present in time of investigation procedures. ^{45 46}
12	Aleksandr Feduta	Svetlana Lokhach	On January 4th and 14th, 2011 the attorney met the defendant during the investigation procedures ⁴⁷ .
13	Anastasija Polojanko	Ekaterina Petrovich	The investigation procedures take place every day, the attorney is present. There is no information about private meetings.
14	Sergej Martselev	Liudmila Chichikova	After the indictment there is no information about meetings with the attorney.
15	Aleksandr Klaskovskij	Irina Burak	After the indictment there is no information about meetings with the attorney.
16	Natalia Radina	Marianna Semashko	There is information about the meeting with the attorney on December 27th, 2010 during the investigation procedures ⁴⁸ . Since December 29th there is no information about meetings with the attorney ⁴⁹ .
17	Aleksej Michalevich	Oleg Ageev	There is information about the meeting with the attorney on January 6th, 2011 during the investigation procedures ⁵⁰ .

At the moment of review, January 20th, 2011, there is no other information about meetings with defendants. There is no information whether the attorneys had a possibility to meet their defendants in private, despite the provisions of the Code of Criminal Procedure guaranteeing the right to defense without limitations on time and number of meetings with the attorneys.

⁴⁴ <http://www.svaboda.org/content/article/2276103.html>

⁴⁵ <http://charter97.org/be/news/2011/1/14/35230>

⁴⁶ <http://baj.by/m-p-viewpub-tid-1-pid-9727.html>

⁴⁷ <http://feduta.jimdo.com/free-feduta/%D1%81hronica>

⁴⁸ <http://www.svaboda.org/content/article/2261470.html>

⁴⁹ <http://baj.by/m-p-viewpub-tid-1-pid-9732.html>

⁵⁰ <http://michalevic.org/by/actualities/news/55-short-news/214-2011-01-11-19-41-49>

VI. Conclusions:

The request of the Ministry of Justice to the Minsk City Bar Association to take disciplinary measures in relation to a number of attorneys defending politicians and public figures is one of the forms of pressure on attorneys and it can threaten full-fledged professional activity of the independent bar.

The actions of the Ministry of Justice of the Republic of Belarus may be estimated as violating Paragraph 16 of the Basic Principles on the Role of Lawyers adopted by the UN Congress, i.e. putting obstacles to performing the lawyers' professional functions without intimidation, hindrance, harassment or improper interference. The failure of the Committee of State Security (KGB) to provide a sufficient number of rooms for visits in its investigative isolation ward also violates the above-mentioned paragraph of the Basic Principles on the Role of Lawyers in the part related to guaranteeing the lawyers an opportunity to consult with their clients freely.

The attorneys visited their defendants during the investigative actions and did not have opportunity to meet in private in spite of the legality of such demands. Besides, the number of meetings with the clients was limited; evidently, attorneys don't have opportunity to visit their defendants as the need arises. Such practice does not permit to agree on positions, to take into consideration the interests of the clients and organize their defense effectively. Such actions of the authorities, particularly of the administration of the KGB investigative isolation ward, violate the provisions of the Code of Criminal Procedure of the Republic of Belarus guaranteeing free communication with the defendant in private and in confidence without limitations on number and duration of meetings (Article 48 of the Code of Criminal Procedure of the Republic of Belarus), as well as the international obligations of the state in the sphere of guaranteeing the right to defense and independence of the legal profession, including Paragraph 3 of the Article 14 of the International Covenant of Civil and Political Rights, "Standards for the Independence of the Legal Profession", "Basic Principles on the Role of Lawyers" and other documents.

In the light of the lack of sufficient information about the persons accused and suspected under the case of mass disorders on December 19th, 2010, particularly about those who are kept in the KGB investigative isolation ward, and of a high level of public interest for the mentioned persons the attorneys became in fact the only source of information about the state of health, conditions of detention, general emotional and psychological state of the former presidential candidates and other detained persons for their relatives and for public at large, including national and international human rights organizations. Pressure on bar lawyers means not only infringement of the independence of the legal profession, but also provokes concerns about the detainees' freedom from torture, cruel and inhuman treatment and punishment. Obviously in this situation the state instead of pressure on bar lawyers should satisfy public interest for the state of those detained under the case of events on December 19th, e.g. by ensuring the access of independent observers which could evaluate the humanity of treatment of the detainees, as well as the degree of respect to their human dignity.

VII. Recommendations to:

Ministry of Justice of the Republic of Belarus to guarantee the independence of the bar and of individual bar lawyers in accordance with the principles of international law and national legislation, by stopping the practice of pressure through individual prescriptions to attorneys to disclaim the information given by them to the general public about the respect to human rights of their defendants, as well as of applying various forms of disciplinary liability to those attorneys.

Professional Bar Societies and Associations of lawyers of other countries to take an active part in improving the Rules of Bar Lawyers' professional ethics, to execute control over ensuring the independency and freedom of actions of bar lawyers.

Professional Bar and Lawyers' Associations of other countries to support their Belarusian colleagues, particularly the Minsk City Bar Association which continues to defend the interests of its members despite the demands by the Ministry of Justice. Such support may be rendered in the form of official statements and letters to Association, to the Ministry of Justice and other governmental bodies, as it has been done by the Association of Lawyers of Ukraine, International Commission of Jurists, Danish Bar and Law Society and the Human Rights Commission of the Supreme Bar Council of the Republic of Poland.

Ministry of Justice of the Republic of Belarus to prepare a new version of the Rules of Bar Lawyers' professional ethics in accordance with the examples of similar documents of the democratic states and with respect to the principle of independence of the legal profession as a main guarantee to ensure the full-fledged realization of the right of everyone to defense.

Ministry of Justice of the Republic of Belarus to initiate the review of the decision of the Grodno Regional Bar Association on disbarment of Irina Busko.

Administration of the KGB investigative isolation ward to execute strongly the proposal of the prosecutor's office of Minsk about ensuring the right of attorneys to meet with their defendants by providing additional rooms for such meetings, which is in accordance with the Code of Criminal Procedure of the Republic of Belarus and international obligations of Belarus to ensure the right to defense, thus guaranteeing the opportunity of meetings of the attorneys with their defendants in private and without limitations on number and duration of such meetings.

Administration of the KGB investigative isolation ward and investigating bodies to inform the public regularly by publications in mass media about the dates of meetings of the persons accused and suspected under the case of mass disorders on December 19th, 2010 with their attorneys, including meetings in private, as well as about the living conditions and physical and psychological state of those persons, particularly by ensuring the access of independent observers to evaluate the observance of human rights of those persons.

UN Special Rapporteur on the Independence of Judges and Lawyers to take urgent measures in relation to the authorities of the Republic of Belarus guaranteeing the independence of the bar in Belarus, including an official visit to evaluate the situation and carry out negotiations with the representatives of the authorities, submitting requests to various governmental bodies of Belarus on inadmissibility of pressure on individual bar lawyers and bar associations, as well as to inform (including by publications in mass media) the general public and, first of all, human rights organizations about the actions initiated and their results.

EU Missions, European Commission, representatives of the Government of Lithuania presiding in OSCE to take measures for getting from the attorneys of the persons accused and suspected in organizing the events on December 19th, 2010 more exact information about the number of meetings with their defendants, including meetings in private, about their procedural status, formulas of indictments and ensuring other procedural standards related to the status of those persons.

International structures active in the field of defending human rights and national human rights institutions to organize a focal point on defense of human rights defenders and national human rights institutions and to impose on it a duty to monitor the observance of the right to fair trial and right to defense for human rights defenders and leaders of the opposition with respect to all the provisions of international law and national legislation. To ensure the presence of independent observers during the court sittings related to persons accused and suspected in organizing the events on December 19th, 2010, as well as persons detained due to the following public actions of solidarity with those detained before, paying a special attention to ensuring the right to defense for these persons by the authorities of the Republic of Belarus.

National Courts of the Republic of Belarus to ensure free access for general public and for independent observers to monitoring of the court sittings both on administrative and criminal cases and to guarantee to all the participants of these sittings the right to effective defense within the court proceedings.

January 26th, 2011