

## From the President



The Law Society

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Dear President Medvedev

The Law Society is the professional body representing more than 138,000 solicitors in England and Wales. One of its concerns is to see the independence of the legal profession, the rule of law and human rights upheld throughout the world.

The Law Society is deeply concerned by a recent series of incidents involving lawyers in Russia which have raised our concern as to state of the rule of law in Russia. Some of the lawyers involved are acting representatives of Hermitage Fund. We have recently received reports of harassment against Hermitage Fund lawyers.

The Law Society calls upon the Russian government to take every possible step to ensure the protection of the lawyers in carrying out their professional duties and to prevent the hindrance of their ability to represent their clients, in accordance with Russian legislation and the Basic Principles on the Role of Lawyers adopted by the United Nations.

Among the various reports, we have received information that on 24 November 2008, one of the HSBC and Hermitage legal advisers working at the law firm Firestone Duncan, Mr Sergey Magnitskiy, was arrested following a search of his home and office. Prior to his arrest, Mr Magnitskiy had apparently given witness statements alleging the complicity of Interior Ministry officials in the alleged frauds against HSBC and Hermitage. We understand that he has since been held without bail in a Moscow pre-trial detention facility. In parallel to this it is alleged that the Interior Ministry has opened a criminal case against another independent lawyer representing HSBC and Hermitage Fund, Mr Eduard Khayretdinov, on the grounds that his representation of the interests of the Hermitage Fund's Russian investments is improper because he was acting under a power of attorney issued by the HSBC officials who – having been removed (allegedly by fraud) as directors of the Russian companies – were no longer technically empowered to issue the power of attorney after the theft.

Further reports suggest that another three HSBC and the Hermitage Fund lawyers have had had their homes searched by the Moscow Interior Ministry.

It is in this context that the Law Society for England and Wales seeks to draw your attention to the following:

- **Article 17 of the Russian Constitution** guarantees 'the basic rights and liberties in conformity with the commonly recognized principles and norms of the international law.'
- **Article 22** states that '*everyone shall have the right to freedom and personal inviolability.*'
- **Article 9 of the International Covenant of Civil and Political Rights (ICCPR)**, states that everyone '*has the right to liberty and security of person,*'
- **Article 5(3) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)** provides that '*Everyone arrested or detained [...] shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial.*'
- **Articles 16(a) and (c), of the UN Basic Principles on the Role of Lawyers (1990)** which state that:

*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.*

Respect for the role of lawyers and the independence of the judiciary represent an essential feature of the rule of law. On behalf of the Law Society, I respectfully urge you to look into the actions taken against the lawyers who are defending the Hermitage Fund and more specifically, the pre-trial detention of Mr. Magnitskiy. Furthermore, we call on you to take every measure possible to ensure that all lawyers and judges are able to carry out their duties without fear of intimidation or harassment and free from interference.

Yours sincerely



Robert Heslett  
President

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