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Contents

* [Lawyer to Lawyer Network](#)

* [Mortgage banking in Mexico](#)

Lawyer to Lawyer Network

The New York based Lawyers Committee for Human Rights maintains a program to aid persecuted attorneys throughout the world with a mailing campaign by lawyers in bar associations around the world directly to the persecuting governments and government officials. The following are biographies/appeals which highlight various detention cases. If you are interested in sending a letter or submitting one of the available form letters on behalf of the detainee to his/her persecuting government, send queries, comments, suggestions to:

Robert C. Meltzer

100 W. Monroe St., Suite 1800

Chicago, Illinois 60603

(312) 551-0200

Vera Stremkovskaya--Belarus

The Lawyers Committee is deeply concerned about Vera Stremkovskaya, a leading defense attorney in Belarus who is under attack for representing clients disfavored by the government of President Alexander Lukashenko. Ms. Stremkovskaya faces possible disbarment and imprisonment as a result of her efforts to promote human rights and the rule of law in Belarus.

Background

Ms. Stremkovskaya, a founding member and president of the Center for Human Rights in Belarus, has been a practicing lawyer for nearly 20 years. Early in her career, she worked in the Ministry of Justice and as a member of President Lukashenko's staff. Currently, Ms. Stremkovskaya is a member of the Collegium of Advocates, the bar association that regulates and controls all aspects of the practice of law in Belarus. Under Presidential Decree No. 12, the collegium, which is controlled by the Ministry of Justice, has sole authority to allocate legal work and compensation among lawyers. In order to practice law for a living, attorneys must hold membership in the collegium. Although "private" practice of law is restricted by the collegium, Ms. Stremkovskaya is one of the very few attorneys in Belarus who continues, on a *pro bono* basis, to represent politically unpopular clients, placing her at considerable risk.

The current threats to Ms. Stremkovskaya stem from her representation of politically unpopular clients and her discussion of her work during a series of meetings hosted by the International League for Human Rights in New York in September 1998. In the past few months, she has faced threats from high-level government officials and, most recently, calls for criminal sanctions.

During the September meetings in New York, Ms. Stremkovskaya criticized the deficiencies in legal protections in Belarus, particularly the harsh conditions of confinement for two of her clients in pretrial detention. Representatives of the Belarus UN mission attended the meeting and reported back to Minsk on her presentation. Upon her return to Belarus, Ms. Stremkovskaya was summoned before officials of the Minsk Collegium and the Vice-Minister of Justice, who denounced her for "illegal" and "unethical" behavior in New York, and threatened her with the loss of her license. In particular, Ms. Stremkovskaya was accused of revealing confidential information about the investigation against her clients--although her remarks merely repeated information widely reported in the Belarus press.

Although disbarment proceedings against Ms. Stremkovskaya were deferred following international protests, the harassment has continued. In December, Ms. Stremkovskaya was summoned to further meetings with Belarus officials, including the chief justice of the Supreme Court, the chairman of the Belarus Collegium of Advocates, and the director of the Justice Department. Each official accused her of spreading "false information" about the government, berated her for seeking intervention by international human rights groups, and again threatened her with disbarment. Ms. Stremkovskaya has specifically been warned that she must choose between her support for human rights and the practice of law. Ms. Stremkovskaya was subsequently instructed to present herself to a qualification commission to review her license to practice law, although that proceeding has not so far taken place.

Recent threats

Recently, officials filed two separate petitions with Belarus courts and the collegium, seeking both criminal prosecution and disciplinary measures

against Ms. Stremkovskaya for her continued representation of politically unpopular clients.

First, prosecutors and other officials have requested a judge to impose criminal sanctions against Ms. Stremkovskaya following her attempts to have one of her clients released from pretrial detention. Ms. Stremkovskaya had presented to the court the findings of a psychiatrist who, after examining her client, called for his release on medical grounds.

On January 14, following a court session, a prison doctor also appealed to the judge for criminal charges to be brought against Ms. Stremkovskaya. He claimed criminal "insult" after Ms. Stremkovskaya questioned his qualifications as a court expert at a hearing. Ms. Stremkovskaya had pointed out that the doctor was a relative newcomer to his field and had no experience serving as an expert. The judge forwarded the complaint for further investigation to the Kirovsky District Department of Internal Affairs, which in turn summoned Ms. Stremkovskaya for questioning on January 28.

The same judge has also reportedly complained to the Minsk Collegium that, in his opinion, Ms. Stremkovskaya has adversely affected her client's case. This complaint could result in disciplinary action against Ms. Stremkovskaya, and thus represents yet another threat of disbarment. The judge has also demanded that the collegium send an observer to the court to monitor Ms. Stremkovskaya's conduct.

The second recent incident involves the director of the Pervomaisky District Law Center, who has filed a separate complaint against Ms. Stremkovskaya to the collegium, alleging that she has violated Decree No. 12 by representing a client on a *pro bono* basis. Even though she paid the necessary court fees from her own pocket, the complaint charges that her free provision of legal services violates Decree No. 12's ban on the private practice of law.

Significance of the actions against Ms. Stremkovskaya

The Lawyers Committee believes that this pattern of events, following the demand that Ms. Stremkovskaya "choose" between support for human rights and the practice of law, demonstrates a concerted effort by Belarus officials to find a technical violation of rules in order to justify action against her. The threats against Ms. Stremkovskaya, which stem from her public comments on the pretrial detention of her clients, violate well-established principles of international law. Ms. Stremkovskaya's rights of freedom of speech and association are guaranteed by Articles 19 and 20 of the Universal Declaration of Human Rights, and by Articles 19 and 22 of the International Covenant on Civil and Political Rights, to which Belarus is a state party.

The Lawyers Committee is particularly concerned by the suggestion that Ms. Stremkovskaya should choose between human rights advocacy and the practice of law. Far from incompatible, these activities are complementary. Article 9 of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly in December 1998, guarantees the right

to "offer and provide professionally qualified legal assistance ... in defending human rights and fundamental freedoms." In addition, Principle 16 of the UN Basic Principles on the Role of Lawyers requires governments to "ensure that lawyers ... are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference." Principle 23 further provides that:

[Lawyers] 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 meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

Unfortunately, the harassment of Ms. Stremkovskaya is not an isolated event; rather, it reflects a pattern of attacks on dissenting voices by the current government of Belarus. The 1996 national referendum that nullified constitutional protections entrenched almost unlimited power in the hand of President Alexander Lukashenko. In recent months, attacks against nongovernmental organizations and the news media have heightened concerns about the conduct of the Lukashenko government.

Recommended action

The Lawyers Committee believes that continued expressions of international concern are vital to protect Vera Stremkovskaya from official threats of disbarment, criminal proceedings, and other acts of harassment. Please write politely worded letters to the Belarus officials listed below, urging them to cease further harassment of or sanctions against Ms. Stremkovskaya. Please request that Belarus respect its obligations under international law to protect and promote the exercise of fundamental human rights of freedom of speech and association, including the right of lawyers and nongovernmental organizations to publicly support these rights.

Please send a copy of your letter to Vittoria Fariello at the Lawyers Committee. If you require further information about this matter, please contact Ms. Fariello at (212) 845-5298.

President Alexander Lukashenko

Presidential Office

Minsk 220010

Republic of Belarus

Tel: (375) 17-223-5825

Fax: (375) 17-226-0610

Gennadiy Vorontsov

Minister of Justice

Collectornaya St. 10

Minsk 220010

Republic of Belarus

Tel/Fax: (375) 17-220-9755

Copies to:

In addition, please send copies of your letters to your country's ambassador to Belarus, as well as the ambassador from Belarus in your country. For those in the United States, these individuals are:

Ambassador Valery Tsepkalov

Belarus Embassy

1619 New Hampshire Ave., N.W.

Washington, DC 20009

Tel: (202) 986-1606

Fax: (202) 986-1805

Ambassador Daniel V. Speckhard

U.S. Embassy to Belarus

46 Starovilenskaya Ulitsa

Minsk 220010

Republic of Belarus

Tel: (375) 172-31-5000

Fax: (375) 172-34-7853

Action update

José Oló Obono--Equatorial Guinea

The Lawyers Committee welcomes the release of lawyer José Oló Obono from Black Beach prison in Malabo, Equatorial Guinea, on January 15, at the end of his prison term. On September 17, 1998, Obono was sentenced by the Appeals Court of Malabo to five months imprisonment on charges of "insult," as a result of statements he made as a defense lawyer. The charges never identified the party "insulted" by Obono's remarks. He is reported to be in good health after his release. Detention conditions at the Malabo prison are reportedly very harsh, and six prisoners have died since January 1998 as a consequence of ill-treatment or lack of medical care.

Mr. Obono was arrested as a result of his participation as a defense lawyer in the May 1998 trial of individuals allegedly involved in an attack on a military barracks on Biolo Island. During that trial, Obono informed the court of the torture of some defendants, and sought to prevent the judge from admitting as evidence statements the defendants had made as a result of torture. After the trial, Obono publicly protested the prison conditions and discussed in a radio interview the death in prison of a leader of the Movement for Self-Determination of Bioko Island, Martin Puye. The Lawyers Committee believes that his arrest and detention were connected to these actions.

Although the Lawyers Committee welcomes the release of José Oló Obono, it is regrettable that Obono was compelled to serve a sentence for charges that are meritless, particularly since the prosecutors had dropped the charges prior to sentencing. The Lawyers Committee continues to be concerned about arrest and trial procedures in Equatorial Guinea. In addition, the Lawyers Committee continues to be concerned about prison conditions, as detainees are reportedly subjected to torture and ill-treatment, poor conditions, and lack of medical care.

Recommended action

This update closes the case of José Oló Obono. No further action is needed. The Lawyers Committee thanks its colleagues in the Lawyer-to-Lawyer Network for the efforts they undertook in response to the earlier network appeal and update.

Mortgage banking in Mexico

By L. Cordell McCarrey

Overview of the Mexico mortgage market and certain market participants

The potential of the Mexico mortgage market is vast for those who can navigate through its uncharted and untapped waters. While there is extensive regulation, as well as considerable segments of the market and infrastructure that need to be developed, opportunities abound for those who are willing to develop relationships, understand the culture and adapt to the vagaries of a

developing mortgage market. The market is large enough to accommodate many lenders and related service providers.

Mexico's population is in excess of 95,000,000, with more than 70% of its citizens younger than the age of 30. The World Bank has estimated the housing deficit in Mexico to be greater than 6,000,000 dwellings. While data is difficult to verify, it appears that less than 14% of the residences in Mexico have been mortgaged compared to more than 85% of the homes in the United States. Because of the anticipated creation of new family units over the next decade, the need for a functioning and efficient mortgage market in Mexico is becoming particularly acute.

Historically, conventional mortgages have been provided by local Mexican banks. Low-income loans have been made available to segments of the population by governmental agencies such as Fondo de Operación Financiamiento Bancario a la Vivienda ("FOVI") or Instituto Fondo Nacional de la Vivienda para los Trabajadores ("INFONAVIT"). These loans are made primarily to low income borrowers. Banks have typically had their home lending capabilities constrained by the high cost of capital. The result has been that the banks and the governmental agencies have satisfied a relatively small portion of the market.

The conventional mortgage origination process in Mexico has not been standardized in any significant way. Credit information has not been generally available to lenders, and banks have lent based on information developed internally based on the bank's particular experience with potential borrowers. Other than at the largest banks such as Banamex and Bancomer, there is very little credible payment history on existing mortgages due to the changing nature and scope of lending operations. Underwriting is challenging, at best. Changes are occurring in the system, but have been slowed by significant capital constraints over the past several years.

While NAFTA has opened the Mexican banking system to foreign banks, very little of the new capital in the system has been dedicated to mortgage lending.

NAFTA also permitted the entry of foreign nondepository financial institutions into Mexico under the same terms that similar domestic institutions were permitted to operate. These "Anon-bank" banks, known as SOFOLES, are utilized by mortgage bankers in Mexico for originating and servicing mortgages, and ultimately will be integral parts of the developing secondary market. One of the few U.S. mortgage banks authorized to create a SOFOL was Weyerhaeuser Mortgage Company.

Because of the lack of funding for conventional products, most new mortgages originated by SOFOLES for Mexican nationals are still guaranteed by FOVI and comply with FOVI underwriting and origination standards. Some SOFOLES have been successful in originating mortgage products, which are now being pooled by these lenders, and it is anticipated that a SOFOL will soon issue at least one mortgage backed security comprised of FOVI loans during 1998.

Other than the banks and SOFOLES, very few mortgage service providers exist in Mexico. There are approximately four independent servicers which collectively service less than 1% of the mortgages currently in the system, two credit reporting agencies, and one authorized title insurance company. There are few escrow companies, due diligence firms, documentation preparation entities and information systems designed specifically for Mexico.

The particular challenges presented to foreigners entering the Mexican mortgage banking market are illustrated through the experiences of WSM Services de Mexico, S.A. de C.V. ("WSM"), a company which was originally created and operated by Weyerhaeuser and which is now owned by a subsidiary of Nestor Financial Group, LLC. WSM is one of the few North American companies established to provide mortgage services in Mexico.

Prior to the peso devaluation, WSM's mission was to originate mortgages for its U.S. builder clients and to sell the mortgages to existing banks. In response to the devaluation and a perception that the change in the economy had created servicing opportunities for an independent servicer, WSM entered the market. Its first client was a Mexican bank that retained WSM to process its mortgage data. WSM's development and integration of a system designed especially for Mexico brought to light many cultural and other differences between the aged market of the U.S. and the younger Mexico market.

While the U.S. mortgage-banking model is not 100% transferable, there is an extremely high level of local technical competence and business experience present in the Mexican marketplace. WSM learned quickly that rather than import U.S. technology for mortgage processing to be successful, it needed resident technology. For example, WSM utilizes an information system developed in Mexico by Pedro Gongora, a Mexican engineer. Mr. Gongora's knowledge and expertise permitted things to be done in months which otherwise would still be taking place.

Outsourcing is a new concept in Mexico. Therefore, WSM not only had to overcome significant technical difficulties, but also had to assuage the feelings of bank employees who feared for their jobs. The key to WSM's success in this area was creating strong relationships among the various team members. While this seems obvious, it is close to impossible to be successful with any outsourcing effort in Mexico until meaningful relationships exist.

Over the past several years, WSM has had to adapt its systems and policies to ever-changing governmental regulation. Because of the economic crisis precipitated by the peso devaluation, the national banking commission ("CBNV") proposed and implemented several loan restructuring schemes which brought about significant changes, including the change of the underlying currency upon which loans were denominated and causing some past paid interest to be recharacterized as principal reductions. The information systems changes required to adapt to these changes can be monumental.

WSM, in addition to data processing, is also actively engaged in debt collection and restructuring, and WSM has been able to traverse some

difficult terrain in creating a nationwide collection group.

In addition, WSM has created other business units to conduct due diligence and to provide other important services to investors. For example, WSM has developed software for the Mexico market in order to evaluate mortgages, loan portfolios, and other bank assets currently for sale either through private transactions or through FOBAPROA, the Mexican analog to the Resolution Trust Corporation. More of these services will be needed as the sale of bank assets accelerates.

Mexico has a vibrant and dynamic business environment that has in the past created and continues to create significant mortgage banking opportunities. To participate successfully, one must be willing to adapt practices and procedures to a market that is unlike any domestic market. Understanding the cultural, legal and ambient differences between Mexico and other markets is the first requirement of those seeking to enter the market.

[next
page](#)