

Supreme Court of the Republic of Belarus
220020, Minsk, st. Orlovskaya, 76

Applicant (Appellant): Mr. Babaryka Viktor Dmitrievich

Correspondence address:

Attorney Znak M.A. ; Tel
info@Babaryka.vision

Interested party: (Adverse claimant)
The Central Commission of the Republic of Belarus on Elections and Holding Republican Referenda

Address: Minsk, st. Sovetskaya, 11, 220010

State duty: exemption in accordance with clause 1.8.1 of Art. 285 Tax Code of the Republic of Belarus

COMPLAINT

The Central Commission of the Republic of Belarus on elections and republican referenda (hereinafter referred to as the Central Commission) adopted Decree No. 92 of July 14th, 2020 “On the Refusal of Mr. Babaryka V.D. in registration as a candidate for the President of the Republic of Belarus”(hereinafter - the Resolution).

The Resolution is unlawful and unfounded.

Brief justification of the illegality of the adopted Resolution:

1. Filed by Mr. Babaryka V.D. the declaration of income for 2019 and owned property is true, which is confirmed by the answers of state bodies available to the Central Commission. The letter of the State Control Committee of the Republic of Belarus (hereinafter - KGK) cannot be treated as evidence of criminal acts commitment due to the absence of court decision and not being charged with taking bribes. The KGK Letter does not contain information on specific facts of Mr. Babaryka's receipt of the undeclared income in 2019, about being in his ownership at the time of filing the declaration of undeclared real estate, shares, and shares in companies. No facts indicated in the letter have legal significance for considering the issue of registration as a presidential candidate. At the same time, checking the information on the legal entities and real estate objects mentioned in the letter in open registers allows us to establish that these assets do not belong to Mr. V.D. Babaryka.

2. Mr. Babaryka V.D. did not receive foreign financial aid and did not use it in the interests of being a presidential candidate. Among the members of the Mr. Babarykas' initiative group indeed, there were citizens of the Republic of Belarus who were employees, including of Belarusian companies with foreign founders. Their activities as members of the initiative group cannot be considered as receiving and using foreign financial assistance to Mr. Babaryka V.D. Even if the members of the initiative group did carry out part of the functions during working hours or used any official property (mobile phone), this is a violation of labor and not election laws.

Each several contentions will be detailed in this Complaint.

1. **The Declaration submitted for registration of Mr. Babaryka V. D. as a Presidential candidate does not contain false information of a significant nature**

The list of grounds for refusal to register as a candidate for President of the Republic of Belarus is contained in Art. 68-1 of the Electoral Code of the Republic of Belarus (hereinafter - EC RB). From this article, the Resolution mentions the only ground for refusal: “*submission in the declaration of income and property of a person nominated as a candidate for President of the Republic of Belarus ... of information that is not relevant and of a significant nature*”.

According to clause 16 of the Central Commission resolution of June 4th, 2020 No. 85 "On clarifying the application of the provisions of the Election Code of the Republic of Belarus on the procedure for declaring income and property during elections of the President of the Republic of Belarus in 2020", the **significant character of** untrue information, should be understood as follows:

- 1) Declaring the total **annual income** in a smaller amount if the discrepancy is more than **20 percent** of the total annual income;
- 2) lack of information on **immovable property** owned by the right of ownership, share in the ownership right to such property;
- 3) lack of information about the **vehicle** owned by the right of ownership;
- 4) lack of information about **shares** or their indication in a smaller amount, about **the share** (not confirmed by shares) in the authorized capital, share in the property of a legal entity, about a legal entity, the only owner of which is the person who filled out the declaration, except for legal entities that on the date of submission of the declaration were in the process of liquidation, and information about shares, share (not confirmed by shares) in the statutory fund of a legal entity, transferred to trust management in accordance with the established.

Accordingly, only the above-mentioned violations can lead to consequences in the form of refusal to register a person as a Presidential candidate, and the Central Commission can analyze only these violations as facts of legal significance.

In the declaration submitted by persons nominated as candidates for the presidency of the Republic of Belarus, solely income for **2019** is indicated, so the income of a person can affect the assessment of the possibility of registering as a presidential candidate only if these incomes are received for.

Real estate items, vehicles, stocks/shares are indicated in the Declaration only if the person owns them at the time of filing the Declaration. In particular, stocks and shares in liquidated enterprises and those in the process of liquidation are not indicated, as well as information about shares, interest (unconfirmed by shares) in the statutory fund of a legal entity transferred to trust management in accordance with the established. That is, the person who owns the shares, but transferred them to trust, does not specify these shares in the Declaration.

Information about the available other property (with the exception of the above-mentioned real estate objects, vehicles and stocks/shares) is specified at the request of the person filling out the declaration. Therefore, any movable property (including monetary assets, bonds, precious metals, paintings, etc.) may not be declared, and this will not be illegal.

None of the facts set forth in the Resolution confirms the presence of any income, real estate and shares not specified in the declaration.

1.1. There is no proper evidence of any inconsistencies in the submitted declaration, and at the same time there is adequate evidence of the validity of the submitted information.

The Resolution contains information that the materials submitted to the Central Commission for verification of the National Cadastral Agency, the Securities Department of the Ministry of Finance of the Republic of Belarus, the inspections of the Ministry of Taxes and Duties of the Republic of Belarus for the Logoisk District indicate that the said by Babaryka V.D. In the declaration, information on income for 2019 and on property belonging to him as of the date of submission of the declaration **is consistent** with the information available in the listed bodies. Thus, there are **no grounds for refusal** to register according to the data of these state bodies.

The Resolution also states that the Central Commission was provided with information from the State Control Committee of the Republic of Belarus. During the meeting of the Central Commission on July 14th 2020, it was reported that a letter from the KGK (hereinafter – the Letter) was received, which was partially read out by L.M. Yermoshina. This Letter was not included in the verification materials, which were reviewed by representatives of Mr. Babaryka V. D. on July 13th 2020 on the basis of article 68 of the IC of the Republic of Belarus. Representatives have submitted an application for familiarization with the specified Letter on July 15th 2020 (entry No. 01-14 / 3-922), which was refused with the reference to the impossibility of submitting documents from third-party organizations.

Thus, the applicant was not able to familiarize himself with the specified Letter and asks the Court in accordance with Art. 196 of the Civil Procedure Code of the Republic of Belarus (hereinafter referred to as CPC of Belarus) to demand the specified Letter and other materials (if any) received from the State Control Committee and available to the Central Commission at the time of the adoption of the Resolution. After reading this Letter, the applicant will be presented with **additions to this complaint**.

The Applicant notes that in any case, the Letter is not proper evidence, and could not be used as the basis for the Resolution

By virtue of Art. 181 of the CPC, facts that, according to the law must be confirmed by certain means of proof **cannot be** confirmed by any other means of proof.

The information provided by the State Control Committee of the Republic of Belarus may come either from the materials of a criminal case or from the materials of operational investigative activities. In both cases, such information cannot be accepted as indisputable evidence of certain facts.

If the information in the KGK Letter comes from the materials of the criminal case, then it must be taken into account that, according to Art. 106 of the Code of Criminal Procedure, 182 of the Code of Civil Procedure, only a criminal sentence that has entered into legal force establishes whether a dangerous act has been committed, as provided for in criminal law. No other document can predetermine conclusions about the guilt or innocence of the accused.

According to Art. 26 of the Constitution, no one can be found guilty of a crime unless their guilt is proved in accordance with the procedure provided for by law and established by a court verdict that has entered into legal force. The accused does not have to prove his innocence.

There **is neither** a verdict, **nor** a court decision, which would establish as facts the information specified in the KGK Letter.

If the information of the KGK comes from operational-search activities, then it must be taken into account that, according to Art. 101 of the Code of Criminal Procedure, materials obtained in the course of operational-search activities can be recognized as sources of evidence, provided that they are obtained and provided in accordance with the legislation of the Republic of Belarus, checked and evaluated in the manner prescribed by the Criminal Procedure Code.

Thus, information about operational search activities could **only** become evidence if they were evaluated and verified by the **Court** in the framework of a criminal case, and this was not carried out. Therefore, the information provided by the KGK **does not have the legal force of evidence**.

According to Art. 50 of the Law of the Republic of Belarus dd 15.07.2015 No. 307-3 "On operational-search activities", materials of operational-search activities are provided for use by another body carrying out operational-search activities, a criminal prosecution body or a court, an international organization, a law enforcement agency and a special service of a foreign state in accordance with the Law and other legislative acts. This Law does not provide for the possibility of providing information from materials of operational-search activities to the Central Commission and the use of such information in the activities of the Central Commission (which is not a law enforcement Agency).

The only source of evidence about the income and property of Mr. V.D. Babaryka today may be his explanations, which necessitates ensuring his appearance at the hearing and providing an opportunity to give explanations.

Based on the foregoing, we ask: to summon Viktor Dmitrievich Babaryka to the court session to give explanations, to ensure his delivery to the court session from the place of detention.

If, despite the foregoing, the court considers the Letter an official document, on the basis of Art. 193 of the Code of Civil Procedure of the Republic of Belarus, please pay attention to the fact that official documents are issued by state bodies within their competence in compliance with the established rules. The facts underlying the criminal case are subject to verification and determination by the court upon sentencing. **Only a court verdict can be an official document establishing the fact of committing a crime** (in particular, receiving a bribe). On the basis of the foregoing, the applicant claims to contest the Letter as an official document and, accordingly, asks the court to demand from the officials of state bodies the evidence of the legality of issuing the document and the truth of its content.

We also ask you while making a decision to take into account the fact, that Mr. V.D. Babaryka is recognized as a political prisoner by human rights organizations, including Amnesty International, his complaint No. 3788/2020 is pending before the UN Human Rights Committee, which is confirmed by the response dated July 13th, 2020. Taking into account the foregoing, the materials of the criminal case should be treated critically and examine objective evidence that confirms the facts that are relevant to the case.

1.2. There is no evidence of undeclared income for 2019 in the amount exceeding 20% of the amount of declared income

The Resolution indicates that the State Control Committee established the fact that Mr. Babaryka V.D. in 2019 received at least \$ 450,000 that are not reflected in the Declaration.

Based on the comments made by L.M. Yermoshina during the meeting of the Central Commission on July 14th, 2020, we are talking about a kind of "bribe" in the amount of 350,000 US dollars from the activities of the companies "Privatleasing" LLC, "Information Processing Systems" LLC, "Legal Dialogue" LLC, which was not reflected in the filed Declaration. At the same time, the applicant once again draws attention **to the impossibility of establishing the fact of obtaining criminal income in the absence of a court verdict**. Detailed arguments were provided in paragraph 1.1 of this Complaint.

In addition, ONT TV channel showed a story with the participation of Dmitry Kuzmich and others. The story and its content are published on the ONT TV channel website - <https://ont.by/news/delo-belgazprombanka-otkaty-firmy-dlya-otmyvaniya-deneg-ofshornye-yurisdikcii-specialnoe-rassledovanie-ont>.

In this material, Dmitry Kuzmich, Deputy Chairman of the Management Board of "Belgazprombank", tells about the alleged procedure for dividing income from the activities of the companies "PrivatLeasing", "Legal Dialogue" and "Information Processing Systems": *"Initially, the distribution was announced **at the first meeting**. 25 [percent] with Valery Vladimirovich Selyavko [note: V.V. Selyavko died 11.07.2011], 25 [percent] for Viktor Dmitrievich Babaryka and 10 [percent] for the rest ... And **for 3-4 years**, funds were transferred to me on a regular basis **in the presence of dividends** from the company's activities on the territory of the Republic of Belarus. Amounts **from 10 to 15 thousand dollars**. The total amount is about 140 thousand dollars. "*

Thus, in the given testimony, even if they were true, we could talk about the amount of about 100,000-150,000 US dollars for 2019 for all participants, of which Mr. Babaryka V.D. allegedly owed 25%, which is significantly less than the amount that may be the basis for refusal to register as a candidate for the President of the Republic of Belarus.

At the same time, it is necessary to pay attention to the presence of **obvious contradictions** in the testimony of the accused shown on television (even taking into account the editing and selective demonstration of the fragments).

It should be borne in mind that among the charges brought against Mr. Babaryka V. D. **there is no charge of accepting a bribe**. Thus, not only does there not exist, but in principle, there **cannot be a verdict establishing the relevant facts on an undeclared charge**.

1.3. There is no evidence of undeclared shares or shares in enterprises that were owned at the time of filing the Declaration

The Resolution lists 10 companies, including 3 - residents of the Republic of Belarus, 7 non-residents.

With regard to residents, extracts from the USR (Unified State Register) were received and will be submitted to the court confirming the absence of ownership of stocks or shares in Mr. Babaryka V.D.

Out of 7 non-residents, information about the 2 companies is not available in the official registers of the respective states, 3 more **are liquidated** or are in the process of liquidation.

The 2 remaining companies mentioned in the Resolution are the Latvian companies ALDI Projects AS and MBC Investment AS, which are members of a number of legal entities in the Republic of Belarus. Information about the founders of these companies was provided to the authorized state bodies, was repeatedly published in the media, and also does not contain the data of Mr. V.D. Babaryka.

Indeed, the Resolution does not indicate that V.D. Babaryka is the shareholder of these companies. The expression "*controlled structures*" is used.

Despite the fact that the Resolution does not provide proof of "control", it is obvious that in the absence of direct ownership of shares, the relevant legal entities **cannot** be indicated in the Declaration (and, as noted, the Declaration does not even specify the shares or shares of legal entities, even those that are owned but transferred to trust management).

Thus, **there are no** shares or interests in any of the following legal entities, Babaryka V. D., and there is no such reason for refusal to register as a candidate for President of the Republic of Belarus, as the presence of undeclared shares or shares in enterprises that were owned at the time of filing the Declaration.

Available information about the companies listed in the Resolution:

No.	Name, registration number, date of registration, source of information	Information about the participation of Mr. V.D. Babaryka in organization*	Organization status
1.	<p>BUSINESS RENOVATION INVESTMENT LTD 3rd (Address: Floor 49 Farringdon Road, London, United Kingdom, EC1M 3JP) Registration No: 06311361 Created 12.07.2007 https://beta.companieshouse.gov.uk/company/06311361</p>	<p>Beneficiary: Sia "Baltijas Investiciju Grupa" (Latvia) (share more than 75%), Viktor Babaryka</p> <p>is not on the list of shareholders and ultimate beneficiaries</p> <p>https://company.lursoft.lv/ru/baltija-s-investiciju-grupa/40003587890?l=ru</p>	<p>Ceased operations</p> <p>10.07.2018</p> <p>Ceased operations</p>
2.	<p>ALDI Projects AS Latvia (since 09.02.2017 till 09.04.2020 Name SIA Latvijas Investiciju Aģentūra "Austrumu tilts") Registration No. 40203049312 Created 09.02.2017</p> <p>https://company.lursoft.lv/ru/aldi-projects/40203049312?l=ru</p>	<p>Viktor Babaryka is not on the list of shareholders and ultimate beneficiaries</p>	<p>Active</p>
3.	<p>AS "MBC Investment" Латвия Регистрационный номер 40203080157 Создано 07.07.2017 г.</p> <p>https://company.lursoft.lv/ru/mbc-investment/40203080157?l=ru</p>	<p>Viktor Babaryka is not on the list of shareholders and ultimate beneficiaries</p>	<p>Active</p>
4.	<p>KINGBROOK LIMITED (Address: 1 Liverpool Terrace, Worthing, West</p>	<p>Viktor Babaryka is not on the list of shareholders and ultimate beneficiaries</p>	<p>Liquidation process since 11.02.2020</p>

	<p>Sussex, BN11 1TA)</p> <p>Registration No 03802349</p> <p>Created 07.07.1999</p> <p>https://beta.companieshouse.gov.uk/company/03802349</p>		
5.	<p>Northwestern trade limited - No data about such company available</p> <p>https://beta.companieshouse.gov.uk/search?q=northwestern+trade+limited</p>	There is no information about the existence of such a company	Not available
6.	<p>GREENBELL LIMITED (Address 1 Coodham House, Symington, Kilmarnock, South Ayrshire, Scotland, KA1 5SG)</p> <p>Registration No. SC338242</p> <p>Created 21.02.2008</p> <p>https://beta.companieshouse.gov.uk/company/SC338242</p>	Viktor Babaryka is not on the list of shareholders and ultimate beneficiaries	Liquidated 04.02.2020
7.	<p>Theodosios Demosthenous (presumably Cyprus)</p> <p>https://efiling.drcor.mcit.gov.cy/DrcorPublic/SearchForm.aspx?sc=0</p>	There is no information about the existence of such a company, presumably the name of natural person	Not available
8.	<p>LLC «PrivatLeasing»</p> <p>Registration No. 190843776</p> <p>Created 28.06.2007</p>	Data on V. D. Babaryka is not available in the information received from the unified state register of shareholders and final beneficiaries.	Active

	https://kartoteka.by/unp-190843776		
9.	<p>LLC «Information Processing Systems»</p> <p>Registration No. 191122257</p> <p>Created 14.08.2009</p> <p>https://kartoteka.by/unp-191122257</p>	There is no information about the existence of such a company, presumably the name of natural person	Active
10.	<p>LLC «Legal Dialogue»</p> <p>Registration No. 190605025</p> <p>Created 7.02.2005</p> <p>https://kartoteka.by/unp-190605025</p>	There is no information about the existence of such a company, presumably the name of natural person	Active

* The information in this table is indicated according to the information provided in open sources (links are provided for each company), as well as according to published data on the basis of official extracts from the registries <https://naviny.by/article/20200619/1592587356-delo-belgazprombanka-cto-izvestno-ob-ofshorah-zapodozrennyh-v-otmyvanii> , and the attached extracts from the Unified State Register of Legal Entities and Individual Entrepreneurs

1.4. There is no evidence of undeclared real estate owned at the time of filing the Declaration

The Resolution states that Mr. Babaryka V.D. did not indicate in the Declaration that real estate is “in his actual ownership”.

It is unclear what is meant by real estate in “actual ownership”. If this is indirect ownership of property, then it is obvious that the Declaration cannot specify such property, the legal title to which belongs to other persons. If we are talking about real estate, which is in ownership of Babaryka V. D., then the Resolution **contains no data** on such property being in ownership of Babaryka V. D. on the date of filing the Declaration.

The Resolution states as follows:

“In 2009, Babaryka V.D. made a transfer for the purchase of two apartments in the Republic of Turkey (Mugla province, Milas district, Kiyikislacik village, Kizilkaya section, 119/17, Iassos Modern project, apartments 70 and 72).

*As it appears from the data from State Control Committee, in 2016 – 2017, the bank account of the offshore **company** “Northwestern trade limited” owned by Babaryka V.D. received **funds** from a foreign company “Theodosia Demosthenous” for renting apartments owned by him in the Republic of Cyprus (Agio 6, Ypatiou, apartment 201, Elysium Gates complex Peyia).”*

First, information about any payments made in 2009 or information about the receipt of income by certain offshore companies in 2017 does not confirm the fact that real estate is owned by Mr. Babaryka V.D. on the date of filing the Declaration.

Second, the information on the companies “Northwestern trade limited” and “Theodosia Demosthenous” can be found neither in the register of the Republic of Cyprus nor in the UK companies register.

Third, it was not possible to find not only data proving that Mr. Babaryka V.D, is the owner of the specified objects on the date of filing the Declaration, but also information on the fact of registration of the specified objects as objects of real estate.

2. Mr. Babaryka V.D. did not receive or use any foreign funding for nomination

The Resolution contains a reference to Babaryka's violation of the provisions of part 9 Article 48 of the Electoral Code of the Republic of Belarus, according to which direct or indirect contribution to the financing and other financial aid of foreign States and organizations, foreign citizens and stateless persons, international organizations, **organizations whose founders (participants, property owners) are foreign States**, foreign organizations, international organizations, foreign citizens and stateless persons, during the preparation and conduct of elections is prohibited.

Herewith the Resolution indicates that the legal consequence of non-compliance with these requirements for nomination in accordance with part 10 Article 48 of the EC RB is the refusal to register a candidate. You need to pay attention to the fact that part 10 of Article 48 of the EC RB establishes the responsibility only for the **usage** of funds or other material assistance by a person nominated by the presidential candidate in violation of the requirements of part 9 of Article 48 EC RB.

It is alleged that "the State Control Committee has reliable information about the facts of Mr. Babaryka's usage of **foreign financial aid** to in the interests of his nomination as a Presidential candidate."

The definition of foreign gratuitous aid is contained in Decree of the President of the Republic of Belarus No. 3 of 25.05.2020, according to which foreign States represented by their state bodies or diplomatic missions, international organizations, interstate entities, foreign organizations, citizens of the Republic of Belarus permanently residing outside the Republic of Belarus, foreign citizens and stateless persons who do not have permanent residence permits in the Republic of Belarus can act as senders of foreign aid, as well as foreign anonymous donors. A Belarusian joint stock company **cannot** be a subject that provides foreign gratuitous assistance.

Financial aid is assistance received in the form **monetary funds**.

As it follows from the text of the Resolution, in fact, the The KGK Letter **does not refer** to any financial aid or foreign gratuitous assistance.

The Resolution states that "*employees of JSC Belgazprombank, whose Russian founders own 99.6% of the authorized Fund (PJSC Gazprom - 49.8% and Gazprombank - 49.8%, respectively), used the Bank's **technical means** to include citizens in the initiative group, **place materials** on the global computer network Internet, **prepare abstracts of speeches and interviews**, and perform personal orders for Mr. Babaryka V.D. concerning organizational issues of the election campaign.*" During the meeting of the Central Commission on 14.07.2020 Yermoshina L.M. explained that we are talking about members of the initiative group who in their working hours used the resources of the employer in the interests of promoting Mr. Babaryka V.D. that is, apparently, on the equipment (for example, a laptop) belonging to the Bank, the employee posted certain materials on the Internet, prepared abstracts of speeches and interviews, used a service mobile phone number to communicate on behalf of Mr. Babaryka V.D.

It should be noted that the Resolution does not describe specific actions committed by members of the initiative group, which does not allow us to assess their legality.

In addition, there is no evidence of Mr. Babaryka **usage** of foreign financial aid, which assumes accepting assistance and consciously **extracting benefits** from obtaining material resources from a foreign organization.

At the same time, even if there are facts of using the resources of the employer by individual members of the initiative group, this cannot be regarded as the use of funds of a foreign organization, but is an offense within the framework of

labor relations, for which the employee can bear responsibility. It should be taken into account that such actions violate labor discipline not only because of the general provisions of labor legislation, but also because on May 29, 2020 the Management Board of JSC "Belgazprombank" made a separate decision on compliance with the Code of corporate ethics and fixed it in Protocol No. 27.

In order to “minimize the reputational risks associated with the activity of a number of Bank employees” due to the political campaign, it was instructed to ensure strict compliance with the Code, including that during working hours employees were **strictly prohibited** as follows:

- publish (verbally or by posting messages in social networks, messengers, chats, in the form of SMS, correspondence using e-mail) information about their political preferences;
- to call for actions in the interests or against the interests of any persons participating (involved) in the electoral processes;
- use PCs and office equipment owned by the Bank, consumables, office supplies, communication equipment, etc. for purposes not directly related to official activities, including using the Bank's own communication facilities (phones, tablets, laptops).

The decision of the Management Board was communicated to all employees of JSC “Belgazprombank”, and later attention was repeatedly drawn to the need for strict compliance with it.

Thus, foreign financial aid to Mr. Babaryka V.D. **was not used**.

In view of the aforesaid, the Resolution does not name specific facts or grounds for applying the norms of Art. 68-1 or Art. 48 of the EC of the Republic of Belarus. The information listed in the Resolution is not specified, is not supported by proper evidence, and the facts are not established. Most of the information provided in general has nothing to do with the issues that should have been considered by the Central Commission when making the Resolution. The Resolution **does not contain specific data** on the significant inaccuracy of information in the submitted Declaration of income and property, and **does not contain specific data** on the usage of “foreign financial aid in the interests of his nomination as a Presidential candidate” by Mr. Babaryka V.D.

Thus, the Resolution is **unfounded, illegal and subject to cancellation**. According to Article 399 of the Civil procedure code of the Republic of Belarus (hereinafter - CPC RB), the burden of proving the legality and validity of the resolution is the responsibility of the Central Commission.

Determining the time limit for filing this complaint

According to Art. 68-1 of the EC of Belarus, the decision of the Central Commission on refusal to register a candidate for the President of the Republic of Belarus may be appealed by the person nominated as a candidate for the President of the Republic of Belarus, the Supreme Court of the Republic of Belarus within three days from the date of the resolution. The Supreme Court of the Republic of Belarus considers the complaint within three days, and its decision is final.

The three-day term of the appeal in time is a procedural term. The electoral legislation does not contain special rules on the procedure for calculating procedural deadlines.

According to Art. 150 of the Civil code of the Republic of Belarus, the course of procedural terms begins on the next day after the calendar date or the occurrence of the event that determines their beginning. Given that the Resolution was issued on 14.07.2020, served to the applicant on 15.07.2020, on the day

on which the procedural period started, and the three-day period expires on 17.07.2020.

According to Art. 154 of CPC RB if the procedural deadline of CPC RB **or other acts of the legislation** passed for a reason recognized as valid, the court may restore it. Applications for restoration of the procedural term are not accepted for consideration if this term is not subject to restoration in accordance with this Code or other legislation. The legislation does not contain a reservation about the impossibility of restoring the term provided for in Art. 68-1 of the EC of the Republic of Belarus, so the term can be restored.

Given the uncertainty associated with filing a complaint, we consider it necessary to make an application to restore the deadline for filing a complaint. If the court considers that the procedural period for filing this complaint has been missed, please restore it, due to the presence of valid reasons. Validity of the reason is confirmed, in particular, by following: appealed Resolution was handed after 12.00 15.07.2020, while on 15.07.2020 the access to the main document on the basis of which the Resolution was taken (KGK Letter) was denied, preparation of a complete text of the complaint required the analysis of a large array of data and information from various sources, including foreign ones, on 17.07.2020 full text of the complaint was presented to Mr. Babaryka V. D. for signing, however, the possibility of signing and sending of the complaint was limited, since Mr. Babaryka V.D. remains in custody. While jailed, Mr. Babaryka V.D. was not able to hear the announcement of the Resolution of the CEC, was not able to read it, have not had the opportunity to see the materials underlying resolution.

Justification of the right to file this Complaint by power of attorney

According to Art. 68-1 of the EC RB, the decision of the Central Commission on the refusal to register as a candidate for the President of the Republic of Belarus may be appealed by a person nominated as a candidate for the President of the Republic of Belarus.

The material right to file a relevant complaint arises for a person nominated as a candidate for the President of the Republic of Belarus. **The procedural procedure** for filing a complaint and the procedural powers of the person filing the complaint are determined in accordance with the civil procedure legislation.

In accordance with Art. 79 of the Code of Civil Procedure of the Republic of Belarus, the authority to conduct a case in court gives a representative the right to perform **all procedural actions** on behalf of the person represented. The rights of a representative to sign a statement of claim, bring a claim, and others must be specially stipulated in the power of attorney issued by the person represented.

In a notarized power of attorney addressed to the lawyer Znak M.A. dated 12.06.2020, registered in the register at No. 6-546, the following powers are indicated, in particular:

*“To act on my behalf, namely: to represent my interests in all state bodies ... **including the Supreme Court of the Republic of Belarus, at all stages of the trial, ... including on matters related to the conduct of elections, including the election of the President of the Republic Belarus** ... for what the right is granted: draw up, sign and submit the necessary documents, including ...*

*To sign and submit any other documents and information stipulated by the election legislation for violations of the law, other appeals, requests and other documents for the implementation of the voting rights and freedoms submitted, **including complaints provided for***

by the Electoral Code of the Republic of Belarus, to represent interests when considering these complaints ”; “To conduct all my cases with all the rights that are granted by the civil procedural legislation to the plaintiff ... with the right to sign a statement of claim (statement, complaint), bring a claim, file a complaint (statements) ”; and other powers.

Thus, the procedural powers to exercise the right to file a complaint in accordance with Art. 68-1 of the EC RB are granted to Mark M.A., and he has the right to sign and file this Complaint on behalf of Mr. Babaryka V.D. Moreover, according to Art. 62 of the Constitution of the Republic of Belarus, everyone has the right to legal assistance for the exercise and protection of rights and freedoms, including the right to use at any time **the help of lawyers and their other representatives in court**, other state bodies, local government bodies, at enterprises, in institutions, organizations, public associations and in relations with officials and citizens. Opposition to the provision of legal assistance in the Republic of Belarus is prohibited.

A different interpretation of the norms of Art. 68-1 of the EC RB not only contradicts the constitutionally guaranteed right to help representatives in court, but also inevitably leads to the conclusion that, in general, signing and filing claims by proxy is not possible, unless otherwise expressly stipulated by law. For example, the labor legislation will enshrine the right of the employee, and not his lawyer, to file a claim for reinstatement at work, in the criminal law - the right of the victim, and not his lawyer, to file a civil claim, etc.

In a number of cases, the election law explicitly specifies when the authority to perform actions cannot be delegated by proxy. For example, according to Art. 136 of the EC RB, a voter has the right to put his signature only on one signature list and only for himself **personally**, according to Art. 36 of EC RB, a person who is a member of the commission is released from the performance of his duties in the commission upon a **personal** application, in accordance with Art. 52 EC RB, each voter, referendum participant personally votes, voting for other persons is not allowed. etc. There are **no reservations** regarding procedural rights when appealing against decisions and actions of election commissions, and there are general legislative rules that allow using the help of their representatives.

Based on the foregoing, guided by Art. 68, 68-1 of the Electoral Code of the Republic of Belarus,

CLAIM FOR:

1. Cancel the Resolution of the Central Commission of the Republic of Belarus on elections and Republican referendums No. 92 of July 14th, 2020 "on refusal of Babaryka V. D. to register as a candidate for President of the Republic of Belarus".
2. Oblige the Central Commission to eliminate the violations and register Babaryka V. D. as a candidate for President of the Republic of Belarus.

Annexes:

1. A copy of the complaint for the person concerned
2. A copy of the representative's power of attorney
3. Copy of the decision of the Central Commission
4. A copy of the application for familiarization with the letter to the Central Commission
5. Copies of extracts from the USR
6. A copy of the response of the UN Human Rights Committee on the initiation of the complaint proceedings with translation

The Applicant – Babaryka Viktor Dmitrievich, is signed by attorney M.A. Znak, based on a notarized power of attorney.

July 17th 2020

Znak M.A.

*(based on power of attorney dated
12.06.2020)*

