



Persecution of lawyers: individual cases presented at EP and at the OSCE PA Winter Meeting

In February 2018, two events on the topic of the persecution of lawyers were held at the premises of the European Parliament in Brussels (Tuesday, 20 February 2018) and at the OSCE Parliamentary Assembly Winter Meeting in Vienna (Friday, 23 February 2018).

The persecution of lawyers is a general issue that affects several countries worldwide and was recently addressed by the Parliamentary Assembly of the Council of Europe, who in January 2018 voted in favour of the drafting of a [European Convention on the Profession of Lawyer](#), in order to offer greater protection to lawyers who are constantly endangered by their engagement in the defence of their clients.

To discuss this issue, on February 20, 2018 a delegation composed of lawyers and representatives of civil society – Leyla Yunus, Ana Ursachi, Bakhytzhan Toregozhina, Botagoz Jardemalie, Patrick Henry, Romina Bossa Abiven, Thomas Garner, Marina Dubrovina and William Browder – provided their contribution as speakers to the event "Persecution of lawyers: selected cases from Moldova, Azerbaijan, Ukraine, Russia and Kazakhstan", hosted by MEPs Julie Ward (UK, S&D) and Jaromír Štětina (Czech Republic, EPP).

Leyla Yunus, a prominent human rights activist and founder of the Institute for Peace and Democracy, was persecuted in Azerbaijan and sentenced to prison together with her husband Arif Yunus for alleged economic crimes in 2014, and now resides in the Netherlands. Presenting the issue of Azerbaijan, Yunus underlined during her intervention how "attorneys who have the courage to defend political prisoners convicted of criminal offenses are severely persecuted" in the country. She cited the cases of Khalid Bagirov and Alaif Hasanov, the lawyers who represented Yunus and her husband after their arrest, who were expelled from the Bar Association, together with other lawyers such as Namizad Safarov, Elchin Namazov, and Yalchin Imanov, because of their engagement in defence of political prisoners.

Kazakhstani political refugee and member of the NY Bar Association, **Botagoz Jardemalie**, also gave her testimony about the case that directly involves her and her family. Jardemalie recounted the story of how she was granted political asylum in Belgium after they "**recognised that the proceedings against me in Kazakhstan were politically motivated**". She then told the story of her brother [Iskander Yerimbetov](#), currently under arrest in Kazakhstan, declaring, "my brother has been taken hostage as a reprisal against me for my legal work in support of political victims of the Kazakhstan regime."

A prominent Kazakh human rights activist, **Bakhytzhan Toregozhina**, illustrated how, in authoritarian countries like Kazakhstan, "'problematic' are attorneys who are involved in high-profile cases of torture and police abuse; defend political opponents of existing regimes, participate in corruption cases and do not cooperate with prosecution authorities. Such attorneys are constantly in danger".

She strongly criticised the proposals made for a law "On legal practice and assistance" that "**does not protect the independence of attorneys and lawyers in engaging in their professional activities without any interference or restrictions**". Toregozhina also mentioned the cases of Yerimbetov, who was reportedly "**urged to deny the services of his counsel Zhanara Balgabayeva**" and the case of [activist Almat Zhumagulov and poet Zhaksylyk Abishev](#), who were similarly pushed to refuse the services of the attorney Gulnara Zhuaspayeva. She also mentioned the case of [Mukhtar Dzhakishev](#), one of the most pressing individual cases of politically motivated prosecutions in the country, who has been in prison for nine years. Having been subjected to severe torture he may die in prison in the immediate future.

William Browder sent a video-recording of his speech, in which he briefly recounted the story of lawyers Sergei Magnitsky, who died in prison, Edward Khareitdinov and Vladimir Pastukhov, who became involved in the case filed by Russia against Browder's company after the uncovering of corruption in Gazprom and other important Russian state companies in 2008. Browder called for greater attention to be given to these cases as they represent "**a consistent way in which Russian persecute their people, i.e. by going after their lawyers. In our case we have** three lawyers, one who is dead and two who risk their lives and whose professions have been ruined and were forced to live in exile because they represented the 'wrong client', meaning somebody who is at odds with the regime", Browder stated.

As reminded by Russian lawyer and human rights activist in Russia, the Krasnodar area and North Caucasus, **Marina Dubrovina**, "**in the period from 2001 to the present, 45 lawyers have been killed in Russia.**" Dubrovina commented on the situation of lawyers in her country: "**In Russia, lawyers working in the field of human rights protection are threatened and attacked**" she said. "**The pressure on undesirable lawyers is possible based on orders from above and with the help of council of advocates' chambers**", she warned.

Moldovan lawyer and human rights activist, [Ana Ursachi](#), is herself an example of the persecution of lawyers in her country, Moldova. At the two events, she brought the testimony of her story. "**My country fell under the control of an oligarch, his name is Vladimir Plahotniuc and he is using the state coercive institutions to harshly persecute his opposers by means of fabricated criminal cases,**" she said. "**On October, the 20th, 2016, when I was abroad, participating at one international conference, I found out that a punitive criminal case had been fabricated against me.**" That case was a twenty-year old case that was reopened against her despite the fact that it is unconstitutional in Moldova to prosecute a person twice for the same crime. Ursachi underlined how this and other measures, such as a huge smear campaign, were being systematically carried out against her and the people who defended her (e.g. judge Dorin Munteanu and lawyer [Eduard Rudenco](#)) – and against other judges such as Dominica Manole and Marina Anton – in retaliation for her public account of the cases of corruption involving influential oligarch, politician and mass-media owner, Vladimir Plahotniuc.

Among the speakers were also a representative of the Council of Bar and Law societies of Europe (CCBE), **Patrick Henry**, who chairs the CCBE Human Rights Committee, and **Thomas Gardner**, a member of Fair Trials' Legal Experts Advisory Panel and also a member of the European Criminal Bar Association's Human Rights Committee. Henry underlined the importance of the initiative affirming that "**a political regime can be measured by the importance it places on justice and the Bar. In places where lawyers are arrested, threatened, arbitrarily arrested, convicted for defending their clients, murdered, tyranny, corruption, insecurity and injustice rule,**"he said. "**In places where lawyers can freely undertake their role even to defend a great offender or political opponents, justice and legal security prevail, allowing everyone to develop their activities with confidence and faith in the future. In these places, well-being remains.**" He then presented the main activities undertaken by the CCBE in the field of the

protection of the profession of lawyers in Europe and worldwide. Gardner illustrated other examples of persecution of colleagues, such as the case of Fakhraddin Mehdiyev, the lawyer of Jahangir Hajiyev, who used to be the head of the international bank in Azerbaijan. **"The deprivation of Fakhraddin Mehdiyev's ability to practise and many others facing such perspective demonstrates the complete abolition of the system of human rights protection in this country", Gardner stated.**

[See full gallery](#)

At the OSCE PA Winter Meeting, the [event](#) was hosted by the Chair of the Committee on Democracy, Human Rights and Humanitarian Questions, **Josè Ignacio Sanchez Amor**.

On this occasion, the event saw the participation of Russian lawyer **Dmitry Sotnikov**, who expressed fear for his freedom of speech and recalled the case of [Emil Kurbedinov](#), a prominent human rights lawyer from Ukraine who in January 2017 was arrested because of his activity and found guilty of "circulating extremist material" on social networks. **"In Russia you can be prosecuted because you exercise your professional activity,"** said Sotnikov. **"Last year there were six disciplinary actions for two politically motivated cases for which I used to work"** he said. **"It is for these reasons that, in Russia, the majority of lawyers decide not to become involved in any kind of politically motivated case that would undermine their professional activity."**

Likewise, the tragic case of Ukrainian lawyer **Iryna Nozdrovska** – who was murdered in January 2018 for her attempt to prevent the release from prison of her sister's killer – was recalled during the events, as a reminder of the difficult path that even in countries like Ukraine needs to be carefully built in order to strengthen a credible system of justice and protect defenders.

Great concerns are also shared by lawyers in Turkey, who are forced to flee their country or whose life and profession is in serious jeopardy, as was recounted through a video recording by **Osman Erturk**, a Turkish lawyer who is seeking asylum in the UK and is part of the [Arrested Lawyers Initiative](#) – a network of exiled lawyers who united to defend and advocate the rights of their colleagues jailed in Turkey. Currently, as reported by the Initiative, there are as much as **99 convicted, 578 arrested and 1525 prosecuted lawyers**, most of them because of their activity in defence of citizens who oppose the current Erdoğan regime and have been targeted by a harsh crackdown in the aftermath of the 2016 coup attempt.

On Azerbaijan, journalist and activist **Emin Huseynov (Institute for Reporters' Freedom and Safety – IRFS)**, added some remarks on the current issue of the upcoming snap presidential elections in the country, which have been moved six months ahead of schedule, calling on OSCE PA members to intervene strongly and condemn the holding of such elections, which, he argued, would represent a further step back in the democratic situation of the Central Asian state.

[See full gallery](#)

During both debates, the speakers called on the EU to adopt a European version of the Global Magnitsky Act, a piece of legislation that imposes sanctions on human rights abusers, first implemented by the United States in 2012 with the "Magnitsky Act" and subsequently adopted by other countries such as Estonia (2016), the UK, Canada, Lithuania (2017) and Latvia (2018).

Both events were moderated by **Lyudmyla Kozlovska**, President of the Open Dialog Foundation. During the event held on February 23 at the OSCE PA meeting in Vienna, the debate was abruptly interrupted by the intervention of three members of the Azerbaijan delegation to the OSCE PA – namely, Tahir Mirkishili, Elshad Hasanov and Kamran Nabizada – who shouted at the moderator

and at the speakers, insulting specifically Leyla Yunus and Emin Huseynov and calling them "traitors to their homeland". After the impolite protest, the representatives left the room, not allowing any form of discussion or dialogue.

On 14 February, 2018 on the eve of the event 'Persecution of lawyers: selected cases from Moldova, Ukraine, Russia and Kazakhstan', the Embassy of Kazakhstan in Belgium sent propaganda materials to Members of the European Parliament Julia Ward and Jaromír Štětina. The materials contain defamatory information regarding the Open Dialog Foundation and persons whose defence is being advocated by our organisation. Following the [link](#) you can find refutation of information of the kazakhstani authorities.