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The case of Daria El Zhed, a Russian opposition activist, has become one more example of political persecution against members and leaders of the Open Russia opposition movement. This movement was founded by Mikhail Khodorkovsky, a long-time opponent of the Russian authoritarian regime. Daria El Zhed asked for political asylum in Austria. Now she may have to face extradition from Austria to Russia, where she will be tortured and subject to unfair investigation and trial.

Pressure on the "Open Russia" activist

Daria El Zhed is a citizen of Russia, a lawyer and a psychologist. She was an active member of the Open Russia opposition movement established in December 2001.

From January to August 2017, Daria El Zhed was a consultant and a trainer in educational projects of Open Russia, a Russian public organization. In particular, within the framework of the Open Elections project, she conducted trainings for candidates in municipal elections (the Moscow School of Candidates) under the "Debates" program. Later Daria El Zhed, as a politically persecuted Open Russia activist, participated in several meetings of the OSCE PA in Vienna.

In May 2015, President Vladimir Putin signed the law on "undesirable organizations". On 26.04.2017, the Prosecutor General's office of Russia added three foreign legal entities to the register of "undesirable organizations": Otkrytaya Rossia, Open Russia Civic Movement (both UK-based) and the Institute of Modern Russia, Inc. (USA), headed by Khodorkovsky's son Pavel. The Prosecutor's office stated that the activities of these organizations are aimed at "*discrediting the elections taking place in Russia*", "*inspiring protest actions*" and "*destabilizing the domestic political situation*".¹ The law on "undesirable foreign organizations" was signed by President Vladimir Putin in May 2015.²

The Prosecutor General's office stressed that its decision concerns exclusively foreign legal entities, and this "will not affect" the work of Open Russia, a Russian public network movement.³ However, in December 2017, Roskomnadzor (The Federal Service for Supervision of Communications, Information Technology, and Mass Media) actually added the website of the Open Russia movement to the register of prohibited websites. Other websites that it made inaccessible included the Open Elections and Open University projects, and khodorkovsky.ru⁴. Thus, another wave of persecution started against activists and members of Open Russia⁵.

According to Daria El Zhed, in 2018 she began to receive threats from representatives of authorities, who demanded that she abandon her activities in Open Russia. In June 2018, Daria El Zhed left Russia. According to her, later, in France and the UAE, she was illegally followed by Russian special services. In August 2018, Russian law enforcement agencies, before any charges were brought against Daria El Zhed,

¹ <https://www.rbc.ru/politics/26/04/2017/5900b60a9a7947c5e8ac8807>

² <https://www.rbc.ru/politics/23/05/2015/55609f719a794774b30bd2a7>

³ <https://www.rbc.ru/rbcfreenews/5901036c9a79470412238073>

⁴ <https://ovdinfo.org/express-news/2017/12/12/roskomnadzor-vnes-sayt-dvizheniya-otkrytaya-rossiya-v-reestr-zapreshchennyh>

⁵ <https://ovdinfo.org/story/nezhelatelnoe-dvizhenie-otkrytaya-rossiya>

abused the legal aid mechanisms and requested information about her location, property, and accounts. This violated her right to privacy, freedom of movement and right to protection. In addition, on 20.08.2018, the General Directorate of the Ministry of Internal Affairs of Russia reported that Daria El Zhed was included in the list of citizens whose entry to the territory of France is prohibited. Law enforcement agencies put pressure on her mother, who lives in Russia, demanding her to insist that her daughter returns to the country.

Politically motivated criminal prosecution

On 13.03.2019 a determination was made in respect of Daria El Zhed, charging her under Article 159 of the Criminal Code ("Fraud"). The criminal case was initiated on 27.10.2017. The Russian investigation stated that in 2011, some "unidentified persons" from Progress LLC company provided false information to officials and illegally received a subsidy for an innovative project. According to the prosecution, the project was not implemented, and the subsidy in the amount of 840,000 rubles (about 12,300 euros at the exchange rate at the time of initiation of the criminal case) was stolen.

According to the documents, from 2017 to 2019, the name of Daria El Zhed was not mentioned in the criminal case file, but in March 2019 the investigation stated that Daria El Zhed "in conspiracy with a group of individuals acting on behalf of Progress LLC," allegedly "committed a theft in the amount of 2,741,737 rubles" (about 40,000 euros at the exchange rate at the time of the criminal case initiation). Daria El Zhed emphasizes that in 2011 she worked in URALLIGA, a commercial Bank, and could not be related to Progress LLC.

The criminal prosecution of Daria El Zhed is clearly of a political nature:

- The Italian Federation for Human Rights noted that the charges against Daria El Zhed were fabricated during the persecution of other Open Russia activists. In the period from January to May 2019, representatives of Open Russia: Anastasia Shevchenko, Maxim Vernikov, and Yana Antonova were charged with "activities of an undesirable organization" (Article 284.1 of the Criminal Code of the Russian Federation). A criminal case under part 3 of Article 228.1 of the Criminal Code of the Russian Federation ("Illegal Sale of Narcotic Drugs on a Large Scale") was falsified against Open Russia activists Lia and Artem Milushkin⁶. The police still conducts searches in the offices of Open Russia, and the members of the organization are intimidated and detained. One of the former leaders of the movement, Vladimir Kara-Murza, was threatened and later seriously poisoned. On 30.03.2019, the Open Russia movement decided to liquidate itself, explaining that it was necessary to protect its activists from criminal prosecution.

- As Daria El Zhed emphasizes, the charges against her are based on the false testimony by Innokentiy Lapshin from Chelyabinsk, a Deputy of Putin's United Russia party. According to the materials of this criminal case, in February 2018, "Lapshin's possible involvement in the crime" was established. However, according to Daria El Zhed, the authorities subsequently stopped the persecution of deputy Lapshin, transferring him to the status of a witness.

- Accusations of fraud are a common tool of political persecution in Russia. This instrument was used against opposition politician Alexey Navalny in 2013-2014, human rights activist Vladimir Osechkin (the founder of gulagu.net), and many other members of opposition.

- Daria El Zhed 's lawyers note that according to current Russian Criminal Code, criminal law has to be applied in the version that improves the position of the accused, and subject to revisions and amendments of the Criminal Code, the statute of limitations of punishment and the crime that the activist

⁶ <https://memohrc.org/ru/special-projects/delo-lii-i-artvoma-milushkinyh>

is charged with, the respective term expired in 2017. Therefore, Russia does not have a procedural right to demand extradition of Daria El Zhed.

Russia holds the leading position in terms of the abuse of Interpol mechanisms and extradition procedures

On 22.04.2019 Russia declared Daria El Zhed in the Interpol's wanted list. Since 28.04.2019, Daria El Zhed has stayed in Austria, where she asked for political asylum. In October 2019, she was arrested in Austria based on Russia's request to Interpol. She was soon released on bail.

Russia, like China, Turkey, and Kazakhstan, holds the record for abuse of the Interpol system and extradition procedures. Authoritarian states use those to prey on refugees and political opponents. Human rights defenders, as well as EU and PACE bodies, have been working on this issue for more than six years.

The Open Dialogue Foundation was one of the non-governmental organizations that launched an international campaign in support of Interpol reform. In 2017-2019, the European Parliament⁷ and PACE^{8,9} published reports on the abuse of Interpol and extradition. All these reports referred to the expert research and recommendations of the Open Dialogue Foundation.

Russia sent several Interpol notifications (diffusions) to Austria concerning the case of Daria El Zhed, an Open Russia activist. Russia also used diffusion to pursue the founder of Open Russia, Mikhail Khodorkovsky, a former head of the YUKOS oil company. Russia accused him of a contract murder and sent out a diffusion against him on 11.02.2016. The next day, Interpol rejected the Russian request, recognizing it as politically motivated.

Over the past three years, **several individuals that Russia has declared wanted in the Khodorkovsky case have been removed from the Interpol list**, in particular, Pavel Zabelin, Leonid Nevzlin, Pavel Ivlev, and Ivan Kolesnikov. Russia was denied their extradition. A striking example of how Russia uses international search mechanisms is that it was seven times that Interpol rejected Russia's request to search for William Browder, a British citizen and the leader of the campaign for justice in Sergei Magnitsky case. However, Russia sent a repeated request every time.

Daria El Zhed 's case is another example of the abuse of Interpol and extradition mechanisms by an authoritarian state. This, in particular, was discussed on 20.02.2020 at a hearing organized by the Open Dialogue Foundation in the framework of the OSCE PA in Vienna¹⁰.

Inadmissibility of extradition due to the political nature of the prosecution, the serious threat of torture and unfair trial in Russia

Daria El Zhed is at risk of extradition to Russia. **International law prohibits extradition in cases of political persecution, as well as when there is a risk that the person may be tortured and subject to an unfair trial.** This is stated in the UN Convention against Torture, UN Convention Relating to the Status of Refugees, the European Convention on Human Rights, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters, and the International Covenant on Civil and Political Rights.

⁷ [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2019\)603472](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2019)603472)

⁸ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=23524&lang=EN>

⁹ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=28090&lang=EN&search=Kioq>

¹⁰ <https://en.odfoundation.eu/a/26954,odf-co-hosts-side-event-at-the-19th-winter-meeting-of-the-osce-parliamentary-assembly-in-vienna/>

The facts indicate that Daria El Zhed **is being persecuted for her political beliefs and activities in the Open Russia opposition movement**. The founder of this movement, Mikhail Khodorkovsky, is a personal opponent of President Vladimir Putin. Putin publicly accused Khodorkovsky of "having blood on his hands." Daria El Zhed conducted trainings in an Open Russia project aimed at the preparation of independent candidates for elections. By persecuting Daria El Zhed and other Open Russia activists, the authorities are trying to intimidate anyone who supports this movement or participated in its projects.

In Russia, Daria El Zhed is at risk of **torture and cruel treatment**. The use of torture and violence in Russian pre-trial detention centers and colonies remains of a systemic nature¹¹. Russian law enforcement agencies and courts turn a blind eye to cases of beatings, torture and murder of prisoners. Open Dialog Foundation covered the case of Vitaly Buntov, a Russian prisoner. Having failed to achieve justice in Russia, Vitaly Buntov had to appeal to the European Court of Human Rights, which recognized the fact that Vitaly experienced cruel torture. After the ECHR decision, Buntov was subject to even more frequent beatings and inhuman treatment¹².

Daria El Zhed **is not expecting fair trial in Russia**. Russian law enforcement agencies are the mainstay of the country's authoritarian regime. With their help, the authorities suppress any manifestations of dissent and get rid of their opponents. According to the Memorial, a human rights center, there are currently more than 400 politically oppressed persons in Russia, including 60 political prisoners. As independent justice is not available to them in their country, Russians are forced to appeal to international authorities. Russia is one of the leading countries in terms of the number of unfulfilled decisions of the ECHR.

In December 2015, Russia adopted legislative changes that make it possible not to implement the decisions of the ECHR and other international courts that "contradict the Constitution of Russia". Russia violated the post-war security system in Europe by annexing the Crimea and by military invasion in Eastern Ukraine. Now Putin has taken a step towards actually becoming a life-long dictator. In 2020, amendments to the Constitution were adopted, establishing the priority of the Russian Constitution over the rules of international law (which makes it impossible for Russian citizens to seek the protection of their violated rights in international institutions and expect fair trial) and reset to zero Putin's presidential term, allowing him to run for president again.

The Open Dialogue Foundation calls on the competent authorities of the Republic of Austria to take into account the facts indicating that extradition of Daria El Zhed is inadmissible under international law. We call for taking into account the decisions of other states that have refused to extradite individuals prosecuted by the Russian authorities for civil and opposition activities, as well as taking into account the long history of Russia's abuse of extradition procedures. We believe that the objective and reasonable information provides grounds for granting Daria El Zhed protection and asylum.

¹¹ <https://zona.media/article/2016/26/06/torturevictimsday>

¹² <https://en.odfoundation.eu/a/8048,the-case-of-vitaliy-buntov-a-prisoner-who-won-his-case-against-russia-at-the-echr-continues-to-be-subjected-to-torture/>