

They've come for you

Misuse of extradition procedures, unlawful expulsions and kidnappings of victims of politically motivated prosecution



OPEN DIALOGUE

A large, detailed fingerprint graphic in the bottom left corner, with a red 'WANTED' sign overlaid on it. The sign is tilted and has the word 'WANTED' in white, bold, capital letters.

WANTED

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The Open Dialogue Foundation (ODF) was established in Poland in 2009 on the initiative of Ukrainian student and civic activist Lyudmyla Kozlovska (who currently serves as President of the Foundation). Since its founding, [statutory objectives](#) of the Foundation include the protection of human rights, democracy and the rule of law in the post-Soviet area. The Foundation originally focused its attention primarily on Kazakhstan, Russia, Ukraine and – since 2016 – Moldova, but this area of interest was expanded in July 2017 due to the rapidly deteriorating situation in Poland and other EU member states affected by illiberal policies implemented by their populist governments.

ODF pursues its goals through the organisation of observation missions, monitoring especially individual human rights' violation cases. It also advocates for international legislation better serving human rights, such as the Magnitsky Act or the adding of conditionality clauses to EU & international financial assistance programmes directed at non-democratic states and hybrid regimes. The Foundation also has extensive experience in the field of protection of the rights of political prisoners and refugees.

Based on its work, ODF publishes [analytical reports](#) and distributes them among EU institutions, OSCE, Council of Europe, the UN, other human rights organisations, foreign ministries and parliaments, as well as the media. It is actively engaged in cooperation with members of parliaments involved in foreign affairs, human rights and relations with monitored third countries.

ODF advocates for the [reform of Interpol](#) and - more recently - the Schengen Information System (SIS), preventing their mechanisms from being used by authoritarian and hybrid regimes to persecute their opponents.

In 2013/14 the Foundation organised a mission to support Ukrainian civil society in their struggle for European integration during [the Revolution of Dignity](#) in Kyiv's Maidan square. Following the Russian aggression in 2014, ODF's [humanitarian aid programme](#) started on Maidan, was expanded to help those affected by the war in the East. From 2014 to 2016, ODF run a large support centre in Warsaw under the name "[Ukrainian World](#)", offering everyday life assistance for migrants and fostering Polish-Ukrainian integration.

The Foundation has its permanent representative offices in Warsaw and Brussels.

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1. SHORT GLOSSARY OF TERMS

Extradition – surrender of a person from one state (*the requested state*) to another (*the requesting state*), where: **a)** the requesting state put the person on the wanted list on charges of a crime that is punishable by imprisonment or on the basis of a court sentence that has entered into force; **b)** the person was found in the territory of the requested state; **c)** the requesting state requests that the person be extradited for the purpose of prosecuting the offences set forth in the extradition request and provides a package of documents on the case in support of the request.

Communication on extradition is carried out by the competent authorities of the states (usually the Prosecutor General's Office and the Ministry of Justice). The competent authority of the requested state makes its decision (in most cases, in favour of extradition) and submits its position to a court which considers the admissibility or inadmissibility of extradition. In the subsequent stages, depending on national legislation, the final decision on extradition can be made by the executive branch (Ministry of Justice, Prime Minister).

Expulsion – a measure that is applied to force a foreign citizen to leave the country in accordance with the decision of competent authorities (migration service, court).

Interstate mutual legal assistance in criminal matters – a form of cooperation between states, which occurs under the following conditions: **a)** the requesting state is conducting a criminal prosecution or trial, **b)** missing information on the case is available in the jurisdiction of the requested state.

Due to this fact the requested state responds to the request and facilitates the investigation or proceedings, in particular by: providing evidence, questioning the persecuted persons and witnesses, transmitting personal data, performing searches and seizures, etc. This cooperation takes place both at the formal and informal levels. Law enforcement authorities or courts of both states communicate with each other. Procedures and obligations for the provision of legal assistance are defined in international conventions, as well as in bilateral or regional agreements.

Asylum – a form of *international protection* that a state or UN agency grants to a foreign national due to the fact that he/she cannot return to the country of origin. This is due to a well-founded fear that the person will be persecuted in the country of origin for reasons of race, religion, nationality, citizenship, membership of a particular social group or political opinion. Applications for asylum are considered by the authorised body of the state (as a rule, the migration service). The court may confirm, cancel or reconsider the decision of this body.

Subsidiary protection – a form of *international protection*, which is granted when the authorised body believes that there are not enough grounds for asylum, but the person is at risk of torture, ill-treatment and other threats to life and safety in the country of origin. As a rule, this protection is granted for a certain period, after which the person needs to prove the further existence of the threats and extend the protection.

Asylum-seeker – a person who has applied for international protection, but the final decision on his/her request has not yet been made.

Misuse of Interpol – widespread violation of Art. 3 of the Constitution of Interpol, which forbids any intervention or activity of a political, military, religious or racial nature. Non-democratic states often violate this provision by using the Interpol system to persecute refugees and political opponents.

Red Notice – one of the types of Interpol notices. This notice (requests for an international alert) is issued by the Interpol General Secretariat at the request of the state that has issued an arrest warrant for the person and intends to seek his or her extradition.

Diffusion – one of the types of Interpol notices. National law enforcement agencies automatically enter the name of the person in the Interpol database via the I-Link network. Diffusion is sent selectively to certain states.

2. INTRODUCTION

In international law, there is an unconditional ban on the extradition of persons to countries where they may find themselves at risk of torture and ill-treatment. Extradition requests issued on the basis of politically motivated prosecutions are also illegal. In such cases, individuals are subjected to prosecution for their political beliefs, criticism of the authorities, or their civic, journalistic or human rights activities.

The principle of non-refoulement is binding for states. It is also prohibited to transfer asylum-seekers at the stage of consideration of their application for asylum. Another reason for prohibiting extradition is the lack of guarantee of a fair trial.

However, many states flout these norms, seeking or carrying out extradition with gross violations of the UN Convention against Torture, the UN Convention on the Status of Refugees, the European Convention on Human Rights, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters, as well as the International Covenant on Civil and Political Rights.

In addition to illegal extraditions, cases of forced expulsion or kidnapping of persecuted persons are commonplace. Such actions are organised in cooperation with the special services of the country of origin and are carried out in secret, without complying with legal procedures, by depriving persons of the opportunity to defend their interests in court. Refugees and asylum-seekers face surveillance and threats from the security services of the state from which they fled.

We hereby welcome the initiative of the PACE Committee on Legal Affairs and Human Rights regarding the preparation of the report 'Extradition requests and the abuse of process'. In its submission, the Open Dialogue Foundation conducted an analysis of violations that were committed within the framework of extradition procedures. We also offer possible problem solving mechanisms and recommendations for improving the cooperation of the Council of Europe states in the field of extraditions.

This report provides examples of violations by the following states:

- Members of the Council of Europe who sent politically motivated requests for extradition and in some of these cases sought extradition are, in particular: *Azerbaijan, Moldova, Russia, Turkey and Ukraine*.
- Members of the Council of Europe who carried out illegal extraditions or expulsions are: *Bulgaria, Hungary, Moldova, Russia, Turkey and Ukraine*.
- Misuse of extradition procedures by states that are not members of the Council of Europe, but have partnership relationships with the Council of Europe: *Kyrgyzstan* (it has the status of 'Partner for democracy' of the Council of Europe); *Kazakhstan* (it signed several conventions within the framework of the Council of Europe and a declaration on expanding cooperation with the organisation). In recent years, Kazakhstan has systematically sent politically motivated requests for extradition to Council of Europe states.

Frequently, in matters of extradition, states rely primarily **on bilateral or regional legal assistance agreements** rather than on international human rights law. Illegal extraditions are carried out under the pretence of 'protecting the interests of national security' or maintaining friendly bilateral relations between states.

In many cases, law enforcement agencies ignore objective and well-founded fears that torture, arbitrary deprivation of liberty and even death are awaiting the extradited person in the country of origin. Governments or courts often do not want to analyse the essence of the matter, although there are obvious incidents of fabricating evidence and discriminatory actions by the investigative body.

Instead, the basis for extradition is **"full confidence"** in the guarantees provided by the state requesting extradition. At the same time, **the formality and groundlessness of these guarantees, as well as previous cases of their violation**, are not taken into account.

Within the framework of extradition procedures, the conclusions of human rights organisations, the UN, PACE and EU bodies regarding **the systemic nature of torture and politically motivated prosecution in the country of origin** are provided. However, the courts and governments labelled these documents as “irrelevant to the case”. At the same time, in some cases, extraditions were carried out **even contrary to a ban by UN bodies**.

This report presents numerous examples where **immigration services fully support the position of the state** that is carrying out unlawful prosecution, and unreasonably deny the granting of asylum. Representatives of the authorities of the country of origin are allowed to visit refugees or asylum seekers in their place of detention, which is a gross violation.

The attempts by non-democratic states to influence the outcome of extradition cases in a corrupt way or to manage to deprive their opponents of refugee status are flagrant. It is common practice to **misuse the mechanisms of international legal assistance** when non-democratic states receive confidential information about their opponents and use it for harassment and threats.

Another form of abuse is **repeated extradition requests**: INTERPOL removes the search request and the state is denied extradition; despite this, the state sends repeated similar requests for the search and extradition. Therefore, when crossing the border, individuals again face arrests and the threat of extradition. Similarly persecuted are those who have received asylum and citizenship in EU countries.

As examples, 65 cases have been presented or mentioned in this report. We do not analyse the question of the guilt or innocence of persons in these cases (although, in many cases, the judicial authorities of the Council of Europe states established their innocence). The Foundation points to gross violations of extradition procedures that undermine international human rights conventions.

Most of the cases considered in the report are a subject of expertise of the Open Dialogue Foundation. The Foundation studied the case files and also received information from those persecuted and their counsels.

3. MISUSE OF INTERPOL IS A MAINSTAY OF ILLEGAL EXTRADITIONAL PROCEDURES

In most cases, extradition procedures are commenced through INTERPOL notices. The majority of INTERPOL members are non-democratic states. These states misuse the INTERPOL system for the purpose of politically motivated prosecution. Over the past five years, human rights organisations, as well as representatives of the EU, PACE, OSCE and the UN have been working on solving this problem.

In April 2017, PACE approved a report and a resolution on INTERPOL reform: “Abusive use of the INTERPOL system: the need for more stringent legal safeguards”.¹

At the moment, the INTERPOL reform is underway. INTERPOL introduced a number of changes in its legislation. In the period between 2016 and 2017, INTERPOL began to apply (so far, inconsistently) the policy of protecting people with refugee status, as well as more closely monitoring politically motivated search requests.

The Open Dialogue Foundation was one of those non-governmental organisations that launched an international campaign to support the INTERPOL reform. In its latest report² on the topic, the Foundation analysed the first changes in the INTERPOL system, and provided recommendations for further effective implementation of reforms. On 18 February 2019, the European Parliament held a

¹ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=23524&lang=EN> ; <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=23714&lang=EN>

² <https://en.odfoundation.eu/a/8201,the-report-the-reform-of-interpol-don-t-let-it-be-stopped-halfway>

presentation of the report ‘Misuse of Interpol’s Red Notices and impact on human rights’³, prepared at the request of the European Parliament’s Subcommittee on Human Rights. This report referred to the research and recommendations of the Open Dialogue Foundation on this topic, as well as expert interviews with representatives of the Foundation.

INTERPOL's “Red Notice” is not an “arrest warrant”. The state in whose territory the person was found should independently decide on the preventive measure. **However, in practice, in most cases, people are automatically arrested.** The victims of politically motivated prosecution are held behind bars for months or even years while lengthy procedures for examining extradition requests and challenging INTERPOL's notices are carried out.

4. PARTICIPANTS IN THE MINSK CONVENTION ON LEGAL ASSISTANCE RESORT TO UNLAWFUL EXTRADITIONS AND KIDNAPPINGS OF REFUGEES AND ASYLUM SEEKERS

A large number of cases considered in this report are related to the misuse of extradition procedures by Azerbaijan, Kazakhstan, Kyrgyzstan, Moldova, Russia and Ukraine. All these states are members of the Minsk Convention on Legal Assistance and closely cooperate in matters of extradition. The Minsk Convention focuses primarily on legal aid procedures. **The agreement does not clearly provide for the mechanisms for ensuring human rights guarantees.**

Kazakhstan is abusing the INTERPOL and extradition system primarily with the aim of laying hands on the opposition politician Mukhtar Ablyazov, his family members and former colleagues from the territories of the Council of Europe states. The President of Kazakhstan considers Ablyazov his personal enemy. Previously, Ablyazov was a famous businessman and one of the initiators of the opposition movement “Democratic Choice of Kazakhstan”. Ablyazov headed the non-state BTA Bank. In 2009, another conflict occurred between Mr. Ablyazov and the President of Kazakhstan, after which Ablyazov was accused of ‘embezzlement of bank funds’.

Not having extradition treaties with most EU countries, Kazakhstan addressed Ukraine and Russia for assistance (BTA Bank had representative offices in these countries). Ukraine and Russia also placed Ablyazov, his colleagues and family members on INTERPOL's wanted list.

In September 2015, French Prime Minister Manuel Valls signed a decree on the extradition of Ablyazov to Russia. According to the decree, France “has full confidence in” Russia's guarantees regarding the provision of appropriate conditions of detention and protection from torture. **In its decision on extradition, France, which joined the sanctions on the “Magnitsky List”, cited the decision of the Russian judge from the “Magnitsky List”.**

A year later, on 9 December 2016, the French Council of State overturned the extradition order and stressed the political nature of the case against Ablyazov. The French Council of State noted that Kazakhstan had illegally influenced the Ukrainian and Russian investigations in this case.⁴

INTERPOL removed the names of Mukhtar Ablyazov and several other defendants in the case from the list of wanted persons. The Council of Europe states have refused to extradite individuals involved in the case: Tatiana Paraskevich, Artur Trofimov, Kuanysh Nurgazin, Alexander Pavlov, Muratbek Ketebayev, Syrym Shalabayev and Roman Solodchenko.

Still, Kazakhstan ignores these decisions and continues to seek the extradition of the accused in the case of Ablyazov. In 2017, two of them – Zhaksylyk Zharimbetov and Yerzhan Kadesov – were extradited to

³ [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) ; [http://www.europarl.europa.eu/RegData/etudes/STUD/2019/603472/EXPO_STU\(2019\)603472_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2019/603472/EXPO_STU(2019)603472_EN.pdf)

⁴ <http://www.conseil-etat.fr/Actualites/Communiqués/Decision-d-extradition>

Kazakhstan with gross violations of international law. In Kazakhstan, they were placed in a detention centre, they completely changed their position, “pled guilty”, testified against Ablyazov and stated that they had “voluntarily returned to Kazakhstan”. They also began to spread libellous information regarding human rights defenders, including the Open Dialogue Foundation, that had stood in their defence. In fact, the Kazakhstani authorities are using those defenders for propaganda purposes.

At the moment, representatives of the General Prosecutor's Office of Kazakhstan declare their desire to sign agreements on legal assistance with the EU states (in particular, Austria, France), and to accede to the Council of Europe’s conventions in the field of criminal justice.⁵ In fact, this will open up even more opportunities for Kazakhstan to misuse extradition procedures and abuse the confidence of Council of Europe states.

Russia is one of the leaders as regards the number of abuses of the INTERPOL system and extradition procedures. In addition, human rights activists have recorded frequent incidents of kidnapping of citizens of Central Asian countries in Russia by the special services of these states. For example, Sanzharbek Satvaldiev (transferred to Uzbekistan) and Savriddin Dzhurayev (transferred to Tajikistan) were kidnapped on Russian territory.⁶ This practice is very common, as legal ways to bring about extradition were, as a rule, blocked by the ECHR.

However, in December 2015, **legislative changes were adopted in Russia, making it possible to ignore the decisions of the ECHR and other international courts** that “contradict the Constitution of the Russian Federation”. These changes were sharply criticised by the Venice Commission. In fact, Russia has abolished the priority of international law.⁷

Over the past two years, the names of several individuals whom Russia has declared wanted have been removed from INTERPOL’s list. They include: opposition politician Yan Andreev⁸, activist Nikita Kulachenkov, and defendants in the YUKOS case: Pavel Zabelin, Leonid Nevzlin, Pavel Ivlev and Ivan Kolesnikov. Russia was denied their extradition.

Contrary to the statements of the authorities, **Ukraine’s** prosecutor's office, the police, the migration service, and the courts remain unreformed and **use the old illegal methods in their work**. Refugees from the post-Soviet states often choose Ukraine, whose authorities declare adherence to democratic values. However, in reality, the Ukrainian Migration Service systematically denies the granting of asylum or subsidiary protection to those persecuted.

For example, asylum wasn’t granted to Russian activists who are being persecuted for supporting EuroMaidan (Piotr Lyubchenkov, Sergey Anisiforov, Alexey Vetrov, Sergey Sakharchuk). The Migration Service of Ukraine explained its decisions by the fact that, according to Russian legislation, Russia is a “democratic state of law”, where “there is no torture”. Therefore, activists are at risk of extradition.

It is dangerous to come to Ukraine even if one has refugee status or EU citizenship – this was confirmed by the cases of Fikret Huseynov and Alovzat Aliyev, whom the Ukrainian prosecutor’s office intended to extradite to Azerbaijan.

Ukraine carries out close cooperation in the field of extradition with Russia, despite the military aggression from Russia. There have been numerous cases recorded in which **the Ukrainian special services resorted to non-procedural “forced returns” (in fact, to kidnappings)** of asylum seekers. The available evidence suggests that the Ukrainian special services assist foreign special services in their activities aimed at pursuing political opponents in Ukraine.

⁵ https://tengrinews.kz/kazakhstan_news/avstriya-privetstvuet-shagi-kazahstana-peredache-osujdennyih-355799/ ; <http://today.kz/news/kazakhstan/2016-02-16/710021-kazakhstan-stremitsya-k-zaklyucheniyu-dogovora-o-vozaimnoi-pravovoi-pomoschi-s-frantsiej/>

⁶ <https://hro.org/node/16441> ; <https://amnesty.org.ru/ru/2016-04-21-uzbekistan/>

⁷ <https://en.odfoundation.eu/a/7280,russia-s-ignoring-of-european-court-of-human-rights-decisions>

⁸ <https://en.odfoundation.eu/a/8607,interpol-removes-the-name-of-russian-political-refugee-yan-andreyev-from-its-wanted-list>

5. EXAMPLES OF GROSS HUMAN RIGHTS VIOLATIONS WHEN CARRYING OUT EXTRADITIONAL PROCEDURES

5.1. A lack of proper assessment of the situation in the country requesting extradition

When considering requests for extradition, the Council of Europe states interpret the situation in the country that requests extradition in different ways. In some cases, law enforcement agencies openly ignore the confirmed expert findings presented by representatives of the international community.

- On 30 October 2015, in one of the rulings in the case of **Tatiana Paraskevich**, the City Court of Prague stated that 'it is not at all essential' how often torture is applied in Russia, as torture exerted in relation to some 'does not automatically mean' the application of torture to others. Reports of international human rights organisations prove the systematic exertion of torture in Russia, carried out with impunity. However, the Czech court labelled these reports 'of a general nature only'.
- The opposite decision was issued by Austria in relation to **Artur Trofimov**, who is accused in the same case as Paraskevich. An Austrian court granted Trofimov, subsidiary protection and acknowledged the high risk of his ill-treatment due to the inhumane conditions of detention of prisoners in Russia.

5.2. Representatives of states requesting extradition are illegally allowed to visit the arrested refugees or asylum seekers

- In April 2016, in Ukraine, at the request of Azerbaijan, human rights activist **Alovsat Aliyev** was arrested. He spent 20 days in the detention facility. Germany granted Aliyev, refugee status, recognising the political nature of his persecution by the Azerbaijani authorities. Despite this, the Ukrainian prosecutor's office allowed a representative of Azerbaijan to visit him in the detention facility, and he threatened Aliyev. The intervention of German diplomats and wide publicity saved him from extradition to Azerbaijan.
- **Yerzhan Kadesov**, accused in the case of Kazakhstani oppositionist Mukhtar Ablyazov, was arrested in Hungary at the request of Kazakhstan. In November 2016, the Hungarian authorities allowed a Kazakhstani prosecutor and diplomat to visit Kadesov in prison; both of them threatened him. They shouldn't have been allowed to visit Kadesov, who, at that time, had the status of an asylum seeker.

In June 2017, Zhaksylyk Zharimbetov, another accused in this case, called Kadesov who was in prison. Kazakhstan brought about the illegal extradition of Zharimbetov, after which he began to 'cooperate with the investigation bodies' and, in fact, became the mouthpiece of the Kazakhstani authorities. Zharimbetov promised Kadesov 'guarantees of protection' if he would come to Kazakhstan and give an incriminating testimony. Following this phone call, Kadesov abruptly changed his position and requested that he be 'voluntarily extradited' to Kazakhstan. Such a phone call to prison could be organised only with the cooperation of the Hungarian and Kazakhstani authorities.

5.3. Extraditions, carried out contrary to UN decisions

- In 2013, UNHCR granted Azerbaijani citizen **Farid Yusub**, refugee status. In May 2015, Yusub was detained in Russia as he was wanted by INTERPOL at the request of Azerbaijan. He spent a year in custody. The General Prosecutor's Office of Russia decided to extradite Yusub. In September 2016, the Russian court upheld the decision. The court stated that the arguments of the UNHCR 'do not apply to Yusub'. In January 2017, INTERPOL removed his name from the wanted list. Despite this, and despite the decision of the UNHCR, Russia extradited Yusub to Azerbaijan in August 2018.

- In June 2016, **Timur Tumgoyev** was detained in Ukraine on the basis of an extradition request from Russia. He spent approx. two years in custody. The Migration Service refused to grant him asylum. He sought a review of the asylum case through legal action, but he did not get a court decision in time. In September 2018, by the decision of the Ukrainian prosecutor's office, he was extradited to Russia. In addition, Ukraine ignored the decision of the UN Human Rights Committee, which demanded that the extradition of Tumgoyev be suspended.⁹
- The Turkish authorities managed to lay hands on their political opponents abroad, despite the UN ban on extradition. In 2016, Turkey brought about the extradition of **Murat Acar**, who was residing in Bahrain under the humanitarian protection of the United Nations. Human rights activists reported that, following his extradition, he was subjected to torture. In 2017, despite a protest by UNHCR, **Muhammet Furkan** was extradited from Thailand to Turkey.¹⁰

5.4. Cooperation of special services for the aim of persecuting, kidnapping, and expelling refugees and asylum seekers

- Seven members of the Moldovan-Turkish Lyceum network 'Orizont' were forcibly expelled from Moldova, which, in fact, can be regarded as kidnapping. Turkish authorities believe that Orizont Lyceums are linked to Fethullah Gyulen, who is accused of 'attempting a coup d'état' in Turkey in July 2016. The teachers and members of the lyceum management who were expelled from Moldova, include: **Sarkis Ayri, Khuseyn Bayraktar, Reza Dogan, Feridun Tufekchi, Khasan Karadzhoğlu, Yasyn Ozdil, Muzhdad Chelebi** (of which the last five were asylum seekers in Moldova).

On 6 September 2018, they were detained with the use of force by officers of the Information and Security Service of Moldova. Relatives and counsels were not informed of their whereabouts.¹¹ On 7 September 2018, it became known that these persons were already being held in Turkish prisons. The day before their expulsion, 'on the recommendation' of the Information and Security Service, the Moldovan Migration Service refused to grant them asylum.¹² The Lyceum employees were not notified of the refusal of asylum. They were not given the opportunity to defend their rights in court.

The Information and Security Service stated that the expelled persons 'represented a threat to national security' and were declared *persona non grata*. The ECHR began to consider the case. In October 2018, a representative of the Moldovan government, Oleg Rotar, told the ECHR that the expelled persons 'did not state that they would be tortured in Turkey'.

In October 2018, the President of Turkey visited Moldova. During the visit, agreements on strengthening cooperation between Moldova and Turkey were concluded.

- In September 2016, Russian citizen **Aminat Babayeva** filed an application for the granting of refugee status in Ukraine. However, the migration service refused to process her documents. Immediately after this, officers of the Security Service of Ukraine entered the premises of the migration service and forcibly pushed Babayeva into the car. She tried to contact her counsel, but the kidnappers threw her phone out the window of the car. Babayeva was forcibly sent to Russia.¹³
- Russian activist **Vladimir Yegorov** applied for asylum in Ukraine. While his application was being considered, he got a job and rented a house. In July 2017, several people came to his apartment; they introduced themselves as officers of the Security Service of Ukraine (SBU), and told him to 'take his things'. Yegorov was taken to the border with Russia and Belarus and was told that he was denied

⁹ <https://helsinki.org.ua/appeals/zayava-hph-ta-uhspl-schodo-ekstradytsiji-bizhentsya-z-rf-tymura-tumhojeva-do-rosiji/>

¹⁰ <https://stockholmcf.org/abuse-of-the-interpol-system-by-turkey/>

¹¹ <https://www.amnesty.org/en/latest/news/2018/09/moldova-seven-people-deported-to-turkey-despite-major-human-rights-concerns/>

¹² <http://newsmaker.md/rus/novosti/oni-ne-govorili-chto-ih-budut-pytat-v-turtsii-kak-moldavskie-vlasti-obiyasnili-esp-39883>

¹³ <http://khpg.org/index.php?id=1521884939>

entry to Ukraine. As a result, he was in the hands of Russian law enforcement. SBU claims not to have been involved in the case.¹⁴

- In July 2018, the Turkish secret services carried out operations to actually kidnap two citizens of Turkey: opposition journalist **Yusuf Inan** and businessman **Salikh Zegi Igit** from the territory of Ukraine. It is not excluded that the operations were carried out with the assistance of the Ukrainian special services. On 12 July 2018, Yusuf was detained in Mykolaiv. On 13 July 2018, unidentified persons pushed Salikh Zegi Igit into a car and transferred him to the territory of the Turkish consulate. Both abductees were taken to Turkey. The Mykolaiv police reported that Yusuf Inan was detained by SBU officers.¹⁵
- Previously, other incidents involving the kidnapping of foreigners in Ukraine had been widely disseminated. After the kidnapping, they were found in the hands of the secret services of their countries of origin. In particular, Uzbek citizen **Khamidullo Torgunov** (in 2009), Palestinian citizen **Dirar Abu Sisi** (in 2011), Russians **Denis Solopov** and **Leonid Razvozhayev** (in 2011 and 2012, respectively) were kidnapped.
- In September 2017, journalist **Narzullo Okhunzhonov** was arrested in Ukraine at the request of Uzbekistan. Due to the wide publicity of the case, a month later, Okhunzhonov was released from custody. He reported that, while in Ukraine, he felt a threat from the Uzbek special services.¹⁶ In November 2018, Ukraine granted asylum to Okhunzhonov and refused to extradite him.
- Kazakhstan journalist and opposition activist **Zhanara Akhmetova** applied for asylum in Ukraine. The Migration Service refused to grant her asylum and did not inform her about it. Immediately after that, in October 2017, Akhmetova was arrested in Ukraine due to the extradition request from Kazakhstan. A month later, the court released her from custody, which became possible also due to the efforts of the international community, human rights defenders, and Ukrainian parliamentarians.

In official documents, the Kazakhstani authorities named Akhmetova's possible place of residence in Ukraine. This may indicate that the authorities of Kazakhstan may have carried out operational activities in Ukraine; it may also indicate the cooperation of the special services of both countries. In July 2018, Akhmetova reported that unidentified persons attempted to kidnap her in Kyiv. The journalist believes that the Kazakhstani security services are involved in this.

The Appellate Court in Kyiv and the Supreme Court obliged the migration service to properly reconsider Akhmetova's application for refugee status.¹⁷ She is still at risk of extradition.

- There is a high probability that the authorities of Kazakhstan will resort to the misuse of extradition procedures in the case of another opposition activist **Ardak Ashim**, who is seeking asylum in Ukraine. Kazakhstan accused her of publishing „negative posts against the authorities“ on Facebook. The authorities forcibly placed Ardak Ashim in a mental hospital, where she spent more than a month. In May 2018, under pressure from the international community, the authorities released Ashim from the mental hospital. A Kazakhstan court ruled that at the time of the crime, Ardak Ashim was 'in a state of insanity' and ordered her to undergo outpatient treatment at a psycho-neurological outpatient clinic. Ashim decided to seek protection in Ukraine.

While in Ukraine, Ardak Ashim felt that her health was deteriorating. The results of medical examinations have shown low levels of haemoglobin and the presence of heavy metals in her blood. Ashim is sure that she was poisoned in the psychiatric hospital in Kazakhstan. Her liver was affected in

¹⁴ <https://hromadske.ua/posts/istoriia-nevdaloi-vtechi-z-rosii>

¹⁵ <https://ru.hromadske.ua/posts/turetskoho-opozytsonera-o-vyvoze-kotoroho-soobshchaly-smv-zaderzhala-sbu-polytvyia>

¹⁶ <https://www.radiosvoboda.org/a/29252200.html>

¹⁷ <http://www.reyestr.court.gov.ua/Review/76519299>

35%. In Ukraine, Ashim underwent surgery. She could have died if she hadn't sought medical help in time.

- **Ainura Ashim**, the daughter of Ardak Ashim, may also be subjected to illegal extradition or expulsion to Kazakhstan. Ainura was engaged in a public campaign for the defence of her mother, she was in contact with human rights organisations, participated in court trials. Ainura is also an activist of the opposition movement 'Democratic Choice of Kazakhstan', which was labelled 'extremist' by the Kazakhstani court. Based on this decision, more than 30 people were prosecuted for supporting DCK and comments on social networks (four of them have already been sentenced to prison terms).¹⁸ Oppression related to the ban of the DCK, was condemned in several written declarations of PACE deputies.¹⁹ The Migration Service is considering Ainura Ashim's application for asylum.
- **Muratbek Tungishbayev** - a famous Kazakhstani blogger who created short films about human rights violations in Kazakhstan. The authorities of Kazakhstan sent a request for his extradition to Kyrgyzstan. The inadmissibility of extradition was stated by the Ombudsman of Kyrgyzstan²⁰ and human rights organisations.²¹

However, on 25 June 2017, a Kyrgyz court sanctioned the extradition of Tungishbayev. Immediately after this, on the night of 27 June 2018, he was secretly transferred from Bishkek without notifying his counsels or relatives of this fact. The Kyrgyz authorities did not wait for the appeal or the end of the procedure for the consideration of Tungishbayev's application for asylum.²² In fact, this incident can be regarded as the kidnapping of an asylum seeker in cooperation with the Kyrgyz special services and Kazakhstani authorities.

In addition, the Kazakhstani authorities have grossly violated the extradition guarantees, as they are pursuing Tungishbayev under an article which does not provide for the possibility of extradition.

Previously, before his arrest, Tungishbayev had undergone an eye surgery. In the Kazakhstani detention facility, he risked blindness due to a lack of proper medical care. At the end of 2018, Tungishbayev's spouse and, later, Tungishbayev himself, declared 'repentance' and repeated the rhetoric of Kazakhstani propaganda. The authorities changed the measure of restraint with regard to Tungishbayev to house arrest.

- In January 2017, the Kazakhstani authorities transferred **Zhaksylyk Zharimbetov**, accused in the case of Mukhtar Ablyazov, from Turkey on a charter plane. Zharimbetov was granted refugee status in Great Britain. Therefore, Turkey and Kazakhstan violated one of the basic norms of international law: the principle of non-refoulement.
- **Botagoz Jardemalie** - Kazakhstani human rights activist and lawyer. In 2013, the Belgian authorities granted her political asylum. Kazakhstan accused Jardemalie within the framework of the case of the opposition politician Mukhtar Ablyazov and made attempts to bring about her extradition. In 2016, INTERPOL removed her name from the wanted list. Kazakhstan organised surveillance of Jardemalie and was probably involved in an attempt to kidnap her. Belgian police is investigating these incidents.²³

¹⁸ <https://en.odfoundation.eu/a/8949,collective-complaint-be-quiet-or-be-charged-with-extremism>

¹⁹ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=24722&lang=EN&search=dHlwZV9zdHJfZW46IldyaXR0ZW4gZGVjbGFyYXRpb24j> ; <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=25007&lang=en> ; [http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=25176&lang=EN&search=dHlwZV9zdHJfZW46IldyaXR0ZW4gZGVjbGFyYXRpb24ifG1lbWJlcl9uYW1lX2VuOiJPTVRaSUdULCBOSUVURVil](http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=25176&lang=EN&search=dHlwZV9zdHJfZW46IldyaXR0ZW4gZGVjbGFyYXRpb24ifG1lbWJlcl9uYW1lX2VuOiJPTVRaSUdULCBOSUVURVil)

²⁰ http://www.ombudsman.kg/index.php?option=com_content&view=article&id=539&catid=18&lang=ru&Itemid=330

²¹ <https://www.hrw.org/news/2018/06/25/kyrgyzstan-activist-faces-extradition-risk-torture> ;

<https://www.amnesty.org/en/documents/eur57/8987/2018/es/>

²² <https://en.odfoundation.eu/a/8703,urgent-special-services-of-kyrgyzstan-extradited-muratbek-tungishbayev-to-kazakhstan-without-waiting-for-an-appeal>

²³ <https://www.levif.be/actualite/belgique/comment-le-kazakhstan-traque-les-dissidents-politiques-en-exil-aussi-en-belgique/article-normal-781657.html>

Lawyers' associations, such as International Observation of Lawyers²⁴ at risk and the Council of European Bar and Law Communities²⁵ spoke in defence of Botagoz Jardemalie. In order to force Botagoz Jardemalie to return to Kazakhstan and 'cooperate with the investigation bodies' in the case against Abylazov, the authorities subjected to torture and illegally prosecuted her brother **Iskander Yerimbetov**.²⁶

In November 2017, entrepreneur Yerimbetov was accused of "laundering money for Mukhtar Abylazov". The NSC (formerly, the KGB) officers demanded that Yerimbetov compel his sister Jardemalie to return to Kazakhstan, and also confess that he allegedly entered into a 'criminal conspiracy' with his sister and Mukhtar Abylazov, and laundered money for the latter. However, despite the torture, Yerimbetov refused to give false testimony and sign 'confession' that would not correspond to reality. The investigation bodies had no other evidence.

In March 2018, Yerimbetov faced charges of 'fraud'. According to the prosecution, the private joint-stock company, in which Yerimbetov invested, allegedly 'unreasonably' inflated prices for the services offered. At the same time, the 'victims' appointed by the investigation bodies did not file any claims against Yerimbetov, and the joint-stock company itself is not a monopolist. The court trial on the case was carried out with an accusatory bias and gross violations. In October 2018, Yerimbetov was sentenced to seven years' imprisonment. In November 2018, the UN Working Group on Arbitrary Detention recognised Yerimbetov's arrest as arbitrary and demanded his immediate release²⁷. PACE members signed four written declarations that mention the case of Yerimbetov²⁸.

Within the framework of the case of Yerimbetov, Kazakhstan sent **a request for international legal assistance** to Liechtenstein. According to the Kazakhstani authorities, on behalf of Yerimbetov, a legal entity, registered in Liechtenstein, founded offshore companies, which were then allegedly 'used for criminal purposes'. Within the framework of politically motivated case, Kazakhstan also sent requests for international legal assistance to other jurisdictions.

Kazakhstan will be able to use any information obtained in order to fabricate new cases and create the appearance of evidence.

- In May 2013, Abylazov's spouse, Alma Shalabayeva, along with her six-year-old daughter, were kidnapped from Italy to Kazakhstan (they were detained at the request of Kazakhstani authorities). The illegal deportation of the family caused an international scandal. Due to the intervention of human rights organisations, the UN and the European Parliament, in December 2013, the Kazakhstani authorities allowed Shalabayeva and her daughter to return to the EU. Italy granted them refugee status.
- **Emin Akhmedbekov** - former law enforcement officer of Azerbaijan, an opposition journalist. In order to protect his rights, he filed a complaint with the ECHR, after which the authorities of Azerbaijan began to pursue him. Akhmedbekov spent three years in an Azerbaijani prison. In December 2012, he and his family filed an application for political asylum in Ukraine. The Akhmedbekovs settled in Ivano-Frankivsk (Western Ukraine). Azerbaijani intelligence services found out their place of residence and telephone number, and began to threaten them, demanding that Emin Akhmedbekov withdraw his complaints from the ECHR. In an attempt to hide from the Azerbaijani special services, the Ahmedbekovs moved to live in the Kyiv Province.

²⁴ <http://www.protect-lawyers.com/oiad-content/uploads/2018/05/17-05-2018-appeal-iol-jardemalie-case-en.pdf>

²⁵ https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Kazakhstan_-_Kazakhstan/2018/EN_HRL_20180423_Kazakhstan_Concerns-over-lawyer-Botagoz-Jardemalie.pdf

²⁶ <https://en.odfoundation.eu/a/9026,the-iskander-yerimbetov-case-the-trial-of-the-kazakhstan-regime-s-hostage>

²⁷ https://www.perseus-strategies.com/wp-content/uploads/2018/12/WGAD-Opinion-67-2018-Iskander-Yerimbetov.pdf?fbclid=IwAR2FGnFUUt6nv68_1qwhjAiE9opPfAlh9ZaLKMPHObhKeVhzhV1ykyAliqM

²⁸ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=24722&Lang=EN> ; <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=24490&lang=EN> ; <http://www.assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=25176&Lang=EN>

In December 2013, in Kyiv, a man approached Akhmedbekov and introduced himself as a relative of the Azerbaijani consul in Ukraine. He demanded that Akhmedbekov withdraw complaints from the ECHR, and also stated that the issue of his deportation to Azerbaijan ‘has already been settled’ with the authorities of Ukraine. Shortly after, the Migration Service of Ukraine refused to grant asylum to Akhmedbekov.

In January 2014, the Akhmedbekovs moved to Bulgaria, where they also requested political asylum. According to Emin Akhmedbekov, in the Bulgarian Agency for Refugees, he was told straight that he and his family would not be granted asylum in Bulgaria, as the Bulgarian authorities would not like to start a conflict with Azerbaijan.

In 2017, with the support of the human rights organisation ‘Reporters without Borders’, the Akhmedbekov family was able to go to France, where, in 2018, they were granted asylum. In connection with their journalistic activities, Akhmedbekov may face persecution from Azerbaijan, so the family has been recommended not to leave the EU.

- In Bulgaria, **Abdullakh Buyuk** was arrested at the request of Turkey. A Bulgarian court ruled on the inadmissibility of the extradition of Buyuk. Still, in August 2016, the Bulgarian law enforcement authorities detained him and immediately transferred him to the Turkish authorities. The available facts allow to evaluate this event as a special operation of the Bulgarian and Turkish special services. The ECHR requested that Bulgaria provide documents and detailed information regarding this case.

5.5. The impact that corruption with a view to obtaining extradition has on Council of Europe Member States’ law enforcement agencies

- The correspondence documents published on kazaword.wordpress.com confirmed that representatives of the Kazakhstani authorities prepared draft accusations for the Ukrainian and Russian investigations and gave them direct instructions on the case of **Mukhtar Ablyazov**. These documents have been widely publicised among the media²⁹ and human rights organisations.³⁰

In France, a criminal case was initiated against French prosecutor Solange Legras. It turned out that representatives of Ukraine, Russia and Kazakhstani BTA Bank who were demanding Ablyazov's extradition bypassed the official procedure and provided the French prosecutor with documents on the case.³¹

- In the European media, it has been widely reported that the Kazakhstani authorities tried to bribe some Swiss parliamentarians and former officials to lobby for the extradition of the **Khrapunov family**.³²

Kazakhstan is pursuing the former mayor of Almaty, Viktor Khrapunov, businessman Leila Khrapunova and Ilyas Khrapunov, son-in-law of Mukhtar Ablyazov. The Khrapunovs report that between 2008 and 2011, the Kazakhstani authorities demanded that they sever relations with Ablyazov and testify against him. They refused to do so, after which they became victims of criminal prosecution. The authorities of Kazakhstan opened 21 criminal cases against Viktor Khrapunov and members of his family. According to the Kazakhstani authorities, Ilyas Khrapunov “was a member of a criminal group” at the age of 14.

²⁹ <https://www.letemps.ch/suisse/opposants-kazakhs-piste-lenlevement-passait-vevey>; <https://www.mediapart.fr/journal/international/140216/oligarque-kazakh-abliazov-denonce-une-justice-francaise-lecouite-de-moscou>

³⁰ <https://en.odfoundation.eu/a/7508,prominent-russian-human-rights-activists-called-for-preventing-the-extradition-of-mukhtar-ablyazov>

³¹ <https://www.mediapart.fr/journal/international/140216/oligarque-kazakh-abliazov-denonce-une-justice-francaise-lecouite-de-moscou>

³² <https://www.nzz.ch/schweiz/der-lange-arm-der-lobbyisten-ins-bundeshaus-1.18536437>; <https://www.letemps.ch/suisse/parlementaires-plus-plus-vulnerables-face-aux-lobbyistes>; <https://www.derbund.ch/bern/kanton/Markwalder-Kiener-Nellen-und-die-BorerKasachstanConnection-----/story/28295992>; <https://www.srf.ch/news/schweiz/borer-wehrt-sich-gegen-vorwuerfe-der-nzz>

Switzerland refused to extradite Viktor Khrapunov to Kazakhstan twice (in 2011 and 2014). The Khrapunovs report that Switzerland also refused to extradite Leyla Khrapunova to Kazakhstan. On 11 October 2017, 26 PACE deputies stated in a written declaration that the Khrapunov family case is an example of political persecution by Kazakhstan.³³

- On 17 February 2015, the Supreme Court of Spain granted asylum to **Aleksander Pavlov**, who was accused in Abylazov's case. Kazakhstan was denied Pavlov's extradition. The documents published in the media raised suspicions that the Kazakhstani authorities could have influenced previous decisions of the Spanish justice system in the case (lawyers working in Kazakhstan knew about the positions of the judges).

The case of judge Alfonso Guevara, who tried to extradite Pavlov while the asylum application was not completed, was also publicised. The Kazakhstani ambassador told judge Guevara that the plane was already waiting for Pavlov.³⁴

5.6. Repeated extradition requests and requests to Interpol, as well as the abuse of interstate legal assistance

- Interpol seven times rejected the Russian request for the search of **William Browder**, a British citizen and the leader of the Magnitsky Justice Campaign. However, each time, Russia sent another request. In November 2018, Russia brought additional charges against Browder for “organising a criminal community”. Moreover, representatives of the Prosecutor General’s Office of Russia stated that Browder had poisoned Magnitsky and “was the most interested in Magnitsky’s death”.³⁵
- In 2014, the Czech Republic refused Russia extradition of **Tatiana Paraskevich**, who was accused in the case of Mukhtar Abylazov. However, Russia and Ukraine expressed their disagreement with this decision. In 2016, these countries almost simultaneously sent repeated extradition requests for the extradition of Paraskevich. The requests had attached to them the same documents that the Czech Republic had already considered in 2014. In December 2017, the Czech Republic again refused extradition.

The Czech Republic granted Paraskevich international protection. At the same time, the lawyers of the nationalised Kazakhstani BTA Bank (actually representing the position of the authorities of Kazakhstan) appealed to the Czech law enforcement authorities with a view to preventing the provision of international protection to Paraskevich.

- In January 2014, Austria refused Russia to extradite **Artur Trofimov**, who was involved in the same case as Paraskevich. Russian citizen Trofimov received international protection in Austria and Interpol removed him from the search list. However, Russia has achieved a second extradition arrest. In October 2018, the government of Uzbekistan invited Trofimov to Tashkent for the International Investment Forum. According to Trofimov, the Consul of Uzbekistan provided him with security assurances.

In November 2018, Trofimov was arrested in Tashkent at the request of Russia. However, as a result, he was extradited to Kazakhstan. This was reported on 28 January 2019, by the General Prosecutor's Office of Kazakhstan³⁶. The extradition was carried out with the aim of bringing Trofimov to criminal responsibility in the case of Mukhtar Abylazov in Kazakhstan.

However, earlier Trofimov **was accused only in the Russian criminal case against Abylazov**. In Russia, the case against him is being conducted by investigators included in the ‘Magnitsky List’. Austria

³³ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=24151&lang=EN&search=dHlwZV9zdHJfZW46IldyaXR0ZW4gZGVibGFYXRpb24i>

³⁴ https://elpais.com/politica/2014/04/05/actualidad/1396716473_968897.html

³⁵ <https://www.currenttime.tv/a/browder-magnitsky-russia/29608339.html>

³⁶ <http://prokuror.gov.kz/rus/novosti/press-releasy/iz-uzbekistana-ekstradirovano-razyskivaemoe-lico>

provided Trofimov with international protection against Russia, which means that his extradition to Russia is expressly prohibited by international law. Most likely, in order to avoid another scandal, it was decided to extradite Trofimov to Kazakhstan. There is every reason to believe that **for this purpose, the Kazakhstani authorities 'organised' a criminal case against Trofimov and submitted an extradition request in such a short time.**

Thus, the authorities of Uzbekistan, Kazakhstan and Russia, being close allies, jointly carried out the illegal extradition of a person accused in a politically motivated case.

- In 2013, Poland granted asylum to **Muratbek Ketebayev**, a Kazakhstani opposition politician. However, Kazakhstan continued to seek his extradition. He was later detained in Spain on Interpol's Red Notice. In 2015, Spain refused to extradite him.
- Moldova has twice filed requests for the search for businessmen **Victor Țopa, Viorel Topa** and **Vladimir Morari**, but Interpol rejected them twice (in 2013 and 2015). The businessmen said that Moldovan oligarch Vladimir Plahotniuc had carried out a raider seizure of their company. In Moldova, they were sentenced *in absentia* to prison terms. In 2015, Germany refused to extradite Victor Topa and Viorel Topa to Moldova. However, the Moldovan Justice Minister announced his intention to send additional extradition documents to Germany.
- Another case where the Moldovan authorities may abuse the Interpol system and extradition procedures is the prosecution of lawyer **Anna Ursachi**. She participates in high-profile cases, in particular, defending the opponents of Moldovan oligarch Vladimir Plahotniuc. In 2016, media owned by Plahotniuc launched a campaign to discredit Ursachi. Their stories claimed "Ursachi's involvement in a murder committed 20 years ago". After that, the Prosecutor's Office resumed the criminal case in order to "establish the degree of Ursachi's involvement in the crime".

In 2017, the Moldovan authorities brought another criminal charge against Ursachi for "illegal actions" „in the provision of legal advice" in 2012. In March 2018, the Moldovan court granted the petition of the Prosecutor's Office to arrest Ursachi. At trial, Ursachi's interests were "represented" by a state lawyer, whom she had refused. Moldova may begin to seek Ursachi's extradition. Human rights organisations and international associations of lawyers spoke in her defence. Her case is also mentioned in several written declarations by PACE deputies.³⁷

- In addition, the Moldovan authorities have abused the mechanism of international legal assistance to politically persecute the human rights defender and President of the Open Dialogue Foundation **Lyudmyla Kozlovska**.

In October 2018, representatives of the ruling Democratic Party (led by oligarch Vladimir Plahotniuc) initiated the creation of a parliamentary commission to investigate the "*interference of the Open Dialogue Foundation in the internal affairs of Moldova*". The commission has prepared a report³⁸ in which **the Foundation is charged, among others, with the following 'crimes':** 'subversive activities ' and 'slander 'of the Republic of Moldova in Europe; lobbying the resolution of the European Parliament, in which facts of political persecution are noted and Moldova is described as a state captured by oligarchic interests; lobbying the decision of the European Commission to suspend financial assistance to Moldova; lobbying for personal sanctions against representatives of the Moldovan authorities; 'Illegal financing 'of Moldovan opposition parties, which consisted in the fact that in May 2017, the Open Dialogue Foundation paid for airline tickets for opposition politicians Maia Sandu and Andrei Nastase to participate in a conference in the European Parliament.

³⁷ <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23437&lang=en>; <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=24224&Lang=EN>; <http://www.assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=24308&Lang=EN>

³⁸ <http://www.parlament.md/LinkClick.aspx?fileticket=8RaDvRz%2fBY%3d&tabid=86&mid=488&language=ro-RO>

The report of the Moldovan Parliament is a compilation of fake information, which at various times appeared in pro-government and dubious media as well as on social media pages. The report makes extensive use of the method of twisting information and reporting blatantly false data. The defamatory information attacks against the Open Dialogue Foundation in Moldova were a continuation of similar attacks in Kazakhstan and Poland³⁹. The attacks are revenge for the Foundation's human rights activity.

Based on the report of the parliamentary commission, the Moldovan Prosecutor's Office opened a criminal case against Lyudmyla Kozlovska on charges of 'money laundering' (Art. 243), 'espionage' (Art. 338) and 'illegal party financing' (Art. 181). On 29 January 2019, the Moldovan authorities, through the Belgian police, handed over to Lyudmyla Kozlovska **the summons for questioning by the Moldovan Prosecutor's Office**. The summons states that Lyudmyla Kozlovska is a suspect in a criminal case. At the same time, the Moldovan Prosecutor's Office refuses to provide Kozlovska with the case file.

At the moment, there is a real threat that the Moldovan authorities may put Lyudmyla Kozlovska on the international wanted list. Political persecution of the Open Dialogue Foundation and Lyudmyla Kozlovska received widespread international criticism, which was expressed, in particular, by the President of the ALDE in the European Parliament Guy Verhofstadt⁴⁰, Deputy Assistant Secretary of State George Kent⁴¹ and 26 PACE deputies⁴².

- In 2016, the Netherlands granted asylum to human rights defenders **Leyla Yunus** and **Arif Yunusov**, who were persecuted and ill-treated in Azerbaijan. After that, according to human rights activists, the Azerbaijani authorities were preparing to put them on the Interpol wanted list, but Interpol, under pressure from the international community, refused to do so.⁴³
- In 2016, Germany provided asylum to **Yafez Hasanov**, a former journalist for Radio Liberty, who covered human rights violations in the Nakhchivan Autonomous Republic of Azerbaijan. After that, in 2017, Azerbaijan initiated a criminal case against Hasanov. Germany refused to extradite him. Hasanov has received numerous threats, including death threats, if he does not stop his journalistic investigations.

5.7. EU and US citizens who have been victims of abuse of extradition procedures

- **Marek Zmyslowski**, a Polish entrepreneur, was detained at the airport in Warsaw in January 2018. The Nigerian authorities had put him on the Interpol wanted list on charges of "fraud". The case was initiated on the basis of an application filed by his former business partners, who demanded that Zmyslowski, as one of founders of their company, return their investment funds. In fact, this case is a corporate conflict and has a commercial nature. The Interpol system cannot be used in such cases. Zmyslowski stresses that no one has notified him of a criminal prosecution or summoned him for questioning.

In April 2018, the Nigeria Court of Appeal established the illegality of Zmyslowski's prosecution. Despite this, Nigeria continues to seek his extradition. At the moment, Nigeria has not sent documents to Poland in Zmyslowski's case. This may indicate that they do not have real evidence against him. Zmyslowski reports that he is at risk of extradition to Nigeria and may face possible physical reprisals from the persons responsible for his prosecution.

³⁹ <https://en.odfoundation.eu/a/8473,a-smear-campaign-against-the-open-dialog-foundation-has-reached-the-walls-of-the-european-parliament-updated>

⁴⁰ <https://twitter.com/guyverhofstadt/status/1091298704634642432>

⁴¹ <http://newsmaker.md/rus/novosti/rassledovanie-vokrug-fonda-otkrytyy-dialog-eto-forma-politicheskogo-davleniya-inte-40537?fbclid=IwAR3bhX8lbw1uFRVVS8ty6Vsx43vFhAWaskFBos2irjoMOnG54hiNyxrzJ4c>

⁴² <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=25421&Lang=EN>

⁴³ <https://www.meydan.tv/ru/site/news/23530/>

- **Fikrat Huseynov** is an Azerbaijani journalist who received refugee status and citizenship in the Netherlands. In October 2017, he was arrested in Ukraine at the request of Azerbaijan. He was held in a pre-trial detention facility for over two weeks. For several months the issue of Huseynov's extradition to Azerbaijan was considered in Ukraine. During that time, he was nearly kidnapped. According to Huseynov, in March 2018, individuals in civilian clothes visited his rented apartment and introduced themselves as Ukrainian police officers. Some of them spoke Azerbaijani. Huseynov managed to escape by jumping out the window.

Interpol removed Huseynov from the search list, but the Ukrainian Prosecutor's Office continued the extradition procedure. During the trial, the Prosecutor's Office took away Huseynov's passport. The ombudsman's office described these actions as illegal. In April 2018, during a court hearing, Huseynov managed to retrieve his passport, after which he travelled to the Netherlands.

- **Nikolai Koblyakov** is a Russian businessman and opposition activist with French citizenship. In 2014, he spent three months behind bars in Bulgaria. However, the Bulgarian court refused to extradite him to Russia.
- **Leonardo Homeniuk** is a citizen of the United States and Canada, who used to head a gold mining company in Kyrgyzstan. In June 2014, after the change of government in Kyrgyzstan, local law enforcement agencies put Homeniuk on Interpol's wanted list on charges of corruption. Homeniuk calls the charges politically motivated. In October 2015, Bulgaria refused to extradite him.
- **Aysen Furhoff** and **Halis Aydogan** are former Turkish citizens persecuted by Turkish law enforcement agencies. After escaping from Turkey, Furhoff and Aydogan received citizenship of, respectively, Sweden and France. These states have also recognised the political nature of their prosecution and the inadmissibility of extradition. In 2015, based on Interpol's Red Notice, Furhoff and Aydogan were separately detained in Georgia. They were held in detention for several months while the issue of extradition was being resolved. Ultimately, they were able to return to Europe.
- **Hamza Yalcin** is a writer and activist of Turkish origin, who received asylum, and later citizenship in Sweden. In August 2017, he was detained in Spain based on a Turkish request to Interpol. He spent two months under arrest. The Swedish authorities spoke in his defence. In September 2017, Spain refused to extradite him.
- U.S. experts point to numerous cases in which Russia, including through investigators included in the Magnitsky List, is using the U.S. judicial system to prosecute its opponents. One of the methods of such prosecution is the filing of 'superficially legitimate lawsuits'. U.S. courts are considering these claims according to legal procedures. However, the Russian authorities are abusing this by delaying the process and exhausting opponents with litigation⁴⁴.

6. RECOMMENDATIONS

At the time of signing of regional and interstate treaties on legal cooperation, the goals of the fight against conventional crime are proclaimed. Unfortunately, however, there has been an increasing number of cases of some states abusing the mechanisms of Interpol and international legal cooperation to search for and capture persons whose persecution is politically motivated.

Thus, states neglect their international obligations to protect human rights. National interests and obligations to other states are placed above human rights.

⁴⁴ <https://www.theatlantic.com/politics/archive/2019/02/new-mueller-filing-shows-how-russia-misuses-us-courts/581884/>

A person, in respect of whom the request for extradition or international legal assistance is used, remains under the jurisdiction of the state that received the request. Respecting such person's rights is an international obligation of the requested state. States that have illegally extradited persons are responsible for the torture, ill-treatment and unfair trial that victims of such extradition face.

Recommendations to member states of the Council of Europe:

- Adhere to the principle of absolute prohibition of extradition if there is a real risk of torture or ill-treatment.
- Adhere to the principle of non-refoulement of refugees and asylum seekers to their country of origin. Do not allow cases where representatives of the authorities of the country of origin are allowed to visit persons who are under extradition arrest.
- Implement the decisions and recommendations of UN bodies and the ECHR on the inadmissibility or suspension of extradition. As part of the extradition procedure, attach recommendations and conclusions of international organisations as well as documents of the PACE, the European Parliament and the European Commission.
- Condemn the practice of abduction of persons under the guise of the procedure of forced expulsion or return.
- Regional and bilateral legal cooperation agreements should be based on respect for human rights. Such agreements should include a specific mechanism for protection against unlawful extradition in accordance with international human rights treaties.
- When considering extradition requests, investigate the history of abuse of international legal cooperation mechanisms by the requesting state and assess the current human rights situation in that state with particular care. It is also necessary to review the history of the state's implementation of its extradition guarantees.
- When considering requests for extradition and interstate legal assistance, take into account the decisions of other states that have already been taken with respect to a specific person.
- In accordance with Art. 2 of the European Convention on Mutual Assistance in Criminal Matters, refuse to provide assistance in politically motivated cases. In particular, refuse to provide interstate legal assistance in cases that are recognised by UN bodies, the EU and human rights organisations as illegal or politically motivated. Refuse to provide confidential information related to politically persecuted persons, their relatives and those close to them.
- Persons who are the subject of a request for interstate assistance in criminal matters must in all cases be informed of such a request. Thus, they should be given the opportunity to seek legal assistance, as well as to express their position on the case, including arguments on its political motivation.
- Pay attention to the increasingly common cases of undemocratic states carrying out political persecution of citizens of other states who reside in the EU or the U.S. These persons cannot be granted asylum or subsidiary protection because formally the country of origin is not the subject of persecution. However, that country may in fact be the customer of the prosecution, i.e., through political agreements, can arrange for another state to submit a request for extradition or interstate mutual legal assistance.
- Victims of political persecution with the use of 'intermediary states' are, among others, opposition activists, lawyers and human rights defenders. States should use the expertise of human rights organisations, UN agencies, the EU and PACE regarding the political component

and/or corrupt cooperation of states in such cases, as well as receive arguments from the prosecuted person. States should determine whether a request for extradition or interstate mutual legal assistance serves as a means of prosecuting a person for his/her opposition or human rights activities, and should reject such requests.

- Decisions on extradition arrests should be made only when there is a reasonable risk that the person sought may hide from law enforcement. Preference should be given to other types of non-custodial restrictive measures.
- Provide persecuted persons with effective legal remedies.
- Expand the Global Magnitsky Human Rights Accountability Act to include persons involved in cases of unlawful extradition and abuse of agreements on interstate legal assistance.
- Support the PACE Recommendation 2121 on drafting a European convention on the profession of lawyer.⁴⁵
- Support PACE's report and recommendations on the implementation of the Interpol reform.⁴⁶

Recommendations on asylum seekers and subsidiary protection

- Optimise the system of providing asylum or subsidiary protection based on UNHCR recommendations. In particular, it is necessary to involve the office of the ombudsman in solving the issue of granting asylum or subsidiary protection, and as to use the expertise of human rights organisations.
- Investigate the corruption impact of non-democratic states on the process of considering whether to grant asylum or subsidiary protection to persecuted persons.

Recommendations for the Council of Europe

- Establish a dedicated committee within the Council of Europe to monitor the abuse of extradition procedures, the Interpol system and interstate legal assistance.
- Initiate the creation of a working group to develop practical recommendations regarding the general criteria for assessing the risks to which an individual may be exposed in the event of their extradition, as well as mechanisms to protect individuals from politically motivated requests for interstate mutual legal assistance.
- Establish an international fund to pay compensation to persons who have been victims of abuse of Interpol mechanisms, as well as illegal extradition and interstate mutual legal assistance.
- Support the participation of civil society in projects aimed at informing law enforcement and judicial authorities of politically motivated prosecutions and abuse of extradition procedures or interstate legal assistance procedures.
- Support reforms of law enforcement and justice sector institutions in Council of Europe Member States. Funds for justice reform projects should be allocated in relation to specific improvements in accordance with international standards of fair investigation and trial.

⁴⁵ <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=24466&lang=en>

⁴⁶ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=23524&lang=EN>; <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=23714&lang=EN>