



## THE CASE OF YAN ANDREYEV:

### RUSSIA ONCE AGAIN MISUSES THE INTERPOL SYSTEM IN ORDER TO PROSECUTE AN OPPOSITION POLITICIAN



**The practice of prosecuting political opponents with the help of controlled law enforcement agencies is systemic in Russia. Even in cases when political refugees have left the territory of Russia, they still cannot feel safe, as they are constantly at risk of extradition due to questionable criminal prosecution**

The Open Dialog Foundation was established in Poland in 2009, on the initiative of Lyudmyla Kozlovska (who is currently the President of the Foundation). The statutory objectives of the Foundation include the protection of human rights, democracy and the rule of law in the post-Soviet area. The Foundation focuses its attention on countries in the region, in particular, such as: Kazakhstan, Moldova and Ukraine.

The Foundation pursues its goals through the organisation of observation missions, including election observation and monitoring of the human rights situation in the post-Soviet area. Based on these activities, the Foundation creates its reports and distributes them among the institutions of the EU, and the OSCE, as well as other international organisations, foreign ministries and parliaments of EU countries, analytical centres and media.

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## 1. INTRODUCTION

**Criminal prosecution has proven to be an effective method of fighting political opponents. The head of the Tutayev Municipal District of Yaroslavl Province, Yan Andreyev, was forced to leave Russia due to the repeated instigation of criminal cases against him with a view to removing him from office. At the moment, he is declared internationally wanted by Russia through the INTERPOL system. Should he be extradited to Russia, he will face a biased, sham trial, as well as ill-treatment and even torture at the place of detention.**

For many years, international observers have recorded a high level of corruption in Russia<sup>1</sup> as well as low ratings of democratic development<sup>2</sup> and security of residence in the country.<sup>3,4</sup> There is no independent and objective court in Russia. For justice, Russians are forced to turn to international courts. Thus, Russia is one of the leaders when it comes to the total number of registered complaints against it in the European Court of Human Rights (ECHR). It is also one of the leaders when it comes to the number of unexecuted decisions of the ECHR.<sup>5</sup> The use of torture and violence against suspects and prisoners is commonplace in Russian detention centres and penal colonies.<sup>6,7,8</sup> Numerous incidents with detainees held in detention in Russian detention centres on charges of committing 'economic crimes' and forced to give certain amounts of money and even their property through the use of torture<sup>9</sup>, have been widely reported. According to media investigations, the application of the death penalty is secretly used against persons held in custody in Russia.<sup>10</sup>

Russian law enforcement agencies are the backbone of the authoritarian regime that exists in the country. With their help, the authorities suppress all signs of dissent, and eliminate their opponents. The number of political prisoners in the country is increasing annually. According to estimates by Russian NGOs, at least 400 people have been prosecuted for political reasons since early 2008; at least 100 of them are still being held in custody or under house arrest at the moment.<sup>11,12</sup> Hundreds of Russians have been forced to leave the country, intending to hide from politically motivated persecution. In order to capture them, Russia resorts to tools of international criminal investigation implemented by INTERPOL. The cases of persecution by Russia of Mikhail Khodorkovsky, Akhmed Zakayev, Andrei Nekrasov, Alexei Torubarov, Nikita Kulachenkov, Tatiana Paraskevich, and Nail Malyutin have been widely publicised. Russia also uses INTERPOL's mechanisms in order to lay their hands on foreign citizens, as was the case, for example, with the prosecution of William Browder and Eric Cross, critics of the Russian regime.<sup>13</sup> Due to the law enforcement bodies and courts being controlled by the authorities, any person can be placed on the INTERPOL wanted list at the request of Russia. For example, in April 2017, Russia sent a tracing request to INTERPOL for former Prime Minister of Ukraine Arseniy Yatsenyuk; the request was based on completely ridiculous charges.<sup>14</sup> Frequently, such requests result in arrests and other problems for the persecuted.

Yan Andreyev is another victim of misuse of the INTERPOL system by Russia. Due to his wanted status, he cannot obtain Israeli citizenship and is facing the risk of being extradited to Russia.

<sup>1</sup> <https://www.transparency.org/country/RUS>

<sup>2</sup> <https://freedomhouse.org/report/freedom-world/2017/russia>

<sup>3</sup> [http://economicsandpeace.org/wp-content/uploads/2016/06/GPI-2016-Report\\_2.pdf](http://economicsandpeace.org/wp-content/uploads/2016/06/GPI-2016-Report_2.pdf)

<sup>4</sup> <http://www.prosperity.com/rankings>

<sup>5</sup> <https://www.svoboda.org/a/27855794.html>

<sup>6</sup> <https://zona.media/article/2016/26/06/torturevictimsday>

<sup>7</sup> <http://www.novayagazeta.ru/society/71356.html>

<sup>8</sup> <http://www.novayagazeta.ru/inquests/73418.html>

<sup>9</sup> <http://www.novayagazeta.ru/society/71568.html>

<sup>10</sup> [https://www.novayagazeta.ru/articles/2017/07/09/73065-eto-by-la-kazn-v-noch-na-26-yanvarya-v-groznom-rasstrelyany-desyatki-lyudey?utm\\_source=push](https://www.novayagazeta.ru/articles/2017/07/09/73065-eto-by-la-kazn-v-noch-na-26-yanvarya-v-groznom-rasstrelyany-desyatki-lyudey?utm_source=push)

<sup>11</sup> <http://www.politzeky.ru/politzeki/ves-spisok/22379.html>

<sup>12</sup> <https://memohrc.org/news/kolichestvo-politzaklyuchennyh-v-rossii-uvelichilos-bolee-chem-vdvoe>

<sup>13</sup> <http://en.odfoundation.eu/a/8201.the-report-the-reform-of-interpol-don-t-let-it-be-stopped-halfway>

<sup>14</sup> <http://www.rbc.ru/politics/28/04/2017/590317b59a79479a48ced498>

## 2. 2002: TRUMPED-UP CRIMINAL CASES FOR REFUSAL TO RESIGN

Yan Andreyev is the former head of the Tutayev Municipal District of Yaroslavl Province (he was first elected in 2004, and re-elected in 2008 with 68% of the vote). Andreyev was the only (of 19) head of the municipal district in Yaroslavl Province who was not a member of the 'United Russia' party. In 2007, elections to the State Duma were held in Russia. The level of support for the 'United Russia' party in Yaroslavl Province was one of the lowest among all regions of Russia, with a result of approx. 53%. It cannot be excluded that it was for this reason that Governor of the Province, Anatoliy Lisitsyn, was dismissed in late 2007. His post was taken by Sergey Vakhrukov.

In April 2009, Governor of Yaroslavl Province, Sergey Vakhrukov, publicly stated that the head of the Tutayev District, Yan Andreyev, and the head of the city of Tutayev, Nikolay Vasilyev, should resign: *"We had a tough conversation with the leaders of the city and the district. I openly suggested that Vasilyev write a statement of resignation. And Andreyev should also think over the issue of further work."*<sup>15</sup> *"I believed (and I still believe) that at that moment it was necessary to vacate two executive posts—those of the head of the city and the head of the municipal district. Only this step would ensure the restoration of social and political stability in the city and the region, and would allow to solve, or at least to help initiate a solution to, many issues related to further economic development of the territory."*<sup>16</sup> For a long time, Andreyev and Vasilyev weren't able to establish joint work. The reason for the proposal to resign was confusion over payment of utility bills.

On 8 April 2009, Tutayev's Mayor, Nikolay Vasilyev, resigned. Later, the prosecutor's office determined that in the case of utility bills, Vasilyev was guilty of corruption. Following the resignation, Nikolay Vasilyev worked as an advisor to Sergey Vakhrukov, the governor of Yaroslavl Province. Yan Andreyev pointed out that, unlike in the case of Vasilyev, there was no corruption in his actions; therefore, he had no intention of leaving his post.<sup>17</sup> In addition, he enjoyed a high level of support among members of the community, as evidenced by the election results.

Vakhrukov did not have the authority to dismiss Andreyev. This could be only done on the basis of a court ruling or a decision issued by the district parliament. However, the local Legislative Assembly refused to dismiss Andreyev. After that, the Head of the Tutayev Municipal District began to have problems with the law.

### **In 2009, four dubious criminal cases were simultaneously initiated against Yan Andreyev.**

- On 27 April 2009, a criminal case was initiated under Article 285, section 2 of the CC of the RF ('abuse of official powers committed by a person holding public office or head of a local government body). The essence of the accusations was that Yan Andreyev had allegedly printed calendars for the money of a private person (a businessman) for the purposes of pre-election campaigning.

On 28 April 2009, searches were conducted at Yan Andreyev's workplace and house, as well as at his mother-in-law's house.

- On 29 June 2009, another criminal case was initiated under Article 285, section 2 of the CC of the RF. From 2004 to 2007, Yan Andreyev was wrongly paid a monthly bonus for access to state secrets, although he did not have such access. In 2007, the mistake was discovered, after which Yan Andreyev returned in full the funds received over 2.5 years (21,000 rubles, i.e. approx. 600 euros). Nevertheless, a criminal case was initiated in 2009 with regard to the receipt of money and on 14 July 2009, Andreyev was dismissed from work.

<sup>15</sup> [http://yarreg.ru/articles/sk\\_news\\_10\\_16418/](http://yarreg.ru/articles/sk_news_10_16418/)

<sup>16</sup> <https://www.novayagazeta.ru/articles/2010/10/14/1125-chetyre-dela-protiv-odnogo-glavy>

<sup>17</sup> <https://www.novayagazeta.ru/articles/2010/10/14/1125-chetyre-dela-protiv-odnogo-glavy>

- On 5 October 2009, a criminal case was initiated under Article 318, section 1 of the CC of the RF ('violence against a representative of the state authorities'). According to the prosecutors, Andreyev allegedly battered the head of Tutayev's Regional Department of Internal Affairs, Mikhail Sevostyanov. According to some information, the third criminal case was initiated in order to ensure the arrest of Andreyev.
- On 11 December, 2009, a criminal case was initiated under Article 169, section 2 of the CC of the RF ('obstruction of legal business or other activities'). A local businessman accused Andreyev of causing damage in the amount of 2 million rubles (approx. 45,000 euros). The entrepreneur paid the amount for the project of reconstruction of the shopping centre, failing to fulfil the obligation to obtain the permit of the Town Planning Council. The Town Planning Council denied the reconstruction. The entrepreneur alleges that in a previous conversation Yan Andreyev had promised to issue the permit. According to the lawyer, Yan Andreyev did not utter these words; moreover, he did not have the authority to issue a permit for reconstruction.<sup>18</sup>

During the court trials, the investigators filed motions to arrest Andreyev and refer him to a medical hospital for forensic medical examination. It should be noted that attempts were made to place Andreyev in a medical hospital on New Year's Eve, which can be regarded as psychological pressure. The court rejected the motions, but issued a restraining order against Andreyev, banning him from leaving the city of Yaroslavl.

There are grounds to believe that the investigators falsified testimonies of witnesses. For example, on 2 December 2009, Yan Andreyev's wife, Olga, revealed that following her questioning by an investigator of the Prosecutor's Office, G.I. Mokrov, the protocol was supplemented with statements that she hadn't uttered. At the same time, the investigator demanded that she sign the protocol. Olga Andreyeva filed a complaint with the prosecutor's office against the investigator's actions, after which an agency check was appointed. However, no signs of violation of the law by employees have been revealed in the prosecutor's office of Yaroslavl Province.

Three criminal cases on charges of misconduct were merged into one criminal proceeding. On 28 June 2011, the Tutayev City Court acquitted Yan Andreyev with regard to the issue of the calendars, and dismissed the charges on the issue of the land plot due to the expiration of the limitation period. With regard to the third issue (financial bonuses for secrecy), the charges were withdrawn by the prosecutor's office.

The Tutayev City Court also found Yan Andreyev guilty of using violence against police officer Mikhail Sevostyanov and imposed a fine of 20,000 rubles (approx. 475 euros). **Andreyev filed an appeal against the ruling; the appeal was granted on 13 September 2011 by the Yaroslavl Regional Court.** The Chamber of Judges decided that the findings of the court in the first instance did not correspond to the actual circumstances of the case. In particular, the court took into account merely the testimony of the prosecution witnesses (two policemen), while it did not take into account the testimony of several other people who were present during the squabble between Andreyev and Sevostyanov. Also, the Yaroslavl Regional Court upheld the previous acquittals issued by the Tutayev City Court regarding the issue of misconduct. The appeal of the state prosecution was dismissed. **Thus, the charges on all four accounts against Yan Andreyev were withdrawn. More than two years after his dismissal from office, the court reinstated Andreyev as the head of the Tutayev Municipal District.**

Soon after returning to his post, Andreyev was again subjected to pressure from the leadership of the province. They demanded that he resign.

<sup>18</sup> <https://www.novayagazeta.ru/articles/2010/10/14/1125-chetyre-dela-protiv-odnogo-glavy>



### 3. NEW THREATS AND THE FIFTH CRIMINAL CASE

According to Yan Andreyev, on 20 September, 2011, First Deputy Governor of Yaroslavl Province and Head of the Regional Election Campaign Office of the 'United Russia' party, Vladimir Kovalchuk personally told him: *"I advise you to leave, otherwise different things may happen"*, and *"... the conflict with United Russia in the election may turn out to be disastrous for you"*. Andreyev claims that Kovalchuk threatened him with a new criminal case. The next day, on 21 September 2011, Andreyev filed a statement with the management of the FSB of Russia for Yaroslavl Province in connection with the threats; he also filed a statement with the Yaroslavl Province Prosecutor. In the statements, he pointed out that if something happened to him, the threat came from Kovalchuk and, possibly, from Governor Sergey Vakhrukov. A response to Andreyev's complaint is yet to be received.

On 1 December 2011, Andreyev received a summons to report to the Investigation Department of Yaroslavl Province for questioning as a witness. On 8 December 2011, he appeared in the department and officially refused to give testimony, citing that any of his testimonies could be used against him. According to Andreyev, he informed the investigator that he intends in the near future to go to Israel, where his mother and daughters live.

On 4 December 2011, elections to the State Duma of the Russian Federation were held. Andreyev appealed to people to refrain from voting for the 'United Russia' party.<sup>19</sup> In the elections, in Yaroslavl Province, the 'United Russia' party gained 29.04%, which is one of the lowest results in the country. According to Andreyev, after the election, he was followed by unknown people in a black SUV; they threatened him with reprisals.

On 14 December 2011, a criminal case was initiated; Andreyev was involved in the case as a witness. On 12 December 2011, Yan Andreyev's name was placed on the national wanted list. On the same day, he notified the Administration of the Tutayev Municipal District that he would be on vacation from 21 December 2011 to 20 January 2012. On 21 December 2011, Andreyev left for Israel. He claims that he wasn't aware of the fact that a criminal case had been initiated against him and didn't receive an official notification from the investigating bodies about the summons to appear as a suspect in the criminal case. In the evening of 21 December 2011, law enforcement bodies carried out searches in Andreyev's apartment, as well as the apartment of his mother-in-law. The purpose of the searches was the seizure of Andreyev's passports in order to prevent him from travelling abroad.

On 30 January 2012, Andreyev was declared a defendant in a criminal case. On the same day, he was placed on the international wanted list, despite the fact that the investigating bodies had received a certificate from the competent authorities of Israel confirming that Andreyev had been residing on the territory of Israel since 22 December 2011. In addition, Andreyev himself informed the Russian investigative bodies of his place of residence in Israel. Andreyev claims that he does not hide from Russian law enforcement bodies and is ready to participate in investigative actions, but only remotely. At the same time, he does not intend to return to Russia, as he considers it unsafe.

Andreyev claims that Russian law enforcement bodies are not interested in an objective investigation of the criminal case, and placing his name on INTERPOL's international wanted list is a way of creating additional difficulties for him.

Yan Andreev is accused of taking a substantial bribe (Article 290, section 5 of the CC of the RF). According to the prosecution, the crime was committed in 2007. Andreyev allegedly demanded and received a bribe in the amount of 493,000 rubles (approx. 14,000 euros) for granting a land plot of 5.5 hectares to entrepreneur A.M. Tovsty. It is noteworthy that it was only four years later that the businessman informed the law enforcement bodies about the incident. Andreyev stated that Tovsty

<sup>19</sup> <https://www.svoboda.org/a/24414772.html>

had entered into a criminal conspiracy with law enforcement agencies and slandered him. On the basis of the criminal charges brought against him, Andreyev is facing up to seven years in prison.

On 14 February 2012, the Kirov District Court of the city of Yaroslavl handed down a ruling *in absentia* to incarcerate Yan Andreyev for two months. The court ruling read that “Andreyev hid from the investigative bodies; he can persuade witnesses to give false testimony, destroy evidence, or otherwise interfere with the investigation”.

The fact that Andreyev resides in Israel is used by law enforcement bodies in their public rhetoric as “evidence of Andreyev's involvement” in the theft of large amounts of money. In particular, Oleg Lipatov, the head of the Investigative Department of Investigative Committee of Russia for Yaroslavl Province, made such a statement at a press conference on 13 April 2012. He also concealed from journalists the fact that he had received from Andreyev an official statement, in which the latter stated his position regarding the fifth criminal case.<sup>20</sup> The relevant statement was personally handed by Andreyev's counsel to the Directorate of the Investigation Committee in the name of Lipatov. The statement indicated the Israeli address of Andreyev and his counsel's contact data in Israel; also, in the statement, Andreyev expressed his willingness to participate in investigative actions. Most likely, **Lipatov intended to hide the fact that Andreyev was striving to establish contact with the law enforcement agencies of Russia on his own initiative.** This fact directly contradicts the investigators' version claiming that Andreyev has been hiding from the investigative bodies. Oleg Lipatov still occupies the post of the head of the Directorate of the Investigative Committee of the Russian Federation for Yaroslavl Province.

### 3.1. Pressure exerted on Yan Andreyev's family members

Pressure has been exerted on the Andreyev family on the part of law enforcement agencies. In particular, searches have been carried out in Andreyev's apartment, as well as in the apartment of his mother-in-law. When Andreyev was already residing in Israel his wife was put under surveillance. On 26 January 2012, Andreyev's wife was groundlessly detained on the way to the airport as she was intending to fly to Israel. She was detained for approximately six hours in the Rostov Regional Department of Internal Affairs; as a consequence, she was late for her plane.

Between 2009 and 2010, Yan Andreyev's mother-in-law received repeated anonymous threats. For example, on 29 November 2011, an unknown person threatened her: “If your son-in-law doesn't quit his job, he'll be dead meat ...”. Complaints about the threats are yet to be responded to. Statements about the threats against Yan Andreyev's family members also remain unanswered. Andreyev claims that unknown persons shadowed him.

At the moment Andreyev resides in Israel along with his wife and two daughters. They have a residence permit, but due to the fact that Andreyev's name is on the international wanted list, they cannot obtain Israeli citizenship.

Olga Andreyeva occasionally comes to Russia to visit her mother. During one of the visits, on 11 April 2016, Russian law enforcement agencies arrived at the Andreyevs' apartment in Yaroslavl with another search warrant. The purpose of the search was to find accounting and other financial documents, as well as electronic media.

Yan Andreyev believes that the true reason behind his persecution was the desire of former governor of Yaroslavl Province Sergey Vakhrukov, who is responsible for the rankings of the ‘United Russia’ party in the region, to eliminate the popular opposition politician.

<sup>20</sup> <http://www.yar.kp.ru/online/news/1129509/>



## 4. CONCLUSIONS

The manner of the initiation of criminal cases against Yan Andreyev testifies to their tendentiousness and political motivation.

It is suspicious that the initiation of criminal cases against Andreyev was accompanied by deterioration of his relationships with the leadership of the province who were members of the pro-government 'United Russia' party.

The fifth criminal case was initiated shortly after Andreyev was acquitted on previous charges and, therefore, new reasons for his removal from the post of the head of the Tutayev Municipal District were needed. At the same time, the offence in which he was incriminated, was committed four years before the initiation of the criminal case, which may also indicate the fabrication of evidence.

The Russian investigative authorities were well aware of Yan Andreyev's exact whereabouts. Therefore, **placing his name on INTERPOL's international wanted list wasn't motivated so much by the desire to establish Andreyev's whereabouts, as by the desire to create for him additional difficulties associated with being a wanted person, i.e. to damage to reputation, prevent him from traveling to other countries, as well as to create difficulties with obtaining Israeli citizenship and registering migration documents for all his family members.**

The Open Dialog Foundation believes that the criminal case initiated against Yan Andreyev in the Russian Federation bears all the signs of politically motivated prosecution. On 27 June 2017, seven PACE members, including representatives of the Committee on Legal Affairs and Human Rights, and the Committee for Refugees and Displaced Persons, sent a letter to the leadership of INTERPOL in which they pointed to several cases of misuse of the INTERPOL system by authoritarian states. One of the examples of politically motivated persecution in the letter is the very case of Yan Andreyev.

In this regard, we hereby urge the Commission for the Control of INTERPOL's Files to withdraw Yan Andreyev's name from the wanted list, as the request for his pursuit contradicts Art. 3 of the Statute of Interpol. We also urge the international community to closely monitor the case of Yan Andreyev in order to prevent his extradition to Russia, and also continue to conduct a dialogue with INTERPOL on the need for further reform.<sup>21</sup>

### **All those wishing to support our demands are requested to address the following persons and institutions:**

- The Commission for the Control of INTERPOL's Files – 200 Quai Charles de Gaulle, 69006 Lyon, France, e-mail: [CCF@interpol.int](mailto:CCF@interpol.int).
- President of the Parliamentary Assembly of the Council of Europe, Pedro Agramunt – e-mail: [pedro.agramunt@senado.es](mailto:pedro.agramunt@senado.es), phone: +33 88 41 23 41;
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- The European Union's High Representative for Foreign Affairs and Security Policy, Federica Mogherini – 1049 Brussels, Rue de la Loi / Wetstraat 200, e-mail: [federica.mogherini@ec.europa.eu](mailto:federica.mogherini@ec.europa.eu), phone: +32 2 584 11 11; +32 (0) 2 295 71 69;

<sup>21</sup> <http://en.odfoundation.eu/a/8201.the-report-the-reform-of-interpol-don-t-let-it-be-stopped-halfway>

- Chair of the European Parliament Committee on Foreign Affairs, David McAllister – 1047 Brussels, Belgium, Bât. Altiero Spinelli 05E240, Rue Wiertz / Wiertzstraat 60, e-mail: [david.mcallister@europarl.europa.eu](mailto:david.mcallister@europarl.europa.eu), phone: +32(0)2 28 45323 (Brussels), +33(0)3 88 1 75323 (Strasbourg);
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