



Update to the Report 2015

HUMAN RIGHTS LAWYERS AT RISK

**Making the Case for Protection of Legal Professionals in
Azerbaijan, Belarus, Moldova, Russia, and Ukraine**

Initiated by human rights lawyers from Azerbaijan, Belarus, Moldova, Russian Federation, and Ukraine, all of whom are alumni of the International Law in Advocacy programme (ILIA) of the Human Rights House Network (HRHN), and published on 10 September 2015 with the support of the Human Rights House Foundation (HRRF).

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Executive Summary

The pressure on lawyers working on human rights or representing individuals claiming their rights were violated in most of the countries we are considering has only intensified in recent years. Human rights lawyers from the countries represented in this document - Azerbaijan, Belarus, Moldova, Russia and Ukraine, are increasingly subjected to harassment, threats and intimidation, regular and extraordinary re-certification, discredit, disciplinary proceedings and disbarment from their professional organisations, administrative punishment and even criminal persecution, including imprisonment.

Lawyers and Jurists provide professional defence of human rights, ensuring the right to qualified legal assistance to victims of human rights violations, as a key principle of the right to a fair trial. In their professional activities, human rights lawyers promote the application of international standards in national court system and make extensive use of international mechanisms, such as the European Court or the UN Human Rights Committee.

International legal recognition of the right of individuals to individually, or in association with others, promote and strive for the protection and realisation of human rights and fundamental freedoms exists; in other words, the right to be a human rights defender. This right ensures that all human rights defenders are able to carry out their work unhindered, and under the protection of national law, if needed, and includes the work on all aspects of human rights¹. Hence, this protection entrenched in the United Nations Declaration on Human Rights Defenders² also covers the work of human rights lawyers and the material and procedural guarantees provided for advocacy and human rights promotion apply to this professional group. Under this approach, the concept of a human rights defender and the guarantees for human rights work become the general guarantees and should extend to all lawyers who promote and protect human rights in their work³. Alongside the general guarantees, the regulatory framework of the concept of a human rights defender do not annul but, on the contrary, stress the importance of observing the respective national and international standards of professional conduct and ethics⁴. For lawyers, the complex of professional (or special) guarantees and standards drawn from national legal systems is enshrined in a set of international legal documents used in the process of implementation and monitoring of compliance by particular states with obligations in the field of rendering legal assistance⁵.

Accordingly, the deteriorating situation with respect to and promotion of human rights in the countries of Eastern Europe, which, *inter alia*, is reflected in numerous international reports, and the negative trend, which indicates increased risks and new threats to human rights lawyers, are tightly interconnected. As through the repressions directed against human rights lawyers, the professional defence of human rights is counteracted, i.e. in essence, the carrying out of human rights activities.

¹ From the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", Human Rights House Network, September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>

² Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted by General Assembly resolution 53/144 of 9 December 1998

³ Guidelines on the Protection of Human Rights Defenders by OSCE-ODIHR (2014), page 37

⁴ Article 11 of the UN Declaration on Human Rights Defenders (1998)

⁵ Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/ CONF.144/28/Rev.1 at 118 (1990); Recommendation Rec(2000)21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer (Adopted by the Committee of Ministers on 25 October 2000 at the 727th meeting of the Ministers' Deputies); Resolution (78) 8 on Legal Aid and Advice adopted by the Committee of Ministers of the Council of Europe on 2 March 1978 and explanatory memorandum; Draft Universal Declaration on the Independence of Justice (Singhvi Declaration) 1980

Human rights lawyers often work in high-profile, politically-motivated cases that objectively cause increased public interest, they protect activists and opposition leaders, taking a principled stand and becoming undesirable lawyers for the authorities. An increasing number of cases of harassment of lawyers, as well as new threats and risks that appear in the countries of our region, indicate a deteriorating legal background in countries and an atmosphere of impunity for harassment of lawyers and violation of their guarantees and immunities. It should be noted that many cases of harassment of human rights lawyers were not disclosed due to possible further consequences. Many of those who are threatened either intend to leave their countries or have already been forced to leave, without the possibility of continuing to provide legal assistance to their clients.

The problems that human rights lawyers began to face have attracted public attention for a long time. In case of increasing risks and threats, undisguised interference in the professional activities of lawyers, the work of the human rights lawyers has become increasingly unsafe and inefficient, which entails grave consequences and evolves into negative implication for the right of a client to protection. These issues have been repeatedly raised by human rights lawyers from Azerbaijan, Belarus, Moldova, Russia, and Ukraine, all of whom are alumni of the International Law in Advocacy programme (ILIA) of the Human Rights House Network (HRHN). They initiated joint work on the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", published in September 2015.

The report was a response to the growing threats and risks that human rights lawyers faced in the countries under consideration. It was intended to serve as an understanding that professional defenders - human rights lawyers - need greater protection, that it is necessary to increase support to such lawyers and take greater measures against retaliation against human rights lawyers⁶. Since the preparation and publication of the Report "Human Rights Lawyers at Risk" in 2015, many joint actions have been taken to confidently justify that in order to improve the situation, there is a need for strengthening guarantees for human rights lawyers through new international documents, for the use of new mechanisms against impunity for the prosecution of lawyers and violation of their guarantees and immunities, and for ensuring the protection of human rights work. Thus, the 2015 Report was the "starting point" for the overall work to strengthen the guarantees of the independence of lawyers and the principles of independence of the legal profession. And the reports, conclusions and recommendations presented and discussed during subsequent working meetings and other regional and international forums, expert consultation materials can and should become an additional source of information that will be needed by those who work on the development and implementation of legal standards for human rights lawyers.

The report's recommendations aimed to increase the level of national and international implementation of the already existing guarantees and immunities which are provided for lawyers under international law (special guarantees), and to include proposals to improve the effectiveness and safety of human rights lawyers through the dissemination and widespread use of general guarantees for human rights work. The recommendations also highlighted the necessity to supplement the guarantees to ensure the principle of equality of arms before the international courts and quasi-judicial bodies⁷. These most important recommendations are still relevant today. So many years have passed, and the recommendations have not been implemented, the situation of human rights lawyers in the countries under consideration is only deteriorating, pressure on them has only intensified in recent years, professional defence of human rights has nullified.

⁶ From the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", Human Rights House Network, September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>

⁷ The Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", page 11

In Azerbaijan, human rights lawyers are increasingly subject to disciplinary proceedings held by the Presidium of the Bar and often resulting in disbarment (termination of the lawyer's license), criminal charges for various crimes, administrative arrests and detentions. Intigam Aliyev was prosecuted on charges of tax evasion and abuse of official power. He was convicted to 7,5 years of imprisonment, but after 1,5 years of detention the Plenum of the Supreme Court suspended the sentence. Alaif Hasanov was found guilty of crimes under articles 147 (Defamation) and 148 (Public Insult) of the Criminal Code of the Republic of Azerbaijan, and sentenced to 240 hours of public service (correctional labor)⁸. The Bar Association is becoming increasingly repressive, conducting disciplinary proceedings on the basis of appeals and complaints of the Penitentiary Service or other government agencies, or punishing lawyers for their speeches and principled stand on the cases of their defendants. Dozens of lawyers are subject to disciplinary proceedings (Asabali Mustafayev, Agil' Laidzh, Fakhraddin Mehdiyev, Nemat Kerimli, Elchin Sadigov, Shahla Humbatova, Fariz Namazli and others) and are often deprived of a lawyer's license and expelled from the Bar (Intigam Aliyev, Alaif Hasanov, Khalid Bagirov, Muzaffar Bakhyshev, Yalchin Imanov, etc.).

In Belarus, low-quality legislation allows professional associations of lawyers to be directly dependent and under the actual control of the Ministry of Justice. Lawyers are forced to undergo the humiliating procedure of regular re-certification every 5 years and according to the latest amendments to the Instruction of the Ministry of Justice on the procedure for certification of lawyers in May 2017, an opportunity has appeared to conduct an extraordinary re-certification of lawyers. As a result of such an extraordinary re-certification, in September 2017, Anna Bakhtina, a lawyer with 38 years of legal experience, was deprived of the status of a lawyer "due to insufficient professional qualifications"⁹. In April and July 2017, the Ministry of Justice carried out an inspection of the Mogilev regional and Minsk city Bar Associations. As a result, out of 33 attorneys who have passed the certification procedure, the Qualification Commission of the Ministry of Justice made a decision on the impossibility of fulfilling their professional duties due to lack of qualifications with respect to 2 lawyers; on incomplete compliance with the requirements of the legislation with a delay of attestation for six months - with respect to 12 lawyers¹⁰. I.e. lawyers have to work in constant tension, again being re-certified after 6 months.

In Moldova, at high risk, among other human rights defenders were lawyers, jurists and even judges¹¹. Increasingly, lawyers defending the opposition figures raising awareness of cases of corruption and human rights violations are being intimidated and threatened, discredited, administratively punished, and politically motivated criminal prosecutions¹². This is a trend that had been initiated against political opponents and judges in 2014, which has been extended to lawyers and other civil society members since the beginning of 2016. As part of the unlawful criminal prosecution, lawyers Veaceslav Țurcan and Maxim Belinschi are charged under Art. 352 prim of the Criminal Code of Moldova "False statements in declarations". This article cannot be applied to lawyers, as it concerns false statements by public officials about available income for tax purposes. The threats

⁸ Please see the detailed information on Alaif Hasanov case in the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>

⁹ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France; see also <http://spring96.org/ru/news/87826> and <https://naviny.by/article/20170924/1506251447-belorusskih-advokatov-zastavlyayut-hodit-stroem>

¹⁰ <http://minjust.gov.by/ru/news/1183/>; <http://spring96.org/en/news/87914>; see also - <http://spring96.org/en/news/87811>; <http://spring96.org/en/news/87909>

¹¹ In 2017 appeals court judge Domnica Manole was dismissed by a presidential decree following a Superior Council of Magistrates decision declaring her unfit to serve, based upon an advisory opinion by the Security and Intelligence Service (SIS) - <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/moldova/>

¹² From the End of mission Statement by Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders on his visit to the Republic of Moldova, 25 – 29 June 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23291&LangID=E>

and criminal charges faced by lawyers include, in some cases, their relatives. Lawyer Ana Ursachi is accused of being involved in the murder committed 19 years ago and a powerful slanderous information campaign was launched against her and her former husband by media affiliated with the authorities with charges of involvement in the murder. Another tendency for Moldova is the intolerance of the society, the identification of a lawyer with a client. Lawyer Doina Ioana Străisteanu, working on protection of the rights of LGBT community, faced permanent threats from members of the general public, including threats of physical violence¹³, and subsequently intentional arson of her car in May 2019^{14,15}.

In Russia, the law enforcement officers systematically violate the professional rights of lawyers – conducting of measures of detection and investigative actions against lawyers, trying to persuade lawyers to cooperate, calling and interrogating lawyers as witnesses in criminal cases (in order to obtain confidential information constituting a lawyer's legal professional secret or to neutralize a lawyer), unlawful institution of criminal proceedings, unlawful searches and arrests. In September 2018, lawyer Mikhail Benyash was arrested on suspicion of violating the procedure for organizing a public protest, based on his post on Facebook. He was repeatedly beaten by police. There are reports of pressure on lawyers representing clients who have been persecuted for political reasons or other forms of reprisal. Lawyer Yevgeny Ryzhov was prosecuted, deprived of the right to freedom of movement, put on the wanted list, he is prevented from exercising the right to appeal investigative actions¹⁶. More often lawyers are deprived of a lawyer's license, for example, in October 2017 a Lawyer Vitaly Burkin was deprived of the status of a lawyer for public criticism of the judiciary^{17,18}.

In Ukraine there is serious pressure on human rights lawyers, their rights are violated everywhere, and there is an obstacle to the free exercise of the legal profession. Moreover the human rights work of a lawyer may endanger his life, health, and integrity of property¹⁹. In 2016 the lawyer Yuri Grabovsky was killed; there is still no single version there as regards to the causes of the murder. Lawyers are increasingly being prosecuted. In 2017 the lawyer Oleg Veremeenko, who collaborates with the Ukrainian Helsinki Human Rights Union, was charged with two charges - resistance to a law enforcement officer (part 2 of article 342 of the Criminal Code of Ukraine) and pressure on a law enforcement officer (part 1 of article 343 of the Criminal Code of Ukraine). Lawyers were also threatened with physical violence. In October 2017 the lawyer Sergei Sainchin was beaten, seriously injured and taken to hospital (the human rights defender had a double fracture of the jaw and a head injury).²⁰ On September 20, 2017, in the Kiev detention facility (SIZO), the detective of Ukraine's National Anti-

¹³ In relation to this activity, she faced repeated damage of personal car, swearwords, spit, threats with death and beatings

¹⁴ See the Moldovan Bar Association public statement on the official web-page of the Bar <http://uam.md/index.php?pag=news&id=875&rid=1972&l=ro> and their press conference on the subject entitled "Lawyers need protection as well" (rom. "Și avocații au nevoie astăzi de apărare"), available at: <https://youtu.be/py1EZLm0NDc>

¹⁵ Statement "Human Rights Embassy condemns the permanent threats towards the human rights lawyer Doina Ioana Străisteanu", Chișinău, 7 June 2019

¹⁶ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

¹⁷ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

¹⁸ See also: Lawyers' newspaper. Aleksei Ivanov, Managing Partner, Law firm «Legal status», Member of the Commission for the Protection of the Rights of Lawyers of the Krasnodar Region Bar Association, Publication "On the right to profession. A few words in defense of our ideals" - <https://www.advgazeta.ru/mneniya/o-prave-na-professiyu/>

¹⁹ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France; see also - <http://legalspace.org/ru/novosti/item/5276-andreya-vishnevskogo-lishili-prava-na-zanyatie-advokatskoj-deyatelnostyu>

²⁰ Please see - <http://odessamedia.net/news/napadenie-na-advokata-v-centre-odessi-pravozaschitniki-byut-trevogu/>

Corruption Bureau (NABU) Pavel Yershov attacked lawyer Alina Samarets²¹. In June 2017, in the City Court of Chernomorsk (formerly Il'ichyovsk / Illichivsk), unidentified men attacked lawyer Valentin Rybin, who sprayed the lawyer with a gas spray, delivered several blows and accused of helping the separatists²². However, a particular concern is the situation of protecting the rights of lawyers and the ability to safely and independently carry out their professional activities in the armed conflict zone (occupied Crimea and some areas of Donetsk and Lugansk regions not controlled by Ukraine). In the territories located in the so-called effective control zone of the Russian Federation, cases of the murder of lawyers²³, the abduction of lawyers by illegal formations and holding them captive²⁴, and the prosecution of lawyers and human rights defenders were reported, including for interacting with international organisations and media²⁵.

In most of the countries under consideration, lawyers complain about a violation of the principle of independence of lawyers in the disciplinary procedure, a violation of the principle of confidentiality, and barring the access of lawyers to clients. However the lawyers in Moldova experienced an unprecedentedly long lack of access to their client - in the case of Veaceslav Platon²⁶, lawyers did not have access to the client in penitentiary No. 13 from February 6, 2019, for more than four months, in conditions of daily inconclusive attempts to see a client, which is a violation of the right to visit a client, without limiting number and duration of these visits, which negatively affects the provision of effective legal assistance in a criminal case, and directly violates the right to defense.

In the absence of positive development dynamics, it was decided to prepare an update to the Report of 2015. The deteriorating situation requires a synthesis, consolidation of the aforementioned long-term efforts of representatives of legal communities and their international partners to strengthen guarantees for human rights lawyers, ensure the protection of human rights activities, and address / eliminate the threats and risks faced by human rights lawyers in Eastern Europe.

That is why the purpose of this document is to recall and reiterate the key findings and recommendations of the report of 2015, talk about the development dynamics, subsequent joint actions and decisions taken, describe the current realities with the situation of human rights lawyers in the countries of the region, draw the attention of the international community to new trends and growing threats, as well as describe specific cases, including new cases of pressure on human rights lawyers in Azerbaijan, Belarus, Moldova, Russia and Ukraine.

Key Findings and Recommendations of the "Human Rights Lawyers at Risk" Report

September 10, 2015, the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine" have been published. The Report is prepared on the initiative of human rights lawyers from Azerbaijan, Belarus, Moldova, Russian Federation, and Ukraine, all of whom are alumni of the International Law in Advocacy programme (ILIA) of the Human Rights House Network (HRHN), and is published with the support of the Human Rights House Foundation (HRHF).

The report was intended to contribute to better understanding of the role of the human rights lawyers and to

²¹ <http://iadvocate.com.ua/instruktsiya-dlya-zhinok-advokativ-iz-samooborony-vid-detektyviv-nabu/>

²² <http://mignews.com.ua/proisshestviya/18184825.html>

²³ Please see - <http://informator.media/archives/67905>

²⁴ Please see -

https://censor.net.ua/news/342699/advokaty_prosyat_osvobodit_iz_plena_lnr_svoego_kollegu_nikolaya_zagladu_dokument

²⁵ From the Report "Advocates under occupation", Ukrainian Helsinki Human Rights Union (UHHRU), 2018 -

https://helsinki.org.ua/wp-content/uploads/2019/04/Report_Advocates_under_occupation-Engl.pdf

²⁶ Veaceslav Platon - Moldovan politician, lawyer and businessman, former member of the Moldovan parliament, accused of fraud, money laundering on a large scale, and other crimes

increase implementation of guarantees for human rights work aimed at provision of legal assistance to victims of human rights violations. It was intended to serve for raising awareness of the growing threats against human rights lawyers, as well as for understanding that professional defenders - human rights lawyers - need greater protection, that it is necessary to increase support to such lawyers and take greater measures against retaliation against human rights lawyers²⁷.

The report's recommendations aiming to increase the level of national and international implementation of the already existing guarantees and immunities which are provided for lawyers under international law (special guarantees), include proposals to improve the effectiveness and safety of human rights lawyers through the dissemination and widespread use of general guarantees for human rights work. The recommendations also highlighted the necessity to supplement the guarantees to ensure the principle of equality of arms before the international courts and quasi-judicial bodies²⁸.

What was unique about this report is the focus on the limitations put on the work of human rights lawyers resulting from harassment and legal restrictions. The authors of this joint work believed that the documentation supports a call for review of practices and legislation in the countries under consideration. The hope was that this awareness will lead the international community to further strengthen standards aimed at protecting lawyers working on human rights or defending victims of human rights violations²⁹.

Follow-up Activities

Since the preparation and publication of the Report "Human Rights Lawyers at Risk" in 2015, many joint actions have been taken to confidently justify that in order to improve the situation, there is a need for strengthening guarantees for human rights lawyers through new international documents, for the use of new mechanisms against impunity for the prosecution of lawyers and violation of their guarantees and immunities and for ensuring the protection of human rights work.

September 23, 2015, the Report was presented / launched at the side event "Human Rights Lawyers: Challenges and Professional Guaranties for Legal Professionals", in the framework of annual OSCE Human Dimension Implementation Meeting (OSCE/HDIM-2015) in Warsaw, Poland. Lawyers and jurists from Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia and Ukraine spoke about the risks and problems that human rights lawyers face in post-Soviet countries when providing legal assistance³⁰.

Promotion of the Report recommendations continued in October 2015, in the framework of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECtHR, Strasbourg, France. Human rights lawyers from Azerbaijan, Belarus, Moldova, Russia and Ukraine, as well as representatives of partner international organisations and professional associations, discussed the need to further strengthen standards aimed at protecting lawyers working on human rights or defending victims of human rights violations, and the role of the international community in this process.

On June 11-12, 2016, Expert Consultations with Mónica Pinto, the UN Special Rapporteur on the independence of judges and lawyers, were held at Human Rights House Belgrade, Serbia. Bringing together 50 lawyers from 16

²⁷ From the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>

²⁸ Page 11 of the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", September 2015

²⁹ From the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>, page 15

³⁰ <https://humanrightshouse.org/articles/launch-human-rights-lawyers-at-risk/>

different countries in Central Asia, the Balkans, Europe, and North and South Caucasus, the discussion centered on the dangers, threats and barriers that lawyers in the region face when carrying out their professional duties. Together they drafted a set of recommendations to address the issue of independence of the legal profession and the threats faced by lawyers in the execution of their work in Eastern Europe, Caucasus and Central Asia ³¹.

Mónica Pinto, the UN Special Rapporteur on the independence of judges and lawyers, prepared a Report on the independence of practicing lawyers and professional jurists, presenting it at the 71st session of the UN General Assembly on October 21, 2016 ³², which included a number of proposals made during Expert Consultations in Belgrade and based also on the “Human Rights Lawyers at Risk” Report ³³.

On January 23-24, 2018, in the framework of the Fourth Study Visit and Expert Consultations of ILIA Alumni and Experts at Council of Europe, Strasbourg, France, participants of consultations and representatives of international organisations spoke about the development of the situation with human rights lawyers and new threats to the independence of lawyers, including consultations with the Special Rapporteur of the Parliamentary Assembly, Ms. Sabien LAHAYE-BATTHEU. The focus of the visit and expert consultations was closely linked to the further common work aiming to strengthen the guarantees of independence of lawyers and the principles of independence of the profession of lawyer in the ILIA member countries. Besides, there was a need there to discuss the concept of the future European Convention on the Profession of Lawyer with the experts, making the special focus on the human rights mission of and guarantees for lawyers (human rights lawyers). Human rights lawyers from Azerbaijan, Belarus, Georgia, Moldova, Russia and Ukraine, actively participated in the “Lawyers and Threats” side event arranged by the CCBE³⁴, which invited the ILIA alumnus Alaif Hasanov (Azerbaijan) and expert Veaceslav Turcan (Moldova) as the speakers, as well as took part in the events held as part of the discussion and vote on the PACE resolution on the Convention on the Profession of Lawyer.

Voting on and support by majority of the PACE deputies of the resolution of the Parliamentary Assembly of the Council of Europe on the preparation of the Convention on the Profession of Lawyer ³⁵, should become an important stage in the development of international standards in terms of recognizing the need to respond to new risks and problems faced by human rights lawyers, and should lead to the strengthening and consolidation of guarantees and immunities for human rights lawyers in the field of professional assistance to victims of human rights violations. The hope is that the work on the concept and the draft of the new European Convention on the Profession of Lawyer will further include consultations with representatives of the legal communities of various Council of Europe member states³⁶.

Along with the listed activities, many solidarity campaigns were held in support of the persecuted colleagues,

³¹ Recommendations from Expert Consultations with the UN Special Rapporteur on the Independence of Judges and Lawyers, Mónica Pinto, Belgrade, Serbia, 11–12 June 2016 - <https://humanrightshouse.org/noop-media/documents/21964.pdf>

³² <https://humanrightshouse.org/articles/states-should-respect-and-protect-lawyers-who-promote-and-defend-human-rights-defenders/>

³³ Report of the Special Rapporteur on the independence of judges and lawyers Mónica Pinto, 71st session of the UN General Assembly, October 21, 2016 - <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/264/93/PDF/N1626493.pdf?OpenElement>

³⁴ CCBE - the Council of Bars and Law Societies of Europe. CCBE was among the initiators of the process of preparing new European Convention on the Profession of Lawyer

³⁵ <https://humanrightshouse.org/articles/european-convention-to-protect-lawyers/>

³⁶ From the Report on Fourth Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECtHR, 23-24 January 2018, Strasbourg, France - https://humanrightshouse.org/wp-content/uploads/2018/06/EN_Final_Report_StudyVisit_Consultations_Strasbourg_23-24-Jan-2018_24.05.2018.pdf

field monitoring missions were organised, individual letters of support or joint statements were sent with urgent appeals to stop the persecution. Relevant special rapporteurs, international organisations and professional associations were subsequently informed on every single case of harassment. Statements regarding new threats and risks, regarding specific cases of the prosecution of human rights lawyers were made, for example, during plenary sessions in the framework of annual OSCE Human Dimension Implementation Meeting (OSCE/HDIM) in Warsaw, Poland, including recommendations from the "Human Rights Lawyers at Risk" Report.

Thus, the role of the 2015 Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine" is invaluable. The 2015 Report was the "starting point" for the overall work to strengthen the guarantees of the independence of lawyers and the principles of independence of the legal profession. And the reports, conclusions and recommendations presented and discussed during subsequent working meetings and other regional and international forums, expert consultation materials can and should become an additional source of information that will be needed by those who work on the development and implementation of legal standards for human rights lawyers.

The Situation of Human Rights Lawyers in Eastern Europe Countries

Azerbaijan

Overall trends concerning human rights lawyers in Azerbaijan come down to disciplinary proceedings held by the Presidium of the Bar and often resulting in disbarment (termination of the lawyer's license), to the initiation of criminal cases on charges of various crimes, administrative arrest and detention. A criminal case was initiated against Intigam Aliyev, he was prosecuted on charges of tax evasion and abuse of official power. He was convicted to 7,5 years of imprisonment, but after 1,5 years of detention the Plenum of the Supreme Court suspended the sentence. He was deprived of a lawyer's license. Dozens of lawyers are subject to disciplinary proceedings: Asabali Mustafayev, Agil' Laidzh, Fakhraddin Mehdiyev, Nemat Kerimli. A disciplinary investigation was also initiated against Elchin Sadigov, but the Presidium took the decision not to expel him from the Bar. Khalid Bagirov was expelled from the Bar in 2014 for his speech at the Sheki Grave Crimes Court in the case of Il'gar Mammadov. Kh. Bagirov appealed the decision of the Bar to a court. His demands were not met. He lodged an application with the ECtHR. Kh. Bagirov defended many well-known political prisoners, such as Leyla Yunus, Hilal Mammadov, the blogger Abdul Abilov, members of the NIDA civil movement, etc. Muzaffar Bakhyshev was expelled from the Bar on April 1, 2016. M. Bakhyshev was expelled upon the complaint filed by the Supreme Court judge Tatyana Gol'dman. The lawyer dealt mainly with migration issues. Yalchin Imanov was expelled on November 20, 2017, upon the appeal by Oktay Mammadov, the acting head of the Penitentiary Service. Y. Imanov was the defender of Abbas Huseynov, a political prisoner in the Nardaran case. Having visited A. Huseynov in the Gobustan closed prison, he reported about the tortures that had been used against his client in prison. The lawyer submitted the relevant complaints to the General Prosecutor's Office, the Penitentiary Service and the Garadagh District Court of Baku. The Penitentiary Service filed a complaint against the lawyer claiming that having disseminated information about the torture against A. Huseynov, Ya. Imanov "attempted to destabilize the situation in the country and to create a tense situation".³⁷

According to the Sentence of the Yasamal District Court of Baku of 6 November 2014, Alaif Hasanov was found guilty of crimes under articles 147 (Defamation) and 148 (Public Insult) of the Criminal Code of the Republic of Azerbaijan, and sentenced to 240 hours of public service (correctional labor).³⁸ Alaif served his sentence in the

³⁷ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

³⁸ Please see the detailed information on Alaif Hasanov case in the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>

Forest Renewal Institution, working every day for three months without any payment.³⁹ On 3 July 2015, Alaif has been expelled from the Bar Association. The court sentence was used as the formal basis for the expulsion. He learned about the decision taken by the Bar Presidium from the media. After the expulsion from the Bar, Alaif Hasanov established a law firm, but due to the constant pressure on the part of the tax authorities, Alaif had to close up the business. The stressful situation has greatly affected his health, and as a result, Alaif had a massive heart attack, which required a surgery (an open-heart operation). In fact, Alaif has become a disabled person, and according to him, the persecution continues to this day.

In May 2019 it came to be known that the Bar Association of Azerbaijan has launched disciplinary proceedings against human rights lawyer Shahla Humbatova. The Bar Association claims that they received a complaint from the State Penitentiary Service about the lawyer's previous client, imprisoned blogger Mehman Huseynov. Humbatova defended Huseynov's rights when the latter went on a hunger strike in a protest to new charges brought against him in December 2018. Shahla Humbatova also recently complained about the Penitentiary Service for illegally obstructing meetings with her clients in detention facilities. Shahla Humbatova filed a complaint concerning the limitation of her professional rights with the Bar Association, the Ministry of Justice, the Penitentiary Service and the Ombudsman's Office, but there is no response at present.⁴⁰

The Bar Association of Azerbaijan has also launched disciplinary proceedings against human rights lawyer Fariz Namazli after the head of the State Penitentiary Service lodged a complaint on the lawyer. The complaint claims that Namazli insulted officers of the Penitentiary Service who carried out the search on the lawyer during his visit to Gobustan prison to meet with his client. Namazli called the allegations groundless. He believes the true reason behind the disciplinary proceeding is his court case against the Penitentiary Service lodged several months ago. Fariz Namazli is suing the Gobustan prison administration for illegal inspection of him and confiscation of a letter addressed to the European Court of Human Rights.⁴¹

Belarus

In recent years, Belarusian authorities have repeatedly violated international standards governing the legal profession, placing legal and practical restrictions on lawyers' freedom of expression and association, independence of internal management of the bar, freedom to exercise the profession without hindrance and the right to a fair hearing and an effective remedy in case of disciplinary proceedings⁴². The most serious problem in relation to professional bar associations in Belarus is their dependence and actual control carried out by the Ministry of Justice. According to the Law of the Republic of Belarus "On the Bar and Legal Practice", the Ministry of Justice has extremely broad powers in relation to professional associations of lawyers⁴³. The Law on the Bar and Legal Practice in Belarus (Article 38) empowers the Ministry of Justice to issue normative acts regulating the work of the Bar, to monitor the compliance of lawyers with the legislation, to establish the Qualification Commission on lawyer's professional activities, and to determine the procedure for qualification (attestation) of lawyers. The qualification procedure is regulated by the corresponding instruction issued by the Ministry. On May 16, 2017, the instruction was amended, and according to the amendments, regular attestations are held every five years by the Qualification Commission or the territorial Bar; unscheduled qualification is held by the

³⁹ From the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", Human Rights House Network, September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>

⁴⁰ Election Monitoring and Democracy Studies Centre, Azerbaijan; See also: <https://d9mc3ts4czbpr.cloudfront.net/az/article/адвоката-наказывают-за-исполнение-своих-обязанностей/?ref=article-related-articles>; or <https://www.turan.az/ext/news/2019/5/free/Social/ru/81323.htm>

⁴¹ Election Monitoring and Democracy Studies Centre, Azerbaijan

⁴² From the Report "Belarus. Control over Lawyers Threatens Human Rights", June 2018

⁴³ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

Qualification Commission "in case the facts are revealed that prove insufficient qualification of a lawyer"; the Commission has the right to interview the lawyer in order to check their knowledge⁴⁴.

In April and July 2017, the Ministry of Justice carried out checks in the Mogilev District and Minsk City Bar Association. All lawyers were formally inspected, however, the verification process was selective for particular lawyers at the discretion of the Ministry. As a result, the Qualification Commission attested 33 lawyers and disbarred 2 of them due to the lack of qualification; besides the Commission decided to suspend the licences of 12 lawyers due to the incompliance of their work with the requirements and to re-attest them after a six-month remedial period⁴⁵. The analysis of the qualification results shows that eight of the lawyers who have failed to qualify (one of the two disbarred lawyers and seven of the twelve lawyers whose licenses were suspended for six months) are the defenders in one and the same case – the case "on the preparation of riots"⁴⁶, initiated by the State Security Committee (KGB) on March 21, 2017, before the protest demonstration that had been planned on March 25. In the light of the above, the re-qualification procedures are perceived as revenge upon the lawyers for their professional work and pro-active attitude and as an attempt to intimidate them, as well as other lawyers. In fact, the Government have demonstrated that any lawyer in Belarus may face repressive measures at any time and for any reason, even a minor one⁴⁷.

Anna Bakhtina, an attorney at the Minsk City Bar Association, was deprived of the status of a lawyer as a result of such an extraordinary re-certification held by the Ministry of Justice in September 2017. A. Bakhtina has more than 38 years of professional legal experience (as a prosecutor for 13 years and since then as a defence lawyer), she has represented several defendants in politically motivated trials. The decision to terminate the license of A. Bakhtina for the right to practice law "due to insufficient professional qualifications" was made on the basis of the conclusion of the Qualification Commission on lawyer's professional activities of the Ministry of Justice⁴⁸. Failure to pass certification on the grounds of "professional unfitness / disqualification due to insufficient professional qualifications" entails automatic deprivation of a license and exclusion from territorial organisations / representations of the Bar Association. For Bakhtina it was a strong blow, her health harshly deteriorated. She believes that the deprivation of her lawyers' license is a political order⁴⁹.

In July 2019, two criminal cases were opened against the Deputy Chair of the Minsk City Bar Association Vera Oreshko - under Article 407 of the Criminal Code ("The disclosure of information of an inquiry, preliminary investigation or closed court session") and under Article 295 of the Criminal Code ("Illegal actions in regarding firearms, ammunition and explosives"). Vera Oreshko has been engaged in professional legal activities for more than 20 years, specializes in the consideration of complex civil cases, as well as criminal cases of an economic nature, participates as a defender in several high-profile cases. According to the information of the General Prosecutor's Office, received by the Minsk City Bar Association, the General Prosecutor's Office, having accepted a criminal case for prosecution under Part 1 of Art. 407 of the Criminal Code in relation to the lawyer Vera Oreshko, has closed the pretrial investigation on the ground that the act of the lawyer does not contain the elements of a crime / offence. The General Prosecutor's Office also canceled the decision of the Main

⁴⁴ For more information about the legal context for the functioning of the judicial system in Belarus, see the publication "The Functioning of the Judicial System in Belarus and Its Impact on the Right to a Fair Trial of Human Rights Defenders" (in English; pp. 41-43, c. Legal Representation):

http://docs.wixstatic.com/ugd/2059e9_ea3fba577f1645cf9752cd99fbd36c7c.pdf

⁴⁵ <http://minjust.gov.by/ru/news/1183/>; <http://spring96.org/en/news/87914/>; See also - <http://spring96.org/en/news/87811/>; <http://spring96.org/en/news/87909/>

⁴⁶ Later on the charge was replaced by "participation in an illegal armed group"

⁴⁷ From the Report on Fourth Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECtHR, 23-24 January 2018, Strasbourg, France - https://humanrightshouse.org/wp-content/uploads/2018/06/EN_Final_Report_StudyVisit_Consultations_Strasbourg_23-24-Jan-2018_24.05.2018.pdf

⁴⁸ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France; See also <http://spring96.org/ru/news/87826> and <https://naviny.by/article/20170924/1506251447-belorusskih-advokatov-zastavlyayut-hodit-stroem>

⁴⁹ <https://belsat.eu/ru/programs/belorusskie-vlasti-zachishhayut-advokaturu/>

Investigative Department of the Investigative Committee to initiate criminal proceedings against Oreshko on the grounds of a crime under Part 2 of Art. 295 of the Criminal Code⁵⁰.

The termination of lawyer's licenses entails grave consequences for these lawyers and their clients, not having access to the profession of lawyers for many years, and without the possibility to continue to provide legal assistance to their clients in the courts. Lawyers are forced to appeal to the UN Human Rights Committee with individual complaints about violation of their professional rights⁵¹, but they often continue to carry out human rights activities. Currently, Aleh Aheyev (the lawyer's license issued to him was terminated more than 8 years ago, in February 2011) works as the head of the Legal Center at the Belarusian Association of Journalists, and is also the coordinator of the "Bring International Standards Home" (BISH) educational project, implemented by the Barys Zvozkau Belarusian Human Rights House⁵². After the deprivation of her lawyers' license in August 2011, Tamara Sidorenko came to work in the Belarusian Helsinki Committee, a non-governmental organisation, where she has been advising and providing legal assistance to victims of human rights violations in Belarus⁵³.

Moldova

Some groups of human rights defenders in Moldova are particularly vulnerable due to the very nature of the rights they are defending, their own identity or the specificities of their work. In the opinion of the UN Special Rapporteur on the situation of human rights defenders, Michel Forst, in recent years the group under higher risk includes among other human rights defenders in Moldova, practicing lawyers, jurists and even judges⁵⁴. "The groups under increased risk in the Republic of Moldova include: jurists, journalists, judges, defenders of the rights of LGBT and women human rights defenders"⁵⁵. He referred to at least several worrying allegations regarding administrative or criminal charges on unfounded allegations or spurious grounds faced by lawyers defending opposition figures, dissenting voices or raising awareness about corruption cases and human rights violations which may not conform to the principle of legality or comply with international human right standards. This is a trend that had been initiated against political opponents and judges in 2014, which has been extended to lawyers and other civil society members since the beginning of 2016. Lawyers are also intimidated and receive threats to force them not to provide legal assistance to these clients. The threats and criminal charges faced by lawyers include in some stances their relatives. Lawyers face politically motivated criminal charges and they are threatened each time they defend people, who disagree with the authorities. A number of lawyers declared that the authorities brought criminal charges against them on fabricated accusations⁵⁶.

No special norms, designated to protect lawyers against interference in their activity exist neither in the Criminal, nor in the Contravention / Administrative Code of the Republic of Moldova. The legislation of Moldova does not

⁵⁰ <https://www.sn-plus.com/ru/page/mainevents/9517/>; <https://people.onliner.by/2019/08/05/oreshko>;
<https://news.tut.by/society/645053.html>

⁵¹ From the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", September 2015 - <https://humanrightshouse.org/noop-media/documents/21177.pdf>

⁵² From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

⁵³ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

⁵⁴ In 2017 appeals court judge Domnica Manole was dismissed by a presidential decree following a Superior Council of Magistrates decision declaring her unfit to serve, based upon an advisory opinion by the Security and Intelligence Service (SIS) - <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/moldova/>

⁵⁵ From the End of mission Statement by Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders on his visit to the Republic of Moldova, 25 – 29 June 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23291&LangID=E>

⁵⁶ 2018 Country Reports on Human Rights Practices: Moldova, March 13, 2019, <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/moldova/>

encompass norms that ensure a real independence of lawyers against the authorities' abuse⁵⁷. General rules of searches, seizures and confiscation of mail and telegraph correspondence, tapping phone conversations are applied to practicing lawyers, in spite of the fact that the Law regarding the lawyers' profession does include such provisions⁵⁸.

Inadmissible interference in the lawyers' professional activity is manifestly observed in the case of Veaceslav Platon⁵⁹, where his lawyers did not have access to their client in the Penitentiary Institution Nr. 13 from 6 February 2019 over the course of more than 4 months, which is a violation of the right to meet one's client, without limits on their number and length, negatively affecting the provision of effective legal assistance in the criminal case and directly violating the right to defense. Lawyers repeatedly appealed to the Ombudsman of the Republic of Moldova (People's Advocate of the Republic of Moldova), demanding to take a principled position in connection with not allowing lawyers to the client, as well as informed the Union of Lawyers of the Republic of Moldova (Bar Association of the Republic of Moldova). According to lawyer Valeriu Pleșca, on March 7, 2019, lawyers of Veaceslav Platon were allowed to visit him at Penitentiary No. 13 for exactly 30 minutes, in the presence of the People's Advocate, as well as a large number of media representatives. This short visit was again followed by months of refusal of lawyers' access to their defendant. The Union of Lawyers, represented by the Chairman and one of the Board members, also made several attempts to terminate the unlawful restriction of the access of defenders to V. Platon, repeatedly ensuring personal presence at the entrance to the Penitentiary, but had no result.

In December 2015 the Prosecutor's Office has initiated a criminal case against human rights lawyers Veaceslav Țurcan and Maxim Belinschi under article 352 of the Criminal Code of Moldova "False declarations"⁶⁰. Despite the Ruling of the Constitutional Court of Moldova of 2018, as well as the Ruling of the Plenum of the Supreme Court of Justice of 2019, referring to the well-established case law of the Moldovan judicial system regarding this article, prosecutors deliberately continued to support clearly unfounded and illegal criminal charges against lawyers. In July 2019 the prosecutor renounced from the accusation in court and requested the discontinuation of proceedings on the case, but not on rehabilitating grounds. Prior to this act, the interim head of the Office of the Prosecutor General of Moldova officially apologized to lawyers Veaceslav Țurcan and Maxim Belinschi for the illegal persecution. On 12 July 2019 the court pronounced a sentence of acquittal in respect of the lawyers. However, the prosecutor appealed the sentence, requesting a decision on the discontinuation of the criminal case but not on rehabilitating grounds, asking additionally to satisfy a civil claim and to pay moral damages of 100 thousand Moldovan lei to the so called victim. Due to constant strong stress from the awareness of being persecuted as a criminal for his principled professional stance, Veaceslav Țurcan in short intervals of time suffered two micro-strokes.

Another tendency for Moldova is the intolerance of the society, the identification of a lawyer with a client, threats and intimidation of human rights lawyers by the representatives of the public. The case of lawyer, expert and trainer in the field of human rights protection and promotion Doina Ioana Străisteanu, is related to permanent threats from members of the general public, including threats of physical violence⁶¹, and subsequently intentional arson of her car, committed during the night between the 30th and 31st of May

⁵⁷ For example, lawyers are subject to systematically unfounded searches in the National Anticorruption Centre. They are prohibited from even using their telephones, even if there are no special rules on premises

⁵⁸ This conclusion also follows from the case *Mancevschi v. Moldova* (07.10.2008)

⁵⁹ Veaceslav Platon - Moldovan politician, lawyer and businessman, former member of the Moldovan parliament, accused of fraud, money laundering on a large scale, and other crimes

⁶⁰ Lawyers that appear with statements before court cannot be prosecuted under article 352 of the Criminal Code of Moldova "False declarations" because it concerns false declarations to or by public servants regarding such acts as one's revenues for the purposes of taxation

⁶¹ Numerous damages to her personal car, repeated threats to beat her to death, spitting and insults

2019⁶²⁶³. According to the human rights lawyer, various people threatened her at different time and these threats were always connected to her professional activity in human rights protection. Doina Ioana Străisteanu works many years in defense of the LGBT community rights in national court, cooperates with GENDERDOC-M⁶⁴, as well as represents applicants, victims of human rights violations, in international court and quasi-judicial bodies. The lawyer reported these cases to the police, but no serious steps had been taken. The police do not consider neither this time that an intentional arson of the personal car of Doina Ioana Străisteanu - is not a unique case, but an escalation of ceaseless persecution and violence in respect of the lawyer.

The case of lawyer Ana Ursachi concerns a criminal charge brought in the involvement in a murder committed 19 years ago. The renewal of the criminal investigation in respect of Ana Ursachi is illegal for several reasons. The criminal case is conducted with clear violations of the legislation of the Republic of Moldova and has signs of political motivation related to the participation of Ana Ursachi as a lawyer in several high-profile court cases. A strong slanderous information campaign was launched against Ana Ursachi and her former husband by media affiliated with the authorities with charges of involvement in the murder. The top of the campaign to discredit Ana Ursachi was the film "The Devil's Advocate", the film states that in the 90's Ana Ursachi together with her former husband and two other participants allegedly organized a criminal group which dispossessed lonely people of their homes. According to the version of the film "as a result of one of such operations teacher Lyubov Manoli was killed". At present the lawyer cannot return to Moldova and continue to defend her clients, as there is a real danger that she will be apprehended and taken into custody upon return.

Russia

The tasks performed by a lawyer in the process of professional activity require his absolute independence and the absence of any influence on him, associated primarily with his personal interest or external pressure. Unfortunately, in Russian Federation, law enforcement officers systematically allow violations of the professional rights of lawyers, widely using illegal actions in respect of lawyers, aimed at counteracting lawyers' activity. Main violations of the independence of lawyers may include the violation of the confidentiality of a lawyer, the use of concealed operative-investigative measures and of investigative activities against lawyers with the violation of the established order or procedure, attempts to compel lawyers to cooperate with law enforcement agencies, summoning and questioning lawyers as witnesses in criminal cases where they have participated as defenders in order to obtain confidential information constituting a lawyer's legal professional secret, illegal initiation of criminal cases / proceedings in respect of lawyers, etc. Attempts by law enforcement officials to interrogate lawyers as witnesses have taken place. Despite the legislative prohibition on summoning lawyers and on their interrogation as witnesses in relation to circumstances that they found out pending a request of legal assistance or in connection to offering it (p. 2 of art. 8 of the Law regarding lawyers' profession, p. 6 of art. 6 of the Code of Lawyers' Professional Ethics), investigating authorities have increased the frequency of illegal interrogations or attempts to interrogate lawyers as witnesses in criminal cases, where they participated as defenders, in order to obtain confidential information constituting a lawyer's legal professional secret or to neutralize an inconvenient lawyer. There are reports of pressure on lawyers representing clients who have been persecuted for political reasons or other forms of reprisal⁶⁵.

⁶² See the Moldovan Bar Association public statement on the official web-page of the Bar <http://uam.md/index.php?pag=news&id=875&rid=1972&l=ro> and their press conference on the subject entitled "Lawyers need protection as well" (rom. "Și avocații au nevoie astăzi de apărare"), available at: <https://youtu.be/py1EZLmONDc>;

⁶³ Statement "Human Rights Embassy condemns the permanent threats towards the human rights lawyer Doina Ioana Străisteanu", Chișinău, 7 June 2019

⁶⁴ GENDERDOC-M Information Centre is a non-governmental organization actively promoting LGBT community rights

⁶⁵ 2018 Country Reports on Human Rights Practices: Russia, March 13, 2019, <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/russia/>

The analysis of lawyers' practice shows that many lawyers face violations of their professional rights and illegal forms of counteraction in exercising their professional duties, therefore, there is a need to strengthen legal norms that ensure the proper protection of a lawyer as a person performing a public legal function and participating in the administration of justice. The Russian legislator established a restriction on interference or counteraction of lawyers' professional duties, but at the same time did not foresee the responsibility for the violation of this guarantee, which lends a declarative character to it. It is obvious that in order to comply with high international standards and ensure the lawyers' profession to effectively and fully accomplish the tasks assigned to it in protecting human rights, the guarantees of the independence of lawyers should be respected in practice, but also expanded because the existing capacity of the relevant guarantees is clearly not enough⁶⁶.

On 9 September 2018, lawyer Mikhail Benyash was arrested by the police in Krasnodar, on allegations of violating rules for the organisation of public protests, based on his Facebook post. According to the human rights defender, he was pushed into a car by the police officers who snatched his phone from his hands when he tried to make a call. They hit his head against the car seat and handcuffed him, forcing him to sit face down with his hands cuffed behind his back. Once the car arrived at the Krasnodar police station, Mikhail Benyash was pushed out of it which caused him to fall face down on the asphalt. He was then dragged into the police station and held incommunicado for almost eight hours. The human rights defender reports that during that time, one of the police officers hit him several times and pushed him, causing him to hit his head against a metal safe. Following this assault, he had difficulties with hearing and was later diagnosed with a bilateral otitis. On 23 September 2018, the human rights defender was charged with article 318 of the Criminal Code of Russia for violence against a representative of the authority, a crime that he allegedly committed on 9 September 2018 during his arrest⁶⁷. From 26 February 2019 the preliminary hearing and the judicial investigation took place, from 9 April 2019 the case was examined on its merits at the Leninsky District Court of Krasnodar, the judicial deliberations are coming to an end, the court's decision is pending.

According to the decision of the Council of Chamber of Advocates of the Republic of Bashkortostan of 26 October 2017, lawyer Vitaly Burkin was deprived of the lawyer status for public criticism of the judicial system of the Russian Federation. The grounds for the initiation of the disciplinary proceedings in respect of the lawyer was the request of the presiding judge of the Supreme Court of the Republic of Bashkortostan (SPRB), in response to his publications on Facebook, VKontakte, and Livejournal which were viewed by the judicial community as containing various criticism and allegation in respect of the judges (corruption, bribing of judges, prejudging the court decisions to be pronounced) and have "pronounced negative character" and contain "sample provocative formulations". In the opinion of the Chamber of Advocates of the Republic of Bashkortostan, based on the conclusion of the Qualification Commission, the actions of the lawyer are qualified as a violation of the norms of the Law regarding lawyers' profession and the Code of Lawyers' Professional Ethics ⁶⁸⁶⁹.

Yevgeny Valeryevich Ryzhov, a lawyer of the Nizhny Novgorod Regional Chamber of Advocates, has been prosecuted and is subject to a criminal investigation as a consequence to exercising his professional activity - deprived of the right to freedom of movement, in his absence he is charged with fraud for representing the interests of his clients in court, put on the international wanted list, prevented from exercising his right to appeal / contest the actions in the investigative proceedings (the law enforcement agencies and the court refuse to

⁶⁶ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

⁶⁷ <https://www.frontlinedefenders.org/ru/case/judicial-harassment-mikhail-benyash>; see also - <https://zona.media/online/2019/09/03/benyash-21>;

<https://ovdinfo.org/story/delo-advokata-mihaila-benyasha>; <https://ovdinfo.org/express-news/2019/07/03/advokat-mihail-benyash-zayavil-o-dokazatelstvah-falsifikacii-ugolovnogo-dela>.

⁶⁸ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

⁶⁹ See also: Lawyers' newspaper. Aleksei Ivanov, Managing Partner, Law firm «Legal status», Member of the Commission for the Protection of the Rights of Lawyers of the Krasnodar Region Bar Association, Publication "On the right to profession. A few words in defense of our ideals" - <https://www.advgazeta.ru/mneniya/o-prave-na-professiyu/>

accept and examine his complaints on the merits), compelled to stay outside of the Russian Federation. On 19 October 2017 the complaint that was lodged in his interests was communicated by the European Court of Human Rights⁷⁰.

Ukraine

In general, there is significant pressure on human rights lawyers in Ukraine, their professional rights are violated everywhere, and the public authorities impeded the freedom of exercise of the profession of lawyer. Moreover, a lawyer's human rights activities may put at risk his or her life, health, property, etc. In March 2016, the lawyer Yuri Grabovsky was killed. There is still no single version there as regards the causes of the murder. Grabovsky was renowned *inter alia* for his work on several high-profile cases. In May 2015, he started defending A. Aleksandrov, an officer of the Chief Intelligence Directorate of the Russian Federation (GRU RF). The lawyer claimed that he had received threats in connection with that case. Human Rights Lawyers are subject to criminal investigations: On 20 February 2017, the Prosecutor's Office presented two charges against Oleg Veremeyenko, a lawyer cooperating with the Ukrainian Helsinki Human Rights Union. He is charged with resistance to a law enforcement officer (part 2 of article 342 of the Criminal Code of Ukraine) and pressure on a law enforcement officer (part 1 of article 343 of the Criminal Code of Ukraine). As of today, the lawyer faces up to two years in prison and the disbarment. Lawyers were also threatened with physical violence: On October 2, 2017, the lawyer Sergei Sainchin was beaten, seriously injured and taken to the hospital (the human rights defender had a double fracture of the jaw and a head injury). Allegedly, his ex-client attacked him⁷¹. On September 20, 2017, in the Kiev detention facility (SIZO), the detective of Ukraine's National Anti-Corruption Bureau (NABU) Pavel Yershov attacked the lawyer Alina Samarets, who came on behalf of the Free Legal Aid Centre to provide protection for a client during the certain procedural action⁷². On June 1, 2017, after the court session on the "May 2 case" (the case on the events of May 2, 2014 at Hretska Square in Odessa, i.e. the first clashes between the pro-Russian and pro-Ukrainian activists) in the Chernomorsk (formerly Il'ichyovsk / Illichivsk) City Court the lawyer Valentin Rybin, who defended one of the defendants in the case, was attacked by unidentified persons. The eyewitnesses said that the unidentified persons used gas spray, delivered several blows and accused the lawyer of helping the separatists⁷³.

However, a particular concern is the situation of protecting the rights of lawyers and the ability to safely and independently carry out their professional activities in the armed conflict zone (occupied Crimea and some areas of Donetsk and Lugansk regions not controlled by Ukraine). Instances of intimidation of defence lawyers representing clients opposed to the presence of the Russian Federation in Crimea have also been reported⁷⁴. On 25 January 2017, a lawyer from the Russian Federation defending one of the deputy chairmen of the Mejlis was forcefully brought to the FSB office in Simferopol for interrogation and asked to disclose details of the case concerning his client. Despite being pressed to cooperate, he refused, invoking his duty to uphold the attorney-client privilege, and was released after two and a half hours. On 14 February 2017, the Appellate Court upheld a first instance decision to enable the FSB investigator to interrogate him as a witness in a criminal case against one of his clients. Great concern is caused by the situation of lawyers in the uncontrolled territory of the Lugansk and Donetsk regions, where it is difficult to obtain information about the situation of the rights of lawyers in this territory. In the territories located in the so-called effective control zone of the Russian Federation, cases of the

⁷⁰ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France

⁷¹ More details: <http://odessamedia.net/news/napadenie-na-advokata-v-centre-odessi-pravozaschitniki-byut-trevogu/>

⁷² <http://iadvocate.com.ua/instruksiya-dlya-zhinok-advokativ-iz-samooborony-vid-detektyviv-nabu/>

⁷³ <http://mignews.com.ua/proisshestviya/18184825.html>

⁷⁴ According to the OHCHR 2017 report on "Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)", para 79

murder of lawyers,⁷⁵ the abduction of lawyers by illegal formations and holding them captive⁷⁶. The general deterioration of the situation with respect for human rights in the territories located in the so-called effective control zone of the Russian Federation is facilitated *inter alia* by the prosecution of lawyers and human rights defenders, who, in the absence of access to Crimea for independent human rights missions and organizations, are not only actively opposing such violations but also inform the international community and the media on such violations⁷⁷.

From 2012 to 2017, the lawyer Andriy Vishnevsky headed the Coordination Center for the provision of free legal aid created in Ukraine. In September 2015, according to the decision of the Qualifications and Disciplinary Commission of the Kiev Region Bar Association, A. Vishnevsky was deprived of the right to practice law. The reason for the initiation of the disciplinary proceedings was two complaints which were lodged with the Qualifications and Disciplinary Commission of the Kiev Region Bar Association. Both complaints were relating to the need to verify the accordance of the lawyers' speech with the Rules of lawyers' ethics at the time of the speech in the Supreme Court of Ukraine on 15 June 2015 at the Conference "Judicial reform: strategic planning and further steps"⁷⁸. In fact, Vishnevsky was deprived of the right to practice law solely in connection with his public criticisms addressed to the administration bodies of the Bar Association.

From 2014, authorities have been repeatedly harassing lawyer Emil Kurbedinov in connection with his professional activities. On 26 January 2017 he was apprehended and delivered to the Anti-Extremism Center of Russia's Ministry of Internal Affairs department in the «Republic of Crimea» for interrogation. Subsequently, a report of an administrative offense was filed against him under Article 20.3 of Russia's Code of Administrative Offenses (CAO). Law enforcement officers charged him with public display of the attributes or symbols of extremist organizations, in particular, public display of a video that featured symbols of a Muslim organization recognized as a terrorist organization in Russia. On the same day, Zheleznodorozhny Court of the city of Simferopol sentenced advocate E. Kurbedinov to 10 days of administrative arrest, which he served in solitary confinement in the city of Simferopol's pre-trial detention facility⁷⁹. On 6 December 2018, E. Kurbedinov was once again detained by officers of the Anti-Extremism Center of Russia's Ministry of Internal Affairs department in the «Republic of Crimea». He was again charged under Article 20.3 of Russia's CAO (propaganda or public display of attributes or symbols of extremist organizations). On 7 December, the Kyivsky District Court of the city of Simferopol controlled by the occupying authorities found the advocate guilty of public display of symbols of an organization banned in Russia and sentenced him to 5 days of administrative arrest. In fact, the lawyer was essentially prosecuted again for the same actions for which he had already served 10 days in 2017⁸⁰.

At present Lilya Gemedji, along with the lawyer Sergey Legostov, is one of the defenders of Server Mustafayev, a Crimean tartar human rights defender and coordinator of the "Crimean solidarity", charged with participating in the activity of the organisation "Hizb ut-Tahrir". According to her, on 27 January 2018, during a meeting of the public association Crimean Solidarity in the city of Sudak (Crimea), her freedom of movement was restricted for more than three hours by law enforcement officers in the room where the meeting was taking place,

⁷⁵ More details: <http://informer.media/archives/67905>

⁷⁶ More details.

https://censor.net.ua/news/342699/advokaty_prosyat_osvobodit_iz_plena_inr_svoego_kollegu_nikolaya_zagladu_dokument

⁷⁷ From the Report "Advocates under occupation", Ukrainian Helsinki Human Rights Union (UHHRU), 2018 - https://helsinki.org.ua/wp-content/uploads/2019/04/Report_Advocates_under_occupation-Engl.pdf

⁷⁸ From materials prepared by participants of the Study Visit and Expert Consultations of ILIA Alumni and Experts, Council of Europe and ECHR, January 23-24, 2018, Strasbourg, France; see also <http://legalspace.org/ru/novosti/item/5276-andreya-vishnevskogo-lishili-prava-na-zanyatie-advokatskoj-deyatelnostyu>

⁷⁹ In May 2017, Emil Kurbedinov was awarded the prize for human rights defenders that risk their lives by the international organization Front Line Defenders due to the pressure put on him by the Russian authorities - <https://www.frontlinedefenders.org/en/2017-front-line-defenders-award-human-rights-defenders-risk>

⁸⁰ From the Report "Advocates under occupation", Ukrainian Helsinki Human Rights Union (UHHRU), 2018 - https://helsinki.org.ua/wp-content/uploads/2019/04/Report_Advocates_under_occupation-Engl.pdf

together with other 200 people attending the meeting. Only after the officers unlawfully obtained explanations about the reasons for her presence at the meeting she was allowed to leave the premises. On 17 May 2018, Crimean police officers tried to serve her a notice regarding the prohibition of unauthorized mass events on the occasion of the commemoration of the deportation of the Crimean Tatars on 18 May. On 27 October 2018 she was handed a warning from the Prosecutor's Office concerning the inadmissibility of extremist activity and of organizing unsanctioned actions. Currently she and her colleagues are receiving verbal accusation from the representatives of different law enforcement agencies regarding the violation of the oath of the lawyer (according to which they must act in the framework of the constitution and the laws of the Russian Federation) in relation to using the norms of international humanitarian law.

Recommendations

The persecution of human rights lawyers in the countries of Eastern Europe intensifies, new trends and growing threats are contributing to the counteracting the professional defence of human rights, i.e. in essence, the carrying out of human rights activities. Many of those who are threatened either intend to leave their countries or have already been forced to leave, without the possibility of continuing to provide legal assistance to their clients. All of this indicates on deterioration of legal background in the countries under consideration, on deterioration of protection and promotion of human rights in the region, and on the atmosphere of impunity for harassment of lawyers and violation of their guarantees and immunities.

The most important recommendations, developed in the framework of the Report "Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine", published in September 2015, are still relevant today. So many years have passed, and the recommendations have not been implemented, the situation of human rights lawyers in the countries under consideration is only deteriorating, pressure on them has only intensified in recent years, professional defence of human rights has nullified.

There is a need to consolidate our efforts for effective overall work to strengthen the guarantees of the independence of lawyers and the principles of independence of the legal profession, to strengthen guarantees for human rights lawyers through new international documents, to use of new mechanisms against impunity for the prosecution of lawyers and violation of their guarantees and immunities, and to ensure the protection of human rights work. To achieve these results, there is a need in joint efforts to increase the level of national and international implementation of the already existing guarantees and immunities which are provided for lawyers under international law (special guarantees), to improve the effectiveness and safety of human rights lawyers through the dissemination and widespread use of general guarantees for human rights work, as well as to supplement the guarantees to ensure the principle of equality of arms before the international courts and quasi-judicial bodies. This work can and should be conducted with the direct participation of representatives of the legal communities of various countries.