



**HUMAN RIGHTS HOUSE
FOUNDATION**

35th SESSION OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL

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Item 3

**Interactive dialogue with the United Nations
Special Rapporteur on the independence of judges and lawyers**

Human Rights House Foundation statement

*Delivered by Matthew Jones, Human Rights House Foundation
Check against delivery*

Thank you, Mr Chairperson.

Human Rights House Foundation welcomes the Special Rapporteur's appointment to the mandate, and looks forward to constructively engaging with him in the future.

Special Procedures mandates have been strengthened through regular consultations with civil society. We consider the regional civil society consultations conducted by this mandate in the past to have greatly benefited both the mandate holder and civil society, enabling the gathering of a wide range of case-based information, identifying new challenges related to lawyer's roles in the promotion and protection of human rights¹ and analysis of emerging themes and trends. **We would encourage the Special Rapporteur to continue this tradition, taking advantage of the significant expertise available to him civil society engagement on a regular basis, with both thematic and regional focuses.**

Mr Chairperson.

In many of the countries that our partners work, lawyers work in unacceptable conditions, including facing retaliation for their work. They are harassed, threatened, and intimidated, risk disbarment through abusive use of disciplinary procedures, and they are imprisoned – or worse they are physically attacked and murdered².

The principle of confidentiality in lawyers' communication with clients is violated, and they are denied free access to their clients and to documents.

We have observed these trends in Europe, Caucasus and Central Asia. They are particularly worrying, as they threaten the wellbeing of society as a whole and the functioning of States under the rule of law³.

The violation of existing guarantees for lawyers adds to the need for further protection for human rights lawyers. In recent years we have noted that pressure has intensified on lawyers working on human rights or representing politically motivated and sensitive cases. These lawyers risk exclusion from professional associations of lawyers, and this leaves them without the basic guarantees they need to perform their

¹ Report of the Special Rapporteur on the independence of judges and lawyers, A/71/348, "Lawyers as human rights defenders", pp.34-36, page 9-10.

² See also : <http://humanrightshouse.org/Articles/9973.html>

³ See also HRHF's report on Lawyers at risk available at: <http://humanrightshouse.org/Articles/21175.html>

human rights work.

Professional members of Bar associations and lawyers without such a status can both act as human rights lawyers. However, despite the principle of non-discrimination, lawyers that are not members of Bar associations lack basic protection, guarantees and immunities. This prevents them from undertaking their human rights work and undermines the right of individual petition. The consequence is a loss of trust in human rights instruments – including the international courts and quasi-judicial bodies.

Some notable cases are indicative of these trends and we would welcome the Special Rapporteur’s attention to them.

- 1. In July 2015, 95 lawyers from across Europe signed a letter to the President of Azerbaijan highlighting serious concerns about the sentencing of a fellow human rights lawyer, Intigam Aliyev. Two years on, and despite his conditional release from prison in 2016, Mr Aliyev faces ongoing restrictions that impede his work. Such restrictions affect his ability to defend his clients, magnifying the negative human rights impact.** Additionally, he is one of the most respected lawyers of his generation in Europe⁴, yet the Bar Association in Azerbaijan has refused him as a member. We call upon the Azerbaijani authorities to fully and unconditionally rehabilitate Intigam Aliyev’s rights, including his right to travel without conditions. Further, the authorities must publicly acknowledge that there was no wrongdoing on his part⁵.”

Sadly, Aliyev’s case is far from uncommon in Azerbaijan. Fellow human rights lawyers Asabali Mustafayev and Annagi Hajibayli, also face similar restrictions and impact upon their work, and further illustrate the “knock-on effect” that such restrictions have on the human rights for a wider group of people.

- 2. Crimean Tatar and human rights lawyer Emil Kurbedinov has been defending the persecuted Crimean Tatar minority, civil society activists and journalists since the start of the occupation of Crimea by the Russian Federation.** He also provides emergency response and documentation of rights violations during raids and searches of activists’ homes. **In January 2017, masked representatives from Crimea's Centre for Counteracting Extremism abducted Emil and took him to a local directorate of the Russian Federal Security Service (FSB) for interrogation. A district court found him guilty of “propagandizing for extremist organisations” and sentenced him to ten days in detention.**

Although he is yet to complete his legal education, Emir-Usein Kuku, another Crimean Tatar human rights defender, was arrested in February 2016 on charges of terrorism and placed in detention. He has spent over a year in prison and his family faces threats, harassment, and intimidation.

- 3. In Moldova, lawyers have faced criminal charges related to their work, including Veaceslav Turcan and Maxim Belinschi. Their criminal cases are accompanied by procedural violations and bear signs of political motivation. Their cases illustrate well-founded concerns around illegal and selective forms of “justice”, including concerns that the justice system is being used as an instrument to combat perceived political opponents.**

Mr Chairperson,

⁴ See also HRHF’s article “Prominent lawyers call for the release of Intigam Aliyev” available at: <http://humanrightshouse.org/Articles/21067.html>

⁵ See also the final statement of the Working Group on Arbitrary Detention: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20021&LangID=E>

These examples highlight why the work of the Special Rapporteur on the independence of judges and lawyers is very important.

Guarantees and immunities for lawyers enshrined in national and international law must be implemented and respected, while human rights guarantees must extend to all who work within human rights, including human rights lawyers.

International institutions continue to highlight the vital role of lawyers in protecting human rights⁶ and refer explicitly to this professional group within the established concept of a "human rights defender"⁷. The UN Basic Principles on the Role of lawyers (1990) is now complemented by "special" standards, developed at global⁸ and regional⁹ levels to provide guaranties and protection for those who act for human rights and fundamental freedoms.

We call upon the Human Rights Council to increase attention on the situation of human rights lawyers. In line with the UNGA and HRC resolutions of 2015 and 2016, protection guaranteed to human rights defenders should be extended to lawyers, as a professional group entitled to human rights protection.

Thank you.

⁶ UN Basic Principles on the Role of Lawyers, Draft Universal Declaration on the Independence of Justice ("Singhvi Declaration"). The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Recommendation no. R (2000)21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer; Consultative Council of European Judges (CCJE) Opinion No.(2013)16 on the relations between Judges and Lawyers; IBA Standards for the Independence of the Legal Profession.

⁷ Guidelines on the Protection of Human Rights Defenders by OSCE-ODIHR (2014)

⁸ UN Declaration on Human Rights Defenders (1998); UN Resolution on the protection of human rights defenders (2013); UN Resolution on Recognizing the role of human rights defenders and the need for their protection (2015) etc.

⁹ European Union Guidelines on Human Rights Defenders (2004); Declaration of the Council of Europe action to improve the protection of human rights defenders (2008); CoE PACE Strengthening the protection and role of human rights defenders in Council of Europe member States (2016)