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РОССИЙСКИЙ ИССЛЕДОВАТЕЛЬСКИЙ ЦЕНТР ПО ПРАВАМ ЧЕЛОВЕКА

# Report on Fourth Study Visit and Expert Consultations of ILIA Alumni and Experts

Council of Europe and ECtHR, 23-24 January 2018, Strasbourg

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## 1. Study Visit Purpose, Objectives, Concept, and Organizers

The study visit took place on 23-24 January 2018, in Strasbourg, in cooperation with the Council of Europe (Directorate General of Human Rights and Rule of Law (DGI), Directorate of Human Rights, Human Rights National Implementation Division, Human Rights Education for Legal Professionals (HELP) Unit), with the financial and expert support provided by the Human Rights Houses Foundation (including the Geneva and Brussels international advocacy team) and the Council of Bars and Law Societies of Europe (CCBE), with the organizational support by the Human Rights Embassy (Moldova), and with the participation of the Belarusian Human Rights House, Human Rights House Tbilisi, Russian Research Center for Human Rights, and Educational Human Rights House (Chernihiv).

Thematically, the 2018 study visit and expert consultations<sup>1</sup> were agreed upon by the ILIA partners in the light of the current human rights protection challenges and needs, and related 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).

The purpose of the study visit and consultations was to share views and information regarding the situation of the implementation of legal guarantees for human rights lawyers in the countries, and to discuss the topical issues that should be taken into account when drafting the Convention on the Profession of Lawyer.

The visit coincided with several events at the Council of Europe institutions, including:

- the PACE Session and discussing the report on the preparation of the Convention on the Profession of Lawyer (by Ms Sabien LAHAYE-BATTHEU, Special Rapporteur, PACE);
- the *Lawyers and Threats* side event arranged by the CCBE, which invited the ILIA alumnus Alaif Hasanov (Azerbaijan) and expert Vyacheslav Turcan (Moldova) as the speakers;
- the trial of the case of *Navalnyy v. Russia* (29580/12, 36847/12, 11252/13, 12317/13, 43746/14).

The above events, as part of the study visit and expert consultations program<sup>2</sup>, were viewed as an opportunity for the study visit group to gain the unique knowledge, to share their own knowledge and update information about the situation in their countries, and to test their new competencies.

During the study visit, the participants met the well-known CoE experts, the PACE deputies (including the Special Rapporteur Ms Sabien LAHAYE-BATTHEU) and the ECtHR judges; took part in the trial of the case of the Russian lawyer and public figure A. Navalnyy; discussed the certain provisions of the new European Convention on the Profession of Lawyer; discussed the ways to render professional assistance to human rights defenders and to use the ILIA alumni's expertise and on-line resources; and 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.

One of the results of the study visit and, in particular, of the consultations, expected by the organizers, was an improved understanding of the situation in the ILIA member countries and in the region as a whole. Besides, the organisers planned to summarize the reports, conclusions and recommendations presented and discussed during the study visit meetings. The consultations' materials may be of use as an additional source of information for those who work on the development and implementation of legal standards for human rights lawyers.

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<sup>1</sup> Please find attached the concept of the meeting held on January 23, 2018, describing the study visit background, the progress in the preparation of the report, of the draft proposal on the Convention on the Profession of Lawyer and the forthcoming consultations, as well as references to the legal standards defining the bases and guarantees for lawyers' human rights work (in English).

<sup>2</sup> Please see attached the detailed meeting agenda and the list of the participants, organizers, experts and guests of the study visit and expert consultations held in Strasbourg on 23-24 January 2018 (in English).



## 2. Participants, Invited Experts and Guests. Study Visit Preparation

Twenty ILIA experts and alumni were invited to take part in the study visit. This report contains the names and photos of participants in the study visit and consultations. For security considerations, the identity of one of the experts has been changed. The Human Rights Houses and ILIA partners selected the ILIA alumni based of the following criteria:

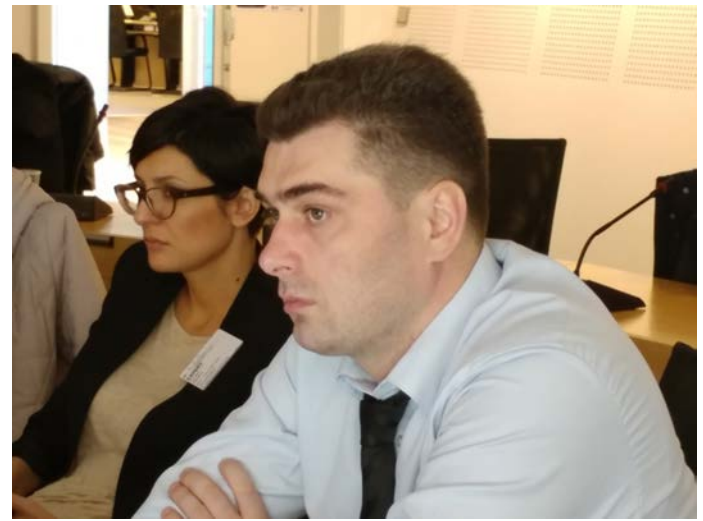
- A good awareness of the situation of human rights lawyers and the bar in their countries (independence issues, a brief overview of the relevant national legislation, etc.);
- The knowledge of the provisions and recommendations presented in the *Human Rights Lawyers at Risk* report, in the report by the UN Special Rapporteur Mónica Pinto, and in the international documents on the independence of lawyers and human rights defenders;
- The willingness to continue working on the situation of human rights lawyers in their countries through the participation in the core team, which will be tasked with updating the information in the *Human Rights Lawyers at Risk* report, in further consultations with international bodies, etc.;
- Fluent Russian;
- Motivation to take part in group work and professional international cooperation;
- The inclusion of new participants in the study visit group was also an important requirement, although a minimum number of the participants of the previous study visits could be included for experience sharing and institutional memory purposes.

The consultations were attended by lawyers, legal professionals and experts who had taken part in the preparation of the *Human Rights Lawyers at Risk* report (2015), and in the work on the recommendations formulated for the report of the UN Special Rapporteur on the independence of judges and lawyers Ms Mónica Pinto (2016), as well as by those willing to continue

monitoring the situation in their countries and disseminating the knowledge about the international and European standards regarding lawyers.

**Azerbaijan:** 1) Samira Aghayeva, 2) Alasgar Mammadli, 3) Expert from Azerbaijan<sup>3</sup>; **Belarus:** 1) Natallia Matskevich, 2) Maryna Harbachova, 3) Dmitry Chernyh; **Georgia:** 1) Irine Kasradze, 2) Nino Elbakidze, 3) Elena Fileeva; **Moldova:** 1) Georgeta Anusca, 2) Iurie Levinte, 3) Maxim Belinschi; **Russia:** 1) Aleksei Ivanov, 2) Egor Mylnikov<sup>4</sup>, 3) Maxim Olenichev; **Ukraine:** 1) Mariana Afanasieva, 2) Lilia Hemedzhy, 3) Olga Semeniuk.

**International Team:** 1) Liudmila Ulyashyna (Human Rights House Foundation, Norway), 2) Lela Metreveli (Human Rights Embassy, Moldova), 3) Alexander Sjödin (Human Rights House Foundation, Belgium).



The ILIA alumnus Alaif Hasanov (Azerbaijan) and the ILIA expert Veaceslav Turcan (Moldova), invited by the CCBE as the *Lawyers and Threats* side event speakers (Strasbourg, 24 January 2018), were also invited to take part in the study visit and expert consultations.

The following representatives of international professional organizations of lawyers were invited to and attended the consultations (in alphabetical order):

- ✓ Milan Antonievic, Lawyers Committee for Human Rights, Serbia

<sup>3</sup> The identity of this participant has been changed for security considerations

<sup>4</sup> Unfortunately, the Russian Border Guard Service did not let the participant from Russia Egor Mylnikov cross the border, therefore, he could not join the study visit group in Strasbourg on January 23-24, 2018.

- ✓ Phon van den Biesen, Lawyers for Lawyers, the Netherlands
- ✓ Jasmine D. Cameron, Justice International, USA
- ✓ Judith Lichtenberg, Lawyers for Lawyers, the Netherlands
- ✓ Karine Metayer, CCBE, Belgium
- ✓ Maria Slazak, CCBE, Poland



In total, 38 participants, organizers, experts and guests took part in the study visit and expert consultations in Strasbourg<sup>5</sup>.

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<sup>5</sup> Please see attached the full list of the participants, organizers, experts and guests of the study visit and expert consultations held in Strasbourg on 23-24 January 2018 (in English).

To make the study visit successful, the organizers invited the participants to fulfil the following tasks:

- Collect and submit data on cases of persecution and (or) prosecution of lawyers in their countries;
- Take part in the on-line survey to update the *Human Rights Lawyers at Risk* report;
- Prepare to participate in the discussions on the status and role of and guarantees for human rights lawyers, as well as on the international mechanisms to monitor the situation of human rights lawyers.

a) As a result, the study visit group members prepared the statistics, as requested by the CCBE<sup>6</sup>, following the criteria below: Number of lawyers who were persecuted/ whose human rights were violated within the previous five years; Types of violations (according to ProtectDefenders.eu classification); Communications to Human Rights Houses Foundation (HRHF), if any; Communications to national bodies/ national authorities; Complaints investigated by national authorities, or Complaints accepted for review/ reviewed or rejected by national authorities.

b) The study visit participants provided information about new cases of persecution against human rights lawyers (following the pattern of the *Human Rights Lawyers at Risk* report) and updated information on the cases that had already been described in the report.

c) They filled in the updated on-line questionnaire:

[https://docs.google.com/forms/d/e/1FAIpQLScagE68GXFDTNJgX2akfMckkz\\_pei6uVF0kzKJwa4iJyVjaQ/viewform](https://docs.google.com/forms/d/e/1FAIpQLScagE68GXFDTNJgX2akfMckkz_pei6uVF0kzKJwa4iJyVjaQ/viewform).

d) They also maintained active communication in the specially created mini-group [ilia\\_humanrightslawyers@googlegroups.com](mailto:ilia_humanrightslawyers@googlegroups.com) to get ready for the study visit.

Based on the results of several working meetings with the study visit group, the experts and moderators elaborated the program of the study visit, consultations and individual sessions and ranked the program blocks and speeches in accordance with the thematic hierarchy. Besides, the participants' role and their overall expectations from the participation in the study visit were discussed. The responsibility for the topics of consultations was assigned to the participants as follows: **1. The scope and protection of professional immunities of lawyers:** Azerbaijan – Samira Aghayeva; Belarus – Maryna Harbachova; Georgia – Irine Kasradze; Moldova – Georgeta Anusca; Russia – Aleksei Ivanov; Ukraine – Lilia Hemedzhy; **2. Term and Concept of “Lawyer”:** Azerbaijan – Expert from Azerbaijan<sup>7</sup>; Belarus – Natallia Matskevich; Georgia – Nino Elbakidze; Moldova – Iurie Levinte; Russia – Maxim Olenichev; Ukraine – Mariana Afanasieva; **3. Role and Protection of Professional Bar Associations** Azerbaijan – Alasgar Mammadli, Belarus – Dmitry Chernyh; Georgia – Elena Fileeva; Moldova – Maxim Belinschi; Russia – Egor Mylnikov; Ukraine – Olga Semeniuk; **4. Mechanisms to Monitor Situation of Lawyers:** All of the study visit participants prepared their comments, questions and suggestions for the discussions.

e) The study visit participants prepared detailed information about the situation in their countries, in the report and/or theses format, to be used for presentations during the study visit and expert consultations<sup>8</sup>. This approach encouraged the participants to analyse all the risks and problems they face in their countries and briefly outline the most important of them. It also enabled the moderators of the study visit sessions and consultations to read the materials in advance and to formulate recommendations for meaningful discussions and open debates with the study visit participants.

On January 22, on the eve of the study visit and expert consultations, the organizers held a preliminary off-line meeting with the participants and informed them about the latest recommendations provided by the moderators regarding the presentations format. Besides, they coordinated the common vision and interaction principles for the upcoming discussions to be held as part of the consultation sessions. The participants expressed their concerns about the threat of persecution in case they openly criticised, for example, the national bar associations. Therefore, the organizers were invited to apply the Chatham House Rule throughout the study visit. The preliminary general meeting of the study visit group with the experts, moderators and organizers had a major positive impact on the consultations, as it encouraged the participants to openly discuss all the problems and risks they face in their professional work on the protection and promotion of human rights in their countries.

### 3. Day 1:

#### Opening and Greetings by Organizers. Thematic Consultations with Experts. Main Conclusions

Mr Mikhail Lobov (Head of Human Rights Policy and Cooperation Department, Directorate General of Human Rights and Rule of Law) greeted the participants and experts of the study visit and consultations and pointed out to the importance of the event in the light of the necessary debates and discussions about the certain provisions for the concept of the new European Convention

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<sup>6</sup> Please see attached the complete statistics prepared for the CCBE.

<sup>7</sup> The identity of this participant has been changed for security considerations

<sup>8</sup> We hope we will manage to publish a collection of all these materials. We will also use this information to update the *Human Rights Lawyers at Risk* report.

on the Profession of Lawyer. Mr Lobov highly appreciated the qualitative and substantial contribution made by the ILIA alumni and experts to the development of the standards for the independence of the profession of lawyer, guarantees and immunities for human rights lawyers, referring to the previous work on the *Human Rights Lawyers at Risk* report, presented at the Council of Europe in October 2015. He specifically mentioned the sustainability of the ILIA program, viewed by the international community and ILIA partners as a reliable and trustworthy partner for international organizations and structures working towards strengthening and/or developing of the international human rights standards. He also expressed the confidence that the current expert consultations would result in a better understanding of the situation in the ILIA member countries and help develop the key recommendations for the new Convention on the Profession of Lawyer.



Ms Liudmila Ulyashyna (Adviser, International Law in Advocacy (ILIA), Human Rights House Foundation, Norway) greeted the participants of the study visit and consultations and highlighted the long-term and fruitful cooperation of the Human Rights Houses Foundation with the Council of Europe, in particular with the HELP program, Directorate of Human Rights, Human Rights National Implementation Division, and with the Council of Bars and Law Societies of Europe (CCBE). She also noted the contribution made by the alumni of the Human Rights House Network's educational program - lawyers and legal professionals from Azerbaijan, Belarus, Georgia, Moldova, Russia and Ukraine - as the main driving force in the renewal of the legal standards regulating guarantees and immunities for those whose work is closely related to the promotion and protection of human rights. Ms Ulyashyna pointed out to the lack of protection for lawyers and their clients when applying to the international bodies; the use of the bar associations' disciplinary procedures as a means of repression

against unwelcome lawyers; the poor competence in the human rights law; the unequal conditions for non-members of the bar associations providing legal assistance and protecting victims of human rights violations, including in the international bodies. She thanked the experts and moderators of the study visit and consultations for their willingness to help the participants hold discussions and sum up the meeting results in the form of recommendations and wished all the participants to have a fruitful discussion.



The moderator of the first day of the consultations, Ms Maria Slazak, the Former President of the Council of Bars and Law Societies of Europe (CCBE), Poland, greeted the audience and, as a long-time partner of the ILIA lawyers/ human rights lawyers' network, pointed out to the sustainable and qualitative development of the ILIA Program. As the moderator of the side event, "HUMAN RIGHTS LAWYERS: Challenges and Professional Guaranties for Legal Professionals" held as part of the annual OSCE Meeting (OSCE/HDIM) on September 23, 2015 and dedicated to the presentation of the *Human Rights Lawyers at Risk* report, she noted the substantial contribution of the ILIA Program and its alumni and experts to the new concept of "human rights lawyer" and to drawing the attention of the international community to the risks and problems faced by human rights lawyers providing legal assistance in the post-Soviet countries, as well as the need to strengthen and enshrine guarantees and immunities for human rights lawyers providing

professional assistance to victims of human rights violations. She also noted the quality of the work carried out by the study visit participants, the consistency of the approaches applied and the importance of obtaining reliable, update, high quality information, which the ILIA alumni and experts had prepared for the consultations in Strasbourg. Ms Slazak encouraged the participants to openly discuss all the existing problems and risks they face in their professional work on the protection and promotion of human rights in their countries.

Ms Tatiana Termacic (Head of Coordination and International Cooperation Division, DGI, Council of Europe) highly appreciated the quality of the long-time interaction between the ILIA Program and the Council of Europe, the meaningfulness of

all the previous study visits of the ILIA alumni and experts to the Council of Europe, as well as ILIA's contribution to the development and strengthening of the international standards of human rights, legal assistance, and the independence of human rights lawyers through the important work on the *Human Rights Lawyers at Risk* report, and to the facilitation of the implementation of the standards in the national systems by the efforts of the ILIA program alumni and experts. Ms Termacic highlighted the role of the ILIA Program in the ILIA member countries, noting the particular importance of human rights education for justice.

On January 23, 2018, the expert consultations on the certain thematic issues of the Convention on the Profession of Lawyer opened the study visit program and became the next step in the ILIA alumni and experts' work to improve the implementation of guarantees for the profession of lawyer, mainly the guarantees relating to the role of human rights lawyers in the protection of human rights. Sharing the views and information about the situation of the implementation of legal guarantees for human rights lawyers in the certain countries, and discussing the thematic issues that should be taken into account when working on the Convention on the Profession of Lawyer became the main objective of the consultations held on the first day of the study visit, with a general focus on the need to enshrine the guarantees for lawyers' work on the protection and promotion of human rights. Lela Metreveli and Liudmila Ulyashina prepared a publication on the ILIA Facebook page to inform all the ILIA participants and alumni (a similar message was disseminated through the ILIA Club mailing group) - <https://www.facebook.com/InternationalLawInAdvocacy/posts/1601694166592059>. Some more publications about the study visit and expert consultations are being finalized and agreed upon.

The consultation sessions were moderated by Ms Maria Slazak (Former President of the Council of Bars and Law Societies of Europe (CCBE), Poland) - the main, "cross-cutting" moderator of the study visit and consultations, Mr Milan Antonievic (a lawyer, Lawyers Committee for Human Rights, Belgrade, Serbia), Ms Ganna Yudkivska (Judge of the European Court of Human Rights elected in respect of Ukraine), Mr Alexander Sjödin (European Advocacy Officer, Human Rights House Foundation (HRHF), Belgium).



The session on the **Role and Protection of Professional Bar Associations** (moderated by Maria Slazak, Former President of the CCBE, Poland) focused on the problems of the function of professional advocacy associations to support the work of lawyers, and the situation in the countries, in which human rights lawyers work in the absence of independent bar associations. The examples provided by the participants of the study visit and consultations from the ILIA countries clearly demonstrate the lack of the *de facto* independence of the national associations of lawyers and a complete lack of understanding among the bar associations of the need to protect and support lawyers persecuted for their professional activities. Moreover, in the majority of the ILIA countries, bar associations are independent legislatively, but in practice these are either the unwelcome lawyers' colleagues who act against them as a repressive body, or the executive bodies interfere with the activities of the bar association. Belarus is the only country, in which the Ministry of Justice legislatively enjoys extremely broad powers to regulate lawyers' work and has many opportunities to interfere with the activities of professional associations of lawyers. At the same time, the Bar Association in Belarus makes no attempts to change the current legislation in order to enshrine in law the independence of the bar association and lawyers' self-regulation. Georgia is a positive example, as the Bar Association there is a truly independent body ensuring both its *de jure* and *de facto* independence. This is a stunning development

when compared to 2009-2010 when up to 130-140 lawyers were imprisoned in connection with their professional activities,



while officially the reasons for the prosecution were either fraudulent or evasion of taxes. At that time, a group of lawyers emerged within the Bar of Georgia, led by the person, who had chaired the Bar for eight years. They managed to attain freedom for most of these lawyers, having thus proved that the Georgian Bar Association must and can protect lawyers. In 2017, the Chairman of the Bar Association of Georgia was granted the CCBE award.



During the session on the **Term and Concept of Lawyer** (moderated by Milan Antonievich, Lawyers Committee for Human Rights, Serbia), the participants discussed the new challenges and requirements related to the functioning of the international human rights protection system and the need to update the list of guarantees and immunities for human rights lawyers. The title of the new Convention on the Profession of Lawyer includes the term that has different interpretations and may have different contents in the national legal systems. It is important to understand the content of the concept of “lawyer” in order to determine which professional groups the term “lawyer” covers and whether it includes representatives of the legal profession who do not have a license to practice law and (or) who are not members of the bar associations. This discussion is especially important in the light of the fact that most often these are lawyers working in NGOs and (or) the so called “independent” lawyers who provide

legal assistance to victims of human rights violations, especially at the international level. In practice, the lack of legal regulation of the guarantees and immunities for legal professionals, who actually exercise the functions of lawyers, but who are not members of the bar associations, remains a serious problem. This problem affects all victims of human rights violations who receive qualified legal assistance provided by NGO lawyers and (or) in-house lawyers, but cannot be sure that the work of these lawyers will not be intervened: their offices are searched and case files are seized; lawyers are forced to testify against their clients and denied the right to meet their client to discuss the communication aspects when applying to the international procedures. This situation affects the quality of legal assistance and at the same time weakens the institution of individual complaints submitted to the international bodies, which results in the systematic violation of the right to defence. At the preliminary working meeting on January 22, 2018, on the eve of the study visit and consultations, the participants heatedly discussed those issues, voicing all shades of opinion and their doubts regarding the balance between the guarantees and immunities on the one hand, and the responsibility, professional ethics and regulation of lawyers’ work on the other hand. Following that discussions, on the first day of the consultations, the participants voiced the need to extend the guarantees and immunities for lawyers who are not members of the bar associations. The former Chair of the CCBE Maria Slazak mentioned that position during the side event held by the CCBE, and the PACE Special Rapporteur Sabien LAHAYE-BATTHEU voiced it at the PACE session on January 24, 2018.



The participants of the session on **The Scope and Protection of Professional Immunities of Lawyers** (moderated by Ganna Yudkivska, Judge of the ECtHR elected in respect of Ukraine), discussed the problems faced by lawyers working on human rights protection cases, guarantees and immunities and how they “work” in the ILIA countries, as well as the provisions of the new European Convention that would make human rights lawyers’ status more specific and their work more secure. The judge Ganna Yudkivska told the study visit group about the guarantees and immunities of lawyers, using the ECtHR case law and detailing a variety of the ECtHR cases and decisions. She touched on the issues of freedom of speech, criticism against the Court or

other participants in the proceedings, the right to association, the protection of lawyers during the search, persecution of lawyers, the right to practice law, representation in the ECtHR, etc.



The session on **Mechanisms to Monitor Situation of Lawyers** (moderated by Alexander Sjödin, HRHF Representation in Brussels, Belgium) focused on the European mechanisms for monitoring of the observance of human rights in the Council of Europe member countries, including the European Court on Human Rights. Are there special mechanisms in the Council of Europe to monitor the implementation of guarantees for the profession of lawyer, for human rights defenders and human rights lawyers? Is there a need for **new** mechanisms of this kind there? What can the professional network of human rights lawyers do to strengthen the solidarity and to support the colleagues in the European countries? What are the challenges and opportunities related to the functioning of an effective monitoring mechanism, and what is the role of networking among lawyers from different countries? The participants of the consultations represent the ILIA alumni network, which has, for the ten years of its existence, turned into a network of human rights lawyers, uniting more than 300 lawyers and human rights defenders from many countries, including the Council of Europe member states. Therefore the study visit group was tasked with discussing the information and proposals relating to the proposal by the Parliamentary Assembly of the Council of Europe to establish a European Convention on the Profession of Lawyer, and suggesting their recommendations regarding the development of the certain provisions of the Convention, including the tools for an effective mechanism to monitor the

implementation of the Convention. The moderator Alexander Sjödin spoke about the existing monitoring mechanisms and about the plans to set up a new mechanism to address reprisals against those who cooperate with the organisation, including lawyers and human rights defenders. At the moment there is an online platform for the protection of journalists established by the Council of Europe in 2015. The CCBE representative Karine Metayer described the platform for the protection of journalists in more detail - <https://www.coe.int/en/web/media-freedom>, showing how the platform works, how to apply for help, and which twelve organizations can be helpful as intermediaries for help-seekers using the platform (they can check information through

their country representatives). According to the surveys, the platform's work has exceeded all expectations and proved successful. Therefore, one of the recommendations could be creating a similar platform to protect lawyers and human rights defenders.



At the end of the first day of the study visit and consultations, Ms Ana Medarska-Lazova (Project Officer, HELP Unit, DGI, Council of Europe) told the participants about the trial of the case of the Russian lawyer and political activist A. Navalnyy against Russia (Navalnyy v. Russia (29580/12, 36847/12, 11252/13, 12317/13, 43746/14), planned for the second day of the study visit. Besides, Ms Medarska-Lazova took on the moderation of the entire second day of the study visit and consultations.

**Pictured in the photo from left to right are: Ms. Ana Medarska-Lazova, Mr. David Milner, Ms. Sabien Lahaye-Battheu, Ms. Judith Lichtenberg**

## Evening Meetings: Meeting of Organizers, Experts and Guests. Work on New ILIA Activity Area - Legal Advice for Human Rights Defenders



In the evening of Day 1, the organizers, experts and moderators held a working meeting to summarise the main conclusions and recommendations of the consultations. The experts pointed out to the deteriorating situation of the Bar independence in the region, in the majority of the ILIA member countries, the increased risks and threats against human rights lawyers, and, accordingly, the increasing need to provide for all necessary guarantees and immunities for lawyers when developing the new European Convention on the Profession of Lawyer, taking into account the analysis of all the risks mentioned by the study visit participants. The experts also noted the opinion of the study visit participants about the need to provide for guarantees and immunities for both members and non-members of the bar associations, working with human rights

organizations or individually, taking into account the need for a broader approach to work on the Convention, based on the work of lawyers and legal professionals on the protection and promotion of human rights. All the above conclusions and recommendations were announced on the second day of the study visit.



In addition, the study visit participants held a side meeting to discuss the emerging ILIA activity area - consulting for human rights defenders and human rights lawyers. The ILIA experts – Elena Fileeva, Maxim Olenichev and Lela Metreveli – told the participants about the new activity area designed to supplement and systematize/institutionalize all the previous ILIA activities and developments in that field, using all the available Program’s tools (such as the *Human Rights Lawyers at Risk* on-line forum, the *International ILIA Club* mailing group, the ILIA Facebook page and closed group, the alumni and experts’ thematic groups and forums, on-line workshops or forums of individual courses, etc.). The purpose of the group work was to collect the views and questions of the study visit participants relating to the concept of that activity area,

its further development, the scope of mechanisms to be used and/ or the target group. Inspired by the existing platforms – the EU Human Rights Defenders mechanism, <https://www.protectdefenders.eu/en/index.html>, and the CoE Platform to promote the protection of journalism and safety of journalists, <https://www.coe.int/en/web/media-freedom>, the study visit participants shared their ideas (which the organizers of the working meeting will soon systematize and present).

#### 4. Day 2:

##### ECtHR Grand Chamber Session



Day 2 of the study visit began with the trial of the case of the Russian lawyer and political activist A. Navalnyy against Russia (Navalnyy v. Russia, 29580/12, 36847/12, 11252/13, 12317/13, 43746/14), attended by all the study visit participants, experts and guests. Opening the ECtHR session, the Chair made specific mention of the presence of a group of lawyers and legal professionals from the ILIA member countries and thanked the Human Rights Houses Foundation for providing interpretation of the court session into Russian. After that announcement, all the visitors took up their headphones, taking the advantage of the high-quality interpretation by Victoria Tyuleneva and Vadim Vileyta.





## Side Event

On January 24, 2018, the Parliamentary Assembly of the Council of Europe (PACE) planned to hear the proposal to the Committee of Ministers about the development of the text of the Convention, and to put that question to the vote. On the eve of the PACE evening session and hearings, the Council of Bars and Law Societies of Europe (CCBE), as an initiator of the Convention development process), held the *Lawyers and Threats* side event, with the participation of the ILIA alumnus Alaif Hasanov (Azerbaijan) and expert Veacheslav Turcan (Moldova) as speakers<sup>9</sup>. When preparing their side event, the CCBE asked all the ILIA alumni and experts, who were going to take part in the study visit and consultations in Strasbourg, to provide information about the threats and persecution faced by lawyers within the previous five years, and then cited that information during the side event. Besides, the whole study visit group attended the CCBE side event and supported their colleagues. Ms Maria Slazak, as the moderator of Day 1 of the consultations, spoke at the CCBE side event, summarizing the outcomes of the consultations. She named the main risks and threats faced by human rights lawyers in the ILIA region and mentioned by the ILIA Program alumni, and announced the main recommendations and conclusions formulated on Day 1 of the consultations. Ms Sabien LAHAYE-BATTHEU, the PACE Special Rapporteur, also attended the side event. Later on that day, when presenting her report at the PACE evening session, she actively referred to the facts she had heard at the side event.



<sup>9</sup> Please find attached the full texts of the ILIA alumni/ experts' speeches made at the CCBE side event on January 24, 2018 (in English). The CCBE invited them to their side event as two out of the four main speakers.

The participation of the PACE Special Rapporteur Ms Sabien LAHAYE-BATTHEU and Mr David Milner, Deputy to the Head of the Secretariat Committee on Legal Affairs and Human Rights Parliamentary, was a very important part of the study visit and consultations program. Ms LAHAYE-BATTHEU told the study visit participants about the importance of the new European Convention on the Profession of Lawyer. Mr Milner spoke about the development and adoption procedure for the new Convention on the Profession of Lawyer, and about the role of lawyers and legal professionals in the implementation of the Convention in the light of the obligations taken on by the countries that would accede to it. The study visit participants shared with the rapporteurs update information about the situation in their countries. They pointed out to the long-overdue need to enshrine guarantees and immunities for lawyers and legal professionals working on the protection and promotion of human rights, to the risks they face in their national systems and the new cases of persecution for their human rights work. Ms Sabien LAHAYE-BATTHEU took note of all the discussed issues and drew attention to the information received from the ILIA alumni and experts in her report at the PACE evening session.



Ms Ana Medarska-Lazova (Project Officer, HELP Unit, DGI, Council of Europe) told the participants about the CoE HELP Program, the long-term and high-quality cooperation with the ILIA Program, and the uniqueness of the joint ILIA/HELP on-line courses for the ILIA Program alumni, which now involve some of the ILIA Program alumni as assistant tutors. Ms Medarska-Lazova noted the special approaches, enabled by the ILIA Program and having no analogues within the HELP Program in any region. The ILIA/HELP courses have been repeatedly held not at the national scale, but at the regional level for all the ILIA member countries simultaneously, ensuring the national and regional adaptation of the course materials and active support by both the main tutor and the national tutors, and enabling the participants to share their experience and best practices. She spoke

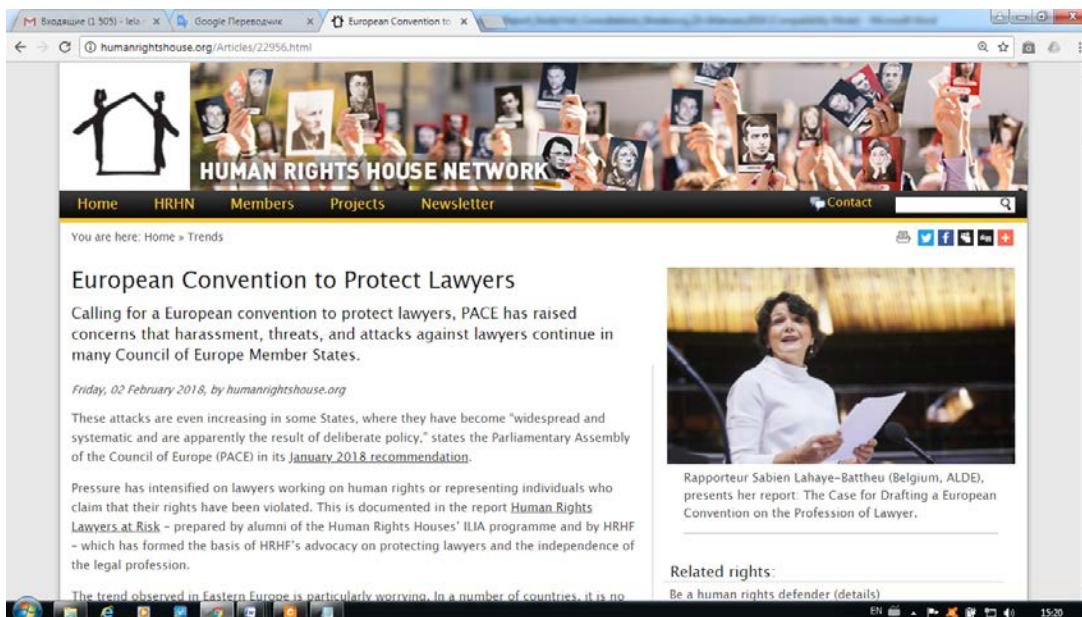
about the new opportunities offered by the HELP Program' platform and expressed her hope for further interaction with the ILIA Program and the network of lawyers and legal professionals from the ILIA member countries.

Before the PACE session, which was attended by all the participants of the study visit and consultations, the study visit group, together with Mr Jonko Grozev, the ECtHR Judge elected in respect of Bulgaria, discussed the role played by civil society and lawyers/ legal professionals in the international human rights agenda through the strategic litigation.

### PACE Session



The evening session of the Parliamentary Assembly of the Council of Europe (PACE) became one of the new and very important venues for the majority of the study visit and consultations participants. The PACE heard the proposal to the Committee of Ministers about the draft Convention development, and the report by Ms Sabien LAHAYE-BATTHEU, in which the Special Rapporteur summarized and analysed the cases of threats, persecution, and interference in the work of lawyers. The PACE resolution on the preparation of the Convention on the Profession of Lawyer was put to vote. The study visit participants noted that in her report, the Special Rapporteur referred to the information provided by the ILIA alumni and experts. They also considered the fact that the majority of the PACE deputies voted in support of the resolution as an important result of the study visit and expert consultations (and partly as their own contribution to that success). Before the vote, Georgii LOGVYNSKYI, a PACE member from Ukraine who helped in the preparation of the report on lawyers, supported the development of the new Convention in his speech. The study visit participants became aware of the new opportunity for advocacy at the national level, for example, through the national European parliamentarians. Thus, for example, the Ukrainian participants considered the opportunity to interact with the PACE deputy from Ukraine, Mr Logvynskiyi, while working on the recommendations to the draft Convention.





## **5. Key Outcomes. Reactions. Follow-up**

### **Outcomes of Study Visit and Expert Consultations in Strasbourg:**

The meetings with the well-known experts enabled the study visit participants – lawyers and legal professionals from a number of Eastern European countries – to raise their level of knowledge and awareness in the field of international judicial protection and implementation of the principle of independence of lawyers. At the same time, they shared information about the situation in their countries with the CoE experts, PACE deputies (including the Special Rapporteur Ms. Sabien LAHAYE-BATTHEU) and the ECtHR judges;

The professional discussions and information exchange between the study visit participants and their colleagues resulted in a deeper understanding of the processes facilitating the implementation of the principle of independence of the profession of lawyer, and of the interrelation and influence of that principle on the overall level of implementation of the right to a fair trial in their countries and across Europe;

Most of the participants observed the work of the Grand Chamber of the European Court of Human Rights for the first time. The opportunity to attend the trial of the case of the Russian lawyer and public figure A. Navalnyy enabled them to evaluate the parties' lines of reasoning, to draw their own conclusions regarding the parties' legal positions, and to be prepared to use the experience gained in their future communication with the international judicial bodies;

The study visit participants took part in the discussions held as part of the consultations on the certain provisions of the draft European Convention on the Profession of Lawyer. They discussed the ways to render professional assistance to human rights defenders and to use the ILIA alumni's expertise and on-line resources;

The opportunity to observe the discussion and voting on the PACE resolution on the preparation of the Convention on the Profession of Lawyer enabled the study visit participants to see and feel the atmosphere of a democratic discussion at one of the most important CoE bodies, and to realise the opportunities to advocate for the implementation of human rights at the national level through the PACE deputies representing their countries;

The speeches, made by the ILIA expert Veaceslav Turcan (Moldova) and the ILIA alumnus Alaif Hasanov (Azerbaijan) at the side event held by the CCBE, were an important experience in terms of communicating the lawyers' problems in the public spotlight, at the international level. They illustrated the importance of professional solidarity and support for lawyers on the part of the international associations, in particular the Council of Bars and Law Societies of Europe (CCBE);

Besides, the study visit participants came to the conclusion that they should make wider use of new platforms, formats and mechanisms for influence and interaction in their work on the protection and promotion of human rights;

The study visit group realised the importance of their active work on the preparation for the consultations. The information collected and analysed, including the statistics on violations of the rights of lawyers in their own countries and cases of persecution of human rights lawyers grouped by types of threats, helped to draw the experts' attention to the challenges faced by the professional communities in the region. Sharing the views during the study visit and consultations with the experts, moderators and guests of the side event resulted in the development of recommendations for the concept of the new European Convention on the Profession of Lawyer;

The acknowledgement and recognition of the role of the ILIA Program, alumni and experts in the work on the dissemination of knowledge about the international legal standards, institutions and procedures, and in encouraging the program participants and alumni to be proactive and participate in the ILIA activities, was another positive result of the study visit;

The study visit group learned about the functioning of international professional associations of lawyers and legal professionals, an active or politically motivated position of the leaders of those organizations, and raised their awareness of the possibility to use those contacts in their further professional work;

The consultations of the representatives of the international professional lawyers' organizations with the ILIA alumni at the Council of Europe became another stage in the development of the international standards related to the recognition of the need to respond to the new risks and problems faced by human rights lawyers. The understanding and recognition of the important role of legal professionals, who are not lawyers because the bar associations in their countries lack the actual and/or legal status of independent professional associations, causes particular difficulties. That is why the study visit participants articulated those problems during all their meetings with the CoE experts, who did not immediately understand the functioning of lawyers' professional associations of in those countries;

Therefore, the consultations can be viewed as an important contribution improving the understanding of various problems existing in the Council of Europe member countries. This step can facilitate strengthening and enshrining guarantees and immunities for human rights lawyers providing professional assistance to victims of human rights violations. We can but hope that the work on the concept and text of the new European Convention on the Profession of Lawyer will include further consultations with representatives of legal communities from the CoE member countries.

### **Key Recommendations:**

In the light of the deteriorating situation of the independence of the Bar in the region, in the majority of the ILIA member countries, and the increased risks and threats against human rights lawyers, the study visit participants and experts note the increasing need to provide for all necessary guarantees and immunities for human rights lawyers when developing the new European Convention on the Profession of Lawyer, taking into account the analysis of all the risks mentioned by the study visit participants.

The study visit participants consider it necessary to provide for guarantees and immunities for both members and non-members of the bar associations, working with human rights organizations or individually, taking into account the need for a broader approach to the work on the Convention, based on the work of lawyers and legal professionals on the protection and promotion of human rights, that is to ensure guarantees for the provision of legal assistance.

In the absence of independent bar associations in the majority of the ILIA Program member countries, the state uses the existing bar associations as a repressive tool to persecute undesirable lawyers, deprive them of their lawyers' licenses, expel them from the bar associations, etc. Therefore, if the new Convention provides for guarantees and immunities only for members of the bar associations, this may result in monopolization of legal aid services by the bar associations and prevent lawyers providing legal assistance to victims of human rights violations and, in particular, using the international protection mechanisms, from continuing their work.

These dangerous consequences will deprive many people of the protection and legal assistance rendered by those non-members of the bar associations who are nevertheless "human rights lawyers".

### **Follow-up:**

The study visit participants suggest collecting and processing all the materials, presentations and speeches, made during the study visit and expert consultations in Strasbourg, and publishing an electronic version and, if possible, a printed version of the collection of materials of the 2018 Strasbourg study visit and consultations, entitled *European Convention to Protect Lawyers*.

They also suggest working on the second edition of the updated *Human Rights Lawyers at Risk* report, updating its analytical part and recommendations, and including descriptions of the new cases of persecution of human rights lawyers;

The ILIA Program should further interact with the international organizations and professional lawyers' associations (such as the CoE, OSCE, CCBE, IBA, ABA, International Commission of Jurists, Lawyers for Lawyers, Justice International, etc.) while working on the report and recommendations;

The international venues should be used to present the updated Report and recommendations to the professional community (for example, organizing and participating in side events held as part of the 2018 OSCE/HDIM and 2018 CoE/PACE);

The recommendations regarding the development of the new Convention should be promoted through the national PACE members, bar associations, professional associations of lawyers, etc.

A proposal is being developed on rendering professional assistance to human rights defenders and using the ILIA alumni's expertise and on-line resources, as well as on interacting with international organizations and using their on-line resources.

**Acknowledgments:**

The Human Rights House Foundation and the *International Law in Advocacy* (ILIA) Program express their gratitude and appreciation to all study visit participants, organizers, experts and guests for the fruitful cooperation, preparation and active participation in the Study Visit and Expert Consultations, held in Strasbourg, on 23-24 January 2018.

## Annexes:

### Annex 1. Expert Consultations Concept



### Concept Note on ILIA alumni and experts' study visit, including expert consultations on thematic issues regarding European Convention on Profession of Lawyer

#### Council of Europe and ECtHR, 23-24 January 2018

The visit is organised in cooperation with the Council of Europe, with the financial and expert support provided by the Human Rights Houses Foundation (including the Geneva and Brussels international advocacy team) and the Council of Bars and Law Societies of Europe (CCBE), with the organizational support by the Human Rights Embassy, and with the participation of the Belarusian Human Rights House, Human Rights House Tbilisi, Russian Research Center for Human Rights, and Educational Human Rights House (Chernihiv).

#### Study Visit Summary

The ILIA alumni and experts have taken part in the study visits to the Council of Europe since 2008. These study visits provide an opportunity to improve the knowledge in practical aspects of the international protection of human rights, and thus to improve the protection of human rights at the national and international levels. The ILIA partners agree upon the thematic focus of the study visits, taking into account the challenges and needs in the field of the human rights protection.

The upcoming visit is related to the further common work aiming to strengthen the guarantees of the independence of lawyers and the principles of independence of the profession of lawyer in the countries participating in ILIA. Besides, there is 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).

The visit coincides with several events at the Council of Europe institutions. These events include:

1. PACE Session and discussing the report on the preparation of the Convention on the Profession of Lawyer (by Ms. Sabien LAHAYE-BATTHEU, Special Rapporteur, PACE);
2. "Threatened lawyers: the end of the rule of law in Europe?" side event arranged by the CCBE, with the participation of the ILIA alumni and experts;
3. Court trial in the case of *Navalny v. Russia* (29580/12, 36847/12, 11252/13, 12317/13, 43746/14).

The above events will provide an opportunity for the study visit group to gain the unique knowledge, to share their own knowledge and to test their new competencies.

During the study visit, the participants will meet the well-known CE experts, the PACE deputies (including the Special Rapporteur Ms. Sabien LAHAYE-BATTHEU) and the ECtHR judges; take part in the trial of the case of the Russian lawyer and public figure A. Navalny; discuss the certain provisions of the new European Convention on the Profession of Lawyer; discuss the ways to render professional assistance to human rights defenders and to use the ILIA alumni's expertise and on-line

resources; take part in the events held as part of the discussion and vote on the PACE resolution on the Convention on the Profession of Lawyer.

*The detailed agenda of the meeting will be sent to the participants as soon as the most important details are clarified.*

To make the study visit most successful, the organizers invite the participants to start preparing for the mission and to fulfil a number of tasks:

- Collect and submit data on cases of persecution and (or) prosecution of lawyers in their countries;
- Take part in the on-line survey to update the *Human Rights Lawyers at Risk* report;
- Prepare to participate in the discussions on the status and role of and guarantees for human rights lawyers, as well as on the international mechanisms to monitor the situation of human rights lawyers.

## **A. Human Rights Lawyer Concept**

All lawyers fall within a professional group whose work is closely linked to the promotion and protection of human rights.

Human rights lawyers are those legal professionals who, irrespective of whether they are (non-)members of the bar associations, work in other organizations/institutions or practice law privately, provide professional services aiming to promote human rights and fundamental freedoms of their clients.

The term “Human Rights Lawyers”<sup>10</sup> was first suggested at the ILIA conference in 2015 and was later used in the texts of international documents<sup>11</sup>.

Human rights lawyers play a crucial role, ensuring the dialogue in legal matters between individuals and the state, or individuals and international/ regional organizations, and monitoring the implementation of the international human rights obligations. In some countries, a trial with the participation of human rights lawyers is almost the only open platform where it is possible to remind of the international obligations of the state and to raise public awareness of the existing international standards relating to the rules of justice and human rights in general.

In recent years, the pressure has increased against lawyers working in the field of human rights protection and (or) representing defendants in the cases involving alleged terrorism, military actions, crimes against the state, and political and/or human rights activism. This trend is observed in the countries of Eastern Europe, Central Asia, and the North Caucasus. It is extremely dangerous, as it threatens the normal functioning of the institutions of justice and the state based on the rule of law and human rights<sup>12</sup>.

In order to prevent this trend, the international/regional institutions have emphasized the vital role played by lawyers in the protection of human rights<sup>13</sup>, and have included the professional group of lawyers in the concept of “human rights defenders” or “human rights advocates”<sup>14</sup>. At present, the UN Basic Principles on the Role of Lawyers (1990) and Recommendation No. R(2000)21 on the freedom of exercise of the profession of lawyer of the Council of Europe have actually been supplemented by

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<sup>10</sup> See the Glossary of the Human Rights House Network’s Report “Human Rights Lawyers at Risk”. Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine”, 10 September 2015, page 6.

<sup>11</sup> See, for example, the Report of the Special Rapporteur on the independence of judges and lawyers, Mónica Pinto, submitted in accordance with the Human Rights Council’s Resolution 26/7, A/71/348, para. 34-38; CoE PACE Recommendation 2085 (2016), Strengthening the protection and role of human rights defenders in Council of Europe member States. The UN Human Rights Council’s Resolution on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, A/HRC/35/L.20, 19 June 2017.

<sup>12</sup> See the Human Rights House Network’s Report “Human Rights Lawyers at Risk...”.

<sup>13</sup> UN Basic Principles on the Role of Lawyers; Draft Universal Declaration on the Independence of Justice (“Singhvi Declaration”); 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.

<sup>14</sup> Guidelines on the Protection of Human Rights Defenders by OSCE-ODIHR (2014).

the “special” standards developed at the international<sup>15</sup> and regional<sup>16</sup> levels to ensure the guarantees and protection for those involved in human rights work.

The European Court of Human Rights and the UN bodies work together to ensure the development of judicial practice towards the extension of the guarantees and immunities for legal representation to all levels of justice. The international instruments also aim to eliminate the discriminatory approach and to ensure the equal level of guarantees and immunities for legal representatives in the proceedings<sup>17</sup>.

The implementation of the obligations to establish and operate an institution of effective legal representation is monitored at the international and European levels. This institution should ensure “unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms”<sup>18</sup>. Particular attention is paid to the problems of access to legal assistance tools at the regional and international levels<sup>19</sup>, and the certain approaches and mechanisms are proposed to protect human rights lawyers from pressure and repression<sup>20</sup>.

## **B. Preparation of Convention on Profession of Lawyer and Side Event**

The Council of Europe works intensively on the problems and challenges relating to the profession of lawyer. In October 2016, a proposal was made to prepare the European Convention on the Profession of Lawyer (hereinafter the Convention), an instrument binding on the Council of Europe member states and open to ratification by other states. At the same time, Ms. Sabien LAHAYE-BATTHEU, a Belgian lawyer and a PACE member, was appointed as the Special Rapporteur. The Special Rapporteur prepares a report summarizing and analysing the cases of threats and attacks against lawyers and interference with their work.

The PACE meeting on 24 January 2018 will include the relevant thematic hearing, and the proposal to draft the Convention will be put to the vote.

On the eve of the PACE hearing, the Council of Bars and Law Societies of Europe (CCBE) will hold a side event, which invites the ILIA alumni and experts (their names have not yet been announced for security reasons).

The CCBE was one of the initiators of the preparation of the Convention.

We should note that the CCBE have collaborated with the ILIA program since 2010. The list of the annual CCBE Human Rights award holders includes the ILIA alumnus Pavel Sapelko (Belarus, 2012) and expert Intigam Aliyev (Azerbaijan, 2015).

The CCBE asked the ILIA alumni and experts to provide information about the threats and attacks against lawyers for the recent five years.

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15 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.

16 European Union Guidelines on Human Rights Defenders (2004); Declaration of the of the Committee of Ministers on 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).

17 Rasul Jafarov v. Azerbaijan (Application no.69981/14), §§ 176-187. Akdivar and others v. Turkey, 16 September 1996, § 105, Reports 1996-IV, and Kurt v. Turkey, 25 May 1998, § 159, Reports 1998-III; Khloyev v. Russia, ECtHR, Application no.46404/13, Judgment of 5 February 2015, § 59.

18 UN Declaration on Human Rights Defenders (1998), article 9, paras.1 and 4.

19 UN Resolution on Recognizing the role of human rights defenders and the need for their protection (2015), paras 10(b), 11. CoE Parliamentary Assembly Recommendation on Strengthening the protection and role of human rights defenders in Council of Europe member States, Recommendation 2085 (2016), para 1.2.

<sup>20</sup> Report of the Special Rapporteur on the independence of judges and lawyers, Mónica Pinto, submitted in accordance with the Human Rights Council’s Resolution 26/7, A/71/348, paras 34-38; CoE PACE Recommendation 2085 (2016), Strengthening the protection and role of human rights defenders in Council of Europe member States. UN Human Rights Council’s Resolution on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, A/HRC/35/L.20, 19 June 2017.

## C. Expert consultations on thematic issues

On January 23, expert consultations will be held on certain thematic issues relating to the Convention on the Profession of Lawyer. These consultations will be the opening of the study visit and the next step in the ILIA alumni and experts' work to improve the implementation of the guarantees for the profession of lawyer, mainly the guarantees relating to the role of human rights lawyers in the protection of human rights.

The participants of the consultations are lawyers, legal professionals and experts who have taken part in the preparation of the *Human Rights Lawyers at Risk* report (2015), and in the work on the recommendations formulated for the report of the UN Special Rapporteur on the independence of judges and lawyers Ms. Mónica Pinto (2016), as well as those who would like to continue monitoring the situation in their countries and disseminating the knowledge about the international and European standards regarding lawyers.

The Council of Bars and Law Societies of Europe (CCBE) will act as a **partner** in the consultations. The CCBE experts will moderate individual sections during the event.

The **purpose** of the consultations is to share views and information regarding the situation of the implementation of legal guarantees for human rights lawyers in the countries, and to discuss the topical issues that should be taken into account when drafting the Convention on the Profession of Lawyer.

The consultations will **result** in the relevant Recommendations to be adopted after sharing the views and information. These recommendations will be further used to improve the level of implementation of the guarantees for lawyers' human rights advocacy mission in the countries.

Besides, the recommendations will be used to update the *Human Rights Lawyers at Risk* report, and in the communications with international organizations and (or) lawyers' associations upon their requests.

The Recommendations may also be submitted to the working group drafting the European Convention on the Profession of Lawyer, at their request, in the event of the adoption of the relevant PACE resolution.

We would recommend using the following documents **as the sources of information and resources** while preparing for the consultations:

1. the CCBE proposal regarding the European Convention on the Profession of Lawyer (2017);
2. the *Human Rights Lawyers at Risk* report (2015);
3. the Report by the UN Special Rapporteur Mónica Pinto (2016);
4. the Declaration on human rights defenders (1998);
5. the UN Basic Principles on the Role of Lawyers (1996);
6. Recommendation No. R(2000)21 of the Committee of Ministers to Member States.

The **general focus of the consultations** is the need to legitimise the guarantees for lawyers' work on the protection and promotion of human rights.

The program will include four special thematic sections:

### 1. The scope and protection of professional immunities of lawyers

The section will focus on the *lex specialis* guarantees that are necessary in the work of human rights lawyers.

Extracts from the Report of the UN Special Rapporteur:

35. *When acting on behalf of their clients in defending their human rights and fundamental freedoms, lawyers should also be regarded as human rights defenders, and in that role they should fall under the protective scope of the Declaration on the Right*

*and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.*

36. *The most identifiable human rights defenders are those whose daily work specifically involves the promotion and protection of human rights, a category that includes human rights lawyers. However, not all lawyers can automatically be regarded as human rights defenders simply by virtue of their professional affiliation. Rather, when lawyers provide professional services aimed at promoting the human rights and fundamental freedoms of their clients, they qualify as human rights defenders.*

37. *The Declaration on Human Rights Defenders contains a number of provisions that protect lawyers whenever they provide professional assistance to individuals or groups claiming their rights before national authorities or seeking redress for human rights violations perpetrated by State officials. Article 9(3)(c) of the Declaration refers directly to lawyers and other legal professionals, and recognizes the right “to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms”.*<sup>21</sup>

- What problems do lawyers face when working on cases relating to the human rights protection?
- Which of the guarantees and immunities do actually work, and which of them remain on paper?
- What provisions of the European Convention could make the status of human rights lawyers more definite and their work safer?
- Other questions...

## **2. Term and Concept of “Lawyer”**

The title of the Convention on the Profession of Lawyer includes the term that has different interpretations and may have different contents in the national legal systems.

It is important to understand the content of the concept of “lawyer” in order to determine which professional groups the term “lawyer” covers and whether it includes representatives of the legal profession who do not have a license to practice law and (or) who are not members of the bar associations.

This discussion is especially important in the light of the fact that most often these are lawyers working in NGOs and (or) the so called “independent” lawyers who provide legal assistance to victims of human rights violations, especially at the international level.

In practice, as shown in Section III of the *Human Rights Lawyers at Risk* report, the lack of legal regulation of the guarantees and immunities for legal professionals, who actually exercise the functions of lawyers, but who are not members of the bar associations, remains a serious problem. This problem affects all victims of human rights violations who receive qualified legal assistance provided by NGO lawyers and (or) in-house lawyers, but cannot be sure that the work of these lawyers will not be intervened: their offices are searched and case files are seized; lawyers are forced to testify against their clients and denied the right to meet their client to discuss the communication aspects when applying to the international procedures.

This situation affects the quality of legal assistance and at the same time weakens the institution of individual complaints submitted to the international bodies, which results in the systematic violation of the right to defence.

The following issues should be discussed during the consultations:

- the scope of the concept of “lawyer” and the legal regulation of the relevant professional groups in different countries;
- the legal traditions relating to the regulation of the profession of lawyer;
- new challenges and demands relating to the international protection of human rights, and the need to update the list of the guarantees and immunities for human rights lawyers.

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<sup>21</sup> Report of the Special Rapporteur on the independence of judges and lawyers, Mónica Pinto, submitted in accordance with the Human Rights Council’s Resolution 26/7, A/71/348, paras 36-37.



### 3. Role and Protection of Professional Bar Associations

We need to discuss the problems relating to the implementation by professional associations of their duty to support the work of lawyers, and to draw attention to the situation in the countries where human rights lawyers work in the absence of independent bar associations.

*86. A bar association should not act as a part of a bureaucratic apparatus allowing for government control of the legal profession, but should operate as a professional association, working to protect the rights of its members and, in so doing, fostering the rule of law. Situations where the State, in particular the executive branch, controls all or part of a bar association, or its governing body, and where membership in such an organization is compulsory, are clearly incompatible with the principle of the independence of the legal profession. While instances of States blatantly closing down bar associations are rare, the Special Rapporteur is concerned about instances where State authorities control the bar or attempt to take control over it by adopting legal amendments or decrees, placing lawyers favourable to the government in the governing bodies or using direct or indirect threats, pressure or intimidation. Treaty bodies have also expressed concern over situations where lawyers are compelled to be members of a State-controlled professional association of lawyers.*

*87. The Special Rapporteur is extremely concerned about the situation of lawyers in countries where no independent bar association exists. Without the protection provided by an independent bar association, lawyers are extremely vulnerable to attack and to restrictions on their independence, especially from State authorities. Even worse, in places where bar associations are controlled by the State, lawyers often become the target of attacks from the very organizations that should be protecting them. Such attacks most often take the form of groundless or arbitrary suspension to practice or disbarment, and are frequently accompanied by further restrictions, including arbitrary detention and prosecution. Silencing and/or controlling bar associations not only poses great risks to the legal community, but also has far-reaching consequences as it erodes the rule of law and the ability of ordinary people to defend their human rights.<sup>22</sup>*

During the consultations the participants will discuss the situation in the certain countries, which will help formulate the recommendations on the content of the legal regulations aiming to prevent the pressure on the bar associations and the attempts of the executive authorities to use them as an instrument of pressure against lawyers.

During the discussion, it is important to present also the positive practices that emphasize the positive role of the bar associations, including the support for the work of lawyers promoting and protecting human rights and freedoms.

### 4. Mechanisms to Monitor Situation of Lawyers

At the present, the European monitoring mechanisms observe the situation of human rights in the Council of Europe member states. The European Court of Human Rights is one these instruments.

- Are there special mechanisms in the Council of Europe to monitor the implementation of the guarantees for the profession of lawyer? For human rights defenders? For human rights lawyers?
- Is there a need there for mechanisms of this kind?
- What can the professional network of human rights lawyers do to strengthen the solidarity and to support the colleagues in the European countries?

Discussions during this section will help to identify the challenges and opportunities as regards the functioning of an effective monitoring mechanism, and the role of networking among lawyers from different countries.

The participants of the consultations represent the informal ILIA alumni network, which has turned into a network of human rights lawyers for the ten years of its existence. The network unites more than **300 lawyers and human rights defenders** from many countries, including the Council of Europe member states.

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<sup>22</sup> Ibid.

The participants will share the best practices and discuss the information and proposals relating to the establishment of a monitoring mechanism for the European Convention on the Profession of Lawyer. Their comments and recommendations can make a positive contribution to the development of the certain provisions of the Convention, including the tools for an effective mechanism to monitor the implementation of the Convention.

#### **D. Study Visit Support**

The study visit is organized and supported by the ILIA Stronger project partners, with the financial support of the Norwegian Ministry of Foreign Affairs.

The main coordination and expert support is provided by the Human Rights Houses Foundation (Oslo), including the advocacy team (Geneva and Brussels), in cooperation with the Council of Bars and Law Societies of Europe (CCBE), and with the substantial support of the Human Rights Embassy (Moldova).

The Human Rights National Implementation unit (Directorate General Human Rights and Rule of Law (DG1), Council of Europe) have provided invaluable organizational and logistical support.

#### **E. Additional Information**

##### **About the Human Rights House Foundation (HRHF)**

The HRHF protects, empowers and supports human rights defenders and their organisations. To accomplish this, the HRHF brings organisations together in Human Rights Houses, and unites the Houses in an international network. The HRHF advocates with partner organisations to promote the freedoms of assembly, association, and expression, and the right to be a human rights defender – to ensure that individuals and organisations can work freely and openly to protect and advance human rights at home and abroad. Today, independent human rights organisations work together in 15 Human Rights Houses in 12 countries. The Houses are located in Eastern and Western Europe, the Caucasus and the Balkans.

The HRHF is based in Oslo, with an office in Geneva and representation in Brussels and Tbilisi.

##### **About ILIA (International Law in Advocacy) and its partners**

In 2006, the HRHN launched the International Law in Advocacy (ILIA) Program. For the years of its existence, the ILIA Program has enabled more than 200 lawyers and legal professionals from Azerbaijan, Belarus, Georgia, Moldova, Russia, and Ukraine to gain systematic knowledge in the international human rights law. Today, “ILIA” (International Law in Advocacy) is considered as an overarching framework of education and training activities for lawyers and human right defenders in the international human rights law, as well as post-education activities across the Human Rights House Network at the national and international levels.

##### **The following partners implement currently the ILIA activities:**

- Barys Zvozkau Belarusian Human Rights House (BHRH) – Belarus/Lithuania;
- Helsinki Foundation for Human Rights (HFHR) – Poland;
- Educational Human Rights House Chernihiv, Ukraine (EHRH Chernihiv) – Ukraine;
- Human Rights House Foundation (HRHF) – Norway;
- Russian Research Center for Human Rights, (RRCHR) – Russia;
- Human Rights House Tbilisi (HRHT) – Georgia;
- Human Rights Embassy (HRE) – Moldova.

The internal evaluation of the ILIA Program, conducted in 2015-2016, showed that the program’s international component was the most valuable for all of the participants and that the training provided by the program is unique and has no analogues in the Russian-speaking environment.

The data, collected during the ILIA evaluation in 2015-2016, gives some idea of the quantitative results achieved by the program alumni:

- 4860 consultations on human rights violations;
- 172 cases of strategic litigation in the field of human rights;
- 325 alumni participating in the Human Rights Lawyers at Risk on-line forum;
- 394 alumni and experts sharing experiences and participating in discussions in the ILIA Club Google group;
- 27 reports and documents prepared for and submitted to the international organizations by the alumni or with their participation;
- 90% of the alumni cooperate with the Human Rights Houses within the Human Rights Houses Network or with other human rights organizations;
- 97% of the alumni use the knowledge gained through ILIA in their professional activities;
- More than 98% of the alumni refer to the provisions of the international human rights law in their professional activities.

2 December 2017, prepared by the HRHF, Liudmila Ulyashyna, with contributions by Lela Metreveli and Natallia Matskevich

## Annex 2. Study Visit Program



**STUDY VISIT**  
**OF A DELEGATION OF ALUMNI OF THE**  
**“INTERNATIONAL LAW IN ADVOCACY”**  
**TO THE COUNCIL OF EUROPE,**  
**INCLUDING THE EUROPEAN COURT OF HUMAN RIGHTS**

**23-24 JANUARY 2018, STRASBOURG**

*Organised by the Council of Europe  
Directorate General of Human Rights and Rule of Law (DGI)  
Directorate of Human Rights  
Human Rights National Implementation Division  
Human Rights Education for Legal Professionals (HELP) Unit*

### SUPPORTING PARTNERS



**HUMAN RIGHTS HOUSE  
FOUNDATION**



**The Barys Zvozkau  
Belarusian  
Human Rights  
House**



**HUMAN RIGHTS HOUSE  
TBILISI**



**EDUCATIONAL  
HUMAN RIGHTS HOUSE  
CHERNIHIV**



**HUMAN RIGHTS  
EMBASSY**

**HR HELSINKI FOUNDATION  
for HUMAN RIGHTS**

**РОССИЙСКИЙ ИССЛЕДОВАТЕЛЬСКИЙ  
ЦЕНТР ПО ПРАВАМ ЧЕЛОВЕКА**

## PROGRAMME

**Tuesday 23 January 2018**

*Agora Building – Room G1*

09.00 – 09.30	<i>Arrival and registration of participants (issuance of badges)</i>
<p>Expert thematic consultation on the role of human rights lawyers. Discussions of the feasibility and possibility of adopting the proposed European convention on the profession of lawyer. “International Law in Advocacy” Group of lawyers from Azerbaijan, Georgia, Belarus, Moldova, Russia and Ukraine. Human Rights House Foundation (with Advocacy team), Council of Bars and Law Societies of Europe.</p>	
09.30 – 09.50	<p><b>Opening remarks</b></p> <p>Mr Mikhail Lobov, Head of Human Rights Policy and Cooperation Department, DGI - Human Rights and Rule of Law</p> <p>Ms Liudmila Ulyashyna, International Law in Advocacy, Human Rights House Foundation</p> <p>Ms Maria Slazak, former President of the CCBE</p>
09.50 – 10.00	<p><b>The importance of human rights education to secure justice</b></p> <p>Ms Tatiana Termacic, Head of Coordination and International Cooperation Division, DGI, Council of Europe</p>
<p><b>Discussion in plenary sessions:</b></p> <p>All participants are invited to take part in the discussion, and to contribute case examples that identify and/or clarify issues which need to be included in a possible Council of Europe Convention.</p>	
10.00 – 11.15	<p><b>THEME 1. The role and protection of professional bodies</b> in the light of new risks and problems in relation to exercise and protection of human rights in countries where no independent Bar Association exist</p> <p>Introduction and moderation: Ms Maria Slazak, former President of the CCBE</p>
11.15 – 11.30	<i>Coffee break</i>
11.30 – 13.00	<p><b>THEME 2. The scope of who is a “lawyer”</b> from perspectives of NGOs’ lawyers (in house and/or independent lawyers) - including disbarred lawyers - providing legal aid to victims of human rights violations.</p> <p>Introduction and moderation: Mr Milan Antonievic, Lawyers Committee for Human Rights, lawyer, Belgrade, Serbia</p>
13.00 – 14.30	<i>Lunch</i>
14.30 – 16.00	<p><b>THEME 3. The scope and protection of professional privilege of lawyers</b>, with a special emphasis on <i>lex specialis</i> guaranties and duties of lawyers, including those related to effective exercise of the right of individual petition via legal representation</p> <p>Keynote speaker: Ms Ganna Yudkivska, Judge of the European Court of Human Rights elected in respect of Ukraine</p>

	Open discussion, questions, comments, conclusions
16.00 – 16.15	<i>Coffee break</i>
16.15 – 17.00	<p><b>THEME 4. The European enforcement mechanisms for monitoring and protection of lawyers’ rights</b></p> <p>to discuss the role of human rights lawyers’ professional network in lasting, practical effect of the mechanism.</p> <p>Introduction and moderation: Mr Alexander Sjödin, European Advocacy Officer, Human Rights House Foundation</p>
17.00 – 17.30	<p><b>Concluding remarks</b></p> <p>Ms Maria Slazak, former President of the CCBE</p>
17.30- 17.45	<p><b>Briefing on the case of Navalnyy v Russia, nos. 29580/12, 36847/12, 11252/13, 12317/13 and 43746/14</b></p> <p>Ms Ana Medarska-Lazova, Project Officer, HELP Unit, DGI, Council of Europe</p>

**Wednesday 24 January 2018**

*European Court of Human Rights*

08.30 – 08.45	<i>Arrival and registration of the delegation at the building of the European Court of Human Rights</i>
09.15 – 11.15	<p><b>Grand Chamber hearing in the case Navalnyy v. Russia nos. 29580/12, 36847/12, 11252/13, 12317/13 and 43746/14</b></p>

**Wednesday 24 January 2018**

*Agora Building – Room G5*

11.30-12.00	<p><b>The Role of the proposed European Convention on the Profession of Lawyer</b></p> <p>Rapporteur Ms Sabien Lahaye-Battheu, appointed by the Committee on Legal Affairs and Human Rights of the PACE, Council of Europe, on the case for drafting a European convention on the profession of lawyer</p>
12.00-12.45	<p><b>The process of drafting and adoption of a proposed European convention on the profession of lawyer. Lawyers’ role in the process of implementation of the States’ commitments</b></p> <p>Mr David Milner, Deputy to the Head of the Secretariat Committee on Legal Affairs and Human Rights Parliamentary</p>

12.45 – 14.00	<i>Lunch break</i>
13.00 – 14.00	<i>Palais de l'Europe building - Room 5</i> <b>Side event organized by CCBE – Threatened lawyers: the end of the rule of law in Europe?</b>
14.30 – 14.40	<i>Agora Building – Room G5</i> <b>Addressing participants</b> Mr Phon van den Biesen, Chair of Lawyers for Lawyers
14.40 – 15.00	<b>The European Programme for Human Rights Education for Legal Professionals (HELP Programme)</b> Ms Ana Medarska-Lazova, Project Officer, HELP Unit, DGI, Council of Europe
15.00 – 16.00	<b>The increasing role of civil society and lawyers in national and international human rights agenda, through human rights strategic litigation</b> Mr Yonko Grozev, Judge of the European Court of Human Rights elected in respect of Bulgaria
16.00 – 16.30	Coffee break
16.30 – 18.00	<i>Palais de l'Europe building</i> <b>PACE plenary debate and vote on “the case for drafting a European convention on the profession of lawyer”</b>
18.00 – 18.30	Closing remarks

#### **CONTACT PERSONS AT THE COUNCIL OF EUROPE**

Ms Ana Medarska-Lazova  
Senior Project Officer  
Directorate General of Human Rights and Rule of Law  
Directorate of Human Rights  
Human Rights National Implementation Division  
Tel: +33 (0) 3 90 21 64 73  
E-mail: ana.medarska-lazova@coe.int

Ms Stephanie Denton  
Project Support Assistant  
Directorate General of Human Rights and Rule of Law  
Directorate of Human Rights  
Human Rights National Implementation Division  
Tel: + 33 (0)3 88 41 22 66  
E-mail: stephanie.denton@coe.int

## **About the Human Rights House Foundation (HRHF)**

The HRHF protects, empowers and supports human rights defenders and their organisations. To accomplish this, HRHF brings organisations together in Human Rights Houses, and unites the Houses in an international network. The HRHF advocates with partner organisations to promote the freedoms of assembly, association, and expression, and the right to be a human rights defender – to ensure that individuals and organisations can work freely and openly to protect and advance human rights at home and abroad. Today, independent human rights organisations work together in 15 Human Rights Houses in 12 countries. The Houses are located in Eastern and Western Europe, the Caucasus and the Balkans.

The HRHF is based in Oslo, with an office in Geneva and representation in Brussels and Tbilisi.

## **About the Council of Bars and Law Societies of Europe (CCBE)**

The CCBE is recognised as the voice of the European legal profession representing, through its members, more than 1 million European lawyers. CCBE membership includes the bars and law societies of 45 countries from the European Union, the European Economic Area, and wider Europe. The CCBE represents European bars and law societies in their common interests before European and other international institutions. It regularly acts as a liaison between its members and the European institutions, international organisations, and other legal organisations around the world. The regulation of the profession, the defence of the rule of law, human rights and democratic values are the most important missions of the CCBE. The CCBE undertakes several initiatives in support of threatened lawyers worldwide (<http://www.ccbe.eu/>).

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- Human Rights House Foundation (“HRHF”) – Norway,
- Russian Research Center for Human Rights, Russia (“RRCHR”) – Russia,
- Human Rights House Tbilisi (“HRHT”) – Georgia,
- Human Rights Embassy (“HRE”) – Moldova.

## **About the HELP Programme**

The European Programme for Human Rights Education for Legal Professionals (**HELP**) supports the Council of Europe member states in **implementing European human rights standards at the national level**. This is done by providing high-quality, tailor made e-learning courses for judges, lawyers and prosecutors in all 47 member states.



HELP's three components are: a) the only pan-European Network of national training institutions for judges, prosecutors and lawyers in the 47 CoE Member States; b) an [online platform](#) with online human rights related courses; and c) a human rights training methodology for legal professionals.

## LIST OF PARTICIPANTS, ORGANISERS, EXPERTS AND GUESTS

(IN ALPHABETICAL ORDER)

№	Name	Organisation / Affiliation
<b>PARTICIPANTS</b>		
<b>Azerbaijan</b>		
1.	Ms Samira Aghayeva	Lawyer, International Law in Advocacy, Azerbaijan
2.	Mr Alaif Hasanov	Lawyer, International Law in Advocacy, Azerbaijan
3.	Expert from Azerbaijan <sup>23</sup>	Lawyer, International Law in Advocacy, Azerbaijan
4.	Mr Alasgar Mammadli	Lawyer, International Law in Advocacy, Azerbaijan
<b>Belarus</b>		
5.	Mr Dmitry Chernyh	Lawyer, International Law in Advocacy, Belarus
6.	Ms Maryna Harbachova	Lawyer, International Law in Advocacy, Belarus
7.	Ms Natallia Matskevich	Lawyer, Scientific Coordinator, International Law in Advocacy, Belarus
<b>Georgia</b>		
8.	Ms Nino Elbakidze	Lawyer, International Law in Advocacy, Georgia
9.	Ms Elena Fileeva	Lawyer, National Coordinator, International Law in Advocacy, Georgia
10.	Ms Irine Kasradze	Lawyer, International Law in Advocacy, Georgia
<b>Moldova</b>		
11.	Ms Georgeta Anusca	Lawyer, International Law in Advocacy, Moldova
12.	Mr Maxim Belinschi	Lawyer, International Law in Advocacy, Moldova
13.	Mr Iurie Levinte	Lawyer, International Law in Advocacy, Moldova
14.	Mr Veaceslav Turcan	Lawyer, National Expert, International Law in Advocacy, Moldova
<b>Russia</b>		
15.	Mr Aleksei Ivanov	Lawyer, International Law in Advocacy, Russia
16.	Mr Egor Mylnikov	Lawyer, International Law in Advocacy, Russia

<sup>23</sup> The identity of this participant has been changed for security considerations

17.	Mr Maxim Olenichev	Lawyer, International Law in Advocacy, Russia
<b>Ukraine</b>		
18.	Ms Mariana Afanasieva	Lawyer, International Law in Advocacy, Ukraine
19.	Ms Lilia Hemedzhy	Lawyer, International Law in Advocacy, Ukraine
20.	Ms Olga Semeniuk	Lawyer, International Law in Advocacy, Ukraine
<b>ORGANISERS / EXPERTS / GUESTS</b>		
21.	Mr Milan Antonievic	Lawyer, Lawyers Committee for Human Rights, Belgrade, Serbia
22.	Mr Phon van den Biesen	Chair, Lawyers for Lawyers, the Netherlands
23.	Ms Jasmine D. Cameron	Director, Justice International, USA
24.	Mr Yonko Grozev	Judge of the European Court of Human Rights elected in respect of Bulgaria
25.	Ms Sabien Lahaye-Battheu	Rapporteur appointed by the Committee on Legal Affairs and Human Rights of the PACE, Council of Europe, for drafting a European Convention on the profession of lawyers
26.	Ms Judith Lichtenberg	Executive Director, Lawyers for Lawyers, the Netherlands
27.	Mr Mikhail Lobov	Head of Human Rights Policy and Cooperation Department, DGI - Human Rights and Rule of Law
28.	Ms Ana Medarska-Lazova	Project Officer, HELP Unit, DGI, Council of Europe
29.	Ms Karine Metayer	Senior Legal Advisor, Council of Bars and Law Societies of Europe (CCBE), Belgium
30.	Ms Lela Metreveli	Lawyer, National Coordinator, International Law in Advocacy, Director of Human Rights Embassy, Moldova
31.	Mr David Milner	Deputy to the Head of the Secretariat Committee on Legal Affairs and Human Rights Parliamentary
32.	Mr Alexander Sjödin	European Advocacy Officer, Human Rights House Foundation, Belgium
33.	Ms Maria Slazak	Former President of the Council of Bars and Law Societies of Europe (CCBE), Poland
34.	Ms Tatiana Termacic	Head of the Coordination and International Cooperation Division, DGI
35.	Ms Viktorija Tiuleneva	Interpreter, Lithuania
36.	Ms Liudmila Ulyashyna	Adviser, International Law in Advocacy, Human Rights House Foundation, Norway
37.	Mr Vadim Vileita	Interpreter, Lithuania
38.	Ms Ganna Yudkivska	Judge of the European Court of Human Rights elected in respect of Ukraine

### Annex 3. Statistics



The paper presents results of a survey conducted by lawyers and expert of the “International Law in Advocacy” (ILIA) framework under a request of the CCBE

(Prepared by ILIA lawyers and experts from Azerbaijan, Georgia, Belarus, Moldova, Russia, Ukraine)

December 2017

Statistics for CCBE

#### Azerbaijan:

**General trends:** Disciplinary proceedings held by the Presidium of the Bar and often resulting in disbarment (termination of the lawyer’s license); the initiation of criminal cases on charges of various crimes, administrative arrest and detention.

Intigam Aliyev was prosecuted on charges of tax evasion and abuse of office. He was convicted, but the Plenum of the Supreme Court suspended the sentence. Disbarred (deprived of a lawyer's license).

#### A disciplinary investigation has now begun against several lawyers:

1. Asabali Mustafayev;
2. Agil’ Laidzh;
3. Fakhraddin Mehdiyev;
4. Nemat Kerimli;
5. A disciplinary investigation was also initiated against Elchin Sadigov, but the Presidium took the decision not to expel him from the Bar;
6. Elchin Namazov was expelled from the Bar in 2011. In 2014, he was arrested administratively for 15 days for resisting a police officer;
7. 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, a political prisoner who is still imprisoned. Kh. Bagirov appealed the decision of the Bar to a court. His demands were not met. He sent a complaint to the CE. 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.;
8. 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;
9. Alaif Hasanov was expelled from the Bar on July 3, 2015. A. Hasanov defended Leyla Yunus and reported about physical and psychological pressure put on his client by her cellmate Nuria Huseynova. N. Huseynova filed a private charge with a court against A. Hasanov. As a result, the court convicted Hasanov. On November 6, 2014, the Yasamal District Court of Baku found the lawyer guilty of crimes under Articles 147 (insult) and 148 (libel) of the Criminal Code of Azerbaijan, and sentenced him to 240 hours of community service;
10. Aslan Ismayilov was expelled from the Bar twice, first in 1999, and then in 2003. He is known for his opposition activism and he has repeatedly opposed corruption and arbitrariness in his country;

11. Gurban Mammadov was elected a member of the Bar Presidium in 1995-1999. In 1998, he was prosecuted and expelled from the Bar. He was recognized as a political prisoner. In 2003, he was released from custody. In 2006, when his conviction was removed from the official records, he applied to the Bar, passed the relevant examination and interview, but still was not admitted to the Bar. As a member of the National Council of Democratic Forces, he was later convicted two more times;

12. 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".

#### **Belarus: Number of Lawyers Persecuted for Last 5 Years<sup>24</sup>**

**2011:** It is known about the persecution of at least **12 lawyers** who defended the rights of opposition activists.

**Valentina Bus'ko**, a lawyer, a member the Grodno Regional Bar. On January 3, 2011, the Ministry of Justice revoked her license for her participation in the unauthorized protest action held on December 19, 2010 against the falsification of the results of the 2010 presidential election in Belarus. The Moscow District Court of Minsk sentenced her to 10 days of administrative arrest.

Type of violation: detention/ arrest; court action; administrative prosecution.

**Vladimir Tolstik**; on February 14, 2011, the Ministry of Justice terminated his lawyer's license for his refusal to stop providing legal assistance to Irina Khalip, a journalist, the spouse of the presidential candidate Andrei Sannikov.

Type of violation: administrative prosecution.

**Tamara Gorayeva**; on February 14, 2011, the Ministry of Justice terminated her lawyer's license for her refusal to stop providing legal assistance to Irina Khalip, a journalist, the spouse of the presidential candidate Andrei Sannikov. In September 2011, the Ministry of Justice renewed Gorayeva's license.

Type of violation: administrative prosecution.

**Oleg Ageyev** (the lawyer of the presidential candidate Ales Mikhalevich); on February 14, 2011, the Ministry of Justice terminated his license allegedly for preventing the licensing authority from the audit and providing false information. After he appealed that decision to the court, in August 2011, the KGB initiated a criminal case against Oleg Ageyev. He was charged under Article 380, Section 2 of the Criminal Code of Belarus (forgery of documents). On September 11, 2012, Oleg Ageyev was found guilty and sentenced to a fine.

Type of violation: administrative prosecution; court action.

**Tatyana Ageyeva**; on February 14, 2011, the Ministry of Justice terminated her license for preventing the licensing authority from the audit and providing false information. A criminal case was initiated against the lawyer under Article 380 of the Criminal Code (falsifying, making, using or selling forged documents, stamps, seals, and blank forms).

Type of violation: administrative prosecution; court action.

**Pavel Sapelko**, the lawyer of former presidential candidate Andrei Sannikov, was expelled from the Minsk City Bar upon the decision taken by the Presidium. He was thus deprived of the right to practice law, for a lawyer may practice law only if he or she is a member of a bar association, according to the legislation on the legal profession.

Type of violation: violation of the right for freedom of association.

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<sup>24</sup> We took 2011 as a vivid example of the persecution of human rights lawyers because of their active efforts to protect opposition and civil activists.

**Tamara Sidorenko**, the lawyer of the former presidential candidates Andrei Sannikov and Ales Mikhalevich; on August 16, 2011, the Qualification Commission on Advocacy Issues of the Ministry of Justice of the Republic of Belarus took the decision to terminate her lawyer's license.

Type of violation: administrative prosecution.

**Anna Bakhtina**, the lawyer of Irina Khalip; on July 26, 2011, Anna Bakhtina failed to pass the unscheduled qualification exam, initiated by the Ministry of Justice. The following three reasons were named as the grounds for the non-attestation of Anna Bakhtina: "violation of the rules of legal practice and professional ethics, and insufficient legal propaganda among the population". On August 2, A. Bakhtina appealed the decision to the Qualification Commission. On August 4, A. Bakhtina was re-attested.

Type of violation: threats of administrative prosecution.

**Daria Lipkina**, the lawyer of Nikita Likhavid, an activist, a participant of the protest action on December 19, 2010; the lawyer failed to pass the unscheduled qualification exam initiated by the Ministry of Justice. The following three reasons were named as the grounds for her non-attestation: "violation of the rules of legal practice and professional ethics, as well as insufficient legal propaganda among the population". On August 4, D. Lipkina was re-attested by the Qualification Commission of the Ministry of Justice.

Type of violation: threats of administrative prosecution.

**Mikhail Volchek**, the lawyer of Svetlana Boykova, the former investigator of the Prosecutor General's Office. On March 31, 2011, the lawyer was charged under Article 407, Section 1 of the Criminal Code (disclosure of preliminary investigation data). While under investigation, he continued defending S. Boykova, but after his apartment was searched and the case file was seized in the course of the criminal investigation, he was forced to quit the bar.

Type of violation: court action, violation of privacy and inviolability of property.

**Irina Burak**, the lawyer of Anatoly Lebed'ko, the head of the United Civil Party and the ex-leader of the election campaign team of the presidential candidate Yaroslav Romanchuk. The Justice Ministry's message of January 3, 2011, stated that the lawyer Irina Burak had been "warned about the requirement to make more correct comments in the media that would not give rise to distortion of the real facts and information obtained". On July 26, 2011, it became known that she had failed to pass the unscheduled qualification exam. On August 4, the Qualification Commission re-attested I. Burak.

Type of violation: threats of persecution; administrative prosecution.

**Marianna Semeshko**, the lawyer of Dmitry Dashkevich, the leader of the opposition youth movement. The Justice Ministry's message of January 3, 2011, stated that the lawyer M. Semeshko had been "warned about the requirement to make more correct comments in the media that would not give rise to distortion of the real facts and information obtained". On July 26, 2011, it became known that she had failed to pass the unscheduled qualification exam.

Type of violation: threats of persecution; administrative prosecution.

**2017:** As a result of the unscheduled qualification exam held by the Ministry of Justice in September 2017, **Anna Bakhtina's** license to practice law was terminated (i.e. she was deprived of the status of a lawyer).

Appealing that decision to the court was of no success.

Twelve lawyers were attested with a suspension period of six months (until March 2018).

Type of violation: persecution and intimidation; administrative prosecution against one lawyer deprived of the license.

The Human Rights Houses Foundation and the Belarusian Human Rights House submitted the following communications to the CCBE regarding the above events:

## *Latest events at the Bar: Republic of Belarus, September 2017*

### **1. Audit and re-qualification of lawyers by Ministry of Justice: Facts**

In April and July 2017, the Ministry of Justice audited the Mogilev Region Bar Association and the Minsk City Bar Association. They checked the compliance with the instructions issued by the Ministry of Justice to regulate paperwork related to lawyers' work.

Formally, the work of all the lawyers was inspected; however, the actual audit was selective – the auditors checked the work of some lawyers at their discretion.

The inspection found technical errors in the paperwork and used this fact as the reason to hold unscheduled qualification (attestation) for some of the lawyers. The document issued to appoint the unscheduled qualification procedure stated, "The facts found indicate that some of the lawyers lack qualification".

Besides, the Ministry summoned some of the lawyers to the regular qualification procedure, which is usually held every five years by the Bar association.

The Qualification Commission established by the Ministry of Justice held the qualification procedures on September 12 and 25, 2017. As a result, the Qualification Commission attested 33 lawyers and disbarred two 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 period (<http://minjust.gov.by/ru/news/1183/>; <http://spring96.org/en/news/87914>).

### **2. Relevant legislation: powers of Ministry of Justice**

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 advocacy issues, 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 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 knowledge.

The Qualification Commission is composed of eight lawyers (one representative of the territorial Bars and the Chair of the National Bar Association), five representatives of the Ministry of Justice, one representative of the Supreme Court and one representative of the Prosecutor General's Office, representatives of other government agencies, and two representatives of scientific organizations. The Deputy Minister of Justice heads the Commission (Article 14, Law on the Bar and Legal Practice in Belarus).

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](http://docs.wixstatic.com/ugd/2059e9_ea3fba577f1645cf9752cd99fbd36c7c.pdf).

### **3. Evaluation of audit and qualification procedure and atmosphere by lawyers subjected to pressure**

Even before the commencement of the audit of lawyers at the Minsk City Bar, the management of the Bar mentioned behind the scenes that the audit had been initiated by the State Security Committee (the KGB) and was connected with the work of the certain lawyers on high-profile politically motivated cases and their cooperation with human rights defenders.

The "violations" of the instructions of the Ministry of Justice, found during the audit, are not relevant to the lawyers' actual professional qualification.

The very qualification procedure was humiliating and stressful in nature. Members of the Qualification Commission (mainly representatives of the Ministry of Justice) put an unlimited number of questions in various branches of law, despite the fact that those questions were not related to the specialization of the certain lawyer and the specific legal situation. The "quiz" was based on the citation of various legal provisions, definitions and lists, and the questions put by the Commission members often contained controversial interpretation of the legislation (<http://spring96.org/en/news/87811>).

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 licences were suspended for six months) are the defenders in one and the same case – the case "on the preparation of riots" initiated by the KGB on March 21, 2017, before the protest demonstration that had been planned on March 25. As further events showed, that case was used as the reason for and justification of the brutal crackdown of the social protest rally and the detention of hundreds of peaceful protesters. Later, the charge was reformulated as "participation in an illegal armed group" and the defendants were released from custody; however, for now, the investigation is not over and is conducted in a classified mode (<http://spring96.org/en/news/87909>).

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 one.

#### 4. Civil society reaction

In connection with the audit and unscheduled qualification procedures used against lawyers, human rights organizations expressed their concern about the Government's interference in the activities of the Bar associations and the pressure against the certain lawyers. The HR organisations urged the state to refrain from such action and called international human rights mechanisms and legal community to pay attention to the new threat to the institution of legal assistance in Belarus.

<http://spring96.org/en/news/87716>

<http://spring96.org/en/news/87762>

<http://spring96.org/en/news/87786>

<http://spring96.org/en/news/87827>

<http://spring96.org/en/news/87836>

#### Georgia:

In general, in Georgia, the Bar is a separate independent structure. All lawyers may be roughly subdivided into three groups: lawyers working in non-governmental organizations, state lawyers (providing free legal aid on the part of the state bodies) and lawyers working in private companies.

Given the more or less democratic regime in Georgia, there is no obvious persecution against the bar there (as compared to the other partner countries); however, there are some practices there that should be mentioned.

Until 2012, the certain procedures had been a widely applied to lawyers visiting their clients in prisons. Lawyers were often subject to humiliating identity and documents checks; the visitation rooms did not comply with confidentiality requirements, the cameras recorded the meetings, without any guarantees that there were no wiretaps there. It was problematic to bring documents for the prisoner, for the prison staff would check and read them. The very procedure for visiting a client was complicated due to the numerous rules, complying with which took a lot of time and emotion.

The situation has partially improved since 2012, but some violations are still recorded when it comes to personal search at the entrance to the prison facilities, or bringing the necessary documents and communicating with the client.

The Code of Criminal Procedure fails to ensure the equality of arms. Thus, there are well-hidden mechanisms there to hinder lawyers' professional activities.

About 120 lawyers were convicted of fraud, but there was no special evidence in their cases proving the facts of fraud. Besides, the *ratio decidendi* is of a particular interest.

**Giorgi Mdinardze** was beaten at the police station while performing his professional duties as a minor's defender. The police officers attempted to interrogate the defendant late at night. The lawyer prevented the interrogation and was physically insulted. He lodged a protest.

The Human Rights House Tbilisi was informed about that case. The Centre for Human Rights (one of the House organizations) is working on this case.

## **Moldova:**

### **Documented cases in Moldova according to specific type of threats**

- Smearing: 2 cases

The smearing cases were documented in relation to lawyers Ana Ursachi and Eduard Rudenco. In both cases, the attacks were perpetrated through controlled mass media institutions, which spread distorted facts and private life information.

- Violation of privacy and property: 2 cases

The violation of private life information was documented in the case of lawyers Ana Ursachi and Eduard Rudenco, both lawyers practicing in Chisinau, engaged in high-profile cases. The violations involved illegal searches, videotaping of lawyers, and collection of defamatory information and release of it to the press.

- Judicial Harassment: 5 cases

The cases of the lawyers Veaceslav Turcan and Maxim Belinschi concern outstanding criminal charges of false statement while they defended a case as lawyers in court. The criminal proceedings are ongoing. The criminal proceedings lack any legal and factual grounds and are mostly intended to discourage effective defence in court. The case breaks the fundamental principle of a defence lawyer's activity – the right not to be identified with the client.

The case of lawyer Ana Ursachi concerns criminal charges of involvement in a murder committed 19 years ago. The criminal proceedings are carried out in violation of Moldovan legislation and bear indications of being political motivation, due to the participation of Ana Ursachi as attorney in several high profile cases.

The case of lawyer Eduard Rudenco that defended Ana Ursachi, with respect to charges of abuse of professional capacity.

The case of lawyer Alexandru Bernaz accused of money laundering. His office was searched and against him was issued an arrest warrant. Later, the criminal charges against him were dropped.

### **Other threats**

- Disciplinary harassment: 1 case

The lawyer Roman Zadoinov was referred to the Ethic and Disciplinary Commission in relation to his participation in the investigation of a corruption case.

### **Limitation of defense rights**

Apart from individual cases of lawyer's persecutions, the lawyers are being submitted to regulatory limitations that endanger the defence rights.

One such case concerns a recommendation of the Supreme Court of Justice that forbids the participation of lawyers to in criminal cases without the presentation of a signed power of attorney. A rule that imposes formalistic requirements, creating serious problems for lawyers to exercise the defence in criminal cases.

Another issue, that raising major concerns is the growing denial of public access to judicial hearings. Such limitations occur in individual cases, mostly where political biases are at stake. During the last years, the public and the press did not have access to court proceedings in several high-profile cases involving a former prime minister, present and former government officials, and bank officials.

In the locals of Anticorruption Centre, the lawyers are subject of systematic searches that are not justified, and the use of phones is forbidden even if no special regime applies to this places.



## **Other type of threats, beyond the ProtectDefenders.eu classification**

- Unlawful limitation of lawyer's access to his client in detention (through limitation of duration and number of allowed visits/interviews): 1 specific case, as well the authorities tried to establish a regulation (secondary legislation) that created bureaucratic barriers in having access to the clients in pre-trial detention

In a sensible case, due to political and business implications, the lawyer Valeriu Pleșca and his colleagues were prohibited or limited in having access to the client in pre-trial detention – on several occasions they were refused to meet the client and endured limitation of duration and number of allowed visits/interviews with their client by the prison administration.

The authorities tried to establish a regulation (secondary legislation) that created bureaucratic barriers in having access to the clients in pre-trial detention, thus the issue of acceding them could become a systemic problem. Although not provided by the law and exceeding its limits, this regulation provided that the lawyer's written request to meet the arrested had to be examined and approved by the head of prison administration.

- Violation of confidentiality of lawyer's meetings/interviews with his client in detention: 2 cases

In a sensible case, due to political and business implications, the lawyer Valeriu Pleșca had the experience to find out that in the room for interviews with the client, there were hidden devices for covert audio and video surveillance and recording.

In one other case, the lawyers had serious and reasonable suspicion that they were subject to covert audio/video surveillance and recording in the room where met the client in prison.

- Specific harassment – stealing the lawyer's case file materials from the car: 1 case

In a sensible case, due to political implications (the case of expulsion of a pro-Romanian and pro-unionist activist), the lawyer Dumitru Petru Sliusarenco found that his case file materials were stolen from his locked car (the window was broken) just 30 minutes before the court hearing in the case.

## **Russia:**

In Russia, we have registered cases of violations of the rights of both lawyers and other persons falling within the “human rights lawyers” concept. In particular, in the south of Russia (Chechnya, Dagestan, Ingushetia), human rights organizations face difficulties when they initiate cases to protect human rights. Below there are the most striking examples of pressure both on lawyers working with human rights organizations and on human rights defenders.

### **1. Prosecution. Right to security of person**

Oyub Titiev, the head of the Chechen office of the *Memorial* Human Rights Centre was recently arrested on a charge of “drug trafficking”. The defence team are confident that the drugs were planted to stop Oyub from his human rights work. The 60-year-old Oyub Titiev was detained on 8 January 2018 on his way to work and taken to the Kurchaloy police department. He was not allowed to see a lawyer for several hours. Later the Ministry of Internal Affairs of the Chechen Republic reported that they had found 180 grams of substance “with the odour of marijuana”. After that, the Shali City Court arrested Oyub Titiev for two months. He was charged with storing large amounts of drugs. The human rights defender denies the charge.

### **2. Violation of property rights**

On 3 June 2015, in Grozny, unidentified masked persons attacked the office of the *Committee against Torture* human rights organization. As a result, the office of the human rights organization was destroyed, but the investigation failed to identify the attackers.

### **3. Personal security**

On 9 March 2016, on the border of Chechnya and Ingushetia, human rights defenders working at the *Committee against Torture* and journalists were attacked. The victims believe that their human rights activities were the actual reason for the attack. The attackers have not been identified and held criminally liable.

4. According to lawyers from the Chechen Republic (who do not disclose their personal information), they face serious difficulties when working in Chechnya, since the tradition was recently revived to solve many issues through the Sharia trial, while the secular court and practicing lawyers enjoy less authority. Some of the lawyers residing in Chechnya and protecting people who have suffered from the actions of the law enforcement officers, have faced threats to their lives and the lives of their close relatives. The Amnesty International report also confirms this information: <https://amnesty.org.ru/node/2509/>

#### **5. Violation of client-lawyer privilege. Illegal detainment of lawyer**

On 20 December 2017, the Board of the Moscow Chamber of Lawyers passed a decision on a disciplinary dispute: a warning was issued to the lawyer Olga Dinze. The disciplinary proceedings against the lawyer had been initiated upon the request of the Ministry of Justice of Russia to deprive Olga of her lawyer's status for visiting her client Akram Azimov at the Lefortovo detention centre on 3 August 2017. After the defender met her client, the detention centre officers did not let her out for several hours. The detention centre administration tried to prevent Olga from taking out the records that Azimov had given her.

The lawyer was isolated in the detention centre for three hours. The administration offered her to stay in a cell and wait until they decided on what to do with her. In addition to the unlawful detention, the officers threatened to put her client Akram Azimov in the punishment cell and to put pressure on him, because he refused to give his hand-written records "with unknown content" to the detention centre administration and asked his lawyer not to do that either. Later, the head of the detention centre complained to the Ministry of Justice, insisting on the version that the lawyer Dinze had violated the established correspondence procedure. After that, the Ministry demanded to deprive Dinze of her lawyer's status.

After the conflict with the detention centre officers, the defender filed a complaint against their actions with the Prosecutor's Office. Based on the investigation results, the Deputy Prosecutor General Nikolai Vinnichenko concluded that the detention centre officers had committed a violation of the regime, and the lawyer Dinze had grossly violated the law, because she had "illegally received a notebook with records from the accused". The Prosecutor's office ordered to punish the detention centre officers guilty of the "violation".

#### **6. Deprivation of lawyer's status for criticizing irremovability of heads of lawyers' associations**

On 12 July 2016, the Qualification Commission of the Moscow Regional Chamber of Lawyers considered the complaint, filed by a group of lawyers, of the lawyer Igor Trunov having insulted the legal profession, and found that he had indeed committed a disciplinary offence.

On 21 September 2016, the Moscow Regional Chamber of Lawyers deprived Igor Trunov of his lawyer's status. The lawyer explained that the reason for that was his speech at a lawyers' conference at the beginning of the year, where he criticised the existing lawyers' self-regulation system. He mentioned the fact that the presidents of the lawyers' associations had held the office for four terms in violation of the law, and accused the lawyers of corruption.

On 30 December 2016, the Lefortovo District Court in Moscow found that the deprivation of Trunov of his lawyer's status was unlawful and reinstated it. On 30 March 2017, the Moscow City Court upheld that decision and it entered into force.

#### **7. Personal security. Identifying lawyer with client**

On 3 December 2015, in the city of Ob', the suspect S. and his wife came to the Investigation Department entrance and met with their lawyer Ms Sh. there. At that moment, Aleksey Grinev, the senior investigator of the Novosibirsk Economic Security and Anti-Corruption Department, wearing plain clothes, unexpectedly approached the clients and the lawyer. Without introducing himself or warning them about his intentions, he quickly threw at least two punches at the client's head from the back, which caused S. injuries.

The lawyer Sh. and the wife of S. tried to stop the investigator's illegal actions and made verbal warnings. After that, the aggressor attacked the women. The investigator Grinev intentionally stepped on the feet of the defender Sh. at least three times, kicked her at her legs at least five times and struck the lawyer's hand against the door at least three times, which resulted in bruises. The lawyer Sh. and her clients put their feet down and filed a complaint against Aleksey Grinev. The case was taken to court.

During the trial, Alexey Grinev explained his actions by the need to detain the businessman S., who was wanted federally. In January 2017, the Central District Court of Novosibirsk found Aleksey Grinev guilty of committing a crime under Article 286, Section 3, Para "a" of the Criminal Code of the Russian Federation, sentenced him to three years of imprisonment and deprived him of the right to hold office in law enforcement bodies for a period of two years. The court applied Article 73 of the Criminal Code of the Russian Federation and resolved to consider the sentence conditional, with a four-year probation period. Besides, the court obliged the former investigator to pay the compensation for the moral damage caused to the lawyer Sh. in the amount of RUB 50,000. Grinev tried to appeal against the court decision, but without success. In the summer of 2016, the Novosibirsk

Regional Court upheld the verdict against Alexey Grinev and dismissed his appeal. The verdict entered into force on 9 June 2016.

## 8. Personal security

On 26 January 2017, the police detained the lawyer Emil Kurbedinov working on human rights cases in the Crimea, when he was going to protect one of his clients during a search. The reason for the detention was Kurbedinov's Facebook post of 2013 about the rally held by the *Hizb ut-Tahrir* Muslim organization, which is recognized as a terrorist organisation in Russia. Kurbedinov was accused of displaying symbols of a banned organization publicly (Article 20.3 of the Administrative Code). The Simferopol Railways District Court sentenced Kurbedinov to ten days of administrative arrest, after which he was released.

Emil Kurbedinov is the leading human rights lawyer in the Crimea. Apart from the *Hizb ut-Tahrir* case, he works on the case related to the clashes between the Euromaidan supporters and opponents that took place on 26 February 2014, in Simferopol. Besides, he defends the Crimean publicist Nikolai Semyona, and Ilmi Umerov, the Deputy Chairman of the Mejlis of the Crimean Tatar people, which is prohibited in Russia.

The lawyer Kurbedinov defends Ridvan Suleymanov, the defendant in the case on "the sabotage in the Crimea", accused of complicity in reporting a fake terrorist attack (Article 207, Section 2 of the Criminal Code). The *Mediavision* website published an open letter by the Russian lawyers concerned about the arrest of Kurbedinov and the position of the Crimean Chamber of Lawyers, which called the prosecution of Kurbedinov "lawful".

## Ukraine:

The following documents have been used to prepare the information below: the report "Situation of human rights defenders in the government-controlled territories of Ukraine: three years after Euromaidan", prepared by the Human Rights Information Centre, Kiev, 2017<sup>25</sup>; the report by the Ukrainian National Bar Association on violation of the rights of and guarantees for lawyers in Ukraine (2013-2016)<sup>26</sup>; the study "Role of Prosecutor at Pre-trial Stage of Criminal Proceedings"<sup>27</sup>, initiated by the [International Renaissance Foundation \("Vidrodzhennia"\)](#), as well as information from the official sources, the media and other open sources.

In general, there is significant pressure on human rights lawyers in Ukraine, their 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.

There are some statistical data below on violations of the rights of lawyers in Ukraine, and examples to illustrate the certain violations.

### Statistics on murders of lawyers in Ukraine

2013	2014	2015	2016	2017
1	0	2 + 1 attempt A. Gruzkov, Yu. Ignatenko + an attempt on A. Vishnevoy	3 Yu. Grabovsky, V. Loika, T. Popova	At least two cases - V. Ribal'chenko V. Shabliy

On March 23, 2015, close to the village of Rozhny, the Brovarsky district, the Kiev region, near a remote bog, a fisherman found the body of Yuri Ignatenko, a lawyer who disappeared on March 19. The Council of Lawyers of the Kiev Region believe that the lawyer was killed for his professional activity, because on March 18, Ignatenko won a property case, which had lasted for more than four years. Ignatenko defended an elderly woman's rights, whose apartment swindlers tried to take away from her.

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, among other things, famous for his work on several high-profile cases. For example, he defended the Ukrainian citizen A. Kovalenko. The Security Service of Ukraine suspected her of preparing a terrorist attack as a person recruited by the Russian intelligence services. Grabovsky was also the lawyer of the judge S. Vovk, accused of committing a crime under Article 375, Section 2 of the Criminal Code of Ukraine - knowingly rendering an unjust judgement (previously he had issued the verdict against Yuriy Lutsenko, the former Minister of Interior and the current Prosecutor General of Ukraine). In May 2015, the lawyer 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.

<sup>25</sup> [https://humanrights.org.ua/about/view/publication/stanovishhe\\_pravozahisnikiv\\_na\\_pidkontrolnih\\_urjadiu\\_teritorijah\\_ukrajini\\_tri\\_roki\\_pisljia\\_jevromajdanu](https://humanrights.org.ua/about/view/publication/stanovishhe_pravozahisnikiv_na_pidkontrolnih_urjadiu_teritorijah_ukrajini_tri_roki_pisljia_jevromajdanu)

<sup>26</sup> <http://unba.org.ua/assets/uploads/news/publikacii/buklet-zvit-porushennya.pdf>

<sup>27</sup> [https://issuu.com/irf\\_ua/docs/prokuror\\_210\\_270](https://issuu.com/irf_ua/docs/prokuror_210_270)

### Statistics on criminal prosecution of lawyers

2013	2014	2015	2016	2017
6	1	3	2	At least one case

On February 20, 2017, the Prosecutor's Office presented two suspicions to Oleg Veremeyenko, a lawyer cooperating with the Ukrainian Helsinki Human Rights Union. He is charged with resistance to a law enforcement officer (Article 342, Section 2 of the Criminal Code of Ukraine) and pressure on the law enforcement officer (Article 343, Section 1 of the Criminal Code of Ukraine). This case relates to the search in the lawyers' office conducted by investigators of the Prosecutor General's Office. During the search, Veremeyenko protested against the procedural violations and called the police. However, the case file of the case, initiated upon the lawyer's complaint, was lost; meanwhile the Prosecutor's Office opened criminal proceedings against Veremeyenko. The lawyer believes that the Security Service of Ukraine initiated the persecution against him - thereby they impede his work as a defender in the case of Colonel I. Bez'yazykov, accused of the involvement in a terrorist organization and treason. As of today, the lawyer faces up to two years in prison and the disbarment.

### Statistics on physical violence against lawyers

2013	2014	2015	2016	2017
2	2	3	4	At least four cases

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 him. The investigators believe that the victim met the abuser accidentally; however, the lawyer's colleagues are of the opinion that the attack was planned.<sup>28</sup>

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 action<sup>29</sup>.

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 (former Il'ichyovsk) 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 pepper spray, struck several blows and accused the lawyer of helping the separatists<sup>30</sup>.

On October 13, 2016, in the premises of the Kharkov Regional Institute of the Academy of Public Administration under the President of Ukraine, the lawyer Roman Likhachov, the Chairman of the Chuguyev Human Rights Group, was beaten.

### Statistics on threats to lawyers

2013	2014	2015	2016	2017
1	1	3	2	At least one case

In March 2014, the lawyer Nikolai Biryuk received phone threats of physical harm in connection with his professional activities on the part of A. Bryukhovich, the head of the Investigation Department of the Chernovtsy Region Prosecutor's Office. The authorities failed to ensure the proper verification of the circumstances and to hold the perpetrators liable.

In October 2015, A. Prikhod'ko, the Prosecutor of the Military Prosecutor's Office, threatened with physical harm to the lawyer Aleksey Shevchuk in connection with the lawyer's participation as a defender in a high-profile criminal case.

### Statistics on property damage incurred by lawyers

2013	2014	2015	2016	2017
1	0	3	3	At least four cases

In December 2013, the car of the lawyer Igor Chudovsky was set on fire. In July 2015, unidentified persons set on fire the car of the lawyer L.I. Kornilova. In January 2016, unidentified persons set on fire the car of the lawyer A. Shadrin. In February 2016, unidentified persons set on fire the car of the lawyer A. Fedura.

<sup>28</sup> For more details, see: <http://odessamedia.net/news/napadenie-na-advokata-v-centre-odessi-pravozaschitniki-byut-trevogu/>

<sup>29</sup> <http://iadvocate.com.ua/instruktsiya-dlya-zhinok-advokativ-iz-samooborony-vid-detektyviv-nabu/>

<sup>30</sup> <http://mignews.com.ua/proisshestviya/18184825.html>

On January 20, 2016, in the centre of Kiev, the office of the Bespaly & Partners law firm was set on fire. The fire spread from the book cabinet, in which the case files and archives were stored. The lawyer T. Bespaly associates the arson with his professional activities and believes that it was committed to intimidate him. In particular, he defended the ATO (anti-terrorist operation) soldiers, one of whom died in 2015, in Kiev, in a hooligan fight.

#### Statistics on searches in lawyers' offices

2013	2014	2015	2016	2017
9	4	5	5	No information available

On August 20 and 21, 2015, upon the relevant court decision, the investigation group searched the non-residential premises possessed by the Moroz & Partners Law Firm. During the search, despite the relevant direct ban in the search warrant, the documents, seals, stamps, office equipment and other magnetic, electronic and digital data media were illegally seized, including the servers and computer system blocks owned by the lawyers' firm. Moroz & Partners included 13 lawyers; since 2010, they had been working on about 1,500 court cases, all the information about which was seized.

#### Statistics on covert surveillance against lawyers by law enforcement agencies

2013	2014	2015	2016	2017
1	0	3	1	No information available

In December 2015, investigators of the Shevchenko District Department and the Kiev Security Service performed unlawful investigation actions against the lawyer A. Goroshinsky and obtained access to the lawyer's privileged information illegally.

#### Statistics on interrogation of lawyers as witnesses in their defendants' cases

2013	2014	2015	2016	2017
2	2	4	8	No information available

In December 2015, A. Glushko, the investigator of the Prosecutor General's Office of Ukraine, summoned the lawyer M. Buryakova to interrogate her as a witness in the criminal proceedings.

In January 2016, the investigator of the Kiev Prosecutor's Office, summoned lawyers for interrogation as witnesses in the criminal proceedings against G. Korban.

#### Statistics on interference in lawyer's legal opinion

2013	2014	2015	2016	2017
4	2	5	5	No information available

In 2014, the judges of the Shevchenko District Court of Kiev filed a complaint with the relevant territorial Qualification and Disciplinary Commission regarding the lawyer M. Kolesnik; the judges complained of the lawyer who had categorically disagreed with the prosecution, which had allegedly harmed the client. The Kiev Region Qualification and Disciplinary Commission refused to satisfy the complaint. Later, the client was acquitted according to the court decision.

Besides, according to the statistical data of the General Prosecutor's Office of Ukraine, the following numbers have been registered regarding criminal offences under Article 397 of the Criminal Code of Ukraine (Interference with work of defender or legal representative):

2013	2014	2015	2016
7	5	19	31

However, **none** of the relevant criminal cases was submitted to the court with the bill of indictment.

The following numbers of criminal offences under Article 374 of the Criminal Code of Ukraine (violation of the right to defence) have been registered:

2013	2014	2015	2016
12	15	41	33

In 2016, only two of the specified criminal offences were submitted to the court with the bill of indictment.

The protection of the rights of lawyers and the possibility for them to work safely and independently in the armed conflict areas are of particular concern (i.e. in the occupied Crimea and in the certain areas of the Donetsk and Lugansk regions that are not controlled by Ukraine).

Thus, 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, “Instances of intimidation of defence lawyers representing clients opposed to the presence of the Russian Federation in Crimea have also been reported. 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, an 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. OHCHR reiterates that international administration of justice standards explicitly protect the freedom of exercise of the profession of lawyer”.

Unlawful limitations to freedom of movement were also recorded. Thus, a lawyer was prohibited the entry into the Russian Federation, consequently banning the access to the Crimea (para 128 of the OHCHR report).

Besides, the situation of Emil Kurbedinov has become a high-profile case. He provides professional defence in the criminal cases initiated by the authorities of the Russian Federation against Crimeans. These cases often show signs of political persecution. In particular, he defends the journalist Nikolai Semyona (see the case of N. Semyona), the members of the Mejlis Ilmi Umerov and Akhtem Chygoz, Muslims on charges of involvement in Hizb ut-Tahrir and many others. In particular, Amnesty International recorded the cases of pressure on him in their report.

On January 26, 2017, the officers of the so-called Centre for Combating Extremism of the Ministry of Internal Affairs of the Russian Federation in the Republic of Crimea detained Kurbedinov and took him to Simferopol for interrogation. That happened near the home of Seyran Saliev, a Crimean Tatar, to which Kurbedinov had been going to protect his client during the search. At the same time, his own house was also searched.

Kurbedinov was charged with an administrative offence under Article 20.3 of the Administrative Code of the Russian Federation. According to the relevant record, the essence of the violation was the public demonstration of a video, which contained the symbols of the Muslim organization Hizb ut-Tahrir. This organization is recognized as extremist in the territory of the Russian Federation. It is noteworthy that Kurbedinov posted the video in one of the social networks on June 5, 2013 - that is, before the beginning of the occupation.

On January 26, the Simferopol Railways District Court sentenced Kurbedinov to 10 days of administrative arrest. Later, in May 2017, Kurbedinov received the Front Line Defenders’ 2017 Award for Human Rights Defenders at Risk as a lawyer facing the pressure exerted by the Russian Federation authorities<sup>31</sup>.

All these violations cause concern on the part of the international community. In the above-mentioned report, the OHCHR recommends the Government of the Russian Federation to “[u]phold the right of defence counsel to perform their professional functions without intimidation, harassment or improper interference” (Section VIII. Conclusions and Recommendations, Para 226(h)) in order to improve the human rights situation in the Crimea.

However, the situation of lawyers in the uncontrolled territory of the Lugansk and Donetsk regions is even more worrisome due to the military conflict, which has lasted for three and a half years already. It is difficult to obtain information about the situation of the rights of lawyers in this territory.

Murders of lawyers in this territory<sup>32</sup> have been reported.

Lawyers were also abducted and held captive by illegal armed groups<sup>33</sup>.

On April 29, 2014, several masked militants armed with Kalashnikov assault rifles kidnapped the lawyer Igor Chudovsky from his office in Lugansk. The kidnappers made him drive his own car, at gunpoint, to the regional television and radio company. According to the preliminary data, they wanted to force Chudovsky to hold a press conference with them, but he refused and tried to jump out of the car. The militants used their weapons. Chudovsky was operated on. He miraculously survived<sup>34</sup>.

Thus, in the uncontrolled areas of the Lugansk and Donetsk regions, first of all such fundamental rights of lawyers are at risk as the right to life, health, freedom and personal inviolability.

<sup>31</sup> <https://www.frontlinedefenders.org/en/2017-front-line-defenders-award-human-rights-defenders-risk>

<sup>32</sup> For more details, see: <http://informator.media/archives/67905>

<sup>33</sup> For more details, see: [https://censor.net.ua/news/342699/advokaty\\_prosyat\\_osvobodit\\_iz\\_plena\\_lnr\\_svoego\\_kollegu\\_nikolaya\\_zagladu\\_dokument](https://censor.net.ua/news/342699/advokaty_prosyat_osvobodit_iz_plena_lnr_svoego_kollegu_nikolaya_zagladu_dokument)

<sup>34</sup> [http://news.liga.net/news/incident/1558905-boeviki\\_pokhitili\\_i\\_tyazhelo\\_ranili\\_izvestnogo\\_advokata\\_chudovskogo.htm](http://news.liga.net/news/incident/1558905-boeviki_pokhitili_i_tyazhelo_ranili_izvestnogo_advokata_chudovskogo.htm)

## Annex 4. Experts' Presentations at Side Event

### Speeches made at CCBE side event by ILIA alumni/experts, invited directly by CCBE as two (out of four) main speakers:

#### Alaif Hasanov (lawyer, ILIA alumnus, Azerbaijan)



I have worked on the protection of human rights since 1993. Since 1995, I have been a member of the bar association. I have defended political and public activists and journalists. Many times my family and I faced persecution in connection with my work. In 2011, my eldest son had to quit the lyceum. At the same time, the local authorities organized “civil appeals” to the Ministry of Internal Affairs, the Prosecutor General, the Presidential Administration, the Minister of National Security and the Bar Association requesting to expel me from the Bar.

In 2013, the persecution grew intense. I defended the rights of the well-known lawyer Intigam Aliyev and the human rights defender Leyla Yunus. Every time when I visited the detention facility, I was subjected to an illegal personal search. Sometimes I filed complaints against the illegal searches up to four times a day, but usually my complaints were ignored.

I was interrogated as a defence witness in the case of Intigam Aliyev and, accordingly, excluded from the defence.

The detention conditions for the human rights activist Leila Yunus were terrible. She had no access to medical care, although she was seriously ill and suffered from diabetes mellitus. In violation of the law, the convict Nuria Huseynova was repeatedly placed in the same cell with Leyla Yunus and abused the human rights defender psychologically and physically. When visiting my client, I noticed bruises on her body. She said that an attempt upon her life was being prepared. I published a post

of informational nature in the social networks.

With the assistance of the Prison Service, Nuria Huseynova filed a complaint against me with the court and demanded to punish me under Articles 147 and 148 (Defamation, Public Insult). I was notified of the trial by phone when I was on the plane. I asked to postpone the trial for only a week, but the trial was not postponed. When I received the court decision, I learned that even a defender (who is still unfamiliar to me) had participated in that trial.

The court considered the complaint with a gross violation of the criminal procedure and criminal code, having failed to interrogate any defence witnesses. As a result, on 6 November 2014, the court found me guilty under Article 147.1 and sentenced me to 240 hours of community service. The Court of Appeal and the Cassation Court upheld the verdict. I served my sentence in the Forest Renewal Institution, working every day for three months without any payment.

On 2 July 2015, the pro-government website *Haqqın az* published an article alleging that Azer Tagiyev, as the Chairman of the Bar Association Presidium, protected me as an opposition member. On July 3, the same website published an article informing that I had been expelled from the Bar Association. The court sentence was used as the formal basis for the expulsion.

Thus, the Bar failed to not only invite me when considering the expulsion issue, but also even to inform me about that decision. I learned about the decision taken by the Bar Presidium from the media. My appeal against the decision of the Bar Presidium was never satisfied, and the relevant trials were held with gross violations of the rules of procedure, including those regulating the interrogation of witnesses. So far, neither the judges nor I have obtained neither the full text of the Bar Presidium’s decision on

my expulsion, nor the Presidium sitting records. They only presented to the court an extract from the decision, in which it was written that the decision was taken unanimously. This raises doubts, since at that time the Chairman of the Bar Association Presidium was on vacation and did not sign the decision. One of the Presidium members was my defender and did not participate in the meeting. There were two more members there, who did not attend the meeting, since one of them did not know about it, and the other was abroad at that time.

After the expulsion from the Bar, I established a law firm, but the tax authorities have repeatedly requested to produce reports, which were not provided for by law. Because of the constant pressure on the part of the tax authorities, I had to close up the business. The stressful situation has greatly affected my health, and as a result, I had a massive heart attack. I had an open-heart operation. In fact, I have become a disabled person. The persecution continues to this day. On 25 November 2016, the Bar rejected my application for reinstatement. The first instance court and the court of appeal dismissed my appeal, in which I challenged the Bar Presidium's recent decision to reject my application. Now, the case is at the Supreme Court.

### **Veaceslav Turcan (lawyer, ILIA national expert, Moldova)**

I started working as a lawyer in 1994, immediately after graduating from the Law Faculty. When I was a law student, I was



actively engaged in human rights activities. I was the first *Amnesty International* member in Moldova and later organized a local group of that organization. Later, together with my associates, we created the NGOs *Independent Society for Human Rights Education* and *Human Rights Embassy*. I was actively working on human rights education for students, lawyers, judges, prosecutors, police officers, lawyers working for NGOs, and journalists. I submitted many complaints to the ECtHR and represented the applicants. I believe a good human rights coach should have extensive experience in the effective protection of their clients' rights, both in their country and in the ECtHR or the UN Committees.

Since December 2012, my colleague Maxim Belinschi and I have represented the interests of persons who were illegally deprived of their

inheritance. When defending the lawful heirs' interests, we found that a former police officer committed acts of fraud and falsification of documents in order to seize the real estate. Certainly, in that situation, we insisted on the prosecutor's office checking all the circumstances and bringing to justice those guilty of the documents falsification. The prosecutor's office repeatedly and unreasonably refused to bring to justice those responsible, stopping the criminal prosecution and repeatedly removing the suspect and the accused from the case. Each time we filed an appeal against the prosecutor's illegal actions with the court, and the courts met our demands, returning the case file back to the prosecutor's office. In response to our actions, the person suspected of the fraudulent schemes filed a complaint against both the heirs and the lawyers, alleging that the lawyers provided false information and claiming that we should be held criminally responsible.

In December 2015, in violation of all the national and international legal standards providing for guarantees and immunities for lawyers and legal professionals, the prosecutor's office initiated criminal proceedings against the lawyer Maxim Belinschi and me under Article 352 of the Criminal Code of Moldova (False statements in declarations).



We filed complaints with the General Prosecutor's Office demanding to revoke the illegal resolution on the criminal prosecution commencement. Nevertheless, we were recognized as suspects and later as the accused. Now the criminal case against us is in the court of first instance.

This strongly suggests that the aim is to intimidate us and to deprive us of the right to practice law. The fact of persecution against us as lawyers illustrates the current situation in the country and the atmosphere of impunity for the persecution of lawyers, which puts at threat the provision of legal assistance to clients. In the face of the constantly growing threats, the work of human rights lawyers ceases to be effective and safe, which threatens the well-being of the society as a whole and the functioning of the state based on the rule of law.

Meanwhile, it is common knowledge that:

1. When performing their functions, lawyers should not be identified with their clients, or their clients' motives.
2. States should provide immunities from civil and criminal liability for written or oral statements made by lawyers when speaking before a court or other legal or administrative authority.
3. States should ensure a high level of investigation when criminal charges are filed against lawyers.

Illegal persecution entails not only severe legal consequences, but also has a negative impact on one's health. Realising that I was persecuted as a criminal for my principled professional position, I suffered from constant stress and had two micro-strokes within a short period. I had the first micro-insult when they initiated a criminal case against me, and the second one occurred when I was recognized as the accused.