

Warsaw Human Dimension Conference

Plenary Session 3: Fundamental Freedoms I

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02.10.2024

Distinguished Chairman and Honourable Participants!

Let me stress that Russian aggression against Ukraine, attempted annexation of Crimea and four Ukrainian mainland regions include total repressions against journalists and human rights defenders.

As our Association informed UN Special Rapporteur Dr. Irene Khan for her report “Journalists in Exile” such repressions against Crimean journalists includes persecution against resettled, displaced and migrated ones, with example of long-term politic repressions and racial discriminative acts against our Association’s expert Dr. Borys Babin, member of National Union of Journalists of Ukraine.

All digital and Internet “media”, broadcasting in Russia-occupied Crimea and mainland regions are illegally controlled by Russian de-facto “authorities” and are used for facilitation the Russia’s tasks in ongoing conflict against Ukraine, including genocide calls and hate speech.

Since March 2022 local journalists in Russia-occupied parts of the Kherson and Zaporizhzhya regions of Ukraine are subjects of total repressions and are deprived of freedom by Russian invaders or forced to leave those territories.

Ukrainian-origin journalists and Crimean Tatar bloggers and activists are repressed in Crimea by illegal Russian authorities and its punitive structures. Also Crimea became a place on illegal imprisonment and enforced disappearances for Ukrainian bloggers and journalists kidnapped by Russian occupiers from Kherson and Melitopol.

Russia blocked the possibility for Ukrainians, residing in the Russia-occupied territories, to get the information from independent media and to communicate without illegal interfere to their privacy, as all Russia-controlled Internet and mobile operators are under full control of Russia’s authoritarian regime, its military and special services.

Our Association informed the International Telecommunication Union on challenges for radio- and tele-communication units and media created by the Russia’s broad and open military aggression an relevant Union’s resolutions must be updated and amended as Russian illegal activities continue.

According to human rights centers, a total of 14 Ukrainian journalists are currently behind bars under Russia’s control, including cases in the Russia-occupied Crimea. Also 11 citizen journalists of Crimean Tatar origin are victims of political repression from Russian illegal “authorities” in Crimea.

For example, author of informational blog Crimean Medicine without Cover Iryna Danylovysh, freelancer from Crimea. Realii Vladyslav Yesypenko and the editorial board member of the magazine Black Sea Security Oleksii Bessarabov are now being kept in aggressor’s “detention centers or prison colonies”, including illegal Crimean ones.

And the most striking example is the illegal “fine” for Crimean Tatar newspaper “Kyrym” in 130 thousand rubles, which was done by Russian punishers this year just for publishing the report of United Nations’ Secretary General.

Seems some next Russian “fines” in the occupied Crimea will be just for OSCE mentioning

Also we want to pay essential attention to case of persecution of Dr. Borys Babin, expert of our Association, well-known Ukrainian blogger and journalist, member of National Union of Journalists of Ukraine, with more than 100 expert publications on human rights issues. Earlier we draw attention of the UN bodies to the examples of the intimidation, hindrance, stigmatization and harassment, done both by the Russia and Ukraine against Dr. Babin, who concentrated his professional activities on the help to the victims of the attempted annexation of the Crimea. Russia-controlled media made defamation publication against Dr. Babin, and he was included to the Russia's sanction lists established by the Russian Government's prescript 1656 on December 25, 2018.

Ukrainian authorities were responsible for some violations the rights of Dr. Babin during his public service as Ukraine's Governmental Agent before European Court on Human Rights and as Permanent Representative of President in Crimea, also during his work in Parliamentary Legislation Institute and Office of National Council of Security and Defense.

Some violations of the Dr. Babin's rights were established by Ukraine's courts (cases 420/7423/19, 420/603/20, 420/1736/20, 420/2489/20 758/978/20 and 521/12956/21), but without adequate compensation. In case 420/603/20 5th Court of Appeal ***recognized Dr. Borys Babin by judgment in proceeding 854/6836/21 in September, 2021 as victim of politic repressions and fined Office of President of Ukraine for moral damage to Dr. Babin.***

Since 2017 the criminal proceeding 52017000000000361 is going against Dr. Babin, started by the Ukraine's National Anti-Corruption Bureau, for the alleged unjustified state position and budget payments for execution the decision of the European Court of Human Rights. Media informs that the relevant legal enforcement activities are committed in direct commercial interests of Ukrainian key oligarch Rinat Akhmetov.

In 2018 head of Specialized Anti-Corruption Prosecutor's Office of Ukraine (SACPO), Mr. N. Kh. got disciplinary punishment for violation the ethics, as it was established that Mr. N. Kh. talked to the subordinates on "*the influence of the Jews in the world and that he does not want enemies among them, while using numerous anti-Semitic statements and obscene expressions*" just about the defendants of proceeding 52017000000000361.

Before Mr. N. Kh. was punished, group of his subordinates in SACPO, including the prosecutors, acting in criminal proceeding 52017000000000361 wrote and published a collective letter to support Mr. N. Kh.'s activities, evidently including support his direct anti-Semitic statements.

Since 2019 Dr. Babin tried to get full information about those circumstances, including surname of SACPO's prosecutor, who personally discussed with Mr. N. Kh. directly the aspects of criminal proceeding 52017000000000361 using anti-Semitic statements.

As Prosecutor's Office and Prosecutor's Disciplinary Commission refused to inform Dr. Babin about that surname, he initiated the courts' cases 640/14777/19 and 420/6255/20 and in latter, after some decisions of appellate and Supreme Court, Ukrainian Prosecutor's Office gave to Dr. Babin full text of Decision for disciplinary punishment of Mr. N. Kh., where it was fixed that Mr. N. Kh. discussed the aspects of criminal proceeding 52017000000000361 using anti-Semitic statements with SACPO's prosecutor Mr. S.K.

In administrative case 420/6255/20 courts refused to execute the demands of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Ukraine, also as demands of Ukraine's Law "On Principles of Preventing and Countering Discrimination in Ukraine".

Immediately after Dr. Babin got confirmation about anti-Semitic activities of SACPO's prosecutor Mr. S.K., who before informed Dr. Babin on suspicion in the proceeding

5201700000000361, Dr. Babin sent the recusal of the prosecutor Mr. S.K. in the proceeding 5201700000000361 to High Anti-Corruption Court of Ukraine (HACC), as prosecutor Mr. S.K. participated and supported the Mr. N. Kh.'s direct anti-Semitic statements, as Mr. S.K. evidently can't be impartial in that case.

HACC's investigator judge researched the Dr. Babin's recusal of the prosecutor Mr. S.K. in open court sitting 1-кв/991/7018/21 in case 991/6913/21 at November, 8 2021 with presence of Dr. Babin, his barrister Mr. O.P. and prosecutor Mr. S.K.

As this court sitting in case 991/6913/21 was open the law demanded the HACC make the official video or audio record of this sitting and make its protocol in the courts' sittings journal.

During the court sitting in case 991/6913/21 prosecutor Mr. S.K. repeated before the investigator judge the support of Mr. N. Kh.'s statements in criminal proceeding 5201700000000361, but the judge refused to remove the prosecutor Mr. S.K. from investigation in proceeding 5201700000000361.

Judgment in case 991/6913/21 declared that there is no disciplinary case against prosecutor Mr. S.K. so he allegedly can't be removed from investigation in proceeding 5201700000000361. But regarding Ukraine's laws Dr. Babin as defendant can't initiate the disciplinary proceeding against prosecutor in his criminal proceeding and may only commit the criminal procedural reaction, such as recusals.

Judge in case 991/6913/21 refused to execute the demands of ICERD, also as demands of Ukraine's Laws "On Principles of Preventing and Countering Discrimination in Ukraine" and "On Fight against Anti-Semitism in Ukraine". More, judgment in case 991/6913/21 ignored the fact that during the court sitting in case 991/6913/21 prosecutor Mr. S.K. repeated before the investigator judge his personal support of Mr. N. Kh.'s anti-Semitic statements in criminal proceeding 5201700000000361.

So to use the international mechanisms of defending his rights, guaranteed by ICERD, Dr. Babin needed proves of prosecutor Mr. S.K.'s anti-Semitic statements in the court sitting in case 991/6913/21. That is why Dr. Babin and his barrister Mr. O.P. demanded, in determined procedural order, twice from HACC the copy of the technical record of the court hearing in case 991/6913/21, the copy of the journal of that court hearing, and a copy of the documents submitted by the prosecutor in case 991/6913/21.

HACC refused illegally to give to Dr. Babin the copy of the technical record of the court hearing in case 991/6913/21, and the copy of the journal of that court hearing, and Dr. Babin had to initiate court case against HACC itself on that issue.

In that case 420/2297/22, that was pending since till May, 2024 administrative courts of first and appellate levels recognized that HACC violated law, while it illegally, contrary to procedural law aid internal courts' acts, solved the demands of Dr. Babin regarding the copy of the technical record of the court hearing in case 991/6913/21, and the copy of the journal of that court hearing.

But administrative courts in case 420/2297/22 also refused to execute the demands of ICERD, the relevant positions of Committee on the Elimination of Racial Discrimination, also as demands of Ukraine's Laws "On Principles of Preventing and Countering Discrimination in Ukraine" and "On Fight against Anti-Semitism in Ukraine".

Also those courts and the Supreme Court refused to recover moral damages to Dr. Babin from HACC, that he demanded, and they refused to establish for HACC the obligation to give to Dr. Babin the copy of the technical record of the court hearing in case 991/6913/21, and the copy of the journal of that court hearing.

Ukraine's Supreme Court declared in case 420/2297/22 on March, 11, 2024 that allegedly *“the motives of Babin, that all his knowledge, skills, skills and experience in combating racial discrimination cannot protect him from the brutal lawlessness and arbitrariness of the High Anti-Corruption Court, and his awareness of this forms a clear understanding in him that he, as a scientist and human rights defender, has proven himself unable to eradicate anti-Semitic manifestations and manifestations of racial discrimination of the relevant officials either through education or through legal procedures, are subjective and evaluative, which does not indicate the exclusivity of this case and the need for the Supreme Court to form a conclusion”*.

So HACC did not give those demanded evidences of prosecutors' anti-Semitic activities to Dr. Babin. So Ukrainian courts in cases 420/6255/20, 991/6913/21 and 420/2297/22 refused to establish the fact, that SACPO's prosecutor violated the ICERD demands and Ukraine's legislation against racial discrimination and anti-Semitism.

SACPO's prosecutor, that violated the ICERD, and HACC that violated the ICERD against Dr. Babin's rights, are still investigating alleged crimes of Dr. Babin.

Nobody in SACPO, including SACPO's prosecutor Mr. S.K., was punished for public support of Mr. N. Kh.'s anti-Semitic statements, and nobody in HACC was punished for attempts to cover the Mr. S. K.'s anti-Semitic statements.

We sure that such brutal example of nexus between anti-Semitic activities within law enforcement and the criminal justice system against well-known journalist blogger and human rights defender will allow the ODIHR OSCE to make relevant recommendations with regard to addressing systemic racism, in law enforcement and the criminal justice systems, closing trust deficits, strengthening institutional oversight, adopting alternative and complementary governing methods, and encouraging stocktaking of lessons learned.

Thank You for Your attention!