

Ignacio Sanchez Amor, Deputy

Magnitsky, the essential and the collateral

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Sergei Magnitsky is not a name as well known in Spain as it should be. Maybe it's the distance factor - Russian issues don't come up as frequently in Spanish politics and Spanish public opinion as they do in central Europe.

The slow pace with which the Magnitsky case is entering the Spanish public sphere is not because of any lack of sensitivity among the Spanish public for cases of human rights violations, frequent as they are in our own cultural environment.

Spanish political interest in maintaining relations with Russia, which is as evident here as it is in the rest of the EU, has not reached a level that would dull the sensitivity to cases like this. It's true that 2011 was the "Year of Spain in Russia" and of "Russia in Spain", which perhaps may have downplayed such an "inopportune" case in a climate of mutual celebration and reciprocal praise. I can't find a particular reason, but the reality is that Spain is turning its attention, albeit slowly and belatedly, to the issue.

For me personally, I developed a better appreciation of the issue and its more political features as a member of the OSCE Parliamentary Assembly, during the summer conference in Monaco in 2012. A briefing was held there,

where we had occasion to see a short film about some of the key characters who have profited from their involvement in the false arrest, torture and death of Magnitsky, after he publically exposed a massive tax crime committed by members of the Russian government who were working with criminals. This side event took place prior to a plenary session where a Magnitsky resolution which condemned the Russian government for their actions against Magnitsky was discussed and approved. It was during this side event that I met Bill Browder and we first discussed the opportunities for Spain to become engaged in the justice campaign for Magnitsky.

In September 2012, I attended the 22nd Krynica Economic Forum in Poland for a debate on Russian-European Union relations. In my speech, I referred to the Magnitsky issue as one of the items on the bilateral agenda that should be pursued, and despite the fact that it was expressed with reasonable delicacy, I could see immediately the discomfort of the Russian delegates, obvious among the politicians and more attenuated among the academics. I was the first speaker on the panel, and the Magnitsky case seemed to supercede all following interventions. One Duma representative set aside the papers that he had prepared and made a predictable defence of the official Russian position. All countries can deal with inconvenient international situations by making use of decisions by their independent judiciary, and the recent case of Judge Garzón in Spain was brought up.

Within several days after my return from Poland, I gathered together the information I collected at the OSCE meeting, tracked down more information from the internet and put together a first draft of a parliamentary initiative on Magnitsky. I may be a new deputy in the Spanish Parliament, but I have always been involved in European and international issues, both here and in my previous public service.

The presentation of the initiative by myself and the two proposing deputies (A. Esteban, PNV, and J. Xuclá, CiU) did not get much resonance in the Spanish media, who were unsurprisingly focused on internal economic issues and the serious social conflicts associated with the consequences of the Spanish economic crisis. However, our attempts to bring Magnitsky resolutions to the Spanish Parliament had coincided with new developments in the Magnitsky case which was indeed reported by the Spanish press, namely

the US publication of its Magnitsky list and the retaliatory adoptions ban imposed on Russian orphans by the Russian government.

I fear that this climate of increasing political aggressiveness surrounding the Magnitsky case may influence the position of the conservative Spanish government, which may lead MPs choosing not to become embroiled in a conflict that has already gone beyond being a case of human rights violations to a new climate redolent of the Cold War.

We are all concerned at this point of how a case of grave violations of human rights has become an issue has become a test of the sincerity of the reforming will of the Russian authorities. It is also a test of the solidity of the bilateral relations between the United States and Russia and between the European Union and Russia. The positive side to this is the worldwide awareness of the issue, but there is also a negative side, which is that the facts of the Magnitsky case, his death, the cover-up, and the crimes he exposed, have been lost by all the international political reactions that have taken place in the last year. The accumulation of successive layers of information of a political, diplomatic, legal, media-related, etc., nature is such that we run the risk of obscuring the central facts of the case that have motivated us all to call for justice, which is the death of Sergei in a Moscow jail.

Despite the fact that we are still using his name, for many people this has become the Magnitsky list case, the adoption case, the information service case, the Obama administration partisan case, the case of the trial of Bill Browder or his business, or the Butyrka case. And it is not. It is the Magnitsky case. And these are the facts that we need to grasp if we don't want to be sucked into a confusion strategy that is only in the interests of certain parties. All the attributes that have built up around the root of this issue can help to throw light on some obscure or concurrent aspects, but only as long as we don't lose sight of the objective, denouncing conditions of any type that lead to the death in prison of the attorney.

This is not about putting Russia on trial, at least not in my view; and it should not be motivated by underlying anti-Russian sentiment, which must be distinguished from the noble recognition of human rights in any corner of the world. Russia, like other countries emerging from authoritarian regimes,

just as it was the case in Spain herself, is burdened with attitudes and inertia that it is difficult to disengage from as quickly as we want to. Our effort is precisely to assist the reforming spirit repeatedly expressed by the Russian government. But in this case, we have to do it by denouncing a specific case, a particularly painful case but one that is well documented with incontrovertible facts which cannot be manipulated any more than they already are, in an attempt to justify the unjustifiable. Because the idea of converting the denouncer of corruption into a corrupt person himself reveals precisely the impossibility of defending what actually happened anyway: that a lawyer who had accused Russian public officials of corruption was investigated by these same authorities, thrown in jail for a year, received wretched medical attention, was subjected to maltreatment, presumably tortured, and finally died awaiting urgent vital medical treatment. This is simply intolerable in any democratic country. And hear me well, it would be so even if the victim was actually a criminal, something which I hardly believe, and regardless of the ridiculous posthumous trial against Magnitsky.

One of the most surprising facets of this case is the lack of initial political agility to assume personal and institutional errors and responsibilities, and to attempt to at least provide moral satisfaction for the deceased. To heal the wound in the only possible way, given that his death is irreversible, by clearing Magnitsky's name, indemnifying his family for a fatal malfunction of the public services, and thoroughly investigating his accusations. His death only emphasises and confirms his suspicions and investigations. In reality, it is now clearly a brutal fact that the man could not get out of prison or appear before a tribunal to continue reporting what he had discovered.

The same state authorities who did not protect Sergei Magnitsky's rights appear quite diligent in covering up the scandal posthumously, which they wouldn't even have to defend themselves from were it not for the determination of those who came to the defence of Magnitsky in this public action. This approach is morally very costly, because the more they insist on searching around for non-existent accusations against Sergei, the more they are whitewashing the responsibility of the true guilty parties of the fraud Magnitsky exposed, the more they are sidestepping a true, unprejudiced investigation into the facts of Magnitsky's death, and the more they are providing coverage for

the unfortunate re-enactment of criminal schemes like the ones he discovered.

All this would appear to indicate that what we can call the political “fall-out” of the Magnitsky case will continue to expand and get more complex over the next few months. What started out as the “cavalry” in the defence of one person has become an item for discussion at international summits and in parliamentary debates. The campaign must be considered a success, because it has in fact drawn the attention of the world to the Magnitsky case, but there is also the risk that the central issue of the case will be lost in the background and eventually fade away behind the ensuing political consequences of campaigns raised all over the world. And this would not be right; it would not answer the first impulse for justice and the indignation which we all feel, and which is a concern that these facts, and these facts alone, engender within us, totally regardless of all the subsequent actions and counter-actions. It is the worldwide scale of the campaign that has permitted a much greater awareness of this case, but let us not forget the facts that have moved dozens of politicians to react and get involved all over the world: an unexplained death, unjust and unpunished.