

Andrei Sannikov

Europe needs such measures to protect itself, to put a barrier to the corruption

Andrei Sannikov is a Belarusian politician, co-founder of the civil action Chapter 97. In 2010, Andrei Sannikov was a candidate at the presidential election in Belarus. He was incarcerated in Minsk KGB for the peaceful protest and demonstration after the election and faced up to a 15 year imprisonment. Andrei Sannikov was released and pardoned by Lukashenko in 2012.

When I first heard the name of Sergei Magnitsky, I did not pay much attention to it. I read somewhere that there was a whistleblower in Russia who uncovered the largest tax fraud in Russian history and exposed the misdeeds of senior functionaries in six ministries. The information was connected with Magnitsky's arrest and imprisonment. Already at that time I thought that he stood no chance of proving what he had discovered, and that he would definitely be sentenced and go to jail for a long time.

He went against the system. He did it openly and with media publicity. He was natural prey for a system that has no independent judiciary and is based on the impunity of officials from all walks of life. He was a threat to the system that is dependent on those whom he exposed.

He was a natural victim because in Russia, as well as in Belarus, society has been infected with a lumpen attitude towards anyone who is educated, professional and principled. That is why it could be expected that, after his whistleblowing, Magnitsky himself would be blamed for wrongdoings, and the authorities would fabricate a case against him. The state-controlled media was expected to start a defamation campaign against Magnitsky. He had to be presented to the public as a "thief" to create a background against which he would be destroyed.

This is a well known pattern of behaviour of governments in authoritarian countries - but the reality surpassed any nightmare. Nevertheless, it was a reality that we in Belarus know well.

Nineteen ninety-nine was the most tragic year in the contemporary history of Belarus. That year, all opposition leaders who could defeat Alexander Lukashenko, one of the last dictators in Europe, in the elections, were killed.

On 6 April 1999, came the sudden death of Gennady Karpenko, deputy chairman of the Supreme Soviet (parliament) from 1994 to 1999, deputy chairman of the United Civic Party, and head of the opposition's National Executive Committee. Karpenko was one of the most influential political opponents of Lukashenko and an indisputable opposition leader capable of uniting Belarusian democratic forces. His sudden death - allegedly from a stroke - was accompanied by a series of mysterious events. His death was never investigated and no autopsy was performed. Later, his widow and two children had to flee the country because of death threats.

Police General Yury Zakharenko, former Interior Minister of Belarus, was kidnapped not far from his house in the evening of 7 May 1999. There was no proper investigation of his abduction. As stated by eye-witnesses, Zakharenko was forced into a car and taken away by a group of people. The most likely reason of Zakharenko's abduction were his activities aimed at creating the Officers' Union, an organisation outside of the government's control. Zakharenko was extremely popular among army and police officers and worked closely with Karpenko. His family had to flee the country as well.

Victor Gonchar was first deputy chairman of the Supreme Soviet of Belarus and chairman of the Central Electoral Commission. In July 1999, he made an official statement about the end of Lukashenko's legal presidential rule and tried to organise elections. He was abducted on 16 September 1999 together with his friend, prominent entrepreneur Anatoly Krasovsky, who financed the opposition movement. The investigation of their abduction predictably brought no results.

A year later, Dmitry Zavadsky, a cameraman for Russian TV, was abducted. His case is officially considered to be solved. Those convicted were officers of the Interior Ministry. There is widespread public belief that the investigation

and court hearings in *Zavadsky's* case were fabricated to stop the reverberations caused by the abduction. A number of people who earlier perpetrated numerous crimes were put behind bars, even though they were not involved in *Zavadsky's* disappearance.

Needless to say, there was no proper investigation in any of these cases. Families of the disappeared had to exert great efforts to prevent the law-enforcement bodies from closing the investigation. At first, there was no strong reaction to the disappearances, either in Belarus or internationally, simply because it was hard to digest that such cowardly actions were possible and that Belarus had entered a period of political murders. It was only five years later that the international community - namely the Parliamentary Assembly of the Council of Europe - conducted its own investigation. In 2004, the Assembly's Committee on Legal Affairs and Human Rights produced a report entitled "Disappeared Persons in Belarus" (the rapporteur was Christos Pourgourides from Cyprus). On the basis of this report, the Assembly adopted a resolution demanding that the Belarusian government conduct an independent investigation into the cases of the disappeared, and declared that four people were believed to be involved in the disappearances: Interior Minister Vladimir Naumov, Head of Presidential Administration Viktor Sheiman, former Interior Minister Yuri Sivakov and Special Police Forces Commander Dmitri Pavlichenko.

This was an unprecedented action by the international community with regard to a post-Soviet country. The demand for investigation by an international organisation and the implication of top state officials in criminal activities was a strong argument in favor of conducting a real investigation in Belarus. It never happened. The families of the disappeared tried to present their cases in different courts in the US and in Europe, with no result: either the jurisdiction did not allow for it, or the laws were changed (as in Spain and Belgium) to conform to EU laws. The suspected perpetrators of the 1999 disappearances are still unpunished. Moreover, Viktor Sheiman still holds a key government position. Vladimir Naumov is a businessman in Russia, and Pavlichenko and Sivakov are in Belarus, securely protected by the dictatorship.

After the disappearances of 1999, there were many cases of serious human rights abuses by officials and law-enforcement agencies in Belarus. Hundreds of people were at different times declared prisoners of conscience by

international human rights organisations. Hundreds went through prisons, and many still are in prisons. However, it was the case of the four disappeared persons in Belarus that illustrated the most serious attempt by the international community to bring justice to the families of the murdered opposition leaders and to take the perpetrators to court. This attempt failed.

The case of Sergei Magnitsky has two dimensions: corruption and lawlessness. These are two pillars that support any authoritarian or dictatorial regime.

Ironically, authoritarian rulers usually make “fighting corruption” one of their main slogans. This is the case in Russia as well as in Belarus. In reality, corruption grows enormously and penetrates all governmental structures. Those who try to expose it without permission from above risk losing their businesses, their jobs, and eventually find themselves in jail. Corruption is a prerogative of the inner circle of the authoritarian ruler. Only they can decide who will be punished for corruption.

Lawlessness is another pillar without which no authoritarian ruler could survive. Lawlessness in such regimes is always disguised as lawfulness. There is a sophisticated system of law and law-enforcement that sometimes functions and exercises law - but not when the regime is threatened, as was the case with Magnitsky’s exposé. Then the person who tries to uncover corruption is really in trouble, and his or her life is in danger.

The system of lawlessness is designed to ensure impunity for those who are breaking the law while proclaiming that they are acting in the name of the law. Impunity is the key factor. All efforts to find justice in such cases as Magnitsky’s or those of political opponents of the regimes in Russia or Belarus inside these countries are bound to fail. Criminal actions of law-enforcement officials, judges, prosecutors, prison administrators and others are bound to succeed because of the impunity.

I was arrested and thrown in jail because I dared to challenge the dictator of Belarus. Hundreds of people were arrested on the night of 19 December 2010. It was the night of the presidential elections, and I was a candidate. A peaceful demonstration in protest at the rigged elections was brutally dispersed. In prison, we all were deprived of our basic rights both in terms of legal protection and advice, and in terms of our treatment. We felt helpless,

while our torturers, including those who gave orders to treat us in this way, were absolutely sure about their impunity. They were protected by the system of lawlessness. And we, having committed no crime by any standards, were vulnerable despite the Universal Declaration of Human Rights, despite the International Covenant on Civil and Political Rights, despite numerous international obligations that Belarus has undertaken.

In prison, I remembered those who were killed by the dictatorial regime of Lukashenko, my friends and colleagues who had been behind bars before and who were in prison together with me. I fully understood that anything could happen to me, and that there was no protection whatsoever.

In prison, I remembered Sergei Magnitsky, how he was treated and how he died. After my own prison experience I can clearly imagine all the horrors that Magnitsky went through.

At one moment, there was a glimpse of hope that there could be some posthumous justice. It was when then-President Dmitry Medvedev ordered an investigation into Magnitsky's death, and the Presidential Human Rights Council concluded that Magnitsky was severely beaten before he died.

I even wrote in one of my letters from prison to my wife that "interesting parallels can be drawn with the Magnitsky case after the conclusions of the Russian Presidential Human Rights Council. If these conclusions get some follow-up, then the whole chain should go to prison: the judge, the investigators, the prosecutor and the prison staff". Of course, nothing happened, and the conclusions drawn by that council - a presidential agency - were ignored. I was not so naive as to think that something would actually happen after those conclusions, and I wrote it more for my prison wardens so that they could think about the consequences, even in the situation when their superiors were covering up for their wrongdoings. And it worked. My letters from prison had many readers before they reached my family, my friends, or my lawyers. They were read by the censors in prison, by prison officers and by KGB agents. After I mentioned possible consequences in the contest of Magnitsky's case, the pressure on me was weakened, and I enjoyed a period of relatively safe existence in the penal colony. Then, of course, it changed. But I can testify that even the prospect of facing consequences does make these officials think twice.

The dictatorial regime of Alexander Lukashenko has been under international sanctions for about ten years. There is a blacklist of Belarusian officials who are banned from entering the European Union, which includes Lukashenko himself. Decisions on these “targeted” sanctions are made by the European Council with many difficulties and discussions. There are always dissenting voices - mostly coming from countries bordering Belarus. However, even when a decision is taken, it is not always observed. The sanctions mostly consist of visa bans for Belarusian officials deemed guilty of gross human rights abuses. But there were several cases when some of these officials were easily travelling in Europe and boasted about that afterwards.

Besides, almost immediately after the sanctions are introduced or new names are added to the blacklist, there are attempts to lift them, with lobbying efforts coming mostly from business. And when these efforts are successful, the sanctions are lifted - as was the case with the Belarusian blacklist in 2009-2010. It means that officials who committed crimes against human rights and who would never be prosecuted under the dictatorial regime are cleared and not regarded as criminals by the European Union. In other words, lifting sanctions in order to meet some political ends could be detrimental to the principles of the rule of law, democracy, and respect for human rights.

The Magnitsky Act was a very timely, even belated step by the US. It is a brave attempt to bring justice, not only in Russia but internationally. The rule of law is something that is quite often quoted by authoritarian and dictatorial regimes as a principle on which their system is based, but the reality is the opposite. The nervous reaction of the Russian establishment to this Act, and its absolutely abhorrent attempts to “reciprocate” by banning US adoptions of Russian children, are proof that the situation with justice in Russia is desperate.

Similar legislative measures are needed in Europe. Indeed, they are even more needed, since the presence of Russian and Belarusian business in the EU is much greater than in the US. Those involved in corruption and human rights abuses travel to the EU, as it is more convenient and geographically closer. They buy real estate and luxury goods, and settle their families in Europe. They hire lawyers - not to help them with legal questions concerning EU laws, but to find loopholes in those laws and avoid punishment for wrongdoings.

Europe needs such measures to protect itself, to put a barrier to the corruption that is crawling its way to the EU from the former Soviet Union.

When Sergei Magnitsky was arrested, his friends and colleagues and human rights defenders raised the alarm, demanding his release and insisting that he was innocent and that the regime was after him for his brave exposure of corruption. It did not help, Magnitsky was murdered in prison. The legislation named after him posthumously can save lives of other brave people who want to see their countries governed by the rule of law.



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