

OPENING HEARING 2 NOVEMBER 2021

WITNESS STATEMENT OF KARINNA MOSKALENKO

On the cases of journalists Anna Politkovskaya, Dmitry Kholodov and Yuri Shchekochikhin

1. My name is Karinna Moskalenko. I am a practicing lawyer in Russia. My legal career started in 1977 at the Moscow City Bar Association. I have worked on cases concerning many different issues. During the time of the Soviet Union, I did not notice the systemic flaws in the court system or within the law enforcement bodies, because I had grown up in this society. I was, however, still critical about several matters, especially concerning the conditions of prisoners. I was fighting for my clients and fighting against violations. 1990 was a key year for me. In 1990, I discovered all of the cases of repression and rights violations that were taking place in the Soviet Union. That year, I was invited to the United States to visit the Supreme Court, regional courts and prisons. This visit made me realise that something was structurally wrong in the legal and judicial system of the Soviet Union.

2. I have litigated several cases of murders of journalists in Russia and before international judicial and quasi-judicial bodies. I represented the applicants who brought a case on the violation of the right to life of journalist Anna Politkovskaya to the European Court of Human Rights. I was also involved in the complaint to the UN Human Rights Committee concerning the death of journalist Dmitry Kholodov. This year, I submitted documentation to the UN Human Rights Committee in relation to the death of journalist and politician Yuri Shchekochikhin. As a lawyer, I can deliver testimony on the cases that I have been involved with. I will focus on the facts of three cases: Dmitry Kholodov, Yuri Shchekochikhin and Anna Politkovskaya.

Dmitry Kholodov

3. Dmitry Kholodov, an investigative journalist for the newspaper Moskovsky Komsomolets, was assassinated in an explosion in 1994. Dmitry had investigated crimes committed by high ranking military commanders. He was criticising the military staff and had concrete physical evidence of economic crimes, including bribery and corruption. Some people were arrested for Dmitry's murder, but they were acquitted. Dmitry's parents and I submitted the case to the UN

Human Rights Committee claiming that there had been a violation of the right to life due to inadequate investigation. We won this case before the UN Human Rights Committee.

Yuri Shchekochikhin

4. In 2003, investigative journalist Yuri Shchekochikhin was poisoned, although the Russian authorities did not recognise it as a murder. At the time, Shchekochikhin was a member of the State Duma. He was the co-chair of the Committee on fighting against corruption. In 2021, I submitted the documentation claiming a violation of the right to life to the UN Human Rights Committee. The case was accepted recently.

Anna Politkovskaya

5. Journalist Anna Politkovskaya worked for the newspaper Novaya Gazeta. During her last years, Anna received several threats. She was murdered in 2006. Until her last day, Anna feared that key persons in Russian politics would one day approach her. She also said that in some of her interviews. We advised Anna to file a request to the general prosecutor to prove that someone was threatening her and that the state must take responsibility if something happened to her. Many different people were arrested for Anna's murder but many were acquitted. Six months after Anna's murder, we filed a case at the European Court of Human Rights claiming a violation of the right to life because we did not believe that the investigation would provide an effective remedy. We won this case. The European Court of Human Rights found that the investigation had not been adequate because the authorities had not taken all the necessary measures.

Patterns in the failure to investigate

6. These three cases illustrate that there is a pattern. The Russian authorities handle such political murders in a similar manner. Firstly, the authorities often denied that a sudden death of a journalist was a murder. For instance, the authorities are still insisting that Yuri Shchekochikhin was not killed. In fact, the authorities stopped the investigation into Yuri's murder by saying that no criminal offence had been committed. In 2006, Alexander Litvinenko died in the United Kingdom of similar causes like Yuri Shchekochikhin. Alexander Litvinenko was a former officer of the Russian Federal Security Service (FSB). During the investigation of his death, the British police discovered that he had been poisoned. Nobody in Russia has recognised that Yuri Shchekochikhin was poisoned in a similar way to Alexander Litvinenko. Anna Politkovskaya was at least recognised by the authorities as a murder victim.

8. In all of the cases that we have brought before international bodies, we claim that the Russian government is unwilling to investigate the murders. This is our key point. They think that if they do not investigate, they are not liable. Yet, every time an international tribunal or quasi-judicial body says that the Russian state is responsible for the death of these persons, it is because they have not investigated.

9. In the case of Yuri Shchekochikhin the conclusion was already made after the pre-investigation check. The European Court of Human Rights has said in many judgments that this is not equivalent to an adequate investigation. The authorities started an investigation into Yuri Shchekochikhin's murder five years after his death. In the first year, his sons were trying to get access to his medical documents but the authorities refused them. When the investigation started later, the medical documentation had been destroyed.

10. When Anna was killed, I knew from the very first day that her killing will not be resolved. In the first six months, it became clear to us lawyers that nothing will be discovered. The authorities were very active in the beginning but they were pretending to conduct an investigation. They invited hundreds of witnesses and collected many protocols of interrogation instead of investigating relevant phone numbers. There are still telephone numbers that have never been identified. Anna's house entrance was under the scrutiny of different cameras but the CCTV footage was not properly searched in the beginning. Anna's case is still not closed. They cannot stop the investigation because of the judgment by the European Court of Human Rights. Yet, they are again pretending to conduct an investigation without taking some of the necessary actions.

11. Even when investigations are pursued, the perpetrators are often acquitted because of the failure of the investigation. When American journalist Paul Klebnikov was killed in 2004, I warned his family that there is a pattern in these cases. Everyone will be acquitted and that is what happened. Paul's killer has not been discovered and the case is now closed. This is what happened in Dmitri's case and Anna's case as well. The state investigators, deliberately or not, fail to collect evidence and information according to the proper procedures. They create a case file that cannot impress the court, the judge, or the juries, who therefore acquit all of the suspects, because they are shocked by the discrepancies in the case file.

12. This pattern was also evident in the cases of Dmitry Kholodov and Anna Politkovskaya. The military staff who were accused in Dmitry Kholodov's murder were acquitted and they received huge compensations. Even after the convictions of the material perpetrators in Anna's case, those who ordered the murder, the masterminds, were never pursued. We have fair trial rights, but with this type of suspects, it is assumed that they are innocent.

I confirm that the facts stated in this witness statement are true.

Date and Place: 1 November, Amsterdam

Name witness and signature: **Karina Moskalenko**