



UKRAINIAN NATIONAL  
BAR ASSOCIATION

# **VIO**LATION **OF ATTORNEYS'**

PROFESSIONAL RIGHTS AND  
GUARANTEES IN UKRAINE

2013-2018

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## THE MOST IMPORTANT DATA ANALYZED IN THE REPORT ABOUT NUMEROUS ACCOUNTS OF:



ASSASSINATIONS AND ATTEMPTS ON ADVOCATES' LIVES



CRIMINAL PROSECUTION OF ADVOCATES



PHYSICAL REPRISAL AGAINST ADVOCATES



THREATS TO ADVOCATES



DESTRUCTION OF THE ADVOCATES' PROPERTY



SEARCHES OF ADVOCATES' PREMISES



NON-PUBLIC (COVERT) INVESTIGATIVE PROCEDURES AGAINST  
ADVOCATES









VIOLATION OF THE LEGAL PRIVILEGE THROUGH THE PRISM OF  
LEGISLATIVE ACTS









TAMPERING WITH ADVOCATE'S LEGAL POSITION IN CASE







## ASSASSINATIONS AND ATTEMPTS ON ADVOCATES' LIVES

<b>1</b>	<b>0</b>	<b>2 + 1</b>	<b>3 + 2</b>	<b>2 + 1</b>	<b>0</b>
					
ASSASSINATION	ASSASSINATION	ASSASSINATIONS AND ATTEMPTS	ASSASSINATIONS AND ATTEMPTS	ASSASSINATIONS AND ATTEMPTS	ASSASSINATION
<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018   I<sub>qt.</sub></b>







## CRIMINAL PROSECUTION OF ADVOCATES

<b>6</b>	<b>1</b>	<b>3</b>	<b>10</b>	<b>10</b>	<b>6</b>
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018   I<sub>qt.</sub></b>







## PHYSICAL REPRISAL AGAINST ADVOCATES

<b>2</b>	<b>2</b>	<b>3</b>	<b>9</b>	<b>19</b>	<b>5</b>
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018   I<sub>qt.</sub></b>







## THREATS TO ADVOCATES

1	1	3	13	8	1
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
2013	2014	2015	2016	2017	2018   I <sub>qt.</sub>







## DESTRUCTION OF THE ADVOCATES' PROPERTY

1	0	3	5	1	0
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
2013	2014	2015	2016	2017	2018   I <sub>qt.</sub>







## SEARCHES OF ADVOCATES' PREMISES

9	4	5	13	19	6
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
2013	2014	2015	2016	2017	2018   I <sub>qt.</sub>







## NON-PUBLIC (COVERT) INVESTIGATIVE PROCEDURES AGAINST ADVOCATES

1	0	3	4	4	0
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
2013	2014	2015	2016	2017	2018   I <sub>qt.</sub>

## VIOLATION OF THE LEGAL PRIVILEGE THROUGH THE PRISM OF LEGISLATIVE ACTS

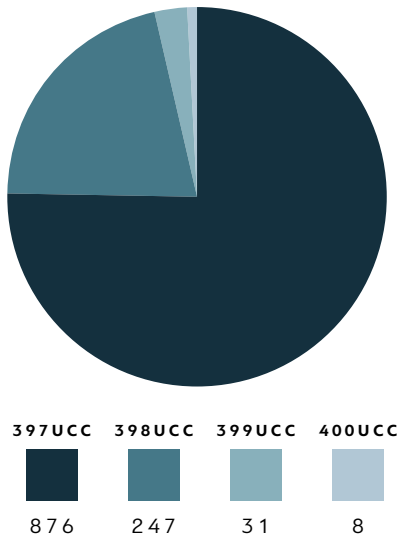
2	2	4	13	8	0
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
2013	2014	2015	2016	2017	2018   I <sub>qt.</sub>

## TAMPERING WITH ADVOCATE'S LEGAL POSITION IN CASE

4	2	5	27	28	6
					
INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES	INSTANCES
2013	2014	2015	2016	2017	2018   I <sub>qt.</sub>

## ANALYSIS OF VIOLATIONS OF LAWYERS RIGHTS FOR PERIOD 2013-2018

**NUMBER OF CRIMES COMMITTED AGAINST ADVOCATES IN 2013-2018**



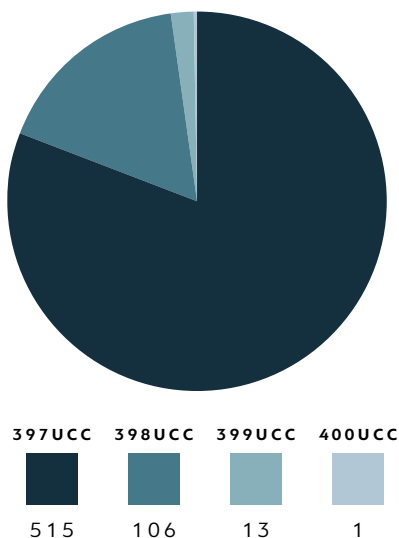
As can be seen from the table, it is a common case for advocates to file statements after becoming victims of criminal offences that entail liability for the violation of advocates' professional rights and guarantees.

During the period between 2013 (date when the Unified Registry of pre-trial investigations became operational) and the present time, pursuant to ss.397-400 of the Criminal Code of Ukraine, for 1162 times the crime reports found its way into the Registry.

Among them:

- under s.397 of CCU (intervention in the activity of a defender or legal representative) - 876 reports, 75%
- under s.398 CCU (Threat or violence against a defender or legal representative) -247, 21%
- under s.399 CCU (willful destruction or damage of property defender or legal representative) -31, 3%
- under s.400 CCU (attempt on a life of a defender or legal representative of a person in connection with the provision of legal assistance) - 8, less than 1%

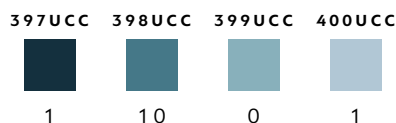
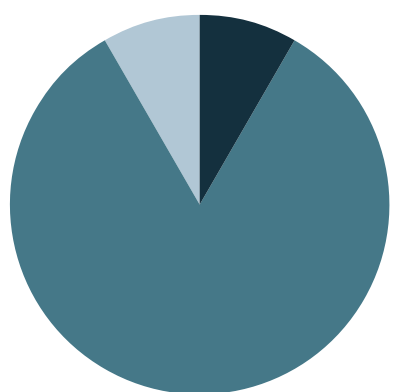
**NUMBER OF TERMINATED CRIMINAL PROCEEDINGS AGAINST ADVOCATES**



The decisions to terminate criminal proceedings between 2013 (date when the Unified Registry of pre-trial investigations became operational) and the present time under articles 397-400 of the CC of Ukraine occurred 640 times, which is approximately 51%

- Of them under s.397 of CCU (intervention in the activity of a defender or legal representative) - 515, unders.398 CCU (Threat or violence against a defender or legal representative) - 106,
- under s.399 of the CCU (willful destruction or damage of the property of a defender or legal representative) - 13,
- Under s. 400 of the CCU (attempt on life of a defender or legal representative of a person in connection with the activity related to the provision of legal aid) - 1

## NUMBER OF INDICTMENTS TRANSFERRED TO COURT



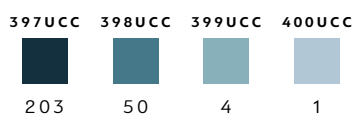
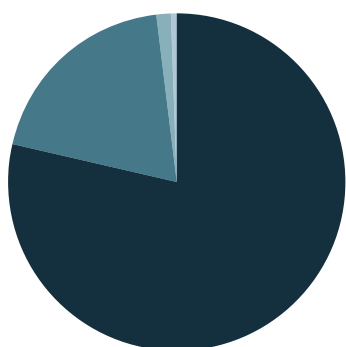
Decision to transfer an indictment to criminal court between 2013 (date when the Unified Registry of pre-trial investigations became operational) and the present time under articles 397-400 of the CC of Ukraine occurred 12 times, which is about 1%

- Of them under s. 397 of CCU(intervention in the activity of a defender or legal representative) - 1, under s. 398 CCU (Threat or violence against a defender or legal representative) - 10,
- Under s.399 of CCU (willful destruction or damage of the property of a defender or legal representative) - 0,
- Under s. 400 of the CCU (attempt on life of a defender or legal representative of a person in connection with the activity related to the provision of legal aid) - 1, between 2013 (date when the Unified Registry of pre-trial investigations became operational) and the present time, under s.397-400 of the CC of Ukraine there are 512 criminal proceedings that remain without a single procedural decision, which is about 44%

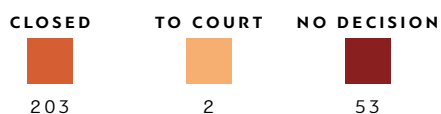
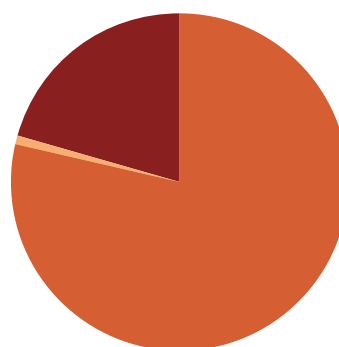
## ANALYSIS OF VIOLATIONS OF LAWYERS RIGHTS FOR PERIOD 2013-2018

### 2013

#### 2013 IN TERMS OF CCU SECTIONS



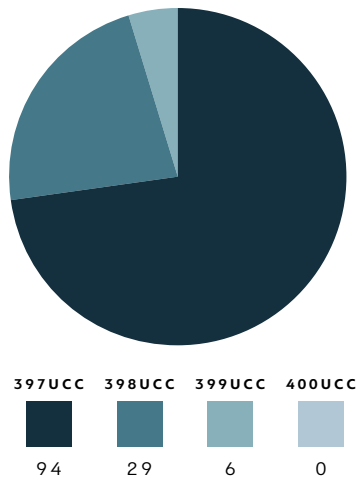
#### PROCEDURAL DECISIONS ADOPTED IN 2013



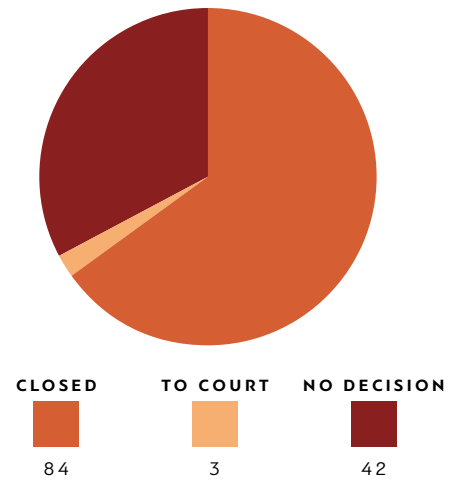


## 2014

2014 IN TERMS OF CCU SECTIONS

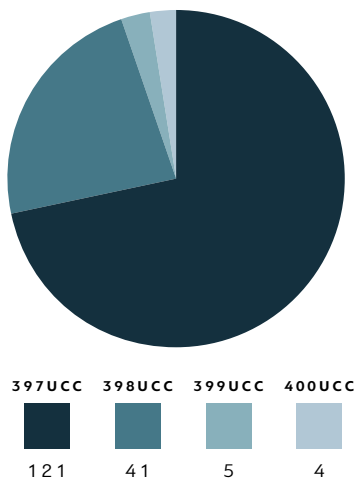


PROCEDURAL DECISIONS ADOPTED IN 2014

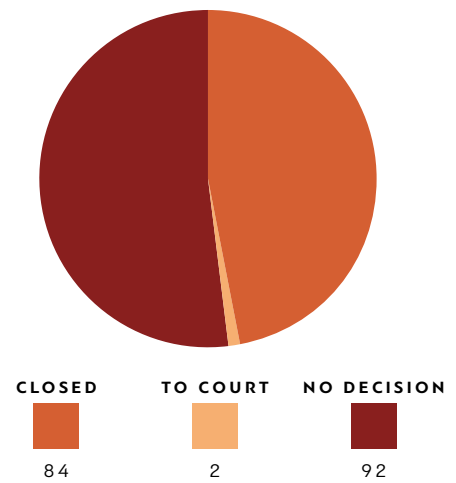


## 2015

2015 IN TERMS OF CCU SECTIONS

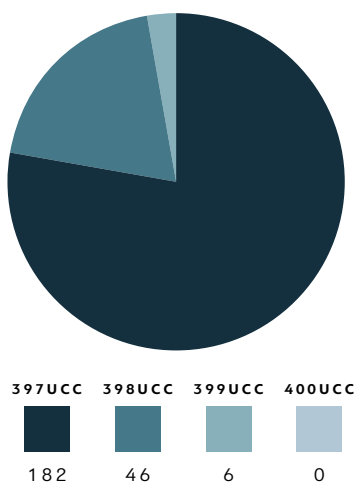


PROCEDURAL DECISIONS ADOPTED IN 2015

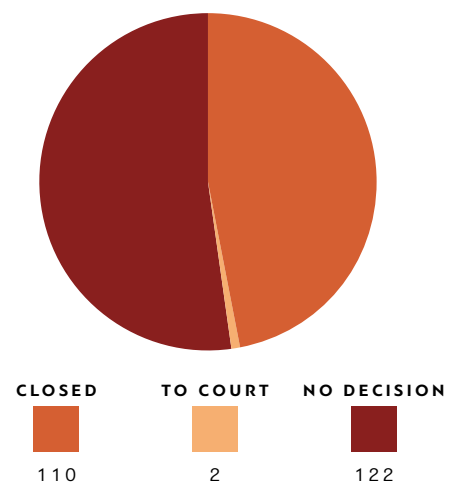


## 2016

2016 IN TERMS OF CCU SECTIONS

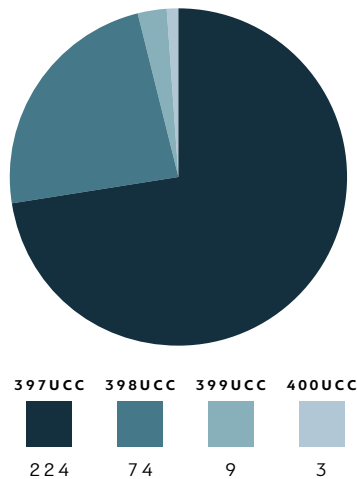


PROCEDURAL DECISIONS ADOPTED IN 2016

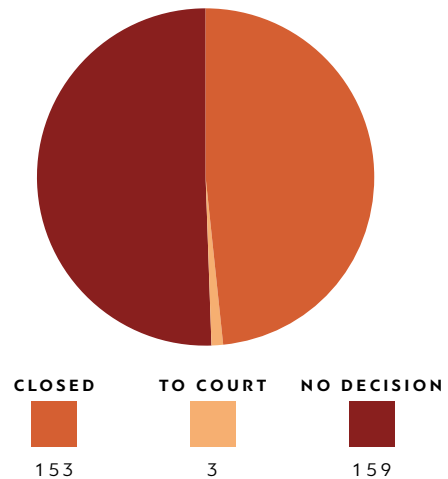


## 2017

2017 IN TERMS OF CCU SECTIONS

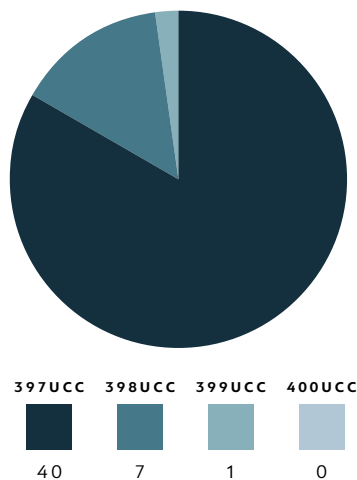


PROCEDURAL DECISIONS ADOPTED IN 2017

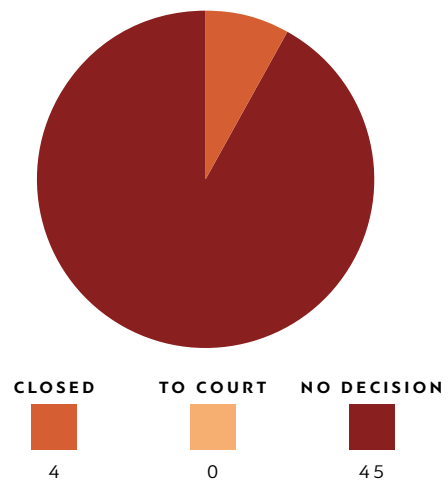


## 2018 (I-Й КВАРТАЛ)

THE 1ST QUARTER OF 2018 IN TERMS OF CCU SECTIONS



PROCEDURAL DECISIONS ADOPTED IN 1ST QUARTER OF 2018



In 2013, the number of reports filed by advocates as they became victims of criminal offenses related to their professional activity (258) became larger, including 1 case of committing a particularly serious crime against a lawyer, namely, attempt on the life of a lawyer or a legal representative in connection with provision of legal aid.

The effectiveness of the investigation of criminal proceedings for crimes committed against lawyers in 2013 was 1%.

in 2014, the number of reports alleging criminal offenses against advocates decreased slightly (129): however, this is due to the political situation in the country, as many lawyers took part in the Maidan, and law enforcement agencies, In general, during this period almost did not work. There was no particularly serious crime against lawyers in 2014.

The effectiveness of the investigation of criminal proceedings against crimes committed against lawyers in 2014 was 2%.

in 2015, the number of advocate's reports concerning the commission of criminal offenses against them for their professional activity (178) has increased, including 4 cases of a particularly serious crime against lawyers, namely, attempts upon the life of a lawyer or a representative of a person In connection with the provision of legal aid, it is 4 times higher.

The effectiveness of the investigation of criminal proceedings against crimes committed against lawyers in 2015 was 1%.

in 2016, the n number of advocate's reports concerning the commission of criminal offenses against them for their

professional activity (234) has significantly increased, including 4 cases of a particularly serious crimes against an advocate, namely an attempt on the life of a lawyer or a legal representative of a person in connection with provision of legal aid, it is 4 times higher.

The effectiveness of the investigation of criminal proceedings against crimes committed against lawyers in 2016 was 1%.

in 2017 number of advocate's reports concerning the commission of criminal offenses against them for their professional activity increased by approximately one and a half times (315), including 3 cases of a particularly serious crime against a lawyer, namely, attempt upon the life of a lawyer or a representative of a person in connection with provision of legal assistance, or 25% less than in the previous year.

The effectiveness of the investigation of criminal proceedings against crimes committed against lawyers in 2017 was 1%.

\* The increase in the number of crimes committed against lawyers coincides with the occupation of the post of Prosecutor General of Ukraine by Yuriy Lutsenko in May 2016. This also explains how to improve the low rate of effectively investigated criminal offenses committed against advocates.

In the first quarter of 2018, number of advocate's reports concerning the commission of criminal offenses against them for their professional activity (40), cases of a particularly serious crimes against lawyers, namely, attempt on the life of a lawyer or a representative of a person in connection with the provision of legal aid were not recorded.

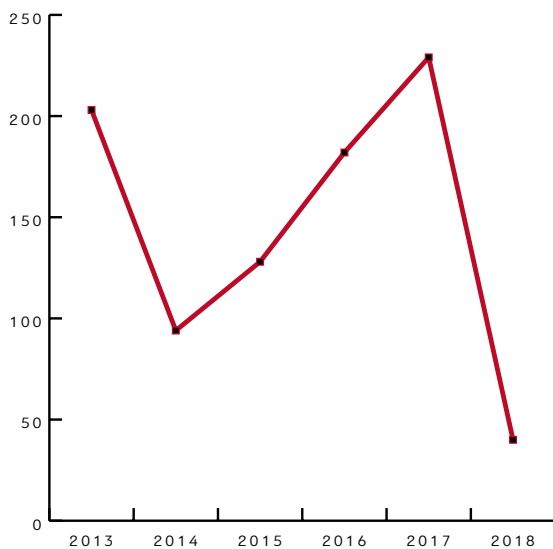
The effectiveness of the investigation of criminal proceedings against crimes committed against lawyers in 2015 was 0%.

**TRENDS IN NUMBER OF CRIMES AGAINST ADVOCATES UNDER S.397, S.398, S.399, S.400 CCU IN 2013-2018**

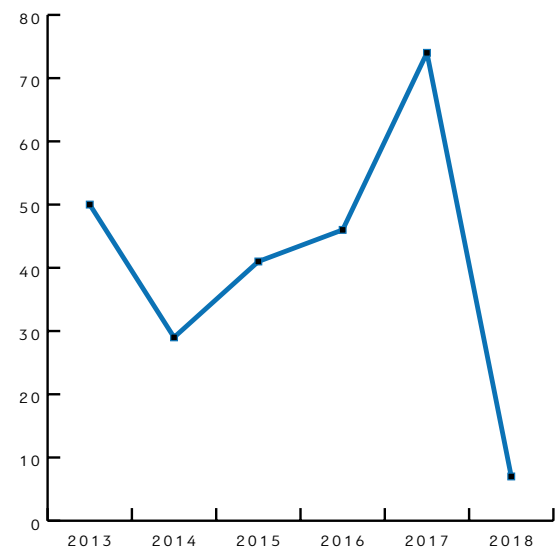
**TRENDS IN NUMBER OF CRIMES AGAINST ADVOCATES IN 2013-2018**



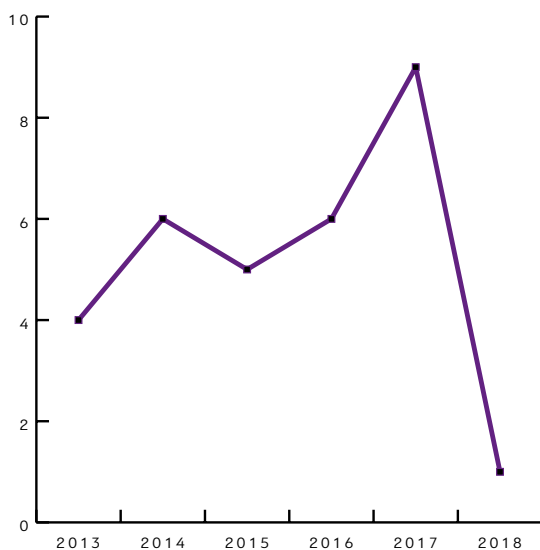
**TRENDS IN NUMBER OF CRIMES AGAINST ADVOCATES UNDER S.397 CCU IN 2013-2018**



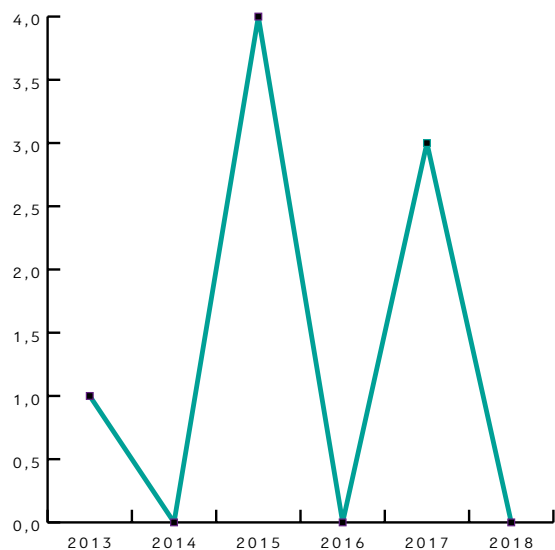
**TRENDS IN NUMBER OF CRIMES AGAINST ADVOCATES UNDER S.398 CCU IN 2013-2018**



**TRENDS IN NUMBER OF CRIMES AGAINST ADVOCATES UNDER S.399 CCU IN 2013-2018**



**TRENDS IN NUMBER OF CRIMES AGAINST ADVOCATES UNDER S.400 CCU IN 2013-2018**



The general trend in respect of all sections of the Criminal Code in question is the increase in the number of cases of criminal offenses committed against advocates in connection with their professional activities and the low level of solving of these crimes. The number of indictments sent to the court for the aforementioned criminal charges does not exceed 2 per cent.

The above analysis uncovered apparent increasing trend in the number of counts of violations of professional rights of lawyers and their professional guarantees.

At the same time, there is a disappointing trend that shows that the response to the lawyers' allegations in respect to violations of their rights has not been followed up by law enforcement agencies resulting in poor or null investigation and failure to bring the perpetrators to justice.

The UNBA Committee for the Protection of the Rights of Advocates has decided to call to the Prosecutor General of Ukraine to hear all criminal proceedings alleging the above violations, and further inform the UNBA about the results of such hearings.

Member of the UNBA Committee on protection of advocates' professional rights and guarantees, Advocate **Yuri Grigorenko**

# I. INTERNATIONAL AND NATIONAL STANDARDS OF PROFESSIONAL LAWS OF ADVOCATES AND GUARANTEES OF PRACTICE OF LAW

The standards of the Council of Europe and the practice of European Court of Human Rights require that advocates' professional rights and guarantees be enshrined at the national level of legislation. Such a position is stipulated by the high legal standards of any modern democratic state, namely, the recognition of human rights and freedoms – being the highest social value, with the Advocacy being the institution on guard of these rights.

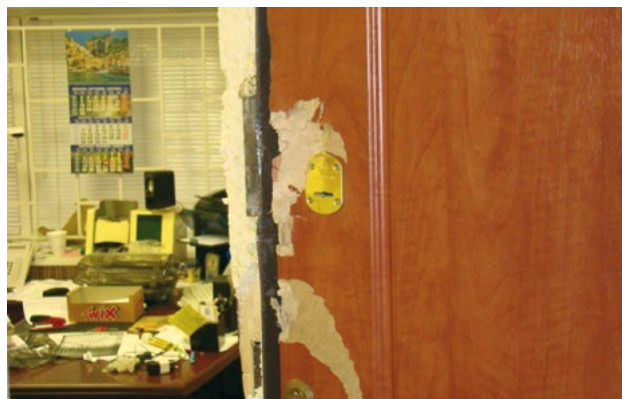
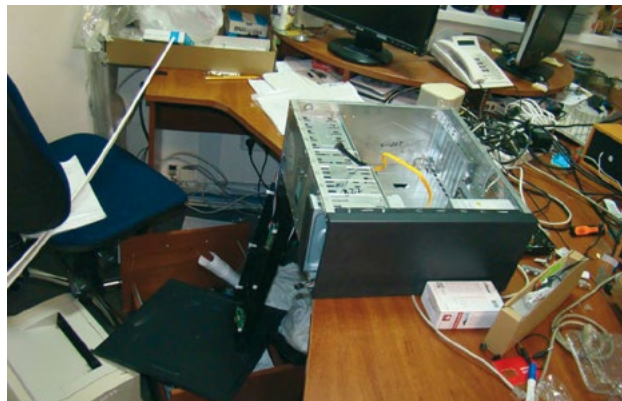
Only a strong and independent advocacy is able to restrict excessive State interference with the private interests of an individual and serves as a key component of the system for ensuring a fair trial and respect for human rights.

Practice of Law is a legal term defined in Articles 1, 3 of the Law of Ukraine “On the Bar and Practice of Law” and understood as the legal professional activity of a person with a special status, based on the legislation of Ukraine. That is, the law defines three main elements of the status of advocate: social (independent professional activity of a self-employed person), legal - activity as such is possible only within the framework of law and special - the State observes the guarantees of professional Practice of Law. The latter includes, among other things, the proper level of competence and responsibility of the pre-trial investigation body and the court in the course of action involving an advocate.

The professional guarantees stand for the absence of any unlawful influence on the advocate by anyone, as well as the observance by the state of specific guarantees for the professional Practice of Law, which includes the inviolability of attorney-client privilege and the special procedure for criminal proceedings against an advocate.

The situation with violation of professional guarantees of legal practice by the State arose as a result of the conflict of interests existing in the sphere of protection of the human rights between law enforcement and judicial systems and representatives of the independent professional environment. This conflict is a consequence of the introduction of the Anglo-Saxon human rights dogma into the national legislation, which is in conflict with the normativism of Romano-Germanic legal tradition. The latter is a transformational model of traditions, religion and morals, where the law consolidates the already existing social structure, and not vice versa.

- Standards established by the International Bar Association in 1990 have been reflected in the norms of



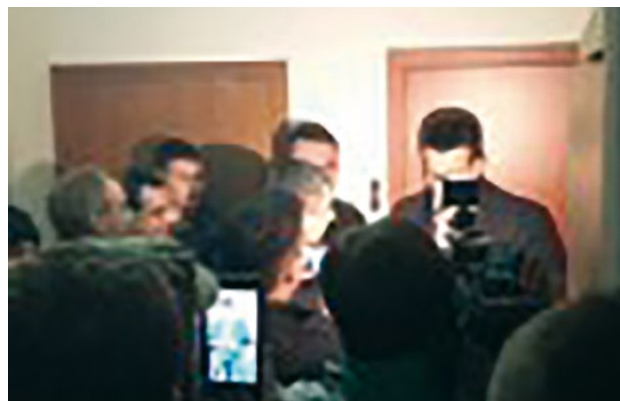
the national legislation of Ukraine and should be strictly followed by representatives of the executive, legislative and judicial branches of power. These international standards are universally recognized in any rule-of-law state and include, inter alia:

- creating conditions for everyone to have access to legal aid from an independent advocate of their choice for defence (enforcement of legal, economic, social, cultural, civil and political rights);
- professional bar associations play a key role in maintaining professional standards and ethical standards, defending their members from unwarranted restrictions and violations, providing legal aid to all who need it, and working with government and other institutions to achieve the goals of justice;
- being guided by established rules, standards and ethical standards, advocates must always act freely, honestly and fearlessly in accordance with the legitimate interests of the client and without any interference or pressure



from the authorities or the public;

- prohibition of equation or identification of advocate by the authorities and the public with his client or his client's business, regardless of how popular or vice versa unpopular this case may be;
- no advocate should be subjected to criminal, civil, administrative or other sanctions or threats of their application as a result of providing advice or representing the interests of the client in accordance with the law;
- neither a court nor an administrative authority should refuse to recognize the right of advocate who has the necessary admission to practice in the region to represent the interests of his client in this court or authority;
- the advocate should have the right to substantiate objections to the participation, or the continuation of participation of a judge in a particular case, or against the conduct of proceedings or any consideration.
- In addition, the Basic Principles on the Role of Lawyers (1990) provide:
  - governments should provide advocates with:
  - the ability to carry out their professional duties without intimidation, obstacles, troubles and inappropriate interference;
  - the opportunity to move freely and advise the client in his country and abroad;
  - the exclusion of the possibility of punishing or threatening his use and prosecution, administrative, economic and other sanctions for actions carried out in accordance with recognized professional duties, standards and ethical standards;
  - where advocates' security is at risk due to their professional duties, they must be adequately defended by the authorities;
  - advocates should not be identified with clients and their affairs in connection with their professional duties;
  - the court or administrative authority should not deny the right of advocate having access to practice to represent the interests of his client if he has not been disbarred in accordance with the national law and practice and these Regulations;
  - the advocate must have criminal and civil immunity from prosecution for claims made in writing or in oral form for performance of his duty in good faith and the exercise of his professional duties in a court, tribunal or other legal or administrative body;
  - the responsibility of the competent authorities is to provide the advocate with the opportunity to get acquainted with the information, documents and materials of the case in a timely manner, and in the criminal proceedings, not later than the end of the investigation, to trial;
  - governments must recognize and adhere to the confidentiality of communications and consultations between advocate and a client in the context of the



relationship with the performance of professional duties. The Law of Ukraine "On the Bar and Practice of Law" in the light of the above international standards and principles on the role of advocates and substantive Recommendations of the Council of Europe set forth the rights, professional duties and guarantees of advocacy. In particular, Article 23 states: "Professional rights,

honour and dignity of the advocate are guaranteed and protected by the Constitution of Ukraine, this Law and other laws, in particular:

- any interference and obstacles to the practice of advocacy are prohibited;
- it is prohibited to require the advocate, his assistant, trainee, a person who is in labour relations with advocate, law office, bar association, as well as a person in respect of which the right to engage in advocacy has been suspended or dismissed, provision of information that is privileged. Concerning these issues, the said persons cannot be interrogated, except where the client who entrusted that relevant information has freed an advocate in writing from the obligation to observe the privilege in accordance with the procedure prescribed by law;
- law enforcement investigations or investigatory actions against an advocate can be carried out solely with the permission of the court at the request of the Prosecutor General of Ukraine, his deputies, the prosecutor of the Autonomous Republic of Crimea, the region, Kyiv City and Sevastopol City;
- it is prohibited to conduct review, disclose, reclaim or remove documents related to the exercise of legal practice;
- it is prohibited to identify the advocate with the client;
- disciplinary proceedings against an advocate are carried out in compliance with a prescribed procedure;
- the peculiarities of conducting particular investigative actions and injunctive measures for ensuring criminal proceedings in relation to the advocate are determined by part two of this article. In the case of a search or review of housing, other property of advocate, premises where he carries out legal practice, gaining temporary access to belongings and documents of advocate, an investigating judge, the court, in its decision is bound to specify a list of things that are to be found, discovered or removed during the investigation, and also take into account the requirements of paragraphs 2 to 4 of part one of this article.

In the course of a search or review of housing, other property of advocate, his office premises, temporary access to things and documents of advocate, a representative of the Bar Council of the region shall be present, except as provided for in paragraph four of this Chapter. In order to ensure his participation, an official who carries out the relevant investigative action must notify the Bar Council of the region in advance about place of such procedural action. In order to ensure compliance with the requirements of this Law concerning professional privilege during conducting the said procedural steps, the representative of the Bar Council of the region has the right to ask questions, to submit comments and objections to the procedure of carrying out procedural actions specified in the protocol.

To ensure legally defined guarantees, the Criminal Code of Ukraine (CC of Ukraine) provides for criminal liability for:

- violation of the right to defense by preventing or failing to promptly provide the defense counsel, as well as other gross violation of the rights of the suspect, accused, defendant, committed by the investigator, prosecutor or judge (Article 374);
- interference with the activities of defense counsel or representative of a person through the commission, in any form, of obstacles to the lawful activity of a defense counsel or a representative of a person providing legal aid or violation of the guarantees of their activity and professional privilege established by law (Article 397);
- a threat of murder, violence or destruction or damage to property of a defense counsel or representative of a person, as well as their close relatives, in connection with activities related to the provision of legal aid (Article 398);
- deliberate destruction or damage to property belonging to a defense counsel or representative of a person or their close relatives in connection with activities related to the provision of legal aid (Article 399);
- attempts on the life of a defense counsel or a representative of a person in connection with activities related to the provision of legal aid (Article 400).

## II. VIOLATION OF PROFESSIONAL GUARANTEES OF PRACTICE OF LAW IN UKRAINE

The Constitution of Ukraine guarantees the right to legal assistance. In order to exercise this right in Ukraine, there is an institution of Advocacy (the Bar). However, in 2012, simultaneously with the consolidation of the norms of national legislation, into a single legal act, incorporating international legal standards on the practice of advocates, the number of violations skyrocketed, ranging from unlawful interference and pressure on advocates from law enforcement officials and even the courts starting unjustified criminal prosecution and all the way to simple use of violence.

It should be emphasized that Practice of Law, which is protected by state guarantees, cannot be a basis for suspicion in commission of criminal offense or for conducting a search in a law office, as legal practice is *de jure* and *de facto* lawful.

The justification by the pre-trial investigation agency of the grounds for conducting a search or other procedural actions, in particular the fact that “the advocate has committed an offense on the pretext of pursuing a professional activity”, does not withstand any criticism and proves the incompetence of those involved in pre-trial investigation and investigative judges who satisfy the motions of the prosecution and amounts to crimes against a person who carrying out independent professional activity, which is covered with constitutional guarantees.

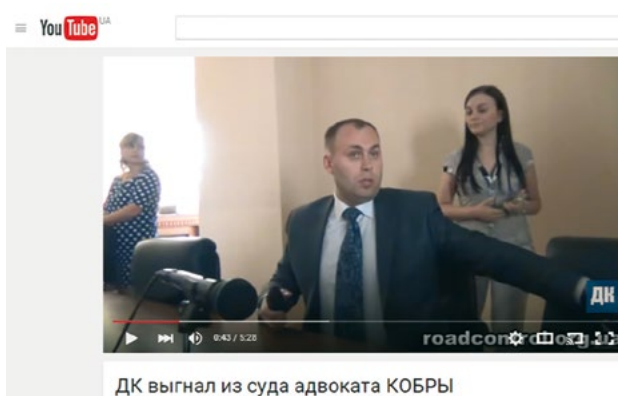
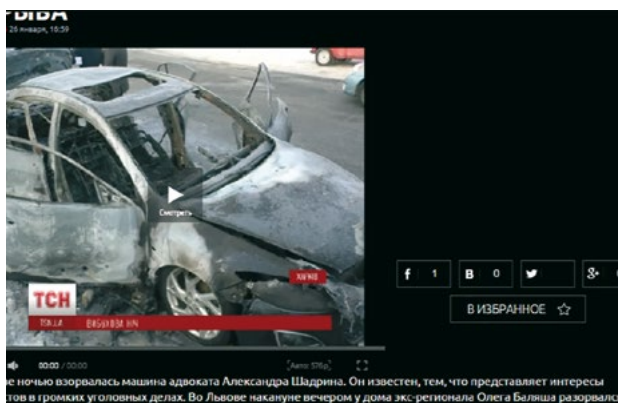
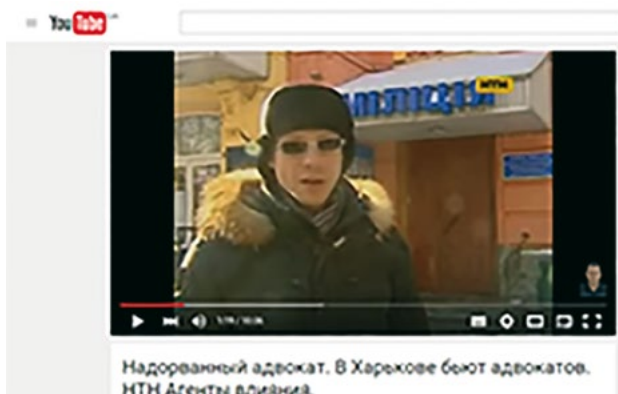
The Ukrainian National Bar Association, through the system of advocacy self-government, takes all possible measures to stop violations of the rights of advocates and their professional guarantees.

However, legislative safeguards to protect professional activities of advocate are eliminated by the lack of practice of thoroughly investigating all the facts of encroachments and the actual punishment of perpetrators in crimes committed against advocates in connection with their professional activities.

Due to the creation of obstacles to professional activity, the constitutional right to legal aid is often violated, which undermines the right to a fair trial.

Without the right to defense there can be no rule-of-law State, vested with the task to provide legal aid and guarantee real and not theoretical prosecution of those guilty of violating constitutional guarantees.

There is a negative trend indicating an increase in the risks and new threats to the institution of human rights protection, for example due to unwarranted or unjustified search of premises where the advocate carries out his activities;



violation of professional privilege, which has negative consequences for the implementation of constitutional guarantees.

Barriers to advocacy lead to a loss of confidence in the justice system in Ukraine, and a deliberate violation of its



guarantees by government officials calls into a question the effectiveness of the law enforcement reform and eloquently demonstrates the non-compliance with the European standards that Ukraine aspires to.

However, in cases where unlawful actions against advocates are committed by other persons, law enforcement authorities are not conducting appropriate investigative actions within the framework of criminal proceedings on these facts, which, on their part, guarantees the perpetrators avoid the liability established by law.

This report does not encompass all the facts of violations against advocates, but highlights only the most notorious facts, instances of pressure and unacceptable interference with their professional activities, and obstacles to providing quality legal aid to the client.

All these facts are documented and considered as a form of human rights abuses in Ukraine, a threat to democracy and those that contain signs of a totalitarian police regime in Ukraine at this stage of its development.

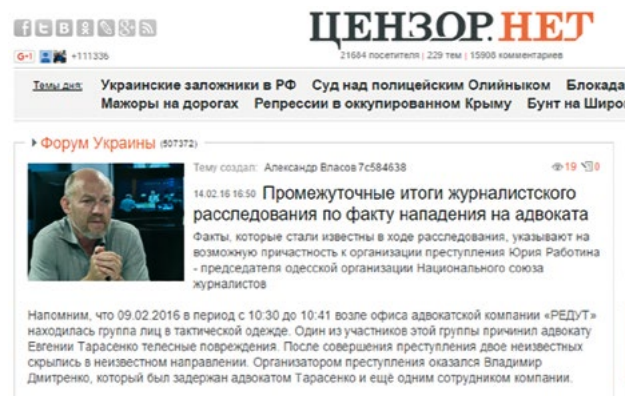
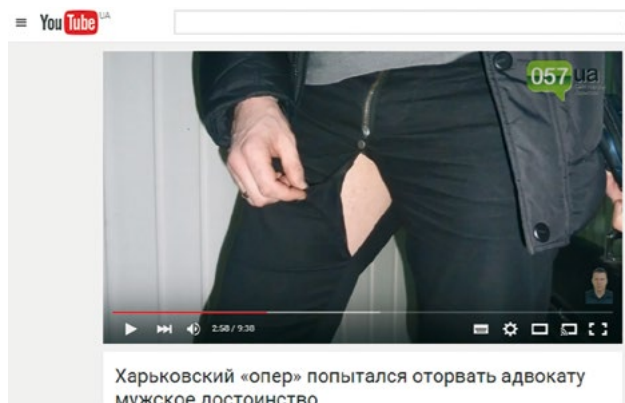
The following are specific types of violations of the professional rights of advocates and guarantees of Practice of Law in Ukraine during 2013-2016.

## ASSASSINATIONS AND ATTEMPTS ON ADVOCATES' LIVES

The legal community is concerned about terrible assassinations and attempts on lives of their colleagues over the past years.

In 2013, the advocate Oleksandr Drachuk was murdered in Nizhyn City. For a long time, law enforcement officers even refused to register criminal proceedings on this fact, since according to law enforcement, the advocate himself drowned while diving in the river. However, during the burial the colleagues of the advocate noticed a large number of bodily injuries on the hands of the deceased, protective wounds. There were also numerous bruises and abrasions on the face. In addition, the expert found a rib fracture. According to experts, such injuries are typical in cases where a person protects himself from attack. The criminal proceedings under part one of Article 115 of the Criminal Code of Ukraine were initiated, however, the pre-trial investigation was ineffective, and eventually criminal proceedings were closed in general with the wording "in the absence of an offense".

On January 19, 2015, advocate with a 20 years of practice Oleksandr Gruzkov was murdered in Kharkiv City. He was shot just in the centre of the city by a precise headshot; at the scene of the event, criminologists found seven casings. One version of the reasons for the advocate's murder, as reported by Komsomolskaya Pravda, was precisely his Practice of Law, but investigation did not pay any attention to this version.



On March 20, 2015, the wife of advocate, Yuriy Ihnatenko, turned to the police with a statement about her husband's disappearance. On March 24, the body of the advocate was found by local residents near Pukhivka Village of Kyiv Region. Traces on the body testified to violent death. A criminal case was initiated under the article "intentional

murder". Vesti newspaper noted that the cause of the murder was the professional activity of the advocate. Prior to this, on March 18, the advocate won a very difficult court case in Boryspil, which he has been running for four years. It was a property dispute that concerned the apartments of an elderly woman, whom the colleague of Ihnatenko represented in court. He was kidnapped in the centre of Boryspil, there were eyewitnesses. A person suspected of ordering a murder has been identified.

On July 10, 2015, a brutal attack on advocate of Kyiv Region, Oleksandr Vishnevyi, was occurred: two unknown perpetrators wearing masks brutally beat advocate near his office. They beat him with a metal rod aiming for the head, the body. The advocate miraculously managed to defend himself and stay alive. The advocate himself connected the attack to the fact that he represents the victims of a bus accident on Hostomel highway. The advocate took an active position, provided comments to the media about the illegal activities of the carrier. On August 25, 2015, advocate Oleksandr Vishnevyi was re-attacked. This time, the advocate received a knife injury to the chest. The strikes were from the back, the advocate did not see the abuser.

On March 06, 2016, information about disappearance of the advocate, Deputy Chairman of the HQDCB, who was defending one of the Russian Special Forces servicemen Oleksandr Alexandrov, - Yurii Hrabovsky. All the advocates were concerned and demanded that the law enforcement authorities find their colleague, while the delay in investigation clearly gave rise to concern for his life, and advocates were hoping that he would be found alive. On March 20 a suspected offender in the organization of the disappearance of advocate was arrested. The Chief Military Prosecutor Anatolii Matios claimed that the operation on kidnapping the advocate was planned by the "former Ukrainians" and security services of the Russian Federation "to create a picture" at the final stage of the trial over the Russian Special Forces personnel. On March 25, 2016, Anatolii Matios informed that the body of the murdered advocate Yurii Hrabovsky was found at 4:00 pm in the abandoned former collective farm garden in 20 km from Zhashkiv. Advocates questioned the version of the prosecutor's office, since Yurii Hrabovsky was a well-known advocate and participated in many high-profile cases, and they were waiting for a sister of the deceased to arrive in Ukraine to be able to represent the victim's interests and make every effort to punish the perpetrators of the murder. In the advocacy there was the time of sorrow – a loss of a talented, smart, energetic colleague, devoted to his career.

Another sad event for the advocacy took place on March 14, 2016 in Kharkiv City, where Viktor Loyko, a well-known advocate was murdered in his workplace. Advocate Loyko was 51 years old. He specialized in criminal cases; in particular, in 2010 he represented the interests of the defendants in two cases of drug trafficking in the police.



## К Корбану в СИЗО не пустили адвокатов и нардепов

Новости Украины - Политика 01.11.2015 - 20:14



In April 2016, in Kharkiv City, a shot from a grenade launcher was made at the house of the Advocate Harmash, in which she lived with her family, and just thanks to absence of dwellers in the house nobody was hurt.



In July 2016, a car of advocate S.I. Kozachenko, who in recent years has been a defender in several high-profile criminal cases, was shot up in Kyiv City by unknown persons. This was no longer the first attempt on advocate, a year before unknown persons threw two militant grenades at the advocate's yard. Miraculously, no inhabitants were injured. The apparent inactivity of the Prosecutor's office and the National Police in investigating these cases led to the fact that the advocate even proclaimed a hunger strike at the reception hall of the Prosecutor General's Office of Ukraine, but the guilty had not been established and brought to justice.

On January 21, 2017, advocate Valerii Rybalchenko was killed. The killer approached the advocate from behind and shot him in the head. The circumstances and nature of the murder show that it was a murder for hire. According to one of the close relatives of the deceased, the advocate has recently rendered legal aid to one well-known developer company in Kyiv City, and therefore the most probable version of the motive of the murder is the professional activity of the advocate.

## CRIMINAL PROSECUTION OF ADVOCATES

In recent years, investigators have invented a way to "get rid of" an advocate in criminal proceedings, by rigging the case in which the advocate himself becomes a suspect, and thus put behind bars, after the court grants motion for a preventive measure in the form of detention. The court usually satisfies such motions because it is also not independent; judges themselves are in fear of criminal prosecution and uncertainty that hangs over them due to the unclear nature of the authorities' actions in judicial reform. The unlawful service to advocates of Notices of Suspicion, their detention and election of a preventive measure occurs in violation of the law and with the disregard of the special procedures for conducting procedural actions against an advocate provided for by the law. The advocate is identified with his client, which is prohibited. Advocates are accused of committing serious crimes only because they have become aware of the information that is privileged, as well as because they defend the client qualitatively, putting all their strength and knowledge into affair.

Thus, in July 2013, a bail, in amount which more than three times exceeded the maximum amount pursuant to the Code of Criminal Procedure was granted against advocate Serhii Petrenko. When choosing a preventive measure, the relevant advocacy self-government bodies (the Bar Council of the region) was not properly informed about this, as required by the Law of Ukraine "On the Bar and Practice of Law".

In October 2013, criminal proceedings were initiated against advocate Andrii Mamalyga and a preventive meas-



ure was selected. The reason for the criminal prosecution of advocate was that allegedly his name was used by a true suspect. After numerous appeals by the UNBA to stop illegal actions against the advocate, criminal proceedings were closed, and the preventive measure was cancelled. According to the results of the official investigation, the investigator was dismissed from his position. No one sustained a punishment for prosecuting advocate and forcing him to prosecute the advocate.

In November 2013, in order to damage the reputation of advocate Ihor Cherezov and prevent his activity, criminal proceedings were opened against him, information about opening has been sent by e-mail to almost 300 persons.

In December 2013, Victor Smalii, who was a defender of Maidan activist A. Dzyndzia, was arrested. For a long time the advocate was behind bars. The reason for opening of criminal proceedings against Mr. Smalii was his sharp and unequivocal position regarding defense of his client: he demanded justice and a lawful, fair decision of the court in relation to his client, who went out to Maidan, protesting against Viktor Yanukovych's criminal regime. Also, at this time, advocate A.V. Nasykovskyi was arrested in violation of the norms of the Code of Criminal Procedure of Ukraine (CCP of Ukraine) and the Law of Ukraine "On the Bar and Practice of Law" and the preventive measure was applied - detention. Deputy Head of Kyiv Pre-trial Detention Facility O.I. Savchenko informed UNBA about this detention.

In March 2014 the UNBA received a petition from the advocate P.O. Vykhov that criminal proceedings have been fabricated against him, and as a result he was deprived of his right to continue his professional activities. In January 2015, the Senior Investigator in the Special Matters of the Prosecutor General's Office of Ukraine S.B. Bozhylo issued Notice of Suspicion in violation of Article 23 of the Law of Ukraine "On the Bar and Practice of Law", Articles 480 and 481 of the Code of Criminal Procedure of Ukraine. In this case, once again, it was demonstrated that when a resonance case is being investigated or it is about the interests of politicians, this gives grounds for neglecting the laws and, as a result, nobody bears responsibility.

In March 2015, the UNBA learned about detention of advocate Denys Hordeyev on suspicion of committing a crime envisaged by Article 115 of the Criminal Code of Ukraine. In the news and on the pages of the printed media there were loud speeches of high officials, even the President of Ukraine, that Mr Hordeyev is a murderer that, on its part, is a gross violation of the principle of presumption of innocence - the fundamental principle of a rule-of-law state. On March 27, 2015, the UNBA sent a letter to the Prosecutor General's Office indicating that the detainee is the advocate of Ukraine and investigative actions should be conducted taking into account the requirements of Articles 480 and 481 of the CCP of Ukraine.

From January 2016 and till the date of approval of this report, the prosecutor of Kyiv Region through conducting separate investigative actions in the framework of criminal proceedings under Article 121 of the Criminal Code of Ukraine had been pressuring the advocate O.V. Sokolovska – a defender of a citizen of the Russian Federation Y.V. Yerofeyev. The advocate was presented with suspicion and interrogated as a suspect. Ukrainian advocacy demands from the law enforcement bodies not to violate criminal procedure, regardless of whether the advocate is suspect/accused of committing a crime; conduct interrogation pro-



cedures and other access to the privileged information with strict observance of the regulations and guarantees of the current legislation.

In December 2016, the advocate Ihor Dmytrovych Povkh lodged a statement with the UNBA, reporting that the criminal proceedings were fabricated against him and the



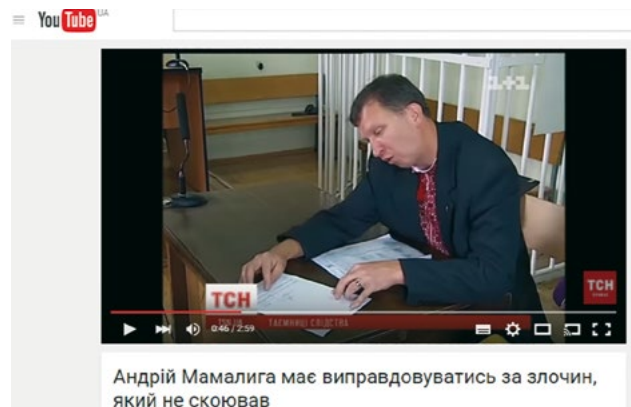
reports about the commission of the crime were presented. The advocate provided copies of certain materials of the criminal proceedings and evidence that some procedural documents in the case contained evidence of forgery. The grounds for prosecuting advocate were the revenge of the local prosecutor's office for the principled position of advocate in a number of high-profile cases. At the same time, in a private conversation with prosecution the advocate I.D. Povkh was allegedly told that the purpose of a criminal prosecution was to deprive him of the right to practice law as a result of his conviction.

In March 2017, as a result of apparent identification of the advocate with a client, a preventive measure in the form of detention in Odessa Pretrial Detention Facility without notice of suspicion served by an authorized person, which, by the way, was recognized even by a court, and in the absence of evidence against Oleksandr Volodymyrovych Chibirdin. However, despite these circumstances, the lack of evidence of guilt of the advocate O.V. Chibirdin, the judicial system compensated with unjustified detention. It is the detention of the advocate O.V. Chibirdin demonstrating blatant neglect of the rules of the criminal procedural law; all the efforts of the prosecution and the court aim towards that. It should be noted that the advocate has serious health problems, and staying in the penitentiary institution deprives him of the possibility to get proper medical care and treatment, which is a direct threat to his life.

One more vivid case of state policy aimed at non-recognition of professional guarantees is the case of the advocate Volodymyr Viktorovych Lyishyk. In May, 2017 the advocate V.V. Liushyk was subjected to unjustified criminal prosecution. During detention of the advocate, employees of the Security Service of Ukraine used actions that borne the signs of torture, and the advocate himself was detained for several months in absence of a Notice of Suspicion served by an authorized person. Representatives of the Committee on protection of advocates' rights and guarantees of the UNBA repeatedly participated in court hearings on election/extension of a preventive measure towards the advocate. Meanwhile, the investigative judge of Shevchenkivskiy District Court of Kyiv City V.V. Bugil, satisfying the motion of the prosecution on application a preventive measure in the form of detention against the advocate V.V. Liushyk. In the reasoning part of the decision, the court made such a phrase in relation to the advocate as "so-called Practice of Law", thus not recognizing the need to comply with the statutory guaranty of the Practice of Law and a special procedure for conducting criminal proceedings against a defined category of persons.

## PHYSICAL REPRISAL AGAINST ADVOCATES

The greatest amount of physical violence against advocates is committed by law enforcement officers, where



advocates are beaten by them in district departments, their offices, even before witnesses and in the eyes of clients in order to intimidate the advocate to "get out" from the case (if the police beats advocate, what can a simple person expect); to prevent the advocate from seeing a client (violation of the right to defense), to unlawfully obtain documents that constitute the professional privilege etc. The report shows only some of the violations that should give a general idea how advocates risk their lives, health and property to fulfil their professional responsibilities to the client.

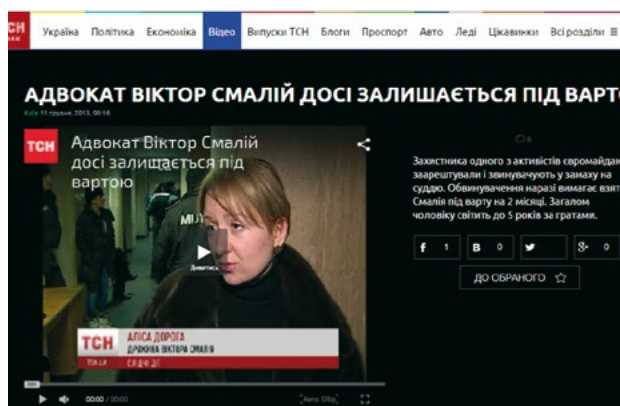
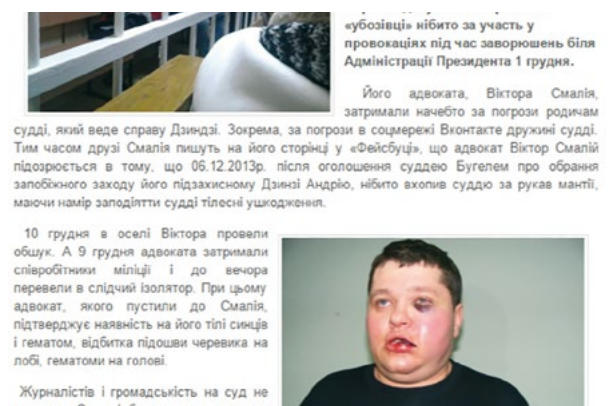
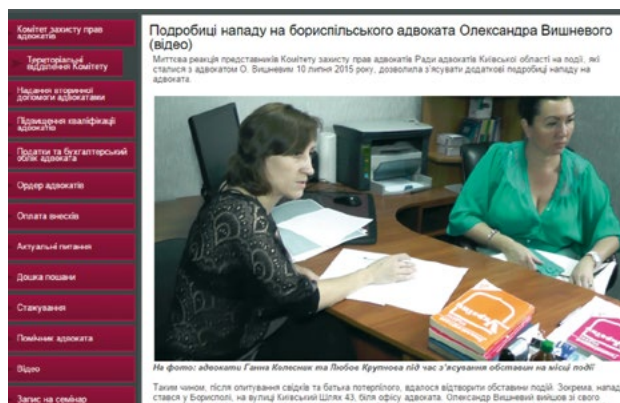
Thus, in June 2013, one of the leaders of Bila Tserkva City Department of the Main Department of the Ministry of Internal Affairs in Kyiv Region A.I. Hryhorenko unlawfully, with the use of violence, tried to seize documents and phone from the advocate V.M. Smalii, while causing bodily harm to the latter. The actions of the law enforcement officer were connected with the attempt to access

the privileged information. Neither the Ministry of Internal Affairs, nor the Prosecutor's Office responded to numerous appeals from the UNBA to investigate and send offenders to court. Law enforcement officers have not given proper assessment to the fact of an attack against an advocate and have not properly investigated it. On December 25, 2013, the UNBA received a response from Kyiv Regional Prosecutor's Office that the criminal proceedings were closed due to the absence of an offense, namely the fact that the advocate received no bodily harm, therefore the fact of beating was not confirmed.

In October 2013, towards the advocate M.M. Biriuk, who came to Kyiv Pre-Trial Detention Facility to provide legal aid to the client on behalf of the Centre for Provision of Free Secondary Legal Aid, the officials of this institution used force to prevent him from contacting the client. Employees of the pre-trial detention facility spoke outrageously at the address of the advocate. This fact is the evidence that officials of Kyiv Pre-Trial Detention Center committed a criminal offense by not allowing the advocate to a client. However, guilty persons were not brought to responsibility for interfering with the professional activities of advocate and causing him bodily harm.

In November 2013, investigator of Kyivskyi District Division of Kharkiv City Department of the Main Department of the Ministry of Internal Affairs of Ukraine in Kharkiv Region V.O. Hnidy caused light bodily injuries to the advocate I.H. Abdullaieva-Martirosian during performance of her professional duties on behalf of Kharkiv Regional Center for Provision of Free Secondary Legal Aid. Officials of the Investigation Department of Kyivskyi District Division of Kharkiv City Department of the Main Department of the Ministry of Internal Affairs of Ukraine in Kharkiv Region instigated intimidation and pressure on the advocate. First Deputy Chief of Kyivskyi District Division of Kharkiv City Department of the Main Department of the Ministry of Internal Affairs of Ukraine in Kharkiv Region V.V. Kolmyk in order to continue the pressure on the advocate for her to "withdraw" from the criminal proceedings as a defender appealed to the Qualification and Disciplinary Commission of the Bar of Kharkiv Region, and then to the Higher Qualification and Disciplinary Commission of the Bar with a complaint about the actions of the advocate; the investigator's appeal was denied against the advocate Abdullaieva-Martirosian in absence of the violation in a disciplinary case. In the same month, while providing legal aid at the office of his clients, five unknown men caused the advocate a slight bodily harm again. Investigator A.V. Miziuk concealed the fact of signing the protocol by O.H. Bashuk and, as a consequence, introduced to the Unified Register of Pre-Trial Investigations information that data to the protocol was made by an unknown person and on unknown date, that is the investigator fabricated a document.

On January 14, 2014, the advocate R. Osynskyi was attacked by an officer of the police at Leninskyi District Department (Kharkiv City) in front of his client. At first, police



officer started procedural actions with a client of advocate with numerous violations, and when the advocate vocally noticed the inadmissibility of arbitrariness, the policeman applied physical force to the advocate himself. The client



was extremely frightened and, in a minute, ran out of the office of the investigator and said: "If they behave like this with the advocate, then what should I expect?"

In February 2014, when leaving the car, the advocate Y.I. Anokhin suffered an attack and kidnapped by four armed men in full-body armour and black masks (as it later became known these were employees of "Alpha" Special Forces of Kyiv City). On the way to the office, psychological pressure and threats of execution were carried out upon the advocate. According to the advocate's statement, the investigator of Lychakivskyi District Department of the Main Department of the Ministry of Internal Affairs of Ukraine in Lviv Region opened criminal proceedings.

On July 25, 2014, unknown persons launched attack against the advocate Oleh Beliaiev during his participation in the proceedings (Rokytno Township, Kyiv Region). After the attack, the advocate also found his mobile phone missing, which most likely took possession of the attackers. The police, who were present during the incident, did not take any action to protect the advocate, and the squad of policemen, called by the advocate, did not appear at the scene. In September 2014, the head of Bucha Penitentiary Colony of Kyiv Region inflicted bodily harm to the advocate Hanna Kolesnyk; his actions were related to the fact that the advocate required a meeting with a client who had been illegally taken from a pre-trial detention center to a prison without a court decision. Officers did not permit jail visitation of the client by advocate, and when the advocate called the police, she was invited to a "conversation" with the Head of the colony who began to insult her. The advocate began to record the actions of the head of the colony on the phone and he grabbed the phone out of her hands, causing her bodily harm. Criminal proceedings for causing light bodily harm have been opened, no suspicions have been presented to perpetrators, and criminal proceedings have not been opened for the infliction of bodily harm against a defender and for violation of the right to defense.

On February 9, 2016, a member of the "Samooborona" Volodymyr Dmytrenko caused actual bodily harm to the advocate Yevheniia Tarasenko (Odesa City) during her Practice of Law. The advocate began filming the offense for the purpose of gathering evidence, and when she turned the camera to V. Dmytrenko, he punched her in the face, as a result - the tablet fell and crashed, and advocate Tarasenko received bodily harm. As a result, criminal proceedings were opened under Article 398 of the Criminal Code "Threat or Violence against a Defender or Representative of a Person".

In January 2017, the UNBA received a letter from the advocate Vadym Viktorovych Samoilenko. The applicant was attacked and beaten by the employees of the Tax Inspectorate of Sviatoshytskyi Main Department of the State Fiscal Service in Kyiv City, causing him to have been injured and illegally detained. Upon completion of the said criminal actions, the advocate V.V. Samoilenko was presented a



### Корбана без адвокатів привезли до суду. Обирають запобіжний захід. Наживо



жкат Чудовський вимагає від ГПУ та МВС розслідувати справу про підпал автомобіля [відео]



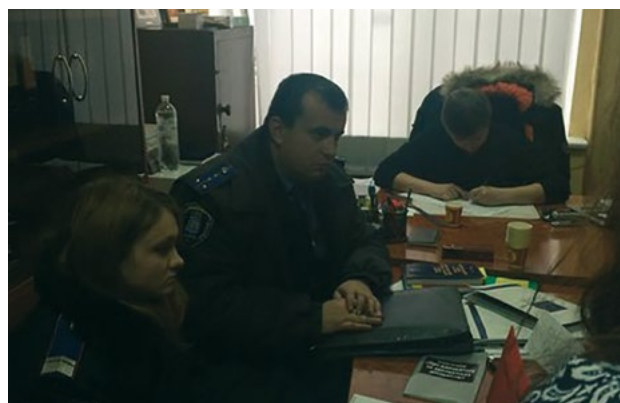
writ for interrogation as a witness in a criminal proceeding in which he provided legal aid to a client.

In March 2017, an attack and beating against Andrii Petrovych Verba took place in Dnipro City. Before that, during a month, the advocate received multiple threats with a demand to refuse to represent the interests of the client in

a criminal case. Persons who threatened were known to the advocate A.P. Verba and multiple times he informed about the fact of these threats to the body of pre-trial investigation. However, the advocate's appeals on this matter had no consequences. As a result, the intruders pursued their threats and caused numerous bodily injuries to the advocate, tracking him at his own home. On the given fact criminal proceedings were started. In view of the assault, the advocate applied to the investigator with a request to apply security measures to him, but despite the fact that the said application was satisfied, the investigator did not send a decision to grant police protection to the advocate A.P. Verba for the implementation by a special unit of the national police for almost six months (!) from the moment of its passing. As a result of the appeal of the Committee on protection of advocates' rights and guarantees of the UNBA to the Head of the National Police, an investigation was conducted during which the inaction of the investigator was established and a decision was made to impose security measures to be implemented.

In April 2017, in Kyiv City, the advocate Viktoriia Oleksandrivna Ternova, while acting as a representative of a legal entity, arrived at the site of a search conducted with the participation of employees of the Security Service of Ukraine. The advocate was informed that she is a representative of the company, intends to take part in the proceedings and is ready to provide all the necessary documents confirming her powers of the representative. After the advocate V.O. Ternova was allowed to come inside, one of the employees of the Security Service of Ukraine began to push the advocate in chest and kicked the advocate on feet, so that the latter, having finally lost her balance, fell to the heel on the floor. After that other employees of the Security Service of Ukraine seized the advocate, lifted her and threw at a distance of 2-3 meters outside the office; as a result, V.O. Ternova got bodily harm. In addition, the applicant's mobile phone was damaged as a result of the fall, and her wallet, which probably fell in the office during the busting, was lost. But after the law-enforcers went to the office the advocate's wallet was not found.

In May 2017, three policemen in Dnipro City broke into apartment of the advocate O.V. Kononenko, knocking out the front door, and by threatening with physical violence and firearms, attempted to rob the advocate of the documentation in legal proceedings, which the latter conducts in various courts of Ukraine. At the same time advocate O.V. Kononenko was inflicted hits on face, arms and body. Besides injuries, the advocate was caused material damage amounting to UAH 7,000.00, related to the need to restore the front door of the apartments that police officers broke down. On the fact of assault and beating the advocate O.V. Kononenko appealed to the District Division of the National Police of Nikopol Police Department of the Main Department of the National Police of Ukraine in Dnipropetrovsk Region with a statement regarding the committing of a criminal offense against him. Criminal proceedings were initiated.



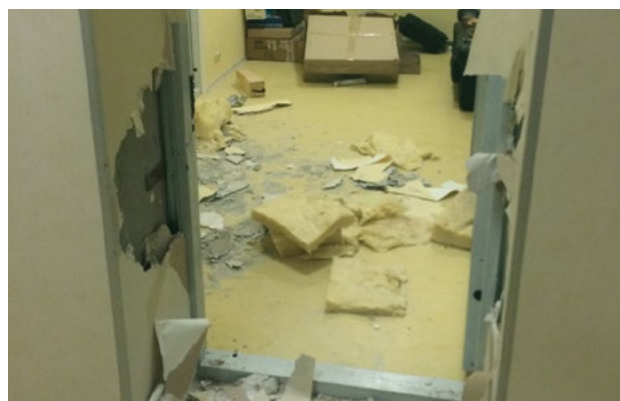
Україна > Події > Подвійний випадок Києва  
**Корстокий напад на адвоката під Києвом став другим з ювачку літа** [Детальніше](#)  
 5 Серпня 2015, 18:13 <> 1222 Версія для друку Відправити другу



#### СТАТТІ НА ТЕМУ:

- 26 Серпня 2015, 12:32 Під Києвом невідомий напад на адвоката з ножом
- 26 Серпня 2015, 13:06 Подорож обійшлася в Києві: дівчину зарізав співмешканець
- 26 Серпня 2015, 10:13 У Росії ведмідь напав на туристку
- 18 Серпня 2015, 19:21 У Нікополі п'яно вночі хуліган з ножом

Ілліця шукає нападника. Автор фото: Григорій Салай, "Сьогодні"



In July 2017 the staff of the Prosecutor General of Ukraine with the force support of riot police of "Alpha" Special Forces of Kyiv City, without ruling of the Investigating Judge raided the premises of the advocate V.I. Semenov, during which they caused actual bodily harm to the advo-



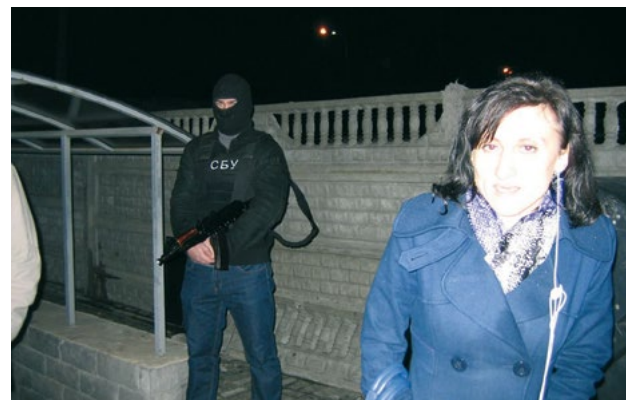
cate as a result of which the latter was hospitalized. This investigator of the Prosecutor General of Ukraine, despite the statement of the medical personnel of a need for immediate hospitalization of the advocate, prohibited to do so over time of the raid, and saying to the employees of the Security Service of Ukraine to continue using violence to the barely conscious advocate.

In September of 2017 in Kyiv City the advocate Alina Mykolaivna Samarets arrived at the venue of the proceedings in Pre-Trial Detention Facility No. 13 upon the orders of the Centre for Provision of Free Secondary Legal Aid for legal assistance, however, having learned that the client already had obtained counsels and detective of the National Anti-Corruption Bureau of Ukraine P.A. Ershov insisting on the lack of legal grounds for her further participation in procedural action. After that she was forcefully closed by the latter in the office room and beaten. In addition, the detective of the National Anti-Corruption Bureau of Ukraine snatched and ripped up the Certificate of right to practice law owned by A.M. Samarets. Abuse of power of the detective of the National Anti-Corruption Bureau of Ukraine was terminated only through the intervention of penitentiary workers who came once they heard advocate's cry for help.

In January 2018 right outside the building of the Commission for Complaints in the Sphere of the State Registration of the Ministry of Justice of Ukraine two men organized assaulting the advocate D.I. Nienov who arrived to attend the hearing on the complaint of his client. During assault, these individuals attempted to seize the advocate's portfolio, which contained documents on the case. The identities of the intruders were known to the victim. They were the representatives of the opposite party in the dispute. A few days after the attack, from the apartment, advocate's place of v, his personal laptop was stolen, which contained information related to his Practice of Law. At the request of the advocate, information about the crime was entered into the Unified Register of Pre-Trial Investigations and a pre-trial investigation was opened.

Also, in January 2018 there was another terrific case of physical abuse over the advocate in Kyiv City. Unknown persons entered the apartment of the advocate V.M. Zaychenko and caused the advocate and his wife numerous bodily injuries with the baseball bats. As a result, both victims were hospitalized in a difficult condition.

On July 27, 2018, at the premises of the building of the Court of Appeal of Kyiv, representatives of one right-wing radical organization attacked advocate Valentin Rybin and he suffered bodily harm. During this attack, the offenders cried out the threats and offensive remarks at the lawyer. Such unlawful actions were due to the provision of legal assistance to clients by a lawyer in a number of high-profile criminal cases. It should be noted that as a result of the rough identification of a lawyer with a client, lawyer Valen-



tin Rybin for a long time was under constant pressure and threats from radical groups.

On August 07, 2018, representatives of the radical group attacked and beat up advocate Oleg Povalyaev. The attack was carried out directly at the premises of the Court of Appeal of Kyiv. The lawyer participated in the court hearing, attended by several individuals who during the court ses-

sion behaved provocatively, showing complete contempt for the participants in the trial, and trying to disrupt the court session. After the lawyer's remarks about the inadmissibility of such behavior, two of them seized the lawyer by hand, and the third person struck him in the face. After the announcement of a recess in the court session, lawyer O. Povalyaev left the courtroom facing a group of about 30 young men, shouting offenses and obscene language, began threatening him with physical harassment in connection with the fact that the lawyer, in their opinion, protects

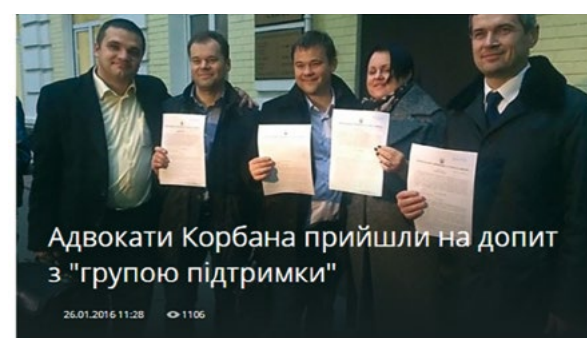
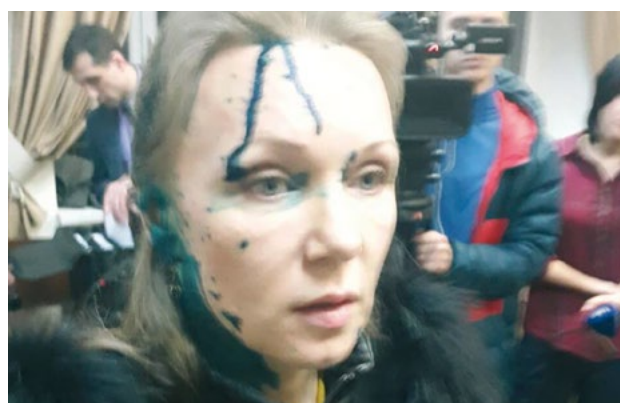
"the wrong people". There was no reaction from the police that was present during the indicated events. In fact, from the side of law enforcement officers, there was a little patronizing of offenders in committing a crime.

In addition to violence and obstacles to the professional activity of lawyers, there are attempts to interfere with the work of the advocates' self-government bodies. Thus, in 2014 representatives of radical groups attempted to disrupt the Congress of Attorneys of Ukraine, which could have the consequence of blocking the further work of all advocates' self-government bodies in the state.

On July 31, 2018 a group of radical young men broke into the premises of the Secretariat of the Ukrainian National Bar Association, where at that time the meeting of the Committee on protection of advocates' professional rights and guarantees was held, devoted to the attack on the lawyer Rybin V.V. by the representatives of the same group due to his activities in providing legal assistance. Shouting provocative slogans, these individuals physically blocked the premises, trying to disrupt the meeting. At the same time the police were completely out of action, only watching the acts of hooliganism.

Also, People's Deputy of Ukraine Igor Mosiychuk on his own page on «Facebook» has encouraged to interfere with the work of the advocates' self-government bodies, namely by picketing the meeting of UNBA Disciplinary Chamber in Kyiv scheduled for 02.08.2018. In this way, the People's Deputy of Ukraine intended to influence the decision of the independent body of the advocacy. These appeals from a representative of the legislative branch were picked up by representatives of radical political groups, which began to call for actual capture and blockade of both the Disciplinary Chamber of Kyiv and the Secretariat of the Ukrainian National Bar Association in general.

As a result, on 02.08.2018 a group of radical activists again burst into the premises of the Secretariat of UNBA, disrupting the session of the Disciplinary Chamber. The perpetrators actually captured the members of the disciplinary chamber, blocking them from leaving the premises, and thus illegally depriving them of their liberty, held members of the advocates' self-government for two hours. The police present at that time at the UNBA's premises again did not try to prevent the commission of a criminal offense in any way, ignoring the requirements for taking reactive



Адвокати Геннадія Корбана - Андрій Богдан та Оксана Томчук - прибули на допит до Прокуратури міста Києва.

measures and actually contributed to causing bodily harm to the lawyers present.



## THREATS TO ADVOCATES MADE ON THE GROUNDS OF THEIR PROFESSIONAL ACTIVITIES

Their incompetence in the criminal proceedings law enforcement officers cover not only by the ability to use force against opponents, but also by moral pressure and threats both directly to advocates and through their clients. Advocates face such actions almost daily; here are just a few examples of them.

In March 2014, advocate Mykola Biriuk received on the phone a threat of physical abuse concerning his professional activity from the Head of the Investigation Department of the Prosecutor's Office of Chernivtsi Region A.I. Briukhovych. Proper verification of circumstances and bringing the guilty to justice did not take place.

In October 2015 prosecutor of the military prosecutor's office A.O. Prykhodko delivered on threats of the physical harassment to the advocate Oleksii Shevchuk, which was associated with the participation of the advocate as a defender in a resonant criminal case. Also, the prosecutor carried out the operative investigations activity against the advocate without complying with the requirements of the Law of Ukraine "On the Bar and Practice of Law".

In February 2016, employees of the prosecutor's office of Dnipropetrovsk Region and investigators of the Criminal Investigation Division of the National Police in Dnipropetrovsk Region conducted investigative measures against advocates S.O. Vesnin, R.V. Kapran, N.S. Bratseva; threats and multiple calls for interrogation as witnesses are carried out.

In February 2016, advocate Anna Boriak received threats and demands from the prosecutor to refuse to take part in criminal proceedings; later, the Public Organization "Public Security Council", acting in the interests of prosecution, is carrying out the threats of physical menace against the advocate Anna Boriak. The representatives of the public organization block the court in order to prevent the advocate from attending court hearings. After carrying out the threats the unknown perpetrators broke windows at the advocate's office. The advocate applies in accordance with the law with a request for police protection but receives a denial of its satisfaction. The judicial administration cannot cope with the crowds of civil activists who come to open court proceedings and violate the procedural order in this process (especially in resonant cases), often prevents execution of the legal process itself. The actions of offenders of the order often threatened the safety of suspects/defendants, advocates and judges. In order to put an end to this practice, it is sufficient to properly organize the work of the court by allowing access to court hearings not only the participants of the proceedings, but also the journalists and the public, but the law enforcement authorities should respond in a timely manner and take effective measures. Since this is not the case, there are reasons to believe that

### Палачи адвоката с Киевщины ждут приговора

27 марта 2016, 02:40



Убийство из-за профессиональной деятельности Правозащитника Юрия Игнатенко, изуродованное тело которого на днях нашли на Киевщине, до смерти забили четыре человека. Среди них был недовольный киевлянин, который решил таким образом отомстить адвокату.

Четверо подозреваемых - в СИЗО, их машина - на штрафплощадке. Чтобы найти убийц адвоката Юрия Игнатенко, правоохранителям понадобилась неделя. Коллеги погибшего утверждали - его замучили за профессиональную деятельность. В последнее время юрист защищал права пенсионеров, у которой сын хотел мошенническим путем отобрать жилье. Но адвокат вернул право собственности клиенту. Поэтому милиция начала искать убийц именно среди недовольных после приговора суда. Версия



such inactivity of law enforcement authorities is due to the fact that it is advantageous for them that the courts and advocates work under constant pressure, which, on its part, violates the right to a fair trial and eliminates credibility of the court as the Institution for the Protection of Human Rights as a whole.

Advocates S.V. Barabashyn, O.S. Chernykh, V.V. Bardachenko, S.S. Trofimov, R.B. Lykhachov, S.H. Chernesh, O.O.

Horoshynskiy, V.V. Boiuk, A.V. Karkishchenko, P.I. Krasnikov, R.V. Lazorenko, V.I. Semenov, S.M. Lysenko, T.P. Makarova, A.P. Verba, N.V. Horbal, E.V. Pukanych also informed about the facts of the threats related to the UNBA professional activities.

We would like to draw your attention to the case of the advocate Oleksandr Horoshynskiy, because the Chief Military Prosecutor Anatolii Matios, who on November 28, 2016, during the live broadcast on “112 Ukraine” TV channel in the program “Evening prime”, violated guarantees of Practice of Law, expressing his dissatisfaction with the fact, that the advocate is too active, in his opinion, in the defense of the “killers”, and made the following statement: “I would punch him very well in the face, so that he washed up with blood”. Thus, the high-ranking official demonstrated his true “level” of legal culture, the neglect of fundamental constitutional guarantees, such as the right of everyone to defense, the presumption of innocence, and allowed for a rigorous identification of the advocate with a client.

In any legal, civilized state such a case would be the reason for official’s dismissal, however, despite multiple appeals from the UNBA to the General Prosecutor’s Office of Ukraine demanding that Anatolii Matios be dismissed from the position of the Chief Military Prosecutor and officially apologize to the advocate community, no official was held liable, and the Prosecutor General of Ukraine Yuriy Lutsenko in his official reply noted that during his speeches Anatolii Matios acted as an individual, and not a person fully authorized for the fulfilment of the functions of the state, and consequently, he cannot bear any responsibility.

Shortly after the incident, the Prosecutor General of Ukraine Yuriy Lutsenko himself has shown to his subordinates an example of non-recognition of guarantees of the Practice of Law.

Thus, on December 06, 2016, after the meeting of the Verkhovna Rada Committee for Parliamentary Regulations and Organization of Work in consideration of the submission “On permission to bring to Criminal Liability of the People’s Deputy of Ukraine Vadym Vladyslavovych Novynskiy” Yuriy Lutsenko, referring to the advocate of Mr.V.V. Novynskiy Oleg Tatarov, called him “a non-Orthodox bitch, a crazy police bitch”. That was the Prosecutor’s General of Ukraine reaction to the advocate’s stated legal position regarding the innocence of his client. UNBA sent an open letter with the requirement to immediately apologize for such an unacceptable behaviour of the Prosecutor General of Ukraine was actually ignored by PG Yuriy Lutsenko, but the Prosecutor General of Ukraine sent a letter to the UNBA indicating that no violations of the guarantees of the Practice of Law were present in the emotional statement of the Prosecutor General.

## **DESTRUCTION OF THE ADVOCATES’ PROPERTY**

Cases of car arson, tire cutting, window breaking at offices, shootings attacks on offices or signages of law firms and associations have also become more frequent. Law enforcement authorities do not conduct proper investigation, guilty persons are not established. Here are just a few examples of “crimes” against the advocates.

In December 2013, arson of the advocate’s Ihor Chudovsky car was made.

In July 2015, the unknown persons committed an act of arson of the advocate L.I. Kornilova’s car.

In December 2015, the unknown damaged an advertising sign of the advocate V. Buriak.

In January 2016, the unknown persons committed an act of arson of the advocate’s O. Shadrin car.

In 2016, the unknown persons committed an act of arson of the cars of advocates A.A. Fedura, S.S. Trofimov and V.D. Ponomarenko. The arson of a private home of the advocate S.I. Kozachenko was committed.

Such facts require a proper investigation and are an unacceptable practice of pressure on advocates and impeding their Practice of Law. Attacks on advocates and destruction of their property are not only a violation of the guarantees of the Practice of Law, but also a challenge to the judicial system of Ukraine as a whole, since it is essentially an attack on it. In order to effectively protect human rights, advocates must work in a society where the state guarantees respect for the independence of the Practice of Law not only by law but also in practice, those responsible must be held liable for attacks, unlawful influence, inappropriate restrictions, pressure, threats and interference, intimidation or persecution against advocates.

## **SEARCHES OF ADVOCATES’ OFFICES IN ORDER TO EXTRACT INFORMATION CONSTITUTING THE LEGAL PRIVILEGE**

Unfortunately, progressive legislative changes and re-certification of law enforcement officials did not automatically lead to the improvement of the professional skills of investigators and operating officers to collect evidence in criminal proceedings on their own. Individual officials are practicing illegal methods and try to obtain such evidence by robbery and armed attacks on advocates’ offices, called “searches”, allegedly with minor violations of the procedure. In fact, under the guise of search of the advocate, documents on all clients, laptops, phones, and even money are seized, offices are vandalized to stop working for a long time.



In June 2013, at the office of the advocate V.V. Koshelia an illegal search was conducted in violation of the rights and guarantees of the Practice of Law. During the search, information that was stored on electronic media and constituted the legal privilege was confiscated. Violations during the search led to the opening of the legal privilege on all clients of the advocate, which is a gross violation of the law and guarantees of the Practice of Law. Neither investigators nor prosecutors noticed a violation of the law in their actions, and the complaints of the advocate and the UNBA against relevant law enforcement officers remained unanswered.

In July 2013, at the office of the advocate Valerii Blahovidov, on the basis of the decision of the investigating judge, a search was conducted at the request of the investigator of the Ministry of Internal Affairs, in violation of the requirement of paragraph 3 part one of Article 23 of the Law of Ukraine "On the Bar and Practice of Law".

In September 2013, at the office of the Law Association "Lira", employees of the Investigative Department of the Tax Police of the State Tax Inspectorate in Shevchenkivskyi District of Kyiv City under the leadership of the Senior Investigator of the Criminal Investigation Division of the State Tax Inspectorate in Shevchenkivskyi District of Kyiv City S.P. Boychenko unjustifiably conducted a search and seizure of property. Despite the court decision to return the seized property, the investigator failed to respond appropriately. In the same month, the Senior Investigator of the Chief Investigation Department of the Ministry of Internal Affairs E.H. Smirnova, the investigator of the Chief Investigation Department of the Ministry of Internal Affairs O.O. Hordienko, temporary Investigator-in-charge of the Chief Investigation Department of the Ministry of Internal Affairs D.M. Kozlov and Senior Investigator A.L. Kovalchuk violated the requirements of the Ukrainian legislation during a search in the premises of 'Alekseyev, Boyarchukov and Partners Lawfirm' LLC. The Bar Council of Kyiv received notice about the search 8 minutes before it was launched, which is unacceptable. As a result of the search, legally privileged documents and the list of which was not indicated in the court order, were removed. For the appeal of the UNBA to the Prosecutor General of Ukraine the answer was received, in which it was noted that during the search no violations of the CPC of Ukraine were committed.

In October 2013, the decision of the Investigating Judge of Novozavodsk District Court of Chernihiv City allowed temporary access to documents and their removal from the Law Association "Law Firm "Capital". Thus, the list of things and documents that can be seized was not specified; therefore in fact the court ignored the legal privilege guaranteed by law and disregarded the right of all other clients of advocates who are not involved in a particular criminal proceeding. In the same month, the investigation team of the Investigation Department of the Chief Administration of the Ministry of Internal Affairs of Ukraine in Kharkiv Region, the Senior Investigator M.I. Cherviyakov,



**МЕДІА ГРУПА ОБ'ЄКТИВ**

**ция просит помощи в розыске подозреваемого в убийстве харьковского адво**

Как сообщалось, ЧП произошло около 19:30 19 января этого года на улице Чичибабина. Тогда было обнаружено тело убитого 52-летнего адвоката Александра Грузова



погибшего обнаружили семь огнестрельных ранений. ЧП квалифицировали как умышленное убийство.

зрению) в совершении преступления ГУ МВД Украины в Харьковской области разыскивает неизвестного мужчину - на вид около 185 см, худощавого телосложения. Он был одет в темную одежду, в руках держал игрушечного медведя.

то обладает какой-либо информацией о разыскиваемом, или стал свидетелем ЧП, просит обратиться в полицию.

015 г. 11:30  
Шопалова

жесткая доля

violated the requirements of the legislation during a search in a residential premise of the advocate (in particular, the representative of the Bar Council of the region was not informed). The documents not included in the court order, as well as those containing the legal privilege, were seized.

In November 2013, in the premises of the Law Association H.M. Kolesnyk "Sword of Justice" officials of the Prosecutor's Office of Kyiv City, Investigator of the Prosecutor's Office of Kyiv City, O.B. Protas and officers of the Security Service of Ukraine conducted a search, which rather resembled a robbery attack, with numerous violations of the requirements of the current legislation. Neither advocate Kolesnyk, nor representatives of the law association, or the Bar Council of Kyiv Region were informed about conduct of the search. The documents related to the implementation by the advocates of their professional activities, which contain legal privilege, laptops, flash drives, money were seized from the office without a protocol. During the search, windows, doors and furniture were broken. The decision of the judge did not indicate what exactly the object of the search was and for what reasons it shall be conducted at the law association, as well as list of documents to be seized was not indicated.



In November 2013, officers of the Chief Administration in Fight with the Organized Crime of the Main Department of the Ministry of Internal Affairs of Ukraine in Kyiv City, in particular Colonel of police S.Y. Zhytnik and Investigator Y.V. Boholiub, conducted a search in the workplace of the advocates O.V. Zinchenko, T.V. Kostin, O.M. Lysak and S.V. Maksymenko in violation of the requirements of the legislation. Advocates, as well as the representatives of the Bar Council of Kyiv Region, were not allowed to the search. The documents containing the legal privilege were seized from the office. The advocates were not given a document based on which a search was conducted.



Once again, in November 2013, Investigator of the Investigation Department of Odesa City Main Department of the Ministry of Internal Affairs of Ukraine in Odesa Region S.M. Panteleiev in violation of the requirements of the Law of Ukraine "On the Bar and Practice of Law" (Article 23) appealed to the court with a petition for a search of the advocate's dwelling. During the search, privileged documents related to the activities of the advocate were seized.



In July 2014, the representatives of the Chief Investigation Department of the Ministry of Internal Affairs of Ukraine conducted an illegal search of the car of the advocate A.Y. Karahovnyk. Also, the advocate was invited to the Chief Investigation Department of the Ministry of Internal Affairs of Ukraine as a witness in order to disclose the legally privileged information.



In September 2014, employees of the Department of the Security Service of Ukraine in Kherson Region conducted an illegal search and seizure of documents containing the legal privilege, at the advocate V.V. Zakharchenko's. The advocate was also interrogated as a witness in order to disclose the legal privilege.

From August 20 to August 21, 2015, on the basis of a decision of the Investigating Judge of Solomianskyi District Court of Kyiv City as of August 13, 2015, an investigating and operational group under the direction of a Senior

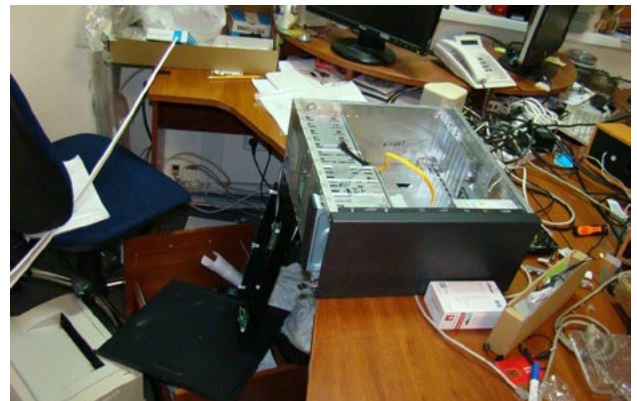
Investigator from the law enforcement authorities of the Investigator Division of Financial Investigations of the Interregional Chief Administration of the State Tax Service, Headquarters of Large Taxpayers, the Senior Lieutenant of the Tax Police, A.A. Stovban with the participation of employees of the Investigator Division of Financial Inves-



tigations of the Interregional Chief Administration of the State Tax Service, Headquarters of Large Taxpayers, in particular, M.H. Evstratov, a search was carried out in non-residential premises at the address: 1 Akademika Proscura Street, Kharkiv City, which were in actual possession of the Law Association “Law Firm “Moroz and Partners”. During the search, in spite of a direct prohibition stated on a search warrant documents, seals, stamps, office equipment and other magnetic, electronic and digital information carriers, including servers and computer system units owned by the Law Association were illegally seized. At the time of commission of the aforementioned criminal offense at the Law Association “Law Firm “Moroz and Partners” 13 advocates lead, from 2010 to the present time, approximately 1,500 lawsuits. Since all servers and system units that contained information on all affairs of the Law Association were seized, and therefore, this information has the status of the legal privilege, during the illegal possession of the said property, all seals were unlawfully destroyed, there is every reason to think about disclosure of the legal privilege.

In November 2015, authorization of acting prosecutor of Kyiv City to conduct a search in the premises of the advocate V.V. Larychev was issued. In January 2016, the Investigators of the Investigation Department of the Chief Administration of the Ministry of Internal Affairs of Ukraine in Kyiv City A.P. Pometalkina conducted a search on the basis of the decree of Shevchenkivskyi District Court of Kyiv City at the advocate’s premises, which was not defined as an object of the search, as a result access to the legal privilege was obtained.

In July 2016, the National Anti-Corruption Bureau of Ukraine conducted a series of searches of law offices in Kyiv City, in particular at the offices of the advocates A.I. Tsyhankov, S.M. Tarasiuk, O.P. Serhienko. Initiation of procedural actions was conditioned by participation of these advocates in a number of high-profile criminal cases. In the absence of the possibility of obtaining evidence of guilt of the advocates’ clients in the manner prescribed by law, the pre-trial investigation authority tried to obtain them through direct interference with the activities of defense counsel, the removal of communication lines of the advocate with the client, the frank neglect of the guarantees of the Practice of Law. During the investigations, the advocates’ files were unlawfully examined, documents and electronic media containing the legal privilege were seized, and unauthorized removal of information from telecommunication channels related to the content of conversation of the advocate with the client was carried out. In general, according to the notification of the National Anti-Corruption Bureau of Ukraine, in response to a request from the Committee on protection of advocates’ rights and guarantees of the UNBA in 2016, 34 detectives of the National Anti-Corruption Bureau of Ukraine submitted 34 petitions for conducting searches of premises held by the advocates.



The tendency to conduct searches of the advocates’ premises and violation of the legal privilege was not only preserved in 2017, but also rapidly accelerated. This practice has become “popular” among all law enforcement authorities without exception, although the General Prosecutor’s Office took the first place on this list, in addition, this trend gradually spread across all regions of Ukraine.

About the violation of the guarantees of the Practice of Law during the search advocates M.H. Korotiuk, S.M. Ly-senko, A.A. Busel, O.M. Iskizarov, S.V. Pliaka, V.V. Liushyk, V.V. Kosianchuk, Law Association “Dimicandum”, V.I. Semenov, T.M. Voronenko, S.M. Tarasiuk, O.O. Lytvyn, M.V. Honcharov, I.V. Rudniv, I.A. Mudra, O.L. Pryshedko, L.M. Holovachova turned to the UNBA.

These cases have a rather “typical” set of violations. The Bar Council of the region on conducting a search is communicated immediately before the beginning of the proceedings, which makes it impossible to timely arrive for the

representatives, or is not communicated at all. During the search, documents related to the Practice of Law, computer equipment, flash drives, personal mobile phones of the advocates containing legal privilege, including correspondence with a client, are seized. Typically, law enforcement investigators go beyond the limits set by the decision of the Investigating Judge on the permission to conduct a search, seizing things and documents the permission for seizing of which was not provided by the court. There are cases where investigators hide from the Investigating Judge the fact that the search will take place in the premises of the advocate, thus avoiding “unnecessary” judicial control.

In early 2018, the UNBA received reports of further violations during searches of the advocates O.V. Onishchenko, Yu.V. Sivovna, P.A. Lozovskyi, V.V. Havryliuk, A.A. Tuleibych, O.B. Hehai having the abovementioned character.

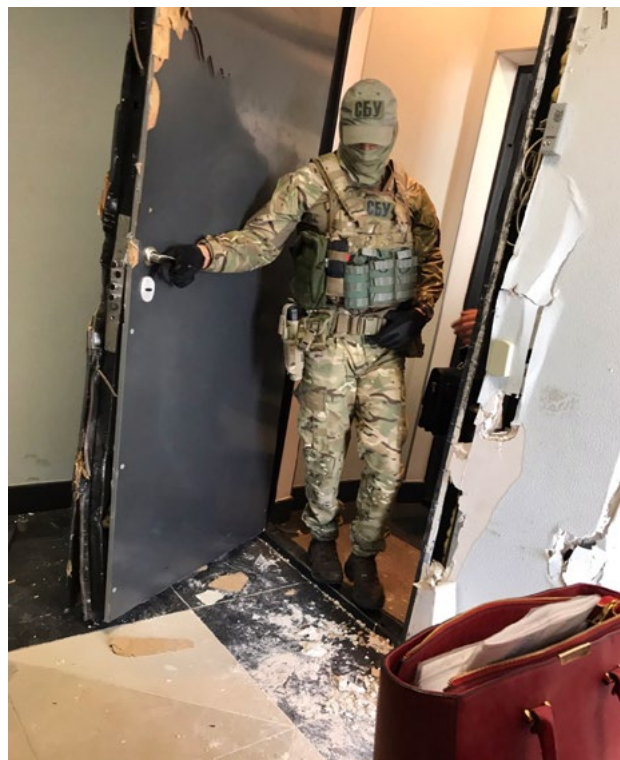
## **NON-PUBLIC INVESTIGATIVE PROCEDURES AGAINST ADVOCATES**

How else is it possible to get information from the advocate (disclose the legal privilege) if not to carry out a search? Usually, having conducted covert investigative procedures against advocate, listening to the telephone conversations with a client and reviewing his correspondence. The state does not provide guarantees of preservation of the legal privilege, which reduces the nullity of the provision of legal assistance. Advocates often notice the interference of third parties in communicating with the client, their correspondence. Law enforcement authorities often do this in violation of the legislation and do not provide substantiation and sanction by the court for such measures.

In September 2013, the special investigative agent in critical affairs of the Directorate for Combating Organized Crime of the Chief Administration of the Ministry of Internal Affairs of Ukraine in Kyiv City O.P. Chalyi threatened the defender Juliia Shestakova with the removal of documents without the permission of the court or prosecutor's office. He also appealed to the Desnianskyi District Court of Kyiv City with a petition for the permission to apply non-public investigative procedures against advocate. In the petition, special investigative agent has not deliberately reported that the person to whom non-public investigative procedures will be applied is the advocate.

In December 2015, representatives of the Investigation Department of Shevchenkivskyi District Administration and Security Council of Kyiv City illegally carried out operative and investigative procedures against the advocate O.O. Horoshynskyi and bypassing the law were granted access to the legal privilege.

In 2016-2017 advocates R.V. Babenko, H.L. Boriak, O.V. Yarmola, Yu.V. Demchenko, O.M. Iskizarov informed the UNBA on the implementation of non-public investigative procedures. It is practically impossible to officially establish



the legality or illegality of conducting non-public investigative procedures during their implementation, as law enforcement bodies in response to such appeals state that the very nature of such procedures is that their conducting is not a subject to disclosure, while referring to the provisions of Article 253 of the CPC of Ukraine, according to which individuals whose constitutional rights were temporarily restricted during conducting of non-public investigative procedures must be communicated in writing by the prosecutor or on his behalf by the investigator of such restriction within twelve months from the date of termination of such procedures.

It should be noted that, for the most part, law enforcement officers, applying to the court with a request for permission for non-public investigative procedures, such as listening to a mobile phone, do not even indicate the number of the mobile phone, limiting to the reference to the IMEI, and do not reliably tell whom the telephone device belongs to, thus authorizing listening to any phone.

## **INTERROGATIONS OF ADVOCATES**

Another “reliable” way of disclosing the legal privilege is to interrogate the advocate. Thus, in September 2013, Senior investigator for especially important cases of the General Prosecutor's Office of Ukraine S.V. Buhaienko called the advocate for interrogation as a witness in a case where the advocate was a defender. The Investigator prevented the advocate from pursuing his professional activities, and also wanted to receive information that became known to the advocate in the course of criminal proceedings. The answer to the UNBA's appeal to the Prosecutor General's Office of Ukraine was received stating that the investigator's actions did not contain violations of the CPC requirements



of Ukraine, as well as violations of the professional rights of the advocate, in particular, in preventing him from exercising Practice of Law.

In November 2013, the Chief of the Investigation Department of Simferopol City Administration, Lieutenant Colonel of the Militia D.M. Syshchenko tried to interrogate in the framework of criminal proceedings the advocate A.V. Vetrov without observing the relevant procedural procedures and in violation of Article 23 of the Law of Ukraine "On the Bar and Practice of Law". The UNBA's appeal to the Prosecutor General's Office of Ukraine received an answer, in which it was reported that calling A.V. Vetrov for interrogation, the Investigator has not violated the requirements of Article 23 of the Law of Ukraine "On the Bar and Practice of Law", and therefore arguments about the interference of officials in the professional activities of advocates have not been confirmed.

In September 2014, the senior officer of the Service for Combatting Drug Trafficking of Dzerzhynskyi District Division of Kharkiv City Department of the Main Department of the Ministry of Internal Affairs of Ukraine in Kharkiv Region, the Major of the police, A.M. Hubskeyi organized interference by law enforcement authorities in the private communication of the advocate Euhennii Riiak with a client, disclosing of the protocol for removing information from communication channels. Kharkiv City Prosecutor's Office reported that non-public investigative procedures related to the interference with the private communication of the suspected A. Lytvyniuk were carried out on the basis and pursuant to the decision of the Investigating Judge of Kharkiv Region Appeal Court as of May 15, 2014 on the permission to conduct the indicated procedures that were received in the manner prescribed by law, that is, actually listened to telephone conversations between a client and an advocate, and not an advocate with a client, and consequently there was no violation.

In November 2014, Senior Investigator of the Main Investigation Department of the Security Service of Ukraine P.O. Levyk called the advocate M.V. Kolosiuk for interrogation as a witness in a criminal proceeding, in which the indicated advocate is a defender on the basis of a Legal Aid Agreement.

In December 2015, the Investigator of the General Prosecutor's Office of Ukraine A. Hlushko called the advocate M. Buriakov for interrogation as a witness in a criminal proceeding.

In January 2016, the Investigator of Kyiv City Prosecutor's Office O. Nediiko called the advocates for interrogation as witnesses in a criminal proceeding against H.O. Korban.

In February 2016, the Senior Investigator of the General Prosecutor's Office of Ukraine R.M. Hryhoryshyn interrogated the advocate Serhii Vilkov as a witness for the purpose of pressure and receipt data constituting the legal privilege.



During 2016 6 advocates informed the UNBA about attempt to interrogate them as witnesses in circumstances that became known in connection with the professional activity, and in 2017 - 8. Of course, these figures do not reflect the true picture, since far from everyone advocates report similar cases to the UNBA.

In response to the complaints of the UNBA about the apparent inadmissibility of these actions, the pre-trial investigation authorities respond that the circumstances that they are trying to interrogate the advocates do not relate to information received in connection with their professional activities, although this is not true.

At the same time, such interrogation is used by investigators to change the procedural status of the advocate to a witness, which excludes his further participation in criminal proceedings as a defense counsel.

## **VIOLATION OF THE LEGAL PRIVILEGE THROUGH THE PRISM OF LEGISLATIVE ACTS**

In October 2014, the Law of Ukraine “On the Bar and Practice of Law” is supplemented by parts six and seven, according to which the filing by the advocate in the prescribed manner and in the cases provided by the Law of Ukraine “On Preventing and Countering Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism, and Financing of Proliferation of Weapons of Mass Destruction”, of the information to the central executive body, which implements the state policy in the area of prevention and counteraction to the legalization (laundering) of proceeds, financing terrorism and financing of the proliferation of weapons of mass destruction is not a violation of the legal privilege.

The law itself “On Preventing and Countering Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism, and Financing of Proliferation of Weapons of Mass Destruction” obliges the advocate to provide information on committing crime on terrorist financing regarding his client - disclosure of confidentiality. But the client turned to the advocate for defense or the advocate is appointed by the state to a person suspected in committing an offense connected with financing of terrorism or legalization of proceeds. So, does the state provide protection to such a person, if the advocate, instead of protecting, “merges” his client according to the requirements of the law? The same Law requires the advocate to report information about his suspicions about activities of individuals or their assets if there is reason to believe that they are related to crime defined in the day of suspicion or reasonable grounds for suspicion. Failure to comply with the above requirements by the advocate entails criminal liability. The advocate who conducts defence in a criminal case, may know something about his client’s activities. However, is it ethically to fulfil the requirements of the law in such cases? It is known that this situation is not only in Ukraine, the legislation of the European countries also contains similar norms, although the professional community emphasizes the problem.

## **DISCLOSURE OF THE LEGAL PRIVILEGE BY OTHER PERSONS**

In addition to the methods listed above, attempts to disclose the legal privilege, there are many other flagrant violations of the legal privilege. Very frequent occasions when during visiting of the detention centres or colonies employees of these institutions not only provide an overview of the goods of the advocate, but “check” the documents the advocate has and whether they are related to criminal proceedings, thus violate the legal privilege. Location of the “cage” where the detainee is kept during communication with the advocate in the investigative room of the pre-

trial detention facility is at a sufficiently great distance from the table of the advocate, to speak loudly and to make it possible to hear the conversation. The doors that are not tightly closed in the investigative rooms also allow listening to the advocate and client communication. Repairs are being carried out, where large viewing windows are installed to observe the work of the advocate. Listening devices are installed in the rooms where advocates provide legal aid to the client. Violation of the legal privilege occurs also from the side of the convoy, when the advocate passes the security documents; the convoy tries to “find out” what is written in these documents. Violation of the legal privilege are carried out by the centres for the provision of free secondary legal aid at the Ministry of Justice when they require the advocates to provide reports to the persons who are not advocates. Public organizations whose members are the advocates intervene in the activities of advocate, demanding from him an explanation of his position, providing documents that are legal privilege, and assigning a function of the Qualification and Disciplinary Bar Commission which act under the Law of Ukraine “On the Bar and Practice of Law”.

## **INTERFERENCE WITH THE LEGAL POSITION OF THE ADVOCATE**

The cases when law enforcement officers use complaints about bringing the advocate to disciplinary responsibility in order to influence the legal position of the advocate become more frequent. The same practice is common among judges. There are often threats that will be treated appropriately, although the reason is only that the advocate does not agree with the position of the prosecutor or the court. Here are just a few examples.

In 2014, judges of Shevchenkivskyi District Court of Kyiv City appealed to the Qualification and Disciplinary Bar Commission of the region regarding the advocate H.M. Kolesnyk concerning the fact that, taking a categorical position of disagreement with the prosecution side, the advocate allegedly hurt his client by his actions. The Qualification and Disciplinary Bar Commission of Kyiv Region refused to satisfy the complaint. Later, in accordance with the court decision, the client was acquitted.

In December 2015, the Deputy Prosecutor of Cherkasy Region S. Ovcharenko put pressure on the advocate by lodging a complaint with the Qualification and Disciplinary Bar Commission. In February 2016, the citizen R.O. Huliaev put pressure on the advocate I.H. Abdullaieva-Martirosian, imposition of obstacles in her activities through unreasonable appeals to the Qualification and Disciplinary Bar Commission and the Higher Qualification and Disciplinary Bar Commission.

Putting pressure by the employees of the National Security and Defense Council of Ukraine on the advocate K.K.

Doroshenko consists in non-providing answers to the advocate's interrogation and constant complaints sending to the Qualification and Disciplinary Bar Commission.

In general, applying to the disciplinary bodies of advocacy with a complaint is a fairly widespread element of pressure on the advocate used by law enforcement officers and judges themselves.

It should be emphasized that regional Qualification and Disciplinary Bar Commissions should not be an instrument for defending the dubious interests of complainants. As an example, it is the case of the advocate Oleh Veremienko.

To substantiate the position of the Disciplinary Chamber of the Qualification and Disciplinary Bar Commission of Kyiv Region regarding the opening of disciplinary proceedings against the advocate O. Veremienko, the following is stated: "On February 16, 2017, a letter with statement of facts from the Investigator on priority cases the General Prosecutor's Office of Ukraine was sent to the Qualification and Disciplinary Bar Commission of Kyiv Region. The ownership of advocates was searched. Four representatives of the Committee on protection of advocates' rights and guarantees of the Bar Council of Kyiv City arrived to them. Advocate O. Baidyk arrived from the Committee on Protection of Advocates' Rights and Professional Guarantees, and, being at the place of procedural action, conducted its registration. However, the advocate O. Veremienko arrived after him and signed there a Legal Aid Agreement and during the course of its execution was provocatively engaged, pulled out the documents with evidence from the hands of the Investigator, called the police, saying that the investigators were robbing the law office. According to the complainant, the advocate violated the ethical rules of the profession with his behaviour". The Head of the Disciplinary Chamber, E. Lisnichenko, agreed to this. It turns out that the provocative action of the advocate was in calling the police and making the statements that the Investigator is committing the robbery of the law office, whereas he seized the goods without the order of the Investigating Judge!

Another example is the case of the advocate Hanna Boriak, whose right to practice advocacy was stopped by the Qualification and Disciplinary Bar Commission of Kyiv Region at the appeal of Irpin Town Court of Kyiv Region.



Later, the decision of the Qualification and Disciplinary Bar Commission was cancelled by the decision of the Higher Qualification and Disciplinary Bar Commission.

The advocate's disciplinary offense was that she allegedly left the client without legal aid in the courtroom. However, the circumstances of this case were as follows. From the very beginning of the trial, the advocate insisted on the removal of the presiding judge due to his incompetence and demonstrable bias in the outcome of the case. After the judge, once again grossly violating the professional rights of the advocate, ignored the request of the defence and did not enable him to complete all procedural steps for the speedy adoption of the conviction and taking the client in custody, the advocate H. Boriak, having agreed with the client, left the courtroom, stating that there is now no trial, but a show. Taking into account the circumstances of this particular situation, such behaviour of the advocate was fully justified and constituted an element of the defense strategy. As a result of the principled position of the client, the advocate was acquitted, and the client himself appealed to the Disciplinary Chamber with a statement that there were no violations of his rights by the advocate, but the said arguments were ignored by the disciplinary body of the advocacy.

This situation became loud in the advocacy community, and therefore for its discussion on May 23, 2017, a public discussion was organized on the topic "Is it necessary to protect advocates from the advocacy self-government bodies?", which was attended by the representatives of the Qualification and Disciplinary Bar Commission of Kyiv Region, who made a decision to suspend the right to exercise Practice of Law by the advocate H.L. Boriak.

During the discussion there were other interesting details as well. Thus, the Disciplinary Chamber by the result of consideration of disciplinary proceedings against another advocate to the National Anti-Corruption Bureau of Ukraine sent material to bring the advocate to justice. Later, this information was officially confirmed by the Head of the Qualification and Disciplinary Bar Commission of Kyiv Region.

## **ADVOCATES ARE NOT EQUAL IN THEIR PROCEDURAL CAPACITY WITH THE PARTY OF CHARGE**

In accordance with the law, the advocate is guaranteed the equality of rights with other participants in the proceedings, observance of the principles of competition and freedom to provide evidence and prove their credibility. However, these principles are only declarative and violated not only in practice, but also at the level of normative and even legislative acts. Thus, in accordance with Article 21 of the Law of Ukraine "On Pre-Trial Detention" administration of the detention centers is obliged to create necessary



conditions for the prosecutor, the investigating judge and the court, which is related to the criminal proceedings. No relevant conditions for the enforcement of defense and the provision of legal aid by the advocates to the court detainee are created.

The advocates are forced to work in conditions that are comparable to inhumane treatment: long waiting for the client, which occurs outside in any weather conditions (rain, cold, heat, etc.), rooms are not heated, prohibition to carry water, prohibition to carry documents in packages, which creates the inconvenience and inability to bring up the criminal proceedings, advocate dossier materials that can make several dozen volumes, terrible unsanitary conditions, lack of working toilets that the advocates can use, rudeness of the staff.

When accessing a court, prosecutors and investigators pass by presenting a certificate, and the advocate must stand in line for registration. Such an attitude to the advocates on the verge of trial demonstrates discrimination against them as process participants. Unequal treatment of the participants and disrespect for defense appears in most courtrooms, where often there are no tables for the defense party, but there is a table for the Prosecutor (e.g. Sviatoshynskiy District Court of Kyiv City) or tables are very different: the prosecutor has a new and beautiful big table, and defenders have a table that remained in court as an inheritance since the Soviet Union.

The courts do not comply with the requirements of regulations that provide availability of the room for the advocate, very often courts open rooms for the advocates of free legal assistance, which places other participants of the process in different conditions.

Very often, the advocates are not informed or not informed in due time about the court hearings. Such violations lead to a breach of reasonable time-limits for the consideration of cases before a court, the adoption of decisions without the participation of a defense counsel, where this is mandatory, and violation of the defendant's right to defense. The judges accept all the materials submitted by the prosecutor and attach them to the indictment, vouch all the witnesses who were declared; the submission of evidence by the party of defense is at the same time put to the discussion, as well as vouch of witnesses, which testifies the humiliation of the role of the defense party and the provision of unjustified privileges to the prosecutor in the trial. The same happens with the expertise: if they are conducted according to the decision of the investigator, then the court accepts them, and if it is a party of defense, then the court ruled on the acceptance or rejection of such an expertise. The Criminal Procedure Code does not provide for the provision of indictment to the injured party, which in actual fact leads to the violation of the right of the injured party to support indictment or to object to it. Of course, the injured party and its advocate has the right to get acquainted with the materials of the criminal case in



court, but this happens after the preparatory meeting, on which the injured party has no equal rights with the other participants of the criminal proceedings. There are unequal rights of the advocate as a defender and at the pre-trial investigation. The advocates are not provided with the materials of the criminal proceedings to review, often it is simply "cannot be found" which one of the group of the investigators or the prosecutors have them, the order of such review is not regulated, the advocate cannot catch the prosecutor or the investigator in the workplace and to review the materials of the criminal proceedings, the advocate sometimes has several days to "catch" the investigator/prosecutor. Very often, the investigators refuse to take a petition and refer the advocate to the office, which drags the terms of their consideration, because it gets from the office to the investigator only in a few days. Claims of the advocates, complaints and applications are often dealt with under the rules of the Law "On Public Appeals". When opening materials of the case, the prosecution party does not provide the access to the evidence for the process participants. There are cases when the prosecutors refuse to accept the materials that are opened to the parties by the advocate. The prosecutors often allow themselves to go to the offices of judges, and the judges indulge in it, which is contrary to the requirements of the Code of Judicial Ethics, which, in order to ensure the impartiality of the judge, prohibit their communication with one party of the process in the absence of the other party of the process.

## **FAILURE TO ANSWER THE ADVOCATES' INQUIRIES**

Failure to answer the advocate's inquiry is not only a violation of the guarantees of the Practice of Law, but also a form of manifestation of the unequal status of the advocate in the process, violation of the right to defense and the rate of formation of not a legal state, but a state with police features. An advocate's inquiry is a way of obtaining evidence. The investigators and prosecutors are not limited in this way. The advocates are often deprived of the opportunity to gather evidence, since no responses to their queries are provided, or they are provided with unsubscribe, which does not contain the necessary information. Failure to answer the advocate's inquiry is very com-

mon. The courts generally ignore this norm and consider the advocate's inquiries as petitions of the parties in the process or as appeals from the citizens.

## **VIOLATION OF THE RIGHT TO DEFENSE**

Despite the legal guarantees of the right to defense, the officials often violate or create the appearance that such defense is implemented which is the imitation of defense.

The detained persons are not explained by the special investigative agents or investigators the right to choose the advocate, there is no possibility to invite the advocate whom he wants to see as his defense counsel, but not that appointed by the state, there is no possibility of contacting the advocate and asking him for legal aid. There are the occasions when the advocate appointed by the state provides legal aid, and the advocate who has come to provide defense under an agreement with a client or his relatives is not allowed to the detained person. In some cases, the centres for provision of free secondary legal aid are not informed or informed with a delay about the detention of a person.

Thus, in October 2013, the investigator of the Investigator Division of Kyivskyi District Department of Poltava City Administration of the Administration of the Ministry of Internal Affairs of Ukraine in Poltava Region R.O. Sypko did not inform the centre for provision of secondary free legal aid, which grossly violated the rights of the person to defense. Also, the investigator for the purpose of intimidation and pressure opened the criminal proceedings against the advocate Valentyna Buhlak on her chosen legal defense position in the course of the Practice of Law. At the same time, the investigator ignored the requirements of Article 23 of the Law of Ukraine "On the Bar and Practice of Law" that prohibits the interference with the legal position of the advocate.

The advocates, who arrived to defense a detained person, often do not receive the materials of the criminal proceedings for review, and they have no opportunity to prepare for a procedural action. The advocates very often do not have the opportunity of confidential communication with a client during conducting investigative, procedural actions with the client, and if it is provided, it can be a toilet or a corridor, a staircase, etc. The investigators intimidate and persuade detainees to abandon the advocate.

Recently, such a case happened with the advocate A. Mamalyga, who entered into a contract for the provision of legal aid with a relative of a detainee, but the latter, following the "incitement" of the investigator, filed a statement that he was afraid to remain alone with the advocate. As a result, the advocate had to make a lot of effort in order to hold a confidential conversation with the client. The advocates are not allowed to the client.

So, in April 2015, Senior Investigator of the Investigator Division of Dniprovskyi District Department of the Administration of the Ministry of Internal Affairs of Ukraine in Kyiv City H.V. Lysenko did not allow the advocate Viacheslav Peskov to the client during the investigation. Again, in April 2015, the investigator of the Chief Investigator Division of the Ministry of Internal Affairs of Ukraine O.Yu. Radkevych did not allow the advocate R.V. Mititel to conduct a search of the client.

In April 2015 the advocate Iryna Ivanova was barred from exercising the Practice of Law while providing legal aid to a client. In February 2016, the investigator of the Investigator Division of the Chief Investigator Division of Financial Investigations of the State Tax Service of Ukraine S.O. Danych did not allow the advocate Lesia Dubchak to conduct a search and provide legal aid to the client. Very often there are cases of not allowing the advocates to a client in the temporary detention centres and detention centres, hiding a client from the advocate, failing to provide the information about where the client is held. Thus, in November 2013, officers of Mena correctional camp No. 91 repeatedly prevented the advocate N.V. Blokhina to carry out her professional activities, in particular, the ability to communicate and meet with the client.

There are cases of non-admission of the advocate to a client on the grounds that the agreement is concluded not with the client in custody himself, but with his relatives. In many courts, "cages" where detainees are held are replaced by plastic, but very often such designs are soundproof, which makes it impossible for the advocate to communicate with his client. In addition, the courts do not provide a confidential dating with the client: even if the courts satisfy the advocate's request for the need for confidential communication, it occurs in the presence of a convoy, which refuses to go even three meters. This issue is especially acute when the advocate is appointed for a separate procedural action and the advocate does not know either the circumstances of the proceedings or the client's position. In fact, in cases of appointment of the advocate for a separate procedural action, this is only a "declarative" defense, since the advocate is deprived of access to the materials of the criminal proceedings and to prepare for procedural action.

There are even more severe forms of manifesting unequal procedural opportunities for the advocate in the process by prohibiting the gathering of evidence that manifests itself in the opening of the criminal proceedings against the advocates who interrogated the victims and witnesses of the prosecution in accordance with the Criminal Procedure Code - such actions were assessed by the law enforcement authorities as exercising pressure or threats.

Another example of violation of the right to defense is non-admission of the advocate for the search, which is a fairly widespread phenomenon. Despite the guarantees provided in Article 59 of the Constitution of Ukraine on the guarantee of the right of everyone to legal aid and even

the letter of the General Prosecutor's Office of Ukraine No. 0416-36 вих.82окв-16 as of February 22, 2016 to the heads of local public prosecutors signed by the Deputy Prosecutor General of Ukraine Yu. Sevruck, where a very clear position regarding the inadmissibility of violating the right to defense by not allowing the advocate to participate in conducting the investigative actions is stated and is required the heads of the local prosecutor's office, to take measures aimed at eliminating such violations, officials of the pre-trial investigation continue the unlawful practice of violating the right to defense.

Such cases are reported to the UNBA on a regular basis. For the period from 2016 to 2018 the advocates V.V. Todorenko, M.H. Korotiuk, S.O. Vesnin, R.V. Kapran, N.S. Brattseva, R.V. Chyshynskyi, N.M. Lukianova, M.O. Potapov, R.V. Vasylyshyn addressed the UNBA on this occasion.

## **EQUATION OF ADVOCATE WITH A CLIENT**

Considering the political situation in our country, the advocates have to defend the perpetrators in the dispersal of the Maidan, persons recognized by the previous authorities, lustrated persons, terrorists and separatists, deputies and persons who are subject to public condemnation. Equation of advocates with the clients takes place not only from the side of citizens, the media, but even investigators and prosecutors, judges disrespectfully regard the advocates who defend those individuals. The advocates point out that the law does not allow equating advocate and a client, that the judges should respect the rights of the advocates and treat their clients with tolerance and prevent violations of fundamental human rights and freedoms.

Equation of advocate with a client by a pre-trial investigation body leads to the violation of other statutory guarantors' rights. Thus, provision of legal aid to a client by some investigators is regarded as the complicity of the advocate in a crime, which leads to calling the advocate for interrogation as a witness, and in some cases, before announcement of suspicion of committing a crime against the advocate. Thus, in the opinion of the investigation, as an objective part of the criminal offense committed by the advocate, "provision of legal aid, counselling, representation of interests of a person" and other types of legal services provided by the Law of Ukraine "On the Bar and Practice of Law" are indicated.

On the same grounds, the investigators initiate searches of premises in the possession of the advocate, and, on the pretext of obtaining evidence of "criminal activity", seizure of documents related to the Practice of Law.

## **THE RIGHT TO A FAIR TRIAL**

The realization of the right to a fair trial by everyone implies the existence of an independent judiciary and advocacy profession independent of state and the risk of prosecution. In the context of the principle of independence of the advocacy profession and providing quality legal aid to every person the question arises regarding review the concept of the legal aid system, which should not be subjected to the state intervention. The advocacy self-government bodies have established the criteria for the quality of legal aid and they themselves are called to regulate their profession.

Undoubtedly, establishing a mechanism to provide legal aid to persons in the first hours of detention is a revolutionary against the background of what remains a legacy of the Soviet Union, but compared to other states, this mechanism needs to be improved, primarily due to violations of the human rights and guarantees of the Practice of Law.

When advocacy becomes stronger, law enforcement authorities are trying to influence the advocate by force, and the Ministry of Justice of Ukraine, which administers the system of free legal aid, puts advocates in financial dependence - the unequal distribution of cases, assignments to some advocates of high-profile cases which then will be for them "PR", selective distribution of better paid cases to "favourite" advocates, not including the payment of counsel in the types of legal aid, which is not profitable for the state, visiting detention centres, gathering of evidence, protection of a client from torture and falsification of cases (appealing with appeals of a crime, representation of a client as a victim, etc.), as the advocate can only refute the evidence. Thus, the perpetrators of violations of the human rights are not brought to justice.

## **VIOLENT INTERFERENCE WITH THE WORK OF ADVOCATE'S SELF-GOVERNMENT**

In addition to violence and obstacles to the professional activity of lawyers, there are attempts to interfere with the advocacy self-government. So in 2014, representatives of radical groups attempted to disrupt the Congress of Advocates of Ukraine, which could have the consequence of blocking the further work of the entire system of advocates' self-government nationwide.

On July 31, 2018 a group of radicalized young people broke into the premises of the Secretariat of the Ukrainian National Bar Association, at that time when UNBA Committee on Protection of Advocates' Professional Rights and Guarantees convened discussing the recent attack against advocate V. Rybin by the representatives of the same group, in connection with his activities in providing legal assistance. While screaming the frightening and pro-

vocative slogans, these individuals physically blocked the UNBA premises, trying to disrupt the meeting. At the same time, the police were completely inactive, only observing the hooligan actions. Also, MP of Ukraine Igor Mosiychuk on his own Facebook page called for interference with the work of advocacy self-government, namely the Disciplinary Chamber of QDCB of Kyiv City, whose meeting is scheduled for 02.08.2018 by holding a demonstration on that day. In this way, the MP of Ukraine intended to influence the decision of the independent body of the advocacy. These appeals from a legislator were picked up by representatives of radical political groups, which began to call for actual capture and blockade of both the Disciplinary Chamber of QDCB of Kyiv City and the Secretariat of the Ukrainian National Bar Association in general.

As a result, on 02.08.2018 a group of radical activists again burst into the premises of the UNBA Secretariat, breaking the session of the Disciplinary Chamber. The offenders actually captured the members of the disciplinary chamber, blocking them from leaving the premises, and thus illegally detained them, held members of the body of lawyer's self-government within two hours. The police, which was also at this time in the UNBA's premises, again did not try to prevent the commission of a criminal offense in any way, ignoring the requirements for taking reaction measures and actually contributed to causing bodily harm to lawyers present.





## CONCLUSIONS

Violation of the rights of the advocates in Ukraine in 2013-2018 has become critical and notes the lack of rule of law in Ukraine. The risks and threats to the advocates are becoming widespread through their professional activities. One can say that today the profession of an advocate in Ukraine is a profession that is dangerous to life.

Through violations of the rights of advocates, human rights, which are essentially unprotected from the state, are also violated. The law enforcement system is believed to be the main cause and source of violations of the advocates' rights. Rejection of the advocate's professional rights as an independent professional activity guaranteed by the Constitution and laws of Ukraine by law enforcement authorities and the court has a permanent and systematic nature, which leads to the violation of its safeguards.

In response, the Bar Council and Legal Societies of Europe (CCBE) appealed to the President of Ukraine, the Prime Minister of Ukraine and the Prosecutor General of Ukraine to investigate violations of the rights and guarantees of the Practice of Law.

The state should ensure the implementation of the human rights for legal aid and create the necessary conditions for the implementation of state guarantees of professional Practice of Law.

If we lose the most democratic institution in the state - the advocacy, we will lose statehood too.

### **IMPLEMENTATION OF THE RESPONSE MEASURES BY THE COMMITTEE ON PROTECTION OF ADVOCATES' RIGHTS AND GUARANTEES AT THE UNBA**

In accordance with Article 45 of the Law "On the Bar and Practice of Law", the UNBA has the authority to protect the rights of advocates and provide guarantees for the Practice of Law. In order to implement the assigned powers, the Committee on protection of advocates' rights and guarantees was established within the structure of the UNBA in accordance with its Regulations.

According to the Regulations on the Committee, the main tasks of the Committee are as follows:

Participation in the formation and implementation of state policy in the field of the protection of the rights and interests of advocates, provision of guarantees of the Practice of Law.

Identification, accounting, analysis and systematization of cases of violations of professional rights and interests of advocates, as well as violation of guarantees of the Practice of Law, which took place on the territory of Ukraine.

Implementation of preventive work aimed at preventing violations of the rights and interests of advocates, as well as violation of the guarantees of the Practice of Law.

Creation and systematic improvement of necessary emergency response measures in case of violations of legal rights and interests of advocates, as well as guarantees of the Practice of Law.

Prompt response to each advocate's appeal regarding the activities of the Committee. 3.2.6. Representation of interests of advocates in law enforcement authorities, state authorities, enterprises, institutions, organizations of various forms of property, courts, public associations.

Taking measures, in accordance with the effective legislation of Ukraine, on behalf of the Bar Council of Ukraine, to eliminate violations of professional rights and guarantees of the Practice of Law by state authorities and local self-government authorities and other subjects; making suggestions on elimination of revealed violations and shortcomings and bringing to justice the officials guilty of violations.

Conducting an advocacy work among the advocacy community, on ways and practice of self-defence of their rights and guarantees of the Practice of Law.

Informing the advocacy community and the public on consideration of issues that fall within the competence of the Committee.

Studying the opinion of the advocacy community on condition of observance of the rights of advocates and ensuring the guarantees of the Practice of Law and its consideration in its work.

Analysis of law enforcement compliance with law enforcement investigations in relation to the advocate.

Control, analysis and forecasting of the state of affairs in violation of the professional rights of advocates in Ukraine, timely informing the leadership of the Bar Council of Ukraine.

Participation in consideration and preparation of suggestions of the Committee on improving the organization of information protection, which is a state, advocate, commercial, bank or other secret protected by law, as well as confidential information.

Participation in development and implementation of a system of measures taken in conjunction with law enforcement authorities to protect life, health, honour, dignity, property of advocates and their families from criminal offenses, other unlawful actions.

Organization of the hotline telephone service of the Bar Council of Ukraine, ensuring the prompt processing of incoming information, as well as taking necessary measures for responding to the violation of the rights of advocates.



Ensuring development of international cooperation in the field of protection of the rights of advocates in the area of prevention and counteraction of offenses related to the implementation of the Practice of Law, participation in conclusion of contracts with self-government authorities of other states in the manner established by law.

In order to generalize the practice of the Bar Councils of regions in drafting protocols on administrative offenses, stipulated by Article 2123 of the Code of Ukraine on Administrative Offenses, and ensuring the uniform application of the law that governs liability for unlawful refusal to provide information upon request of advocate, untimely or incomplete provision of information, provision of inaccurate information: € analysis of all protocols on administrative offenses, decisions to refuse to draw up protocols on administrative offenses, drawn up by the Bar Councils of regions, decisions of courts adopted on the results of consideration of protocols on administrative offenses, provided for by Article 2123 of the Code of Ukraine on Administrative Offenses.

preparation of conclusions for the Bar Council of Ukraine on abolition of decisions of the Bar Councils of regions on refusal to draw up protocols on administrative offenses, provided for by Article 2123 of the Code of Ukraine on Administrative Offenses.

By the result of systematization of cases of violations of the rights of advocates and guarantees of the Practice of Law, the Committee formed the main types of such violations and the corresponding practice of response measures within its authority.

## **MURDER**

1. Official appeal of the UNBA through mass media to the public, law enforcement authorities and the President. Personal involvement of members of the Committee in criminal proceedings concerning violence against persons engaged in professional activities. Publications in mass media, organization of press conferences and other public events.
2. Written appeal addressed to the Prosecutor General of Ukraine with a request to take the course of pre-trial investigation under personal control.
3. Messages of international legal organizations.
4. Ensuring control of the UNBA representatives over the course of pre-trial investigation.
5. Taking by the Committee of the issue under control.
6. Fixing the case for statistical reporting.

## **CRIMINAL PROSECUTION**

1. Introduction of the hotline of the Committee for the purpose of rapid response.
2. Implementation of the online form of notification of the advocate about violation of rights and professional

guarantees.

3. Written appeal to the higher prosecutor's office with the requirement to verify the validity of the criminal prosecution.
4. In the case of revealing signs of a criminal offense by the officials of pre-trial investigation body - appealing with a report on a criminal offense to law enforcement authorities.
5. Taking by the Committee of the issue under control.
6. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.
7. Fixing cases for statistical reporting.

## **APPLICATION OF PHYSICAL VIOLENCE AGAINST ADVOCATE IN CONNECTION WITH THE EXERCISE OF HIS PROFESSIONAL POWERS**

1. Operative response to each case of application of physical violence against advocate. Legal analysis of the situation, personal visits of the members of the Committee to the appeals of advocates on such facts.
2. Implementation of the online form of notification of advocate about violation of rights and professional guarantees.
3. Rapid response to on-line referrals on the facts of application of physical violence.
4. Written appeals to law enforcement authorities with a statement of criminal offense.
5. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.
6. Taking by the Committee of the issue under control.
7. Personal involvement of members of the Committee in criminal proceedings on physical violence.
8. Systematization of cases of violations of professional rights, in particular application of physical violence, cooperation with the UN structures, preparation of materials for translating into English for the UN report to the United Nations in Geneva. Development of the system and mechanism of international protection of professional activity in Ukraine.
9. Fixing cases for statistical reporting.
10. Threats to advocate
11. Fixing cases of threats to advocates in connection with his legal position in the case through public appeals to the Committee or through the on-line form.
12. Creation of a system of measures in cooperation with advocate who has addressed to protect his professional rights and interests.
13. Written appeals to law enforcement authorities with a

statement of criminal offense.

14. In case of initiated criminal proceedings, a written appeal to law enforcement authorities with a request for personal security measures.
15. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.
16. Fixing cases for statistical reporting.

### **DESTRUCTION OF THE ADVOCATE'S PROPERTY**

1. Fixing cases of destruction of the advocates' property in connection with exercise of their professional duties.
2. Creation of a system of measures in cooperation with the advocate applying.
3. Appealing through the media in order to inform the society and the law community about this fact.
4. Written appeal to law enforcement authorities with a report on a criminal offense, and in case of criminal proceedings already initiated by the victim's application, appeal to the prosecutor's offices (Prosecutor General, prosecutors of the regions, of Kyiv and Sevastopol) with the requirement to take the course of pre-trial investigation under personal control.
5. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.
6. In cooperation with the All-Ukrainian professional union of advocates, development of a compensation project for the value of lost property
7. Fixing cases for statistical reporting.

### **SEARCHES AT THE ADVOCATE'S PREMISES**

1. Acceptance and fixation of the appeals of advocates and law enforcement authorities in cooperation with the Bar Council on searches of advocates.
2. In case of timely notification of the Committee, departure of the representative of the Committee to the place of procedural action.
3. In case of detecting in the actions of law enforcement agents the features of a criminal offense - a written application of the Committee with a statement on the commission of a criminal offense.
4. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.
5. Formation of the system of legal response to searches of advocates, and recommendations for regional councils.

6. Fixing cases for statistical reporting.

### **NON - PUBLIC INVESTIGATIVE PROCEDURES**

1. Written appeal to law enforcement authorities.
2. Conducting advocacy work in the advocacy environment on issues of information security and protection of conference information from interference by unauthorized persons.
3. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.
4. Fixing cases for statistical reporting.

### **INTERROGATION OF THE ADVOCATE AS A WITNESS**

1. Fixing appeals to the Committee on the procedural notification of an advocate who provides legal aid to the Client in criminal proceedings for his interrogation as a witness for his withdrawal from the case.
2. Analysis of the situation, and formation of a strategy to protect the professional rights of advocate.
3. Written appeal to law enforcement authorities with the requirement to refrain from committing a criminal offense, which consists in interrogating advocate on matters that became known to him in connection with the provision of legal aid.
4. Appeal to law enforcement authorities with notification of a criminal offense.
5. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.
6. Round tables with the participation of representatives of law enforcement authorities, and joint development of a position on interrogation of advocate. Process messages.
7. Fixing cases for statistical reporting.

### **INTERFERENCE WITH THE LEGAL POSITION OF THE ADVOCATE**

7. Round tables for scientific and practical conferences on this issue.
8. Formation of a legal strategy to prevent interference in the legal position of the advocate and guarantees of the independence of professional activities.
9. Appeal to law enforcement authorities.
10. As a consequence of consideration of the Committee's appeal to law enforcement authorities and providing an answer, depending on the situation, additional written requests to the Committee.

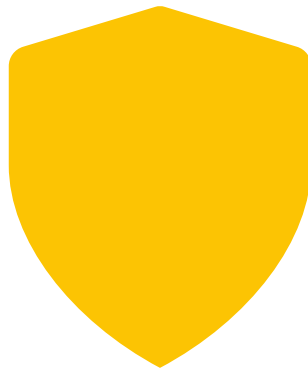
11. Public appearances, appeals to self-governing law authorities.
12. Fixing cases for statistical reporting.

#### **FAILURE TO ANSWER THE ADVOCATES' INQUIRIES**

1. Implementation of the online form of notification of advocate about violation of rights and professional guarantees.
2. Formation of the position of the Committee in the mechanism of bringing to different types of responsibility in violation of the professional rights of advocates.
3. Appeal to the Bar Council of the region with a request for drawing up a protocol on an administrative offense concerning an official.
4. Fixing cases for statistical reporting.



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