

The case of the blogger Miraziz Bazarov has become an indicator of the right to freely express one's opinion in Uzbekistan

Interview with defence lawyer Sergei Mayorov about his client, blogger Miraziz Bazarov.

May 2021

Miraziz Bazarov's name has recently been quoted on social networks and widely mentioned by various media outlets. Interest in the blogger has grown due to the fact that for about a year Bazarov openly wrote about developments taking place in Uzbekistan.

In July 2020, Bazarov first became aware of attention from the State Security Service (SGB) when he commented on how loans to the government of Uzbekistan from the Asian Development Bank and the World Bank were spent. In addition, Bazarov openly advocated for the abolition of the article punishing consensual sex between men in the Criminal Code of Uzbekistan. In March 2021, persecution of the blogger began, involving not only Internet trolls, but also influential representatives of all branches of the government in Uzbekistan.

In a matter of days, Miraziz Bazarov was involved in three criminal cases and became the victim of a series of acts of provocation and attacks, sustaining an open leg fracture and undergoing surgery. He is currently under house arrest and is prohibited from communicating with the outside world.

Amnesty International, International Partnership for Human Rights (IPHR), Association for Human Rights in Central Asia (AHRCA), Reporters Without Borders (RSF), Freedom House (FH), Freedom Now, Norwegian Helsinki Committee (NHC), The Foundation for Fair Journalism, the World Organization Against Torture (OMCT) and other prominent human rights organizations have spoken out in support of Bazarov and continue to monitor the investigation.

Here, lawyer Sergei Mayorov answers questions raised by human rights defenders:

— The blogger Miraziz Bazarov is involved in three criminal cases, tell us on what grounds?

— Yes, Bazarov is involved in three criminal cases:

The first criminal case was initiated by the Main Department of Internal Affairs (MIA) of Tashkent city on 28 March 2021, for acts of malicious hooliganism that took place on the Amir Temur square on the same day at about 15:00. On this day, K-POPs (fans of modern Korean songs) and anime fans (fans of Japanese animated films) agreed to gather on the square, after the leaders of these groups suggested meeting.

Additionally, from 21 March onwards a number of bloggers with a negative attitude towards sexual minorities spread misinformation that members of the LGBT community would allegedly gather on the square, and Bazarov was said to be the organizer of the meeting. Bazarov began to receive death threats and noticed he was being followed.

As a result of a homophobic campaign launched on the Internet, on 28 March men armed with bats went to the square, shouting "Allah Akbar!". They proceeded to attack two bystanders - a young woman and young man, mistaking them for LGBT people, hitting the young man over his body. He later required medical help. It is possible that only the intervention of law enforcement officers saved the young couple from sustaining mortal injuries.

Bazarov had no direct link to the meeting of K-POPs and anime fans scheduled for 28 March, and in the afternoon of that day he posted a warning on social networks about the danger of holding such an event, which eventually did not take place.

The press service of the Ministry of Internal Affairs issued a statement about the arrest of the attackers and reportedly several of them are being kept under house arrest.

I emphasize that Miraziz Bazarov had nothing to do with the gathering of fans scheduled for 28 March, and this is confirmed by the testimony of witnesses during the investigation. In fact, there is no confirmation that any meeting of fans took place on Amir Temur square on 28 March.

I am sure that it is not so difficult to find out from the hooligans why they came to the square, who organized them, and against whom they were organized.

It appears that the purpose of this orchestrated action was to discredit Bazarov. The police investigator who on 28 March opened a criminal case for hooliganism, the next day (29 March) appointed a political and linguistic expert to analyse the videos posted by Bazarov. The expert opinion was received on 30 March – and on the same day the investigator and the deputy prosecutor of Tashkent decided to conduct a search of Bazarov's apartment, motivating their decision by the fact that Bazarov had "organized a meeting of LGBT representatives on the square on 28 March", and that he was "to blame for the attack on young couple".

Of course, I am not allowed to see the materials of this criminal case. And I will not be able to provide conclusive evidence that the investigator and the prosecutor had no legal grounds to suspect Bazarov of "organizing a meeting of LGBT representatives on the square on 28 March," just as there was no reason to conduct a search in Bazarov's apartment. However, I have many reasons to believe that the clearly orchestrated action on the square was an excuse to break into Bazarov's apartment, get access to his phones and gadgets, and initiate an examination of his video calls. Most likely, all these actions are aimed at restricting his right to speak out and freely comment on current affairs in the country.

The second criminal case was initiated on 29 March 2021, by the Main Department of Internal Affairs of Tashkent city regarding the intentional bodily harm inflicted on Bazarov during the attack on the evening of 28 March 2021. This occurred at about 11 pm, at the entrance to his apartment.

As the second criminal case was initiated, Bazarov was isolated from access to communications and the Internet. For many days, I, his lawyer, was not allowed to meet with him. Bazarov's mother was allowed to visit him only once a day - for 10 minutes. Under the pretext of protecting his life and health, round-the-clock security guards were posted in the hospital, and were removed only on 29 April - a month after the attack on the blogger, who was actually under arrest all this time. This was an absurd situation - having become a victim of an attack, Bazarov found himself under secret arrest.

The third criminal case was initiated by the Main Department of Internal Affairs of Tashkent City on 24 April 2021.

It is now known that in the space of one month, 28 claims were filed against Miraziz Bazarov. I will comment on just a few examples that became the basis for claims against Bazarov.

Firstly, there are the materials of the forensic examination of 30 March 2021, which concluded that Bazarov allegedly slandered the teachers of school No.110. This is probably a collective appeal of 28 teachers of school No.110 in relation to Bazarov. **The teachers' statement is not yet**

available to me, as a lawyer, or to my client, Miraziz Bazarov. The collective statement was announced by the press service of the Main Department of Internal Affairs of Tashkent city;

Secondly, there are, of course, the statements of bloggers who harassed Bazarov on the Internet: Abror Abduazimov (Abror Mukhtor Aliy), Shukhrat Musayev and Abusalikh Salimov (AbuSolihi Fox), who were unexpectedly recognized as “victims”. The posts of three bloggers contained deliberately false and slanderous information about Bazarov, they led to the riots and the attack on the activist. The posts were deleted immediately after 29 March but some posts remained available online.

As a result, on 8 May 2021, Bazarov was charged with committing a crime under paragraph "d" of Part 3 of Article 139 of the Criminal Code ("Libel from mercenary or other base motives"). The “victims of the crime” were teachers of school No. 110¹, based on Bazarov’s statement about school teachers in his video, and the three bloggers mentioned above, who Bazarov calls “State security service bloggers” in his videos.

In response to my question to one of the bloggers about exactly how he believes Bazarov slandered him, he explained that when ISIS comes to Uzbekistan they will first kill all employees of the State Security Service (SSS), and then they will kill all bloggers who serve the SSS. And since Bazarov accused the bloggers of working for the SSS, they will be killed by ISIS immediately after the SSS officers. This is the level of logic of their claims and, apparently, also that of their legal advisors.

According to the logic used by those who are instigating these criminal proceedings against Bazarov, if, while in the subway or in a supermarket, I hear the phrase “all lawyers are swindlers” I can file a case against this person demanding that he should be brought to criminal liability for libel. But this is absurd! Sometimes the word “No” or “Yes” can offend another person just because it sounded offensive to someone, so now forbid these words from being used? How can criticism, value judgments and generalized judgments be equated with slander against someone in particular? A dangerous practice arises when charges of defamation are based on the personal perception of the plaintiff, and not according to legal criteria, as set out in the current legislation. It turns out that if I think that a generalized statement without specifying a name is perceived as offensive, then this is enough for me to consider it slander in relation to me. If this is not stopped, then the right to freely express one's opinion will never be ensured in our country, and freedom of speech will be banned. Public relations should be regulated both in pre-trial practice and through open discussion, and not only through the punishment provided for by the criminal code. The

¹ The video post about the teachers of school number 110 <https://www.youtube.com/watch?v=0JtAHryFSfo> was made in Autumn 2020, when school number 110 was open, but other schools were still closed, as the quarantine continued for schoolchildren in connection with the coronavirus. Consequently, school No. 110 was opened at that moment in order to draw attention to the fact that it had been repaired with funds from oligarch Alisher Usmanov. Miraziz's statements aimed to show that school # 110 was opened during a period of ongoing risk simply to publicize the patronage of the Usmanov, which is why Miraziz jokingly spoke about keeping the children at home because the virus is still active. The investigators now claim that this video was made in March 2021. The text of the video post read: “Friends, I walk past the 110th school and remember with sadness my time at my school. I remember how we were forced to wear masks too, in autumn and spring. And it was in the mask that I walked snotty, with a constant cold, because everything went back and forth like this (note: with a gesture, pointing to the nose, making it clear that in the autumn many suffer from colds). Also I still remember how the teachers mocked us, not on purpose, of course, just, you yourself understand that there are some losers teaching your children to be losers, and this is certainly sad and pitiful. Well, they have repaired this 110 school, it seems that something has become more beautiful there, but the school has not become better because of this. Your children will still be taught to be losers in life, and stupidly obey and be slaves. I wonder if you need this? In general, please, dear parents, make it so that your children do not go to school.”

persecution and mass censorship similar to that of the Stalin era is an extremely dangerous phenomenon.

— Sergey Alexandrovich, how is the investigation going?

— Unfortunately, in the case of Bazarov, the investigating authorities are biased and there are numerous gross violations of the Criminal Procedure Code, the Constitution of Uzbekistan, as well as the norms of the International Covenant on Civil and Political Rights, which Uzbekistan has ratified.

As a lawyer, I cannot, during the preliminary investigation of these criminal cases, find out about all the violations committed by investigators, prosecutors and judges - until the investigation is completed. But I have accumulated the following evidence of the illegality of the actions of representatives of state bodies in relation to Bazarov:

- the press service of the Ministry of Internal Affairs (MIA) and the Main Department of Internal Affairs of Tashkent City used false information from the three above-mentioned bloggers. At the same time, the homophobic videos of the blogger Musaev, defaming Bazarov, contain embedded footage from ISIS videos, where people sentenced to death are taken out of the cell, and a call for the murder of Bazarov with the indication of his home address. On what basis are the actions of this blogger now being used against Bazarov himself?
- unjustified and groundless searches in the apartments of Bazarov and his mother;
- the illegal detention of Bazarov from 29 March to 29 April 2021. In international law, such isolation is classified as “arbitrary arrest”. As far as I know, international lawyers are preparing a complaint to the UN Working Group on Arbitrary Detention;
- Subjecting Bazarov to illegal measures of restraint in the form of house arrest on 29 April 2021;
- Unfounded accusations of libel against the teachers of school No. 110;
- Unfounded accusations of libel against three bloggers;
- Falsifications in the conduct of two expert assessments of communications equipment ;
- The carrying out of joint interrogations of the bloggers and Bazarov in violation of the norms of the Criminal Procedure Code of Uzbekistan.

- Does this mean there is a reason to consider the sentencing of Miraziz Bazarov to house arrest unlawful?

This is an example of blatant unlawful persecution of someone for exercising his right to express his opinion. Does an independent court of an independent state have the right to make a knowingly illegal decision? Bazarov's detention from 29 March 2021, and the court decision on the appointment of house arrest of 29 April 2021, are inadequate and arbitrary manifestations of the actions of law enforcement and judicial officials.

The “libel” charge brought against Bazarov is punishable by up to three years in prison. Therefore, according to the Criminal Procedure Code, a measure of restraint in the form of arrest cannot be applied to Bazarov, since during the investigation it would have been enough to sign up for proper conduct or bail.

— Which of Miraziz Bazarov's statements caused the sharpest reaction from the authorities and certain members of society?

— Bazarov's statements about the abolition of Article 120 of the Criminal Code of Uzbekistan. At the same time, Bazarov never and nowhere promoted nor engaged in propaganda about the ideas of the LGBT community. But in order to discredit Bazarov in the eyes of our citizens, who in the majority are intolerant towards sexual minorities, controlled bloggers labelled Bazarov as a propagandist and LGBT representative, spreading deliberately false and slanderous information about him.

And for some reason no one has yet brought to justice those people who, with their statements, endangered Bazarov's life and caused damage to his health. Moreover, the bloggers known to the investigation actually provoked an attack on Bazarov by misguided young people. However, these bloggers not only did not appear before the court, but apparently received security guarantees, allegedly becoming "victims" of Bazarov's statements. And why has the investigation still not asked these bloggers about the publication of Bazarov's and his mother's home addresses and the numerous threats to them? Still now, insults and false information about my client are spreading on the Internet. Why are Bazarov's rights not being observed in this situation?

In his videos, my client Bazarov expressed the opinion that the article of the Criminal Code on consensual sexual conduct between men should be decriminalized, referring to the norms of international law that ensure equal rights for all citizens, including sexual minorities. By the way, Uzbekistan has undertaken to fulfill these norms and bring national legislation in line with international standards. In addition, according to the legislation of Uzbekistan, public expression of one's opinion, including on the decriminalization of homosexual consensual relationships, is neither a crime nor an offense.

— How is the search for those who attacked Bazarov being conducted?

— As I already said, the materials of the criminal case are not available to me. But I have no doubt that these are not Muslims, or rather not true Muslims. I know from Bazarov's friend that when she tried to protect him from the attackers, they threw her away from him and along with the violence they used selective Russian obscenities. I am convinced that the Main Department of Internal Affairs is putting on a pretence of looking for those responsible. They will never be found. Moreover, they are "looking for" not specific people, but "phantoms". When a composite sketch of one of the attackers was drawn up on 29 March, Bazarov firmly stated that it did not look like the attacker at all, asking him not to use this composite image in any way, as it would interfere with the investigation. However, a month after the compilation of the identikit, according to which it was impossible to find anyone, it was nevertheless sent out for search.

The witnesses and the victim described the cars in which the criminals chased after Bazarov before the attack, and the car from which the "recruited bone crushers" got out and attacked Bazarov, but the police department announced a search for cars of completely different models and colours.

I learned that law enforcement officials are summoning for interrogation the drivers of cars who are wanted according to the descriptions compiled by the investigation (but not according to the descriptions offered by the witnesses and Bazarov). Yes, the drivers are asked where they were on 28 March at 11:00 p.m. At the same time, the police find out how these drivers relate to Bazarov's views on LGBT people and to his convening a meeting in the park. Naturally, many of these drivers have no idea who Bazarov is and what they did on 28 March. This is not a search for criminals.

This is a search for people who, in their naivety, will express a negative attitude towards Bazarov, creating an atmosphere of indignation against the blogger.

I remember the famous phrase: "I have not read Pasternak, but I condemn him", which was uttered during the popular condemnation of Boris Pasternak, the author of the novel "Doctor Zhivago", who received the Nobel Prize.

One can disagree with Bazarov's views and the form in which he expressed them. But disagreement with him does not give anyone the right to encroach on his health and life.

How would you assess the evidence against Miraziz Bazarov?

— In the interests of my client, I do not want to publicize all the comments and violations that I see. The investigation and even the court are using expert opinions on Bazarov's case prepared and drawn up by the Agency under the Presidential Administration in violation of the Criminal Procedure Code of Uzbekistan and "the Law on Forensic Expertise". If necessary, I am ready to substantiate my conclusion based on the expert opinion of the Administration of the President of Uzbekistan, or else I will have to do this during the trial.

So far, I can only say that in the Bazarov case, I again encountered a falsification of evidence, as in the case of the journalist Bobomurod Abdullaev (pseudonym Usman Khaknazarov). To "consolidate" evidence of Abdullayev's guilt in "overthrowing the constitutional order", the National Security Service (NSS) entered into his personal computer a plan to overthrow the current government called "Harvest". The journalist has not yet been rehabilitated. Therefore, there is a real danger that files can be added to Bazarov's gadgets, and that "experts" subsequently recognize these files as "criminal".

— How do you assess the content of the personal social media pages of blogger Bazarov?

— He is a courageous and well-educated author. Bazarov informs the followers and subscribers to his channel about the state of affairs and negative phenomena in Uzbekistan, and compares our country with other countries. The topics he raises are popular with the public. However, his statements are not always popular. And if his tone is playful, sometimes a sarcastic manner of discussing acute issues is absolutely normal for the younger generation, then the conservative part of the population does not always perceive it in the same way.

Despite the fact that Bazarov's statements are mostly informative in nature, they are also aimed at combating corruption in the country. And this does not in any way contradict the course of reforms carried out by our President Shavkat Mirziyoyev. Another question is how some people distort the blogger's statements and organize harassment against him.

— Criminal cases against Bazarov were opened on the eve of the presidential elections and during the discussion of a new version of the Criminal Code of Uzbekistan, which introduced new articles regulating liability for expressing opinion. Isn't the persecution of Bazarov aimed at suppressing his independent voice?

— Time will tell. I do not yet have access to all the accusations forming the basis of the charges against Miraziz Bazarov. Of the materials that I had the opportunity to familiarize myself with, the accusations are based on false and inaccurate information. The development of further events may be different. And I would like to remain attentive to the case of Miraziz Bazarov and do my best to ensure that the investigation is just and fair.