



HERMITAGE CAPITAL MANAGEMENT

10 May 2020

Re: Australian Magnitsky Act, second submission

Dear Chairman Fawcett, Chairman Andrews and members of the Committee,

On 14 January 2020 I submitted evidence to the Joint Standing Committee on Foreign Affairs Defence and Trade of the Australian Parliament as part of the Australian inquiry into whether Australia should pass the Magnitsky Act.

On 7 May 2020, I was contacted by the Committee with a copy of a submission written by the Australian Citizens Party that contained serious allegations against me and offering me a right of reply. I take this opportunity to do so now.

I was unfamiliar with the Australian Citizens Party until their submission so I looked them up on Wikipedia and learned they were described as a 'minor far-right political party in Australia affiliated with the international LaRouche Movement'. In their submission, they allege that the various Magnitsky Acts around the world are based on my 'discredited account of the death of Sergei Magnitsky'.

I don't know what the motivations were of the Australian Citizens Party, but ever since the Magnitsky Act was passed in 2012¹, it has enraged Vladimir Putin and the Russian government to such an extent that it has become one of the most important parts of Russian foreign policy and they have made it a top priority to try to repeal it. It has also become a major objective of the Russian government to either kill me or make further work on my campaign ineffective. To do this, the Russian government and its proxies have threatened me with death, illegal rendition, arrest through Interpol, and extradition from the UK. They've tried to sue me in multiple jurisdictions and they devoted significant resources on media and political lobbying to try to discredit me and the Magnitsky Act.

I believe that the submission of the Australian Citizens Party is part of that effort and their testimony to the Committee is false, inaccurate and misleading.

The facts of the Magnitsky case and the evidence leading to the passage of Magnitsky Acts in different countries have been thoroughly examined by numerous governments, parliaments, international bodies and investigative journalists who have all come to the same conclusion – that Sergei Magnitsky² was killed for uncovering a vast Russian government corruption

¹ <https://www.congress.gov/bill/112th-congress/house-bill/6156>

² https://www.transparency.org/getinvolved/awardwinner/sergei_magnitsky



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scheme and his death was covered up by the Russian government. The institutions that have come to this conclusion are: The Council of Europe³; the European Union⁴; the UK Government⁵; the Canadian Government; the US Department of Justice⁶; the US Treasury⁷; and the US State Department⁸.

The Australian Citizens Party's submission also refers to allegations against me by Russian authorities. These allegations have been rejected as "abusive" and "politically motivated" by Interpol eight times, and as well as by the UK and US governments and various courts.

The Australian Citizens Party's submission also misrepresents judgement of the European Court of Human Rights ("ECHR") in the Magnitsky case⁹ as somehow exonerating the Russian government. That couldn't be farther from the truth. The ECHR found that Sergei Magnitsky's bodily injuries as demonstrated by his autopsy were "deliberate," that he was "subjected to ill-treatment by prison guards" and that "his right to life was violated."

The Australian Citizens Party submission also misrepresents the results of US court proceedings involving the son of a senior Russian government official accused by the US Justice Department of laundering proceeds of the \$230 million fraudulent scheme uncovered by Sergei Magnitsky. They imply that he was exonerated, which did not happen. Instead the son of the Russian official paid the US government \$6 million as a settlement in order to avoid facing trial.

The Australian Citizens Party also referred to several press articles which contained false information and omitted publicly available records on the circumstances of Sergei Magnitsky's death and the corrupt scheme that he had uncovered.

For instance, those publications claimed that there was no evidence of Magnitsky's murder in custody, despite its existence – including the official Russian government's records showing photographs of bodily injuries, the death certificate referring to the cerebral cranial trauma, the

³ <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20345&lang=en>;
<https://www.documentcloud.org/documents/4163348-Council-of-Europe-Magnitsky-Report.html>;
<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=25352&lang=en>

⁴ <https://www.euractiv.com/section/justice-home-affairs/news/eu-ministers-break-ground-on-european-magnitsky-act/>

⁵ <https://commonslibrary.parliament.uk/research-briefings/cbp-8374/>;
<https://www.reuters.com/article/us-britain-eu-raab/britain-to-introduce-a-magnitsky-law-after-brexits-foreign-minister-idUSKBN1WE0IT>

⁶ <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-civil-forfeiture-complaint-against-real-estate>; <https://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/U.S.%20v.%20Prevezon%20et%20al.%20Complaint.pdf>;

⁷ <https://www.treasury.gov/resource-center/sanctions/Programs/pages/magnitsky.aspx>

⁸ <https://www.state.gov/global-magnitsky-act/>

⁹ <http://hudoc.echr.coe.int/eng?i=001-195527>



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prison certificate demonstrating the application of the rubber baton to Magnitsky in the last hour of his life, the official Russian medical expert conclusion that Magnitsky's injuries were consistent with the application of the rubber batons, the death threats sent to my team shortly before Sergei's death, and testimony from a prison official of Sergei's last words in prison stating he had been detained because he had uncovered the embezzlement of vast sums by Russian police officers and that he was about to be killed¹⁰.

Those press articles presented a false account of Magnitsky's testimonies claiming that he did not name police officers involved in the crime, despite the verbatim record of testimonies specifying the roles of each police officer and concluding that as a result of the improper police search, companies were robbed and subsequently the \$230 million they paid in taxes were stolen while the documents used in the scheme were kept in police custody.

The reporting in the article from a German newspaper has been established as untrue by Mr Valery Borshev, head of the Russian human rights commission who independently investigated Sergei Magnitsky's death.¹¹

Every time Magnitsky sanctions legislation is approaching fruition, Russian proxies and Putin sympathisers weigh in with false information and attack those advocating for it. We saw this in the US, Canada, United Kingdom and the Baltic countries at a similar stage where the Australian legislation is right now. I am confident that members of the Australian parliament won't be influenced by these last ditch efforts to scupper the bill.

Sincerely,

William Browder
Head of the Global Magnitsky Justice Campaign

¹⁰ <https://www.russian-untouchables.com/eng/cover-up-presentation/> ; <http://russian-untouchables.com/rus/docs/P01E.pdf>

¹¹ <https://echo.msk.ru/blog/mbh/2575179-echo/> Mr. Borshev said on Echo of Moscow: "Statements in *Der Spiegel* that Sergei Magnitsky did not accuse police officers are untrue, which is confirmed by the documents which had been reviewed by the commission during the preparation of the report. I and other members of the commission who investigated Sergei Magnitsky's death, after reviewing the records confirming the violence against him, concluded that he was deliberately killed because of his testimony and accusations against police officers for their involvement in the fraud."