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Giorgio Cafiero 10.18.19

Marsha Lazareva's Legal Saga in Kuwait has High International Stakes

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Kuwait's Sabah Ahmad al-Sabah has long had a reputation as one of the more passionate defenders of human decency in the Gulf region. He was honored in 2014 by UN Secretary-General Ban Ki-moon for his efforts to support individuals impacted by conflicts in Syria and Iraq and is also credited with many human rights improvements for Kuwait's migrant workers. Under his leadership, Kuwait has also established itself as the Gulf Cooperation Council (GCC) member-state that stands strongest in defense of Palestinian rights.

Yet in recent months Kuwait has received international criticism over the ongoing case of a prominent businesswoman, Marsha Lazareva. She is a Russian national, a former U.S. green card holder, and the mother of a five-year-old U.S. citizen.

After Lazareva operated a successful investment firm out of Kuwait for more than a decade, Kuwaiti officials accused her of embezzlement. She was convicted without being allowed to present a defense, based on the testimony of a single witness and documents that have since been confirmed as forgeries.

Lazareva was sentenced to ten years of hard labor and spent 474 days in a crowded cell at Sulaibiya prison before her conviction was overturned by an appeals court. However, she remains prohibited from leaving Kuwait and returning to the U.S. with her young son, and the charges against her have not yet been dropped despite the overwhelming evidence of her innocence.

During her incarceration, high-profile public figures came to Lazareva's defense, including Neil Bush, whose family is widely respected in Kuwait for his father's role in the country's 1991 liberation. Other prominent supporters include human rights attorney Cherie Blair, former FBI Director Louis Freeh, former Florida attorney general Pam Bondi, and former Veterans Affairs Secretary Jim Nicholson, and most recently, actress and humanitarian advocate Amber Heard. U.S. Secretary of State Mike Pompeo and Russian Foreign Minister Sergey Lavrov have been reported to have independently raised the issue with senior Kuwaiti diplomats.

It remains unclear how engaged the Amir has been in discussions of Lazareva's case. To be sure, there is no suggestion that he bears any responsibility for her denial of justice. That said, a number of Kuwaiti officials have been identified as playing a direct role in Lazareva's persecution, a fact that risks threatening Kuwaiti interests.

So far, four members of the U.S. Congress have written letters urging Treasury Secretary Steven Mnuchin to initiate Global Magnitsky Act investigations into six Kuwaitis, including two members of the royal family. This includes Sheikh Khaled Abdullah S. N. Al-Sabah, the Chief of Amir Protocol and Chamberlain; Sheikh Youssef Al-Sabah, General Manager of the Kuwait Port Authority; Dherar Ali Al-Asousi, Kuwait's Attorney General; Homood Al-Shamy and Metab Al-Ardi, the prosecutor and judge in Lazareva's trial; and finally, Hamad Al-Allayan, the State Audit Bureau official who was convicted of forging the documents in Lazareva's case.

This has apparently angered some officials in Kuwait, who have accused certain American and Russian officials of interference in Kuwait judicial proceedings. The head of the Kuwait Port Authority went so far as to threaten some of the U.S. officials with criminal prosecution.

Yet this backlash is perhaps unsurprising given what is at stake. Magnitsky sanctions freeze bank accounts and ban travel of human rights violators. In this case, they would not only implicate people close to the Amir – but they could also damage Kuwait's international reputation at a time in which the Kuwaiti economy needs more foreign investment for diversification plans to succeed as the country prepares for the post-oil future.

Kuwaiti authorities will need to make important decisions about how to handle Lazareva's file, especially given the case's high international stakes. With additional hearings scheduled in her case over the next few weeks, those decisions have taken on even greater urgency.

News of the recent hospitalization of the Amir sparked discussion among observers of Gulf politics. While all were pleased to see the speedy recovery of a leader who has served as a respected leader, statesman, and diplomat for decades, the incident provided an opportunity to consider the Amir's record that will one day shape his legacy.

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Theodore Karasik 05.29.19

Kuwaiti Judiciary Harms Country's Foreign Investment Climate

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Kuwait has a high-profile international case on its hands that threatens to harm the country's foreign investment climate. The case, which has now been brought to the [UN Working Group on Arbitrary Detention](#), coupled with several recent legal complaints from international investors, could damage the country's business environment and threaten its reputation during a sensitive period for the Gulf emirate.

A Kuwait court wrongly convicted Russian national Marsha Lazareva, a prominent businesswoman in the Middle East, of misusing public funds. For the past year she has been [serving](#) a 10-year jail sentence with hard labor in Kuwait's overcrowded Sulaibiya prison.

On May 5, a Kuwaiti judge confirmed a lower court decision to drop the conviction against her but set bail at prohibitive USD 66 million. This, after Lazareva already paid \$36 million in bail last year and despite the case against her appearing to have collapsed amid false claims and rampant corruption in the Kuwaiti judicial system.

By voiding the lower court ruling but then jacking the bail demand, the judge essentially created a "hostage for ransom" situation. Such judicial actions risk scaring investors away at a time when the Al Sabah royals are seeking greater foreign investment.

The government's "New Kuwait Vision 2035" aims to transform the country into a global financial, commercial and cultural hub within 17 years, but its success hinges on a significant amount of foreign investment. The Lazareva case raises red flags for foreign investors and could send them fleeing Kuwait.

Simultaneously, Kuwait is facing multiple arbitration cases brought by foreign investors.

In July, attorneys for Lazareva issued a [notice of arbitration](#) to the State of Kuwait based on a 1994 agreement between Russia and Kuwait to encourage and protect investments in each other's country. Kuwait has failed to respond to the arbitration request despite a visit by Russian Minister of Foreign Affairs Sergei Lavrov [in March](#) during which he addressed the female CEO's case.

A Spanish investor has also opened an arbitration complaint against Kuwait hinged on a similar Spain-Kuwait bilateral investment treaty. Alcosa Shareholding SL filed a notice of arbitration on April 22 in relation to health services contracts with the Kuwaiti government.

In yet another case, a Swiss NGO, the Conseil Economique des Pays Musulmans (or Economic Council of Muslim Countries), commenced arbitration in 2018 under the Switzerland-Kuwait bilateral investment treaty. Kuwait has yet to assign anyone to this arbitration.

Apart from these two cases, Kuwait is currently facing two other claims with the International Centre for Settlement of Investment Disputes (ICSID), one from an Egyptian investor, Almasryia Operating & Maintaining Touristic Construction Co LLC, in relation to a real estate project in the emirate. The other was filed by Spanish and Italian investors Rizzani de Eccher SpA, Obrascón Huarte Lain SA, and Trevi SpA, in relation to a highway construction project. The tribunal in that case denied requests for interim measures.

The ability for plaintiffs to use arbitration is important especially when considering bilateral investment treaties.

Arbitration gives investors a mechanism to present their the case in front of an internationally recognized body that ensures transparency and is not subject to the corruption and family connections that so often influence the Kuwaiti legal system.

One of the most appealing features of international arbitration is the cross-border enforceability of awards. For resolving a dispute that spans both borders and legal systems, international arbitration allows all parties to get an unbiased hearing and enforceable decision.

In Lazareva's case, there is an opportunity for all sides to come to an agreement with a decision on compensation. Kuwaiti authorities recognize that international tribunals hold to international customs and law, and that participation is important to Kuwait's international standing.

The Lazereva case is wracked by the corruption of the Kuwaiti legal system. Numerous legal experts from the US, the UK, and Russia have urged Kuwait's rulers to release Lazereva and drop the bail demand.

Global attention to the case is escalating at a time when Kuwait is poised to assume the presidency of the United Nations Security Council in June – potentially undermining their moment in the spotlight at the World Body. Without moving more boldly to confront and solve these arbitration requests, Kuwait may find itself on the receiving end of a catastrophic drop in foreign direct investment.

This article was originally posted in [Gulf State Analytics](#).

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Okay, thanks

The Ongoing Lazareva File

Dr. Theodore Karasik

Marsha Lazareva, a famous Russian businesswoman in the Middle East, previously served as the CEO and vice-chairman of KGL Investment (KGLI), a private equity and venture capital firm. Lazareva, a graduate of the Wharton School of Business, began leading KGLI after its establishment in 2007. KGLI oversaw a financial house called The Port Fund, which invested in development projects all over the world. In November 2017, The Port Fund successfully completed the sale of a real estate project for about \$700 million to Udenna, a Philippines-based holdings company. Yet shortly after Lazareva announced the sale of the project and impending distribution of net profits, the money intended to pay investors, creditors, and other stakeholders was suddenly frozen and the Kuwait Attorney General charged her with embezzling money from the Kuwait Port Authority, one of the investors in The Port Fund.

Gulf State Analytics has been following Lazareva's file in Kuwait since charges were levied against her. Her case, which has recently garnered significant global attention in part due to her conditions behind bars in the Gulf country, is informative of how business dealings in the region can easily turn against an innocent individual and trigger a legal nightmare that requires major financial concessions in the form of bail and penalties.

Lazareva's case has major international stakes too given that prominent figures from the United States and Russia are working in communication with Kuwaiti government officials to reverse judicial decisions and give Lazareva her freedom. After working for over a year, Kuwait agreed to release its hold on the frozen Port Fund money and the investors were paid back their entire original investment plus a significant profit. But Lazareva remains charged with embezzling the money.

Gulf State Analytics has learned that a Washington, DC-based law firm, Crowell & Moring LLP, sent an official letter to Meysan Partners, a law firm in Kuwait, telling it to end its communication of false information to The Port Fund's investors. This relaying of this false information has been aimed at prompting the investors to take legal action in the Cayman Islands based on baseless allegations of misconduct on the part of The Port Fund's executives. The goal behind this legal action is to cause The Port Fund's assets around the world to freeze. What is unclear is why Meysan Partners, apparently acting on behalf of Agility, a local business rival, is taking this action given that, according to Crowell & Moring's letter, neither Agility or its CEO Tarek Sutan have any ownership or other legal interest in The Port Fund. Gulf State Analytics will continue monitoring the Lazareva file and efforts to inflict damage on The Port Fund's executives.

Below is the transcript of a press release that provides further information regarding this recent development.