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Russia: Activist sent to prison for three years for environmental activism

A court in Krasnodar ruled on 12 February 2014 that environmentalist Yevgeniy Vitishko should serve a three-year sentence in a prison colony. This is the latest step in a sustained campaign by the Russian authorities against environmental activists in Krasnodar Region, which is hosting the Sochi Winter Olympic Games, to prevent them from speaking out about the environmental damage suffered by the region.

The harassment of the local environmentalists intensified considerably in the months preceding the opening of the Games, and Yevgeniy Vitishko has been particularly targeted in connection with his activism. The decision to send him to serve his sentence in a prison colony is the latest episode in the campaign against him, by the Russian authorities who have sought to prevent protest in Krasnodar Region and specifically to silence one of the most vocal and respected critical voices, in the run-up to the Sochi Games, ultimately by locking him up.

Amnesty International believes that Yevgeniy Vitishko is a prisoner of conscience, and that he should be immediately and unconditionally released.

Yevgeniy Vitishko is a prominent member of the non-governmental organization (NGO) Environmental Watch for North Caucasus (*Ecologicheskaya Vakhtha po Severnomu Kavkazu*), based in Krasnodar Region. The organization is known for exposing damage caused by the Olympic construction and other environmental problems in the region. Its members have been subjected to an increasingly aggressive and sustained campaign of harassment by the Russian authorities in the run-up to the Sochi Games.

Yevgeniy Vitishko is the NGO's activist in the town of Tuapse, which neighbours Sochi and belongs to the wider region that hosts the Olympic Games. The history of his harassment by the authorities, over a number of years, indicates that the purpose of his prosecution has been to

silence him specifically. His refusal to abandon his civil society activism and refrain from criticising the authorities has resulted in the authorities using increasingly heavy-handed measures against him, as well as his fellow environmentalists from the NGO Environmental Watch, his imprisonment being the latest measure.

The authorities have increasingly harassed several members of the NGO in the run-up to the Games, with repeated arrests and brief detentions, personal searches, questioning of activists themselves and of their close relatives by police, and unofficial warnings from police and security officials to abstain from protesting during the Sochi Olympics. Prior to the court's decision of 12 February 2014, Yevgeniy Vitishko was detained for 15 days under trumped-up administrative charges. Details of this campaign of harassment of members of the NGO Environmental Watch have been documented by Amnesty International and presented in an open letter to the President of the International Olympic Committee, Thomas Bach (http://www.amnesty.org/sites/impact.amnesty.org/files/IOC%20Open%20letter%20Sochi_0.pdf).

The criminal case against Yevgeniy Vitishko was opened in relation to Environmental Watch's campaign against illegal logging and construction in a protected forest in Krasnodar Region. The organization had uncovered an allegedly unlawful fence that had been erected in the forest, obstructing public access and possibly covering up some unlawful activity. For months its members were urging a number of local and federal-level government agencies, through formal complaints, to address this ongoing violation, which proved futile. The official replies they received indicated that there were no violations to address, and that, contrary to the environmentalists' claims, public access to the territory in question was not obstructed. On at least two occasions, 27 February 2011 and 27 August 2011, environmental activists attempted to hold peaceful protests in the area of the fence in the forest, and both times they were detained by police for purportedly disobeying legitimate police orders. On 13 November 2011, Yevgeniy Vitishko and other activists visited the site to document the existence of the fence and the activity behind it. They unscrewed and took down two sections of the fence to expose the enclosed part of the forest, behind which they witnessed destruction of rare and protected trees, and sprayed some graffiti on the fence in protest.

Yevgeniy Vitishko, together with another activist Suren Gazaryan, was charged under Article 167, part 2 of the Criminal Code (deliberate destruction or damage of property resulting in significant damage and motivated by hooliganism), and convicted under this charge in the ensuing trial. He was sentenced to three years of prison colony conditionally, with a two-year probation period. During this period, strict travel restrictions were imposed on the activists preventing them from leaving their hometown without specific permission from the authorities. This severely curtailed their ability to engage in their professional environmental activities. Suren Gazaryan has since left the country and received asylum abroad on the basis that he was being targeted for his environmental activism.

Their trial was politically motivated and marred by fair trial violations, and led to the activists' conviction. They both lost their appeals. Suren Gazaryan's defence tried to challenge his lost appeal, but Krasnodar Regional Court ruled that he had no further right of appeal. In turn, the activist challenged this ruling at the Supreme Court of the Russian Federation. On 21 October 2013, the Supreme Court took a decision which noted a number of significant failings in the lower courts' judgements, and ruled that his appeal should be considered. Specifically, the Supreme Court recognised that the issue of legality of the fence against which the activists had protested, and the identity of the fence's legal owner, should have been considered.

Notably, the charges were brought against Yevgeniy Vitishko and Suren Gazaryan only, the two most vocal members of the group who had taken part in the protests. However, their individual roles in damaging the fence was not explored by the judge, as is required by law. The cost of the damage caused, and the financial robustness of the party which has suffered the damage, are important elements of the case to determine whether charges under Article 167, or possibly much lesser – including administrative (non-criminal) – charges are applicable. Expert opinion provided by the defence suggested that the actual cost of the damage was under USD 30, but the guilty verdict was based on the figure provided by the prosecution's witness, which was almost 138 times higher. According to the prosecution, and contrary to the defence's protests, a small construction company was named as the party that had suffered the damage, and not the larger company ZAO Agrokompleks which had contracted it and actually owned the fence.

Following the Supreme Court's decision of 21 October 2013, the defence requested a new appeal hearing in the case against Yevgeniy Vitishko and Suren Gazaryan. Despite the findings of the Supreme Court, a lower court ruled that there were no grounds for reviewing Yevgeniy Vitishko's case. Shortly after this, on 20 December 2013, Yevgeniy Vitishko was brought to court in relation to allegations that he had travelled outside his hometown without permission and thereby had broken the conditions of the travel restrictions associated with his conditional sentence. The judge ruled that for this, Yevgeniy Vitishko should serve the original three-year sentence in a prison colony.

Yevgeniy Vitishko appealed against this ruling too. The hearing was initially expected on 22 February 2014.

In the meantime, members of the NGO Environmental Watch were planning to launch a report on the environmental impact of the Sochi Olympics, in Sochi on 5 February 2014. However, they were forced to abandon these plans after the authorities subjected them to a new round of harassment. Thus, Yevgeniy Vitishko and another activist, Igor Kharchenko, were arrested in separate incidents, on 3 and 4 February respectively, and sentenced to detention under fabricated

and absurd charges. At least five other activists from Environmental Watch were also detained by police during the same period of time for several hours.

Yevgeniy Vitishko was arrested by police on 3 February 2014 at around 10.30 am, just as he was leaving the offices of the penitentiary authorities in Tuapse, where he had come to request permission to travel to the neighbouring Sochi for the report launch and other meetings. At the time of his arrest, police reportedly told him that he was suspected of a theft. However, upon arrival at the police station Yevgeniy Vitishko was charged with "petty hooliganism" in relation to an allegation that he had used foul language at a bus stop earlier the same morning. He was fingerprinted, and his mobile phone was inspected. In addition, according to his lawyer, who spoke to police on the phone, the police admitted they had no written statement from witnesses about the alleged incident. It appears that it was only after this phone conversation that the police went looking for witnesses to provide a written statement.

Yevgeniy Vitishko was taken to court the same day; when he asked for his lawyer to be present, the judge refused and insisted that a state-appointed lawyer should represent him instead, which Yevgeniy Vitishko declined. The judge also refused to summon two alleged "witnesses" to the incident, and accepted a written statement as sufficient evidence against him. Yevgeniy Vitishko requested to know how the police recorded the circumstances of the incident concerning the alleged "petty hooliganism" in their report. The judge also declined this request. The entire court hearing lasted only a few minutes. Yevgeniy Vitishko was found guilty of "petty hooliganism" and sentenced to 15 day's detention. It was only after Vitishko began serving this sentence that the lawyer was able to see him.

Yevgeniy Vitishko immediately appealed the ruling, but was taken directly from the court to serve his sentence before any appeal was heard. In the mean time, the date of his appeal under his earlier criminal case was brought forward, to 12 February, which was when Yevgeniy Vitishko was still serving his 15-day administrative detention sentence. While he was serving his administrative detention in Tuapse, the appeal hearing under his criminal case was taking place in Krasnodar. The activist was unable to attend it in person and had to rely on a video link. His appeal was rejected, and he will begin serving his three-year sentence as soon as he completes his 15-day administrative detention.

The history of Yevgeniy Vitishko's persecution shows a desire by the authorities to target him for his environmental activism. Together with Suren Gazaryan, he was singled out from among local environmental protesters as the local leader and the most vocal critic of Krasnodar Region's administration. They were targeted via criminal prosecution, in a politically motivated trial marred by serious fair trial violations. In spite of the Supreme Court's decision which recognised some of these violations and the right to appeal, Yevgeniy Vitishko was denied a chance to do so.

These latest legal manoeuvres leave little doubt that the true intent of the authorities in this case is to silence a critic, not to punish any crime. Yevgeniy Vitishko and his colleagues have worked to document environmental concerns in Sochi, but rather than investigating the allegations of illegal logging they sought to expose, a criminal case was instead brought against those who sought to expose it. In the meantime, all members of the NGO Environmental Watch for North Caucasus were silenced and forced to abandon their plans to present in Sochi their findings about the environmental cost of the Sochi Olympics.

Amnesty International considers Yevgeniy Vitishko to be a prisoner of conscience imprisoned in connection with his peaceful exercise of the right to freedom of expression. He should be immediately and unconditionally released.

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