

URGENT ACTION

LAWYER RELEASED ON BAIL BUT THREAT OF JAIL REMAINS

Lawyer Mikhail Benyash, who had been detained since 9 September after meeting his client who had taken part in a peaceful protest against pension reforms in Krasnodar, Russia, was released on bail on 23 October. The politically-motivated criminal charges against him are still pending. He faces up to five years imprisonment if found guilty.

On 23 October, Krasnodar Regional Court ordered the release of lawyer **Mikhail Benyash** on bail, set at 600,000 rubles (approximately USD 10,000).

Mikhail Benyash was violently arrested by police on 9 September while on his way to the city centre of Krasnodar, a city in southern Russia, to provide legal assistance to participants in a peaceful rally against pension reform during which police had arbitrarily arrested dozens of people. On 11 September, the Leninsky District Court of Krasnodar found him guilty of “resisting the police’s legitimate orders” (under Article 19.3 of the Russian Code of Administrative Offenses) and sentenced him to 14 days of “administrative detention”.

On 23 September, just hours before he was due to be released, additional charges of “use of violence against a government official” (under Article 318, part 1 of the Russian Criminal Code) were brought against Mikhail Benyash and his detention was extended for a further 48 hours. The Investigative Committee of the Russian Federation (Krasnodar Region) also launched a criminal investigation against Mikhail Benyash for “obstructing the course of justice” (under Article 294, part 1 of the Russian Criminal Code) for allegedly interrupting a judge on 6 May 2018, while representing his client in an administrative case. On 28 September, the Leninsky District Court of Krasnodar issued a decision on the application of preventive measures against Mikhail Benyash in the form of detention for the period of two months, citing fears that the lawyer could flee, threaten witnesses and destroy evidence. Despite a higher court ruling to replace his detention with release on bail, the charges against Mikhail Benyash have yet to be dropped. With two criminal charges pending against him, Mikhail Benyash faces up to five years in jail if convicted.

Please write immediately in Russian, English or your own language calling on the Russian authorities to:

- Immediately drop all charges against Mikhail Benyash as they stem solely from his work as a human rights lawyer, and immediately end all criminal proceedings against him;
- Conduct a thorough, effective and impartial investigation into the circumstances of his arrest and allegations of ill-treatment by the police, and ensure those responsible are brought to justice in fair trials;
- Guarantee that all lawyers in Russia can carry out their professional duties without intimidation, hindrance, harassment or improper interference, in accordance with international standards, including the UN Basic Principles on the Role of Lawyers.

PLEASE SEND APPEALS BEFORE 6 DECEMBER 2018 TO:

Prosecutor General of the Russian Federation

Yuriy Yakovlevich Chaika
Prosecutor General’s Office
Ul. B. Dmitrovka, d.15a
125993 Moscow GSP-3, Russian Federation

Fax: +7495 987 58 41/ +7495 692 17 25

Salutation: Dear Prosecutor

Ministry of the Interior of the Russian Federation

Vladimir Kokoltsev
Ul. Zhitnaya d. 16
119049 Moscow, Russian Federation
Fax: +7 495 667 05 98 (wait for signal)

Salutation: Dear Minister

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below.

Please check with your section office if sending appeals after the above date. This is the first update of UA 167/18. Further information:

www.amnesty.org/en/documents/eur46/9069/2018/en/

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ADDITIONAL INFORMATION

On 9 September, political opposition members organized mass rallies in more than 80 Russian cities and towns to protest pension reforms introduced by the government in June this year. These peaceful rallies were violently dispersed by the police and over a 1,000 people were detained. For details, see “Russia: Police crush peaceful protests and arrest hundreds including children” <https://www.amnesty.org/en/latest/news/2018/09/russia-police-crush-peaceful-protests-and-arrest-hundreds-including-children/>.

The beating and detention of Mikhail Benyash sparked outrage and protest among lawyers in Russia. An online petition demanding that the Russian Federal Bar Association take measures to protect the interests of its members and that state authorities conduct an effective investigation into the incident was signed by more than 300 lawyers from over 50 regions across Russia. On the eve of the hearing in Krasnodar District Court on 23 October, the President of the Russian Federal Bar Association sent a letter to the Prosecutor of Krasnodar District, requesting that he take the criminal case of Mikhail Benyash under his personal control to ensure a fair and legitimate investigation and to prevent any bias. During the hearing on 23 October, the Prosecutor filed a motion to change the preventive detention measure, arguing that the court of first instance did not provide evidence to support claims that Mikhail Benyash could flee, destroy evidence or threaten witnesses. Nineteen lawyers from six regions across Russia came to the appeal hearing to represent Mikhail Benyash, in an act of solidarity.

The right to freedom of peaceful assembly has been increasingly restricted in Russia in recent years. The Russian authorities have continued to show a high level of intolerance toward “unauthorised” peaceful public protest, while police routinely use excessive force to remove and arrest peaceful protesters. While policing protests, law enforcement officials often do not distinguish between protesters and passers-by. The administrative court trials – those in which protesters are brought before a judge for the alleged violation of rules governing public assemblies or for allegedly resisting the police – are typically swift, and often appear a mere formality. Most trials rely on widely disputed reports and written statements presented by the police, as the sole pieces of “evidence” against the individuals standing trial. In most cases, judges have accepted without question the police’s claims, such as that the individual in question had resisted their legitimate orders, even when material evidence to the contrary – such as close-range video footage from the event – is available. For more details, see “Russian Federation: The right to freedom of peaceful assembly – freedom in all but name” <https://www.amnesty.org/en/documents/eur46/8027/2018/en/>

Amnesty International has documented numerous cases of harassment of human rights lawyers by members of law enforcement agencies who commit human rights violations with near-total impunity in Russia, particularly in the North Caucasus of which Krasnodar Region is a part, including by means of intimidation, physical violence, unfounded criminal prosecution and in at least one case, alleged extrajudicial execution of a lawyer: <https://www.amnesty.org/en/press-releases/2013/03/dangerous-profession-lawyers-north-caucasus/>.

In 2010, Sapiyat Magomedova, a human rights lawyer from Dagestan, was severely assaulted by members of police who made counter-claims against her alleging that she physically assaulted them, leading to her own criminal prosecution: <https://www.amnesty.org/download/Documents/40000/eur460372010en.pdf>. Sapiyat Magomedova’s allegations, and the police’s counter-allegations have never been effectively investigated, and the case was eventually closed.

Name: Mikhail Benyash

Gender m/f: m

Further information on UA: 167/18 Index: EUR 46/9295/2018 Issue Date: 25 October 2018