



AMNESTY INTERNATIONAL PUBLIC STATEMENT

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RUSSIA: INGUSHETIA PROTEST LEADERS FACE UP TO NINE YEARS IN PRISON

EXECUTIVE SUMMARY

Eight political activists are on trial or awaiting trial in Ingushetia (Southern Russia) for leading a peaceful protest campaign in 2018 and 2019. They are facing serious charges, including participation in an “extremist association”, that could lead to prison terms of up to nine years. Having examined the charges and the available evidence, Amnesty International is concerned that the accusations against them are politically motivated and stem solely from their legitimate political and social activities. Furthermore, their right to a fair trial is undermined by the arbitrary transfer of the proceedings to another court in a different part of the country that would hinder their ability to launch an adequate defence.

Amnesty International is concerned that the prosecution is a tactic to make them stop their activism and it therefore violates their rights to freedom of expression, peaceful assembly and association. It is therefore incompatible with Russia’s international human rights obligations and Constitution. Amnesty International calls on the Russian authorities to drop all charges against the activists and immediately release them.

BACKGROUND

Ingushetia is a republic in Russia’s North Caucasus, established in 1992 and one of the smallest subjects of the Russian Federation by area and population. In 1992, it was involved in an armed conflict with the neighbouring republic of North Ossetia, and since 1994 it has also been affected by military action in another neighbouring republic, Chechnya. The security situation in Ingushetia has also been precarious due to the activities of Islamist militants and government forces, both of whom have contributed to human rights violations and an overall state of lawlessness.¹ For example, abductions and killings were widespread in the 2000s and only a few have been properly investigated by the authorities. In 2009, human rights defender Natalia Estemirova was abducted from her home in Grozny, Chechnya, and was later found dead in Ingushetia.² In 2016, unidentified people set on fire a minibus containing human rights activists and journalists, close to the border between Ingushetia and Chechnya.³ Investigations into both latter attacks have stalled.

ELECTION-RELATED PROTESTS

In 2018, several civil society groups in Ingushetia held a rally to demand direct election of the head of the republic (instead of election by the local parliament of candidates proposed by the President of Russia). Under Russia’s unduly restrictive legislation, the organizers of the rally were required to submit a notification 10 to 15 days prior to the event, which they did on 17 May, notifying local authorities of their intention to hold a rally on 28 May. On 18 May, the authorities arbitrarily banned the rally citing an extensive and unjustified blanket ban on all assemblies in many urban areas⁴ and a need to accommodate a school graduation ceremony, without suggesting other alternatives in which the rally could take place.

¹ See, for example, Amnesty International, *Russian Federation: The circle of injustice: Security operations and human rights violations in Ingushetia* (Index: EUR 46/012/2012), 21 June 2012, amnesty.org/en/documents/eur46/012/2012/en

² Amnesty International, *Russian Federation: On the tenth anniversary of Natalia Estemirova’s murder, human rights groups call for justice long overdue* (Index: EUR 46/0712/2019), 15 July 2019, amnesty.org/en/documents/eur46/0712/2019/en

³ Amnesty International, *Russia: Brazen assault on journalists and human rights defenders in North Caucasus illustrates official failures*, 10 March 2016, amnesty.org/en/latest/press-release/2016/03/russia-brazen-assault-on-journalists-and-human-rights-defenders-in-north-caucasus-illustrates-official-failures

⁴ Law on Assemblies, Rallies, Demonstrations, Marches and Pickets on the Territory of Republic of Ingushetia, 7 July 2005, docs.cntd.ru/document/802031594, Article 3.1.

The activists submitted another notification of a planned protest on 2 June, but according to them, the authorities failed to respond. On 2 June, despite the lack of the authorities' reply, a protest rally took place in the capital Magas. Several hundred participants peacefully marched through the city centre and met with officials who came to the streets.

INGUSHETIA-CHECHNYA BORDER AGREEMENTS

On 26 September 2018, Ingushetia's head Yunus-Bek Yevkurov signed an agreement with the head of neighbouring Chechnya, Ramzan Kadyrov. The agreement, which was unannounced, transferred some areas on the Ingush-Chechen administrative border to Chechnya. This move angered many in Ingushetia, and the ratification of the agreement on 4 October by the Ingush parliament sparked peaceful protests in Magas.

From 4 to 31 October, opponents of the border agreement held a round-the-clock protest in the centre of Magas. The authorities permitted the rally for 16, 17 and 31 October only. An Amnesty International representative that was present during the protests observed that on 5 and 6 October the protest was peaceful and orderly. Participants, whose numbers varied from several hundred to several thousand, occupied an approximately 200-metre-long span of Zyazikov Avenue. However, authorities restricted access to the city, posted roadblocks on all entrances and cordoned off the block where the main governmental buildings are situated.

On 15 December, responding to the call of well-known activist Akhmed Barakhoev, members of the Ingush parliament gathered at the Spiritual Centre of Muslims of Ingushetia, a local religious organization, to discuss the ratification of the border agreement at the "Sharia court". The "court" has no legal authority or mandatory enforcement in Russia, but it is an influential organ in the predominantly Muslim republic.

REFERENDUM LAWS PROTEST

As the political situation in the republic remained tense, activists planned another protest in Magas against changes to the laws on referendums. The protests were scheduled to last three days, from 26 to 28 March 2019. The organizers notified the Government of Ingushetia on 14 March (Russian law allows the authorities three days to propose changes to the protest plans).⁵ However, the authorities wrote back on 25 March, on the eve of the protest, stating that the rally could only take place on 26 March, ostensibly "to maintain stability of the social-political situation, prevent illegal activities and uphold peace and accord in the society". The authorities provided no evidence of any concrete "illegal activities", nor did they explain the last-minute change. Protesters pleaded on the same day to extend the permit to 27 and 28 March, but the authorities refused to do so claiming that notifications must be filed 10 to 15 days in advance.

The protest rally began on 26 March and proceeded peacefully well into the night. Early the next morning, however, National Guard (Rosgvardiya) troops and Ingush police forces surrounded the protesters at Zyazikov Avenue.

Demonstrators tried to negotiate with law enforcement officers to allow the peaceful protest to continue, but the talks broke down and Rosgvardiya troops moved to disperse the rally. Video of the incident⁶ shows that several dozen people in the crowd clashed with law enforcement officers, throwing plastic bottles, chairs and other objects at the armour-clad troopers. Most of the crowd stood peacefully in the square, apparently confused by events. Several protesters and law enforcement officers were injured in the clashes, including two Rosgvardiya troopers who, according to the indictment, suffered fractures. Eventually, the protesters agreed to end the rally. They then moved from Zyazikov Avenue to another part of Magas where they temporarily blocked traffic on a road leading into the city. The protesters peacefully dispersed several hours later.

CRIMINAL CASES AGAINST PROTEST PARTICIPANTS

The Investigative Committee (the government agency responsible for investigating serious crimes) initiated a criminal investigation into the "use of violence against representatives of the authorities"⁷ on the same day, and within one week began to arrest participants and leaders of the protest. According to Memorial Human Rights Centre, a leading

⁵ Article 12(1)(2) of the Federal Law on Assemblies, Rallies, Demonstrations, Marches and Pickets.

⁶ "Митинг в Магасе. Утро 27 марта", 27 March 2019, youtube.com/watch?v=IPIKBjuGLsI&t=1236s (accessed on 20 October 2021)

⁷ Article 318 of the Criminal Code.

Russian human rights group, as of 11 October 2021, 40 individuals had been convicted of violence or incitement of violence against law enforcement officers and another is on trial.⁸

CASE AGAINST PROTEST LEADERS

Following the 26-27 March protest, eight well-known Ingush activists – Akhmed Barakhoev, Barakh Chemurziev, Bagaudin Khautiev, Musa Malsagov, Ismail Nalgiev, Akhmed Pogorov, Zarifa Sautieva and Malsag Uzhakhov – were arrested and charged with “organization of the use of life-threatening violence against representatives of authorities”.⁹ They were subsequently charged with the establishment of or participation in an “extremist association”.¹⁰

Malsag Uzhakhov, who heads the Council of Teips NGO,¹¹ was also charged with “founding or managing a non-profit organization that undermines citizens’ rights”.¹² Akhmed Barakhoev, who heads another authoritative social institution, Ingushetia’s Council of Elders, was also charged with participation in such an organization¹³ and with failure to notify the authorities of foreign citizenship¹⁴ (the authorities claim that Barakhoev retains dual Russian-Kazakhstani citizenship; this charge is not discussed in this statement).

On 8 November 2021, the prosecutor requested the court to sentence Akhmed Barakhoev, Musa Malsagov and Malsag Uzhakhov to nine years’ imprisonment, Barakh Chemurziev, Bagaudin Khautiev and Ismail Nalgiev to eight years and Zarifa Sautieva to seven and a half years’ imprisonment. Akhmed Pogorov’s trial has not yet started.

TRANSFER OF THE CASE OUT OF INGUSHETIA

In an unusual move, the authorities decided to try the defendants outside of Ingushetia, and moved the proceedings to Kislovodsk City Court, Yessentuki city in Stavropol Krai, another subject of the Russian Federation. Kislovodsk and Yessentuki are situated some 200 km from Magas. The authorities claimed, without providing any evidence, that the defendants could have influenced judges in Ingushetia through their connections and that the trial could cause mass protests. All the activists are held in pretrial detention outside Ingushetia. Sentencing of the activists (with the exception of Akhmed Pogorov, who is still awaiting trial) is expected soon.

The transfer of the trial to Kislovodsk City Court has significantly impacted the work of their lawyers and is hindering their ability to launch a defence. They have to regularly travel to Yessentuki from Ingushetia and ensure attendance of witnesses, which also live in or close to Magas. In general, the arbitrary handpicking of a court to try the defendants undermines trust in the impartiality of the trial – already a problem affecting the right to a fair trial in Russia. This practice violates the defendants’ right to a fair trial.

CHARGES OF “ORGANIZATION OF VIOLENCE”

The first charge, one that all of the defendants are facing, is that in the morning of 27 March 2019 they “conspired to organize the use of violence by participants of the prohibited rally against representatives of the authorities”. None of the protest leaders are accused of using any violence against law enforcement personnel or even calling for it. On the contrary, even the investigators admit that some of the activists repeatedly tried to negotiate with the authorities, but the officials refused.¹⁵ Even these attempts at dialogue, however, are interpreted as a “refusal to obey legal demands of the authorities” and “demonstration of preparedness for violent resistance”. The defendants’ “offence”, according to the authorities, was “provocatively calling for [participants’] masculine dignity and national unity, manipulating ethnic customs, through their presence [at the protest] giving others an example of fortitude”, etc. Zarifa Sautieva, a well-known Ingush blogger, was accused of livestreaming the event and thereby “drawing attention of the mass media and therefore creating a great public outcry”.

⁸ Memorial Human Rights Centre, «Мемориал» опубликовал обновлённый список фигурантов дела о митинге 2019 года в Ингушетии («ингушское дело»), bit.ly/3m73rGg

⁹ Articles 318(2) and 33(2) of the Criminal Code.

¹⁰ Article 282.1 of the Criminal Code.

¹¹ Teip is a traditional Ingush societal institution: a tribal organization or clan, self-identified through descent from a common ancestor or geographic location.

¹² Article 239(2) of the Criminal Code.

¹³ Article 239(3) of the Criminal Code.

¹⁴ Article 330.2 of the Criminal Code.

¹⁵ Closing indictment, on file with Amnesty International.

The clashes between Rosgvardiya officials and the protesters occurred after they used force to try and push the crowd away from the protest site. These actions against a peaceful assembly were unwarranted and unlawful, and the authorities' arbitrary refusal to permit the protest to continue in no way justifies them. Moreover, there is no evidence that the activists facing trial had trained, equipped, directed or otherwise "organized" anyone to fight back against the law enforcement officers. In effect, they are being accused of making ordinary political speeches and, in the case of Zarifa Sautieva, livestreaming a public assembly.

International human rights law states that if, in exceptional circumstances, assembly organizers are held accountable for damage or injuries for which they were not directly responsible, it must be confined to cases where evidence shows that they could reasonably have foreseen and prevented it.¹⁶ In this case, the authorities have not identified any such "exceptional circumstances", nor did they show that the clashes could be prevented by the organizers of the protest. On the contrary, evidence indicates that the violence was a result of deliberate actions of the authorities, which the activists tried to prevent by negotiating with law enforcement officials.

CHARGES RELATED TO AN "EXTREMIST ASSOCIATION"

Akhmed Barakhoev, Musa Malsagov and Malsag Uzhakov have also been charged with "establishing and managing an extremist association", while Barakh Chemurziev, Badaudin Khautiev, Ismail Nalgiev, Akhmed Pogorov and Zarifa Sautieva have been charged with "participating" in such an association. The authorities claim that the activists "committed various extremist crimes" which "aimed to destabilize activities of the government".¹⁷

Russian "anti-extremism" legislation has been criticized by domestic and international human rights groups as vague, containing excessively broad definitions that may qualify legitimate social and political activities as "extremist".¹⁸ This case is an example of such a misrepresentation. Those activities that the authorities interpret as "extremist" are very frequently indistinguishable from ordinary social and political activism: the organization of peaceful protests, criticism of the government and its policies, engagement with members of the local parliament, publicizing and promotion of a movement's activities online and through the media.

The first instance of a "crime" allegedly "committed" by the defendants is the organization of a protest on 2 June 2018. Even the indictment compiled by the investigators contains no claims of acts or calls for violence, advocacy of hatred or violation of public order. The activists had notified the authorities of the rally in accordance with Russian law. As provided by international law and standards, the authorities' failure to respond to the notification does not make the assembly unlawful nor can be used as a justification to disperse it.¹⁹ Their previous refusal to authorize a similar rally planned for 28 May also did not explain why it was impossible to hold the protest in one of the places proposed by the organizers; neither did it propose an alternative. Even if the assembly was organized in violation of the procedure established by the domestic legislation, as the authorities claim, it would not justify criminal prosecution of those involved.²⁰

Similar arguments apply to the protests held in Magas in October 2018. The rally that began on 4 October was a reaction to the ratification of the border agreement by the parliament of Ingushetia on the same day. It is clear that this was a spontaneous assembly in which advance notification was impossible.

Such spontaneous protests are explicitly protected under international human rights law and standards. The European Court of Human Rights, whose judgments are binding on Russia, has ruled that peaceful protests in response to a political event should not be stopped merely because their organizers have not notified the authorities.²¹ Similarly, the UN Human Rights Committee has stated that spontaneous assemblies that are typically a direct response to current events are protected under the ICCPR.²² Similarly, the OSCE Guidelines on Freedom of Peaceful Assembly

¹⁶ UN Human Rights Committee, General Comment 37 on the right of peaceful assembly (article 21), 27 July 2020, UN Doc. CCPR/C/GC/37, para. 65.

¹⁷ Closing indictment, previously cited.

¹⁸ See, for example, Article 19 and SOVA, *Rights in extremis: Russia's anti-extremism practices from an international perspective*, 23 September 2019, article19.org/resources/rights-in-extremis-russias-anti-extremism-practices-from-an-international-perspective, p. 19.

¹⁹ UN HRC, General Comment 37, previously cited, para. 70.

²⁰ UN HRC, General Comment 37, previously cited, para. 71.

²¹ European Court of Human Rights, *Case of Bukta and Others v. Hungary*, Application no. 25691/04, 17 July 2007, para. 36.

²² UN HRC, General Comment 37, previously cited, para. 14.

call on governments to adopt legislation that exempts organizers of spontaneous protests from the need to give prior notice.²³ While Russian legislators still have not made necessary amendments to explicitly provide for the protection of spontaneous assemblies, international law and Russia's Constitution²⁴ both guarantee the right to freedom of peaceful assembly nevertheless.

Accusations related to the meeting with members of the Ingush parliament on 15 December also wrongly represent peaceful political activities as a "crime". Amnesty International has not discerned that there is evidence in the case files that participation of the MPs was coerced or that the meeting's organizers used or threatened force before or during the meeting. Peaceful criticism of politicians and their opinions and votes, as well as government' decisions, cannot be considered "extremist" and are rather protected by the right to freedom of expression.

The protest of 26–27 March 2019 was also a peaceful assembly. As stated above, the violence began only after the authorities used force to disperse the protest. None of the activists currently on trial used or called for violence against law enforcement officials. Their speeches did not, as far as Amnesty International is aware, contain any incitement to violence, hostility or discrimination.

CHARGES RELATED TO A "NON-PROFIT ORGANIZATION THAT UNDERMINES CITIZENS' RIGHTS"

Malsag Uzhakhov, as the head of the Council of Teips, was also accused of "managing a non-profit organization whose activities involved urging citizens to commit illegal acts"; and Akhmed Barakhoev was also accused of being a member of such an organization. According to the authorities, the "activities" in question were an endorsement of "unsanctioned" protests and the organization of the meeting with Ingush MPs.

As discussed above, these activities were essentially a realization of the rights to freedom of peaceful assembly and expression and cannot be construed as "illegal acts". Even if the peaceful protests that Uzhakhov and Barakhoev called for were indeed unlawful, criminal prosecution for them would be a vastly disproportionate reaction that would not be justified under international human rights law.

CONCLUSION AND RECOMMENDATIONS

Amnesty International calls on Russian authorities to:

- End the prosecution of Akhmed Barakhoev, Barakh Chemurziev, Bagaudin Khautiev, Musa Malsagov, Ismail Nalgiev, Akhmed Pogorov, Zarifa Sautieva and Malsag Uzhakhov. Charges against them should be dropped, and they should be immediately released and given full remedy.
- Review all criminal and administrative cases related to the protests in Ingushetia in 2018 and 2019. Convictions solely for exercising the right to freedom of peaceful assembly and unduly harsh sentences as well as decisions issued as a result of unfair trials should be quashed.
- Investigate and, if necessary, bring to account in accordance with international standards of fair trial all officials who unlawfully banned or otherwise obstructed peaceful protests.
- Amend legislation to ensure the right to freedom of peaceful assembly, including the right to hold spontaneous protests without prior notification, is effectively guaranteed and dismantle the de facto authorization regime for the organization of protests.²⁵
- Review Russian criminal and "anti-extremism" legislation to ensure that it does not violate the rights to freedom of expression, association and peaceful assembly and that it cannot be used to punish people for their peaceful activism.
- Ensure that everyone in Ingushetia and elsewhere in Russia can freely and without fear of reprisals hold peaceful protests and criticize authorities or their decisions freely and safely.

²³ Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and European Commission for Democracy through Law (Venice Commission), *Guidelines on Freedom of Peaceful Assembly, 3rd Edition*, venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)017rev-e, para. 25.

²⁴ Articles 15(4) and 31 of the Constitution of the Russian Federation.

²⁵ See: Amnesty International, *Russia: No Place for Protest* (EUR 46/4328/2021), 12 August 2021, amnesty.org/en/documents/eur46/4328/2021/en/