

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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RUSSIAN FEDERATION: RELEASE ACTIVIST JAILED FOR SATIRICAL SKETCH WITH “PUTIN’S DOLL”

Amnesty International calls for the immediate and unconditional release of 22-year-old civil society activist Aleksandr Shabarchin, from Perm. He is a prisoner of conscience imprisoned solely for exercising his right to freedom of expression. His criminal conviction and that of another activist – 19-year-old Danila Vasiliev who has been delivered a suspended sentence – must be overturned and both must be able to continue their peaceful activism without fear of persecution.

THE “CRIME” AND PUNISHMENT

Satirical video

Aleksandr Shabarchin, Danila Vasiliev and a third young man, Aleksandr Etkin (alias “Kotov”), stood trial in connection with an 11 November 2018 street performance. On that day, Aleksandr Shabarchin and Danila Vasiliev attached a mannequin wrapped in cello tape (representing prisoners’ clothes) to a lamp post in Perm city centre. The mannequin bore a mask resembling Russian president Vladimir Putin. On the forehead of the mannequin was the word “liar”, and on its body, a poster reading “war criminal Pynya V.V.” Nine days later, on 20 November 2018, a video “Pynya is tied up to a lamp post. People’s reaction” was uploaded onto the YouTube channel *Groza Project (Project Thunderstorm)*, also known as *Groza Permi (Perm’s Thunderstorm)*¹.

The video started with a “disclaimer” stating: “This video is staged and people featuring in it are actors. The purpose of this video is not to offend or humiliate. It has been created purely for entertainment. All connections to people in real life are accidental.” The “disclaimer” also contained a post scriptum: “do not jail us, please”. In this way, the satirical nature of the video was evident from the outset.

The video showed a mock pursuit of a man wearing a facemask resembling the Russian president Vladimir Putin, with the word “Liar” written across his forehead. Two men in camouflage purportedly representing “special forces” were the pursuers. The man with Putin’s face mask was “caught” and “interrogated” by the two “special services officers”. The “officers” expressed regret that they could not deliver their prisoner to the Hague and decided that he should stay in Russia to face punishment in-country. Throughout the video “Putin” declared that he would stay in power beyond the term t enshrined in the Constitution, and proclaimed unpopular reform of the pension system and taxation – a satirical take on the most discussed government policies. In the video, the mannequin is tied up to a lamp post near a busy road crossing, and the reactions of passers-by are recorded, but commentators remark that “no one wants to untie the mannequin”.

Arrests

Police arrested the secretary of the local division of the Libertarian party, Aleksandr Etkin, on the spot while he was filming the action. According to media reports, he was handcuffed and taken to a police station where he was questioned for several hours and then released.² Aleksandr Etkin maintains that he did not take part in the action: he was only passing by, saw it, and filmed.

Aleksandr Shabarchin was initially arrested on 12 November. The police took him to a military commissariat in his home town, some 150 km from Perm, and attempted to have him forcibly conscripted. (Recently Russian authorities have used army conscription as a tool of punishment or pressure against male opposition activists.)³ However, Shabarchin had a

¹ See, <https://www.youtube.com/watch?v=lfqa4ysnmxl&t=319s>

² See, <https://www.svoboda.org/a/29605593.html?fbclid=IwAR3h0Jc7sSA2tpbmLP0uQO9eDsOJODCO9xdTDLInfnZuJtw8hpcIRJWzt8l>

³ For instance, Ruslan Shaveddinov – a staff member of Aleksey Navalny’s anti-corruption organization FBK, was forcibly conscripted in December 2019. On the day of detention his home was searched. He was first taken to the Investigation Committee for questioning, then to the airport, and flown under escort to Arkhangelsk in the Russian North. From there he was transported to a remote military unit in Novaya Zemlya where he is currently conducting his military service. On 22 June 2020, another FBK staff member, Artem Ionov, was forcibly conscripted in the same way and sent to serve in Blagoveschensk, in the Far East. It has been reported that Artem Ionov has a serious medical condition which could mean that he is exempt from the military service. On 10 July 2020, Ivan Konovalov, press

certified medical exemption and the police officers were obliged to take him back to Perm. There, he was questioned about the action at a local police station and then released. Both Aleksandr Shabarchin and Aleksandr Etkin allege that they were questioned by the police without having been offered a lawyer, in contravention of international fair trial standards.⁴

On 3 January 2019, Aleksandr Shabarchin's home was searched, and he was re-arrested and questioned as a suspect in a criminal case which had been initiated on 26 December 2018. He was released on the same day under orders not to leave town. On the same day police conducted searches of Danila Vasiliev's home, and he was questioned and released as a suspect under the same orders. Aleksandr Etkin became the third suspect in the case. Later the same month, police forwarded the case file to the regional Investigation Committee.

Investigation and sentencing

The investigation into this case took over a year. Initially, a semantic-textual expert examination commissioned by the investigators did not find the elements necessary to qualify the action as a crime. However, in December 2019, another group of experts, from Perm state university, ruled that the action contained elements of disrespect to society and political motives, and in February 2020 the three young men were charged under Article 213(2) of the Russian Criminal Code ("Egregious premeditated violation of the public order committed by a group of people").

In April 2020, the case was submitted to Leninsky District Court in Perm. Based on the conclusions of the Perm state university expertise, the prosecution argued that Aleksandr Shabarchin, Danila Vasiliev and Aleksandr Etkin committed a premeditated act of hooliganism "with political and ideological motive and also with motives of enmity to a social group – inhabitants of the Russian Federation who support its President V.V.Putin". In addition to the experts' report, the prosecution built the case against the three co-defendants on almost identical statements of several "witnesses", the majority of whom were either members of the local branch of young members' of the ruling United Russia party, members of the pro-Kremlin movement "National-liberation movement" (NOD), and police officers or their family members. Aleksandr Shabarchin's lawyer told Amnesty International that while some of the witnesses claimed in court that they had filed a complaint with the police after having watched the video of the action and feeling offended, the majority of witnesses told the court that they had received a call from the police and been invited for questioning about their alleged feelings of offence. The witnesses could not explain how the police had discovered they were offended by the street action. The prosecution asked for the three men to be sentenced to imprisonment with the terms ranging from one year-and-a-half to three years.

On 18 August 2020, Leninsky District Court found Aleksandr Shabarchin and Danila Vasiliev guilty under Article 213(2) of the Criminal Code. The court ruled that the action was an expression of disrespect to society committed with motives of political enmity. Aleksandr Shabarchin was sentenced to two years' imprisonment. Danila Vasiliev was given one year suspended sentence and one year on probation, and Aleksandr Etkin was acquitted. On 28 August Aleksandr Shabarchin and Danila Vasiliev appealed their sentences, and on 8 September according to reports the prosecutor's office also appealed the sentence, on the basis they claimed it is too lenient. The appeal hearing is scheduled on 27 October.

FREEDOM OF EXPRESSION IS A RIGHT, NOT A CRIME

Aleksandr Shabarchin has been engaged in peaceful activism, including with the local office of Aleksey Navalny supporters, for around four years. He has frequently conducted pickets and street performances to express his views on government policies and government officials, and some of these have been recorded and broadcast on the *Groza Project* YouTube channel.

Aleksandr Shabarchin's activities are entirely peaceful and he has neither engaged in nor called for violent actions; his prosecution reflects an environment where any criticism of authorities, including creative expression, is considered a legal

secretary of the independent trade union Doctors' Alliance was detained in Tula, forcibly conscripted and transported to a military unit in Arkhangelsk.

⁴ Principle 5 of the Basic Principles on the Role of Lawyers, Principle 8 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems

offence. Aleksandr Shabarchin has also faced prosecution and harassment for his activism, has reportedly been under police surveillance, and has been warned by police to end his activism.

Notably, Aleksandr Shabarchin has been sentenced under the same article of the Criminal Code as Pussy Riot in 2012 for their action “Mother of God, banish Putin” in Christ the Saviour cathedral in Moscow. The prosecution in this case also asserted a purported public “offence”. While some members of the public may have found elements of Aleksandr Shabarchin’s action offending or disturbing, it did not call for violence, nor expressed “political hatred” as maintained by the court, nor did it contain hate speech. His expression falls within the scope of what is protected under the right to freedom of expression as defined by international human rights law.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention on Human Rights (ECHR) – Russia is a party to both – enshrines the fundamental right to freedom of expression. The right to freedom of expression is also enshrined in Article 29 of the Russian Constitution.

Both the UN Human Rights Committee (UN HRC) and the European Court of Human Rights (ECtHR) have underscored the importance of this right in and of itself, and as a component of other rights. While the right to freedom of expression can be restricted by the state, such restrictions can only occur if three conditions are fulfilled: they are prescribed by law; they are imposed to protect interests or values specifically mentioned in the relevant articles of these two treaties; and are proportionate and necessary to achieve those interests.

The European Court of Human Rights (ECtHR) has established a high benchmark for the prosecution for individual points of view famously stating in a number of its judgments that Article 10 protects views “that offend, shock or disturb.”⁵ It has also ruled that in matters of public interest, political debate or where the criticism is aimed at the government of its officials, harsh criticism may be tolerated to a greater degree by the Court.⁶

Similarly, the UN Human Rights Committee has noted that “the value placed by the Covenant upon uninhibited expression is particularly high” in the political context.⁷ The Committee stated that “...the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties, albeit public figures may also benefit from the provisions of the Covenant. Moreover, all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.”⁸

Amnesty International believes Aleksandr Shabarchin to be a prisoner of conscience persecuted solely for peacefully exercising his right to freedom of expression. He must be released immediately and unconditionally; his conviction and the conviction of his co-defendant Danila Vasiliev must be overturned, and they must have recourse to compensation as per the Russian law and be able to continue their peaceful activism.

⁵ See, for example, *Handyside v. the United Kingdom*, 1976; *Sunday Times v. the United Kingdom*, 1979; *Lingens v. Austria*, 1986; *Oberschlick v. Austria*, 1991; *Thorgeir Thorgeirson v. Iceland*, 1992; *Jersild v. Denmark*, 1994; *Goodwin v. the United Kingdom*, 1996; *De Haes and Gijssels v. Belgium*, 1997; *Dalban v. Romania*, 1999; *Arslan v. Turkey*, 1999; *Thoma v. Luxembourg*, 2001; *Jerusalem v. Austria*, 2001; *Maronek v. Slovakia*, 2001; *Dichand and Others v. Austria*, 2002.

⁶ See, for example, *Thorgeir Thorgeirson v. Iceland*, 1992

⁷ UN HRC, General Comment No 34, CCPR/C/GC/34, 12 September 2011, available at: <https://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>

⁸ UN HRC, General Comment No 34, CCPR/C/GC/34, 12 September 2011, para.38, available at: <https://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>