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RUSSIAN FEDERATION/UKRAINE (CRIMEA): HUMAN RIGHTS LAWYERS MUST BE IMMEDIATELY AND UNCONDITIONALLY RELEASED

Amnesty International strongly condemns a new escalation in the attack against the legal profession by the Russian authorities, after repressive legislation was used to arbitrarily arrest, detain and bring politically-motivated charges against lawyers representing Aleksei Navalny, and to jail another high-profile human rights lawyer this month.

The Russian authorities must abide by their international human rights obligations and Russia's own Constitution and respect, protect and fulfil the rights to freedom of expression and association and fully uphold fair trial standards; immediately and unconditionally release lawyers arbitrarily detained under fabricated and politically motivated criminal charges or the pretext of purported administrative offences, terminate all criminal and administrative proceedings against them and abstain from unduly interfering in their professional activities and human rights work; bring Russia's legislation in line with international human rights standards, including by repealing the legislation that disproportionately and arbitrarily restricts freedom of expression and association, and withholding from passing any amendments to the legislation which could further violate fair trial standards and arbitrarily restrict lawyers' independence and rights while representing their clients.

Furthermore, the Russian authorities must immediately and unconditionally release prisoner of conscience Aleksei Navalny and all others deprived of their liberty solely for peacefully exercising their rights to freedom of expression, association and assembly.

CRIMINAL PROSECUTION OF ALEKSEI NAVALNY'S LAWYERS

On 13 October, the Russian authorities arrested Vadim Kobzev, Igor Sergunin and Aleksei Liptser – the lawyers who represent imprisoned opposition politician and prisoner of conscience Aleksei Navalny – as suspects under Article 282.1(2) (“Participation in an extremist association”). The charges stem from the arbitrary designation of three organizations created by and closely affiliated with Aleksei Navalny – the Anti-Corruption Foundation, the Citizens' Rights Protection Foundation and “Navalny's headquarters” – as “extremist” in June 2021. Under the terms of the law, anyone deemed to have founded, led, worked for, or otherwise participated in the activities of an “extremist” organization is subject to criminal prosecution under charges punishable by severe penalties including imprisonment, as well as personal, financial and other restrictions that can be (and often are) applied to an individual during the investigation and prior to any conviction.

The arrests followed searches of the lawyers' s homes earlier that day. It was reported¹, that one of the lawyers, Vadim Kobzev, was arrested while he was in the town of Kovrov, 200 kilometres east of Moscow, where Aleksei Navalny is serving his sentence in a prison colony. Searches were also conducted at the Moscow City Law Chamber DALET of which Igor Sergunin, Aleksei Liptser and another of Aleksei Navalny's lawyers, Olga Mikhailova, are members. Olga Mikhailova is currently out of the country. Another of Aleksei Navalny's lawyers, Aleksandr Fedulov, announced on social media on 16 October that he had to leave the country.²

Later, on 13 October, the Moscow Basmany District Court ordered the detention on remand of Vadim Kobzev, Igor Sergunin and Aleksei Liptser until 13 December. The remand hearings for all three lawyers were closed to the public at the request of the investigators who cited “protection of personal data and client confidentiality” and a risk of a

¹ See: <https://novayagazeta.ru/articles/2023/10/14/bystro-tikho-bez-podderzhki>

² See: <https://meduza.io/news/2023/10/16/advokat-navalnogo-aleksandr-fedulov-zayavil-chto-uehal-iz-rossii>

“continuation of the activities of the extremist associations” – as justifications. According to one of Navalny’s colleagues, Ivan Zhdanov, the investigation maintained that the lawyers “had provided regular exchange of information between leaders, participants of the extremist association and Navalny, who could thus continue to carry out his function as the leader and manager of the extremist association when planning, preparing, creating conditions and committing extremist crimes.” If found guilty, Vadim Kobzev, Igor Sergunin and Aleksei Liptser may face up to six years’ imprisonment.

Amnesty International previously criticized the designation of Navalny-affiliated organizations as “extremist” and their subsequent bans as arbitrary.³ Neither the organizations, nor their members have committed any internationally recognizable crimes, and they have been targeted for their legitimate civic (primarily anti-corruption and political activism). The Russian authorities have widely used anti-extremism legislation as a tool to clamp down on freedom of expression and association, with the sole purpose of shutting down civil society organizations critical of the authorities and capable of mobilizing people to peaceful protest and tactical voting. The criminal prosecution of Vadim Kobzev, Igor Sergunin and Aleksei Liptser is arbitrary and politically motivated. They are not “associates” of any “extremist” organization, defined as such on the basis of legislation that complies with international human rights law and resulting from the commission of any internationally recognized crimes. These lawyers are being targeted solely for performing their professional duties of defending Aleksei Navalny and must be released immediately and unconditionally.

In addition, Article 14(1) of the ICCPR provides that “...everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” Closing the hearing to the public fully or in part may be sanctioned only in a limited number of “specific, narrowly defined circumstances, all of which are to be strictly construed.”⁴ The reasons cited by the investigators are not part of such permissible exceptions and thus, constituted a violation of the lawyers’ rights to a public hearing. The Russian authorities must ensure that the upcoming appeal hearings are open to the public. The unfounded decision to hold the remand hearings in camera, and any intention to do so in future, are indicative of nothing other than an attempt to avoid public scrutiny of the abusive prosecution of the detained lawyers.

Moreover, the prosecution of the lawyers violates the right of Aleksei Navalny to a fair trial, including the right to legal assistance by lawyers of his own choice, and deprives him of crucial safeguards, including against torture and other ill-treatment, as well as from contact with the outside world. According to Aleksei Navalny he is not allowed contact with his family, and does not receive letters or news bulletins, and therefore his lawyers were his only link with the world outside the prison colony, and crucially with his family. On 17 October, a court hearing was planned to decide on Aleksei Navalny’s complaint against the penal colony in relation to his arbitrary placement in a punishment cell and forced labour, but had to be adjourned due to the absence of his lawyers. While it was reported that the court allowed two other of Aleksei Navalny’s agreed lawyers to represent him, they would need additional time to familiarize themselves with the case file materials. Contrary to international standards on the rights of prisoners and in violation of Aleksei Navalny’s human rights, the Russian authorities have arbitrarily intermittently kept him in a punishment cell, in strict isolation from the outside world, for a total of over a year.

ADMINISTRATIVE PROSECUTION OF HUMAN RIGHTS LAWYER ALEKSEI LADIN

On the same day as the arrest of Aleksei Navalny’s three lawyers, 13 October, human rights lawyer Aleksei Ladin was arrested by members of the counter-extremist police unit in Simferopol, in Russian-occupied Crimea. Aleksei Ladin, who is a member of Tyumen Bar Association, in the Urals Federal District of Russia, has been working on dozens of politically motivated criminal cases in Crimea. Among the people he has represented as legal counsel are Crimean Tatar activists, journalists and other residents of Crimea and Ukrainians transferred there from other Russian-occupied regions of Ukraine, amongst others. On the day of his arrest, he had just returned from Rostov-on-Don, in the south-west of Russia, where he was representing Ukrainian prisoners of war in the South District Military Court.

³ See: <https://www.amnesty.org/en/latest/news/2021/06/russia-aleksei-navalnys-ngos-banned-as-extremist-depriving-thousands-of-their-rights-2/>

⁴ See: Fair Trial Manual, Second Edition, Amnesty International, AI Index POL30/002/2014, 9 April 2014, pp.122-123, available at: <https://www.amnesty.org/en/documents/pol30/002/2014/en/>

Aleksei Ladin was accused of two administrative offences – “discreditation of the Russian Armed Forces” (Article 20.3.3(1) of the Russian Code of Administrative Offences introduced in 2022 after the full scale invasion of Ukraine⁵) and “propaganda or public demonstration of Nazi or extremist symbols” (Article 20.3(1)). His home in Sevastopol was searched. On the same day, the *de facto* Simferopol Kyivsky District Court ruled that Aleksei Ladin had violated the abovementioned articles and ordered that he must pay a RUB 45,000 (US\$ 460) fine and serve 14 days of so-called administrative detention for these “offences” respectively.

According to Emil Kurbedinov, a Crimean lawyer who represented Aleksei Ladin in court, the accusations were based on three of his Facebook posts. According to the police, Ladin committed “propaganda or public demonstration of Nazi or extremist symbols” by posting on his Facebook page, in June and July 2018, two images by his then-client, Ismail Ramazanov. The images featured the Trident, which is the national symbol of Ukraine, and Taraq Tamğa (Tamga of the Girays), used by the Crimean Tatars as a symbol representing their history and ethnic identity, together with the words “Unconquered” (in the Ukrainian and Crimean Tatar languages) and “We are not terrorists! Nor extremists!” The police’s report claimed that these were the insignia of the Noman Çelebicihan Battalion, a paramilitary unit, reportedly short-lived in the mainland Ukraine in 2015-2016 and made up of ethnic Crimean Tatars, which was designated a terrorist organization by the Russian Supreme Court on 1 June 2022. Not only the Trident and Taraq Tamğa are widely used and do not specifically denote the Noman Çelebicihan Battalion, but they are also not officially banned in Russia (unlike, for instance, the swastika). Moreover, in its Ruling of 01 June 2022, the Russian Supreme Court clearly described the Battalion’s symbols. This description is completely different from the images featured on Aleksei Ladin’s Facebook page. Besides, the Facebook posts go back several years and predate the terrorist organization designation. According to international human rights law and standards, the display of flags and symbols is a legitimate form of expression that should not generally be restricted, even in circumstances where they are perceived as offensive or shocking. Considering that flags and symbols can often have multiple meanings, restrictions on their use should be limited to exceptional cases – namely, where their display amounts to advocacy of hatred constituting incitement to discrimination, hostility, or violence. Any such restrictions, on symbols, flags or other forms of expression must meet the requirements that apply to any permissible limitation of the right to freedom of expression – they must be set forth in law, formulated precisely, meet the requirements of necessity and proportionality, and be non-discriminatory.

The second accusation, of “discreditation of the Russian Armed Forces”, was based on a post that Aleksei Ladin shared in March 2022 which said that the Russian forces in Ukraine had used cluster munition when shelling Kharkiv. The police claimed that this post “expressed disagreement with the actions of the Russian Armed Forces conducting the Special Military Operation...on the territory of Ukraine and spread fake information.”⁶

According to Emil Kurbedinov, numerous procedural violations were committed by the police during Aleksei Ladin’s detention and search at his home. In particular, Aleksei Ladin’s right to legal representation was violated when the police drew a record of administrative violation without the presence of Ladin’s lawyer. The police failed to comply with the Russian law which demands that surveillance and search activities in relation to a lawyer can only be carried out with a court sanction and a representative of the lawyer’s Bar Association must be present during the search. The police also confiscated materials relating to criminal cases on which Ladin has been working, in violation of the right to confidentiality between lawyers and their clients. The police did not give any official papers to the lawyer’s family following the search. The court hearings on the two offences took place practically simultaneously and the defence lawyer was not given an opportunity to make all necessary submissions in one of the hearings while in the other hearing all his petitions were rejected by the court. Besides, as follows from the court decision, Aleksei Ladin was found to have committed the administrative offences on the basis of the police’s “due diligence when performing their duties” with a complete disregard of Aleksei Ladin’s presumption of innocence.⁷

On 17 October, the *de facto* Crimean Supreme Court upheld⁸ the lower court’s decision on Aleksei Ladin despite the arbitrary nature of the allegations against him and numerous procedural violations committed by the police while

⁵ For details of the new legislation introduced to crack down on anti-war dissent and the reprisals that followed, see <https://www.amnesty.org/en/latest/news/2023/07/russia-20000-activists-subject-to-heavy-reprisals-as-russia-continues-to-crack-down-on-anti-war-movement-at-home/>

⁶ Similarly to Article 20.3.3, in 2022 Article 207.3 (“dissemination of knowingly false information about the use of the Russian Armed Forces”) was introduced into the Code of Administrative Offences in the wake of the 2022 full-scale invasion of Ukraine to stem out anti-war criticism.

⁷ Interview with Emil Kurbedinov, on file with Amnesty International. Also see his interview at: <https://www.youtube.com/watch?v=khzR8hnagy4>

⁸ Interview with Emil Kurbedinov, on file with Amnesty International. Also see his interview at: <https://www.youtube.com/watch?v=Xmal-ESzbXy>

conducting the surveillance and search activities and arresting the lawyer, as well as procedural violations during the hearing.

On 18 October, media reported⁹ that the *de facto* Ministry of Interior of the annexed Crimea would seek to have Aleksei Ladin stripped of his lawyer's license. In its press release the Ministry maintained that "[b]eing a member of one of the legal associations, the citizen [Ladin] defended individuals suspected of participation in the organizations prohibited on the territory of the Russian federation, as well as individuals accused of carrying out terrorist activities on the territory of our country".¹⁰

This statement clearly demonstrates that Aleksei Ladin is being persecuted solely for his professional activity as a human rights lawyer guaranteeing the right to defence of those facing prosecution. Aleksei Ladin is also being persecuted for exercising his right to freedom of expression. He must be released immediately and unconditionally. Administrative cases against him must be closed and harassment stopped.

The persecution of Aleksei Ladin is not an isolated incident but part of an ongoing and escalating pattern of persecution and harassment of human rights lawyers in Crimea. For instance, in May 2022, four lawyers were detained in the space of several days. Edem Semedlyayev was fined for an administrative offence of "discreditation of the Russian Armed Forces". Nazim Sheikhamambetov, who represented him in court, was later arrested himself and spent eight days in detention for alleged violation of the rules of public assemblies (also an administrative offence). Lawyers Aider Azamatov and Emina Avamileva, who were going to represent Nazim Sheikhamambetov's interests in court, were arrested too and detained for eight and five days respectively for the same "offence".¹¹ On 15 July 2022, lawyers Lilya Hemedzgy (Gemedzhi), Rustem Kyamilev and Nazim Sheikhamambetov were arbitrarily disbarred in retaliation for their human rights work, defending Crimean Tatar activists against politically motivated charges in Russian-occupied Crimea.¹² The decision was then reversed, and later Lilya Hemedzgy was disbarred once again, in retaliation for her action as a human rights lawyer.¹³

In earlier years, lawyer Emil Kurbedinov who is representing Aleksei Ladin, faced reprisals by the *de facto* authorities in Crimea, and was jailed for 10 days on similar grounds to those currently levered against Ladin. On 26 January 2017, a *de facto* court applied Russian legislation retrospectively and ruled that Emil Kurbedinov had committed "propaganda or public demonstration of Nazi or extremist symbols" by posting a video of a Muslim gathering in Crimea. The post dated back to 5 June 2013, which predated the Russian occupation and illegal annexation of Crimea.¹⁴

In Russia, there is a long history of reprisals against human rights lawyers for their professional activities, which is particularly brutal in the North Caucasus, and includes instances of physical violence, unfounded prosecution, and even extrajudicial execution.¹⁵

Prosecution and harassment of lawyers violates not only their human rights but also the rights of their clients including the right to a fair trial. The Basic Principles on the Role of Lawyers (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990) point out that the "adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession." The Basic Principles also provide that governments must "ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference... (b) are able to travel and to consult with their clients freely and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions."

⁹ See, for instance: <https://www.currenttime.tv/a/krym-ladin-advokatskaya-litsenziya/32642449.html>

¹⁰ See: <https://zona.media/news/2023/10/18/advokat>

¹¹ See: <https://www.kommersant.ru/doc/5379631>

¹² See Russia: Crimean human rights lawyers disbarred: Lilya Gemedzhi, Rustem Kyamilev and Nazim Sheikhamambetov - Amnesty International.

¹³ See <https://www.amnesty.org/en/documents/eur46/6712/2023/en/>.

¹⁴ See <https://www.amnesty.org/en/documents/eur50/5595/2017/en/>, <https://www.amnesty.org/en/documents/eur50/5649/2017/en/>.

¹⁵ See <https://www.amnesty.org/en/documents/eur46/003/2013/en/>.

Aleksei Ladin – as well as other lawyers – should be released immediately and unconditionally and be able to carry out their work without fear of persecution, intimidation or harassment, in line with Russia’s international human rights obligations.