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Ukraine: Release and drop all charges against journalist Vasyl Muravytskyi

Ukrainian journalist Vasyl Muravytskyi, detained since 2 August under separatism-related charges, is a prisoner of conscience. He is being prosecuted solely for peacefully exercising his right to freedom of expression, in connection with his professional activities, and must be immediately and unconditionally released, Amnesty International said today.

Vasyl Muravytskyi is a well-known local journalist from Zhytomyr, in the north west of Ukraine. For years, he has been writing critical articles about the authorities, both before and after the EuroMaydan protests in 2013-2014, that led to the ousting of the then president Viktor Yanukovich. Since the Russian occupation of Crimea and the onset of the conflict in eastern Ukraine, Muravytskyi has written extensively about the handling of these two crises by the current government in Kyiv, as well as investigating local corruption in the Zhytomyr region.

On 2 August 2017, shortly after the birth of his child, officers from the Security Service of Ukraine (SBU) arrested Muravytskyi in the maternity hospital as a suspect under Article 111 (high treason), Article 110 (threatening the territorial integrity of Ukraine), Article 258-3 (participation in a terrorist organization) and Article 161 (inciting hatred) of the Ukrainian Criminal Code. On the next day, Korolyovskiy court, in Zhytomyr, remanded Muravytskyi for 60 days, which has since been extended, most recently on 20 December.

Amnesty International has been following the criminal proceedings against Vasyl Muravytskyi and notes a number of worrying developments in this case that contravenes Ukraine's obligations under international human rights law, including the right to freedom of expression and a fair trial.

Prosecuted for voicing his opinion

The very serious allegations against Vasyl Muravytskyi stem from a number of publications, which were published as incriminating evidence against him on 11 September by the Security Service of Ukraine (SBU) on its [Facebook page](#). After analyzing the evidence listed therein, Amnesty International is concerned that all the charges against Vasyl Muravytskyi arise from him peacefully exercising his right to freedom of expression, which is essential for his professional activities as a journalist.

In the articles authored by Vasyl Muravytskyi, and cited by the SBU as incriminating evidence, he offers sharp criticism of the current Ukrainian authorities and individual officials, and does so without using a pseudonym or otherwise concealing his name. In particular, he criticises public statements and the policy approach of the government in Kyiv towards the conflict in eastern Ukraine and Russian-occupied Crimea. While this criticism might sound very unpleasant to those it is addressed to, it is important to note that Muravytskyi does not resort to inciting violence or otherwise provoking hatred towards any ethnic or religious groups.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention of Human Rights, both of which Ukraine is a party to, enshrine the right to freedom of expression, which can only be limited in clearly specified circumstances and for a specific purpose.

Limitations to this right must be provided by law, formulated with sufficient precision to enable an individual to regulate their conduct accordingly, and be demonstrably necessary and proportionate to achieve a legitimate aim (such as national security, public order, or public health or morals, or the rights or reputations of others).

It is important to note that the right to freedom of expression, under both Article 10 of the ECHR and Article 19 of the ICCPR, protects the right of all people to seek, receive, and impart information of any form, including political discourse, commentary on one's own views and on public affairs, journalism, cultural and artistic expression, teaching, and religious discourse. Importantly, international protection of the right to freedom of expression applies not only to information and ideas that are favourably received or regarded as inoffensive, but also to those that offend, shock or disturb the state or any sector of the population.

The organization has been made aware that, according to Vasyl Muravytskyi's indictment, the SBU has cited, and the Prosecutor's Office endorsed, the contract between Muravitskiy and the Russian news agency RIA Novosti as incriminating evidence against him under the charge of threat to the territorial integrity of Ukraine. As established in Article 19 of the ICCPR, the right to seek, receive and impart information and ideas of all kinds is protected regardless of frontiers, which should not constitute barriers for the free flow of information. The existence of contractual relations between a journalist and a media outlet, as cited by the SBU and the Prosecutor's Office in the case against Vasyl Muravitskiy, in itself does not constitute a criminal offence.

In this sense, as it has been clearly determined by the UN Working Group on Arbitrary Detention, the imprisonment of a journalist that stems solely from the peaceful exercise of their right of freedom of expression constitutes a form of arbitrary detention. In such case, the authorities should release the journalist immediately and unconditionally.

Violations of the right to a fair trial

Amnesty International is further concerned about possible violations to the right to a fair trial in the case against Vasyl Muravytskyi, including the right to adequate time and facilities to prepare a defense.

Amnesty International understands that, to this date, more than four months after Vasyl Muravytskyi's arrest, neither he nor his defense have received the full details of the nature and cause of the charges brought against him, including a full list of his publications at the center of the criminal proceedings initiated against him.

Only weeks after Muravytskyi's arrest, his lawyer was able to obtain a copy of the contract with RIA Novosti, cited as one of the main pieces of incriminating evidence against him. However, at the time of writing, the lawyer has still not received the full list of the publications claimed by the prosecution to be authored by Muravytskyi and to have violated the Ukrainian Criminal Code. This has hampered Muravytskyi's ability to mount an adequate defence, and contravenes the principle of equality of arms, both being essential safeguards of the right to a fair trial.

Pressure against a witness and the court

Amnesty International has also been made aware of developments which appear to constitute undue pressure on a possible witness, intended to compel him to testify against Vasyl Muravytskyi. According to the individual concerned, officers from the SBU have approached him, his wife and other relatives on several occasions, trying to convince them that this individual should provide incriminating testimony against Muravytskyi. In further attempts to harass and intimidate the potential witness, SBU officers have conducted two searches in his house, while presenting a search warrant on only one occasion. This, at the very least, puts into question legality of the second search. At the same time, the individual concerned has

never been officially questioned in connection with the case against Vasyl Muravytskyi. This person has filed an official complaint about the second search with the Military Prosecutor's Office of Zhytomyr, which is tasked with investigating alleged violations by law-enforcement agencies including the SBU. However, in its answer, the Prosecutor's Office did not find any illegal acts committed by the SBU and left the complaint without further action.

Amnesty International also notes with concern certain developments that could put further into question the integrity of the proceedings against Vasyl Muravytskyi. On 2 November 2017, during a regular Zhytomyr Regional Parliament session, a group of men in camouflage, lead by a member of the paramilitary group Voluntary Ukrainian Corps, entered the parliamentary hall and took the stage and issued threats of violence and death threats against people who "sponsor separatism" in the Zhytomyr region, and demanded that the local deputies "influence people like Muravytskyi". As a result, the chair of the assembly proposed a motion to send a formal request to the SBU to check the information presented by the men in camouflage, which was put to vote and supported unanimously.

Furthermore, during several court remand hearings in the case, most recently on 24 October and 2 November, a group of men in camouflage constantly interrupted the proceedings by shouting abuse at Muravytskyi and his supporters present in the courtroom, including "Separ!" and "While you work for Putin, you will sit [in jail]!", in what may be regarded as a way to influence the views of the judiciary and compromise their impartiality. During the latest court hearing on 20 December, there were no men in camouflage, but there was a group of women who interrupted the lawyer with shouts of "Traitors!" when the lawyer spoke about the support Vasyl Muravytskyi has received from international organisations such as Reporters Without Borders.

To the best of Amnesty International's knowledge, none of these incidents have been properly investigated by the competent authorities, thereby further undermining the right of Vasyl Muravytskyi to a fair trial.

At the time of writing, Vasyl Muravytskyi remains in pre-trial detention. His lawyer's attempts to appeal this measure have been unsuccessful in light of Article 176 (5) of the Ukrainian Criminal Procedures Code, which stipulates mandatory pre-trial detention for people charged under different provisions, including Articles 110-111 (threatening the territorial integrity of Ukraine and high treason), under which he is being accused.

According to international human rights law and standards, pre-trial detention must be an exceptional measure and based on an individualized determination that it is reasonable and necessary, specified in law and without vague and expansive standards. To justify detaining an individual pending trial, the state must prove that: there is reasonable suspicion that the individual has committed an offence that is punishable by imprisonment; a genuine public interest which, notwithstanding the presumption of innocence, outweighs the right to personal liberty and; substantial reasons for believing that, if released, the individual would abscond, commit a serious offence, interfere with the investigation or the course of justice, or pose a serious threat to public order, and that there is no other alternative measures that would address these concerns.

Amnesty International calls on the Ukrainian authorities to immediately and unconditionally drop all charges against Vasyl Muravytskyi and release him from detention without delay.