

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# RUSSIAN FEDERATION: PROSECUTION OF HUMAN RIGHTS DEFENDER MUST STOP

Amnesty International is deeply concerned about the criminal prosecution of Ernest Mezak, a prominent human rights defender from Syktyvkar, Republic of Komi. On 25 June, investigators from the Syktyvkar Investigative Department initiated a criminal case under Article 297 (2) of the Russian Criminal Code (“Contempt of court”), and in the early morning of 26 June law enforcement officers conducted a search of Ernest Mezak’s flat confiscating his and his family’s computers, hard drives and other data storage devices as well as mobile phones. On 2 July Ernest Mezak was questioned as a suspect and on 12 July he was questioned again and officially charged with “contempt of court”. If his criminal case is submitted to court and he is convicted, he may face a heavy fine, compulsory labour or detention of up to six months.

The case was initiated in connection with posts published on Ernest Mezak’s account on the Russian social media VKontakte on 1 and 2 April 2021 and on Instagram on 2 April 2021. The posts were published shortly after he had been issued with a RUB 10,000 (US\$ 135) fine for participation in a 23 January peaceful opposition rally in support of jailed opposition blogger and politician Aleksei Navalny. One of the posts on VKontakte carried the headline “News of Syktyvkar City Circus” and informed readers of Ernest Mezak’s court sentence, pointing out that it was against the Russian Constitution and the practice of the European Court of Human Rights (ECtHR), and that the court had not established the facts of the case. The other post pointed out the role of judges, in particular the judge who had sentenced Ernest Mezak, in the repression of peaceful protesters. Readers were invited to take part in a satirical poll “to fully assess such activity violating the Russian Constitution and the European Convention on Human Rights” by answering the question “which of the images of the judge is a better representation of the dependency of “pretend-courts” of Komi on the security services?” The post was illustrated by two photos of the judge who had sentenced Ernest Mezak, one with a clown face and the other with a zombie face, and had three choices for the “poll”: “a clown; a zombie; something in between”. The post on Instagram which informed Ernest Mezak’s followers about the fine was also accompanied by a photo of the judge with a clown face.

These posts were published at the time of mass arrests of participants in peaceful rallies in support of Aleksei Navalny, which took place on 23 and 31 January and 2 February, across Russia. According to the Russian human rights monitoring group OVD-Info, over 11,000 people were arrested in at least 125 towns and cities<sup>1</sup> while official figures cite an even higher number of arrests - 17,600.<sup>2</sup> Thousands of administrative and around a hundred of criminal cases have been initiated against protesters across the country.<sup>3</sup> In Syktyvkar, dozens of people were arrested on the days of the protests.

Both the UN Human Rights Committee and the ECtHR have repeatedly stated the paramount importance of the right to freedom of expression for the full development and self-fulfillment of an individual, and its crucial role as one of the foundations of a free and democratic society.<sup>4</sup> The right to freedom of expression can be subject to certain restrictions, and both Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention on Human Rights (ECHR) provide certain conditions when those restrictions are permissible, and the requirement to meet a strict three-part test (the restrictions must be prescribed by law; pursue one of the legitimate listed aims; and must be necessary to achieve this aim.)<sup>5</sup> “Maintaining the authority and impartiality of the judiciary” is one of

<sup>1</sup> <https://ovdinfo.org/reports/winter-2021-suppression#1>

<sup>2</sup> <https://ovdinfo.org/reports/svoboda-sobraniy-garantirovana-zaderzhany-17600-protestuyushchih-razbiraem-otvet-rossii#3>

<sup>3</sup> <https://ovdinfo.org/reports/winter-2021-suppression#1>; <https://zona.media/article/2021/03/29/repressions>

<sup>4</sup> See, for instance, Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para.2-3; ECtHR: *Lingens v. Austria*, 8 July 1986; *Şener v. Turkey*, 18 July 2000; *Thoma v. Luxembourg*, 29 March 2001; *Marônek v. Slovakia*, 19 April 2001; *Dichand and Others v. Austria*, 26 February 2002.

<sup>5</sup> See, Article 19 ICCPR, Article 10 ECHR.

the legitimate aims listed in Article 10 of the ECHR. Indeed, the Court has noted in its case-law how important it is that not only parties to a case but also the public at large have confidence in courts.<sup>6</sup>

The ECtHR has noted in several of its cases that the functioning of the judicial system falls within the area of public interest and has called for a particularly narrow margin of appreciation accordingly being afforded to the authorities.<sup>7</sup> The Court has also ruled that “save in the case of gravely damaging attacks that are essentially unfounded – bearing in mind that judges form part of a fundamental institution of the State, they may as such be subject to personal criticism within the permissible limits, and not only in a theoretical and general manner. When acting in their official capacity they may thus be subject to wider limits of acceptable criticism than ordinary citizens.”<sup>8</sup>

From the content and context of the posts published on Ernest Mezak’s social media account it appears that their aim was to highlight human rights violations, including prosecution of peaceful protesters, unfair trial and lack of independence of the judiciary in Russia, and to criticize these ongoing practices rather than issue a personal insult against the judge who had presided in his case. To share a critical opinion and possibly draw more attention to the important issue of ongoing human rights violations, the author of these posts chose irony and sarcasm. Thus, the author was legitimately exercising his right to freedom of expression in the context of an ongoing public debate on independence of the judiciary in Russia.

Therefore, Amnesty International is calling on the Russian authorities to stop criminal prosecution of Ernest Mezak as it is unfounded, ensure that he is able to exercise his human rights without fear of prosecution or harassment, and ensure that the principle of independence of the judiciary, the right to a fair trial and the right to freedom of expression are observed in line with Russia’s international human rights obligations.

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<sup>6</sup> See, for instance, *Kyprianou v. Cyprus* [GC], § 172), *Morice v. France* [GC], para. 130; *Kudeshkina v. Russia*, para. 86

<sup>7</sup> See, for instance, *Morice v. France* [GC], paras. 125, 128, 153; *July and SARL Libération v. France*, para. 67

<sup>8</sup> See, *Morice v. France* [GC], para 131; *July; SARL Libération v. France*, para 74