

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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RUSSIAN FEDERATION: IN THE ABSENCE OF A FAIR TRIAL RELEASE IVAN SAFRONOV IMMEDIATELY

Amnesty International is deeply concerned about the ongoing criminal prosecution under “high treason” charges of Ivan Safronov, a former journalist in prominent Russian newspapers *Kommersant*¹ and *Vedomosti*,² who had started working as an advisor on information policy to the Head of the Russian space agency Roskosmos less than two months before his arrest.

Amnesty International is also concerned about the growing number of prosecutions under the vaguely worded offence of “high treason”. Particularly worrying is the routine secrecy around every such case in its entirety, including the classification of all case files as secret, forcing defence lawyers into signing non-disclosure agreements before being granted access to the defendant, and closing the entire court hearing to members of the public and the media. This in itself amounts to a violation of the right to a fair trial.

Amnesty International has had to rely largely on information publicly available, including media reports, to get information about the merits of the case and its procedural aspects. Some of those publications quote Ivan Safronov’s defence lawyers, who have commented within the allowed parameters. Amnesty International has also interviewed several individuals as part of its ongoing research but is unable to disclose their identity because of security considerations.

IVAN SAFRONOV’S WORK AND CHARGES AGAINST HIM

As a media special correspondent, Ivan Safronov was mostly writing on the topics of military and technological cooperation, military conflicts (including in Syria), military and space programmes, functioning of and decision-making in relevant ministries, corruption and general politics. According to his colleagues, he is a highly professional journalist, a person with impeccable reputation, very discrete, with excellent contacts in the military industry. He is also a well-trusted journalist who would have been checked many times by Russian counter-intelligence services due to the sensitive issues he covered and contacts with the officials that he had.³ The Head of Roskosmos Dmitry Rogozin has also praised Safronov and his work,⁴ while the Roskosmos press secretary confirmed that Safronov had been subjected to security checks prior to starting his work there.⁵

Amnesty International understands that Ivan Safronov did not have access to official state secrets while working as a journalist. Roskosmos officials have also explicitly confirmed he did not have access to official secrets during his work as an advisor to the space agency.⁶

Ivan Safronov was arrested on 7 July 2020 by officers of the Federal Security Service (FSB) accused of charges of “high treason” under Article 275 of the Russian Criminal Code.⁷ According to the FSB’s official statement issued on the day of Ivan Safronov’s arrest, “Safronov, carrying out tasks by one of the NATO’s security services, was collecting

¹ See a list of his publications here: <https://www.kommersant.ru/authors/433>

² See a list of his publications here: <https://www.vedomosti.ru/authors/807056-ivan-safronov>

³ <https://newizv.ru/news/politics/07-07-2020/vnezapno-vypal-kak-pogib-otets-arestovannogo-za-shpionazh-zhurnalista-safronova>

⁴ See, <https://tass.ru/proisshestiya/8903793>

⁵ See, <https://mbk-news.appspot.com/news/zaderzhannyj-po-delu/>

⁶ The Head of Roskosmos Dmitry Rogozin confirmed Safronov had not had access to classified information on the day of Safronov’s arrest. See, <https://tass.ru/proisshestiya/8903793>

⁷ According to the BBC Russian Service’s sources, Ivan Safronov’s arrest was carried out by the officers of the “P” Directorate of the FSB’s Economic Security Department. This Directorate oversees counterintelligence in the industrial sphere. See, <https://www.bbc.com/russian/news-53324462>

and passing on to its representative classified information about military and technical cooperation, defence and security of the Russian Federation”.⁸

On the same day, the Moscow Lefortovo District Court ordered his detention on remand in Lefortovo pre-trial detention facility,⁹ initially for two months. The remand was subsequently extended several times, currently until 9 September.¹⁰ All appeals by the defence team against the decisions to place Safronov on remand have been rejected.¹¹

His trial started at the Moscow City Court on 21 March and the first hearing on the merits took place on 4 April. If found guilty, Safronov could face up to 20 years imprisonment and a large fine. Media have reported that Safronov repeatedly protested his innocence and refused to enter a “guilty” plea or “cooperate” with the investigation in return for their promises of a lighter sentence.¹²

QUESTIONABLE EVIDENCE AND FAIR TRIAL VIOLATIONS

THE ACCUSED AND HIS LAWYERS ARE REFUSED THE DETAILS OF THE CHARGES AGAINST HIM

After the first remand hearing on 7 July 2020, Safronov’s defence lawyers reported to the media that he was suspected of a transfer, while he was still working as a journalist in 2017, of some classified information concerning Russia’s military cooperation with a Middle Eastern country to the Czech security services, who had allegedly recruited him as an informant in 2012. The lawyers also mentioned that the authorities had not shared any more details regarding what information he had supposedly transferred, nor what if any was the remuneration Safronov allegedly received for his activities.¹³

Amnesty International understands that the authorities have not provided any evidence to substantiate the accusations. Firstly, the authorities did not present any recordings of conversations, emails or other relevant communications by Safronov that could substantiate the accusations. Moreover, despite rigorous searches conducted on the day of Ivan Safronov’s arrest at his place of residence, workplace and at homes of some of his friends, the authorities have not found any confidential or classified documents in his possession. The remand hearing was closed to the public and the media on the authorities’ request. According to the lawyers, the judge upheld this request despite none of the documents presented in court on that day were classified as “confidential” or “state secret”.

Even after Ivan Safronov was formally charged with “high treason” on 13 July 2020, the authorities did not provide specific details regarding the nature of the charges nor the facts of the crime in connection with which he was detained. Safronov’s lawyers pointed out that this violated their client’s right to defence and requested the investigators to provide concrete details. However, on 29 July 2020, it was reported by the media that the authorities refused to provide any more concrete information claiming that the information which had already been published was “enough for comprehension”. They further informed the lawyers that all the details would only be disclosed to them upon full completion of the investigation.¹⁴ The lawyers complained against this refusal to the Prosecutor General’s Office but their complaint was rejected.¹⁵

Article 9(2) of the International Covenant on Civil and Political Rights (ICCPR) mandates that anyone arrested must be informed, at the time of arrest, of the reasons for the arrest and then be promptly informed of any charges against them. Moreover, Article 14(3)(a) requires that any individual under criminal charges is informed promptly and in

⁸ http://www.fsb.ru/fsb/press/message/single.htm%21id%3D10439053%40fsbMessage%26_print%3Dtrue.html

⁹ Officially, this facility is within the Penitentiary system but is still being used by FSB as their facility for holding detainees in the cases being investigated by the FSB.

¹⁰ <https://ovd.news/express-news/2022/03/22/sud-v-moskve-prodlil-arest-zhurnalistu-ivanu-safronovu-po-delu-o-gosizmene>

¹¹ See, for instance, <https://www.interfax.ru/russia/821305>

¹² See, for instance, <https://www.forbes.ru/society/446675-advokat-soobsil-ob-otkaze-safronova-ot-novogo-predlozenia-ot-sledstva>

¹³ <https://meduza.io/feature/2020/07/08/vanya-derzhis>

¹⁴ https://www.kommersant.ru/doc/4434419?from=main_1

¹⁵ <https://www.interfax.ru/russia/722333>

detail of the nature and the charges against them. Similarly, Article 5(2) of the European Convention on Human Rights requires States to promptly inform in a language understood by the arrested individual of the reasons for the arrest and of any charges they may face. The reasons provided should be specific to enable the arrested person to promptly challenge their detention if they consider it to be unfounded or unlawful. The European Court of Human Rights (ECtHR) has determined that a bare indication of the legal basis for the arrest, taken on its own, is insufficient for the purposes of Article 5(2)¹⁶ and arrested persons must therefore be informed of the essential legal and factual grounds for the arrest.¹⁷ Similarly, the UN Human Rights Committee has concluded that it is not sufficient simply to inform the arrested person under which law they are being detained without any indication of the substance of the complaint.¹⁸

Furthermore, court hearings and judgments in criminal cases must be public except in prescribed and narrowly defined circumstances. Article 14(1) of the ICCPR and Article 6(1) of the ECHR require States to ensure that not only parties to the case have access to the public hearing, but also the general public and the media. In addition to safeguarding the rights of the accused, this right embodies and protects the public's right to know and monitor how justice is administered, and what decisions are reached by the judicial system.¹⁹

Contrary to these fair trial guarantees, as Ivan Safronov's lawyers have pointed out,²⁰ the accused and his defence team were not informed by the time of the remand hearing of the specific factual grounds for his arrest. Moreover, the authorities have not shown them any relevant materials to substantiate the accusations, apart from the order to arrest Safronov and some other procedural documents. The lack of information about the reasons of the arrest and the detail of the nature of the charges against him are a clear violation of Ivan Safronov's right to a fair trial.

MEDIA SPECULATIONS, LIKELY LEAKS AND VERSIONS ON THE CHARGES AGAINST THE JOURNALIST

While the reasons and nature of the charges remain unknown, some of Safronov's former colleagues suggested at the time of his arrest that he could have been prosecuted in connection with an article he published in March 2019 about Russia's contract with Egypt to supply fighter jets SU-35.²¹ At the time of the publication, the Rosoboronexport, the Russian state military export monopolist, denied such plans.²² The authorities then opened an administrative case in May 2019 against Kommersant newspaper on charges of "divulging information that constitutes state secret or other specially protected by the law secret" (Article 13.15, part 7 of the Russian Code of Administrative Offences).²³ At around the same time, Ivan Safronov's article was taken off the Kommersant's webpage, but the media outlet denied that it had been done because of the administrative charges. Instead, the newspaper claimed that it had been taken off following some factchecking since the information in the article turned out to be false.²⁴ Safronov and another journalist were fired that same month from Kommersant, reportedly over an article on the expected resignation of Valentina Matvienko as the Chairperson of the upper chamber of the Russian

¹⁶ Murray v. the United Kingdom [GC], § 76; Kortesis v. Greece, §§ 61-62; European Court: Shamayev and Others v Georgia (36378/02), (2005) §413, Kortesis v Greece (60593/10), (2012) §§58-62, Nechiporuk and Yonkalo v Ukraine (42310/04), (2011) §§209-211; Kelly v Jamaica (253/1987).

¹⁷ Khlaifia and Others v. Italy [GC], § 115; J.R. and Others v. Greece, §§ 123-124; Fox, Campbell and Hartley v. the United Kingdom, § 40; Murray v. the United Kingdom [GC], § 72

¹⁸ HRC, UN Doc. CCPR/C/OP/2 (1990) §13.2.

¹⁹ HRC General Comment 32, §28; European Court: *Tierce and Others v San Marino* (24954/94, 24971/94 and 24972/94), (2000) §92; *Galstyan v Armenia* (26986/03), (2007) §80

²⁰ See, for instance, here: <https://meduza.io/feature/2020/07/08/vanya-derzhis>

²¹ See, <https://newizv.ru/news/politics/07-07-2020/vnezapno-vypal-kak-pogib-otets-arestovannogo-za-shpionazh-zhurnalista-safronova> ; <https://www.interfax.ru/business/654588> ; <https://lenta.ru/news/2019/03/18/su35/>

²² https://vpk.name/news/264861_rosoboroneksport_otricaet_nalichie_kontrakta_na_postavku_su-35_egiptu.html ; https://lenta.ru/news/2019/03/26/net_kontrakta/?utm_source=yxnews&utm_medium=desktop

The issue of concluding contracts for the Russian military equipment was sensitive due to the U.S sanctions (CAATSA) in relation to Russia's alleged interference in the US Presidential election. See also here:

<https://www.interfax.ru/world/685119>

²³<https://www.interfax.ru/russia/663576>

²⁴ <https://www.interfax.ru/russia/663651>

parliament.²⁵ In protest against the decision to fire Safronov, the whole political department and a deputy editor left the newspaper.²⁶ In May 2020, more than a year after Safronov published the article about the SU-35 fighter jets, several Russian government-affiliated media announced that the fighter jets for Egypt were indeed being built in accordance with a contract concluded in 2018, just like Ivan Safronov had reported.²⁷

Safronov's lawyers had to speculate for months after his arrest if any of these articles have led to his prosecution, making it almost impossible to challenge the lawfulness of his detention. According to Safronov's defence, it was possible that the article on Matvienko's resignation could have angered Russian officials.²⁸ Indeed, based on Russia's crackdown on independent media, both articles could have been a trigger for starting Safronov's prosecution as an act of retaliation for his journalistic work, as could have many other publications.

In December 2020, Kommersant newspaper reported that according to its sources the investigating authorities had ordered an expert examination of the information that Safronov allegedly passed to Czech security services to establish whether the information was accurate and classified and, if it was indeed classified, to what extent and on what level of secrecy. The investigating officials also ordered an expert examination into whether Safronov could have found that information publicly available from open sources. Russian newspaper Kommersant also reported that some of Ivan Safronov's contacts were being officially questioned by the investigators.²⁹ Notably, the authorities continued to refuse disclosing to Safronov and his defence what information exactly Safronov stood accused of passing on, despite repeated requests.

Up until February 2021, as pointed out in an interview with the Kommersant newspaper, Safronov had not yet been told what the exact accusations against him were, including which secret information he had allegedly passed on.³⁰

Information about the way in which the supposedly secret information had allegedly been passed on to the Czech intelligence was also questionable. In August 2020, Safronov's lawyer told the media that according to FSB, Safronov was passing on secret information by allegedly exchanging encrypted messages using his home computer via a *VeraCrypt* programme.³¹ This programme, which could be freely downloaded from the internet, is described by its developer's website as "a free opensource disk encryption software for Windows, Mac OSX and Linux... based on TrueCrypt 7.1a".³²

Some media outlets also published details about the identity of an alleged Czech spy that Safronov had allegedly been in contact with. On 12 July 2020, the Russian independent Project Media published an investigation suggesting that the FSB could have accused Ivan Safronov of high treason on the basis of his friendship with Martin Larish, a journalist who had worked as a Moscow correspondent for a Czech newspaper and who, having left journalism, had established a think-tank in the Czech Republic. Ivan Safronov did not conceal his friendship to Martin Larish, who could even be seen in photos on Safronov's social media. On 13 July, daily news programme Vesti on the government-controlled TV channel Rossiya 1, also mentioned Martin Larish while sharing an "expert opinion" arguing that "the Czech intelligence service can organize some kind of a publishing house or a think tank that consists of one or two people. They receive information from Russia and then pass it on to the [US] Central Intelligence Service".³³

²⁵ <https://www.kommersant.ru/doc/3946207> The article, published on 17/04/2019, discusses that Valentina Matvienko, speaker of the upper chamber of the Russian parliament, might leave her position and go to lead another government agency and that the Speaker's position might be occupied by the current head of the SVR (External Intelligence Service) Sergei Naryshkin and speculated about uneasy relationships between her and the speaker of the lower house of the parliament among other things. This reshuffle did not take place.

²⁶ <https://www.bbc.com/russian/features-53357902>

²⁷ See, for instance, here: <https://rg.ru/2020/05/17/rossiia-nachala-sborku-istrebitelej-su-35-dlia-egipta.html> ; <https://www.vesti.ru/article/2410181> ; <https://www.zhukvesti.ru/articles/detail/21265/>

²⁸ <https://www.bbc.com/russian/features-53357902>

²⁹ https://www.kommersant.ru/doc/4596255?utm_source=vk.com&utm_medium=social&utm_campaign=amplifir_social

³⁰ https://www.kommersant.ru/doc/4692060?from=main_2

³¹ <https://www.interfax.ru/russia/720512>

³² The programme could be downloaded at: <https://www.veracrypt.fr/en/Home.html>

³³ <https://www.vesti.ru/article/2429498>

Speculations that Martin Larish was Safronov's contact from the Czech intelligence services was replicated by the government-owned TASS news agency on 16 July 2020, when they reported that according to their "source in the intelligence services" "Czech citizen Martin Larish, whom ...Ivan Safronov met on numerous occasions, is a staff member of Czech intelligence services".³⁴ The report did not provide any proof to suggest that intelligence sources may have had any evidence against Safronov. This accusation was again voiced on 18 October 2020 when "an informed source" told the Russian Interfax news agency that, according to the official investigation against Ivan Safronov, Martin Larish had recruited him in 2012 "to covertly cooperate with the Czech Office for Foreign Relations and Information, which, in turn, is controlled by the USA security services".³⁵ Such reports in government-controlled media appear to be leaks by the security services intended to construct a narrative of this high-profile case consistent with their own version of the events. Notably, these media reports contained crucial information about the nature of the charges that Ivan Safronov and his defence were not aware of and that had been denied by the authorities.

In July 2020, the BBC interviewed Martin Larish who denied working for any intelligence services.³⁶ Czech officials also denied any affiliation with Larish.³⁷ According to Safronov's lawyers, it appears that the only evidence in the case file suggesting Martin Larish' alleged affiliation with intelligence services was a statement issued by a Russian intelligence officer.³⁸ However, the officer's name or any other material had not been disclosed in the case file.³⁹

The defence lawyers pointed out that Safronov had never concealed that he knew Larish. In an interview with Kommersant newspaper in February 2021, Safronov confirmed their relationship and said that he met Martin Larish around 2010, when Larish was working as a journalist in Russia. They communicated as colleagues and later became friends.⁴⁰ Having left journalism in 2017,⁴¹ Larish set up a consultancy think-tank Center for Security Analyses and Prevention. According to the Centre's website, it is "a group of Czech and foreign professionals from the state sector, security services, management, consulting, law companies, advisors and academics who form a unique team capable of responding to any task and providing any advisory service related to political and economic consulting in the field of risk management and security issues".⁴² The list of staff members, partners and projects, as well as yearly reports of its activities and analytical articles, can all be found on the Centre's website.

Safronov has maintained that Larish asked him to help promote his business project and to write as a contributor. Safronov agreed and wrote one or two articles a month. He stressed there had been no contractual obligation and that he had written articles only when he could. The articles were on current, popular topics and were all based on publicly available information from open sources. According to Safronov, the last time he contributed a piece for the Center was in 2019. Safronov also pointed out that his contributions were not paid as the Center's business model to have paid subscriptions to access online content did not work out. He also mentioned that were there to be any profit, he would have declared it and that he had consulted with lawyers on how to do it.⁴³

International fair trial standards require that any person facing criminal charges should be given sufficiently detailed information about the nature of the charges and the facts of the alleged crime to enable them to prepare their defence.⁴⁴ The information about charges should be provided in writing; if provided orally it should be later confirmed in writing.⁴⁵ While Ivan Safronov and his defence team were informed about the law under which he had been

³⁴ <https://tass.ru/proisshestviya/8985859>

³⁵ <https://www.interfax.ru/russia/732024>

³⁶ <https://www.bbc.com/russian/news-53438546>

³⁷ Even if Larish did work for the Czech intelligence, we would not, of course, expect them to confirm it.

³⁸ This official was first referred to as "SVR general" (SVR is External Intelligence Service) and later as an "FSB general".

³⁹ <https://www.vedomosti.ru/politics/news/2020/07/16/834726-fsb-poluchila-dannie>

⁴⁰ https://www.kommersant.ru/doc/4692060?from=main_2

⁴¹ <https://mbk-news.appspot.com/suzhet/o-martine-larish/>; https://www.kommersant.ru/doc/4692060?from=main_2

⁴² <https://cbap.cz/domu>

⁴³ https://www.kommersant.ru/doc/4692060?from=main_2

⁴⁴ HRC General Comment 32, §31, *McLawrence v Jamaica*, UN Doc. CCPR/C/60/D/702/1996 (1997) §5.9; European Court: *Pélissier and Sassi v France* (25444/94), Grand Chamber (1999) §§51-52, *Mattoccia v Italy* (23969/94), (2000) §§59-60

⁴⁵ HRC General Comment 32, §31.

charged, they were not informed in detail about the alleged facts which form the basis of the accusation in violation of his right to a fair trial, including his right to challenge the lawfulness of the detention.

Amnesty International understands that some of the abovementioned information about the reasons of his arrest and the nature of the charges remained undisclosed to Ivan Safronov and his defence team long after his arrest and only once the investigation had been officially completed on 1 November 2021 when they were allowed for the first time to access the case file.⁴⁶

On 2 November 2021, Safronov's lawyer Ivan Pavlov wrote in his Telegram channel that one more instance of a criminal activity was added to Safronov's charge sheet. The investigating authorities claimed that in December 2015, Safronov had passed on some information about the activity of Russian military forces in Syria to Demuri Voronin, who then allegedly forwarded it to representatives of Zurich University and German intelligence services. According to FSB, this information could have been used to analyse Russian troops' operations in Syria. The investigation claimed that Safronov had received USD 248 as remuneration for this information.⁴⁷ Demuri Voronin, a political scientist, was arrested in February 2021 on charges of state treason. The details of the charges against him are not yet clear.⁴⁸ Safronov's lawyers believe that Voronin could have been pressured to give statements falsely incriminating Safronov.⁴⁹

On 10 November 2021, Interfax news agency quoted an unnamed "informed source" who alleged that Ivan Safronov had had connections with the Japanese intelligence services too and had meetings with the Japanese military attachés between 2012 and 2018. The source further alleged that the diplomats had asked Safronov about some sensitive information.⁵⁰ Safronov's defence team rejected the accusations as an attempt to further smear Safronov's name and particularly pointing out that, when he had allegedly met a Japanese attaché for the first time in 2012, Safronov was at the beginning of his journalistic career and most probably would not be of interest to foreign intelligence and that even if meetings did take place, it does not automatically mean that Safronov had committed high treason as he would be meeting various officials as part of his journalistic job.⁵¹ Amnesty International understands that this allegation was not pursued further as part of the investigation.

In an interview with the BBC News Russian Service after the beginning of Ivan Safronov's trial on 21 March 2022, one of Ivan Safronov's lawyers Dmitry Talantov pointed out that the authorities failed once again to identify the circumstances of the alleged crime and provide evidence supporting the charges.⁵²

As part of their job, journalists have to establish contacts with and meet many people, including foreigners and foreign diplomats. Labelling such meetings as "suspicious" or accusing people of divulging state secrets only on the fact that a meeting took place without providing any additional evidence of the content of the meeting or the circumstances surrounding it risks criminalising journalistic work and imposing unlawful restrictions on the right to freedom of expression, including the right to seek, receive and impart information.

THE ACCUSED AND HIS LAWYERS ARE NOT PROVIDED WITH ADEQUATE TIME AND FACILITIES TO PREPARE DEFENCE

Ivan Safronov's lawyers encountered further obstructions to prepare an adequate defence, even after the investigation was closed. The lawyers were only allowed access to the case file in the investigator's office, in the presence of Russian authorities and within a strictly limited timeframe. The lawyers complained on numerous occasions that the investigator prohibited them from making any copies or taking any notes from the case file, including of the information that was not classified. Moreover, they were not even allowed to bring any paper with them to ensure no notes could be taken.⁵³ The lawyers complained about this decision to court but without success.⁵⁴

⁴⁶ <https://tass.ru/proisshestviya/12818819>

⁴⁷ <https://ovd.news/express-news/2021/11/02/zhurnalistu-ivanu-safronovu-obvinyaemomu-po-state-o-gosizmene-vmenil-novy>

⁴⁸ <https://www.bbc.com/russian/news-56109610>

⁴⁹ <https://www.dw.com/ru/nemec-v-dele-safronova-kto-takoj-demuri-voronin/a-59734765>

⁵⁰ <https://www.interfax.ru/russia/802243>

⁵¹ <https://www.rbc.ru/politics/10/11/2021/618bd2199a7947a366fa03d4>

⁵² <https://www.bbc.com/russian/news-60820115>

⁵³ See, for instance, <https://www.bbc.com/russian/news-59121958>

⁵⁴ <https://www.kommersant.ru/doc/5194152>

On 25 January 2022, the Lefortovo District Court upheld the investigation's request and limited the time to prepare a defence until 11 February.⁵⁵ This decision was upheld on appeal. Taking into account a national holiday in November and the lengthy New Year/Christmas break in December and January, the lawyers only had around 45 working days to study 20 volumes with thousands of pages of documents and dozens of hours of recordings contained in the criminal case file. Moreover, according to Ivan Pavlov, the lawyers were allowed access to the documents for only two hours a day. These barriers made it practically impossible for the lawyers to adequately analyze the whole case file and prepare an adequate defence.

Article 14(3)(b) of the ICCPR and Article 6.3(b) protect the right of an accused person to have adequate time and facilities for the preparation of their defence, which is an important element of the guarantee of a fair trial and an important aspect of the principle of equality of arms.⁵⁶ This right applies at all stages of the proceedings, including before trial, during trial and during appeals and irrespective of the seriousness of the charges.⁵⁷

The European Court has clarified that the right to adequate time and facilities to prepare a defence implies that the accused must have the opportunity to organize their defence appropriately and be allowed "to put all relevant defence arguments before the trial court and thus to influence the outcome of the proceedings".⁵⁸ While it is important to conduct proceedings at a good speed, this should not be done at the expense of the procedural rights of one of the parties.⁵⁹ The European Court has found on numerous occasions that the applicants' lawyers were not afforded adequate time and facilities to prepare the defence before the trial where the time allocated to them was limited.⁶⁰

Considering the above-mentioned restrictions, Amnesty International concludes that Ivan Safronov was not afforded adequate time and facilities to prepare his defence and thus, his right to defence has been violated.

PRESSURE ON IVAN SAFRONOV AND HIS LAWYERS

Ivan Safronov and his lawyers have also been subjected to continued pressure and harassment throughout the investigation.

Since his arrest, the investigator banned visits of and phone calls with Ivan Safronov's family.⁶¹ The authorities argued that Ivan Safronov's family members were made "witnesses" in the criminal case against him - a common trick used by investigators in Russia to exert pressure on people accused of a crime. As a result, Safronov was not allowed to receive visits or any other contact with his family and could only see them on rare occasions in court – since court hearings were rarely open to the public – from a distance and via a glass or cage bars where he was held during the proceedings.

In October 2020, Safronov asked the investigator for a special permission to call his mother on her birthday but was refused. In June 2021, it was reported that the investigator proposed that Safronov could call his mother in return for cooperation and admitting his guilt, but Safronov rejected this deal.⁶² In August 2021, the investigator banned Safronov from sending or receiving any correspondence,⁶³ but the ban was then lifted in December 2021.⁶⁴

⁵⁵ <https://www.bbc.com/russian/news-60128043>

⁵⁶ ICCPR, Article 14(3)(b) and ECHR, Article 6 (3) (b). Also see, for instance, HRC General Comment No. 32, para.32, CCPR/C/GC/32, 23 August 2007; Kelly v Jamaica, HRC, UN Doc. CCPR/C/41/D/253/1987 (1991) §5.9.

⁵⁷ See, for instance, Galstyan v Armenia no.26986/03, European Court (2007) §§85-88.

⁵⁸ Moiseyev v Russia (62936/00), European Court (2008) §220.

⁵⁹ OAO Neftyanaya Kompaniya Yukos v. Russia, no.14902/04, European Court, 08 March 2012, § 540.

⁶⁰ See, for instance, *Öcalan v. Turkey* [GC], no. 46221/99, § 147, ECHR 2005-IV ; *Vyerentsov v. Ukraine*, no. 20372/11, § 76, 11 April 2013; *Nevzlin v Russia*, no.26679/08, 18 January 2022, § 150.

⁶¹ https://www.gazeta.ru/social/news/2020/08/10/n_14781877.shtml

⁶² <https://www.bbc.com/russian/news-57564292>

⁶³ <https://ovd.news/express-news/2021/10/15/sledovatel-fsb-zapretil-arestovannomu-zhurnalistu-ivanu-safronovu-perepisku>

⁶⁴ <https://ovd.news/express-news/2021/12/09/zhurnalist-ivan-safronov-snova-stal-poluchat-pisma-v-sizo>

However, the Moscow City Court rejected Ivan Safronov's request to allow him to have visits and phone calls on 22 March 2022, when his pre-trial detention was extended for further six months.⁶⁵

The rights of people deprived of their liberty to communicate with the outside world and to receive visits are fundamental safeguards against human rights violations, including torture or other ill-treatment. Among other things, they are vital for protection of the right to private and family life, and may even amount to cruel, degrading and inhuman treatment in itself. The right to receive visits from family and friends applies to all people deprived of their liberty, including those on remand, regardless of the offence of which they are suspected or accused.⁶⁶ Restrictions to this right must be reasonable, necessary, proportionate and pursue a legitimate aim.⁶⁷

In July 2021, Ivan Safronov's lawyer told the media that his client had been transferred to a cell with higher security measures. Soon after, prison authorities started to conduct regular cell and body searches.⁶⁸ According to the lawyers, these measures were apparently part of an orchestrated effort to make Ivan Safronov to "cooperate" with the investigation and to "confess".

International fair trial guarantees expressly prohibit all forms of coercion to compel individuals charged of a criminal offence to confess guilt or testify against themselves.⁶⁹ The right not to be compelled to incriminate oneself or confess guilt is broad and prohibits any form of coercion, whether direct or indirect, physical or psychological. The Human Rights Committee has stated that the prohibition of coerced confessions requires "the absence of any direct or indirect physical or psychological pressure from the investigating authorities on the accused, with a view to obtaining a confession of guilt".⁷⁰

Ivan Safronov's lawyers have also been subjected to undue pressure from the authorities. In August 2020, the Ministry of Justice attempted to initiate disciplinary proceedings against Dmitry Katchev, Daniil Nikiforov, Sergei Maliukin and Oleg Eliseev – Ivan Safronov's lawyers practicing with the Moscow Bar.⁷¹ There have also been multiple attempts to initiate disciplinary proceedings against Ivan Pavlov, who is practicing with the St Petersburg Bar, and strip him of his lawyer's licence.⁷² On 15 March 2022, the Council of the St Petersburg's Bar suspended Ivan Pavlov's license and issued him with a warning. There has also been two attempts to initiate disciplinary proceedings against Evgeniy Smirnov, another of Ivan Safronov's lawyers, who had to leave the country for fear of reprisals.

In April 2021, Ivan Pavlov was charged with "divulging the results of a preliminary investigation" (Article 310 of the Criminal Code) in connection with sharing with the Vedomosti newspaper a decision to bring Ivan Safronov as a defendant and reporting to the media that an anonymous secret witness had appeared in the case. In the early morning of 30 April, searches were carried out at a Moscow hotel where Pavlov was staying before the hearing of Ivan Safronov's case. Homes of Ivan Pavlov's wife and Team 29 IT specialist Igor Dorfman were also searched in St Petersburg.⁷³ On the same day, the Moscow Basmany District Court ordered that Ivan Pavlov should be prohibited from using Internet and mobile communications as well as communicating with a witness in his case – his own client Ivan Safronov, thus, effectively

⁶⁵ <https://ovd.news/express-news/2022/03/22/sud-v-moskve-prodlil-arest-zhurnalistu-ivanu-safronovu-po-delu-ogozizmene>

⁶⁶ CPT 2nd General Report, CPT/Inf (92) 3, §51; *Nuri Özen and Others v Turkey* (15672/08 et al), European Court (2011) §59.

⁶⁷ Article 17(2)(d) of the Convention on Enforced Disappearance, Rule 26 of the Bangkok Rules, Principle 19 of the Body of Principles, Guidelines 20 and 31 of the Robben Island Guidelines; See Rule 38 of the CoE Rules on remand in custody, Rules

99 and 24 of the European Prison Rules ; European Court: *Gradek v Poland* (39631/06), (2010) §§45-48, *Onoufriou v Cyprus* (24407/04), (2010) §§91-97, *Kucera v Slovakia* (48666/99), (2007) §§125-134, *Bagiński v Poland* (37444/97), (2005) §§86-99.

⁶⁸ <https://www.bbc.com/russian/news-59121958>

⁶⁹ Article 14(3)(g) of the ICCPR

⁷⁰ HRC General Comment 32, §§41, 60.

⁷¹ <https://ovd.news/express-news/2020/08/04/minyust-potreboval-privlech-k-disciplinarnoy-otvetstvennosti-advokatov>

⁷² <https://www.amnesty.org/en/documents/eur46/5070/2021/en/>

⁷³ <https://www.kommersant.ru/doc/4799670>

preventing him from doing his job.⁷⁴ Ivan Pavlov left Russia in September 2021 and was subsequently placed on a “wanted” list. If Ivan Pavlov is found guilty, he will lose his lawyer’s license.

Ivan Pavlov’s human rights group Team 29 which, among other things, had extensively worked on freedom of information cases, had to close down on 18 July 2021 due to the danger of criminal prosecution both for its staff members and its supporters. Two days before, Team 29’s website was blocked by the Russian authorities under the pretext that it had materials of a Czech NGO that had been earlier declared as “undesirable” (which is an administrative and criminal offence under Russian law).⁷⁵ Team 29 stated that they had not posted such materials and that the authorities blocked the website without specifying the allegedly prohibited information nor giving time to remove it.⁷⁶ In 2015, Ivan Pavlov was one of the founders of the Czech NGO but it has since changed its leadership. In November 2021, Ivan Pavlov and four of his Team29 colleagues were designated “foreign agents” which has negative consequences for their work.⁷⁷ The timing of these events coincided with critical moments in the defence of Ivan Safronov, suggesting that these may have been pursued in retaliation for Ivan Pavlov’s work in defence of Ivan Safronov.

CRIME OF “HIGH TREASON” IN RUSSIAN LAW

Article 275 of the Russian Criminal Code defines high treason as “espionage committed by a Russian citizen, divulging to a foreign state, international or foreign organization or their representatives information that constitutes a state secret which became known to this person in the course of his employment, service, study or in other cases provided for by the Russian law, or providing financial, material and technical, consultations or other help to a foreign state, international or foreign organization or their representatives in the activity aimed against the security of the Russian Federation”.⁷⁸ The official list of what information may be considered as a state secret contains very general and in some cases vaguely formulated clauses, and is open to wide interpretation and abuse.⁷⁹

The definition of “high treason” was amended in November 2012,⁸⁰ when broader grounds for prosecution were included into the Criminal Code. The same amendment excluded the need to be granted official access to state secrets as a necessary element of the crime. This amendment opened the doors to arbitrary prosecution of government critics and other individuals under the offence of “divulging a state secret” simply for sharing information that is not classified but nonetheless fits the broad and vague definition of state secret. The vague wording of this amended article was widely criticised at the time of its adoption since it was already foreseen it would create grounds for arbitrary, politically motivated prosecutions.⁸¹

Since Russia’s occupation and illegal annexation of Crimea and military involvement in Donbass in 2014, there has been a growing number of prosecutions for high treason and espionage. From what little information is known about at least some of the cases (which are typically closed and under-reported), the accusations have often been based on the person’s sharing open-source information.⁸² This is a very worrying trend and while Ivan Safronov’s case fits firmly within it, it also stands out as the first, and to the best of our knowledge so far the only, case of prosecution of a journalist on these grounds following the legislation amendments of 2012. Most recently, within the context of Russia’s aggression against Ukraine, authorized by President Putin and referred to by the Russian authorities as the

⁷⁴ <https://www.kommersant.ru/doc/5182701>

⁷⁵ <https://www.kommersant.ru/doc/4907626>

⁷⁶ <https://meduza.io/feature/2021/07/18/komanda-29-ob-yavila-o-zakrytii>

⁷⁷ <https://www.amnesty.org/en/documents/eur46/5070/2021/en/> ; <https://inoteka.io/ino/sozdano-i-ili-rasprostraneno>

⁷⁸ http://www.consultant.ru/document/cons_doc_LAW_10699/2ca391674eeaa02069722fa3f13cbb41cce0a95d/

⁷⁹

http://www.consultant.ru/document/cons_doc_LAW_8522/447b0198c5818883f33364e226f21c3c7329d4f9/#dst101000

⁸⁰ The amendments were passed within weeks of their inclusion into the State Duma agenda with only 10 minutes reportedly required to pass them in the second and third reading. See, https://www.gazeta.ru/politics/2012/10/23_a_4821625.shtml

⁸¹ See, for instance, https://www.gazeta.ru/politics/2012/10/23_a_4821625.shtml ;

<https://ovdinfo.org/articles/2015/02/13/gosudarstvo-na-izmene-kak-primenyaetsya-275-statya-uk>

⁸² For instance, see case of attempted prosecution of Svetlana Davydova and other cases where women were prosecuted for sharing or posting information about movements of the troops; cases of prosecution of scientists who participated in joint research projects or published in international journals.

“special military operation”, some officials openly threatened that “high treason” charges could be used against those who “knowingly cooperate with foreign anti-Russia centres, thus, causing damage to our state security”.⁸³ Amnesty International is concerned that the offence of “high treason” could be used to prosecute journalists and others who oppose the aggression against Ukraine.

CONCLUSIONS AND RECOMMENDATIONS

The closed nature of “state treason” cases, including at the investigation stage and during court hearings,⁸⁴ and the failure of the authorities to inform promptly and in detail Ivan Safronov and his defence of the nature and the charges against him, are a violation of Safronov’s right to a fair trial protected in Articles 9 and 14 ICCPR and 6 ECHR.⁸⁵ It is of further concern that Ivan Safronov and his lawyers have been subjected to undue pressure and coercion by the authorities as a way to compel himself to confess guilt or testify against himself.

The failure of the authorities to disclose any information related to the grounds of Ivan Safronov’s detention give grounds to consider that his criminal prosecution may be politically motivated in connection with his journalistic work in exercise of his right to freedom of expression.

In light of the above, Amnesty International calls on the Russian authorities to:

- Immediately release Ivan Safronov, unless the authorities can grant a retrial that meets international fair trial standards;
- Ensure that decisions to keep Ivan Safronov in pre-trial detention are reasonable, necessary and proportionate only after the authorities have demonstrated to a court that there are legitimate reasons why bail or other less restrictive measures would not suffice;
- Protect Ivan Safronov against torture and other ill-treatment while in detention and ensure he is able to communicate with the outside world and receive visits from his family and lawyers;
- Ensure that the trial of Ivan Safronov is held by a competent, independent and impartial tribunal established by law and that the trial is open to the general public and the media, in line with international fair trial standards. Any restrictions on the right to a public hearing on national security grounds must be only to the extent strictly necessary and should be accompanied by adequate mechanisms for observation or review;
- Provide Ivan Safronov and his lawyers with full and unimpeded access to the case file, and that Ivan Safronov’s right to confidential communication with his lawyers is fully observed;
- Protect Ivan Safronov’s defence lawyers from harassment and intimidation, including through unwarranted disciplinary actions. In this respect, review the decision to enforce disciplinary measures against Ivan Pavlov and overturn the decision to suspend his lawyer’s license.

⁸³ <https://www.gazeta.ru/social/news/2022/03/01/17361607.shtml>

⁸⁴ While in detention Ivan Safronov wrote an article about how the high treason case are being initiated and investigated. <https://echo.msk.ru/blog/statya/2875734-echo/>

⁸⁵ International law does list “national security” as one of the grounds where closed procedures could be found lawful. However, the test of whether it is strictly necessary” should be applied.