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Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

Joint submission to the United Nations Universal Periodic Review

**LAWYERS FOR LAWYERS
THE INTERNATIONAL BAR ASSOCIATION'S HUMAN RIGHTS INSTITUTE
LAWYERS' RIGHTS WATCH CANADA**

The Russian Federation

44th session of the Working Group on the UPR

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A. Introduction

1. Lawyers for Lawyers (“**L4L**”), The International Bar Association (“**IBA**”) and Lawyers’ Rights Watch Canada (“**LRWC**”) submit this report on the state of human rights in the Russian Federation, particularly in respect of the legal profession, with recommendations for the 44th session of the Universal Periodic Review (“**UPR**”) Working Group in the UN Human Rights Council (“**HRC**”) in November 2023.
2. L4L is an independent and non-political foundation based in the Netherlands, which was established in 1986 and is funded by lawyers’ donations. L4L promotes the proper functioning of the rule of law through the free and independent exercise of the legal profession around the world. L4L has special consultative status with ECOSOC since 2013.
3. LRWC, founded in 2000, is a Canadian organization of lawyers and other human rights defenders who promote the implementation of international law and standards designed to protect the independence and security of human rights defenders around the world. LRWC produces legal analyses of national and international laws and standards relevant to human rights violations against human rights defenders. LRWC has held special consultative status with ECOSOC since 2005.
4. IBA established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world. It has a membership of 80,000 individual lawyers and more than 190 Bar Associations and Law Societies, spanning all continents. The IBA’s Human Rights Institute (“**IBAHRI**”), an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

B. Executive Summary

5. This submission highlights key concerns regarding the compliance of the Russian Federation with its international human rights obligations to guarantee the right to independent counsel as set out in the UN Basic Principles on the Role of Lawyers (“**Basic Principles**”)¹ and other international legal instruments, including the International Covenant on Civil and Political Rights (“**ICCPR**”), focusing on the following issues:
 1. Consequences of the Russian invasion in Ukraine for the judicial system and lawyers (section D)
 2. Lawyers wrongly designated as ‘foreign agents’ (section E)
 3. ‘Undesirable organisation’ law (section F)

4. Censorship laws wrongly impede the freedom of speech of lawyers (section G)
5. Difficulties with access to clients in detention and no guaranteed confidentiality (section H)

C. Normative and Institutional Framework of the State

6. The adequate protection of human rights and fundamental freedoms requires that everyone has effective access to justice and legal assistance. Legal assistance can only be provided effectively in a judicial system where lawyers, along with judges and prosecutors, are free to carry out their professional duties independently of the government and political pressure. This follows from the Charter of the United Nations, the Universal Declaration of Human Rights, the ICCPR, and other international legal instruments.
7. On 22 June 2017, the HRC adopted, without a vote, a resolution² condemning in general *“the increasingly frequent attacks on the independence of judges, lawyers, prosecutors and court officials, in particular threats, intimidation and interference in the discharge of their professional functions”*. The HRC expressed its deep concern *“about the significant number of attacks against lawyers and instances of arbitrary or unlawful interference with or restrictions to the free practice of their profession”* and called upon States *“to ensure that any attacks or interference of any sort against lawyers are promptly, thoroughly and impartially investigated and that perpetrators are held accountable”*.³

The resolution stipulates that to fulfil its task of promoting and ensuring the proper role of lawyers, the Russian Federation should respect the Basic Principles within the framework of its national legislation and practice. The Basic Principles provide a concise description of international standards relating to key aspects of the right to independent counsel. Adherence to the Basic Principles is considered a fundamental precondition to fulfilling the requirement that all persons have effective access to independent legal assistance, as required by the ICCPR, Article 14. The national Constitution of the Russian Federation guarantees provision for rights and freedoms *“according to the universally recognized principles and norms of international law(...)”*⁴

8. During its third UPR in 2018, the Russian Federation received⁵ and accepted one recommendation to investigate all reports of, and to bring to justice those responsible of attacks on, or threats against lawyers.⁶ The Russian Federation also received and accepted one recommendation to safeguard the freedom of association of lawyers.⁷ However, L4L noted in its mid-term report, submitted in December 2021, that these accepted recommendations were not fully implemented.⁸ The Russian Federation did not submit a mid-term report.

9. On 24 February 2022, the Russian Federation launched a full-scale armed invasion of Ukraine. This war has had harmful consequences for the work of lawyers in the Russian Federation, as set out below.

D. Consequences of the Russian invasion of Ukraine for the judicial system and lawyers in Russia

10. Since the start of the full-scale invasion of Ukraine, the rule of law in the Russian Federation has been seriously undermined. The government of the Russian Federation has passed or misused laws in violation of international law and standards, and the independence of many Russian courts is greatly constrained, particularly in cases the government considers to be politically sensitive.
11. Furthermore, where previously the European Court of Human Rights ("ECtHR") provided some protection of rights as a last recourse, this route is no longer available since the Russian Federation was excluded (and withdrew) from the Council of Europe on 15 March 2022 (effective 16 September 2022). Moreover, Russia has also adopted a law providing that judgments of the ECtHR dated after 15 of March 2022 will not be implemented. This is in breach to Russia's international obligations, as the ECHR remained in force in the Russian Federation until 16 September 2022.
12. Many lawyers who handle or handled cases which are considered politically sensitive by the government of the Russian Federation have been forced to leave Russia, often leaving behind their families and possessions (which provides an apparent conflict with Articles 17 and 23(1) of the ICCPR).⁹ The few lawyers who remain in the Russian Federation and are willing to handle politically sensitive cases are aware they may be forced to leave Russia at any moment.
13. Bar Associations in the Russian Federation have been unable to provide effective protection against violations of lawyers' rights by the government of the Russian Federation. According to L4L's, IBA's and LRWC's information, Bar Associations are constrained from acting independently from the government and have pressured lawyers to refrain from participating in political discussion and from talking to media about politically sensitive cases in contravention of their right to participate in public affairs guaranteed by ICCPR Article 25 and affirmed in the Basic Principles, Article 23.
14. Moreover, lawyers who handle politically sensitive cases are aware that they are constrained from providing effective legal assistance to their clients. Equality of arms has been eroded, because legislative, procedural and court systems all work against lawyers' defence of their clients. For instance, the prosecutor is free to decide that an individual will not be permitted to physically attend their trial and allowed to

participate only through an internet link, thus denying defendants the right to a trial in their physical presence of themselves or their lawyers, and hindering the ability of defendants and their lawyers to confront witnesses in person and fully assess witnesses' credibility.¹⁰

15. One lawyer who spoke to L4L emphasised that it is currently "*basically impossible*" to defend clients in politically sensitive cases. As another lawyer who spoke to L4L put it: "*We cannot help people now. But we are convinced that this will be different in the future. We need to show the regime the standard of human rights protection.*" The following issues raised in this report should be understood against the backdrop sketched above.

E. Lawyers wrongly designated as 'foreign agents'

16. L4L, IBA and LRWC have long been concerned about attempts by the government of the Russian Federation to harass and disrupt the work of lawyers in the Russian Federation who act as human rights defenders or represent persons whose cases have a (perceived) political dimension.¹¹ Prior to the full-scale invasion of Ukraine in February 2022, the Russian Federation had already been engaged in a long-standing pattern of violations of the rights of lawyers who are performing their legitimate professional activities. L4L, IBA and LRWC note that governments must ensure that lawyers "are able to form all of their professional functions without intimidation, hindrance, harassment or improper interference" (Principle 16(a) of the Basic Principles).
17. For years, the Russian Federation has labelled certain persons and legal entities as 'foreign agents' under the '**Foreign Agent Act**'. This legislation has been widely criticised as giving the Russian Federation overly broad powers to designate virtually any person or organisation as a "foreign agent". In practice, the Russian Federation regularly uses these powers arbitrarily against those who dissent from government policies or practices.
18. The European Commission for Democracy through Law ("**Venice Commission**") found that the legislation (as applicable in 2021) results in "serious violations of basic human rights, including the freedoms of association and expression, the right to privacy, the right to participate in public affairs, as well as the prohibition of discrimination."¹² In addition, it found that the "foreign agent" legislation was being primarily used against entities and individuals who are active in the field of human rights, democracy and the rule of law.¹³
19. In 2022, the ECtHR found that the "foreign agent" legislation violated the right to freedom of association, read in conjunction with the right to freedom of expression by numerous Russian non-governmental organizations.¹⁴ Furthermore, the ECtHR

found that key parts of the legislation failed to comply with the condition that any restriction on fundamental rights must be “prescribed by law.”

20. Despite clearly violating numerous basic human rights, on 1 December 2022 the scope of the Foreign Agent Act was extended even further. The Russian Federation now has the power to designate anyone as a “foreign agent” if it considers they are “under foreign influence.”¹⁵ The law defines “foreign influence” as “support from foreign sources that includes funding, technical assistance, or other undefined kinds of assistance and/or open-ended ‘impact’ that constitutes coercion, persuasion, and/or ‘other means’.” Furthermore, opinions about public authorities’ decisions or policies have been deemed to fall under the “political activities” of a “foreign agent”. Human Rights Watch has strongly condemned the new law, and L4L, IBA and LRWC share these concerns fully.¹⁶
21. As set out above, the government of the Russian Federation can essentially use any reason to designate persons or organisations “foreign agents,” and it has done so. The consequences for a lawyer of being listed as “foreign agent” are severe and make it virtually impossible to continue practising law in the Russian Federation. Some of these consequences are as follows:
 - a. The Russian Federation keeps a record of everyone whom it has branded a “foreign agent”. This publicly accessible list contains personal data including social security numbers, birth dates and reasons for inclusion in the list. Moreover, even if a person or organisation are excluded from the foreign agent registries, its name stays on the list. Within the Russian Federation, the first online search result for a name included in the list will generally be that this person has been labelled a “foreign agent”. This violates privacy rights guaranteed by Article 17 of the ICCPR.
 - b. Anyone who is designated a “foreign agent” must provide the Ministry of Justice of the Russian Federation with regular (lengthy) reports on any persons they have been in touch with, what they are doing for such persons and financial details of their practice (income and expenses). As such, lawyers are forced to provide the government of the Russian Federation with detailed information on their clients, and as such are forced to violate their duty of confidentiality. Since the adoption of the new law, this report also has to be made public.
 - c. If a person designated as a “foreign agent” does not comply with any of the conditions, including the duty to report as set out above, they will first be fined and then, if found to be in further “violation” of the law, they can be subject to criminal prosecution.¹⁷ Criminal prosecution will lead to disbarment. This is in violation of Principle 16 (c) of the Basic Principles, under which States must ensure that lawyers “shall not suffer, or be threatened

with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics." Moreover, the Russian Federation regularly seeks to include persons it has designated a "foreign agent" in the Interpol wanted lists.

- d. Whenever a person who has been designated a "foreign agent" is mentioned in the press, speaks in public, or posts anything on social networks, any such publication must include a 24-word text emphasising that the person in question has been labelled a "foreign agent". This obligation is far-reaching and extends to, for instance, social media posts by the lawyer in question.
 - e. Persons who have been designated as "foreign agents" are widely shunned. People are afraid to be in touch with lawyers who have been branded as "foreign agents," and they avoid using their services. Any news media still active in the Russian Federation will not provide these lawyers with an opportunity to comment, as the news media will be fined if they do not or incorrectly mention that the lawyer has been labelled a "foreign agent".
 - f. Persons who have been designated a "foreign agent" are not permitted access to information considered to be "state secrets". Such access is essential for lawyers defending persons accused of certain types of crimes, such as conscientious objectors. In several cases, lawyers who have been labelled "foreign agents" could therefore no longer handle certain cases (ongoing cases and new cases) which had previously been an integral part of their practices. Any cooperation with the government agents is now practically impossible, as well as teaching (including in universities), which is also crucial for several lawyers.
 - g. It has been reported to L4L, IBA and LRWC that some courts in the Russian Federation have started to mark court documents filed by lawyers designated as "foreign agents", stating that the lawyer in question has been labelled a "foreign agent". Those courts have also notified the parties to the proceedings of the fact the lawyers have been labelled a "foreign agent". However, there is no legal obligation for the court to do so.
 - h. The Foreign Agent Act is regularly invoked to justify (illegal) raids of the offices and private homes of lawyers.
22. Even if lawyers are not (yet) designated as a "foreign agent" there is a continuous threat that this may happen. The government of the Russian Federation adds names to the list on a weekly basis on Friday nights. From reports gathered by L4L, IBA and LRWC it appears likely that additional lawyers and human rights defenders will be included in the list. Moreover, it has become almost impossible for Russian human rights organisations (whether based in the Russian Federation or abroad) to provide

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support to lawyers who handle any human rights-related cases, as information about any financing provided to those lawyers could be misused by the Russian Federation to label them as a “foreign agent”.

23. The following cases illustrate the practice and impact of the Russian Federation's designation of lawyers as “foreign agents”:

a. *Mikhail Benyash*

Mikhail Benyash, a lawyer practising in Krasnodar, was labelled as a “foreign agent” most likely due to his long work on the defence of political prisoners. Reportedly, while he succeeded in suspending the designation of “foreign agent”,¹⁸ Mr. Benyash was disbarred in February 2023 as result of a complaint made by the Ministry of Justice of the Russian Federation.¹⁹

b. *Galina Arapova*

Galina Arapova, a lawyer practising in the field of media law, was labelled as a “foreign agent”, most likely as a result of her work for independent Russian journalists. Even before the full-scale invasion of Ukraine, this had led to significant professional consequences for her. For example, as Ms. Arapova explained in an interview with Media Defence: “Authorities harass those designated as “foreign agents”, with police raiding their homes and administering fines...”. For Ms. Arapova, the repercussions are onerous, and they have only just begun. For example, on every social media post, and at every public lecture she must include a 24-word disclaimer about her status. Ms. Arapova suggests that in the near future, this opening disclaimer “will be seen by readers as being as normal as ‘hello’”. A week after she gained “foreign agent” status, she was no longer able to teach the university course in legal regulation of journalism and the internet that she had taught for 12 years. Ms. Arapova is also obliged to submit reports on her income and expenses, a requirement she is appealing before the courts on the grounds that it is intrusive and a breach of her privacy.”²⁰

c. *Valery Vetoshkina*

Valery Vetoshkina is a lawyer who has been recognized as a “foreign agent” for her professional activities as a lawyer. She received this designation pursuant to the Foreign Agent Act for the following acts: Ms. Vetoshkina received money from a foreign client which is considered as being underforeign influence under the Act. Further, she had an interview with nonstate-owned media in the Russian Federation, in which she allegedly spread information about political activity. Nonstate-owned media are

perceived as foreign agents. Ms. Vetoshkina specialises in defending those accused of treason and extremism. Because of this, she has not been able to continue her work as a lawyer in the Russian Federation and was forced to leave the country.

d. Ivan Pavlov

Ivan Pavlov is a human rights lawyer who was added to the list of “foreign agents” in 2021, because he defended jailed opposition politician Aleksei Navalny, his organisations and journalist Ivan Safronov. The Ministry of Justice labelled Mr. Pavlov a “foreign agent” because he was “engaged in political activity”. This restricted his freedom of speech. On top of that, Ivan Pavlov has fled the country since he became suspect in a criminal case on the disclosure of data regarding the case of Ivan Safronov. ²¹

24. L4L, IBA and LRWC consider that there is no doubt that Russian lawyers (and human rights defenders) who have been labelled “foreign agents” have been targeted solely as a result of their legitimate professional activities. There is no factual or legal justification for listing these lawyers (and human rights defenders) as “foreign agents”.

F. “Undesirable organisation” law

25. In the Russian Federation, the prosecutor’s office can designate any foreign or international non-governmental organisation (“**NGO**”) as “undesirable”, meaning that they allegedly undermine the security, defence, or the constitutional order of the Russian Federation. Once an organisation has been listed as “undesirable”, they are practically outlawed and must cease all activities in the Russian Federation. Other organisations and individuals involved with these organisations may be subject to administrative and criminal sanctions. This also applies to non-Russian organisations. The authorities could open criminal cases against persons who allegedly are involved in or cooperate with an undesirable organisation. Conviction can result in up to six years in prison.²² Overall, there are now 82 undesirable organisations in the registries.²³ After the start of the full-scale invasion, Russian authorities designated several human rights organisations which helped lawyers and human rights defenders as “undesirable”.
26. Many lawyers are afraid that they might have previously received money from an “undesirable organisation,” since the law also works retroactively, and they can thus be subjected to repercussions.²⁴ This is illustrated by the following cases:

a. *Valery Vetoshkina*

Valery Vetoshkina previously worked for Team 29, a human rights organisation consisting of independent lawyers, advocacy experts and journalists who advocated for the rights of Russian activists, political prisoners, and other citizens. Team 29 has been labelled by Russian authorities as an “undesirable organisation,” and members could therefore face criminal punishment. As a result, Team 29 decided to leave the Russian Federation and terminate their projects.

b. *The Andrei Sakharov Foundation (“ASF”)*

United States-based foundation ASF, named after the Russian physicist who fought against disarmament, received the 1975 Nobel Prize for Peace, and who became a leader of the USSR’s human rights movement, has been designated as “undesirable” on 23 January 2023.²⁵ The activities of the ASF “constitute a threat to the foundation of Russia’s constitutional order and security,” although the Prosecutor General’s Office.²⁶ Lawyers who believe to have cooperated with ASF, expressed their concern to face prosecution because of this cooperation.

c. *The Central and Eastern European Law Initiative (“CEELI”)*

CEELI is an NGO for advancing the rule of law. They have a programme on human right defenders, and they work closely with Russian lawyers. Their programs have included efforts to bolster the independence of the legal profession, combat corruption, promote effective litigation by Russian practitioners before the ECtHR, and provide continuing legal education and professional development on a wide range of subjects, from trial advocacy skills to personal insolvency law. In July 2022, the CEELI Institute was designated an “undesirable organisation”.²⁷ Lawyers who worked with the CEELI Institute have expressed fears that they will be persecuted for their previous work with CEELI.

G. Censorship laws wrongly impede the freedom of speech of lawyers

27. When lawyers are designated as “foreign agents” under the Russian Foreign Agent Act, this constitutes de facto *military* censorship. In addition, new censorship legislation has been implemented in March 2022.

28. For example, Article 20.3.3 of the Code of Administrative Offences (CAO) penalizes an overbroad range of non-criminal acts. Conviction under Article 20.3.3 for “Public

actions aimed at discrediting the use of the Armed Forces of the Russian Federation... may result in heavy fines against citizens ranging from 30,000 to 50,000 roubles and on “legal entities” from 300,000 to 500,000 Rubies. A repeat offence within a year may be punishable under Article 280.3 of the Criminal Code²⁸ with heavy fines or jail sentences of up to three years.

29. CAO Article 20.3.3. also penalizes *“calls to hold unauthorized public events, as well as creating a threat of harm to the life and (or) health of citizens, property, a threat of a mass violation of public order and (or) public safety, or a threat of interfering with the functioning or stopping the functioning of objects life support, transport or social infrastructure, credit organizations, energy, industry or communications facilities...”* with fines of 50,000 to 100,000 roubles for citizens and fines of 500,000 to 1,000,000 Rubles for “legal entities”. If the acts of discrediting result in *“death by negligence and (or) causing harm to the health of citizens, property, mass violations of public order and (or) public safety, or interfering with the functioning or stopping the functioning of life support facilities, transport or social infrastructure, credit institutions, energy facilities, industry or communications”* persons may be penalized for up to five years under Criminal Code Article 280.3.²⁹

30. Article 207.3 (part 2.D) of the Russian Federation Criminal Code, criminalizes the dissemination of fake information motivated by political hatred or enmity.³⁰ Article 282 (2.B) of the Criminal Code criminalizes people for inciting hatred or enmity by a person using his official position.³¹ In practice, this Article is used to punish public statements that contradict information distributed by official Russian. As of 30 March 2023, 149 people became defendants in criminal cases under Article 207.3.

31. As a consequence, Russian lawyers are very careful about what they say in public about their work, because they fear censorship and penalties under overbroad application of CAO Article 20.3.3 or the Criminal Code. This severely restricts Russian lawyers in the exercise of their legal profession and is a violation of their right to freedom of expression. This is illustrated by the following cases:

a. *Dimitry Talantov*

Dimitry Talantov, president of the Bar Association of Udmurtia, was arrested in June 2022 for spreading “deliberately false information” about the Russian government and Armed Forces in a Facebook post about the Russian invasion in Ukraine. Ever since then, Mr. Tantalov has been denied access to the legal profession.³² He is still in pre-detention and, if found guilty, faces up to 10 years of imprisonment under Article 207.3 (2) (d) of the Criminal Code. Mr. Tantalov is a prisoner of conscience prosecuted solely for exercising his right to freedom of expression. Mr Tantalov was also an attorney of Ivan Safranov, who was sentenced to 22 years for high treason. Mr. Safranov’s previous attorney, Ivan Pavlov, faced prosecution and was forced to leave the country.³³

b. *Maria Bontsler*

Maria Bontsler, a Russian lawyer who defends political prisoners, has received a fine under CAO 20.3.3 from the Kaliningrad Court in September 2022 for quoting a client using the words “Russian attacked Ukraine”. The judge ruled that Ms. Bontsler discredited the Russian Armed Force.³⁴

32. Based on Principle 23 of the Basic Principles “lawyers like other citizens are entitled to freedom of expression, belief, association, and assembly. They shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation.”

H. Difficulties with access to clients in detention and no guaranteed confidentiality

33. According to Principle 8 of the Basic Principles, governments must ensure that “all arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality”. Moreover, Principle 8 states that “such consultations may be within sight, but not within hearing, of law enforcement officials.” Principle 22 of the Basic Principles states that “Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.”
34. However, L4L, IBA and LRWC have received reports regarding lawyers’ restricted access to clients. For example, when people were arrested during an anti-war protest in February 2022 and detained in a police station in the Russian Federation, lawyers were denied access to the police station for “security reasons”. In 2022, 275 such cases were documented.³⁵ In at least 35 such cases, in the context of peaceful protests, police departments in Moscow, St. Petersburg, Saratov, Voronezh, and Yekaterinburg introduced the so called “Fortress” protocol and denied detainees access to their lawyers for several hours.³⁶ The Fortress protocol is intended for use in cases of a threat of attack and training exercises, when no one is allowed into or out of the police station. In several cases, authorities arbitrarily detained lawyers or used violence against them.³⁷
35. People in the Russian Federation are not informed on their right to see a lawyer and are thus denied legal advice necessary to ensure their defence according to the ICCPR, Article 14.2. Furthermore, in Russian law an attorney is required to have a licence to obtain any document or to enter a pre-trial detention centre. However, even if that

requirement is met, access is not always guaranteed. Such restricted access is illustrated by the following cases:

a. *Valery Vetoshkina*

Valery Vetoshkina was not able to enter a prison for political prisoners for two months. She had the licence required by law, but her access was still denied on the ground that she did not provide required additional paperwork. However, the public prosecutor refused to give her the additional paperwork necessary to visit her client.

b. *Aleksei Gorinov*

In July 2022, Aleksei Gorinov was sentenced to 7 years in prison for an anti-war speech during a municipal meeting.³⁸ His lawyers were not allowed to see him in person, not even in the hospital where he was taken after he became sick in prison.³⁹

c. *Olga Podoplelova*

Olga Popodplelova told L4L about long queues before detention centres, where lawyers must stay in line for a very long time. Sometimes guards even force lawyers to play a game before they are allowed a place in the queue.

36. In previous years, there were independent mechanisms for making complaints about restricted access to clients, but such a mechanism no longer exists.

37. L4L, IBA and LRWC are also concerned about lawyer-client confidentiality, which is not always guaranteed. For example, lawyer-client conversations are often overheard by authorities, and lawyers' offices and private homes are being searched. In particular, lawyers who are designated as "foreign agents" are under surveillance. Those lawyers are obliged to disclose their sources of income, which is a breach of lawyer-client confidentiality.

J. Recommendations to the Government of the Russian Federation

- To immediately amend the Foreign Agent Act, ensuring that it is consistent with international human rights standards, and ensuring that the Act is applied fairly by independent and impartial tribunals, including fair processes for appeal of review of Foreign Agent designations.
- To immediately and unconditionally release all lawyers and human rights defenders arbitrarily detained under the Foreign Agent Act or Criminal Code Article 207.3.
- To take immediate measures to ensure that lawyers have full access to their clients and to restore and ensure full confidentiality of communication between lawyers and their clients.
- To guarantee the freedom of expression of lawyers in the exercise of their legal profession.
- To take immediate measures to ensure full compliance with the rule of law, particularly the ICCPR and other human rights instruments including the Basic Principles on the Role of Lawyers.

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¹ The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly “welcomed” the Basic Principles in their ‘Human rights in the administration of justice’ resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly.

² Human Rights Council, Resolution 35/12 on the Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers, A/HRC/35/L.20, 19 June 2017.

³ *Ibid.*, recital number 10.

⁴ The Constitution of the Russian Federation, Article 17, English language version. Available at: <http://www.constitution.ru/en/1000300-03.htm>

⁵ United Nations Human Rights Council, ‘Report of the Working Group on Period Universal Review of the Russian Federation’, A/HRC/39/13, 12 June 2018.

⁶ Recommendation 147.127 (Norway): Investigate all reports of attacks on, or threats against, human rights defenders, lawyers, journalists, civil society activists and lesbian, gay, bisexual, transgender and intersex persons, and bring those responsible to justice.

⁷ Recommendation 147.163 (Botswana): Safeguard the freedom of association of all its people, as prescribed in the Constitution, including of journalists, lawyers and human rights defenders.

⁸ Lawyers for Lawyers, ‘UPR Mid-term Report, 10 December 2021. Available at: <https://lawyersforlawyers.org/en/russian-federation-upr-mid-term-report-2/>.

⁹ ‘Statement on the Judicial harassment of Ivan Pavlov’, *Lawyers for Lawyers*, 5 May 2021. Available at: <https://lawyersforlawyers.org/en/statement-on-the-judicial-harassment-of-ivan-pavlov/>.

¹⁰ UN Human Rights Committee, General Comment No. 32: Article 14: Right to equality before courts and tribunals and to a fair trial, para. 26. Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F32&Lang=en.

¹¹ See for example:

- Lawyers for Lawyers, ‘UPR mid-term report’, 10 December 2021. Available at: <https://lawyersforlawyers.org/en/russian-federation-upr-mid-term-report-2/>.
- Lawyers for Lawyers, ‘Submission to UN Human Rights Committee’, 2 June 2020. Available at: <https://lawyersforlawyers.org/submission-to-un-human-rights-committee/>.

¹² European Commission for Democracy through Law (‘Venice Commission’), ‘Opinion on the compatibility with international human rights standards of a series of bills introduced by the Russian State Duma between 10 and 23 November 2020 and to amend laws affecting “foreign agents”’, CDL-AD(2021)027, p. 26. Available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)027-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)027-e).

¹³ *Ibid.*, recital 55-56.

¹⁴ *Case of Ecodefence and others v. Russia* App. no 9988/13 (ECtHR, 14 June 2022).

¹⁵ ‘Russia: New Restrictions for ‘Foreign Agents’’, *Human Rights Watch*, 1 December 2022. Available at: <https://www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents>.

¹⁶ *Ibid.*

¹⁷ ‘First case under the new criminal article on ‘foreign agents’: what to expect now’, *OVD-Info*, 9 February 2023. Available at: <https://ovdinfo.org/articles/2023/02/09/pervoe-delo-po-novoy-redakcii-ugolovnoy-stati-ob-inoagentah-chego-teper-zhdat>.

¹⁸ ‘Advocate Mikhail Benyash succeeds in removing marking of a foreign agent’, *Caucasian Knot*, 18 January 2023. Available at: <https://eng.kavkaz-uzel.eu/articles/62000/>.

¹⁹ ‘Mikhail Benyash stripped of his lawyer status in Krasnodar’, *93 RU*, 17 February 2023. Available at: <https://93.ru/text/incidents/2023/02/17/72069596/>.

²⁰ ‘Galina Arapova: media lawyer, human rights defender, “foreign agent”’, *Media Defence*, 25 January 2022. Available at: <https://www.mediadefence.org/news/galina-arapova/>.

²¹ ‘Noted Russian Lawyer, Associates Labeled ‘Foreign Agents’’, *Radio Free Europe Radio Liberty*, 9 November 2021. Available at: <https://www.rferl.org/a/russia-pavlov-foreign-agent/31552876.html>.

²² ‘Russia: Disclosure whereabouts of imprisoned activist Andrei Pivovarov disappeared on month ago’, *Amnesty International*, 17 January 2023. Available at: <https://www.amnesty.org/en/latest/news/2023/02/russia-disclose-whereabouts-of-imprisoned-activist-andrei-pivovarov-disappeared-one-month-ago/>.

²³ ‘“Foreign agent” (NGO)’, *Inoteka*, 1 October 2021. Available at: <https://inoteka.io/ino/foreign-agents-en>

²⁴ Damelya Aitkhozhina, ‘New ‘Undesirable’ Law Expands Activists’ Danger Zone’, *The Moscow Times*, 17 June 2021. Available at: <https://www.themoscowtimes.com/2021/06/17/new-undesirables-law-expands-activists-danger-zone-a74244>.

²⁵ ‘Russia Designates Another Rights Organization as ‘Undesirable’, *Human Rights Watch*, 24 January 2023. Available at: <https://www.hrw.org/news/2023/01/24/russia-designates-another-rights-organization-undesirable>.

²⁶ ‘Russia Labels U.S.-Based Sakharov Foundation ‘Undesirable’, *The Moscow Times*, 24 January 2023. Available at: <https://www.themoscowtimes.com/2023/01/24/russia-labels-us-based-sakharov-foundation-undesirable-a80022>.

²⁷ CEELI Institute, ‘Our Statement Regarding the Russian Federation’s Decision to List the CEELI Institute as an “Undesirable Organisation”’, 15 July 2022. Available at: <https://ceeliinstitute.org/our-statement-regarding-the-russian-federations-decision-to-list-the-ceeli-institute-as-an-undesirable-organisation/>.

- ²⁸ Criminal Code of the Russian Federation, Article 280.3. Available at: <https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp>.
- ²⁹ Criminal Code of the Russian Federation, Article 280.3. Available at: <https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp>.
- ³⁰ Criminal Code of the Russian Federation, Article 280.3. Available at: <https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp>.
- ³¹ Criminal Code of the Russian Federation, Article 280.3. Available at: <https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp&url=https://rulaws-ru.translate.google.com/ru/translate?sl=ru&tl=en&hl=en-US&pt=wapp>.
- ³² 'The Russian Federation: Arbitrarily detained lawyer Dmitry Talantov must be released', *International Commission of Jurists*, 29 June 2022. Available at: <https://www.icj.org/the-russian-federation-arbitrarily-detained-bar-association-president-dmitry-talantov-must-be-released/>.
- ³³ <https://lawyersforlawyers.org/en/statement-on-the-judicial-harassment-of-ivan-pavlov/>
- ³⁴ 'Kaliningrad lawyer was convicted for quoting the defendant', *Activatica*, 20 September 2022. Available at: https://vk.com/wall-61949408_31862?lang=en.
- ³⁵ 'Repressions in Russia in 2022: OVD-Info overview', *OVD-Info*. Available at: <https://en.ovdinfo.org/repressions-russia-2022#1>.
- ³⁶ 'Almost 2,000 Russians arrested on the first day of anti-war protests', *OVD-Info*, 27 February 2022. Available at: <https://en.ovdinfo.org/almost-2000-russians-arrested-first-day-anti-war-protests>; 'Russia: Arbitrary Detentions of Anti-War Protesters', *Human Rights Watch*, 26 February 2022. Available at: <https://www.hrw.org/news/2022/02/26/russia-arbitrary-detentions-anti-war-protesters>.
- ³⁷ 'Handcuffed, accused of defending Nazis, and threatened with criminal prosecution: In St. Petersburg, police rough up a lawyer working with OVD-Info', *OVD news*, 12 March 2022. Available at: <https://ovd.news/news/2022/03/12/handcuffed-accused-defending-nazis-and-threatened-criminal-prosecution-st-petersburg>.
- ³⁸ UN Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its ninety-fifth session, 14–18 November 2022, Opinion No. 78/2022 concerning Alexey Gorinov (Russian Federation), 17 March 2023. Available at: <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session95/A-HRC-WGAD-2022-78-AEV.pdf>.
- ³⁹ 'Russia: Municipal councillor sentenced to seven years in jail for opposing the Ukraine war', *Amnesty International*, 8 July 2022. Available at: <https://www.amnesty.org/en/latest/news/2022/07/russia-municipal-councillor-sentenced-to-seven-years-in-jail-for-opposing-the-ukraine-war/>.