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Human rights situations that require the Council's attention

Joint written statement* submitted by Lawyers' Rights Watch Canada, International Bar Association, Lawyers for Lawyers, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[9 August 2023]

* Issued as received, in the language of submission only.



The Russian Federation’s Systematic Restrictions and Repressive Actions against Human Rights Lawyers

After the Russian Federation launched its war of aggression against Ukraine on 24 February 2022, it intensified its unlawful restrictions on the ability of lawyers to fulfill their professional obligations and their rights to freedom of expression and assembly. The Russian Federation’s systematic restrictions and repressive actions against human rights lawyers are a fundamental component of its suppression of opposition to its invasion of Ukraine. The Russian Federation’s actions violate international law and standards, including the Russian Federation’s obligations under the International Covenant on Civil and Political Rights, including Articles 14, 19, 21, and 25, and the UN Basic Principles on the Role of Lawyers, Principles 1-2, 5, 7-8, 16-21, and 23.

Systematic Restrictions against Lawyers

Systematic restrictions against lawyers include:

- lawyers have been denied access at least 275 times to clients held in police stations for peacefully protesting the invasion;(1)
- delaying lawyers access to clients until after police have completed interrogations and official reports;(2)
- denying lawyers access to clients allegedly on orders from police superiors;(3)
- falsely telling lawyers clients were not in custody when, in fact, they were being questioned and reports issued;(4) and
- denying lawyers access to clients, falsely claiming their clients had refused or failed to request legal services.(5)

Repressive Actions against Individual Lawyers

The Russian Federation has deployed repressive measures against Russian human rights lawyers designed to create a chilling climate and prevent them from defending clients prosecuted for exercising fundamental rights to freedoms of expression and assembly. Repressive actions include:

- designating Russian lawyers or legal advocacy groups as “foreign agents”(6) or “undesirable organizations;”
- unjustified disbarment;(7)
- fining or imprisoning lawyers under administrative or criminal laws, enacted after the Russian Federation’s invasion of Ukraine, that prohibit “discreditation” of the use of Russian Armed Forces;(8) and
- charging lawyers with disobeying or assaulting a police officer when, in fact, they were seeking access to clients held in police stations.

Below are examples of restrictions and punishment of lawyers and legal advocacy groups for performing their legitimate professional duties:

Agora

In June 2023, Russian authorities designated Agora – a human rights group – as an “undesirable organization.” Agora is an independent association of lawyers providing legal advocacy for journalists, opposition activists and victims of suspected rights abuses. As a result of this designation, Agora’s activities are illegal, and it has been forced to close.(9) Agora was designated a “foreign agent” in 2014.

Galina Arapova

Galina Arapova is a founder and senior lawyer at the Mass Media Defence Centre, a Russian non-governmental organization that promotes freedom of expression and media protection. She has defended journalists and media outlets before Russian courts and the European Court of Human Rights. Arapova was the first Russian lawyer designated as a “foreign agent,” which requires her to include disclaimers about her “foreign agent” status on all her publications. She is precluded from teaching the university course she taught on the regulation of journalism and the internet and must submit reports on her income and expenses.(10)

Mikhail Benyash

In April 2022 human rights lawyer Mikhail Benyash was charged with discrediting the Russian armed forces under Code of Administrative Offences (CAO) Article 20.3.3 after making a February video criticizing the war. The case was closed due to expiry of the CAO’s 60-day limitation period.(11) In October 2022, Russian authorities designated him a “foreign agent.” In November 2022, he was again charged under Article 20.3.3 and fined for 20 posts on his Telegram channel saying “no war.”(12) In February 2023, he was disbarred for criticizing the Ministry of Justice and the Bar Association on his Telegram channel. In March 2023, he was convicted and fined in a retrial for allegedly assaulting policemen who tried to arrest him in 2018.(13) His prior conviction had been overturned on appeal and a retrial ordered. The retrial was based on the same flawed evidence used to convict Benyash in 2019, which Trial Watch found to be “riddled with abuses,” including evidence that the policemen had, in fact, assaulted Benyash. He had been representing peaceful anti-war protesters and soldiers who refused to fight in Ukraine.(14)

Maria Bontsler

Maria Bontsler, a human rights lawyer, was charged with discrediting the use of the Russian Armed Forces while defending clients charged for their peaceful anti-war activities. In courtroom statements she used the words “war” and “invasion” and was fined 30,000 rubles for each statement.(15)

Bakrom Khamroev

On 23 May 2023, a Moscow court sentenced Bakhrom Khamroev, a human rights lawyer and former member of Memorial Human Rights Centre, to 14 years in prison for “justification of terrorism” for Facebook posts allegedly supporting the Islamic movement Hizb ut-Tahrir and for allegedly participating in activities of a terrorist organization.(16) Khamroev’s legal work involved defending rights of Asian and Russian Muslims.

Memorial Human Rights Defence Centre

Memorial Human Rights Defence Centre (Memorial Defence) conducts human rights advocacy, including legal aid for persons facing arbitrary actions of law enforcement or State agencies. It was founded in June 2022 as a successor to the Memorial Human Rights Centre, which had been forcibly dissolved in December 2021 for failing to label their social media accounts in compliance with their 2014 designation as “foreign agents.” In March 2023, authorities raided the homes of nine Memorial officials, including Memorial Defence co-chair, Oleg Orlov. Most were reportedly denied the presence of their lawyers during the raids despite their lawyers’ presence outside their addresses.(17) At least three criminal cases have been opened against Memorial officials, including Orlov, who is charged with repeatedly discrediting the Russian Armed forces; he had twice previously been fined for discreditation under CAO Article 20.3.3.(18)

Ivan Pavlov

Human rights lawyer Ivan Pavlov represented in court the Anti-Corruption Foundation founded by imprisoned opposition politician Alexei Navalny. In April 2021, employees of the Investigative Committee and the Federal Security Service of the Russian Federation searched Pavlov's hotel room and seized information constituting confidentiality between the lawyer and the client. Subsequently, he was charged with disclosing the data of the preliminary investigation in the case of his client Ivan Safronov, a journalist who was subsequently sentenced to 22 years in prison on charges of high treason.⁽¹⁹⁾ In September 2021, Pavlov was forced to leave the Russian Federation, and in November 2021, the Russian authorities declared Pavlov a “foreign agent.”⁽²⁰⁾ In 2022, the UN Human Rights Committee (HRCttee) expressed concern about reports that lawyers, including Pavlov, faced “unjustified disciplinary proceedings and even criminal prosecution....”⁽²¹⁾

Dmitry Talantov

Dmitry Talantov, a human rights lawyer and President of the Republic of Udmurtia of the Russian Federation Bar Association, was arrested in June 2022 and charged with disseminating “false information” about Russian Armed Forces in a Facebook post criticizing Russia’s invasion of Ukraine. Authorities denied Talantov access to his lawyer and barred his lawyer’s presence during police questioning. Authorities searched four premises connected with Talantov in violation of Russian law on advocate-client confidentiality.⁽²²⁾ On 20 April 2023, the court continued his detention.⁽²³⁾ In December 2022, the Human Rights Committee expressed concern about the proceedings against Talantov.⁽²⁴⁾

Valeria Vetoshkina

Valeria Vetoshkina was designated a “foreign agent” in February 2022 due to her professional activities as a lawyer defending people accused of treason and extremism. Her receipt of payment from a foreign client and her interviews with non-State-owned media were deemed as being under foreign influence. Vetoshkina has been unable to continue working as a lawyer in the Russian Federation and left the country.⁽²⁵⁾

Recommendations

We recommend that the Human Rights Council:

1. Request that the Special Rapporteur on the situation of human rights in the Russian Federation collect, examine, assess and report to the Council, making recommendations to address violations of lawyers’ rights.
2. Urge the Russian Federation to:
 - a. Cease its practice of designating Russian lawyers and legal advocacy groups as “foreign agents” or “undesirable organizations,” and remove all such designations;
 - b. Release and withdraw fines and charges against all lawyers detained, charged, or convicted of offences regarding anti-war expression; and
 - c. Comply with international human rights laws and standards including the ICCPR and Basic Principles on the Role of Lawyers.

OVD-Info, NGO(s) without consultative status, also share the views expressed in this statement.

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19. L4L, LRWC, 5 May 2021, https://www.lrwc.org/wp-content/uploads/2021/05/L4L.LRWC_.Statement.Russia.Ivan-Pavlov.F.Errata.pdf
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