

Mandates of the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
AL RUS 6/2021

26 May 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 44/8 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of Mr. **Ivan Pavlov**, allegedly in connection to the legitimate exercise of his professional activities as a lawyer for the defence of a well-known opposition leader.

According to the information received:

Ivan Pavlov is a prominent human rights lawyer and head litigator of human rights organization Team 29. Ivan Pavlov and his colleagues from Team 29 are also representing the Anti-Corruption Foundation (FBK) and the Citizens' Rights Defense Foundation (FZPG) in a case filed by a prosecutor in Moscow requesting the groups be labelled as an "extremist" organisation. Through his role with Team 29, Mr. Pavlov also represents an influential investigative journalist facing treason charges allegedly as a result of his professional activities, as well as those wrongly accused by security services of disclosing state secrets, high treason and espionage. Mr. Pavlov has also contributed to the development of Russian legislation on the freedom of information, and was the recipient of the Moscow Helsinki Group Award for defending human rights in court in 2015 and the Alison Des Forges Award for Extraordinary Activism in 2018.

On 30 April 2021, Federal Security Service (FSB) officers searched the hotel room of Mr. Pavlov in Moscow, where he was located. At the same time, FSB officers also searched Mr. Pavlov's home and the office of Team 29, both in St. Petersburg, and his summer cottage in the Leningrad Region. During the search, FSB officers allegedly seized most documents related to an ongoing politically-sensitive case he is working on, including information subject to lawyer-client confidentiality.

Following the search of his hotel room in Moscow, Mr. Pavlov was detained and taken to the Investigative Committee for interrogation. After the interrogation, Mr. Pavlov was charged under Article 310 of the Criminal Code of the Russian Federation, with "disclosure of the data of a preliminary investigation," and faces up to 3 months of detention and disbarment if convicted.

Later the same day, Mr. Pavlov was taken to the Basmanny Court of Moscow for a hearing. Upon request of the prosecutor, the Basmanny Court of Moscow issued a ruling adopting restrictive measures against Mr. Pavlov. According to the measures, Mr. Pavlov is prohibited from using almost all means of communication, including the Internet, for any purpose, as well as from communicating with witnesses in connection to a politically-sensitive criminal case he is working on. Mr. Pavlov was released from detention after the hearing.

On 3 May 2021, Mr. Pavlov appealed against these restraint measures. He is currently waiting for the court to appoint a hearing date.

While we do not want to prejudge the accuracy of these allegations, we express our serious concerns at the alleged intimidation and harassment against Mr. Pavlov in connection with the legitimate exercise of his professional activities for the defence of a prominent political figure in the Russian Federation. In this regard, it was brought to our attention that the search and arrest happened four days after Mr. Pavlov announced it would be representing the interests of the Anti-Corruption Foundation, the organization run by a well-known Russian opposition leader, in a case launched by prosecutors to designate the Foundation as an “extremist” group. The arrest of Mr. Pavlov allegedly occurred the day after he challenged the secrecy of the evidence in this case. Additionally, it is reported that Mr. Pavlov’s arrest took place hours before he was scheduled to appear in court to represent his client in a politically-sensitive criminal case. It is also reported that he had been previously threatened with prosecution by FSB officials.

If confirmed, the events described above would amount to a serious breach of a number of international and regional standards relating to the free and independent exercise of the legal profession. According to these standards, States must put in place all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference. In particular, lawyers must not be subject to, or threatened with, prosecution or any administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics, and should never be identified with their clients or their clients’ causes in the discharge of their professional duties.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the factual and legal basis for the searches and arrest of Mr. Pavlov, and explain how they could be

regarded as being in conformity with international standards relating to the free and independent exercise of the legal profession.

3. Please explain whether Mr. Pavlov had been informed about the rationale for the searches against him, and explain whether he had prompt access to his legal counsel during the interrogation and following his arrest.
4. Please explain how the restraint measures taken against Mr. Pavlov could be regarded as being proportional with the offence allegedly perpetrated by the victim, and in line with existing international standards on the exercise of the legal profession.
5. Please provide updated information on the ongoing criminal prosecution of Mr. Pavlov.
6. Please provide information on the steps your Excellency's government have implemented to ensure that human rights defenders working in the Russian Federation can do so in a safe and secure environment, free from threats, harassment or criminalization.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw your attention to the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, and to the Basic Principles on the Role of Lawyers.

Article 14 of the ICCPR provides a set of contain procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing.

In its General Comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14 (3) (b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. They should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34).

I would also like to refer your Excellency’s Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990.

Principle 16 requires governments to take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to prevent that lawyers be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Principle 18 specifies that lawyers are not to be identified with their clients or their client’s causes as a result of their professional functions.

Furthermore, we bring to your attention the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We also refer to Article 5 (b) and (c), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental or intergovernmental organizations and article 11 which provides that everyone has the right, individually or in association with others, to the lawful exercise of their profession.