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Rule of Law I¹

Protection of lawyers is one of the main pillars that guarantees rule of law.

In Russia, many experienced practicing lawyers consider the situation in respect of lawyers' rights, including personal security, even worse nowadays than it was during the Soviet era.

In this submission several aspects of lawyers' activities in which they are confronted with severe interference and obstacles, are highlighted.

First, it should be emphasized that the authorities not only restrict lawyers' work, but also violate their fundamental rights, such as the right to personal security and even the right to life. Just a few days ago, a Krasnodar lawyer, Mikhail Benyash, was arrested and brutally beaten by the Russian police. The lawyer was forced into a car without any explanations, where he was beaten, handcuffed, taken to a police station, where he was literally thrown to the ground, and after taken to an investigator, threatened and humiliated by the police officers. The lawyer was so severely beaten that the authorities had to call an ambulance several times. For many hours, various Russian lawyers tried to have a meeting with him, but in vain. Today Mikhail was sentenced to 14 days of administrative arrest.

Another example of harassment of a lawyer is the case of Ms. Baskaeva, who was kidnapped by the police from a Moscow region policlinic and driven by car to Vladikavkaz. Vladikavkaz is more than 1700 km from Moscow, and for a woman over 60, who had been discharged from hospital the day before the arbitrary arrest, to be driven this distance handcuffed, with the drivers smoking all the time, should be considered torture.

Another well-known case of a human rights lawyer's arbitrary arrest and detention is that of the head of Memorial Human Rights Centre in Chechnya, Mr. Oyub Titiyev, who remains under detention notwithstanding the calls of various international organizations for his immediate release.

With respect to personal security, it should also be mentioned wide-spread searches at lawyers' offices. Dozens of lawyers' offices were arbitrarily searched by the authorities. Many of the lawyers, finding no redress at national level, turned to the EC(t)HR.

¹ This submission is based on information possessed by the Centre de la protection internationale as well as other trustful recourses.

Personal searches of lawyers are also often conducted in Russia, especially at airports. The situation with personal search of lawyers who work in the republics of the North Caucasus is alarming. For example, in the pre-trial detention centre, in Makhachkala, they have so called “G” block where they keep defendants who have been charged for committing such grave crimes as preparation of a terrorist attack, participation in illegal armed groups, etc. In this pre-trial detention facility, a lawyer who has a meeting with a defendant in “G” block is subjected to a head-to-toe search before and after the meeting. Furthermore, the authorities often look through all of the lawyers’ records and documents when they have meeting with clients kept in “G” block.

Some obstacles that Russian lawyers encounter in their work

Interrogation of lawyers as witnesses.

Recently, to prevent qualified lawyers from defending clients, the investigative bodies summon the lawyers as witnesses, which make them ineligible to defend their clients, even if the lawyers do not appear or give any witness statement and testimony.

The absence of appropriate conditions for meetings with lawyers in detention centres and prisons

Though the RF Code of Criminal Procedure guarantees the right of a suspect or defendant to private and confidential meetings with a lawyer, without limits on the number and time of such meetings, in practice, a lawyer’s access to the client is not ensured.

For example, in Moscow in some remand prisons queuing for hours to meet a convict or detainee is a common practice. In some pre-trial detention centres, lawyers have to participate in a sortition to meet with their clients. Furthermore, even if a lawyer is registered in advance for a meeting with a client, the prison administration may deny the meeting on the grounds that there are no vacant seats in the office for meetings with lawyers, or the head of the prison is absent and cannot authorize the meeting. In some cases, lawyers report that meetings were not allowed as their clients had been beaten.

In some detention centres lawyers cannot get in for months.

Breach of the confidentiality principle

Though the principle of confidentiality of client-lawyer communication is guaranteed *de jure*, often it is not respected *de facto*.

As was mentioned, quite frequently, detention centres and prisons do not provide a vacant room for lawyers’ communication with those under detention, and the lawyers are forced to communicate with their clients through a glass wall and on the phone in the common visiting room

in the presence of guards. There are no proper conditions in courts for confidential communication between detainees and their lawyers.

Interference with lawyers' access to documents and case files

The lack of the possibility for lawyers to obtain information of restricted-access, enshrined in the national legislation, hinder Russian lawyers' ability to provide effective legal assistance, especially in high-profile cases.

Furthermore, the right to a lawyer's inquiry is declarative because responsibility for non-provision of the requested information is not provided by the Russian legislation.

As to the access to the case file, a legal professional who did not represent a victim of human rights violations before the national court but later represents the person before an international judicial and/or quasi-judicial body (e.g. the European Court of Human Rights or the UN Human Rights Committee), is unable to gain direct access to the case file that had been considered by the domestic court.

This becomes a serious problem if the person, whose rights need to be protected before the international body, is in custody.

Despite all these problems, Russian lawyers continue to endeavor to protect human rights at national and international levels, and maintain the hope that the above-mentioned and many other obstacles will be removed and they will enjoy all their professional rights.

Centre de la protection internationale calls upon all the OSCE contracting States to use every and all means to urge the Russian authorities to change the practices against Russian lawyers and fully respect their professional rights, as otherwise, protection of internationally recognized human rights and freedoms in the territory of the Russian Federation will be under risk.