



Russian Federation

Mid-term Report - Review of the implementation of recommendations with respect to the rule of law and the role of human rights defenders accepted by the Russian Federation during the UPR in 2018

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I. Introduction

1. The Foundation *Lawyers for Lawyers* (L4L) seeks to assess the human rights performance of states with respect to the rule of law and the role of lawyers through the Universal Periodic Review (UPR). During the UPR of the Russian Federation in 2018, the government of the Russian Federation received and accepted recommendations concerning lawyers. In this mid-term report, L4L reviews the extent to which these recommendations have been implemented.
2. **Please note that the summaries of individual cases in this report contain only information already available from public sources.**

II. Executive Summary

3. During the 2018 UPR, the Russian Federation received and accepted two (2) recommendations with respect to the effective protection of lawyers, including one with regard to the investigation of all reports of attacks on, or threats against lawyers, and one with regard to the safeguarding of the freedom of association of lawyers.¹ In this mid-term report L4L finds these recommendations have not been (sufficiently) implemented by the Russian Federation and urges the Russian Federation to take further action on the implementation of these two recommendations.

III. Recommendations

4. L4L urges the authorities of the Russian Federation to:
 - investigate all reports of attacks on, or threats against lawyers and to bring those responsible to justice in a timely manner;
 - guarantee that lawyers can perform all of their professional functions without intimidation, hindrance, harassment or improper interference;
 - implement recommendation 147.127 fully and without any delay.
5. L4L urges the authorities of the Russian Federation to:
 - safeguard the freedom of association, as prescribed in the Constitution, of the lawyers, in line with Preamble, and Principles 23 and 24 of the Basic Principles;
 - implement recommendation 147.163 fully and without any delay.

IV. UPR recommendations accepted by the Russian Federation in 2018

6. During the 2018 UPR cycle, the Russian Federation received and accepted one recommendation to investigate all reports of, and to bring to justice those responsible of **attacks on, or threats against lawyers** (emphasis: L4L):

*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; (147.127 - Norway);***

¹ UPR Info, Responses to Recommendations Russian Federation Session 30, 14 May 2018-21 September 2018, https://www.upr-info.org/sites/default/files/document/russian_federation/session_30_-_may_2018/russian_federation_2rp.pdf: 11.

7. The Russian Federation also received and accepted one recommendation to safeguard the **freedom of association of the lawyers** (emphasis: L4L):

*Safeguard the freedom of association of all its people, as prescribed in the Constitution, including of journalists, **lawyers** and human rights defenders (147.163 - Botswana);*

8. L4L concludes these two recommendations have not been fully implemented as of March 2021, for the following reasons.

V. Effective mechanisms for the protection of human rights

9. The adequate protection of human rights and fundamental freedoms requires that every citizen 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 able to carry out their professional activities independently and without external pressures and interference.² This follows from – amongst other international instruments - the International Covenant on Civil and Political Rights (ICCPR) and the UN Basic Principles on the Role of Lawyers (Basic Principles), which are based on and refer to *inter alia* the ICCPR and the Universal Declaration of Human Rights.³
10. In its task of promoting and ensuring the proper role of lawyers, the government of the Russian Federation should respect the Basic Principles and take them into account within the framework of its national legislation and practice. Adherence to the Basic Principles is considered a fundamental pre-condition for fulfilling the requirement that all persons have effective access to legal assistance and representation⁴.
11. L4L welcomes the acceptance by the Russian Federation of recommendation 147.127 and its agreement to investigate all reports of attacks on, or threats against lawyers, and to bring those responsible to justice. In response to this recommendation, the government of the Russian Federation noted:

*"Everybody is equal before the law and court in the Russian Federation. Any unlawful acts, regardless of the social or other group, the representatives of which it has been perpetrated against, is duly acted upon by the authorities and law enforcement agencies, and the perpetrators are brought to justice."*⁵
12. L4L furthermore welcomes the acceptance by the Russian Federation of recommendation 147.163, implying its agreement that it is bound to safeguard the freedom of association of all of its people, including of lawyers, as prescribed in the Constitution of the Russian Federation.

² Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, submitted in accordance with Human Rights Council resolution 8/6, 28 July 2009, A/64/181 , par. 12: "*Lawyers are not expected to be impartial in the manner of judges yet they must be as free as judges from external pressures and interference. This is crucial if litigants are to have trust and confidence in them*".

³ UN Basic Principles on the Role of Lawyers, Principle 16 in particular: Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) 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.

⁴ Basic Principles, Preamble and paragraph 8 in particular.

⁵ Annex 1 to the Outcome of the review, see no. 147.127 in conjunction with no. 147.123 (available at https://lib.ohchr.org/HRBodies/UPR/Documents/Session30/RU/A_HRC_39_13_Add.1_RussianFederation_Annex_E.docx)

13. The acceptance of the abovementioned recommendations and the response to recommendation 147.127 by the Russian Federation are *prima facie* encouraging. However, considering its obligations under the applicable norms of human rights law the Russian Federation is bound to take concrete actions to implement the recommendations which it has accepted. Unfortunately, L4L has gathered significant amounts of information, including information from lawyers in the Russian Federation, from which it follows that the accepted recommendations have not been (fully) implemented. L4L must conclude that in practice, the authorities of the Russian Federation do not always uphold the necessary guarantees for the proper functioning of the legal profession. As a consequence, lawyers encounter difficulties in carrying out their profession independently.

VI. The investigation of all reports of, and the bringing to justice of those responsible of attacks on, or threats against lawyers

a. Harassment and criminal prosecution of lawyers

14. L4L has long been concerned about attempts 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 political dimension.⁶ The Russian Federation has repeatedly violated the rights of lawyers who are simply executing their professional activities.

15. In accordance with Principle 16(a) of the Basic Principles, UN Member States must ensure that lawyers “are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference”.⁷

16. Since the adoption of the aforementioned recommendations on the rights of lawyers in May 2018, new cases of harassment of lawyers by the authorities of the Russian Federation have come to the attention of L4L. These cases also show that lawyers are subjected to physical attacks in connection to their professional activities.⁸ According to our information, the Russian authorities have not always ensured an effective, prompt, impartial and transparent investigation and prosecution of all alleged attacks, threats and violence against lawyers to guarantee the functioning of lawyers. This is illustrated by the following cases:

A. Mikhail Benyash

For a decade, defence lawyer Mikhail Benyash has been working on civil and criminal cases in Sochi (Krasnodar Region of the Russian Federation). In the context of authorities’ reluctance or outright refusal to allow peaceful protests, Mikhail Benyash has been providing legal assistance to the participants of protests for which the authorities did not grant a permit. He has also attended a number of protests in order to monitor and prevent police brutality.⁹

⁶ See for example:

- “Human Rights Committee Consideration of the Seventh Periodic Report of the Russian Federation,” Lawyers for Lawyers, <https://lawyersforlawyers.org/wp-content/uploads/140425-L4L-Submission-list-of-issues-Russian-Federation.pdf>.
- “UPR mid term report,” Lawyers for Lawyers, accessed 19 October, 2019, <https://lawyersforlawyers.org/en/russian-federation-upr-mid-term-report/>.
- “Submission to UN Human Rights Committee,” Lawyers for Lawyers, <https://lawyersforlawyers.org/submission-to-un-human-rights-committee/>.

⁷ Basic Principles article 16 (a).

⁸ The Basic Principles provide in principle 16(c) that “[G]overnments shall 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”

⁹ “Михаил Беньяш не верит в «Крепость»,” https://www.kommersant.ru/doc/3903895?from=doc_vrez and “«Это была организованная полицейская провокация,»” <https://www.kommersant.ru/doc/4019003>.

On 9 September 2018, Mikhail Benyash was violently arrested after going to the city of Krasnodar to provide legal assistance to participants in a peaceful rally against pension reforms. During his arrest he has allegedly been beaten and choked by police officers, who initially did not introduce themselves and were wearing civilian clothes. After he was brought to the police station, his own lawyer was denied access to him for several hours. On 11 September 2018, he was charged with "*resisting the police's legitimate orders*" and he was sentenced to 14 days of "*administrative detention*". On 23 September 2018, the day of his release, Mikhail Benyash was charged with "*violence against a representative of authority*". A charge not raised at the time of his earlier conviction of "*resisting the police's legitimate order*" in relation to the same incident. The Investigative Committee claimed that Mikhail Benyash hit a police officer in the face three times and bit him on the arm. On 11 October 2019, he was found guilty of this charge and was fined 30 000 RUB.¹⁰

B. Lyudmila Aleksandrova

Lyudmila Aleksandrova is a lawyer working in the Krasnodar region. There have been several cases of harassment of human rights lawyers in this region. She is representing the defence's only witness in the case of Mikhail Benyash.¹¹

On the night of 4 November 2018 Aleksandrova's car, which was parked next to her house, was set on fire. Her neighbors quickly noticed the fire and further damage to cars parked nearby or houses could be prevented. According to Lyudmila Aleksandrova, the damage that the incident caused her amounts to 500 000 RUB (around 6 600 EUR).

Three days before the incident Lyudmila Aleksandrova represented her client in the case of Benyash. On 9 September 2018 Mikhail Benyash was violently arrested, while attempting to provide legal assistance to participants in a peaceful rally against pension reforms. Lyudmila Aleksandrova's client witnessed the ill-treatment of Mikhail Benyash by the police.

Lyudmila Aleksandrova has previously been harassed. In the period 2008-2016 her defence lawyer's licence was withdrawn following a criminal conviction for slander in connection to her complaint to the President of Russia about raids by militia.¹²

C. Irina Biryukova

Irina Biryukova is a human rights lawyer with Public Verdict Foundation, which raises awareness of human rights violations committed by law enforcement agents, contributes to ensure public oversight of places of detention in the Russian Federation and provides victims who have suffered abuse by law enforcement with legal help.¹³

¹⁰ "Lawyer Mikhail Benyash indicted," Lawyers for Lawyers, accessed 19 October, 2021, <https://lawyersforlawyers.org/lawyer-mikhail-benyash-indicted/>. ; "Judicial harassment of Mikhail Benyash," Front Line Defenders, accessed 19 October, 2021, <https://www.frontlinedefenders.org/en/case/judicial-harassment-mikhail-benyash>.

¹¹ "В Краснодаре подожгли автомобиль адвоката по делу Михаила Беньяша," <https://theins.ru/news/125751> and "В Краснодаре подожгли машину адвоката, представляющего интересы свидетеля по делу Беньяша," <https://golos-kubani.ru/v-krasnodare-podozhgli-mashinu-advokata-predstavlyayushhego-interesy-svidetelya-po-delu-benyasha/>.

¹² "Human rights lawyer's car set on fire," Lawyers for Lawyers, accessed 19 October, 2021, <https://lawyersforlawyers.org/en/human-rights-lawyers-car-set-on-fire/>.

¹³ "Адвокат, добывшая видео с пытками в ярославской ИК-1, спешно покинула Россию из-за угроз," <https://rtvi.com/broadcast/my-znaem-cto-epizodov-budet-eshche-bolshe-intervyu-advokata-iriny-biryukovoy/>.

On 20 July 2018, a Russian newspaper published a video showing the torture of Evgeny Makarov, a detainee in prison colony N1 in Yaroslavl and client of Irina Biryukova. The video had been leaked to Irina Biryukova who then gave it to the press. Two days after a newspaper published the video, a confidential source close to the prison administration informed Irina Biryukova that her physical safety was in danger and she also began to receive threats on social media. After the Investigative Committee of the Yaroslavl region decided to deny state protection to her and her daughter due to the “*unpersonalised nature of threats*”, Irina Biryukova had to flee the country. In November 2018, Irina Biryukova was notified that state protection measures to her and her daughter were applied after Irina Biryukova appealed the previous decision of the Investigative Committee of the Yaroslavl region.¹⁴

D. Dmitriy Sotnikov

On 12 September 2019, Moscow-based lawyer Dmitriy Sotnikov was blocked by a court officer from entering the courtroom to represent his client at the Novomoskovsk District Court. While attempting to enter the room again, he was pushed face down by the officer and handcuffed. After having spent eight hours in the local department of the Investigative Committee without being officially registered, Dmitriy Sotnikov inquired whether he was officially in custody. On being told that he was not, he attempted to leave and was reportedly again, attacked, this time by investigators, who beat him on the head and slammed a door shut on his fingers. Consequently, Dmitriy Sotnikov sustained injuries from both incidents and had to undergo medical treatment for the same.¹⁵

E. Marina Dubrovina

Marina Dubrovina is a human rights defender and lawyer who has worked on many politically motivated cases in the North Caucasus. Marina Dubrovina works in close cooperation with the Human Rights Centre “Memorial” in the Krasnodar region. Memorial is a human rights organisation that provides legal assistance to victims of gross human rights violations and is involved in the human rights education, research and publications.¹⁶ Marina Dubrovina has served a defence counsel in the case of Ukrainian Mr Nikolai Karyuk and Mr Stanislav Klykh, who have allegedly been involved with “Ukrainian National Assembly-Ukrainian People’s Self-Defence (UNA-UNSO)”, an organisation recognized as nationalist in Russia.

On 6 February 2020, a group of unknown individuals violently attacked Marina Dubrovina in Grozny, Chechnya. Marina Dubrovina was, together with the journalist Elena Milashina, in Grozny for the court hearing of Islam Nukhanov, who had been illegally detained and tortured in the basement of the Department of the Ministry of Interior in Grozny after uploading a video on YouTube showing the luxurious houses of the head of the Chechen Republic, Ramzan Kadyrov, and his allies. The group of more than 15 unknown individuals, both men and women, surrounded Marina Dubrovina and Elena Milashina in the lobby of the Continent Hotel in Grozny. The group violently hit and kicked the women, threw Marina Dubrovina on the ground, hit her head against the marble floor and filmed it with a mobile phone. After the attack, Marina Dubrovina was denied medical

¹⁴ “Threats against Irina Biryukova,” Front Line Defenders, accessed 19 October, 2021, <https://www.frontlinedefenders.org/en/case/threats-against-irina-biryukova>.

¹⁵ “The Russian Federation: use of physical force against lawyer must be investigated,” International Commission of Jurists, accessed 19 October, 2021, <https://www.icj.org/the-russian-federation-use-of-physical-force-against-lawyer-must-be-investigated/> and “Повалили, начали душить, заковали в наручники,” <https://novayagazeta.ru/articles/2019/09/14/81967-povalili-nachali-dushit-zakovali-v-naruchniki>.

¹⁶ “Адвокат Марина Дубровина обратилась в СК с заявлением о предоставлении ей госзащиты после нападения в Чечне,” <https://novayagazeta.ru/news/2020/03/06/159593-advokat-marina-dubrovina-obratilas-v-sk-s-zayavleniem-o-predostavlenii-ey-goszaschity-posle-napadeniya-v-chechne>.

examination by a neurosurgeon in Grozny, who said that she looked fine. When Marina returned to her hometown from Chechnya, she was diagnosed with concussion of the brain. Both Marina Dubrovina and Elena Milashina reported the attack to law enforcement bodies in Chechnya.

Marina Dubrovina believes that the attack is linked to her professional activity. She currently works on four criminal cases in Chechnya. Her clients are individuals who had been abducted, illegally detained and tortured. Marina Dubrovina has been repeatedly threatened for representing defendants in Chechnya. When representing the Ukrainian political prisoner Stanislav Klykh, she was subjected to a defamation campaign aimed at discrediting the lawyers and journalists working on the case. Dubrovina and her colleagues were repeatedly accused on Chechen State Television and Radio Company "Grozny" of collaborating with the enemies of the Republic and criticizing the judicial system of Chechnya. In May 2016, Marina Dubrovina and another human rights lawyer (Dokka Itslaev) were threatened with losing their lawyer's licenses after the Supreme Court of Chechnya found them guilty of "*discrediting the honor and dignity of a lawyer*".

Following the attack on 6 February 2020, the Commissioner for Human Rights has called on the Russian authorities to investigate the attack against lawyer Marina Dubrovina and journalist Elena Milashina.¹⁷

F. Ratmir Zhilokov, Diana Tsipinova, Ludmila Kochesokova and Natalya Magova

On 21 May 2020, the authorities in the Kabardino-Balkaria Republic (KBR), located in the North Caucasus, used physical force against lawyers Diana Tsipinova, Ludmila Kochesokova and Natalya Magova who were trying to provide legal assistance to their colleague Ratmir Zhilokov.¹⁸ Ms. Tsipinova resisted the force used against her and was consequently detained and threatened with sexual assault. The KBR Investigative Committee charged her and Mr. Ratmir Zhilokov with the criminal offence of using violence against an officer.

Moreover, during a court hearing concerning pre-trial restrictions that took place on 30 May, a restraining order of 2 months was issued against Ms Tsipinova and Mr. Ratmir Zhilokov. The order amounted to a house arrest and preventing the lawyers from performing their professional activities.¹⁹

VI. Freedom of association of lawyers

17. Finally, according to Principle 23 of the Basic Principles, governments shall ensure that lawyers, like other citizens, are entitled to freedom of, inter alia, association and assembly. This principle further provides that lawyers "*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 organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.*" Principle 24 of the Basic Principles furthermore provides that "*lawyers*

¹⁷"Commissioner calls on the Russian authorities to investigate assaults against journalist Elena Milashina and lawyer Marina Dubrovina in Chechnya," Council of Europe, accessed 19 October, 2021, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-the-russian-authorities-to-investigate-assaults-against-journalist-elena-milashina-and-lawyer-marina-dubrovina-in-chechnya>.

¹⁸"Адвокатское сообщество очень возмущено». В КБР против адвокатов, пожаловавшихся на полицейское насилие, возбудили дело о насилии в отношении полицейских," <https://zona.media/article/2020/05/29/kbr>.

¹⁹"Адвокаты АП КБР рассказали подробности о недопуске в отдел полиции к задержанному коллеге," <https://www.advgazeta.ru/novosti/advokaty-ap-kbr-rasskazali-podrobnosti-o-nedopuske-v-otdel-politsii-k-zaderzhannomu-kollege/>.

shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity”.

18. Since the adoption of the UPR recommendations on the rights of lawyers in May 2018, L4L has received information indicating that several lawyers were restricted in taking part in a (lawful) association or assembly.²⁰

A. Daniil Berman, Alexander Redkin, Dmitry Zakhvatov en Yekaterina Seleznyova

On 31 May 2020, the four lawyers Daniil Berman, Alexander Redkin, Dmitry Zakhvatov and Yekaterina Seleznyova started picketing in front of the building of the Investigative Committee of the Russian Federation to draw public attention to the abovementioned situation of Ms Tsipinova and Mr. Ratmir Zhilokov in the KBR and to express concern about systematic violations of lawyers’ professional rights in Russia.²¹ Subsequently, the 4 lawyers were detained and charged under Article 3.18.1§2 of the Moscow Code of Administrative Offences (violation of self-isolation regime). 15 lawyers, who arrived to the police station a little later, were denied access to their clients and were forced to wait outside in heavy weather conditions. Not long after, the picketing lawyers were released, but their cases are up for review by the Joint Administrative and Technical Inspectorates of the City of Moscow on 18 June 2020.

VII. Conclusion

19. During the 2018 UPR, the Russian Federation received and accepted two (2) recommendations with respect to the effective protection of lawyers, including the investigation of all reports of attacks on, or threats against lawyers, and the safeguarding of the freedom of association of lawyers.²²

The authorities of the Russian Federation have failed to respect the rights of lawyers by not adequately enabling lawyers to perform their professional functions without intimidation, hindrance, harassment or improper interference. Over the last few years, a number of human rights lawyers have been harassed, criminally prosecuted, suspended or barred from practising law after raising concerns about possible violations of their clients’ human rights or after exercising their freedom of expression by publicly speaking out in cases that can be seen as politically sensitive. The examples in this report are clear evidence of the ongoing and structural hindrances which lawyers in the Russian Federation encounter when exercising their professional duties. L4L will submit further documentation to this effect later in the UPR cycle.

20. The Russian Federation has, to date, not fully implemented recommendations 147.127 and 147.163.

21. L4L urges the authorities of the Russian Federation to:

²⁰ The Basic Principles provide in article 16(c) that “[G]overnments shall 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”.

²¹ “В Москве несколько адвокатов задержали за пикет у здания СК,” https://www.znak.com/2020-05-31/v_moskve_neskolko_advokatov_zaderzhali_za_piket_u_zdaniya_sk.

²² “Responses to Recommendations, Russian Federation, session 30,” Universal Periodic Review, https://www.upr-info.org/sites/default/files/document/russian_federation/session_30_-_may_2018/russian_federation_2rp.pdf: 9.

- investigate all reports of attacks on, or threats against lawyers and to bring those responsible to justice in a timely manner;
- guarantee that lawyers can perform all of their professional functions without intimidation, hindrance, harassment or improper interference;
- implement recommendation 147.127 fully and without any delay.

22. L4L urges the authorities of the Russian Federation to:

- safeguard the freedom of association, as prescribed in the Constitution, of the lawyers, in line with Preamble, and Principles 23 and 24 of the Basic Principles;
- implement recommendation 147.163 fully and without any delay.

Lawyers for Lawyers ('L4L') is an independent, nongovernmental organisation, supported by contributions from private individuals and organisations related to the legal profession. Established in 1986, L4L has had a special consultative status with the ECOSOC since 2013.

L4L promotes and protects the independence of the legal profession through the support and empowerment of lawyers around the world who face reprisals, improper interferences, and undue restrictions, as a result of discharging their professional functions. In doing so, we advocate for adherence to core values underpinning the legal profession, in conformity with internationally recognised human rights laws, norms and standards, including but not limited to the International Covenant on Civil and Political Rights ('ICCPR') and the UN Basic Principles on the Role of Lawyers ('Basic Principles').