

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# RUSSIA: FRAUD CHARGES AGAINST ALEKSEI NAVALNY ARE ARBITRARY AND POLITICALLY MOTIVATED

Amnesty International has reviewed materials related to the new criminal charges of fraud against prisoner of conscience Aleksei Navalny, which are being examined by the Lefortovo District Court of Moscow. We conclude that this prosecution is politically motivated and based on arbitrary application of law. The charges strive to criminalize his own and his colleagues' peaceful and legitimate anti-corruption and political activism.

The objectives of this prosecution appear to ensure that a prominent critic of the Kremlin remains incarcerated and to stop or restrict his political activities, as well as to intimidate his supporters and other government critics in Russia. The charges also appear to seek to discredit Aleksei Navalny for domestic and international audiences.

This prosecution violates Aleksei Navalny's rights to freedom of expression, freedom of association and to a fair trial. As a state party to the International Covenant on Civil and Political Rights, the European Convention on Human Rights and other treaties which guarantee these rights, Russia is in violation of its international obligations and must stop this prosecution.

## BACKGROUND

Aleksei Navalny is a Russian opposition politician, anti-corruption activist and one of the most prominent critics of the Russian authorities. In 2011, he founded the Anti-Corruption Foundation (known as FBK under its Russian abbreviation), which has published numerous investigations into corruption among Russian senior officials, prominent politicians and businesspeople. FBK quickly became one of the largest and best-known anti-corruption NGOs in Russia and it relied on private donations for funding.

The Russian authorities have responded to Aleksei Navalny's activities with reprisals including politically motivated prosecutions. In 2013, he was found guilty of fraud in the so-called "Kirovles Case" and dealt a five-years conditional sentence. The European Court of Human Rights concluded in 2016 that in this trial "the criminal law was arbitrarily and unforeseeably construed" and the conviction was "manifestly unreasonable".<sup>1</sup> Following this judgment, the sentence was overturned by the Supreme Court. However, in May 2017 the very same sentence was issued again after a retrial, which failed to address any of the flaws indicated by the ECtHR.

In 2014, Aleksei Navalny was convicted again in another politically motivated criminal case known as the "Yves Rocher Case" and was sentenced conditionally to three and a half years' imprisonment. This conviction was likewise found "arbitrary and manifestly unreasonable" by the ECtHR<sup>2</sup> - a judgement that has been ignored by the Russian authorities.

In December 2016, Aleksei Navalny announced his intention to run for President of Russia in the March 2018 election. A year later, the Central Electoral Commission refused to list him as a candidate. The basis for the refusal was Navalny's "Kirovles" conviction, which, under a law passed in 2014, made him ineligible for run for President until 2028.

In August 2020, Aleksei Navalny was seriously poisoned in Russia with what experts later concluded to be the military-grade nerve agent Novichok. With the acquiescence of the Russian authorities, he was transferred for treatment to Berlin, Germany, in a coma.

After recovering in Germany, Aleksei Navalny returned to Moscow on 17 January 2021 and was immediately arrested. He was accused of violating conditions of his "Yves Rocher" sentence and this conditional sentence was replaced with a real one. Aleksei Navalny is currently serving a two-and-a-half-year prison term in a penal colony in Pokrov, 100 km east of Moscow. Russian authorities have refused to investigate his nearly fatal poisoning, citing lack of evidence.

<sup>1</sup> ECtHR, *Navalnyy and Ofitserov v. Russia*, Application 46632/13 and 28671/14, 23 February 2016, hudoc.echr.coe.int/eng?i=001-161060, para. 115.

<sup>2</sup> ECtHR, *Navalnyye v. Russia*, Application 101/15, 17 October 2017, hudoc.echr.coe.int/eng?i=001-177665, para. 83.

On 9 June 2021, the Moscow City Court arbitrarily banned FBK and two other NGOs linked to Aleksei Navalny as “extremist” despite their peaceful activities. A number of former employees of these groups are facing prosecution for their roles in these so-called “extremist organizations”; while many others have fled Russia.

## THE CHARGES

On 29 December 2020, the Investigative Committee (a standalone government body responsible for investigating serious crimes) opened a criminal inquiry into fraud allegedly committed by Aleksei Navalny against donors of his NGOs.<sup>3</sup> The case was opened several days after investigative journalism groups had published evidence of the Russian authorities’ involvement in Navalny’s poisoning.<sup>4</sup> Initially, the authorities claimed Navalny had stolen more than 356 million roubles (approximately US\$ 3.3 million at the time of writing) for personal needs. In the summer of 2021, there have been multiple reports of police calling and summoning for questioning FBK’s donors. They were asked if they could be considered victims of this “crime”. The final indictment lists four such victims, and the damage has been reduced to 2.7 million roubles (US\$ 25,000).<sup>5</sup> Nevertheless, under Article 159(4) of the Criminal Code, Aleksei Navalny faces up to 15 years’ imprisonment.

According to the prosecution, Aleksei Navalny and his associates collected donations for anti-corruption work but used them for personal benefit and for what they arbitrarily regard as “extremist activities”. Likewise, donations for Navalny’s 2016–2018 presidential campaign were, according to the authorities, also collected fraudulently, as Navalny knew he could not participate in the presidential race given his criminal record. Effectively, the authorities argue that Aleksei Navalny’s anti-corruption work and his presidential campaign were a sham, the purpose of which was to cover up his embezzlement of donations.

Individuals who have been recognized as victims of the alleged crime and the circumstances of their donations are suspicious. For instance, two of the alleged victims appear to be under separate criminal investigations themselves<sup>6</sup> and therefore particularly vulnerable to such pressure. These issues and other allegations of fabrication of the fraud charges must be thoroughly investigated by the authorities.

Even if the victims of the alleged crime have delivered credible testimony, the fact that some of the donors may express dissatisfaction with the work of Aleksei Navalny’s NGOs does not make the NGOs’ work illegal or mean that the donations were stolen.

The work of FBK and its sister organizations is protected by the right to freedom of association. Access to funding, such as through donations, is of vital importance for the realization of the right to association and to guarantee a healthy, independent civic space. Civil society organizations have the right to secure funding without undue interference from the state. According to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, “any associations, both registered or unregistered, should have the right to seek and secure funding and resources from domestic, foreign and international entities, including individuals, businesses, CSOs [civil society organizations], governments and international organizations”.<sup>7</sup> There are limited circumstances in which the right to freedom of association can be restricted, and Russian authorities have failed to demonstrate that any such restrictions are justified in the present case. The accusations against Aleksei Navalny related to activities of his NGOs are politically motivated, and in violation of this right. Further, accusations of “extremist activities” of the NGOs are false and clearly politically motivated.<sup>8</sup> There is also no evidence that he has illegally misappropriated donations for his personal gain.

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<sup>3</sup> Investigative Committee, “*Возбуждено уголовное дело в отношении Алексея Навального*”, 29 December 2020, sledcom.ru/news/item/1526952

<sup>4</sup> Bellingcat, “*FSB Team of Chemical Weapon Experts Implicated in Alexey Navalny Novichok Poisoning*”, 14 December 2020, [bellingcat.com/news/uk-and-europe/2020/12/14/fsb-team-of-chemical-weapon-experts-implicated-in-alexey-navalny-novichok-poisoning](https://www.bellingcat.com/news/uk-and-europe/2020/12/14/fsb-team-of-chemical-weapon-experts-implicated-in-alexey-navalny-novichok-poisoning); Aleksei Navalny, “*Я позвонил своему убийце. Он признался*”, 21 December 2020, [youtu.be/ibqiet6Bg38](https://youtu.be/ibqiet6Bg38)

<sup>5</sup> Final indictment, on file with Amnesty International.

<sup>6</sup> Mediazona, “*Суд над Навальным. День седьмой*”, 1 March 2022, [zona.media/online/2022/03/01/pokrov7](https://zona.media/online/2022/03/01/pokrov7)

<sup>7</sup> Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/10/27, 2012, [ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf)

<sup>8</sup> For more on arbitrary use of “anti-extremist” laws in Russia, see, for example: Amnesty International, “*Russia: Authorities move to outlaw Aleksei Navalny’s organizations as ‘extremist’*”, 26 April 2021, [amnesty.org/en/latest/news/2021/04/russia-authorities-move-to-outlaw-aleksei-navalyns-organizations-as-extremist/](https://www.amnesty.org/en/latest/news/2021/04/russia-authorities-move-to-outlaw-aleksei-navalyns-organizations-as-extremist/);

Similarly, the right to make political statements that challenge those in position of authority, and to do so without fear of criminal charges, is protected by the right to freedom of expression. According to the UN Human Rights Committee, “[t]he free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential.” Amnesty International considers that the basis of the charges against Navalny is a desire to penalize him for the exercise of his right to freedom of expression in challenging those in power.

By passing laws and issuing criminal convictions that disqualified Aleksei Navalny from participation in elections, the authorities sought to arbitrarily exclude him from political life, violated his rights to freedom of association and expression, which are guaranteed by international human rights law and by the Russian Constitution. Navalny’s campaign sought to rectify this violation through peaceful and legal means, and it cannot serve as grounds of his prosecution.

## RECOMMENDATIONS

Amnesty International urges the Russian authorities to:

- Immediately and unconditionally release Aleksei Navalny and ensure his right to an effective remedy;
- Drop the unfounded and politically motivated charges of fraud against Aleksei Navalny and his associates;
- Repeal the decision to designate FBK and other Navalny’s NGOs as “extremist”;
- Review and terminate all politically motivated criminal cases against Aleksei Navalny and his associates;
- Ensure that Aleksei Navalny and other critics of the authorities in Russia can exercise their rights to freedom of expression, association and peaceful assembly and can participate in civic and political life without discrimination.

Amnesty International urges the international community to:

- Call upon the Russian authorities to ensure their compliance with their human rights obligations, including in the case of Aleksei Navalny and his associates;
- Attend trial hearings and make public their position on the prosecution of Aleksei Navalny;
- Raise the case at all appropriate international forums.

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Amnesty International, “*Russian Federation: Ban on Jehovah’s Witnesses is an assault on Freedom of Assembly and Conscience*” (Index: EUR 46/6229/2017), 11 May 2017, [amnesty.org/en/documents/eur46/6229/2017/en](https://www.amnesty.org/en/documents/eur46/6229/2017/en)