

**THE DARK FUTURE OF THE RUSSIAN BAR: THE
CRIMINALIZATION OF THE LEGAL PROFESSION WITHIN
ATTORNEYS' PROFESSIONAL ACTIVITIES IN POLITICAL CASES**

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ABSTRACT

The research examines the current state of legal practice and the challenges faced by defense attorneys in Russia, particularly those handling political cases. The primary regulatory framework is the Federal Law No. 63-FZ “On Legal Practice and Advocacy in the Russian Federation,” which defines the roles, rights, and obligations of attorneys, emphasizing their integral role in justice and human rights protection. Despite the increasing number of attorneys and the nominal structured support through the Bar and Regional Bar Associations (RBAs), the system faces significant issues. The Federal Bar Association (FBA) and RBAs, intended to support attorneys, have been criticized for insufficient action in protecting attorneys' professional rights, especially against state interference.

Interviews with Russian lawyers reveal a deeply divided legal community, where many face state pressure and repression, particularly those defending political cases. The legal protection mechanisms in place are largely ineffective, and violations of professional rights are widespread, including unauthorized searches, pressure, and physical violence. The arrest of Alexei Navalny's attorneys exemplifies the state's growing hostility towards attorneys associated with political defendants, equating the attorneys' activities with their clients' alleged crimes. The study highlights the urgent need for more robust enforcement mechanisms and legislative reforms to ensure attorneys' independence and safety, in particular, introduction of criminal liability for obstructing the activities of the attorney, establishment special commissions on protection of professional rights, etc. Without such reforms, the professional autonomy and fundamental role of attorneys in upholding justice remain severely compromised.

Keywords: guarantees of independence of a lawyer, professional rights, protection of the rights of attorneys, attorneys in Russia, advocacy, defense of lawyers, protection of lawyers,

persecution of lawyers, qualified legal assistance, Russian Bar, bar associations, legislative barriers, interview, Navalny, political case, political trial, monopoly, law on advocacy.

TABLE OF CONTENTS

Abstract	ii
Table of Contents	iv
Introduction	1
1. Legal framework of attorney activities and bar functioning in russia	4
1.1.1 About rights and violations of them	9
1.1.2 Mechanisms of defence of attorney's rights	13
1.2 Legislative barriers hindering the work of attorneys and the exercise of the legal profession	17
1.3 Institutional barriers hindering the work of attorneys and the exercise of legal profession	21
1.3.1 Political cases	21
1.3.2 Monopoly of attorneys	24
1.3.3 What can be done to better the situation with the protection of professional rights of attorneys?	26
2. Case study on persecution of attorneys on political grounds (Navalny's attorneys case) 29	
2.1 Facts of Navalny's attorneys case	29
2.2 Whether it is a political case	33
3. Interviews with Russian attorneys	38
Conclusion	46
Bibliography	48

INTRODUCTION

In recent years there has been a tendency within Russian attorneys who defend their clients in political cases to be at great risk of persecution by the state simply by performing their professional duties. The Russian authorities may consider that the attorney is an accomplice of his client or a separate perpetrator and can initiate an administrative or even criminal case against the attorney.

The attorney's status should protect the lawyer from illegitimate accusations and impose on him or her obligations in relation to the defense of the client. In political cases, it turns out that the attorney's status does not protect the attorney but puts the attorney in a risky position and his or her client, since the latter may be left without a defense if the former is removed from the defense process. However, recent events, exemplified by the high-profile detention of attorneys representing opposition figure Alexei Navalny, have raised significant concerns about the efficacy of this protection, leaving both attorneys and their clients vulnerable.

Acknowledging existing research gaps, the present research identifies the critical need to analyze the landscape of violations of attorneys' rights in general and in political cases. It emphasizes the pivotal role of attorneys in safeguarding human rights within domestic legal frameworks and warns of potential repercussions stemming from the proposed attorney monopoly, which could further constrain accessible legal defense and exacerbate state pressure on practitioners.

The research also outlines key issues, including the implications of amendments into the Federal law on Advocacy changing the criteria of obtaining an attorney status and targeting lawyers operating abroad. These developments raise pertinent questions regarding the de facto putting at risk attorneys' work in political cases and its broader impact on civil and political rights protection in Russia.

Ultimately, the central research question is articulated: What problems do advocates face in the exercise of their profession, especially in political cases?

The research methodology is based upon the empirical legal pluralism conception, utilizing a combination of research methods as it can produce more reliable results. Employing both inductive and qualitative methods within the interviewing of a particular group of people within one country, supported by case study and written resources. The internal approach of the research encompasses a doctrinal legal analysis in the sense of analyzing national legislation (Russian legislation, public policies, etc.) and public statements of the Russian bar associations. Additionally, the research includes the analysis of the legal framework of attorneys' rights and obligations..

Therefore, I would like to strengthen my research by going beyond a purely normative analysis and conducting qualitative legal research in conducting semi-structured interviews with practitioners to show exact concerns about the present and future of attorneys' practice not only for legal scholars but also for ordinary readers. Using and learning from people's direct impressions and experiences will help reduce the impact of a purely legalistic approach and will complement positively the interpretation of the normative framework. The big advantage of this approach is that the interview results directly describe the impact of restrictions on the activities of attorneys in practice and give a complete picture of what is happening with the legal community.

Despite the advantages of the doctrinal analysis approach, the limitations exist. The access to resources has been constrained since investigative actions are still underway within the framework of the cases under consideration. In this situation, reliance on transcripts from court sessions and press releases from the court and news agencies has been necessary. Furthermore, limitations concerning interviewing were considered – not all attorneys remaining in Russia were ready to give interviews and comments, even despite the guarantee of anonymity due to

the issue of their safety, the preservation of attorney-client privilege, as well as the status of the CEU, which the Russian Federation recognized as an undesirable organization in the last year. Moreover, there could have been difficulties with compiling a questionnaire and collecting the answers, because of the language – the thesis has been supposed to be written in English, and not all attorneys can speak English.

To address these limitations, semi-structured interviews have been conducted with attorneys based abroad, where safety concerns are mitigated. The flexibility of a semi-structured interview allows the modification of questions by the possibility of the interviewees disclosing any personal information. Language barriers are overcome by conducting interviews in Russian, ensuring effective communication with participants.

1. LEGAL FRAMEWORK OF ATTORNEY ACTIVITIES AND BAR FUNCTIONING IN RUSSIA

There are several acts regulating the activities of defence attorneys (“*advokaty*”),¹ but the main one is the Federal Law No. 63-FZ “*On Legal Practice and Advocacy in the Russian Federation*” (hereinafter – the Federal Law on Advocacy).²

The Federal Law on Advocacy establishes general grounds on advocacy, the rights and obligations of attorneys, the provisions about the status of an attorney and how to obtain it. As stated in the Federal Law on Advocacy, an attorney is an integral part of justice, with the main purpose of protecting human rights and freedoms, providing qualified legal assistance in furtherance of the goals of justice and humanism, and building a state based on the rule of law. As for 2023, there are more than 82 000 attorneys in Russia, and their number is increasing each year,³ therefore it is necessary to have a structure within which attorneys can obtain their status, conduct professional activities and receive necessary help and support in conducting their work. It is the Bar (“*advokatura*”) that plays this role, the structure of which is defined by the Federal Law on Advocacy. The Bar is organized according to the territorial principle. There are Regional Bar Associations (chambers) (hereinafter – RBA) with the head of the Bar – the

¹ Constitution of the Russian Federation (Конституция Российской Федерации" (с изменениями от 01.07.2020) (1993). https://www.consultant.ru/document/cons_doc_LAW_28399/;

The Russian Federal Bar Association. Code of Attorneys’ Professional Ethics (Кодекс профессиональной этики адвоката (2003). <https://fparf.ru/documents/fpa-rf/documents-of-the-congress/the-code-of-professional-ethics-of-lawyer/>.

The FBA states that the attorneys are also respect the international legal acts on advocate’s activities such as Charter on the Fundamental Principles of Advocate’s Activity, International Principles on Social Media Conduct for the Legal Profession, Basic Principles on the Role of Lawyers.

The Russian Federal Bar Association. “International Legal Acts.” FPARF. Accessed June 17, 2024. <https://fparf.ru/en/documents/international-legal-acts/>.

² Federal Law “On Legal Practice and Advocacy in the Russian Federation” (Федеральный закон “Об адвокатской деятельности и адвокатуре в Российской Федерации”), Pub. L. No. 63- FZ (63- ФЗ) (2002). https://www.consultant.ru/document/cons_doc_LAW_36945/.

³ The Russian Federal Bar Association. “Information on the composition of the legal community in the Russian Federation for 2023 (Сведения о составе адвокатского сообщества в Российской Федерации за 2023 год).” FPARF, April 24, 2023. <https://fparf.ru/practical-information/statistics/svedeniya-o-sostave-advokatskogo-soobshchestva-v-rossiyskoy-federatsii-za-2023-god/>.

Federal Bar Association (hereinafter – FBA). The RBAs are non-state non-profit organizations based on compulsory membership. Each attorney is therefore a member of one of the RBA and cannot conduct any activities in the absence of such membership. The aims of establishing the RBAs are to ensure the provision of qualified legal assistance, its accessibility to the population of the region, and the organization of legal assistance provided to citizens of Russia free of charge. The RBAs represent and protect the interests of attorneys in state authorities, local self-government bodies, public associations, and other organizations, control over the professional training of persons admitted to practice as attorneys.

The FBA is an all-Russian non-state non-profit organization uniting the advocates' chambers of the regions of the Russian Federation based on compulsory membership.⁴ The FBA is a professional self-regulatory body of attorneys. It is established to represent and protect the interests of attorneys in state and local government bodies, coordinate the activities of the RBA, and ensure a high level of legal assistance. The FBA and RBAs act not only on the basis of the Federal law on Advocacy, but also on the basis of the Constitution of the Russian Federation, the Federal law “On Non-Commercial Organizations” and the Charters.

After more than 20 years since the enforcement of the Federal Law on Advocacy, it seems that positive assessments of the activities of Bar associations in Russia are not correct.⁵ The law was originally a "regulative bargain" between the Ministry of Justice and Bar associations, where the latter lost because "the state is not interested in building partnerships with public organizations and establishing equal rules for all".⁶ The FBA is not a professional association of lawyers and cannot be one, since lawyers are not members of this organization and it is not

⁴ Federal Law “On Legal Practice and Advocacy in the Russian Federation”, para. 1 Article 35.

⁵ Initiative 2018. "Appeal of the Board of the IROO "Initiative 2018" to the United Nations bodies, International Bar Associations and Human Rights Organizations." [Zakon.ru](https://zakon.ru/blog/2023/12/20/obraschenie_pravleniya_mroo_iniciativa_2018v_organy_organizacii_obedinen_nyh_nacijk_mezhdunarodnym_as). Accessed June 17, 2024. [https://zakon.ru/blog/2023/12/20/obraschenie pravleniya mroo iniciativa 2018v organy organizacii obedinen nyh nacijk mezhduarodnym as](https://zakon.ru/blog/2023/12/20/obraschenie_pravleniya_mroo_iniciativa_2018v_organy_organizacii_obedinen_nyh_nacijk_mezhdunarodnym_as).

⁶ Bocharov, Timur and Ekaterina Moiseeva. Being a Lawyer in Russia: Sociological Study of the Legal Profession. 37.

accountable to lawyers. Lawyers are, however, obliged to comply with the decisions of the FBA bodies and make regular financial contributions to its maintenance under the threat of termination of their status.

On the grounds of *the Basic Principles on the Role of Lawyers*,⁷ Bar associations should be independent, self-regulating, statutory and have a general mandate to protect the independence of the legal profession and the interests of its representatives.

Nevertheless, at present, the leadership of the FBA and RBAs are not supporting preventive actions initiated by lawyers to protect the rights of lawyers prosecuted for their professional activities.⁸ A comprehensive system for the protection of lawyers' professional rights has been replaced by self-protection of lawyers and selective protection of individual lawyers,⁹ while other lawyers are not provided with effective assistance.¹⁰ It seems that the FPA and the regional chambers tried to stay out of politics to maintain some independence,¹¹ yet they still came to be controlled by the Ministry of Justice.

As to the protection of the rights of attorneys, there is the Commission of the Council of the Federal Chamber of Advocates of the Russian Federation for the Protection of the Rights of Advocates (hereinafter the Commission). The Commission is a working body of the Council and was established to organize work on the protection of the most significant rights of

⁷ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. "Basic Principles on the Role of Lawyers." OHCHR, September 7, 1990. <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>.

⁸ POLITICO. "The Kremlin's New Targets: Russia Goes after Alexei Navalny's Lawyers," October 20, 2023. <https://www.politico.eu/article/russia-kremlin-targets-opposition-leader-alexei-navalnys-lawyers/>.

⁹ Gubanov, Artem. "Difficulties of the legal profession: FSIN violence, "double defense" and Covid-incidents in courts." Legal.report, July 5, 2021. <https://legal.report/trudnosti-advokatskoj-professii-nasilie-fsin-dvojnaya-zashhita-i-covid-incidenty-v-sudah/>.

¹⁰ See the case of Dmitry Talantov. Amnesty International. "Заявление Amnesty International по поводу уголовного преследования российского узника совести Дмитрия Талантова." Amnesty International, July 5, 2022. <https://eurasia.amnesty.org/2022/07/05/zayavlenie-amnesty-international-po-povodu-ugolovnogo-presledovaniya-rossijskogo-uznika-sovesti-dmitriya-talantova/>.

¹¹ The situation is similar to that of Chile in the 1920s and 1950s, see here: González Le Saux, Marianne. "The Paradox of Apolitical Professionalism: The Bar Association and Political Repression in Chile, 1920s-1950s." *American Journal of Legal History* 61, no. 1 (March 1, 2021): 56–89.

advocates or rights affecting the interests of a large part of the advocates of the Russian Federation.¹²

The functions of the Commission are the following:

- collecting and analyzing information on violations of attorneys' rights on an annual basis
- drafting appeals on behalf of the Council of the FBA to the legislative, executive and judicial authorities, as well as law enforcement bodies, on the state of observance of attorneys' rights, suppression of violations and measures to restore violated rights
- developing recommendations on preventing violations of attorneys' rights, countering such violations and restoring attorney's rights.¹³

Thus, an advocate may appeal to this Commission if he/she believes that his/her professional rights have been violated. However, this Commission is attached to the federal chamber, while there are also regional commissions.

In 2021 the Council of the FBA established the Procedure for the protection of the professional rights of advocates.¹⁴ Under the Procedure, if attorneys believe that their rights have been violated, they may send an appeal to the Commission for the protection of the rights of the attorneys of the relevant RBA himself/herself or through a representative. The Commission shall consider the appeal and give its opinion on whether or not there has been a violation. The conclusion together with the appeal shall be sent by the Commission to the president of the chamber of the relevant constituent entity and to the Council of the Chamber of Advocates of

¹² The Russian Federal Bar Association. Regulations on the Commission of the Council of the Federal Chamber of Advocates of the Russian Federation for the Protection of Advocates' Rights (2017). <https://fparf.ru/documents/fpa-rf/dokumenty-komissii-po-zppa/position-about-the-commission-of-the-council-of-the-federal-chamber-of-lawyers-of-the-russian-federal/>.

¹³ The Russian Federal Bar Association. "Commission for the Protection of the Rights of Advocates." <https://fparf.ru/fpa-rf/rights-protection-commission/>.

¹⁴ The Russian Federal Bar Association. Procedure for the protection of the professional rights of advocates (2021). <https://fparf.ru/documents/fpa-rf/dokumenty-komissii-po-zppa/poryadok-osushchestvleniya-zashchity-professionalnykh-prav-advokatov/>.

the constituent entity of Russia. With the justification the Commission can suggest methods and forms of protection of attorneys' rights. The Commission, on the instructions of the president of the chamber, takes the necessary measures to protect violated rights, including measures to ensure representation of the advocate's interests in civil and administrative cases and defense in criminal proceedings.

Despite the existence of such Commissions and a nominal opportunity for the attorney to defend his violated rights, the described procedure is not universally implemented and has some inconsistencies. Firstly, not each RBA has such a Commission and, even when one does have it, not all attorneys are aware of the possibility to lodge an application to the commission. Sometimes there is no commission in the region, but the functions are performed by members of the Council of the Bar Association of the region. This is not a transparent position as there is little or no publicity given to the activities of such regional commissions or a member of the chamber. Websites do not publish conclusions on the appeals considered, with the exception of a few regional chambers.

Secondly, apart from the protection of violated rights in court, it is not quite clear what other "methods and forms of protection of attorneys' rights" are available to lawyers and how they can be used.

Thirdly, in fact, without a request from the attorney himself, the Commission cannot initiate proceedings on its own; there is paragraph 12 of the Procedure, in accordance with which "in exceptional cases, violations of the professional rights of an advocate may become the subject of proceedings which the Commission of the Council of the Federal Bar Association of the Russian Federation may initiate independently or on behalf of the President of the Federal Chamber of Advocates of the Russian Federation", but it is not clear what exceptional cases are or the algorithm of differentiating the exceptional cases. Moreover, there are no monitoring

groups set up for gathering information particularly about the appeals on alleged violations in the RBAs.¹⁵

Thus, the activities of advocates and the Bar are regulated by the Constitution, the Federal Law on Advocacy, international acts, and local acts issued by the FBA and RBAs. The FBA has a special commission to protect the professional rights of advocates and envisages the possibility of creating similar commissions in the regions. At present, however, the existing procedure for filing an appeal is not seen as effective, as there are procedural gaps and not all regional chambers have such commissions, which to some extent has a chilling effect on the appeal - lawyers do not see a quick response to their situation when appealing to the "federal center".

1.1.1 About rights and violations

The professional rights of advocates are the legal opportunities available to an advocate in every form of legal proceedings, including criminal proceedings, to provide qualified legal assistance. An attorney's professional rights are legal opportunities provided for by law and other normative acts, which are realized by an attorney in the interests of the principal (client) within the professional activity. The Federal Law on Advocacy does not have a separate chapter on the professional rights of lawyers, but there are separate articles listing the duties and powers of lawyers and ensuring the independence of lawyers, since "professional rights of a lawyer in criminal proceedings" essentially coincides with the category of "criminal procedural powers of a lawyer".

Article 3 of the Federal Law on Advocacy places an obligation on public authorities to ensure the independence of the Bar. The guarantees of the independence of advocates are set out in

¹⁵ Myltsyn, Dmitry Andreevich. "The Need To Reform The Institution Of The Commission For The Protection Of The Rights Of Lawyers." *Education and Law*, no. 12 (2023): 76–82, 81.

Article 18 of the Federal Law on Advocacy. In particular, the independence of advocates is ensured through non-interference in the advocate's activity and not hindering this activity in any way. An advocate cannot be held liable (including after suspension or termination of his/her status as an advocate) for an opinion expressed by him/her while practicing as an attorney unless a court judgment that has entered into legal force establishes that the attorney is guilty of a criminal act. An attorney, his/her family members and their property shall be protected by the state. The internal affairs bodies shall be obliged to take the necessary measures to ensure the safety of the advocate, his/her family members and the safety of their property. Criminal prosecution of an advocate shall be carried out in compliance with the guarantees for advocates provided for by the legislation on criminal procedure.¹⁶

Violation of the professional rights of an attorney can be defined as any actions or inaction and decisions of officials and other persons that, which in any way hinder the activity of the attorney, lead to the violation of the right guaranteed by law to receive qualified legal assistance by the client.

The consequences of violations of the attorney's professional rights are the following: 1) violations of the client's rights and the consequences of such violations are often irreversible, e. g. the attorney was not allowed to enter the place of search; 2) the inability of an advocate to fulfill his or her professional duties in a timely and effective manner; 3) the diminution of the authority of the Bar – violation of the rights of the attorney's corporation.¹⁷ In one of the rulings of the Constitutional Court in a case concerning the verification of the constitutionality of one of the provisions of the Federal Law on Advocacy, the Court noted that "an advocate carries out activities of a public-law nature, realising the guarantees of the right of everyone to receive qualified legal assistance", while "the state is obliged to regulate the status of an advocate so

¹⁶ Federal Law "On Legal Practice and Advocacy in the Russian Federation", Article 3.

¹⁷ E. g. the advocate stands under the door for several hours in bad weather waiting for a police officer/investigator/officer of the Federal Penitentiary Service to invite him into the building.

that he or she can effectively perform the functions of legal defence, [...] taking into account, inter alia, that the activity of advocates not only contributes to the administration of justice, but is also one of the elements of civil control over the legality of the activities of public authorities".¹⁸

In 2021, a large-scale survey of lawyers was conducted on the situation with respect to the observance of their professional rights by operational and investigative bodies, prosecutor's offices, Federal Penitentiary Service and courts, as well as bodies of the lawyers' community.¹⁹

The conclusions that followed from this study:

- investigative and prosecutorial bodies of the investigation and prosecutor's office most often violate the professional rights of attorneys
- "double defense" is the most frequent way of violating rights - i. e. an attempt to remove an active and well-performing attorney, replacing him/her with a lawyer by appointment
- summoning an advocate for questioning in connection with his/her professional activities
- conducting operational and investigative measures in relation to a lawyer
- conducting searches/seizures in premises occupied by lawyers

¹⁸ Ruling of the Constitutional Court of the Russian Federation of 10.11.2022 N 49-P "In the case of checking the constitutionality of the second paragraph of paragraph 3 of Article 17 of the Federal Law "On Advocacy and Advocacy in the Russian Federation" in connection with the complaint of citizen S.G. Shalavin", https://www.consultant.ru/document/cons_doc_LAW_431176/.

¹⁹ Institute for Law and Public Policy. "Survey of Attorneys-2021 on the Situation with Observance of Their Professional Rights by Search and Investigation Bodies, Investigative Bodies, Prosecutor's Offices, Federal Penitentiary Service and Courts, as well as Bodies of the Advocates' Community (March 2020 - May 2021)." Institute for Law and Public Policy, 2021. <https://academia.ilpp.ru/wp-content/uploads/2021/06/%D0%BF%D0%BE%D0%BB%D0%BD%D1%8B%D0%B9-%D0%90%D0%9D%D0%90%D0%9B%D0%98%D0%97-%D0%A0%D0%B5%D0%B7%D1%83%D0%BB%D1%8C%D1%82%D0%B0%D1%82%D1%8B-%D0%BE%D0%BF%D1%80%D0%BE%D1%81%D0%B0-2021-fin.pdf>.

- use of physical violence against advocates and initiation of criminal proceedings against them.²⁰

Among the less gross violations, however, the most widespread ones were the following:

- failure to provide defence lawyers with copies of procedural documents
- prohibition of audio recording of investigative actions with the participation of a client
- unlawful restriction of the time limits for familiarization with the materials of the criminal case and seizure of mobile devices for the purpose of using information as evidence in criminal cases.

With respect to the means of legal protection of professional rights, it is possible to highlight the filing of complaints and appeals in connection with the violation of professional rights, in particular, the possibility to appeal against illegal actions of the Federal Penitentiary Service officers to administrative instances and to the court or to apply for protection of their rights to the Council of the RBAs.

The results of the survey can be summarized in the following way: "all of the above means remain ineffective, appealing against unlawful actions of law enforcement officers to administrative instances and to the court is not effective, since in the vast majority of cases, the result of both methods of appeal was either a "response" or a denial of the violation itself. The regional chambers of advocates have not been effective in protecting lawyers' rights either: a very small percentage of lawyers whose rights have been violated have sought their support, but even in this case support was provided in less than half of the cases. Such support was mainly in the form of consultations and preparation of appeals, less frequently in the

²⁰ Institute for Law and Public Policy. Survey of Attorneys-2021 <https://academia.ilpp.ru/wp-content/uploads/2021/06/%D0%BF%D0%BE%D0%BB%D0%BD%D1%8B%D0%B9-%D0%90%D0%9D%D0%90%D0%9B%D0%98%D0%97-%D0%A0%D0%B5%D0%B7%D1%83%D0%BB%D1%8C%D1%82%D0%B0%D1%82%D1%8B-%D0%BE%D0%BF%D1%80%D0%BE%D1%81%D0%B0-2021-fin.pdf>, 14-16.

participation of the Bar association in court appeals and participation of a representative of the Bar Council in meetings with representatives of the law enforcement agencies".²¹

The professional rights of advocates are essential legal opportunities provided to ensure they can offer qualified legal assistance, protected by specific articles in the Federal Law on Advocacy. Still, violations of these rights by investigative and prosecutorial bodies are common, including hindrances like "double defense" tactics, summoning advocates for questioning, as well as unauthorized searches and seizures. Despite available legal protection measures, such as filing complaints and appeals, these means are largely ineffective, with most resulting in non-action or denials of violations, indicating a need for more robust enforcement mechanisms.

1.1.2 Mechanisms of defence of attorney's rights

It is difficult, and in most cases impossible, to facilitate the administration of justice, provide qualified legal assistance or, even more so, act as a subject of civil control over the rule of law in a situation where an advocate is forced to defend his/her professional rights. In this regard, any violation of an attorney's professional rights constitutes a direct threat to the realization of the state function of providing qualified legal assistance.

One of the protection mechanisms of participants in legal proceedings is the establishment of criminal liability for encroachments on life, health and property of a special category of victims, which are judges, investigators, prosecutors, employees of law enforcement and supervisory authorities.

²¹ Ibid.

Although some of the provisions of the *Criminal Code of the Russian Federation*²² (for example, Articles 295 and 296) state "the defense of the counsel", some lawyers believe it can be logically assumed that these norms also apply to the attorney.

The Federal Law "On State Protection of Judges, Law Enforcement and Controlling Officials" (henceforth the Law on State Protection) provides for the possibility of ensuring the protection of a fairly wide range of persons engaged in judicial and other types of state activities.²³ Based on the analysis of the mechanism of ensuring the protection of such persons as well as in the systemic connection between these provisions and Part 4 of Article 18 of the Federal Law on Advocacy, it would be logical to extend the mechanism of the Law on State Protection to lawyers as well. The legislator should have not only declared the possibility of protecting lawyers, but also proposed a corresponding mechanism. Nevertheless, the Law on State Protection did not include a lawyer among the persons to whom such protection is granted nor did the legislator form any other legislative act that would be responsible for the protection of lawyers, their relatives and their property.

It is therefore necessary for the legislator to reflect on the fact that lawyers need the same protection as any other employee of a public authority, law enforcement and supervisory body, a participant in legal proceedings. Ensuring the protection of lawyers from various kinds of encroachments will not only save their lives and health, but also preserve the Bar as a necessary element of the rule of law, an important tool of legal proceedings, providing access to justice.²⁴ Another mechanism to protect lawyers when criminal proceedings are initiated against them is contained in the *Code of Criminal Procedure of the Russian Federation* (henceforth the CCP).

²² Criminal Code of Russian Federation (Уголовный кодекс Российской Федерации (УК РФ) (последняя редакция), Pub. L. No. 63-ФЗ (1996). https://www.consultant.ru/document/cons_doc_LAW_10699/, Art. 295, 296.

²³ Federal Law "On State Protection of Judges, Law Enforcement and Controlling Officials", Pub. L. No. 45-ФЗ (1995). https://www.consultant.ru/document/cons_doc_LAW_6425/.

²⁴ Volosova, Nonna Yu. 2024. "Protection of Attorney's Rights Revisited: Beat To..." *Advokatskaa Praktika* 1 (January): 24–27.

If criminal proceedings are instituted against an attorney, a special procedure shall apply.²⁵ There is a separate Article 450.1. “Peculiarities of search, inspection and seizure of a lawyer”, which is necessary as it concerns the safeguarding of information obtained by lawyers in connection with the fulfillment of their functions - the provision of qualified legal assistance. The Constitutional Court of the Russian Federation pointed out that the obligation of a lawyer to keep professional secrets is a guarantee of observance of the legitimate interests of his principal. This guarantee is provided not only for the absence of the obligation of a person to testify against himself, but also for prohibition to forcibly seize and use the information transferred by a person to a lawyer under the condition of its preservation to ensure the protection of his rights.²⁶

In general, the introduction of Article 450.1 in the CCP was a delayed reaction of the legislator to bring the criminal procedure law and Article 8 of the Federal Law on Advocacy in line with the law, which offers the possibility of conducting operative-search measures and investigative actions against a lawyer only in the presence of a judicial act. Thus, the legislator excluded the possibility of exerting pressure on the lawyer and also created conditions for a person to realize the right to receive qualified legal assistance by disclosing to the lawyer information that he would not disclose to other persons, and the lawyer would be able to keep the information obtained secret.²⁷

Article 450.1 of the CCP sets out the conditions for investigative actions against an advocate:

²⁵ Code of Criminal Procedure of the Russian Federation, Pub. L. No. 174-Φ3 (2001). https://www.consultant.ru/document/cons_doc_LAW_34481/, Art. 447, para. 1.8

²⁶ Ruling on the complaint of citizens Vladimir Vladimirovich Zubkov and Oleg Vladimirovich Krupochkin concerning the violation of their constitutional rights by the provisions of articles 38, 88, 113, 125 and part one of article 152 of the Code of Criminal Procedure of the Russian Federation, as well as part two of article 7 of the Federal Law on the Investigative Committee of the Russian Federation, No. 863-O. (Constitutional Court of the Russian Federation, April 11, 2019).

²⁷ Khmyrov, Rostislav V. 2024. “Search of an Attorney in Cases That Permit No Delay.” *Advokatskaa Praktika* 1 (January): 28–32.

1) the initiation of criminal proceedings against the advocate or the filing of charges against him/her

2) the necessity to obtain a judicial act authorizing an investigative action in the lawyer's premises

3) the presence of a representative of the Chamber of Advocates.

Article 31 of the Law on Advocacy imposes on the Council of the Bar Association the duty to protect the professional rights of advocates, but there is no mechanism for its implementation in the procedural legislation.²⁸ Thus, a representative of the Bar Association, who participated in the search conducted in the mode of urgent cases, is deprived not only of the opportunity to participate in the court hearing regulated by the part 5 of the article 165 of the CCP, but also of the opportunity to challenge the court decision taken after consideration of the investigator's notification of the search. In this regard, the lawyer, whose rights were violated by the search, is forced to independently appeal against court decisions, seeking restoration of the rights violated.

The appearance of Article 450.1 in the CCP was important, because, for the first time, there appeared another subject which was defined by law to participate in a number of investigative actions conducted against lawyers, such as search, inspection and seizure, in order to ensure the protection of their professional rights. Yet, the legislator's solution to the problem of determining the procedural status of these persons was not exhaustive.

To date, for example, representatives of the RBAs have not been mentioned in the Chapter 8 of the CCP, which contains information on other participants in criminal proceedings, despite the mention of such a person in Article 450.1 of the CCP, which is a significant omission.²⁹ After all, it should have specified who the representative of the Bar Association is, who is

²⁸ Federal Law “On Legal Practice and Advocacy in the Russian Federation”, subpara. 10, para. 3, Article 31.

²⁹ Myltsyn, Dmitry Andreevich. “The Need To Reform The Institution Of The Commission For The Protection Of The Rights Of Lawyers.” *Education and Law*, no. 12 (2023): 76–82.

eligible to be such a representative, what document confirms his/her powers, what rights and duties he/she is endowed with, as well as regulating the procedure for summoning him/her to participate in investigative actions and his/her responsibility. Hence, this is still an insufficient measure to fully protect the professional rights of lawyers involved in criminal proceedings.

1.2 Legislative barriers hindering the work of attorneys and the exercise of the legal profession

In connection with the above legislation, it therefore seems that the defense of attorneys' interests requires some action from the bodies of the FBA and RBAs. In the absence of such actions, attorneys themselves can try to act independently and defend their interests with creating public associations.

Article 39 of the Federal Law on Advocacy attorneys can create public associations of attorneys and be members of them. Despite the presence of such a provision on a mechanism of consolidation 'from below', there is still a problem with its enforcement. This norm is declarative in nature, as the disposition only indicates the possibility of establishing and a single prohibition on the exercise of the function of advocates' associations and chambers, without any clarification of other norms on associations. The law already prohibits the creation of organizations that duplicate the functions of chambers in whole or in part as well as the procedure for the creation of other organizations of advocates.

The innovations in the Federal Law on Advocacy have become additional barriers in the exercise of advocacy duties. In April 2023, the State Duma passed the draft law on amendments to the Federal Law on Advocacy in the first reading, after which, in December 2023, the

Government's Commission on Legislative Activity approved the amendments to the draft law developed by the Russian Ministry of Justice.³⁰

The main restrictive amendments are as follows. Only those who have received higher education (Bachelor's/Master's degree) in the programme "Jurisprudence" or "Law Enforcement" will be able to obtain the status of an advocate. The second one is that advocates will be deprived of their status for leaving the Russian Federation for "permanent residence" so that they do not "undermine" confidence in the Russian Bar by working from "unfriendly countries".³¹ The third amendment is the establishment of the Comprehensive information system of the Russian Bar Association (hereinafter the KIS AR), a state information system, where personal data of advocates will be stored and where the Federal Security Service (later the FSB) will have access to. The Ministry of Justice will establish the composition and procedure for maintaining the KIS AR. It will also determine what data will be open and publicly available and the rules will come into effect on 20 October 2024. The last amendment is the reduction of the term of validity of an advocate's license, which will be limited for 15 years. It is now in effect indefinitely.

Although the Ministry of Justice states that the education requirement for applicants for the status of an advocate will not apply to persons who received higher legal education or a degree in a legal sphere before the entry into force of the Federal Law and to trainees already employed by advocates, this provision may be changed in the future and used against "undesirable advocates". Generally speaking about the qualification exam, the FBA Council used to develop

³⁰ Amendments to the draft Federal Law "On Amendments to the Federal Law "On Advocacy and Advocacy in the Russian Federation" have been approved, the Ministry of Justice of the Russian Federation, 11.12.2023, accessed 26 January 2024, <https://minjust.gov.ru/ru/events/49889/>.

³¹ In addition, from April 22, 2024, the status can be terminated in case the lawyer went abroad for permanent residence or left for a period of more than a year. There are exceptions, such as departure for medical treatment, education or other valid reasons. Previously, there was no such reason to terminate the status (subparagraph 7 paragraph 7 Article 17 of the Federal Law on Advocacy).

exam questions and a regulation on the procedure for taking the qualification exam, but now requires approval by the Ministry of Justice.

The state and law enforcers will be able to influence the appointment of attorneys because the inquirers and investigators of the FSB will be able to make changes to the KIS AR. For example, to provide information "in the process of filing a notice on the appointment of defense lawyers (advocates)", as well as to enter "other information" about the cases they are investigating. That said, it is up to them to decide what changes to put in. In general, the operation of the KIS AR system makes attorneys dependent, vulnerable and subject to the control of the FPA and state agencies. In short, the KIS AR is not protected against information leaks, including within the framework of operational and investigative activities.

Concerning the revocation of the status of emigrant advocates, the introduction of such an amendment would prevent advocates from defending their clients even remotely. As will be further illustrated in the next chapter, advocates would not want to leave Russia, but have done so for security reasons, as there are real risks to their physical integrity and criminal prosecution in connection with their activities.

Moreover, the exact number of lawyers who have left Russia is not known since there are no special registers nor obligations to notify the Russian authorities, confirms advocate of the "Department One",³² Evgeny Smirnov, who himself works from abroad. "Therefore, there will be no practice of mass deprivation of the status of lawyers who have left. The norm will be used in relation to specific representatives of the profession after personal collection of information regarding them."³³

³²Introducing 'Department One' Exiled Human Rights Lawyer Ivan Pavlov Launches New Legal Group to Take on Russia's Treason and Espionage Cases — Meduza." 2021. Meduza. December 20, 2021. <https://meduza.io/en/feature/2021/12/20/introducing-department-one>.

³³ Novaya Gazeta. 2023. "The most important thing now is to help people stay out of jail." Novaya Gazeta. December 14, 2023. <https://novayagazeta.ru/articles/2023/12/14/seichas-samoe-glavnoe-pomoch-liudiam-ne-okazatsia-v-sizo>.

Thus, the new changes make the status of an attorney dependent on "fulfillment of duties" not to the principal, as it has always been the case, but to unnamed interested parties.

Another example of the legislative obstacles to the exercise of advocacy is the legislation on foreign agents. Although a detailed analysis of the impact of foreign agent legislation is outside the scope of this paper, it is important to mention that several lawyers currently have this discriminatory status. The first lawyers to receive such status were Ivan Pavlov, founder of the human rights project "Department One", and his colleague Valeria Vetoshkina in November 2021.³⁴ The project has as its main focus the defense of people accused of cases related to state treason and extremism.

Another famous case is a lawyer Mikhail Benyash. In 2021, a ban on access to state secrets was introduced for people with foreign agent status. Benyash entered the case, where there were materials with state secrets, but in 2022 he was suspended from participation in the case because of the inclusion of the lawyer in the register of foreign agents.³⁵ The attorney noted that he was involved in the case from the very beginning, so he had time to familiarize himself with the secret materials before they were included in the register, so there was no certainty about further process of conducting the trial, because Benyash's suspension violates the rights of his principals.

In general, attorneys often work with materials containing state secrets, and it turns out that if a lawyer has the status of a foreign agent, he will not be able to carry out his activities to the fullest.

Furthermore, the legislation on "foreign agents" is becoming stricter every year. On December 1, 2022, the Law on Control over the Activities of Persons under Foreign Influence came into

³⁴ International Commission of Jurists. "Russian Federation: Authorities Must End Attacks on Lawyers and Abuse of Foreign Agents Law," April 19, 2023. <https://www.icj.org/russian-federation-authorities-must-end-attacks-on-lawyers-and-abuse-of-foreign-agents-law/>.

³⁵ Attorney Street. "Court Suspends Attorney Due to "Foreign Agent" Status," December 16, 2022. <https://advstreet.ru/news/sud-otstranil-advokata-iz-za-statusa-inoagenta/>.

force as well as numerous legislative amendments to the "foreign agent" regulation.³⁶ As early as 2022, the UN Special Rapporteurs called on Russia to repeal or substantially amend the law on "foreign agents" and repeatedly emphasized its inconsistency with Russia's international obligations, yet the law remains in force today.³⁷

1.3 Institutional barriers hindering the work of attorneys and the exercise of legal profession

In accordance with articles 46 and 48 of the Constitution of the Russian Federation, everyone shall be guaranteed judicial protection of their rights and freedoms and the right to qualified legal assistance.³⁸ Yet, applying to the court for the protection of his professional rights, the advocate is forced to divert his attention from the legal problems of his clients and from this the rights and interests of both the client and the lawyer himself suffer.

1.3.1 Political cases

The situation becomes even more difficult when an attorney is involved in a "political case". The concept of "political case" is not precisely defined and is rather synonymous with "political trial". It is not always easy to identify the criteria of a political trial, because it is applied to different questionable situations and practices appeared in trials with political character.

³⁶ OVD-Info. "“Cutting off the air supply”: how the authorities are persecuting so-called ‘foreign agents’ in the face of war — an analysis of legislation,” January 18, 2024. <https://en.ovdinfo.org/en/cutting-air-supply-how-authorities-are-persecuting-so-called-foreign-agents-face-war>.

³⁷ “Mandates of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on the Situation of Human Rights Defenders,” November 30, 2022. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27630>.

³⁸ “Chapter 2. Rights and Freedoms of Man and Citizen | the Constitution of the Russian Federation.” n.d. (C)2001 Garant-Internet, Wwww.Garweb.Ru. <http://www.constitution.ru/en/10003000-03.htm>

Generally, a political trial is a type of trial, where “disposition depends on an evaluation of the defendant’s political attitudes and activities [...] a person is tried for engaging in political opposition or violating a law against political dissent, or for violating a broad and generally applicable law that is not usually enforced, enforced strictly, or enforced with a strict punishment, except against political opponents of the state or the government.”³⁹ In the case with attorneys there is a new trend established that advocates can be persecuted because they’re engaged in the defence of people expressing their political views and opinions publicly, conducting human rights defending activities or being against current policy of the government. In political theory present political cases in Russia could be labeled as “partisan trials” which “proceed according to a fully political agenda with only the facade of legality (although the legalism might be turgid). Political trials within the rule of law juggle both the legal and the political agendas.”⁴⁰ However, for the present paper it is not crucial to identify the exact type of political trial.

It is seen that a political trial has political implications, when in the outcome of which the State is interested, not from the point of view of compliance with or achievement of the objectives specified in the law, but from the point of view of achieving a result in the interests of certain persons or governmental structures. Russia is dominated by a culture of "authoritarian legalism", ⁴¹ a repressive system, where “law enforcement and the judiciary are instrumentalized for political purposes”.⁴² Under such legalism the prosecution is based on a law that is inherently unlawful, so that formally everything appears legal and justified, but from

³⁹ Posner, Eric A. “Political Trials in Domestic and International Law.” *SSRN Electronic Journal*, 2005. <https://doi.org/10.2139/ssrn.707870>, 76.

⁴⁰ Christenson, Ronald. “A Political Theory of Political Trials.” *The Journal of Criminal Law and Criminology* (1973-) 74, no. 2 (1983): 554.

⁴¹ Scheppele, Kim L. “Autocratic Legalism.” *The University of Chicago Law Review* 85, no. 2 (2018): 545–83.

⁴² OHCHR. “Russia: Oleg Orlov’s Trial a Textbook Example of Politicisation of Law Enforcement and Justice to Silence Anti-War Voices,” February 26, 2024. <https://www.ohchr.org/en/press-releases/2024/02/russia-oleg-orlovs-trial-textbook-example-politicisation-law-enforcement-and->

the point of view of the concept of the rule of law and justice, such a law is wrongful. This leads to great amount of show trials, similar to trials under Stalin's regime.⁴³

Currently in Russia, all disputes with the state can be called political cases, as the state tries to control all spheres of public life, especially in wartime. Nevertheless, political cases are commonly referred to as criminal cases related to state secrets (access to classified information), terrorism, extremism, and administrative cases related to anti-war statements, discrediting the armed forces, representatives of the authorities and so on, i.e. cases with a political motive. In such a category, a person is prosecuted either for his or her work or views that contradict the basic rhetoric of the state's concept. For the purposes of this study, by political cases I mean criminal proceedings initiated under political articles - those that restrict freedom of speech and expression of opinion on important public issues - as well as proceedings where the prosecution is based on an article indirectly related to the subject matter of the proceedings.

In general, why is it important to note that lawyers are even more vulnerable in political cases than in general criminal cases? Despite all the vices of the judicial and investigative system, "in an ordinary criminal trial, established procedures reflect a balance between liberty and security that is suitable for normal times."⁴⁴ In political cases, a certain political force is always added, with a view to which any decisions on the criminal case are made. And accordingly, what tasks this political force sets before the executors of the criminal case, such problems arise.

⁴³ Julia Kepczynska and Pavel Kutsevol. "Show Trials and Political Persecution: Judiciary in Putin's Russia." *Human Rights Foundation* (blog), August 11, 2023. <https://hrf.org/show-trials-and-political-persecution-judiciary-in-putins-russia/>.

⁴⁴ Posner, Eric A. "Political Trials in Domestic and International Law." *SSRN Electronic Journal*, 2005. <https://doi.org/10.2139/ssrn.707870>, 79.

1.3.2 *Monopoly of attorneys*

It would seem that in case of a flagrant violation of an attorney's professional rights, colleagues, an association or a united community of attorneys should stand up for him/her. In contrast with other legal orders, in Russia, there is no official monopoly of attorneys, but only lawyers qualified as attorneys can present their clients (the accused and defendants) in criminal cases. To represent victims and witnesses in criminal cases, as well as clients in civil and administrative cases, the status of an attorney is not required, as the work can be performed by a lawyer without additional attorney's knowledge.

Historically, post-Soviet attorneys united on the basis of a monopoly on representation in criminal cases, "where the monopoly was most favourable to the state, which was interested in having a professional group to provide free legal assistance to accused and defendants".⁴⁵ Nevertheless, it is seen that the unification of the bar should take place on the unity of a professional group whose members control each other's qualifications without state interference. " ... they [lawyers without attorney status] perceive the expansion of the bar monopoly as a "hostile takeover", present the bar as an agent of the state and believe that joining the ranks of lawyers will increase control over their activities and make them more dependent."⁴⁶

Many lawyers do not want to obtain attorney status because the least autonomy lawyers have within their monopoly: the state controls lawyers' earnings, it determines the content of labour and methods of work of lawyers on appointment. Moreover, the lawyer's activity depends on other participants in the process - prosecutors and investigators, whose qualifications may be low, on judges who are accountable to higher courts.⁴⁷ A significant advantage of the lawyer

⁴⁵ Bocharov, Timur and Ekaterina Moiseeva. *Being a Lawyer in Russia: Sociological Study of the Legal Profession*. 38.

⁴⁶ Ibid. 39-40.

⁴⁷ Ibid. 46.

status for representatives of the legal business is the attorney-client privilege, which means the prohibition to seize documents from the lawyer and to disclose case materials in case of summoning for questioning.⁴⁸ Nevertheless, the practice of recent years demonstrates that attorney-client privilege does not protect materials from seizure by law enforcement officials.⁴⁹ Perhaps the situation could have remained the same - many lawyers would not have obtained attorney status and would not have worked on most categories of cases other than criminal cases in the form of representation of the accused, but last year an initiative was voiced to introduce a lawyer's monopoly on all categories of cases. The Ministry of Justice is developing a concept of judicial representation, which will leave the possibility of representing clients not only in criminal, but also in administrative and civil proceedings to attorneys only. The attorney monopoly is expected to help in the fight against fraudsters in the legal services market, as members of the Bar pass through a "professional sieve".⁵⁰

Nevertheless, this motivation seems unconvincing and is more likely to create a crisis in the legal profession, as the quality of professional training may decline with a sharp increase in the "demand for legal status". Moreover, people whose interests in political cases in administrative proceedings were represented by ordinary lawyers without the status of attorney may suffer. If a monopoly is imposed on attorneys who are ready and engaged in defence of political cases, the workload will be enormous, and fellow lawyers without status will not be able to provide effective assistance to their clients.

⁴⁸ Ibid. 45.

⁴⁹ Attorney Street. "Attorney-client privilege is of a segmental nature," June 30, 2021. <https://advstreet.ru/article/advokatskaya-tayna-nosit-segmentarnyy-kharakter/>.

⁵⁰ Anastasia Ostrovkova. "The Ministry of Justice is preparing a concept of judicial representation." *Parlamentskaya Gazeta*, October 25, 2023. <https://www.pnp.ru/social/v-minyuste-gotovyat-koncepciyu-sudebnogo-predstavitelstva.html>.

1.3.3 What can be done to better the situation with the protection of professional rights of attorneys?

First of all, it is necessary to develop and adopt new legislative provisions in terms of ensuring the realization and protection of attorneys' professional rights. In 2020, a draft law providing for the introduction of criminal liability for obstructing the work of an advocate, which was submitted by the Ministry of Justice for public discussion, has not yet been adopted. Representatives of the FBA report that they do not know what caused the stoppage of work on the draft law, stating that: "there is serious opposition from the law enforcement and judicial system".⁵¹

In August 2023, in the State Duma a new draft law was prepared providing for up to two years' imprisonment for interfering in the work of lawyers, as well as additional procedural guarantees for defence lawyers. This draft proposes to supplement the Criminal Code with Article 294.1 (obstruction of the lawful activities of a lawyer), which provides for up to two years' imprisonment for obstructing the lawful activities of a lawyer. This article was created by analogy with the current Article 294, which provides for liability for interference in the activities of a court, prosecutor, investigator or inquirer. The same draft proposes to enshrine in the CCP the right of a defence lawyer to familiarise himself with the investigation documents drawn up before the initiation of a criminal case and the protocols of investigative actions, as well as to copy them and to know the composition of the investigation team.⁵²

The introduction of criminal liability for interference in lawyers' activities with the purpose of obstructing the exercise of professional powers is necessary because "such interference itself

⁵¹ Anastasia Kornia. "Deputies stood up for the defenders." Kommersant, August 3, 2023. <https://www.kommersant.ru/doc/6137628>.

⁵² "Lawyers commented on the Draft Amendments to the Criminal Code and the CCP on Obstruction of Lawyer's Activity." n.d. <https://www.advgazeta.ru/novosti/advokaty-prokommentirovali-proekt-popravok-v-uk-i-upk-o-vo-sprepyatstvovanii-advokatskoy-deyatelnosti/>.

is already socially dangerous and does not require a separate indication in the law of the need to establish substantial harm to the rights and legitimate interests of citizens or organisations or the legally protected interests of society or the state in this case".⁵³

Other possible recommendations include the introduction in the CCP of mandatory verification of defence evidence that points to the refutation of a suspicion or accusation. Besides, to prevent situations where lawyers are not allowed into police stations, places of deprivation of liberty, courts and other organisations and institutions, it is necessary to introduce in Article 15 of the Federal Law on Advocacy the right of unimpeded access of a lawyer to all organisations and institutions in connection with the performance of professional activities to provide qualified assistance upon presentation of a lawyer's certificate.⁵⁴

Secondly, among the general recommendations that can be implemented by advocates' initiative groups, it can be suggested to develop a unified methodology and algorithm of advocates' actions in the event of violations of the rights and legitimate interests of advocates. It is also necessary to conduct surveys of lawyers, the results of which should be brought to the attention of the state authorities.

Thirdly, the establishment of a commission for the protection of lawyers' professional rights within each RBA is also seen as necessary. The commission should be a quick-response institution, so that lawyers can seek help at any time and can count on the support of their colleagues, since at present lawyers often do not report violations for fear of further disciplinary action or pressure from chambers and bar associations. Moreover, the establishment of such commissions should not be nominal; the effectiveness of the protection of professional rights does not increase with an increase in the number of institutions, it will only become effective

⁵³ "Report 'The Thorny Path of Becoming a Russian Lawyer.'" Institute for Law and Public Policy, 2020. <http://advdefence.ilpp.ru>.

⁵⁴ Ibid.

with the quick work and involvement of commission members in the problems of their colleagues.

Lawyers themselves can also unite into groups to protect their rights, for example, as the lawyers of the St. Petersburg Bar Association have done this by establishing the Institute of Plenipotentiary Representatives for the Protection of the Professional Rights of Lawyers. Lawyers who are authorised representatives go to the place of violation of professional rights, for example, when a lawyer is not allowed to enter a police station, a court building or a place where a client is serving a sentence, and are present during a search of a lawyer's residence in accordance with the provisions of Article 450.1 of the CCP.

Last, but not least, institutional changes are also needed. It is necessary that the heads of investigative bodies, the prosecutor's office and the court react properly to the violations encountered. It may be necessary to introduce amendments and additions drawing the attention of officials to the inadmissibility of violations of the current legislation in this area in departmental acts, as well as in generalizing practice decisions of the highest judicial instances.⁵⁵ It is also necessary to stop the practice of opposing the investigation, prosecutor and court against the lawyer as a procedural enemy, as they are all participants in the unified process of justice and should be oriented towards their duties within the law.

⁵⁵ Shmareva T. A., Shmarev A. I., Starodumov S. V. On guarantees of professional rights of defense lawyers in criminal proceedings. *Kriminalistika: vchera segodnya, zavtra* = *Fo-rensics: yesterday, today, tomorrow*. 2021, vol. 19. no. 3, pp. 233—239 (in Russ.).

2. CASE STUDY ON PERSECUTION OF ATTORNEYS ON POLITICAL GROUNDS (NAVALNY'S ATTORNEYS CASE)

2.1 Facts of Navalny's attorneys case

Alexei Navalny was one of the well-known Russian opposition politicians. Navalny has been imprisoned since 2021, when the court replaced his suspended sentence in the Yves Rocher case of 3,5 years with a real one. In March 2022, Navalny was sentenced to another 9 years in prison for fraud and contempt of court. Navalny's "extremist" case became known in October 2022: the oppositionist was charged with organizing an extremist community, financing extremism, and calling for it. In August 2023, the Moscow City Court sentenced Navalny in this case to 19 years in a special regime colony. The case was related to the Anti-Corruption Foundation founded by Navalny (recognized in Russia as a foreign agent, extremist organization and banned). The investigation stated that the organization was established to "carry out extremist activities aimed at changing the foundations of the constitutional order in the Russian Federation, undermining public security and the state integrity of the Russian Federation".

Throughout his years of active political activity, Navalny participated in court proceedings at the national and international levels, where his interests were represented by several lawyers with attorney status. With their help, Navalny was able to keep in touch with the outside world and exercised his right to receive qualified legal assistance.

However, on 13 October 2023, Navalny's attorneys Igor Sergunin,⁵⁶ Alexei Liptser⁵⁷ and Vadim Kobzev⁵⁸ were arrested on the case of participation in an extremist community (part 2 of article 282.1 of the Criminal Code),⁵⁹ under this article they face up to 6 years of imprisonment.⁶⁰ The publication of the rulings was prohibited by Court⁶¹ but Navalny's associate, Ivan Zhdanov, published an excerpt from the case materials, where, according to the investigation, the advocates, "using their status in providing legal assistance for access to the correctional facility, ensured the regular transmission of information between the leaders and participants of the extremist community and Navalny A.A., who thereby continued to perform the functions of the leader and head of the extremist community in planning, preparing, creating conditions and committing the offense."⁶²

Before the arrest, searches were conducted at the attorneys themselves, at the attorneys' organization "Dalet", which, in addition to attorneys, includes Sergunin and Lipzer, another attorney who defended Navalny, Olga Mikhailova.⁶³

On the same day, a petition was created by attorneys of FBA, RBAs and public associations to hold a preventive action – a general temporary widespread cessation of attorneys' participation in procedural actions in all types of legal proceedings.⁶⁴ The text of the petition emphasizes

⁵⁶ Igor Sergunin, MGKA "Dalet", accessed 17 March 2024, <https://www.mgkadalet.ru/staff/yuridicheskiy-otdel/29/>.

⁵⁷ Alexei Liptser, MGKA "Dalet", accessed 17 March 2024, <https://www.mgkadalet.ru/staff/yuridicheskiy-otdel/30/>.

⁵⁸ Advocates of the Russian Federation, the Ministry of Justice of the Russian Federation, accessed 17 March 2024, <https://minjust.gov.ru/ru/pages/advokaty-rossijskoj-federacii/>.

⁵⁹ Criminal Code of Russian Federation, Pub. L. No. 63- Φ3 (1996). https://www.consultant.ru/document/cons_doc_LAW_10699.

⁶⁰ Ibid. Article 282.1.

⁶¹ "Information On Case No. 3/1-0438/2023 | Information On Materials On Criminal Cases | Information On Court Cases | Services | Basmany District Court | The Official Portal Of The Courts Of General Jurisdiction Of The City Of Moscow." n.d., accessed 10 March 2024, <https://mos-gorsud.ru/rs/basmanyj/services/cases/criminal-materials/details/856a2d30-69d6-11ee-a3cc-7d8e45b13aad>.

⁶² "Zhdanov." n.d. Telegram. <https://t.me/ioannZH/2145>.

⁶³ Olga Mikhailova, MGKA "Dalet", accessed 17 March 2024, <https://www.mgkadalet.ru/staff/yuridicheskiy-otdel/214/>.

⁶⁴ "We Urge You To Support The Campaign 'Refusal To Participate In Legal Proceedings!'" Accessed June 17, 2024. <https://legalpetition.ru/calltoaction>.

that the guarantees and professional rights of attorneys enshrined in legislation "are currently illusory", since in reality the realization of such rights and guarantees is either difficult or impossible, and the activities of lawyers are interfered with or completely obstructed.

The petition provided the list of offences committed against lawyers, with the specific names of the affected lawyers. For most of the listed offences, the perpetrators have not been identified and prosecuted. The authors of the petition stated that committed offences are acts of intimidation of individual lawyers and all representatives of the lawyers' community, and their ineffective investigation and insufficient level of involvement of the Federal Chamber of Advocates and the chambers of advocates of the constituent entities of the Russian Federation outrage the lawyers' community.

The authors of the petition demanded "to organise an objective investigation into the facts of threats, obstacles, intimidation or unjustified interference in lawyers' activities mentioned in the petition and other facts; to stop persecution of the lawyers mentioned in the petition and other lawyers for their professional activities, and to immediately release all detained lawyers from custody; initiate the introduction into the Criminal Code of a norm on liability for obstructing and interfering in the professional activities of a lawyer, with the establishment of a serious sanction for committing these acts."⁶⁵

The authors of the petition also proposed to organise a de facto strike - in a general temporary widespread cessation of participation of lawyers in all procedural actions in all types of legal proceedings during the period of time with prior notification of the participants of the relevant actions on the necessity to postpone their proceedings. However, only 269 lawyers signed the petition and there was no strike.

⁶⁵ Ibid.

On 16 October 2023, Alexander Fedulov, another attorney of Alexei Navalny, left Russia after criminal proceedings were initiated against his colleagues.

On 16 November 2023, the Federal Service for Financial Monitoring (Rosfinmonitoring) included lawyers Vadim Kobzev, Igor Sergunin and Alexei Liptser in the list of terrorists and extremists, according to the agency's list. They are deprived of the ability to use banking services, including opening accounts and using the money on them. Being on the list means that cases under the "extremist" and "terrorist" articles of the Criminal Code have been opened against these individuals.

On 16 January 2024, the Russian Investigative Committee charged Olga Mikhailova in absentia with participation in an extremist community. On 2 February 2024, Mikhailova and Fedulov were put on a wanted list, according to a card in the database of the Russian Interior Ministry.

On 15 February 2024, the Basmany District Court of Moscow arrested Mikhailova and Fedulov in absentia. The court's press service published that "The court has chosen a measure of restraint in the form of remand in custody for a period of two months from the moment of extradition to the territory of the Russian Federation or from the moment of detention on the territory of the Russian Federation."⁶⁶

On 7 March 2024, the Basmanniy District Court of Moscow extended the detention of Kobzev, Liptser and Sergunin until 13 June 2024. The meeting on the extension of the preventive measure for Sergunin was held in closed mode. Liptser and Kobzev were extended together. This time listeners and journalists were allowed into the hall.

On 28 May 2024, investigative actions in the criminal case against the attorneys were completed, at the request of the investigation, the Court extended the arrest of Liptser and Kobzev until 3 August 2024. As the investigator pointed out in court, during this period of time

⁶⁶ "Courts Of General Jurisdiction Of The City Of Moscow." n.d. Telegram. <https://t.me/moscowcourts/2506>.

the investigation needs to complete familiarisation of the defendants with the materials of the criminal case and send the case to the prosecutor's office for further submission to the court. The lawyers asked the Court to reject the investigator's motion, stressing that the investigation of the case is now complete, evidence has been collected and all witnesses have been questioned.⁶⁷

Moreover, on the same day Sergunin pleaded guilty. The penultimate extension of preventive measures in March 2024 Sergunin was already held separately from the other two defendants in the case and in closed mode. Sergunin's colleagues are sure that he pleaded guilty under pressure.

2.2 Whether it is a political case

The case is still ongoing and the consideration of the merits of the case in court hearings has not yet begun, however, it is important to note that this case appears to be a political one. Firstly, it seems strange to accuse lawyers of extremism, because usually extremism includes an element of violence and the aim is to cause harm to others. The Criminal Code has several articles dealing with liability for organising an extremist community (Article 282.1), organising the activities of an extremist organisation (Article 282.2) and financing an extremist organisation (282.3).

According to the note to the article 282.1, "extremist crimes are understood as crimes committed on the grounds of political, ideological, racial, national or religious hatred or enmity or on the grounds of hatred or enmity against a social group".

⁶⁷ Interfax.ru. "Еще двое адвокатов Навального отправлены в СИЗО." October 13, 2023. <https://www.interfax.ru/russia/925837>.

Russian legislation does not refer to extremism as "violent", but it does use references to concepts that "in theory or in practice, to principles of democracy or human rights, to the good functioning of the democratic institutions of the State or to other basic principles of the rule of law."⁶⁸ However, "if they are not limited to "violent" extremism, such measures risk targeting the holding of an opinion or belief rather than actual conduct",⁶⁹ which is what happened in this case.

Article 282.1 is vague, so defendants are charged with actions that are interpreted as extremist only because they were carried out within the framework of a so-called "extremist association". Thus, all participants and leaders of an association recognised as extremists are collectively responsible for the actions of all participants of the community/organisation, even if they themselves did not take any part in them. "At the same time, the peculiarity of the application of Article 282.1 of the Criminal Code is that the leaders and participants of an "extremist community" actually learn that it is such only at the moment of being charged with organising its activities or membership in it". The type of the behaviour is very important, here the lawyers did not do anything vaillant, did not promote any ideology or call for violence.

Persecution of Navalny's lawyers violates the provisions of the Basic Principles on the Role of Lawyers, paragraph 16: "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",

⁶⁸ UN Human Rights Council, *Report on best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism*, A/HRC/33/29, 21 July 2016, <https://www.refworld.org/reference/themreport/unhrc/2016/en/112213>, para. 18.

⁶⁹ Ibid.

paragraph 18: “Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions”, and

paragraph 22: “Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.”⁷⁰

The criminal prosecution of Navalny's attorneys is an unlawful interference of the state in their legitimate professional activities and a violation of the guarantees established by pts. 1 and para. 3 of Article 18 of the Federal Law on Advocacy, according to which "interference in the advocate's activity carried out in accordance with the legislation or obstruction of such activity in any way is prohibited", and "demanding from lawyers <....> information related to the provision of legal assistance in specific cases is not allowed".⁷¹

Secondly, the charges of participation in extremist activities appear to be based on the accusation of the client of the arrested lawyers. Navalny was recognised as an extremist and was found guilty in connection with the creation of an extremist community, which included the lawyers who represented him in court, because they were in close contact with their client. It is worth noting that, according to part 3 of Article 91 of the Penal Enforcement Code of the Russian Federation, "correspondence between the convicted person and the defence counsel shall not be subject to censorship, except in cases where the administration of the correctional institution has reliable information that the information contained in the correspondence is aimed at initiating, planning or organising a crime or involving other persons in its commission.

⁷⁰ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. “Basic Principles on the Role of Lawyers.” OHCHR, September 7, 1990.

⁷¹ "The Case of Alexei Navalny's Lawyers - Support for Political Prisoners. Memorial." 2024. Support for Political Prisoners. Memorial. May 12, 2024. <https://memopzk.org/dossier/delo-advokatov-alekseya-navalnogo/>.

In these cases, the control of letters, postcards, telegraphic and other communications is carried out by a reasoned decision of the head of the penitentiary or his deputy".⁷²

However, neither lawyers, nor the Federal Penitentiary Service officers or other law enforcers had previously reported about the discovery and seizure of prohibited records or documents from lawyers when entering or leaving the colony. There has been no information about any official warnings or claims against them. The question remains open as to how the lawyers, whose conversations, recordings and documents were under the full control of the law enforcers, could ensure "the regular transfer of information between the leaders, members of the extremist community and A.A. Navalny".

Thirdly, from the available small excerpt of the indictment it is clear that the common practice of all lawyers - to maintain communication between the client and the outside world, relatives, is presented as extremist and aimed at spreading and continuing the commission of the offence. However, it is not clear from the information communicated by the lawyers to the outside world where the very element of violence and calls for destructive actions is presented here. If we look at all of Navalny's social media posts published during his imprisonment by members of his team based on the letters and information passed on by the lawyers, it is clear that Navalny was simply expressing his political views, anti-war stance and simply sharing his impressions of his time in prison.

As of June 2024, due to the lack of access to the investigation materials and preliminary court hearings, there is no comprehensive information on how the investigation plans to prove the very fact that the lawyers transmitted specific messages from Alexei Navalny to his supporters and vice versa. Thus, Navalny's lawyers were accused of participation in an extremist

⁷² Penal Enforcement Code of the Russian Federation N 1-FZ (1997). https://www.consultant.ru/document/cons_doc_LAW_12940/.

community because of their legitimate professional activities. The transfer of information from a prisoner to his relatives and the outside world is not an offence.

3. INTERVIEWS WITH RUSSIAN ATTORNEYS

This work aims to analyze the problems and limitations that advocates face in their professional activities, especially when handling political cases. To gain a deeper understanding of this issue, it was decided to conduct interviews with advocates who have direct experience in managing political cases. Thus, the method for this part of the analysis involved conducting 5 online semi-structured interviews. It was particularly important to conduct semi-structured interviews to allow informants to share their thoughts on topics/problems they felt were significant. The interviews were conducted in May 2024 via Zoom. The selection of respondents was formed through personal contacts within Russian NGOs and the Moscow legal community, as well as through snowball sampling. The names of respondents were anonymized due to security and privacy measures. The study included both lawyers who have left Russia and those who are currently practicing within the country. This approach aims to include both those who were forced to leave due to persecution in Russia and those who continue to work under the risk of state repression. Three informants left - Int 1, 2 and 4, other two remained in the country - Int 3, 5 .

The number of informants interviewed is limited by the scope and format of this study. However, the insights and perspectives shared by the Russian lawyers shed light on issues that are usually overlooked in public discourse, and they also corroborate the conclusions drawn from the analysis of written sources.

The interview consisted of several sets of questions: general information about the interviewee (why came into the profession, education, process of obtaining lawyer status), peculiarities and difficulties of the lawyer's profession, about the lawyer's community, the legal profession as an institution, about the reaction to the arrest of Navalny's lawyers, and for the lawyers who left, questions about moving and conducting business from abroad.

Regarding the profession of attorney, the interviewed lawyers received their higher legal education in different regions of Russia, but obtained their status in the bar chambers of Moscow, Moscow Region and St. Petersburg, and are currently practising in Moscow or St. Petersburg.

In the first set of questions about the profession of attorney, the majority of respondents answered that they had wanted to become advocates since childhood and considered the advocate's profession as their vocation. Another part of the respondents saw the status of an attorney as a continuation of their professional path, because "the status of a lawyer gave them additional opportunities for legal work, such as visiting pre-trial detention centers, and even participating in civil cases, for example, in the constitutional court" (Int.1). The respondents see the Bar as an institution of civil society, in whose activities the state should not interfere, but only in relation to the allocation of money for the conduct of cases on appointment.

It is also valuable to look at how informants see the lawyers' community and the legal profession as an institution. Based on the respondents' answers, it can be understood that the legal community is not homogeneous and is divided into two groups: those who practice law out of a desire to help people, and those who chose this profession based on its high pay.

"There are attorneys who are engaged in advocacy, and there are some people for whom advocacy is a way to make money <...> I can call a small group of attorneys, who are really engaged in defending the rights of their citizens, and not exclusively making money" (Int 1).

"There is no unified community, it's a utopia, because lawyers are ordinary people who simply have a legal education and passed the bar exams. We are all different, with our own beliefs and views. Therefore, unfortunately, there are a lot of conflicts in regional chambers and in general throughout the country, especially after the events of 2022 ... Some lawyers condemned me for my activities in defending participants of public gatherings, although in essence this is no

different from defending, for example, administrative detainees in connection with traffic violations.” (Int 3).

Separately, respondents noted that often former law enforcement officers (“*siloviki*”) who are not lawyers in the sense of "the spirit of the profession" (Int. 2) enter the legal profession, and "their legal consciousness is very distorted" (Int. 3). Such lawyers, according to the interviewed respondents, receive nominal status and carry bribes, negotiate with investigators and fulfill some functions unrelated to advocacy work (Int. 1).

Within "the spirit of profession" attorneys mean that "in political cases, initially your client is a person who has suffered from the system. In such cases, this role of a defence lawyer appears. You are the only buffer between this person and the system. And if you take you away, the person will simply be crushed” (Int. 2).

Respondents also add about the lack of support from the FBA when difficulties arise in the process of carrying out advocacy duties:

"Many leaders of bar associations, they are simply traitors to the profession. Even those who are publicly regarded as great advocates of the bar or great 'maestros of the bar', who, it seems to me, should be some kind of moral tuners of the bar. Unfortunately, many people do not realise that a lawyer is not just a lawyer with status, but also a defender of rights ... I was locked in a cell by police officers and was not allowed out for several hours. They deprived me of my freedom, in fact they committed an offence by demanding that I give them the agreement. I was only able to get out of there when I physically destroyed the agreement, there was nothing to give them. After that, I called the maestros who head the Federal Chamber and the Moscow Chamber. And they advised me not to make a big deal out of it, because I could get in trouble." (Int. 1)

"My bar association and representatives of my chamber additionally called me not to take cases for anything that they considered discrediting the honour of a lawyer, because they need to

renew the lease on the office in the centre of Moscow, and so they, for example, ask me not to take me on the rallies that are expected in the centre of Moscow ... The Ministry of Justice has always wanted to be involved in the activities of the Bar. Despite the attempts of the advocacy community to be independent from regulation by the Ministry, it still controlled many processes, so, in principle, it is not surprising that we came to this." (Int. 3).

The interviewed lawyers listed difficulties and obstacles encountered in their work. They coincided with the categories of violations listed in Chapter 1 of this study, and also indicated the following violations that they had directly encountered:

- attorney's non-admission to the client, despite the provision of a certificate and warrant: "the investigator simply refuses to meet, does not accept documents, and the attorney enters upon presentation of a warrant and certificate, there is simply no one to present them, because the investigator is hiding from the attorney" (Int. 4).
- physical attorney's non-admission to the client: "In political cases, I was closed in the pre-trial detention centre several times, they just wouldn't let me out before and after the meeting with the defendant ... besides, the policemen hid the information about my client that he was delivered in this particular police station." (Int. 3).
- pressure to sign a signature on the NDA of all information from the preliminary investigation: "... it becomes more difficult to comment to the media and give the case publicity, which is often necessary when participating in political cases" (Int. 5).
- threats and pressure from law enforcement officials: "they threatened me with seizures at my home and at my office" (Int. 3) "... the surveillance that you notice, that follows you, it affects you psychologically" (Int. 1).
- physical violence against clients: "... these physical threats, they only work and they only apply at the point when the lawyer is just entering the case or when the person is just being detained. If the person shows the will and says, no, I want him to be my

lawyer, I will be defended, I will be separated from him. At least that's the way it works with the Federal Security Service."

- negative publications in the press, spreading threats on the Internet.

Another difficulty for attorneys who have left is finding colleagues to transfer the case. "The peculiarity of political cases, if they are related to treason, the FSB, many lawyers refuse to handle such cases. If we talk about some not very large regions, in some regions the refusal reaches 100 percent ... We are looking for lawyers, those who are ready. Sometimes it is possible to act through relatives, to instruct them how to communicate with lawyers, so that they act as customers in the case" (Int. 1).

The next important section of the interview was the discussion about the informants' move from Russia and their activities after the relocation.

The introduction of the amendment on the deprivation of attorney status for living outside Russia for more than a year is seen as a measure of pressure on lawyers who have already left and as a preventive measure for those who were in contemplation of moving, but such an amendment does not fundamentally change the situation.

One of the departing respondents sees this restriction as useless, as the status of a lawyer was necessary to physically visit clients and attend court hearings. After the move, however, the respondent continued to engage in case management in the form of legal advice as well as analytical work. "This kind of remote work is an opportunity to do things that cannot be done in the country now. For example, international advocacy - open commenting on criminal cases, coordinating a criminal case. It's assistance in preparing documents, in developing a strategy for finding lawyers in Russia. And perhaps the most important thing is analytical work on criminal cases. When you work remotely, you can handle a larger number of cases, and you can notice general trends, which is quite difficult to see when 'working on the ground', because nowadays the practice of applying the law is changing at a fantastic speed".

Another respondent notes the following: " ... it is super hard to transfer your profession abroad as a lawyer in Russia ... the amendment looks more like a hysterical gesture, "so you don't earn money here, having a status in Russia". Because in many countries you can get the corresponding status in your own right, as long as you are among the lawyer's register in Russia. But such a small percentage, that is these lawyers who are in the register. Therefore, it is rather such a story not particularly harmful in principle to the lawyers' community with the deprivation of status for departure."

However, respondents also noted that "the very control of crossing the border of the Russian Federation is a serious control mechanism, since previously the Federal Security Service and the Foreign Intelligence Service had information about movements abroad, now such information will be available to the Ministry of Justice for physical control of the Bar" (Int. 1, Int. 4).

When asked about their attitude to the text of the petition published on 13 October and the possibility of a strike. The respondents state that the petition was not so effective and only brought negative attention to the people who signed the petition, but see a strike as an effective instrument of influence: "The petition is a call to protect attorneys, to draw attention to the problem. The petition of 13 October did not attract widespread attention, but as a result the Ministry of Justice threatened the signatories with prosecution (disciplinary action) ... The bodies of the Bar that have a duty to protect lawyers "didn't lift a finger"".

Some of the respondents believe that in 2023 it was already too late to hold a strike: "A strike is an effective thing. But I am afraid that the time for them has already passed. That is, when it was necessary to protect the autonomy of the Bar, its independence, then it was necessary to hold strikes. Now the Bar is already very much weakened, a large number of laws have been adopted that restrict the Bar. And in these realities, the next step may simply be the destruction of the Bar Corporation and subordination to the Ministry of Justice. Now the strike in

conditions when Russia is at war, when the law does not exist in Russia, when lawyers are afraid to sign a petition, when there is a huge number of structures and practice of their application against lawyers, I am afraid, is impossible, because no one will support it. Or rather, few people will support it. And those who will participate in the strike will simply be destroyed”.

Others respondents believe that strike is impossible apriori because of the fragmentation of the lawyers' community: "Once a year we wrote petitions, even several petitions on different issues. I think I signed 20 petititons over the whole time - did not lead to any result, petitions are rather for our joy. There was a wide discourse on the lawyers' strike as a last resort, including the Federal Bar Association. Simply to stop all the work of lawyers throughout Russia. But, unfortunately, we could not agree within the community. Despite a number of active lawyers' associations, the rest, in general, do not care about what is happening. Especially when they try to distance themselves from political affairs, some lawyers simply do not want to be associated with this story. Therefore, there is no talk of any strike, and, accordingly, we have no method of public pressure at all. ... There is a group of lawyers who refer themselves to the group of human rights lawyers. And even there, there is still the occasional desire to ram it down another or another throat because someone is doing something differently from what someone else thought."

A separate question was asked about the reaction to the arrest of Navalny's attorneys. On the one hand, this was a personal shock, since the respondents were personally acquainted with those who were arrested. On the other hand, they expected such a development of events, however, they did not imagine that it would happen so soon.

Based on the analysis of the interviews, we can conclude that this precedent reflected new orders tacitly established by the state. Firstly, lawyers note that thanks to a large set of similar political cases, it becomes clear that political defendants acquire the status of “enemy” in the

eyes of the state, losing the status of an ordinary defendant who falls under the law. Secondly, the very work with political prisoners is unsafe for a lawyer, since the lawyer and the political prisoner are not separable in the eyes of the state - "The state has stopped separating the client and his defense attorney - if you defend an extremist, you are an extremist yourself. <...> The authorities treat defendants as enemies, not as people who have fallen under the law. The law does not work with enemies" (Int 4). Thus, we can come to the conclusion that the very professional activity of lawyers is under state pressure and leads to repression.

It is important to note that the described new practices of intimidation from the state also affect those lawyers who do not work with political cases, "At that moment everyone was scared, even those who are not involved in political cases, because then we understood the message of the state <...> It has become so bad that now it is really possible to detain on any grounds and bring criminal responsibility. And that's scary." (Int 4).

Another respondent notes that "if an attorney keeps in touch with the defendant and relatives on everyday issues, then, in principle, it is, as it were, a collateral matter for any lawyer when going to the colony. Now the state has started to suppress such a possibility in relation to political prisoners, because the purpose of imprisonment of political prisoners is to isolate them from the outside world".

Lawyers emphasized that their profession is increasingly under state pressure, especially when defending political cases, which blurs the lines between the defendant and their attorney in the eyes of the state. Despite the existence of legal protection mechanisms, the effectiveness is about zero, and the fear of repression extends even to those not involved in political cases, underscoring the pervasive atmosphere of intimidation and the erosion of professional autonomy.

CONCLUSION

Within the analysis of the present legislation on attorneys' activities and case study, there are inevitable problems in the protection of attorneys' professional rights by self-governance bodies. Both attorneys themselves and bodies of the Bar should take timely measures to appeal against each violation of advocates' professional rights.

Despite the important status of an attorney in criminal proceedings, they are the least protected people in the exercise of their professional activities, unlike other participants in the process - investigators, prosecutors, etc. Violations of professional rights concern not only procedural aspects, but also the personal inviolability of the attorney and their clients, but there are almost no effective mechanisms to prevent violations or restore violated rights. The situation becomes more complicated if an attorney is handling a political case. Currently, most cases can be called political, however, such cases are primarily understood as those where a person is prosecuted either for his or her work or views that contradict the basic rhetoric of the state's concept.

It is crucial to provide and enforce effective mechanisms of protection of attorneys' rights including the amendments in the legislation concerning the criminal liability for obstruction of attorneys' activities, introduction of guarantees when an attorney participates in a criminal case as a suspect, to establish commissions for the protection of professional rights in each region of the country so that they can quickly respond to emerging violations. It is also necessary to improve the interaction of attorneys within the corporation, possibly encouraging them to create independent associations that could monitor violations and assist in overcoming them through rapid response.

Russian authorities now associate the attorneys with their clients. The government took control over the legal profession, eroding its independence; bar associations became the vehicle of the government's agenda and repression. It is becoming more and more difficult for attorneys to handle political cases, many of them are under pressure and are forced to leave Russia.

According to the interviews, it is clear that attorneys do not see any opportunities to improve the current situation, restore their rights, and have a negative attitude towards the new changes to the Federal Law on Advocacy, which further subordinated the Bar to the Ministry of Justice. Russian attorneys, both those who have left and those who remain, continue to work and are committed to helping each other in difficult circumstances. There are still lawyers in Russia who are willing to pursue political cases despite great pressure from outside - state structures - and from within the community - the disapproval of their colleagues.

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