

(A) Introduction

1. In July 2019, our organization informed the Special Rapporteur on the rights to freedom of peaceful assembly and of association (hereinafter Special Rapporteur) about the detention and arrest of seven prominent members of the opposition movement of Ingushetia:
 - (1) Mr Khamkhoev Magomed Musaevich
 - (2) Mr Malsagov Musa Aslanovich
 - (3) Mr Khamkhoev Gelani Magometovich
 - (4) Mr Chemurziev Barakh Akhmetovich
 - (5) Mr Barakhoev Ahmed Osmanovich
 - (6) Mr Khautiev Bagaudin Adamovich
 - (7) Mr Oskanov Amir Mukhazhirovich
2. Their arrests and charging with violent crimes followed protest rallies against the agreement on the accession of several regions of Ingushetia to the Chechen Republic, which took place in late March and April 2019. Four out of the seven detainees have been recognized as political prisoners by “Memorial.”¹ In 2019 SJI lodged applications with the European Court in connection with the lawfulness of their detention as guaranteed by the European Convention on Human Rights.²
3. In the present submission, we bring to your attention that after one year, 6 of the detainees are still being held in pre-trial detention, i.e. with the exception of Mr Oskanov. On 02.28.2020, the Zheleznovodsk city court (Stavropol region) sentenced Mr Oskanov to one year and 11 months in a colony-settlement for using violence against members of “Rosgvardii” (law enforcement officers). During the trial, Mr Oskanov admitted that he threw a chair and a bottle during the rally, but claimed that he had not hit anyone. The judge considered that his actions displayed no political motive.³ Given the fact that one day in a pre-trial detention center counts for two days in a prison colony, Mr Oskanov was released on 24 April 2020.
4. In January 2020, four leaders of the Ingush protest movement from the list above—Messrs Malsagov, Chemurziyev, Barakhoyev, and Khautiyev, were charged with «creating an extremist organization» and «participation in an extremist group»,⁴ for which punishment varies from 5 to 10 years’ imprisonment.
5. We draw the attention of the Special Rapporteur to the behavior of state agencies, such as bringing tougher charges, refusing adequate medical care, and refusing to change the detention measures to house arrest during the Covid-19 pandemic, which should be assessed as a continuing form of political pressure on the activists, which has a chilling effect on freedom of speech, assembly and association in Ingushetia. Legal harassment of activists and civil society groups in Ingushetia has been widespread, as the issue of land accession galvanized Ingush civil society on a large scale. In late 2019, three local organizations were

¹01.07.2019 г. – Human Rights Center Memorial recognized as political prisoners Malsagov Musa, Chemurziyev Barakh, Barakhoyev Ahmed: https://memohrc.org/ru/news_old/memorial-priznal-pyateryh-liderov-ingushskoy-oppozicii-politzaklyuchennymi; 25.02.2020 г. Memorial recognized as political prisoners Khatuyev Bagaudin: https://memohrc.org/ru/news_old/memorial-priznal-politzaklyuchyonnym-eshcho-odnogo-lidera-ingushskogo-protesta

²Khamkhoyev Magomed – 18.10.2019; Malsagov Musa – 08.11.2019; Khamkhoyev Gelaniy – 18.10.2019; Chemurziyev Barakh – 08.11.2019; Brakhoyev Ahmet – 10.10.2019; Khautiyev Bagaudin – 18.10.2019; Oskanov Amir – 25.10.2019

³ Human rights center Memorial «the 20th guilty sentence was delivered in the Ingush protests case», 28.02.2020, on: https://memohrc.org/ru/news_old/vynesen-20-y-obvinitelnyy-prigovor-po-ingushskomu-mitingovomu-delu

⁴ Part 1 of Article 282.1 of the Criminal Code and Part 2 of Article 282.1 of the Criminal Code - respectively

designated as foreign agents, although at least one of them had not received foreign funding for several years, rendering the designation clearly illegal. A fabricated interview with Mr Magomed Barakhoev, the head of one of the organizations designated as a foreign agent and a partner of SJI, was published on the internet, and cited as grounds for the foreign agent designation.⁵ In January 2020, the Prosecutor's Office requested the liquidation of the Ingush Committee of National Unity (IKNE) on administrative grounds.⁶

6. We would also like to express particular concern about the state of health of Mr Barakhoev Ahmed, who is 66 years old and has a number of serious medical conditions requiring treatment, and because of his increased age is at a higher risk of complications from Covid-19, in case he becomes infected. The conditions of detention of all prisoners in connection with the coronavirus pandemic also gives cause for concern, in connection with the information on the insufficiency of measures taken in the penitentiary system of the Russian Federation to prevent the spread of infection in places of detention (see below Section C).

B. Continuing detention and new charges

7. Initially, the majority of detainees held in connection with the protests were charged with violations of an administrative order. Serious criminal charges were immediately brought against some of them, such as crimes against government officials. However, despite the range of different charges, all of the activists were taken into custody.
8. At the time of filing this submission, the situation of the six detainees listed above is as follows.

(1) Mr Khamkhoev Magomed Musaevich, in custody since 3 April 2019

9. Mr Khamkhoev was charged with "the use of violence against a representative of the authorities" (Article 318(2) of the Criminal Code), which prescribes 10 years' imprisonment. On 28 February 2020 the charges were changed to "Incitement to use non-life-threatening violence against government officials" (p. 4 of Art. 33, part 1, article 318 of the Criminal Code), which prescribes 5 years' imprisonment.⁷ His pre-trial detention has been extended several times, most recently until 25.06.2020.⁸

(2) Mr Malsagov Musa Aslanovich, in custody since 3 April 2019

10. During Mr Malsagov's arrest, he was charged with "violation of the established procedure for organizing or holding a meeting, rally, demonstration, procession or picket," an administrative offense (p. 2 of Art. 20.2 of Administrative Code). Subsequently, Mr Malsagov was charged with "Organization of violence, dangerous to life and health against a representative of authority" (Article 318 of the Criminal Code), which prescribes 10 years' imprisonment. We consider it worth noting here that this charge does not correspond to the wording of Article 318, which prescribes *the use* of violence against representatives of the authorities, rather than the *organization* of violence. This formulation is therefore novel, and while it may represent a mere oversight of the investigative authorities, there is a concern

⁵ See, for example, <https://theins.ru/news/192655> (in Russian).

⁶ See for example, <https://ovdinfo.org/express-news/2020/01/26/prokuratura-potrebovala-likvidirovat-ingushskiy-komitet-nacionalnogo> (in Russian).

⁷ Human Rights Center Memorial, on: <https://memohrc.org/ru/defendants/hamhoev-magomed-musaevich>

⁸ Caucasian knot «The court extended detention of Ingush activist», on: <https://www.kavkaz-uzel.eu/articles/347255/>

that it in fact represents a new legal strategy for suppressing freedom of assembly, which could be replicated in Russia more widely.

11. On 20 January 2020 the charges against Mr Malsagov were supplemented by a new charge of "creation of an extremist group" (part 1 of Art. 282.1 of the Criminal Code), which provides for up to 10 years in prison.⁹ His pre-trial detention has been extended several times, most recently until 25.06.2020.

(3) Mr Khamkhoev Gelani Magometovich, in custody since 5 April 2019

12. During Mr Khamkhoev's arrest, he was charged with "the use of violence, dangerous to the life or health of a representative of the authorities or his relatives in connection with the performance of his official duties" (p. 2 of art. 318 of the Criminal Code), which was later, in September 2019, changed to part of Art. 318, reducing the potential sentence from 10 to 5 years.¹⁰
13. On 13 February 2020 the Zheleznovodsk city court of Stavropol region found Mr. Khamkhoyev guilty of the charges under part 1 of Art. 318 of the Criminal Code, and sentenced him to 1 year 9 months' imprisonment in a settlement colony.¹¹ On 24 April 2020 the Stavropol Regional Court examined appeals against the sentences of several Ingush activists. As regards Mr Khamkhoev, the sentence remained the same as appointed by the court of first instance, but the colony-settlement was replaced by a stricter regime - the colony of general regime. The Court of Appeal also reclassified the crime committed by Mr Khamkhoev, supplementing the initial charge of "violence against a government official" with a motive of political animus.¹²

(4) Mr Chemurziev Barakh Akhmetovich, in custody since 3 April 2019.

14. Mr Chemurziev was initially charged with the administrative offense of "violation of the established procedure for organizing or holding a meeting, rally, demonstration, procession or picket" (p. 2 of Art. 20.2 of the Administrative Code).
15. Subsequently he was charged with "Organization of violence against the authorities that is dangerous to life and health" (p. 3 of Art. 33, part 2, article 318 of Criminal Code). The same commentary on the wording of this charge applies (see above para. 10). On 16 January 2020 the investigating authorities supplemented the charges with "Participation in an extremist group" (p. 2 of Art 282.1 of Criminal Code), which provides for a punishment of up to 6 years in prison.¹³ His pre-trial detention has been extended several times, most recently until 25.06.2020.¹⁴

(5) Mr Barakhoyev Ahmed Osmanovich, in custody since 3 April 2019

⁹Caucasian knot «Musa Malsagov was charged with organizing of terrorist network », 21.01.2020, on: <https://www.kavkaz-uzel.eu/articles/344927/>

¹⁰Attachments 1, 2.

¹¹Human Rights Center Memorial, on : <https://memohrc.org/en/node/9975>

¹²Human Rights center Memorial «The court toughened punishment for another six Ingush activists », 23.04.2020, on: https://memohrc.org/ru/news_old/sud-uzhestochil-nakazanie-eshchy-dlya-shesteryh-ingushskih-aktivistov

¹³Human Rights Center Memorial «Leaders of protests in Ingushetia were charged with new crimes», 16.01.2020, on: https://memohrc.org/ru/news_old/lideram-protestov-v-ingushetii-predyavili-novoe-obvinenie

¹⁴Attachment 3.

16. During Mr Barakhoyev's arrest, he was charged with an administrative offense under part 2 of art. 20.2 Administrative Code "Violation of the established procedure for organizing or holding a meeting, rally, demonstration, procession or picket." Subsequently, he was charged under part 3 of Art. 33, part 2, article 318 of the Criminal Code, "Organization of the use of violence, dangerous to life and health against a representative of the authorities." His pre-trial detention has been extended several times, most recently until 25.06.2020.¹⁵ Hearings on the extension of his pre-trial detention were often held without provision of notice to his relatives and supporters. Mr Barakhoyev was also transferred from a pre-trial detention center in the city of Vladikavkaz to a detention center in the city of Essentuki, Stavropol region without the knowledge of his counsel or relatives.
17. On 15 January 2020 - the investigator from the third department of the department for the investigation of especially important cases of the Main Investigative Directorate of the Investigative Committee of the Russian Federation in the North Caucasus Federal District (the investigator of NCFD) brought a new charge against Mr Barakhoyev under part 1 of article 282.1 of the Criminal Code of the Russian Federation "Creation of an extremist group," which provides for up to 10 years in prison.¹⁶
18. We would like to draw particular attention to the fact that Mr Barakhoyev is 66 years old and that he has several chronic health conditions that require medical attention, including deep vein thrombosis and osteoarthritis,¹⁷ rendering him particularly vulnerable to conditions of detention and transport, especially during the Covid-19 pandemic. Although his need for medical care was not formally disputed by the administrations of detention facilities and investigators, Mr Barakhoyev has not received the proper medical care.¹⁸ He has furthermore been subjected to long-distance transfers in prison vans, in conditions which have been recognized by the European Court of Human Rights as inhuman treatment.¹⁹ In October 2019, Mr Barakhoyev was among several activists who refused to undergo a psychological and psychiatric examination in the city of Stavropol, due to its distance from his current place of detention, i.e. which would necessitate transport in a prison van. According to counsel, Mr Barakhoyev and other activists were then threatened that they would be assigned to undergo examination in an even more remote region.²⁰

(6) Mr Khautiev Bagaudin Adamovich, in custody since 3 April 2019

19. Mr Khautiev was charged with "use of violence dangerous to life or health against a representative of the government or his relatives in connection with the performance of his official duties" (p. 2 of art. 318 of the Criminal Code), the punishment for which is up to 10 years in prison. In mid-January 2020, Mr Khautiev's charge was reclassified to "Organization of violence dangerous to the life or health of government officials in

¹⁵Attachment 4.

¹⁶Current Time «Persons involved in the case on protests in Ingushetia were charged with organizing of extremist network. They are facing 10 years in prison», on: <https://www.currenttime.tv/a/ingushetia-extremism-granitsa/30382870.html>

¹⁷Attachment 5.

¹⁸Caucasian Knot «Defense express concerns about the state of health of Akhmed Barakhoyev », 10.02.2020, on: <https://www.kavkaz-uzel.eu/articles/345747/>

¹⁹See for instance ECtHR's pilot judgment in *Tomov and others v. Russia* (no.41234/16) in which the Court established that outdated transportation of prisoners in Russia, which meant in particular that some detainees had been transported in solid metal cubicles in prison vans, while others had had to travel overnight in train compartments without enough sleeping places, amount to a violation of the prohibition of inhuman and degrading treatment.

²⁰Caucasian Knot «Ingush activists informed about threats after the refused to go through psychiatric expertise» 21.10.2019, on: <https://www.kavkaz-uzel.eu/articles/341460/>

connection with their duties” (part 3 of article 33, part 2 of article 318 of the Criminal Code), and supplemented with the charge of “participation in an extremist community” (p. 2 of Art. 282.1 of the Criminal Code), which prescribes up to 6 years’ imprisonment.²¹ Mr Khautiev’s pre-trial detention has been extended several times, most recently until 25.06.2020.²²

C. Detainees’ request for release from custody in connection with the coronavirus pandemic and the situation with prevention of pandemic in detention facilities in Russia

20. Counsel for Messrs. Barakhoyev, Chemurziyev, Khautiev and Malsagov filed petitions for release from pre-trial detention with the investigator of the NCFD Mr. Naryzhkin.²³
21. The detainees are still in custody, although responses to their motions have not been received. As we have already indicated above, the fate of Mr Barakhoyev, who is 66 and has several chronic medical conditions, is of particular concern.
22. The response to the coronavirus pandemic in Russia by the prison authorities has been heavily criticized as constituting a tightening of the prison regime without offering preventive measures against infection.²⁴ Rights campaigners have urged the Russian government to consider releasing some pre-trial detainees and prisoners held in the country's packed jails, warning of the "devastating consequences" of the coronavirus pandemic.²⁵²⁶ Despite these calls, the authorities have not undertaken measures to de-escalate the threat posed by Covid-19 in pre-trial detention.

D. Questions and inquiries

23. In connection with the above circumstances, we ask the Special Rapporteur:
 1. To request the Government of the Russian Federation for information on the reasons for the continuing detention of Mr Khamkhoev Magomed Musaeovich, Mr Malsagov Musa Aslanovich, Mr Khamkhoev Gelani Magometovich, Mr Chemurziyev Barakh Akhmetovich, Mr Barakhoev Ahmed Osmanovich and Mr Khautiev Bagaudin Adamovich.
 2. To request information on the health status of Mr Barakhoev Ahmed Osmanovich and information on the medical care provided to him in prison conditions, as well as to request how his detention is justified, especially in connection with the authorities' recommendations to isolate all people over 60 in the coronavirus pandemic.

²¹Caucasian Knot «Bagaudin Khautiyev became the 6th suspect in the case concerning terrorists network », 17.01.2020, on: <https://www.kavkaz-uzel.eu/articles/344807/>

²²Attachment 6.

²³ In the interests of Barakhoyev – motion on release because of pandemic and complaint against investigator because of the failure to respond to the motion timely of 24 March and 24 April respectfully, Attachments 7, 8; in the interest of Chemurziyev – motion on release because of pandemic of 24 March, Attachment 9; in interests of Khautiyev – motion on release because of pandemic of 25 March, Attachment 10; in interest of Malsagov – motion of release because of pandemic of 23 March, Attachment 11.

²⁴ Russia behind bars «Jail on quarantine. Who and how protects inmates from coronavirus», 23.03.2020, on: <https://zekovnet.ru/tyurma-na-karantine-kak-i-kto-zaschischaet-zaklyuchennyh-ot-koronavirusa/>

²⁵DW « Activists call for amnesty as COVID-19 spreads in Russian jails », на: <https://www.dw.com/en/activists-call-for-amnesty-as-covid-19-spreads-in-russian-jails/a-53368640>

²⁶Amnesty International «Russia: Authorities urged to protect half a million prison population in face of COVID-19», 31.03.2020, on: <https://www.amnesty.org/en/latest/news/2020/03/russia-authorities-urged-to-protect-half-a-million-prison-population-in-face-of-covid-19/>

3. To request a clarification of the legal elements of the charge of “organization of violence against representatives of the authorities,” which does not correspond to the wording of Article 318 of the Criminal Code, but which has been used against three of the detainees discussed in this submission, and potentially more widely.

List of Attachments:

1. Decision to prosecute Mr. Khamkhoev under Article 318 of Criminal Code of Russia of 17.10.2019 (8 pp.).
2. Decision on termination of prosecution in part and continuation of prosecution in relation to Mr. Khamkhoev of 17.10.2019 (3 pp.).
3. Decision on extension of detention period of Mr. Chemurziev of 03.04.2020 (7 pp.).
4. Decision on extension of detention period of Mr. Barakhoev of 03.04.2020 (10 pp.).
5. Medical documents of Mr Barakhoev (6 pp.).
6. Decision on extension of detention period of Mr. Khautiev of 18.03.2020 (14 pp.).
7. Motion on release in relation to Mr. Barakhoev of 24.03.2020 (2 pp.).
8. Complaint against investigator because of the failure to respond to the motion timely of 24.04.2020 (2 pp.).
9. Motion on release of Mr. Chemurziev of 24.03.2020 (2 pp.).
10. Motion on release of Mr. Khautiev of 25.03.2020 (3 pp.).
11. Motion on release of Mr. Malsagov of 23.03.2020 (2 pp.).