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Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

11 November 2003

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Your Excellency,

The International Commission of Jurists (ICJ) consists of jurists who represent all the regions and legal systems in the world working to uphold the rule of law and the legal protection of human rights. The ICJ's Centre for the Independence of Judges and Lawyers (CIJL) is dedicated to promoting the independence of judges and lawyers throughout the world.

We are writing to you to express our concern at the continuing detention of Mr. Mikhail Ivanovich Trepashkin, a lawyer who was arrested on 24 October. We have received reliable information that the evidence that led to Mr. Trepashkin's arrest was fabricated and that the real motive behind his detention is to prevent him from acting as an attorney in the trial concerning the 1999 Moscow apartment bombings.

According to the information we have received, Mr. Trepashkin was arrested by members of the Federal Security Service (FSB), who openly threw a bag that contained a firearm into his car. He was immediately taken to the Dmitrov Police Facility and thereafter to the Dmitrov regional court, where he was charged, under article 222 (1) of the Criminal Code, with "possession and transportation of an unlicensed firearm". Mr. Trepashkin remains in detention and his lawyer has been informed that, if released, he will be immediately arrested on different charges.

Mr. Trepashkin was arrested one week before he was due to appear as an attorney representing the relatives of one of the victims of the 1999 bombings. In 2002, Mr. Trepashkin, a former KGB/FSB officer, acted as a consultant for the Kovalev Commission, which investigated these bombings. Immediately thereafter, he was charged with "disclosure of classified information" which he was alleged to have obtained during his previous employment with the KGB/FSB. Mr. Trepashkin was indicted, but the Office of the

Prosecutor did not advance his case until September 2003, when Mr. Trepashkin's findings were quoted in a book that suggested that Russian officials and not Chechen insurgents were behind the bombings. His case was then reactivated, but Mr. Trepashkin won an indefinite postponement from the Supreme Court on 15 October. A few years earlier, Mr. Trepashkin was assaulted by FSB agents for having exposed high-level corruption.

The ICJ/CIJL is concerned that Mr. Trepashkin's detention is unlawful. For an arrest and detention to be lawful, it must not only be carried out in accordance with the law, but must also be conducted in a manner that is not arbitrary. Enough and authentic evidence linking the person with the crimes he or she is accused of having committed are essential requisites for an arrest to be lawful and not arbitrary. In the case of Mr. Trepashkin, the evidence leading to his arrest and subsequent detention was planted by the same officers who arrested him. As they are based on fabricated evidence, the charges against Mr. Trepashkin are absolutely groundless. Therefore, his arrest and detention are in flagrant violation of article 9 (1) of the *International Covenant on Civil and Political Rights* (ICCPR), to which the Russian Federation is a party. Article 9 (1) of the ICCPR states that:

Article 9.1: Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

We believe that the real motive behind Mr. Trepashkin's arrest and detention is to prevent him from appearing in court to pursue the interests of his clients. In this regard, we would like to draw your attention to the *United Nations Basic Principles on the Role of Lawyers*, which were adopted by the U.N. General Assembly in 1990. The *Principles* establish that Governments have the duty to ensure that lawyers can fulfil their functions without fear of harassment or improper interference. The *Principles* state:

Principle 16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; 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.

As there are no valid grounds for Mr. Trepashkin's arrest and detention, we urge your Government to immediately release him. We further ask that your Government desist from harassing and intimidating Mr. Trepashkin and allow him to carry out his professional duties as a lawyer without any fear or hindrance.

Please receive, Your Excellency, the assurances of my highest consideration.

Ernst Lueber
Acting Secretary-General

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