

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK  
CITY BAR

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April 14, 2015

Prosecutor Yury N. Turygin  
General Prosecutor of Stavropol Krai  
pr-t Oktryabrskoi Revolyutsii 9/1  
Stavropol 355035  
Russian Federation

Dear Prosecutor Turygin:

I write on behalf of the Association of the Bar of the City of New York (the “Association”) to express our deep concern regarding what appears to be the politically-motivated prosecution on fraud charges of Ms. Ludmila Bogatenkova. We write to urge an independent review of her case, in light of the increase in political prosecutions in the Russian Federation, and request that she is provided access to a full defense and a fair trial, and that least restrictive means of restraint be used in her case, if any.

Founded in 1870, the Association is an independent non-governmental organization with over 24,000 members across 50 countries. Our membership includes judges, prosecutors, government officials, defense lawyers, as well as corporate attorneys representing nearly every major law firm and corporation in the United States. The Association has a long history of dedication to promoting the rule of law and supporting human rights, particularly through the Committee on International Human Rights, which investigates and reports on human rights conditions in the United States and around the world.

Ms. Bogatenkova, who is 73 years old, is the Chair of the Kuma River Area Branch of Soldiers’ Mothers, an organization that reports on concerning conditions faced by soldiers in Russia’s armed forces. Her organization has been investigating the deaths of Russian soldiers allegedly forced into military service in Ukraine since spring 2014. On August 28, 2014, her organization produced a list of names of approximately 100 soldiers killed in combat in Ukraine, and the names of 300 soldiers wounded there from the Rostov region. This list was sent to the President’s Council on Human Rights. Around the same time, based on information from Bogatenkova, Ella Polyakova, the Director of Soldiers’ Mothers of Saint Petersburg, and a member of the President’s Council on Human Rights, requested that the Investigative Committee conduct an investigation into the deaths, and also requested that a criminal investigation be opened regarding what were apparently fatal accidents and suicides that occurred while soldiers were on training exercises.

Soldiers’ Mothers stated that if a criminal or military investigation was not initiated, it would conduct its own investigation and publish the results in mass media, as it had done with the list of names in August. It received no response to this request.

On October 17, police searched the office of Kuma River Area Soldiers' Mothers in Budyonnovsk, Stavropol Krai. According to media, no evidence of illegal activity was uncovered during this search. Following the search, police arrested Bogatenkova at her home, asserting that she was being held on suspicion of a violating Article 159, part 3 of the Criminal Code – “fraud on a particularly large scale.” The arrest was based on the statement of a “witness” who alleged that Bogatenkova owed the witness 500,000 rubles.

On October 18, a court ordered that Ms. Bogatenkova be remanded into custody, even though she suffers from a number of serious illnesses that affect her heart, requiring daily medication, and was therefore not a flight risk. After remand, she was driven to Pyatigorsk, 140 kilometers from the courthouse. There, the SIZO staff refused to admit her because they deemed her condition to be life-threatening. Instead, she was taken to Budyonnovsk where she was held for two nights in a police holding facility.

On October 20, she was released, after her arrest received wide media attention due to fears that she would not survive her detention. She was promptly admitted to the cardiology unit of the Budyonnovsk hospital, and released from the hospital on November 4. Ms. Bogatenkova’s lawyer, Andrei Sabinin, witnessed her release and reported that her health had deteriorated.

Russia’s human rights community has contended that Bogatenkova’s arrest is part of a campaign to intimidate her because of her work. Members of the President’s Council on Human Rights have stated publicly that they are watching the case closely. Russian media and Soldiers’ Mothers report that pressure to conceal facts regarding the deaths of soldiers in Ukraine continues. (We note that the Association takes no position on allegations of Russian military involvement in Ukraine following the so-called Maidan events.)

The Saint Petersburg Committee of Soldiers’ Mothers was placed on the “foreign agent” registry by the Ministry of Justice on August 29, 2014, a few days after the organization began revealing information about soldiers being killed in Ukraine. Placement on the registry occurred even though the organization operates based on a grant from the Russian government, and has no foreign leadership or founders. Currently, 49 organizations have been placed on this registry by the Ministry of Justice, pursuant to a law that does not require any notice, a hearing, or other due process before a group is added to the registry.

On November 27, the prosecutor’s office added an additional charge to Ms. Bogatenkova’s case under Article 159, part 2, alleging that another witness loaned Ms. Bogatenkova 100,000 rubles in 2012, and that she has denied the loan and not repaid it. Again, we believe, and it is widely believed in Russia, that these charges are politically motivated. The fact that Ms. Bogatenkova was remanded into detention, despite her age and the severe threats to her health, the fact that she was not a flight risk, and that law enforcement have not provided an objective reason for the use of harsh pretrial measures, all suggest that her detention was an intimidation tactic.

We respectfully remind the Prosecutor that the Constitution of the Russian Federation enshrines the right to publish information such as that reported by Ms. Bogatenkova regarding military activity. Article 29 states, in part, “[e]veryone shall have the right freely to seek, receive, transmit, produce and disseminate information by any legal means.” If the charges against Ms. Bogatenkova are politically motivated, it would appear that prosecutors are using the court system to intimidate her from continuing to disseminate this information. Such a use of the legal system would be an open violation of Article 46 of the Russian Constitution, which guarantees Russian citizens, *inter alia*, “protection in court of his (her) rights and freedoms.”

Russia’s Constitution also guarantees the protection of civil and human rights, under “universally recognized principles and norms of international law,” in Article 17. Article 19 of the ICCPR and Article 10 of the European Convention guarantee rights similar to those treated under Article 29 of the Russian Constitution.

We note that Article 14 of the International Covenant on Civil and Political Rights (ICCPR) which was ratified by the Union of Soviet Socialist Republics – to which the Russian Federation is a legal successor – as of 1973 guarantees the right to a fair trial, including the right of the defendant to examine the evidence submitted against her. It does not appear that Ms. Bogatenkova has been afforded the opportunity to be made aware of the full scale of the fraud allegations levied against her. Additionally, Article 6 of the European Convention on Human Rights, to which the Russian Federation is a party, also protects Ms. Bogatenkova’s right to a fair and transparent trial.

Article 10 of the ICCPR guarantees that anyone “deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” We are especially concerned by Russian law enforcement’s treatment of Ms. Bogatenkova, who is elderly and who has been ill during her detention.

We respectfully urge that the law enforcement agencies involved in the case against Ms. Bogatenkova, including the investigative committee and the prosecutor’s office, comply with the Constitution of the Russian Federation, and respect Russia’s international legal obligations by (1) providing an independent examination of all charges against Ms. Bogatenkova to ensure they are not motivated by her exercise of her free speech rights regarding military activity in Ukraine, (2) allowing her full access to counsel and a full opportunity to investigate the witnesses and charges against her, and (3) using only the least restrictive methods of restraint – if any – in her case, in light of her fragile health, and the fact that she is not a flight risk.

Respectfully,

A handwritten signature in black ink, appearing to read "Debra L. Raskin". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Debra L. Raskin  
President

cc:

Hon. John Kerry, US Secretary of State

Hon. Sarah Sewall, Under Secretary of State for Civilian Security, Democracy, and Human Rights

Hon. Tom Malinowski, Assistant Secretary of State for Democracy, Human Rights and Labor