

Memorial considers civic activist Ivan Barylyak a political prisoner

Ivan Barylyak, resident of the city of Stavropol, was found guilty on August 31, 2015 of committing crimes envisaged under **part 2, article 213** (“*Hooliganism*”), **point “a”, part 2, article 116** (“*Assault committed with the motive of hooliganism*”) and **point “a”, part 2, article 115** (“*Deliberate inflicting of slight harm to health committed with the motive of hooliganism*”) of the Russian Criminal Code. The industrial district court of the city of Stavropol sentenced Barylyak to 3.5 years in a strict-regime colony. According to the investigation, state prosecution and court, in August 2014 Barylyak, “acting with the motive of hooliganism” attacked and caused bodily harm to employees of the management company Komfort-Servis.

Analysis of the course of the prosecution and the materials of the criminal case against Barylyak allows us to come to a conclusion about a political motivation of this case, associated with the defendant’s public activity and the fact that the criminal prosecution itself was exclusively linked to this activity. For several years Ivan Barylyak had been defending his housing rights and also the rights of his relatives and neighbours. Barylyak successfully contested the illegal actions of the management company Komfort-Servis, which serviced his building. In May 2014 on an appeal by Barylyak the housing inspectorate of the city of Stavropol issued an instruction on the illegality of the fee increase by the management company Komfort-Servis for communal housing services with a demand to recalculate the fees in favour of residents. For this activity in February 2014 the electricity cables leading to Ivan’s flat were cut and in March 2014 his car was trashed.

On August 13, 2014 at a meeting of residents of the building three employees of Komfort-Servis attacked and beat up Barylyak. After the attack Ivan moved his car to a car park, where a second assault was committed against him with the use of a firearm. After that Ivan returned to his building, where he was assaulted by employees of the management company and other people a third time. The attackers tried to take the activist’s phone, on which there were photographs of their faces, causing him injuries from a firearm, which required surgical operations.

The court evaluated the version of events of August 13 exclusively on the basis of the evidence of two victims, another employee of the Komfort-Servis management company and his wife. These people accused Barylyak of being the attacker and hitting two representatives of the management company at the same time. The court ignored the highly likely personal interest of employees of Komfort-Servis in setting up Barylyak and having him convicted. The evidence of all the defence witnesses was also rejected, who asserted that Ivan himself was the victim of the attack at the residents’ meeting, not employees of the management company. Most residents who participated in the residents’ meeting at which the first assault on Barylyak was committed didn’t give evidence in court. Thus the evidence of the victims and clearly interested prosecution witnesses was clearly insufficient to confirm the accusations made against Barylyak, and the version that Barylyak attacked two people at the same time in the presence of a large number of witnesses itself looks highly unlikely.

Furthermore, the court completely ignored the evidence of the defence witnesses and of Barylyak himself, the photographs and video materials that confirmed the fact of the two other assaults on Ivan – at the car park with the use of a pistol, and also again outside his building in an attempt to take his mobile phone. The fact of the assault on Barylyak with the use of a firearm was confirmed by medical documents received by Ivan at the office of legal medical analysis of Stavropol Region and the hospital where he was taken. The conclusion of the medical legal expert in relation to “victim” Presnyakov, on the other hand, says that the fact of a chemical burn through inhaling from the spraying of a gas canister “is not confirmed by objective clinical information or dynamic observation”.

In turn, not one of the criminal cases that were opened as a result of Barylyak's statements about the assault on him or the damage to his car has been investigated to this day. The guilty parties in these crimes have not been established or brought to justice.

Lately **article 213 of the Russian Criminal Code** ("*Hooliganism*") due to the vagueness of its formulation has become a universal instrument of politically-motivated criminal prosecution. In this connection the criminal case against Ivan Barylyak bears a resemblance to some other cases against civic activists, and in particular, the one against anti-fascist Alexei Sutuga, who has been recognised as a political prisoner by the Memorial human rights centre. As in the case against Sutuga, the question is the distortion by the investigation, prosecution and court of the factual circumstances of what happened in conditions of an absence of hooligan motives in the actions of the defendant.

Taking into account the above, in accordance with the criteria of the Memorial human rights centre, Ivan Barylyak is recognised as a political prisoner for the following reasons. Criminal prosecution and imprisonment have been used in relation to Barylyak exclusively in connection with his public activity defending his rights and the rights of other citizens. In the actions of the defendant the incidence of the crime in which he is incriminated is absent. The very fact of his criminal prosecution and sentence envisaging imprisonment were a violation of Barylyak's right to a fair legal investigation, guaranteed by the Constitution of Russia, the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. The length of time that Barylyak has been held in custody and under house arrest is clearly disproportionate to the factual circumstances of the criminal case.

We consider that the verdict in relation to Ivan Barylyak should be turned into one of not guilty, and that Ivan himself should be released.

Recognising a person as a political prisoner does not mean that the Memorial human rights centre agrees with their views or statements, or that it approves of their statements or actions.

More detail on the case against Ivan Barylyak can be found in our summary <http://memohrc.org/special-projects/delo-barylyaka>.