



Photo Source: CNBC

TRIALWATCH EXPERT SAYS ALEKSEY NAVALNY'S SLANDER CONVICTION VIOLATED HIS RIGHT TO FREEDOM OF EXPRESSION

This statement can be attributed to a spokesperson for the Clooney Foundation for Justice. For further inquiries, please contact media@cfj.org.

CHARGE

Slander

CONDUCT

Tweeting criticism of those who appeared in a pro-Putin video

OUTCOME

Convicted and fined

April 28, 2021

On the eve of Aleksey Navalny's appeal of his conviction for slander, Judge Françoise Tulkens, former Vice-President of the European Court of Human Rights, said that "the court's decision to impose a criminal penalty, which was a disproportionate response to Mr. Navalny's critical speech, should be reversed."

Mr. Navalny, who only days ago [ended a hunger strike](#) protesting his [treatment in detention](#), was [convicted](#) of slander for his criticism of those who participated in a political video. In a tweet, Mr. Navalny referred to all of the participants as "corrupt stooges" and "traitors." Among the participants was World War II veteran Ignat Artemenko; and it was [his reputation that the prosecution ostensibly sought to vindicate](#).

The prosecution's theory was that by using the word "traitors" Mr. Navalny had wrongly asserted that Mr. Artemenko had committed treason. Indeed, the judgment recounts that "the examined evidence proves that the victim . . . is not and was not a traitor." The court also found that Mr. Navalny's tweet was specific to Mr. Artemenko—despite never naming him—because Mr. Artemenko was captioned in the video as a veteran.

Judge Tulkens has concluded that "Mr. Navalny's conviction violated his right to freedom of expression under the European Convention on Human Rights."

- "First and foremost, the European Court has consistently found that criminal penalties are a disproportionate response to this kind of speech."
- "While domestic courts are due some deference in their assessment of the facts, the court's analysis here is so spare that it must be called into question. In particular, the word 'traitors' was clearly meant as a political judgment, and not as a factual statement regarding the commission of the crime of treason. Under European Court case law, prosecuting Mr. Navalny for this kind of value judgment '[infringes freedom of opinion itself](#).'"
- "The domestic court's assertion that Mr. Navalny's tweet specifically referred to Mr. Artemenko likewise assumes too much. In fact, it relies on the court's misunderstanding of the use of the word 'traitors' to argue that the tweet must have referred to the participant in the video who had served in the military. But this simply compounds a flawed analysis."

Statement Continued

The video Mr. Navalny criticized had urged Russians to vote in favor of a package of amendments to the Russian Constitution, one of which [permitted President Vladimir Putin to run for a third consecutive term despite existing term limits](#). In response to the video, Mr. Navalny [tweeted](#): “Oh, here they are, darlings. I must admit that so far the team of corrupt stooges looks rather weak. Look at them: this is a disgrace to the country. People with no conscience. Traitors.”

The prosecution not only argued that the word “traitors” had been used to slander Mr. Artemenko but also that the words “corrupt stooges” suggested Mr. Artemenko had committed “dishonest acts, wrong unethical behavior,” such as receiving money to participate in the video (which the prosecution said he had not). The court agreed, ultimately convicting Mr. Navalny and fining him 850,000 rubles.

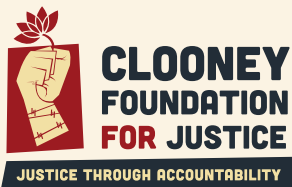
However, **Judge Tulkens explained that “Mr. Navalny should not have been prosecuted for his political commentary on those who chose to inject themselves into public debate on a topic of significant interest.”**

This is not the first time Russia’s treatment of Mr. Navalny has violated the European Convention: Indeed, the conviction that Russia has invoked to justify Mr. Navalny’s current detention was previously deemed by the European Court “[arbitrary and manifestly unreasonable](#).”

The Russian authorities brought this case to trial shortly after Mr. Navalny’s return to Russia following his recovery from being poisoned—a poisoning for which Russia was itself responsible, [according to UN experts](#). The Clooney Foundation for Justice’s TrialWatch initiative monitored the trial and [designated Judge Tulkens as the TrialWatch Expert to assess its fairness](#).

A full report by Judge Tulkens evaluating the conduct of the proceedings, including the question of respect for Mr. Navalny’s fair trial rights, will be released shortly.

ABOUT THE CLOONEY FOUNDATION FOR JUSTICE’S TRIALWATCH INITIATIVE



The Clooney Foundation for Justice’s [TrialWatch](#) initiative monitors and grades the fairness of trials of vulnerable people around the world, including journalists, women and girls, minorities, LGBTQ+ persons and human rights defenders. Using this data, TrialWatch advocates for victims and is developing a Global Justice Ranking measuring national courts’ compliance with international human rights standards.