

(Translated from Russian)

Permanent Mission of the Russian Federation to the United Nations Office and Other International Organizations in Geneva

No. 2486

The Permanent Mission of the Russian Federation to the United Nations Office and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the joint enquiry by special procedures of the Human Rights Council (AL RUS 2/2020 of 5 June 2020), has the honour to transmit herewith information from the Russian Federation.

The Permanent Mission of the Russian Federation takes this opportunity to convey to the Office of the United Nations High Commissioner for Human Rights the renewed assurances of its highest consideration.

Geneva, 3 August 2020

Office of the United Nations High Commissioner for Human Rights
Geneva

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Information from the Russian Federation in response to the joint enquiry by special procedures of the Human Rights Council

Reference: AL RUS 2/2020

On 9 June 2018, the investigating agency attached to the office of the Federal Security Service of the Russian Federation for Saratov Province opened criminal case No. [REDACTED], under article 2822 (1) of the Criminal Code of the Russian Federation, against A.V. Budenchuk, G.V. German, R.A. Gridasov, A.P. Miretskiy and F.K. Makhammadiyev.

The case was brought on the basis of evidence obtained through inquiries conducted by the Saratov office of the Federal Security Service and submitted to the investigating body under the procedure established by law.

As a preventive measure, R.A. Gridasov, G.V. Herman and A.P. Miretskiy were required to sign a recognizance not to leave the area and give a pledge of good conduct, while A.V. Budenchuk and F.K. Makhammadiyev were remanded in custody by the Frunze district court in the city of Saratov.

In the period from 19 June 2018 to 22 June 2018, G.V. Herman, A.V. Budenchuk, F.K. Makhammadiyev, A.P. Miretskiy and R.A. Gridasov were charged with an offence under article 2822 (1) of the Criminal Code.

On 25 June 2018, the Criminal Division of the Saratov provincial court upheld the decisions of the court of first instance concerning A.V. Budenchuk and F.K. Makhammadiyev.

Their remand in custody was extended in accordance with the established procedure until 20 May 2019, when the Frunze district court changed the preventive measure imposed on them to a ban on certain actions: leaving their residences between 10 p.m. and 6 a.m.; sending or receiving postal or telegraphic communications; using any means of communication or the Internet (except to call out the ambulance, law enforcement or emergency rescue services in the event of an emergency, or to communicate with a lawyer or investigator); and communicating with persons involved in the criminal proceedings as defendants or witnesses, apart from persons living with them. A.V. Budenchuk and F.K. Makhammadiyev were fitted with electronic bracelets as a means of supervision and control.

The procurator's office for Saratov Province identified no violations of the law on criminal procedure in the investigation of the criminal case. On 21 June 2019, on completion of the investigation, the indictments were confirmed and the case was sent for trial.

By a judgment of the Lenin district court in the city of Saratov of 19 September 2019, A.V. Budenchuk, F.K. Makhammadiyev, A.P. Miretskiy, R.A. Gridasov and G.V. German were found guilty of an offence under article 2822 (1) of the Criminal Code and, in application of article 64 of the Code (imposition of a penalty lower than the minimum provided for), were sentenced to the following periods of deprivation of liberty, to be served in an ordinary regime correctional colony: A.V. Budenchuk, 3 years and 6 months; F.K. Makhammadiyev, 3 years; and A.P. Miretskiy, R.A. Gridasov and G.V. German, 2 years. Each of the convicted men received an additional penalty of forfeiture of the right to engage in activities related to the management of civil society organizations or involvement in their work for a period of 5 years and restriction of liberty for a period of 1 year.

On 20 December 2019, the Criminal Division of the Saratov provincial court amended the judgment, removing from the additional penalty the requirement for the men to remain in a specific municipality after serving the main penalty, and adding a clarification regarding the offsetting of the penalty. The sentence became enforceable that day.

The court found that A.V. Budenchuk, F.K. Makhammadiyev, A.P. Miretskiy, R.A. Gridasov and G.V. German had previously been members of a local religious organization, the Jehovah's Witnesses in the city of Saratov.

Knowing of the entry into force, on 17 July 2017, of the decision of the Supreme Court of the Russian Federation of 20 April 2017 declaring the Administrative Centre of Jehovah's Witnesses in Russia and its local branches, including the Saratov Jehovah's Witnesses, to be

extremist organizations and ordering their liquidation, between 6 September 2017 and 9 June 2018 A.V. Budenchuk, F.K. Makhammadiyev, A.P. Miretskiy, R.A. Gridasov and G.V. Herman took proactive measures of an organizational nature aimed at continuing the illegal activities of the Saratov Jehovah's Witnesses, as follows: they secretly conducted religious worship and meetings, at which they carried out missionary work and disseminated the religious teachings of the Jehovah's Witnesses among the residents of Saratov, including by handing out literature; they collected funds in the form of donations; and they admitted new members to the organization.

The court's conclusion as to the guilt of the convicted men is confirmed by the evidence examined in court: witness testimony; the records of the searches carried out at the residences of A.V. Budenchuk, F.K. Makhammadiyev, A.P. Miretskiy and G.A. Gridasov and at the garage belonging to A.P. Miretskiy, during which religious literature, computer equipment and flash drives were found and seized; the products of the inquiries conducted, which were submitted under the procedure established by law, including audio and video recordings confirming that the convicted men organized and personally participated in clandestine meetings in rented premises at which organizational issues related to the activities of the Saratov Jehovah's Witnesses were discussed and missionary work was carried out; the use of the Internet by members of the criminal group to monitor the receipt and expenditure of funds for the continuation of the activities of the Saratov Jehovah's Witnesses; the giving of directives and instructions for completing the related reports and verifying the accuracy of the information contained therein; the coordination of their activities by the leaders of the Saratov Jehovah's Witnesses with the parent organization, the Administrative Centre of Jehovah's Witnesses in Russia, which supplied them with forms for keeping records, including financial ones, and made recommendations on the organization of missionary work and the dissemination of religious teachings among the residents of Saratov; the information provided to rank-and-file members of the organization about the dates of meetings and the need to use at those meetings the requisite online resources, comprising educational literature and videos; the adoption of a decision on the admission of new members to the organization and the transfer of participants from one group to another; and the findings of expert evaluations, including a comprehensive phonoscopic and linguistic forensic analysis, according to which the audio and video recordings submitted contain conversations in which reference is made to Jehovah, the service and worship of Jehovah, and the missionary work of Jehovah's servants.

The evidence examined in court was properly assessed, in accordance with the provisions of the law on criminal procedure. The requirements for adversarial proceedings and equality of the parties were met. No information pointing to a one-sided or incomplete hearing of the evidence has been received. All the evidence submitted by the parties was examined in court, all the applications made were considered and the court reached decisions on those applications under the procedure established by law. The participants in the trial, including the convicted men and their defence counsel, agreed that the hearing of the evidence should be concluded, and they made no applications whatever for additional evidence to be admitted.

The actions of the convicted men were correctly classified under article 2822 (1) of the Criminal Code, and the punishment imposed on them, which took account of the nature of the offence committed, the degree of danger to society and the information regarding the men's characters, was fair.

The appeals court gave full consideration to all the arguments put forward by the convicted men and their defence counsel, and rightly declared them to be unfounded, handing down a properly reasoned judicial decision. There are no grounds for raising the issue of cassational review of the 19 September 2019 judgment or of the appeals court decision of 20 December 2019.

It was established that, on 21 December 2007, F.K. Makhammadiyev submitted an application for citizenship of the Russian Federation to agencies of the Federal Migration Service's office for Saratov Province, in accordance with article 14 (4) of the Federal Act on Citizenship of the Russian Federation. By decision No. ██████ of 18 June 2008, F.K. Makhammadiyev was granted citizenship of the Russian Federation and was subsequently issued with passport No. ██████ of series ██████.

In accordance with article 22 of the Federal Act on Citizenship of the Russian Federation, a decision to grant or withdraw citizenship of the Russian Federation may be annulled if it is established that the decision was taken on the basis of forged documents submitted by the applicant or information he or she knew to be false, or if the applicant refuses to take the Oath.

The commission by the applicant of an offence under article 2822 of the Criminal Code, if established in a court judgment that has become enforceable, is held to be equivalent to a finding by a court that the applicant has knowingly communicated false information regarding the obligation to observe the Constitution and laws of the Russian Federation.

Taking account of these provisions and of the court judgment finding F.K. Makhammadiyev guilty of an offence under article 2822 (1) of the Criminal Code, which had become enforceable, on 17 April 2020 the Central Department of the Ministry of Internal Affairs of the Russian Federation for Saratov Province found that the decision to grant him citizenship of the Russian Federation should be annulled.

On 6 February 2020, A.V. Budenchuk, F.K. Makhammadiyev, A.P. Miretskiy, R.A. Gridasov and G.V. German arrived at Correctional Colony No. 1, a federally-funded institution under the Administration of the Federal Penal Correction Service for Orenburg Province, to serve their sentences.

On 19 February 2020, the investigating agency for the southern administrative district of the city of Orenburg, a unit of the investigation department for Orenburg Province working under the Investigative Committee of the Russian Federation, received from the procurator's office responsible for supervision of compliance with the law in correctional institutions in Orenburg Province a file concerning the inquiries carried out in response to reports of the use of violence by staff at Correctional Colony No. 1 against inmates F.K. Makhammadiyev, A.P. Miretskiy, R.A. Gridasov, A.V. Budenchuk and G.V. German.

During interviews, those persons stated that, on 6 February 2020, they were taken to Correctional Colony No. 1, where they were subjected to verbal and physical abuse by staff of the institution.

F.K. Makhammadiyev also stated that, as a result of the physical abuse, he had been admitted to a medical facility, where he was treated.

In the course of the inquiries, a number of staff of the correctional institution, including those indicated by the complainant, were identified and questioned; they completely refuted the claims by F.K. Makhammadiyev, A.P. Miretskiy, R.A. Gridasov, A.V. Budenchuk and G.V. German about the commission of unlawful acts against them.

Inmates who were with them at the time of their transfer to the institution were also interviewed and failed to corroborate their claims of verbal and physical abuse.

Employees of the institution's medical unit who were questioned explained that, on 7 February 2020, inmate F.K. Makhammadiyev had complained of pain in his right side; X-rays were therefore performed and, on the basis of the results, he was taken to a medical facility. He informed the medics that he had sustained the injury in a fall.

He gave similar information to a paramedic from the ambulance crew dispatched by the Central unit of the Orenburg emergency medical centre, a State-funded health-care institution, and to medical staff at the city's municipal clinic No. 1. He made no allegations of unlawful conduct by staff of the correctional institution.

F.K. Makhammadiyev's account, dated 7 February 2020, is attached to the case file, along with a statement in his own hand, also dated 7 February 2020, according to which he sustained the injury as a result of his own carelessness, when he fell on a step in the washroom. There are no claims against the administration or other inmates in relation to this incident.

The footage from the correctional institution's security cameras was seized, and an examination of the footage revealed no instances of the use of violence against inmates.

According to the findings of a medical forensic reconstruction, it cannot be ruled out that F.K. Makhammadiyev's bodily injuries were sustained in a fall on the washroom step.

Consequently, it was decided several times not to initiate criminal proceedings; those decisions were overturned by the head of the investigating agency under the departmental oversight procedure. A decision of 10 July 2020 not to initiate criminal proceedings was overturned by a decision of 13 July 2020 by the procurator for the central district of the city of Orenburg, owing to the need to conduct further forensic analyses in respect of F.K. Makhammadiyev. The inquiries are ongoing.

There is no record of A.P. Budenchuk, G.V. German or R.A. Gridasov having sustained bodily injuries while serving their sentences at Correctional Colony No. 1.

F.K. Makhammadiyev is receiving outpatient treatment from the primary care doctor at medical unit No. 1 for a chronic disease of the digestive system; this entails clinical, laboratory and instrumental examination of the patient and consultations with specialists. Bodily injuries were recorded in his medical documentation on 7 February 2020: a closed fracture of the ninth right rib and a post-traumatic right pneumothorax. Medical care, including specialized care, was provided in full. On 19 February 2020, a bodily injury was observed and recorded in his medical documentation: a haematoma of the outer surface of the right thigh.

A.P. Miretskiy is receiving outpatient treatment at medical unit No. 1 for a chronic disease of the locomotor system; this entails clinical, laboratory and instrumental examination of the patient and consultations with specialists. According to the primary medical documentation, on 21 February 2020 A.P. Miretskiy was observed to have bodily injuries: a haematoma of the right subscapular region and a haematoma of the outer surface of the right thigh. He did not need medical care.

At present, the state of health of inmates A.P. Budenchuk, G.V. German, R.A. Gridasov, F.K. Makhammadiyev and A.P. Miretskiy is assessed as satisfactory by the staff of medical unit No. 56, a federally-funded health-care facility of the Federal Penal Correction Service. The medication necessary for the treatment of the inmates is available in sufficient quantities in medical unit No. 1 and is dispensed in accordance with the directives of specialists; this is recorded in the medical documentation under the established procedure.

At the same time, it has been established that, on 6 February 2020, staff of Correctional Colony No. 1 unlawfully forced A.V. Budenchuk, G.V. Herman, R.A. Gridasov, F.K. Makhammadiyev and A.P. Miretskiy and other convicted persons who were being admitted to the colony to squat facing the wall with their hands on their heads for a prolonged period.

On 7 February 2020, by decision of the governor of Correctional Facility No. 1, A.V. Budenchuk, R.A. Gridasov, G.V. German, F.K. Makhammadiyev and A.P. Miretskiy were issued with reprimands for failing to properly make up their sleeping places. On 25 February 2020, the procurator's office rescinded those penalties as unlawful.

On 7 February 2020, A.P. Miretskiy and G.V. Herman were disciplined by being placed in the punishment cells for 3 days for violating the colony's daily schedule. On 16 March 2020, the procurator's office rescinded those penalties as unlawful.

On 7 February 2020, A.V. Budenchuk and R.A. Gridasov were disciplined by being placed in the punishment cells for 3 days for smoking in the toilet of the quarantine wing. On the same day, F.K. Makhammadiyev was disciplined for a malicious violation of the established procedures for the serving of sentences (Rules on the internal regulations of correctional institutions, approved by Order No. 295 of the Ministry of Justice of the Russian Federation of 16 December 2016), namely, storage of prohibited items (medicinal products), and was fined 190 roubles. It has been established that there were reasonable grounds for imposing those disciplinary measures.

A recommendation was submitted for consideration by the governor of Correctional Colony No. 1 in connection with the violations of the law that were uncovered, and two officials were disciplined as a result.

On 20 January 2020, the investigation department for Zabaikal Territory working under the Investigative Committee of the Russian Federation opened criminal case No.

██████████, against persons unknown, on evidence of an offence under article 282² (1) of the Criminal Code.

In the course of the investigation, information was received about the involvement of V.A. Kutsenko in that offence. On 10 February 2020, acting on instructions from the investigator and on the basis of a judicial decision, officers from the Federal Security Service's office for Zabaikal Territory searched the residence of V.A. Kutsenko in order to seek and seize extremist religious propaganda materials, including on electronic media; schedules of meetings of the Chita Jehovah's Witnesses, a local religious organization; documents confirming the financial and economic activities of this association; and other items and documents relevant to the criminal case. During the search, cell phones, a tablet computer, a laptop, flash drives, notebooks and books containing information of a religious nature were found and seized. In addition, the following items were discovered: a cell phone with mechanical damage typically caused by being struck with a hammer; in a hiding place in the sofa, a cell phone, money and a bible; and, in the toilet room, torn sheets of handwritten paper in the toilet bowl. All the items and documents seized in the criminal case are being examined and sent for forensic analysis.

On 10 February 2020, V.A. Kutsenko was detained, under the procedure set out in articles 91 and 92 of the Code of Criminal Procedure of the Russian Federation, on suspicion of having committed the aforementioned offence. On 12 February 2020, at the request of the investigator, the Ingodinsky district court extended the detention of V.A. Kutsenko by 72 hours, that is, until 15 February 2020, owing to the need to collect additional evidence of his involvement in the offence.

The arrangements for the detention of suspects and accused persons in temporary holding facilities do not allow for visits by relatives.

As there were no grounds for remanding V.A. Kutsenko in custody as a preventive measure, he was released from the temporary holding facility on 15 February 2020. To date, he has not been charged and no preventive measure has been imposed.

On 6 March 2020, ██████████, a lawyer, filed a report with the military investigating agency for Chita garrison, a unit of the Investigative Committee of the Russian Federation, alleging that officers of the Federal Security Service's Zabaikal office had exceeded their authority while detaining V.A. Kutsenko and taking him to the investigating body.

According to the lawyer's report and V.A. Kutsenko's account, on 10 February, between 10 p.m. and 11 p.m., three officers arrived at the residence of V.A. Kutsenko's relatives in Chita, from which they took V.A. Kutsenko and drove him to a wooded area near the SibVO stadium. There, they physically assaulted him, choking him, giving him electric shocks and striking him repeatedly, and demanded that he provide information about members of the banned religious organization and confess to extremism. Afterwards, V.A. Kutsenko was taken to the Zabaikal investigation department and, from there, to the temporary holding facility of the department of the Ministry of Internal Affairs of the Russian Federation for Zabaikal Territory, once certain investigative acts had been carried out.

The three officers who took V.A. Kutsenko to the investigator were questioned during a procedural review, and each separately stated that, on 10 February 2020, on instructions from the management of the Federal Security Service's Zabaikal office, they had taken V.A. Kutsenko, who was in a building on ██████████ Street in Chita, to the investigator at the Zabaikal investigation department. During the search of V.A. Kutsenko's flat, he resisted and did not open the door in response to the lawful demands of law enforcement officers, and therefore the door had to be opened using special equipment. While the door was being opened, V.A. Kutsenko disabled the means of communications and computer equipment in the flat, which may have contained information about his illegal activities. When he was searched for objects that could be used against the officers who were carrying out the order to take him to the investigator, he resisted, as a result of which physical force had to be used against him. He was placed facing the wall and restrained, remaining in handcuffs until he arrived at the investigator's office, to which he was taken in a service vehicle. During the journey, he became aggressive and kicked the seats of the vehicle. For this reason, the officers conducting the operation took steps to immobilize him until they arrived at the investigating body. At the same time, there was no unjustified use of physical force and no other unlawful

acts were committed against V.A. Kutsenko. After the investigator had carried out certain investigative acts, V.A. Kutsenko was taken to the temporary holding facility. Nobody took V.A. Kutsenko into the woods, tortured him or gave him electric shocks. He was not subjected to any psychological pressure.

In the course of the review, the scene of the incident was inspected, eyewitnesses were identified and interviewed, a medical examination was conducted and other checks were carried out, which, in their totality, attested to the lawfulness, under the circumstances, of the use of physical force against V.A. Kutsenko. No information was received regarding the coercion of V.A. Kutsenko to testify, including through violence.

A.Y. Denisov, the assistant duty officer at the temporary holding facility of the department of the Ministry of Internal Affairs of the Russian Federation for Zabaikal Territory, explained that, on 11 February 2020, at about 2:30 a.m., V.A. Kutsenko was brought to the facility by officers from the Federal Security Service's Zabaikal office. He denied having any complaints and made no requests or demands for medical assistance. This is evidenced by the entry in V.A. Kutsenko's cell log. No bodily injuries were found when he was examined. In the period from 11 to 13 February 2020, V.A. Kutsenko made no complaints or requests. It was only after a visit by his defence counsel that V.A. Kutsenko, on the morning of 14 February 2020, filed a report stating that he had been injured by officers of the Federal Security Service.

According to the findings of forensic experts, dated 14 February 2020, 17 February 2020 and 3 April 2020, V.A. Kutsenko had intradermal haemorrhages on the outer surfaces of the left and right knee joints, abrasions on the back of the neck, bruising on the front abdominal wall to the right, bruising on the front lower third of the right thigh, bruising on the front of the left knee joint, bruising on the outer surface of the upper third of the right shin, bruising on the inner surface of the upper and lower thirds of the left shin, and bruising on the inner surface of the right shin.

From their characteristics, it was concluded that the abrasions and bruises were caused by traumatic impact from a blunt, solid object or objects. It was not possible to reliably identify the object or objects that caused the trauma given the lack of evidence as to the properties of the object or objects in this case. The injuries did not result in short-term health problems or minor sustained loss of general capacity for work and are considered not to have caused harm to health.

Given the localization of the abrasions on the back of the neck, the preponderance of injuries (bruises and intradermal haemorrhages) to the lower extremities and the symmetrical arrangement of the bruises on the inner surfaces of both shins, it cannot be ruled out that they were inflicted when V.A. Kutsenko was restrained at the neck and torso, during which his lower extremities were forced apart to shoulder-width (in application of the "grip" technique used during detentions), and later when he kicked out at blunt, solid objects inside the car while being transported.

In accordance with articles 14, 145 and 146 of the Federal Act on the Federal Security Service, military personnel serving in agencies of the Federal Security Service have the right, individually or as part of a sub-unit (group), to use military hardware, weapons, special equipment and physical force: to suppress resistance against military personnel of the Federal Security Service; to detain a person if he or she might offer armed resistance or obstruct the performance by military personnel of the Federal Security Service of the duties entrusted to them; to transport persons who have committed criminal or administrative offences to offices of the Federal Security Service and other government agencies; to escort and guard detainees; and to prevent escape attempts, in the event that a person resists military personnel of the Federal Security Service, or causes harm to others or to himself or herself.

Thus, the review did not corroborate the claims of unlawful acts by officers of the Federal Security Service's Zabaikal office. In this connection, on 6 April 2020 the investigator of the military investigating agency for Chita garrison, acting on the basis of article 24 (1) (2) of the Code of Criminal Procedure, issued a decision not to initiate criminal proceedings under articles 286 (3) (a) and (b) and 302 (2) of the Criminal Code.

The investigator's decision was reviewed by the supervising military prosecutor and declared lawful.

V.A. Kutsenko disagreed with the investigator's decision and, on 22 June 2020, lodged a complaint with the Chita garrison military court, under article 125 of the Code of Criminal Procedure.

On 25 June 2020, in response to new claims in the complaint that had not previously been investigated, the deputy head of the Chita garrison military investigating agency annulled the contested decision and the case file was returned to the investigator for additional verification. The Chita garrison military court therefore suspended the proceedings in respect of the complaint by V.A. Kutsenko on 26 June 2020.

On the basis of the results of the additional verification, on 6 July 2020 the investigator issued a decision, on the same grounds, not to initiate criminal proceedings. The lawfulness of the decision is currently being reviewed by the military prosecutor's office.

The investigation of the criminal case is continuing, the period for its completion having been extended to five months, that is, to 28 July 2020.

Electronic copies of the judicial decisions handed down in respect of the aforementioned members of the Jehovah's Witnesses are attached.
