

Mandates of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL
MNG 1/2015:

9 November 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 19/10, 25/2, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of deportation of Mr **Eugene (Evgeny) Simonov**.

Mr Simonov, is a Russian national, environmental defender and a representative of Rivers without Boundaries - a coalition of over 30 environmental NGOs and experts from Russia, Mongolia, US and China dedicated to preserving the health of trans-boundary river basins in north-east Eurasia through joint advocacy and promoting best practices in river management.

Rivers without Boundaries are concerned with the negative impact of development projects on international rivers and communities dependent on river basin resources. Most of Rivers without Boundaries' work is in developing scientific evidence and organizing public discussions about new dams with scientists, officials and civil society. Since 2011 it has been challenging government plans to build large reservoirs on the water-deficient rivers of Mongolia (namely the Selenge, Kherlen and Orkhon rivers) and it is alleged that the organisation has been warned more than once that their activities are "against national interest".

According to the information received:

On 12 August 2014, Mr Simonov visited his colleague, 2007 Goldman Environmental Prize winner, Mr Munkhabayar Tsetsegee who is serving a 21 year sentence in Kharkhorin prison. When Eugene Simonov was exiting Mongolia to

travel to China through the Zamyn Uud border-crossing later that same day, he was told to wait in an office while officers took possession of his passport and told him to “wait five minutes” in Chinese. He had to wait for almost an hour but was not questioned at any time.

A week later Mr Simonov noticed he had a black stamp in his passport marked, “Deported from Mongolia for 10 years till August 12, 2024”. His colleagues at Rivers without Boundaries Mongolia called the Immigration Agency on his behalf to seek an explanation but got no result. When Rivers without Boundaries Mongolia challenged his deportation in the Ulaanbaatar Administrative Court, they were told that a classified decision by the General Intelligence Agency lists Mr Simonov as “a person who presents a threat to national security”. No further information were disclosed to the lawyers of Rivers without Boundaries.

Grave concern is expressed about the ongoing harassment and deportation of Eugene Simonov on the allegations that he represents a threat to national security and that this may be linked to his work as an environmental defender and the legitimate exercise of his right to freedom of opinion and expression. Further concern is expressed that the purpose of his deportation may be to deter and prevent civil society from investigating the government's plans with the World Bank to build a cascade of hydro-dams and water transfer projects in Lake Baikal transboundary basin.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Has a complaint been lodged?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please indicate any remedial action taken vis à vis the victim and/or his/her family.
6. Please kindly indicate what measures have been taken to ensure that the right to freedom of expression and opinion, including the legitimate right to collect and disseminate information, is respected and guaranteed in Mongolia.
7. Please indicate what measures have been taken to ensure that human rights defenders, including environmental activists, are able to carry out their legitimate work in a safe and enabling environment, without fear of threats or acts of persecution and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

John Knox

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

David Kaye

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Michel Forst

Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Mongolia on 18 November 1974, which provides that "[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." We wish to remind your Excellency's Government that any restrictions to the exercise of the right freedom of expression, in accordance with article 19(3) ICCPR, must be provided by law and necessary and proportionate.

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration;

We would also like to refer to Human Rights Council Resolution 22/6, which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

In paragraph 23 of its General Comment No. 34, the Human Rights Committee has urged that States parties should protect against attacks aimed at silencing those exercising their right to freedom of expression. The Committee has recognized that those “persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports” are “frequently subjected to threats and intimidation because of their activities”. The Committee has urged that all such attacks be vigorously investigated in a timely fashion, perpetrators prosecuted, and victims receive the appropriate form of redress (CCPR/C/GC/34).

Similarly, in paragraph 30 of the above-mentioned General Comment, the Committee has elaborated further that “it is not compatible with paragraph 3 [of article 19 ICCPR] to invoke ... laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information.”

Furthermore, the Human Rights Council in paragraphs 3 and 5 of its Resolution 12/16, has also expressed its concern at the violation of human rights, including intimidation, persecution and harassment, threats of acts of violence and censorship against those who seek to promote their rights, including human rights defenders, and has called upon States to take all necessary measures to put an end to violations of these rights and bring those responsible to justice.