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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on contemporary forms of slavery; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences.

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on contemporary forms of slavery; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 16/16, 16/4, 24/3, 16/23, and 23/25.

In this connection, we would like to draw the attention of your Excellency's Government to new information we have received regarding the situation of **Ms. Nadezhda Tolokonnikova**, who was the subject of an urgent appeal sent to your Excellency's Government on 11 May 2012 by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on violence against women, its causes and consequences. An urgent appeal was also sent on 8 October 2013 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on contemporary forms of slavery; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We regret that to date, no response has been received on both urgent appeals. Moreover, in the light of new information received, we remain concerned about the situation of Ms. Tolokonnikova, especially given the seriousness of the allegations.

According to the new information received:

Ms. Tolokonnikova's lawyers were reportedly denied the right to see her on 'medical grounds' in the prison hospital camp LPU-21 in the town of Barashevo, from 27 September 2013 until 10 October 2013. This allegedly contradicts Ms. Tolokonnikova's official statements to LPU-21 authorities attesting that she felt sufficiently well to exercise her right to legal assistance and to meet her lawyers.

It is further alleged that on 1 October 2013, a member of the Russian Parliament, State Duma Deputy Mr. Ilya Ponomarev, who according to Russian Federal Law is entitled as a member of the Duma to unrestricted visits to penitentiary facilities, was also initially denied the right to see Ms. Tolokonnikova on the grounds of 'severe sickness'. On his insistence, Mr. Ilya Ponomarev was eventually provided access to Ms. Tolokonnikova for a ten minute conversation in her prison hospital cell.

It is reported that, following interventions by the Russian Human Rights Ombudsman raising the issue of her access to her legal team, Ms. Tolokonnikova was finally permitted to meet with her lawyer, Mr. Evgeniy Bikmaev from 10 to 14 October 2013. On 17 October 2013, however, her lawyer Mr. Dmitriy Dinze who travelled to Mordovia to assist Ms. Tolokonnikova with issues related to the Investigative Committee, was denied access to his client on undisclosed grounds.

On 17 October 2013, Ms. Tolokonnikova was transferred from the prison hospital LPU-21 to her former prison camp IK-14. This was reportedly done, both through physical force, and in contradiction of promises she had reportedly received from authorities assuring her that she would not be returned to the facility where she had been subject to death threats by officials heading the facility and who were now under official investigation. In reaction, Ms. Tolokonnikova re-announced her hunger strike. The Russian Human Rights Ombudsman Mr. Vladimir Lukin also protested this transfer, resulting in an official statement by the Federal Penitentiary Service that Ms. Tolokonnikova would be transferred to a new prison.

On 20 October 2013, in order to be prepared for her transfer to another region of Russia, Ms. Tolokonnikova was moved to the transit section of prison camp IK-18 in the town of Potma, in Mordovia. Subsequently, on the morning of 22 October 2013, Mr. Evgeniy Gubin, Ms. Tolokonnikova's lawyer, was denied access to his client. According to the source, relevant authorities of IK-18 refused to process Mr. Gubin's visitation request. On the evening of the same day, Ms. Tolokonnikova was allegedly placed on a train used for the transfer of convicts, and headed in the direction of the Eastern part of Russia through the regional capital towns of Ulyanovsk and Ufa. While this has not been officially confirmed or announced by authorities, there appears to be unofficial information that as of 24 October 2013, Ms. Tolokonnikova may have been held in the transfer prison of

SIZO-1 in Chelyabinsk, approximately 2000 km east of Moscow. However, until present, Ms. Tolokonnikova's exact whereabouts and the facility to which she may ultimately be transferred has allegedly not been communicated by officials and remains unknown to her family and her legal representatives. In the context of the lack of access to her legal team, the incommunicado status of her detention, and the lack of official information regarding her whereabouts, Ms. Tolokonnikova's family and lawyers are concerned about her health and safety.

In view of the urgency of the matter, we would appreciate a response on the steps taken by your Excellency's Government to safeguard the rights of Ms. Tolokonnikova in compliance with the below international instruments, and in relation to the facts stated in the previous urgent appeal submitted on 8 October 2013 on this case, including the allegation of forced labor amounting to slavery in the correctional colony no. 14, and the alleged retaliation and death threats by prison officials against Ms. Tolokonnikova, as well as in light of new information stated above.

In relation to the allegations according to which the current place of detention of Ms. Tolokonnikova is unknown to her family and her legal representatives, we would like to draw your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, which sets out necessary protection by the State, and in particular article 10(2), which provides that, "Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned."

We would also like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

Without in any way implying any determination on the facts of the case, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone 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."

With continued concern for the welfare and rights of persons who may continue to be subject to forced labour amounting to slavery in correctional colony no. 14, we should

like to reiterate our reference to articles 71-76 concerning prison labour in the Standard Minimum Rules for the Treatment of Prisoners, adopted in resolutions 663 C and 2076 of the United Nations Economic and Social Council. In this connection, article 71 (1-3) states that “prison labour must not be of an afflictive nature”, that the requirement to work is “subject to their physical and mental fitness determined by the medical officer”, and “sufficient work [is ...] provided to keep prisoners actively employed for a normal working day”. Article 72 provides that “the methods of work [...] shall resemble as closely as possible those of similar work outside institutions”, and article 74(1) that “the precautions laid down to protect the safety and health of free workmen shall be fixed by law or by administrative regulation”. Furthermore, standards relating to conditions of work such as: maximum working hours (which are to be fixed by law or regulation, and to take into account rules of employment of free workmen); rest days; time allotted for other activities and education; and equitable remuneration of work, are also stipulated in articles 75 and 76. These minimum rules provide guidance and complementary standards to article 4 of the Universal Declaration of Human Rights, to article 8(1), (3)(a) of the ICCPR, which prohibit slavery, and article 2(2)(c) of the ILO Convention (No. 29) concerning Forced or Compulsory Labour.

We would also like to appeal to your Excellency’s Government to take all necessary measures to guarantee to Ms. Tolokonnikova, the right to be free from any violence, discrimination or abuse. Towards that end, we would like to draw your Excellency’s Government’s attention to article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

In that sense, we recall article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. Article 4 (c & d) of the Declaration also notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. Furthermore, the Committee on the Elimination of Discrimination against Women (CEDAW), in its general recommendation No. 19 (1992), reiterates that States parties are under an obligation to act with due diligence to investigate all crimes perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay.

Finally, we wish to make reference to the report of the Special Rapporteur on violence against women, its causes and consequences, to the sixty-eighth session of the General Assembly (A/68/340), in which she refers to the right of incarcerated women to maintain contact with the world outside of prison, as well as the responsibility of the

State to protect the family unit as stated in article 23 (1) of the International Covenant on Civil and Political Rights. The report also refers to the devastating effects that the detention of women has on children left behind, and calls on States to consider alternatives to women's incarceration, given that most incarcerated women rarely pose a threat to the public.

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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the new facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim(s)?
3. Please provide information on the whereabouts of Ms. Tolokonnikova and clarify whether her family has been informed of her current place of detention.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries or investigations carried out in relation to the case of Ms. Tolokonnikova, as well as the general allegations of forced labour amounting to slavery in correctional colony no. 14. If no inquiries or investigations have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please provide information on an urgent basis, on the current location, situation, and health and general welfare of Ms. Tolokonnikova.
7. Please provide information on an urgent basis, on the status of Ms. Tolokonnikova's access to legal counsel of her choice, to visits by her family, and to the right of her family and legal team to know her exact whereabouts.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

In view of the seriousness and urgency of the situation, we urge your Excellency's Government to respond on an urgent basis, and to immediately take all necessary measures to guarantee that the rights and freedoms of the above mentioned person(s) are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged

violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

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

Gulnara Shahinian
Special Rapporteur on contemporary forms of slavery

Juan E. Méndez
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Rashida Manjoo
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