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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 24/5, and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **reported enforcement of the Law on Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-commercial Organizations which Carry Functions of Foreign Agents (the "Law")**.

On 11 July 2012, the draft text of this Law was the subject of a communication by the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders, and was followed on 12 July 2012 by a public statement by the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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. We acknowledge receipt of your reply on 23 July 2012. Moreover, on 14 May 2013, the reported enforcement of the Law was the subject of a public statement which highlighted an environment increasingly hostile to the work of non-governmental organizations and human rights defenders. Furthermore, on 13 June 2013, the alleged enforcement of the Law was the subject of a communication by the Special Rapporteur on the rights to Freedom of peaceful assembly and of association; 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. We regret that to this date no reply was received to this communication.

According to additional information received:

On 30 April 2013, the Prosecutor's Office reportedly opened a case for violations of the Law against the Anti-Discrimination Centre Memorial (ADC Memorial), a human rights organization. It charged the organization of being "involved in political activity" receiving foreign funding and collaborating with the United Nations Committee Against Torture (UNCAT) in November 2012 through the submission of a report.

In May 2013, the Mirovoy District Court No. 8 of St Petersburg ruled against the case presented by the Prosecutor's Office considering that the evidence was inconclusive and insufficient. On 5 November 2013, the Prosecutor's Office reportedly appealed this decision to the City Court of St Petersburg and demanded the Court to repeal the decision of Mirovoy District Court claiming that the persisting nature of the activities of ADC Memorial was in violation of the Law. .

On 12 December 2013, the Leninsky District Court of St Petersburg officially declared that the ADC Memorial was a "foreign agent" and that it had to register as such to the Ministry of Justice. The Court ruled that all the activities of the ADC Memorial fell under the definition of performing the functions of a foreign agent.

As previously stated in our letter dated 13 June 2013, we would like to express our serious concern with regard to the information received regarding the enforcement of this Law. Further concerns are expressed that this Law could arbitrarily and unduly limit the enjoyment of the right to freedom of association, particularly of NGOs working on human rights issues.

We would like to reiterate our concern that the mentioned legislation and its application, in particular the interpretation of vaguely defined concepts such as "engaging in political activities" or "staging political actions to influence public policy or opinion" may be used to obstruct the legitimate work of human rights defenders and civil society organizations and have a serious damaging effect on these organizations and the right to freely associate in the Russian Federation. We would also like to reiterate our serious concern about the reported campaign by certain media outlets that have used this Law to discredit civil society organizations and human rights defenders, which further expose them to risks of harassment and violence, and render their work difficult.

Furthermore, we would like to reiterate our dismay at allegations received indicating that the Law is being used to target organizations which cooperate with the United Nations, and its mechanisms in the field of human rights.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer to the right to freedom of opinion and expression as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), 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."

We would also like to refer to article 22 of the ICCPR, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In this context, we would also like to refer to the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, which states that “the ability for associations to access funding and resources is an integral and vital part of the right to freedom of association” (A/HRC/20/22, paragraph 67).

In connection to the allegations received indicating that the situation of ADC Memorial is linked to their work in defence and promotion of human rights, 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government article 13 (b) and (c) of the Declaration on human rights defenders which stipulates that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means, in accordance with article 3 of the Declaration.

In connection to article 13 of the Declaration, resolution 22/6 of the Human Rights Council calls upon States to ensure “(a) that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy”; and (b) “that they do not discriminatorily impose restrictions on potential sources of funding aimed at supporting the work of human rights defenders in accordance with the

Declaration (...), other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the origin of funding thereto". (A/HRC/RES/22/6, OPs 8 and 9)

We also wish to recall the provisions of resolution 24/24 of the Human Rights Council, which, inter alia, reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights (OP1), and regional mechanisms, and calls upon all States to review legislation, policies and practices that have the effect of undermining unhindered access to and communication with international bodies, and to avoid adopting any such new legislation (OP2). The resolution also urges States to ensure accountability for any acts of intimidation or reprisal by ensuring impartial, prompt and thorough investigations of any alleged acts of intimidation or reprisal in order to bring the perpetrators to justice, to provide access to effective remedies for victims in accordance with their international human rights obligations and commitments; and to prevent any recurrence. (OP5)

Moreover, as 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 be grateful for your observations on the following matters:

1. Are the facts alleged in the summary of these cases accurate?
2. Please provide information on how the enforcement of, and interpretation of the provisions contained in, the Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents are in line with your obligations under international human rights law, particular with article 22 of ICCPR.
3. Please also provide information concerning how the actions undertaken by public officials regarding the enforcement of the Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents are compatible with the international norms and standards of the right to freedom of association, and of opinion and expression.
4. Please kindly indicate what measures have been taken to ensure that civil society organizations, particularly those working in the defense and promotion of human rights, are able to carry out their work without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person 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.

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freedom of opinion and expression

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