

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**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; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214 (53-24)  
RUS 4/2014

31 March 2014

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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 24/5, 16/5, 17/2, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning allegations of torture while in detention of Mr **Ruslan Kutayev** and threats against his lawyer, Mr **Igor Kalyapin**.

Mr. Igor Kalyapin is the Chairman of the Interregional Committee Against Torture and the President of the Joint Mobile Group.

Mr Ruslan Kutayev is the former deputy Prime Minister of the Chechen Republic. Mr Kutayev is currently the head of the socio-political movement "Assembly of Peoples of the Caucasus" (former Confederation of the Mountain Peoples of Caucasus) and the president of the International Committee for North Caucasus Problems.

The Interregional Committee Against Torture (CAT) investigates allegations of ill-treatment and torture committed by law enforcement agencies. The Joint Mobile Group (JMG), coordinated by CAT, investigates grave human rights abuses, including abductions, enforced disappearances and torture in the Chechen Republic and provides legal assistance and rehabilitation services to victims, including urgent medical, psychological and psychiatric assistance. Since 2010, the JMG has received a grant from the United Nations Voluntary Fund for Victims of Torture.

In 2013, Mr Kalyapin was awarded the Martin Ennals Award for human rights defenders. Since 2013, he has been a member of the Presidential Council for Civil Society and Human Rights, which is a consultative body established to assist the President of the Russian Federation to effectively guarantee and protect human rights and freedoms, keep the President informed about relevant matters, facilitate the development of civil society in Russia, and draft proposals for the President on matters within its mandate.

Mr Kalyapin was the subject of a communication dated 1 March 2012 (RUS 1/2012), according to which he was accused, under Article 283 of the Criminal Code of the Russian Federation, of disclosing State secrets, a crime punishable by a prison sentence of between three and five years. A response to this communication was received in May 2012 from your Excellency's Government.

According to the information received:

On 18 February 2014, the Assembly of Peoples of the Caucasus reportedly organized a conference to commemorate 70 years since the deportation of Chechen and Ingush population on 23 February 1944. During this conference, Mr Kutayev allegedly accused the authorities of disrespecting the memory of the victims by not officially celebrating this date. Shortly after the conference concluded, Mr Kutayev was reportedly invited to meet the President of the Chechen Republic on 19 February, an invitation which he declined.

On 20 February 2014, Mr Kutayev was allegedly arrested while visiting relatives in the village of Gekhi, in the district of Urus-Martan. He was taken to a police station, where he was allegedly beaten up, and was charged for the possession of drugs, which were allegedly planted on him.

On 24 February 2014, Mr Kalyapin reportedly visited Mr Kutayev at the police station in Urus-Martan. Mr Kalyapin was not permitted to talk to his client in private; also present were the Urus-Martan police chief and deputy Interior Minister of the Chechen Republic. It is reported that Mr Kalyapin noticed extensive bruising on Mr Kutayev's shoulders and legs. According to reports received, Mr Kutayev had numerous haematomas on the right leg, on the back and right side of the right thigh, on the right breech and on the left hand. Reportedly, he also displayed signs of use of electric currents on his left chest.

On 25 February 2014, the President of the Chechen Republic, Mr Kadyrov, reportedly presided over a meeting of the Public Chamber of the Chechen Republic. Though Mr Kalyapin was absent, Mr Kadyrov allegedly launched a verbal attack against Mr Kalyapin during the meeting, which was broadcasted by the state TV channel 'Vainakh' at 4 pm, 7 pm, and 10 pm on 25 February 2014. In the broadcasted statement, the President of the Chechen Republic reportedly questioned the legitimacy of Mr Kutayev's work in the Public Chamber of the Chechen Republic and said that Mr Kalyapin "persecutes police officers" and

“defends bandits”. Mr Kadyrov allegedly accused Mr Kalyapin and other “traitors” of having sold “their ideas, their people and the integrity of the State”.

It is also reported that, in June 2012, senior Chechen officials had criticized the work of the Interregional Committee Against Torture during a televised meeting after the Joint Mobile Group participated in a rally in the centre of Grozny against enforced disappearances. During the televised meeting, the Joint Mobile Group was accused of hating the people of the Chechen Republic, coming to the region for financial gain, and striving to provoke conflicts and destabilize the situation in the region.

Grave concern is expressed about the allegations received indicating that Mr. Kutayev was subject to torture while in detention. In addition, serious concern is expressed at the implications of the TV broadcasts on state television on the stigmatization of Mr Igor Kalyapin in his role as a human rights lawyer.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the case of Mr. Kutayev. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency’s Government to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

Furthermore, we would like to draw the attention of your Excellency’s Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture;”

We would also like to draw your Excellency’s Government’s attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States “(t)o take persistent, determined and effective measures to have all allegations of torture or other

cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

Furthermore, we would also like to refer your Excellency’s Government to the following provisions of the ICCPR:

- article 19, 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.”
- article 21, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.
- article 22, 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.”

Regarding allegations received indicating that the situation of Mr. Kalyapin is linked to his work as a lawyer in defence of human rights and fundamental freedoms, 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. Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the mentioned Declaration:

- article 9 para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights;
- article 9 para. 3 point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms;
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, we would like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular the following principles:

- Principle 16, which states: "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; [...];
- Principle 17, which states: "Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities."; and
- Principle 18, which states: "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

Moreover, 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:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please indicate what measures have been taken to ensure that human rights defenders, including civil society, activists and lawyers, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.
5. Please provide the full details of any protective measures put in place to ensure the physical and psychological security and integrity of the aforementioned human rights defenders and their families.

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 persons 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.

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

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

Margaret Sekaggya  
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