

**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 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 the situation of human rights defenders; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on the independence of judges and lawyers

REFERENCE: UA G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (3-3-16) Terrorism (2005-4)
RUS 1/2012

1 March 2012

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 the situation of human rights defenders; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on the independence of judges and lawyers pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/16, 16/4, 16/5, 15/15, and 17/2.

In this connection, we would like to bring to the attention of your Excellency's Government's information we have received concerning alleged acts of police harassment against two human rights defenders and the confiscation of strictly confidential material.

Mr. **Anton Ryzhov** works as a lawyer with the Interregional Committee Against Torture and the Joint Mobile Group (JMG), a solidarity group of Russian human rights defenders who travel to Chechnya on a rotating basis in order to investigate allegations of enforced disappearances and torture in the region, and winner of the 2011 Front Line Defenders Award. Mr. **Igor Kalyapin** is Chairman of the Interregional Committee against Torture and founder and President of the JMG.

Members of the JMG were the subject of a previous communication sent to your Excellency's Government on 12 February 2010 by the Special Rapporteur on the situation of human rights defenders. We thank your Excellency's Government for the response dated 20 April 2010.

Members of the Interregional Committee against Torture were the subject of a previous communication sent to your Excellency's Government on 29 July 2011 by 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. We thank your Excellency's Government for the responses dated 15 September 2011 and 3 November 2011.

According to new information received:

In the early morning of 21 January 2012, Mr. Anton Ryzhov was detained by several officers of the Nizhny Novgorod transport police when he was returning from a five-week JMG mission in Chechnya. It is reported that police checked his passport and then took him to the local police station, supposedly on the basis of "operative information" which had been reported to the local police alleging that Mr. Ryzhov might have information related to terrorist activities stored on electronic devices.

Reportedly, Mr. Ryzhov and his belongings were searched and his notebook computer and memory sticks were confiscated in the presence of five witnesses. Mr. Ryzhov was allegedly held at the police station for several hours, during which time he was not permitted to make a phone call, his photograph was taken "for the database" and he was questioned about his work and that of the JMG. He was reportedly released at approximately 4 a.m.

Reports indicate that the electronic equipment which was confiscated contained information pertaining to cases currently being investigated by the JMG involving alleged human rights abuses in Chechnya in which members of the Chechen police may be implicated. Strictly confidential correspondence relating to cases submitted to the European Court of Human Rights (ECHR) against the Russian Federation was also allegedly confiscated. It is reported that Mr. Ryzhov has demanded the return of all confidential materials, failing which he would lodge a complaint with the ECHR.

On 18 January 2012, Mr. Igor Kalyapin was informed that the chief of the Chechen OMON (special police forces) had filed a request for the opening of a criminal case against him with the Department for the Investigation of Serious Cases of the Central Investigative Department of the Investigative Committee for the Prosecutor's Office in the Chechen Republic. Sources indicate that an enquiry has been launched and a criminal case might be opened against Mr. Kalyapin.

It is reported that the request alleges that Mr. Kalyapin is guilty of disclosing state secrets, a crime punishable by a prison sentence of between three and five years under Article 283 of the Criminal Code of the Russian Federation. This request for opening a criminal case is allegedly connected to a case involving the alleged abduction and ill-treatment of Mr. Islam Umarpashayev. Mr. Kalyapin represents the alleged victim in this case, and members of the Chechen OMON are purportedly the prime suspects. The request relates to blogs written by Mr. Kalyapin in June 2011, which have reportedly received widespread mass media

attention. In these blogs, he is alleged to have disclosed the location where Mr. Islam Umarpashayev was apparently unlawfully detained.

Concern is expressed that the detention of Mr. Anton Ryzhov and the confiscation of his property, as well as the statement filed against Mr. Igor Kalyapin, may be directly related to their legitimate work in the defence of human rights, particularly to their efforts to investigate allegations of enforced disappearances and torture in Chechnya.

While we do not wish to prejudge the accuracy of these allegations, 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 the following provisions of the Declaration:

- article 6, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- 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.

We would also like to recall that, in its resolution 7/12, the Human Rights Council urged Governments to take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected.

With respect to the detention of Mr. Anton Ryzhov and the confiscation of his property, 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:

- principle 16: Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics;

- principle 17: Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities;

- principle 18: Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions;

- principle 20: Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

We would also 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."

Furthermore, we deem it appropriate to make reference to Human Rights Council Resolution 12/18, which calls upon States to refrain from using counter-terrorism as a pretext to restrict the right to freedom of opinion and expression in ways that are contrary

to their obligations under international law. We would like also to draw the attention of your Excellency's Government to the principle enunciated in Article 18 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, as endorsed in E/CN.4/1996/39 of 1996, that no person may be punished on national security grounds for disclosure or information if (1) the disclosure does not actually harm and is not likely to harm a legitimate national security interest, or (2) the public interest in knowing the information outweighs the harm from disclosure.

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.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

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, when relevant to the case under consideration:

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 provide information concerning the legal grounds for the detention of Mr. Anton Ryzhov and for the confiscation of his computer and memory sticks. Have these items been returned to Mr. Ryzhov? If not, please explain why.
5. Please provide information concerning the legal grounds for the allegations made by officials/authorities that information possessed or imparted by the above mentioned persons, which are supposedly related to their legitimate work in the defence of human rights, are considered to be related to 'terrorist activities' and/or to 'state secrets'.
6. Please provide information concerning the status of the request for the opening of a criminal case against Mr. Kalyapin allegedly filed by the chief of the Chechen OMON with the Department for the Investigation of Serious Cases of the Central Investigative Department of the Investigative Committee for the Prosecutor's

Office in the Chechen Republic. Has a criminal case been open against Mr. Kalyapin? If so, on what legal grounds?

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.

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

Jeremy Sarkin
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

Margaret Sekaggya
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Ben Emmerson
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