

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 33/30, 26/12, 25/13, 32/2 and 34/27.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received in connection with **alleged unlawful detentions, torture and extrajudicial killings of men perceived to be gay or bisexual in Chechnya in the past weeks.**

According to the information received:

Various sources, including from the region, have reported that starting from the end of February 2017, several dozen men perceived to be gay or bisexual have been abducted by local militia and local security forces and unlawfully detained in an unofficial detention centre close to the city of Argun on the basis of their actual or perceived sexual orientation. Several of them have been released. They are said to have been subject to physical and verbal abuse while detained, as well as to torture, including with electric shocks, beatings, insults, humiliations and threats to disclose their sexual orientation to their family. These threats could put their life in danger due to the risk of so-called "honour killings". Those detained were questioned about their sexual orientation, and forced to give contact details of other gay men in the region. Three persons may have been killed because of their perceived sexual orientation.

Acts of violence against, and persecution of, people on the basis of their actual or perceived sexual orientation or gender identity, including banning and killings by family members (i.e. "honour killings"), have occasionally been reported in

Chechnya in the past. However, attacks on men with so-called “non-traditional” sexual orientations have never been reported with such consistency and on such a scale before.

Mr. Alvi Karimov, spokesperson of Mr. Ramzan Kadyrov, the head of the Chechen Republic, responded to reports of arrests of gay and bisexual men to Interfax news agency with the following statement: “It is impossible to detain and persecute people who simply do not exist in the Republic. If there were such people in Chechnya, the law-enforcement agencies wouldn’t need to have anything to do with them because their relatives would send them somewhere from which there is no returning”. Similarly, Ms. Kheda Saratova, a member of the human rights council of Chechnya, told a Russian radio station: “I didn’t receive a single appeal, but in case of any I would not even consider it. (...) In our Chechen society, any person who respects himself, our traditions and culture will hunt down this kind of person without any help from the authorities, and do everything to make sure that they do not exist in our society.”

On 1 April 2017, the Russian newspaper *Novaya Gazeta* published an article reporting unlawful detentions, torture and killings of men perceived to be gay or bisexual in Chechnya on a large scale and as part of a coordinated campaign.

Following the publication of the news article in the *Novaya Gazeta*, complaints have been filed with the General Prosecutor’s Office, the Investigative Committee of the Russian Federation, and the Commissioner for Human Rights of the Russian Federation requesting that an investigation be launched into the information reported in the press and the hateful comments made by local authorities.

On 3 April 2017, Mr. Mikhail Fedotov, Chairperson of the Presidential Council for Civil Society and Human Rights, noted that these claims were “monstrous” and “should be verified thoroughly”.

While we do not wish to prejudge the accuracy of the information made available to us, we express our serious concern over these allegations of unlawful detention, torture, ill-treatment and extrajudicial killing of individuals on the basis of their actual or perceived sexual orientation in Chechnya. Are also a matter of serious concern the homophobic statements attributed to most senior local authorities, which if confirmed, may constitute incitement to hatred and violence.

These allegations appear to be in contravention of the rights of every individual to life, liberty and security of person, physical integrity, freedom of expression, privacy, conscience and non-discrimination, as laid down, inter alia, in articles 3, 5, 7, and 9 of the Universal Declaration of Human Rights (UDHR) and articles 2, 6, 7, 9, 10, 17, 18, 19 and

26 of the International Covenant on Civil and Political Rights (ICCPR), to which the State is party since 16 October 1973. These rights are of universal nature and apply to everyone, irrespective of their sexual orientation or gender identity.

The absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment is codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the Russian Federation ratified on 3 March 1987. Article 12 of CAT specifically requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed.

In its General Comment No. 31, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

Moreover, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions establish the obligation of States to conduct a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions (Principle 9), and to ensure effective protection to those who receive death threats and are in danger of extra-legal, arbitrary or summary executions (Principle 4).

Sexual orientation and gender identity are prohibited grounds of discrimination under international law. In 2016, the Committee on Economic, Social and Cultural Rights explained that “State parties also have an obligation to combat homophobia and transphobia, which lead to discrimination, including violation of the right to sexual and reproductive health.” (E/C.12/GC/22, para. 23). The Human Rights Committee also found that States have a legal obligation to ensure to everyone the rights recognized by the Covenant without discrimination on the basis of sexual orientation or gender identity. In 2015, the Committee recommended that the Russian Federation strengthen the legal framework protecting LGBT individuals from discrimination and violence, ensure the investigation, prosecution and punishment of any act of violence motivated by the victim’s sexual orientation or gender identity and apply the provisions of article 63, paragraph 1(e), of the Criminal Code to such acts. The Committee also recommended that the Russian Federation officially state that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transsexuality, or hate speech, discrimination or violence against persons based on their sexual orientation or gender identity (CCPR/C/RUS/CO/7, para. 10). The Human Rights Council, through resolutions

17/19 and 27/32, has expressed grave concern at acts of violence and discrimination committed against individuals because of their sexual orientation and gender identity.

On the basis of international human rights norms and standards and the work of the United Nations human rights treaty bodies and special procedures, the United Nations High Commissioner for Human Rights has emphasized that States have obligations to, inter alia, protect individuals from violence, torture and discrimination on the basis of their sexual orientation, including conducting prompt, thorough investigations of incidents of hate-motivated violence against and torture of LGBT persons, holding perpetrators to account, and providing redress to victims; collecting and publishing data on the number and types of incidents, enacting hate crime laws that establish homophobia and transphobia as aggravating factors for purposes of sentencing, prohibiting incitement of hatred and violence on the grounds of sexual orientation and gender identity, and holding to account those responsible for related hate speech; training law enforcement personnel and judges in gender-sensitive approaches to addressing violations related to sexual orientation and gender identity, prohibiting discrimination on the basis of sexual orientation and gender identity. In addition, the High Commissioner for Human Rights has recommended that States ensure that anti-discrimination legislation includes sexual orientation and gender identity among prohibited grounds (A/HRC/29/23, para. 78 and 79).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the seriousness of the matter, we would appreciate a response on the steps taken by your Excellency's Government to respond to these allegations and to effectively protect the rights of all men perceived to be gay and bisexual in Chechnya, in compliance with the Russian Federation's international legal obligations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, we are seeking from your Excellency's Government the following clarifications:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the legal grounds for the arrest and detention of the individuals and how these measures are compatible with the Russian Federation's international human rights obligations.
3. Please provide the details, and where available the results, of any investigation carried out in relation to the unlawful detentions, torture and extrajudicial killings of men on the basis of their actual or perceived sexual

orientation. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. In the event that alleged perpetrator(s) have been identified, please provide full details of any prosecutions undertaken so far.
5. Please provide information about any measures taken to ensure the protection of the rights to life, physical integrity, liberty, security and privacy of men perceived to be gay or bisexual in Chechnya, including of any surviving victims. If no specific protection measures have been granted, please explain why.
6. Please provide information about and indicate what measures have been taken to combat incitement to hatred and violence on the grounds of sexual orientation and gender identity and to hold accountable and prosecute persons, including official authorities, who have incited hatred and violence against gay and bisexual men.
7. Please indicate what measures have been taken to combat discrimination and violence against persons based on their sexual orientation and gender identity; to prevent, investigate and prosecute violence against them; and to provide effective remedy, protection and support to victims.
8. Please provide information on the measures taken to implement the recommendations related to sexual orientation and gender identity made by the international human rights mechanisms.

While awaiting a reply, we respectfully 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 responsible of them.

Given the seriousness of the allegation, we intend to publicly express our concerns in the near future as, in our view, the information in our possession appears to be sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the Government authorities at all levels and the wider public should be alerted to the potential implications of these allegations. Our public statement will indicate that we have sought your Excellency's Government's information to clarify the issue in question.

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.

José Guavara
Vice-Chair of the Working Group on Arbitrary Detention

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
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