

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

REFERENCE:
AL RUS 8/2018

1 May 2018

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 34/18, 32/32 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the physical attack on human rights defender **Mr. Sirazhutdin Datsiyev**.

Mr. Sirazhutdin Datsiyev is the head of the Dagestan office of Human Rights Centre Memorial, a human rights organisation which provides legal assistance to victims of human rights violations. Concerns about attacks on Human Rights Centre Memorial, along with harassment of its members, have recently been raised in two communications sent by Special Procedures mandate holders, on 10 January 2018, case no. RUS 1/2018 and on 7 February 2018, case no. RUS 3/2018. We acknowledge the Government's responses to both communications sent, received on 1 February 2018 and 12 April 2018 respectively.

According to the information received:

On the morning of 28 March 2018, at approximately 9.30 a.m., while leaving his house in Makhachkala on his way to work, Mr. Datsiyev noticed a "Lada Priora" car with tinted windows nearby. After passing the car, he heard rapid footsteps approaching him from behind and was hit in the head with an unknown heavy object, causing him to fall. Although Mr. Datsiyev did not lose consciousness, he was bleeding and in shock and was thus unable to turn around and identify his attacker. A witness later informed him that a man wearing sunglasses had jumped out of the car and hit him on the head, before running back to the car and driving off.

Mr. Datsiyev was able to return to his house unaided, at which point he called the police and an ambulance. The ambulance brought him to the neurosurgical department of the Republican Clinical Hospital, where he was treated for a brain concussion, a bruised chest and multiple other moderate injuries. Mr. Datsiyev made a police report and authorities are reportedly investigating the incident.

Serious concern is expressed over the attack on Mr. Datsiyev, which, given recent aggressions and threats against Human Rights Centre Memorial offices and staff members, may likely be linked to his peaceful and legitimate work as a human rights defender in the said organisation. We further urge the Government to ensure that adequate protection is afforded to the members of Human Rights Centre Memorial in order for them to continue their important and valuable work in the defence of human rights.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government's attention to articles 9, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Russia on 16 October 1973, which provide for the rights to liberty and security of person, to freedom of opinion and expression and to freedom of association.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law**, attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on any investigation or prosecution being carried out by authorities in connection with the above-mentioned allegations.
3. Please kindly indicate what measures have been taken to ensure that human rights defenders in the Russian Federation, including those participating in non-governmental organisations, are able to carry out their legitimate work, and exercise their rights to freedom of expression and freedom of association, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we 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(s) responsible for the alleged violations.

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

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer your Excellency's Government's attention to articles 9, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Russia on 16 October 1973, which provide for the rights to liberty and security of person, to freedom of opinion and expression and to freedom of association.

With regards to security of person, we recall that, as established by the Human Rights Committee, this right concerns freedom from injury to the body and the mind, or bodily and mental integrity regardless of whether the victim is detained or non-detained (CCPR/C/GC/35, para. 3 and 9). As interpreted by the Committee, "the right to personal security also obliges States parties to take appropriate measures (...) to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury". Furthermore, we would like to recall that "States have a duty to prevent and redress unjustifiable use of force in law enforcement" (CCPR/C/GC/35, para. 9).

We deem it appropriate to make reference to Resolution 12/16 of the Human Rights Council, which calls upon states to ensure that victims of violations of the right to freedom of expression have an effective remedy, to investigate effectively threats and acts of violence, and to bring to justice those responsible to combat impunity.

We would also like to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We would like to refer to the Human Rights Council resolution 32/31, which in paragraph 4 urges States to create and maintain, in law and in practice, a safe and enabling environment in which civil society can operate free from hindrance and insecurity. It further urges States to ensure access to justice, and accountability, and to end impunity for human rights violations and abuses against civil society actors.

We would also like to refer to Human Rights Council resolution 24/5, in which the Council "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 of 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" (OP2).

In connection with the above alleged facts and concerns, 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 Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration, which state that everyone has the right to promote and to strive for the protection and realisation 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 5(b), which states that everyone has the right, individually and in association with others, to form, join and participate in non-governmental organisations, associations or groups;
- Article 6(a and b), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, along with the right to freely publish, impart and disseminate such information;
- Article 9(2), which states that everyone whose rights or freedoms are allegedly violated has the right to complain to, and have such complaint reviewed by, an independent and impartial tribunal, and to obtain from such authority a decision providing redress along with any compensation due, all without undue delay.
- Article 12 (2 and 3), which provides that the State shall take all necessary measures to ensure the protection of everyone 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.