

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 minority issues; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

REFERENCE:
AL RUS 15/2018

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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; Special Rapporteur on minority issues; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 34/18, 32/32, 34/6, 31/16 and 31/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the detention of five Scientologist leaders in St. Petersburg; **Ms. Anastasia Terentieva, Ms. Galina Shurinova, Mr. Ivan Matsitskiy, Ms. Konstancia Esaulkova** and Mr. **Sakhil Aliev** and the Government's refusal to register Scientology churches as religious organizations in the Russian Federation.

According to the information received:

In 1994, the Moscow Church of Scientology was registered as a religious organisation in Russia under the 1990 Religion Law. When the new law on Freedom of Conscience and Religious Associations was passed in 1997, the previously registered religious organizations were required to re-register according to Article 27 in the new law.

The Moscow Church of Scientology was allegedly denied to re-register on 11 occasions by the Ministry of Justice. Once exhausting the domestic remedies, the Moscow Church brought a complaint to the European Court of Human Rights in Strasbourg, France. In April 2007, the European Court of Human Rights unanimously decided that the Russian Federation had violated Article 11 (freedom of assembly and association) of the European Convention of Human Rights, read in the light of Article 9 (freedom of thought, conscience and religion).

On 7 August 2014, the Moscow Justice Department allegedly submitted a claim to the Moscow City Court seeking an order to liquidate the Moscow Church pursuant to Article 14 (1) of the 1997 Law on Freedom of Conscience and Religious Associations. The Moscow Church was reportedly not permitted to

provide critical evidence in support of its position and the Justice Department's claims were sustained by the Court. In June 2016, the Russian Supreme Court upheld the judgment ordering the liquidation of the Moscow Church of Scientology.

On 6 June 2017, more than 60 Federal Security Bureau (FSB) officials, and Special Weapons and Tactics (SWAT) police raided the premises of the Church of Scientology in St. Petersburg as well as the homes of five Scientologist leaders. The raid was allegedly based on charges concerning Article 171 (Illegal commercial activity without registration) and Articles 282 and 282.1 of the Criminal Code (Extremism).

Subsequently, Ms. Terentieva, Ms. Shurinova, Mr. Matsitskiy, Ms. Esaulkova and Mr. Aliev were detained and interrogated by the FSB. All, except Ms. Esaulkova, were remanded to a pre-trial detention centre for two months. Ms. Esaulkova was placed under house arrest due to her family situation.

On 13 June 2017, the four detained Scientologists appealed against their pre-trial detention on the grounds that their detention constituted arbitrary deprivation of liberty, violation of their right to freedom of religion or belief, freedom of expression and freedom of association. The St. Petersburg City Court upheld their pre-trial detention on 4 July 2017. All five Scientologists continue to be deprived of their liberty for more than a year.

Ms. Terentieva has been suffering from a benign tumor located in her right lung a year prior to the arrest. Her health condition worsened while being in pre-trial detention. On 19 October 2017, the Nevsky District Court of St. Petersburg changed her sentence to house arrest.

Ms. Shurinova is suffering from high blood pressure. Her health condition worsened in prison, despite requests made by her and her lawyer to be examined by the prison doctor at the prison hospital. Two months later, she finally received some medication after her lawyer managed to reach the Chief of the prison hospital and transferred her to house arrest subsequently.

On 31 May and 1 June 2018, the Court extended the detention of Mr. Matsitskiy and Mr. Aliyev until 19 October 2018. The house arrest of Ms. Terentieva and Ms. Esaulkova was also extended until 19 October 2018. It appears that Ms. Shurinova is the only one who has been released, though facing travel restrictions. An appeal of the recent decision regarding the four individuals who are still deprived of their liberty was filed to the Presidium of the City Court on 4 June 2018.

We note with concern that members of lesser-known or newer religious minorities are being excluded from the full and equal protection of their freedom of religion or belief. We recall that the enjoyment of the freedom of religion or belief does not depend

on any acts of State approval or administrative registration. We express concern at the Government's request and subsequently the Supreme Court's decision to liquidate The Moscow Church of Scientology, and to ban the religious activities of the members of Scientology through the use of provisions on countering extremism.

We express equal concern at the vague and overbroad definition of "extremism" and the conflation of religious expression with "extremism", which represents an unlawful restriction on the legitimate exercise of the rights to freedom of expression, freedom of religion and freedom of peaceful assembly and of association.

The lengthy pre-trial terms of deprivation of liberty in absence of a trial are also a matter of great concern as they appear to violate the rights to due process and fair trial. We furthermore express concern at the deteriorated health condition of Ms. Shurinova and Ms. Terentieva while in detention.

These allegations appear to constitute, *prima facie*, a violation of articles 9, 14, 18, 19, 21, 22, 27 of the International Covenant on Civil and Political Rights (ICCPR), as well as article 12 of the International Covenant of Economic, Social and Cultural Rights, both ratified by the Russian Federation in 1973, which guarantee the universally-recognized rights not to be deprived arbitrarily of liberty, to due process and fair trial, to freedom of religion or belief, to freedom of opinion and expression and freedom of peaceful assembly and 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 be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate on what factual and legal basis the Government has decided to liquidate the Moscow Church of Scientology and designated the activities of that community as "extremist". Please explain how this complies with Russia's obligations under international human rights law, in particular article 18, 19, 21, 22 and 27 of the ICCPR.
3. Please provide justification for the lengthy pre-trial detention of these persons and how this complies with the Russian Federation's obligation under Article 9 of the ICCPR.

4. Please provide additional information concerning the delay in responding to requests by Ms. Terentieva and Ms. Shurinova for urgent medical treatment, which may have resulted in worsening their health condition; and on their current state of health and medical attention provided.
5. Please indicate what concrete measures have been taken to ensure that persons belonging to religious minorities, including unrecognized communities, have the right to manifest their own religion freely, peacefully and without interference or any form of discrimination.
6. Please explain in detail how the prosecution of scientologists for “extremism” comports with the concept of “violent extremism” embedded in the United Nations Security Council, General Assembly and Human Rights Council resolutions referred to in Annex, as well as how it complies with the international human rights norms and standards, in particular, with article 18 of ICCPR.

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

Fernand de Varennes
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Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to secure the fundamental rights in accordance with the principles as set forth in article 18, 19, 21, 22, 27 of the International Covenant on Civil and Political Rights, as well as article 12 of the International Covenant of Economic, Social and Cultural Rights, both ratified by Russia in 1973, guaranteeing the rights to freedom of religion, freedom of expression, freedom of peaceful assembly, freedom of association and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, respectively.

The right of the members of Scientology to religious practices and manifestations is provided by article 18 (1) of the ICCPR and stresses that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." Human Rights Committee General Comment No. 22 further explains that "Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions" and "[...] views with concern any tendency to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community"(CCPR/C/21/Rev.1/Add.4, para. 2).

With respect to the use to counter-terrorism justifications to restrict the legitimate exercise of rights, we would like to underline that any restriction on expression or information that a government seeks to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest.

We would like to stress that counter terrorism and extremism legislation with penal sanctions cannot be misused against individuals peacefully exercising their rights to freedom of expression, as well as freedom of religion or belief and freedom of peaceful association and assembly. These rights enjoy international legal protection, and the message of international law is clear and simple: Non-violent exercise of these rights cannot be made a criminal offence in any society governed by rule of law and abiding by human rights principles and obligations. Countering terrorism and extremism should not be used as an excuse to suppress peaceful religious minority groups and their members.

We respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these resolutions require that States must ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with

all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law.

We would like to further 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, [...] including *persons espousing minority or dissenting views or beliefs*, [...] 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, emphasis added).

We would like to further refer to your Excellency’s Government to the international standards in relation to the protection of the rights to persons belonging to religious minorities. Article 27 of the ICCPR establishes that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group, “to enjoy their own culture, to profess and practice their own religion, or to use their own language”.

Furthermore, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities), establishes in article 1 the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end, and in article 2 that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination. Moreover, States are required to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

We also would like to draw your Excellency’s Government attention to the recommendations of the sixth session of the Forum on Minority Issues on “Guaranteeing the rights of religious minorities” (2013); in particular Recommendation 17, which calls on States to ensure that “there is no discriminatory treatment in regard to the legal and administrative recognition of all religious and belief groups. Any registration and administrative procedures, including those relating to the property and the functioning of places of worship and other religious-based institutions, should be conducted according to non-discrimination standards. International standards do not allow non-recognition of religious or belief groups to result in denial of their rights. Such standards require an inclusive approach to be taken”.