

Mandates of the Working Group on Arbitrary Detention; 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 22/2018

20 December 2018

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; 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 33/30, 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 allegations of arbitrary detention of Mr. **Dennis Christensen**, a Danish national and member of the religious minority Jehovah's Witnesses, by armed police and agents of the Federal Security Service; the continued criminalization of members of the Jehovah's Witnesses confession through the application of counter-extremism provisions of the Criminal Code, which has led to significant members of this religious group being subject to pre-trial detention; as well as other restrictive measures.

In the light of this new allegations, we would like to express our concern about what appears to be a pattern of persecution of Jehovah's Witnesses in the Russian Federation. This concern has been the subject of a previous communication to your Excellency's Government (AL RUS 19/2018 dated 14 September 2018), to which no response was received. Similar concerns have been previously communicated to your Excellency's Government (JAL RUS 2/2017, dated 23 March 2017, and JAL RUS 6/2015, dated 11 November 2015), to which responses were received on 25 March 2017 and 21 December 2015, respectively. Whilst we thank you for these responses, they do not allay the concerns expressed.

According to the information received:

On 25 May 2017, Mr. Christensen was arrested following a raid on a peaceful religious meeting in the city of Oryol. Since then, he has been held in pre-trial detention at Detention Centre No. 1 of the Federal Penitentiary Service of Oryol, on charges of organizing extremist activities pursuant to Article 282.2(1) of the Criminal Code of the Russian Federation. On 1 November 2018, a court decision

extended Mr. Christensen's pre-trial detention until 1 February 2019, which means that he will have spent more than 20 months in pre-trial detention.

The prosecution claims that Mr. Christensen was in charge of a local Jehovah's Witnesses organization in the city of Oryol, and continued to organize its activity after it was shut down. We have seen no evidence to support the prosecution's claim that Mr. Christensen's activities as a Jehovah's Witness incited hatred.

Since the 20 April 2017 decision of the Supreme Court of the Russian Federation to shut down the Jehovah's Witnesses national headquarters and all legal entities associated with it, there has been a continued criminalization of Jehovah's Witnesses activities through the application of counter-extremism provisions under the Criminal Code. At the time of the present communication, there is an estimated 85 similar criminal cases against Jehovah's witnesses. Out of them, 26 individuals were placed in pre-trial detention (including three women), and 59 individuals were subjected to court-imposed restrictions, including house arrests and travel bans.

Without prejudging the accuracy of the information made available to us, we are seeking Your Excellency's information to clarify these allegations. If they were to be confirmed, the facts alleged would contravene articles 9, 14, 18, 19, 21, 22 and 27 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation in 1979, 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. Enhanced concern is expressed that members of the Jehovah's Witnesses' confession are being prosecuted under counter-extremism provisions of the Criminal Code.

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 provide the factual and legal grounds for the arrest and detention of Mr. Christensen.
3. Please provide justification for the lengthy pre-trial detention of Mr. Christensen, as well as the other Jehovah's Witnesses in pre-trial detention on similar charges and explain how this complies with the

obligation of the Russian Federation, in particular under article 9 of the ICCPR.

4. Please explain the factual and legal basis for the decision to shut down the Jehovah's Witnesses national headquarters and all legal entities associated with it
5. Please indicate what concrete measures have been taken to ensure that persons deprived of their liberty have the right to profess and practice their own religion or belief freely and without interference or any form of discrimination.
6. Please indicate what concrete measures have been taken to ensure that persons belonging to religious minorities, including members of the Jehovah's Witnesses, have the right to freely and peacefully manifest their own religion, without interference or any form of discrimination?

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please note that a communication concerning these alleged violations have also been sent to the Government of Denmark.

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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Clement Nyaletsossi Voule

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

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Ahmed Shaheed

Special Rapporteur on freedom of religion or belief

Fionnuala Ní Aoláin

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 the 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 articles 9, 18, 19, 21 and 22 and 27 of the ICCPR, ratified by the Russian Federation on 16 October 1973, guaranteeing the right not to be arbitrarily deprived of liberty, the right to freedom of religion, and freedom of expression, freedom of peaceful assembly and freedom of association.

The right of Jehovah's Witnesses to religious practices and manifestations is safeguarded in article 18 (1) of the ICCPR, which emphasizes 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". The Human Rights Committee's General Comment No. 22 further provides 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).

We would also like to draw your Excellency's Government's attention to the 2010 judgment by the European Court of Human Rights, *Jehovah's Witnesses of Moscow v. Russia* (302/02), where the Court found that the dissolution of the religious community constituted a violation of its members' right to freedom of religion or belief in breach of article 9 of the European Convention on Human Rights.

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, 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, emphasis added).

We would like to further refer 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 would also 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" (A/HRC/28/77 - 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".