

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

REFERENCE:  
UA RUS 1/2019

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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 the promotion and protection of the right to freedom of opinion and expression; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 33/30, 35/15, 34/18, 32/2, 34/19, 32/19 and 32/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received in connection with new allegations of acts of persecution against people who are or are perceived to be gay, bisexual or lesbian in Chechnya, including **alleged arbitrary arrests, unlawful detention, torture, sexual abuse and extrajudicial killing of people on the basis of sexual orientation.**

In this context, reference is made to the joint urgent appeal (RUS 4/2017<sup>1</sup>) sent to your Excellency's Government on 13 April 2017 regarding allegations of unlawful detention, torture and extrajudicial killing of men perceived to be gay or bisexual in Chechnya. In this letter, serious concerns were expressed at several dozen alleged abductions by local militia and security forces. The victims claimed to have been unlawfully detained in an unofficial detention centre close to the city of Argun and to have been subjected to physical and verbal abuse while detained, as well as to torture, including electric shocks, beating, humiliation and threats to disclose their sexual orientation to their family. According to information received, those detained were questioned about their sexual orientation and forced to give contact details of other gay men in the region and three persons were believed to have been killed because of their perceived sexual orientation.

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<sup>1</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23080>

In May 2018, in the context of the Universal Periodic Review, the Russian Federation accepted several recommendations requesting the State to undertake an investigation into the complaints of human rights abuses committed in Chechnya against people on the basis of their sexual orientation, to bring those responsible to justice while providing redress for victims, and to take the necessary measures to eliminate discrimination based on sexual orientation and gender identity (see *inter alia* recommendations 147.125-147.128, and 147.129). In that connection, we nonetheless note with great concern that, on 14 May 2018, the Minister of Justice of the Russian Federation stated in the same context of the Universal Periodic Review that: “Investigation showed that there were no such incidents and that it was not even possible to find representatives of the LGBT community in Chechnya.” We would like to draw your attention to the findings of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity to the effect that “Negation is adopting the position that violence and discrimination based on sexual orientation or gender identity do not exist in a particular context or that, in a given social context, there are no lesbian, gay, bisexual, trans or gender non-conforming persons. It enables violence and discrimination, and lies at the root of some of the heinous acts described in the present report. In a context of negation, perpetrators feel motivated and enabled to suppress or punish diversity. Invariably, any data gathered will be unreliable, unsystematic and biased; all State measures to address violence and discrimination, be it public policy, access to justice, law reform or administrative actions, will be therefore hindered by this fact.” (A/HRC/38/43, at para. 62).

According to the information received:

A renewed wave of persecution against the lesbian, gay and bisexual population reportedly started in December 2018 in Chechnya. In recent weeks, around 40 presumed members of the population were allegedly arrested by law enforcement officers and detained in Argun, in the building that belongs to the District Division of Domestic Affairs, and in Grozny, in the police facilities of Zavodskoye District Department of Internal Affairs of the Chechen Republic. Persons who are or are perceived to be lesbian, gay and bisexual have reportedly been tortured in detention and at least two of them have allegedly died as a result of torture. According to information received, abuse inflicted on victims became more cruel and violent compared with 2017, and target not only men, but also women. Victims report being subjected to sexual abuse and raped with objects by law enforcement personnel, including electric shock sticks. It is further alleged that men’s hair is cut very short and that detained men are forced to use women’s wear and called women’s names.

Reports indicate that authorities try to prevent victims from fleeing Chechnya or filing a complaint by destroying or confiscating their identification documents and threatening them with criminal proceedings against them or

persons close to them, and forcing them to provide blank signatures on empty forms.

Reportedly, the new wave of persecution started after the detention of the administrator of a group in the social network “VKontakte”. This group was a platform for gay men from the North Caucasus to communicate. This was allegedly followed by numerous other detentions.

On 29 January 2019, the Russian LGBT Network filed a complaint to the Investigative Committee of Russia, requesting the authorities to investigate allegations of abuses against lesbian, gay, and bisexual people in Chechnya.

Since our first urgent appeal in 2017, several regional mechanisms have also called for an investigation. For instance, the Parliamentary Assembly of the Council of Europe (PACE) adopted a report<sup>2</sup> on the human rights abuses against the LGBTI communities in Chechnya on 27 June 2018. It noted that more than 114 LGBTI people and members of their families fled the Chechen Republic, and requested the conduct of an impartial and effective investigation into the persecution of LGBTI people in the Chechen Republic by the Russian Federation or – should an investigation at national level not be pursued – by the international community.

On 1 November 2018 the Moscow Mechanism of the human dimension of OSCE has been invoked by 16 participating States with regard to the Russian Federation. A rapporteur was appointed to report on allegations of impunity for reported human rights violations and abuses in Chechnya from January 2017 to the present, including violations and abuses against persons based on their perceived or actual sexual orientation or gender identity. According to the report<sup>3</sup>, “several waves of violations of human rights and abuses of persons based on their sexual orientation and gender identity in 2017 could be confirmed”. The report also suggests that “there is a climate of impunity which is detrimental to any accountability for human rights violations”.

While we will not prejudge the accuracy of the information made available to us, we express our grave concern over these allegations of arbitrary arrests, unlawful detention, torture, sexual abuse and extrajudicial killing of individuals on the basis of their actual or perceived sexual orientation in Chechnya.

These allegations appear to be in contravention of the rights of every individual to life, liberty and security of person, freedom from torture and other cruel, inhuman or degrading treatment or punishment, physical integrity, freedom of movement, freedom of

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<sup>2</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=24805&lang=EN>

<sup>3</sup> <https://www.osce.org/odihr/407402?download=true>

expression, privacy, conscience, non-discrimination, and to an effective remedy, as reflected, inter alia, in articles 3, 5, 7, 8, 9, 12, 13, and 19 of the Universal Declaration of Human Rights (UDHR) and codified in articles 2, 6, 7, 9, 10, 12, 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 sexual orientation or gender identity.

The absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment is also 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. Articles 2 and 16 of CAT requires State party to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction, and 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). Additionally, in General Comment No. 36, the Human Rights Committee has observed that loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation which establishes the State's compliance with its obligations under article 6.

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).

In August 2018, the Committee against Torture expressed concern at reports that during the “anti-gay purge” in March 2017, the Chechen police and military officials and others arbitrarily detained and tortured with electric devices men presumed to be gay and encouraged their families to make them victims of honour killings. The Committee was also concerned at reports that Chechen law enforcement officials themselves participated in the pre-investigation into these allegations and that, as stated by the delegation during the dialogue, no facts were established and thus no criminal proceeding was opened. The Committee recommended that the Russian Federation ensure that those responsible for violent attacks and hate crimes against persons on the basis of their sexual orientation or gender identity, in particular with respect to the violent incident in Chechnya in March 2017, are charged, investigated, prosecuted and, if found responsible, punished. It further recommended that the Russian Federation repeal the law prohibiting “propaganda of non-traditional sexual relations” which promotes stigma and prejudice against lesbian, gay, bisexual, transgender and intersex persons and provide training to law enforcement officials and the judiciary on detecting and combating hate-motivated crimes, including those motivated by sexual orientation or gender identity (CAT/C/RUS/CO/6, para. 32 and 33).

The Human Rights Council, through resolutions 17/19, 27/32 and 32/2, 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, including 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](http://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 persons who are or are being perceived to be LGBT 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, 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 any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation carried out in relation to the allegations of a new wave of persecution against people perceived to be gay, bisexual or lesbian in Chechnya, including reports of arbitrary arrests, unlawful detention, torture, sexual abuses and extrajudicial killings of individuals on the basis of their actual or presumed sexual orientation in Chechnya. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. In the event that alleged perpetrator(s) have been identified, please provide full details of any prosecutions undertaken so far and measures to support the victims and provide effective remedy.
4. Please provide information about any measures taken to ensure the protection of the rights to life, physical integrity, liberty, security and privacy of people who are or are presumed to be gay, lesbian or bisexual in Chechnya, including of any surviving victims. If no specific protection measures have been granted, please explain why.
5. Please explain the measures taken to investigate the allegations conveyed through the joint urgent appeal ([RUS 4/2017](#)) sent to your Excellency's Government on 13 April 2017 regarding allegations of unlawful

detentions, torture and extrajudicial killings of men perceived to be gay or bisexual in Chechnya.

6. Please provide details on follow-up actions taken to give effect to the recommendations contained in the December 2018 report on persecution against LGBT people in Chechnya of the OSCE Moscow Mechanism and the June 2018 report of the Parliamentary Assembly of the Council of Europe.
7. 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.
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 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 the alleged violations.

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.

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

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

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