

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE:
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28 August 2020

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 43/4 and 35/15.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged poisoning of politician and anti-corruption activist Mr Alexei Navalny.

According to the information received:

In the past, Mr. Navalny has been subject of a variety of repressive measures, including physical violence, arrests and criminal prosecution, in connection with his work as a prominent political opposition figure and anti-corruption activist in Russia. In 2019, Mr. Navalny suffered from acute allergic reaction which some reports attributed to poisoning. Similar allegations of poisoning have been raised with respect to the deaths of several journalists and political opposition figures in the country.

On 19 August 2020, Mr Alexei Navalny was on a return flight to Moscow from Siberia with some of his relatives. He suddenly fell ill, eventually losing consciousness. This prompted the flight captain to make an emergency landing in Omsk, where Mr. Navalny was transferred to a hospital for intensive care treatment. Despite requests by relatives, hospital staff in Omsk reportedly denied permission to access the results of medical tests that would indicate whether Mr. Navalny had been poisoned. In public statements, the hospital rejected that there was evidence of cholinesterase inhibitors in Mr. Navalny's body, which would have constituted evidence of poisoning.

In the course of his hospitalisation, Germany offered treatment to Mr. Navalny. Until 20 August, the hospital in Omsk refused to facilitate such a transfer on the grounds that his condition reportedly was not stable enough. On 21 August, he was allowed medical evacuation to a hospital in Germany for further treatment.

Medical tests conducted at the hospital in Germany confirmed the presence of cholinesterase inhibitors in Mr. Navalny's body, suggesting he had been poisoned.

Without prejudging the accuracy of the information received, we express grave concern at the alleged poisoning of a prominent opposition leader and anti-corruption activist. The poisoning of a politician and activist by State agents or others whose conduct can be attributed to the State, or the failure to act with due diligence to prevent such poisoning, would be inconsistent with the obligations of the Russian Federation under international law. Specifically, it would constitute an arbitrary deprivation of life, a violation of the freedom of opinion and expression, and the right of public participation, enshrined in articles 6, 19 and 25 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973.

The right to freedom of opinion is absolute. The impairment of rights of individuals or attacks on them because of their critical political opinions constitute a violation of the Covenant, see Human Rights Committee (HRC) General Comment 34 para. 9. Similarly, the freedom of expression protects expressions of all kind. Its free enjoyment is of particular importance with regards to political discourse, see *id.* paras. 11 and 20, and also in the protection of critical investigative journalism and reporting on corruption and other malpractice by authorities, see *id.* paras. 3, 13, 15 and 42. Consequently, attacks against individuals for the exercise of their freedom of expression, or to prevent individuals from pursuing public office, constitute a violation of the freedom of expression under Article 19 and 25 of the ICCPR, see General Comment 34 para. 23. In addition to obligations mentioned above, the State is also under a duty to prevent threats emanating from private actors, see HRC General Comment 31, para. 8, *id.* para. 7 and General Comment 36 para. 27. A failure to act with due diligence and to prevent such attacks may constitute a violation of the aforementioned rights.

In light of the circumstances surrounding the condition of Mr. Navalny, we call upon your Excellency's Government to promptly carry out effective, impartial, independent and transparent investigations, make public the findings, and, if appropriate, to prosecute and punish those responsible, in accordance with the obligations of the Russian Federation under article 2 (3) of the ICCPR, in conjunction with articles 6 and 19 on the rights to life and opinion and expression, see HRC General Comment 31, paras. 15 – 18, General Comment 34 para. 23 and General Comment 36 paras. 27 and 28. We remind the authorities that the failure to investigate and bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. Such failures lead to impunity which can encourage a repetition of the crimes by others in subsequent incidents and have a chilling effect on the free exercise of the freedom of expression and of political participation, see General Comment no. 31 para. 15.

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 urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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 any comment(s) you may have on the above-mentioned allegations.
2. Please provide information on measures taken by your Excellency's Government to carry out an immediate, thorough and independent investigation into the aforementioned allegations. If no investigations have been undertaken, or if they have been inconclusive, please explain why.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s 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.

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions