

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

REFERENCE:
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1 February 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 43/20 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and risk of extradition of Mrs. **Viktoriya Matsakova**, from Lebanon to Russia, following an arrest warrant issued by the Russian authorities, for terrorism-related charges.

According to the information received:

Mrs. Viktoriya Matsakova is a Russian citizen, born on 31 May 1987 and holding Russian passport 63N°2866121 issued on 22.08.2007. She left her native Russia to Syria where she settled down and later met her husband, a Lebanese national, and gave birth to her twins in 2017.

Almost a year ago, Mrs. Matsakova returned to Lebanon with her husband and children. Upon their return, her husband went into detention and is awaiting trial. Consequently, a member of his family has undertaken the administrative procedures required to obtain a residence permit in Lebanon for Mrs. Matsakova.

On 1 December 2020, Mrs. Matsakova went to the General Security office in Tripoli for interviewing in relation to her residency documents, where she was informed that an arrest warrant was issued against her by the Russian authorities, on 15 November 2020, shared by the Interpol three days earlier, and that a request for her extradition has been submitted. She was arrested by the security forces on the basis of the warrant, which alleged her sentencing in absentia, by a Russian court, for "acts of terrorism", due to her travel to Syria. Following her arrest for the purpose of extradition to Russia, Mrs. Matsakova was transferred from the General Security office in Tripoli to the one in Beirut, where she was allowed to receive regular visits from her in-laws and lawyer.

On 11 January 2021, her lawyer filed a request to challenge the extradition request made by Russia, with the Lebanese Public Prosecutor, arguing that Mrs. Matsakova's name does not appear on the list of wanted persons of the Interpol and that she is merely being prosecuted for criticizing the violations

committed by Russia during the war in Syria. The lawyer also contested the legality of the extradition given that Lebanon does not have an extradition agreement with Russia. Moreover, the lawyer has not been allowed to examine Mrs. Matsakova's criminal file, the exact charges she is facing in Russia, or the judgement made in absentia against her. He was told that the file would only be presented during the hearing with the Public Prosecutor of the Court of Cassation of Beirut, who is mandated to examine extradition requests and to decide on the credibility of accusations. The decision of the prosecutor is then approved by an executive decree issued by the Minister of Justice.

Due to the current sanitary restrictions related to the Covid-19 pandemic, the hearing has been postponed until further notice.

In view of the nature of the charges, Mrs. Matsakova is fearing her subjection to acts of torture and ill-treatment should she be extradited to Russia. She is further concerned by the potential separation from her two children, who have been staying with their grandparents in Tripoli since her arrest.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the non-disclosure of the criminal file on Mrs. Matsakova's extradition despite several requests from her lawyer, which affects her right to habeas corpus and violates the principles of due process. In this connection, we wish to recall your Excellency's Government obligations, as codified in article 9 of the International Covenant on Civil and Political Rights (ICCPR), to guarantee the right of any person deprived of liberty to be promptly brought before a judge and to challenge the legality of her detention.

We also urge your Excellency's Government to undertake a thorough individual assessment, in full respect of her fundamental safeguards, of the risks Mrs. Matsakova could incur upon extradition to Russia, including the potential risk of ill-treatment and arbitrary detention. In this regard, we wish to draw the attention of your Excellency's Government to article 3 of the Convention Against Torture (CAT) , which provides that, "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture"; and that, "[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights".

Finally, we would like to draw the attention of your Excellency's Government to paragraph 16 of the resolution A/RES/65/205 of the UN General Assembly, which "...recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement."

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 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 any comment you may have on the above-mentioned allegations.
2. Please explain the factual and legal grounds for the arrest and detention of Mrs. Matsakova and the reasons why her lawyer was not allowed to examine her criminal file. Also, please explain how this is compatible with Lebanon's obligations under the ICCPR.
3. Please provide detailed information, where available, on risk assessment carried out by the Lebanese authorities to ascertain the risk Mrs. Matsakova may incur, including being subjected to torture or cruel, inhuman or degrading treatment or punishment as well as arbitrary detention if she is extradited to Russia, and how this assessment is compatible with the international standards.
4. Please provide detailed information on the existing legal procedures in Lebanon ensuring the possibility for foreign nationals to challenge extradition requests against them and the safeguards applied in that regard.

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.

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.

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Fionnuala Ní Aoláin

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