

**Mandates of the Special Rapporteur on the situation of human rights defenders; 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 the human rights of migrants; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women, its causes and consequences**

REFERENCE:  
UA RUS 10/2021

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; 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 the human rights of migrants; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 43/16, 43/4, 41/12, 43/6, 43/20 and 41/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the detention and potential deportation of Ms. **Valentina Chupik** from Russia to Uzbekistan where she may risk arbitrary detention and torture.

Valentina Chupik is a woman human rights defender and the head of the Russian non-governmental human rights organisation "Tong Jahoni". She defends migrants' rights, providing free legal aid and human rights education, alongside conducting research on migration.

According to the information received:

Ms. Chupik is a citizen of Uzbekistan. In 2006, she fled Uzbekistan after law enforcement officers reportedly kept her in a basement for 38 hours describing how they would rape and kill her and dismember her body. In 2009, she received refugee status in Russia, and has since lived and worked in the country, where she founded "Tong Jahoni", a human rights organisation.

On the night of 24-25 September 2021, the officers of the Federal Security Service of Russia (FSS) arrested and detained Ms. Chupik at Sheremetyevo Airport upon her return to the country from a trip in Armenia. Ms. Chupik was then informed that her refugee status had been revoked on 17 September 2021, by decision of the Main Directorate of the Ministry of Internal Affairs of Russia for the city of Moscow. On the basis of that decision, the FSS officers confiscated her refugee certificate and travel document.

The FSS officers provided Ms. Chupik with a notification of the revocation of her refugee status in the form of an uncertified photocopy of the decision.

According to the photocopy, her refugee status was revoked because she “knowingly provided false information or presented false documents that served as the basis for recognition as a refugee, or committed another violation of the provisions of the law on refugees”. The FSS officers reportedly told her that the actual reason for revoking her refugee status was the fact that Ms. Chupik spoke too actively about alleged systemic corruption in the Russian Ministry of Internal Affairs and complained too much about the police, including through her activities with the Tong Jahoni NGO.

The FSS also banned Ms. Chupik from entering Russia until September 2051. The decision states that the ban is “necessary in order to ensure the defence or security of the State, or public order, or to protect the health of the population.”

Since she was arrested, Ms. Chupik has been kept in a special detention facility for deportees at Sheremetyevo Airport. For almost a day following her arrest, a blindingly bright light was turned on in her room. There was no shelter from the light and it was impossible for Ms. Chupik to turn it off. There are reportedly no windows or ventilation in the room where she is detained. Some individuals allegedly linked to nationalist groups have reportedly called her on her mobile phone, threatening her and celebrating her impending deportation. Ms. Chupik has not been allowed to meet a lawyer since she was arrested, and does not have a pen and paper with which to lodge an appeal to the decisions against her during her detention.

On 27 September 2021, police and the FSS officers came to the home of Ms. Chupik’s elderly mother in the Moscow region and searched her house, implying the possibility of a criminal case being prepared against Ms. Chupik.

We express grave concern at the arrest, detention and potential deportation of Ms. Valentina Chupik as well as at the ban on her re-entering the Russian Federation for thirty years. If returned to Uzbekistan, we fear she would be at high risk of persecution and torture or cruel, inhuman or degrading treatment or punishment and sexual and gender-based violence that aims to discourage and prevent her from continuing her activities as a human rights defender. Her deportation in such circumstances would be in violation of the prohibition of refoulement under international law. We are concerned that the reasons that may have led to the revocation of Ms. Chupik’s refugee status may be related to the exercise of her right to freedom of opinion and expression as well as of association, and her legitimate work defending human rights of migrants. Moreover, we express concern regarding Ms. Chupik’s lack of access to legal assistance, her harsh conditions of detention, and the potential that a criminal case against her may be being prepared.

While we do not wish to prejudge the accuracy of these allegations, we call the attention of your Excellency’s Government to articles 7 and 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, regarding the prohibition of torture or cruel, inhuman or degrading treatment and the prohibition of arbitrary arrest and detention.

Similarly, we would like to recall article 12 of the ICCPR, which enshrines the freedom of movement, and in particular the right of all persons to leave any country. Likewise, article 13 determines that an alien has the right to be heard before the competent authority in cases of expulsion. As the Human Rights Committee determined in General Comment No. 31, the principles of impartiality, fairness and equality of arms stated in article 14 are also applicable in cases of extradition “where expulsion takes the form of a penal sanction or where violations of expulsion orders are punished under criminal law”.

The principle of non-refoulement is codified in articles 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which Russia is a party since 1987. Article 3 of the Convention provides that no State shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of being subjected to torture, ill-treatment or other irreparable harm. As an inherent element of the prohibition of torture and other forms of ill-treatment, the prohibition of refoulement under international human rights law is also more expansive than the protections afforded under refugee law insofar as it applies to any form of removal or transfer of persons, regardless of their status or grounds for seeking protection, and is characterised by its absolute nature without any exception.

Furthermore, in any event, involuntary returns cannot be lawfully carried out without due process of law. In this connection, under international law, the decision to expel, remove or deport a non-national may only be taken after an examination of each individual’s circumstances and in accordance with the law and when procedural guarantees have been respected. In this connection, individuals facing deportation/repatriation are to have access to a fair, individualized examination of their particular circumstances, and to an independent mechanism with the authority to appeal negative decisions. Moreover, a risk assessment in the event of extradition should also be carried out to determine whether there is a risk of violation in the receiving State. In this context, an analysis of the general human rights situation in that State must be taken into consideration.

In connection with the above alleged facts and concerns, we would also like to refer your Excellency’s Government to articles 19 and 22 of the ICCPR, which guarantee the right to freedom of opinion and expression and the right to freedom of association respectively. In particular, we wish to remind your Excellency’s Government that any restrictions to the exercise of these rights must be provided by law and be necessary and proportionate to the aim pursued.

We would also wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its General Recommendation No. 19 (1992), updated by General Recommendation No. 35 (2017) defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency’s Government on 23 Jan 1981), whether perpetrated by a State official or a private citizen, in public or private life.

In General Recommendation No. 35, the Committee clarifies that States parties are responsible for acts or omissions of its organs and agents that constitute gender-based violence against women. This includes the acts or omissions of officials in its executive, legislative and judicial branches. The Committee also indicates that gender-based violence against women, including rape, can amount to torture or cruel, inhuman or degrading treatment in certain cases, and that some forms of gender-based violence may constitute international crimes

We would also like to refer your Government to paragraph 9 of the General Comment No. 20 of the Human Rights Committee, which states that States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement. We further would like to draw the attention of your Government to paragraph 16 of the resolution A/RES/65/205 of the UN General Assembly which urges States “not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and 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.”

It is also an obligation assumed by your Government through article 33 of the Geneva Convention Relating to the Status of Refugees and its Protocol of 1967, acceded to by the Russian Federation on 2 February 1993, to refrain from expelling or returning any person who may be a refugee or otherwise be in need of international protection to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Lastly, we would like to underscore that the Human Rights Council, in its Resolution 12/16, called on States to refrain from imposing restrictions which are not consistent with article 19(3) of the ICCPR, including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. In this context, we also refer to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

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

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 therefore 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 information on the legal and factual basis for the detention of Ms. Chupik, the revocation of her refugee status, her ban on re-entry to the Russian Federation and potential deportation, as well as the search at the house of her mother, and details of any criminal case against her.
3. Please provide information on due process guarantees and other measures in place to ensure an individual assessment of vulnerabilities and protection needs is conducted prior to any return decision to ensure the full respect of the principle of non-refoulement.
4. Please provide additional information regarding any measures adopted to ensure that Ms. Chupik is not forcibly returned to Uzbekistan, where she would be at high risk of irreparable harm.
5. Please provide information on the measures adopted to ensure that Ms. Chupik receives legal assistance, that her conditions of detention meet international human rights standards, and that her security is ensured in the light of the threats from the nationalist activists.

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.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

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

Clement Nyaletsossi Voule  
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Nils Melzer  
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