

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Ref.: AL UKR 6/2021  
(Please use this reference in your reply)

29 November 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 43/16, 46/7 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged physical attacks on human rights defenders Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov and Ms. Natalia Shybayeva**. We also bring to your attention **the alleged smear campaign against human rights defenders Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov, Ms. Natalia Shybayeva and Mr. Oleg Ivanichenko**.

Ms. **Iryna Korshunova** is a woman human rights defender and resident of the village of Sorokivka in the Kharkiv region ("Sorokivka"). Mr. **Mykhaylo Zubkov** is a human rights defender and resident of Sorokivka. Ms. **Natalia Shybayeva** is a woman human rights defender and resident of Sorokivka. Mr. **Oleg Ivanichenko** is a human rights defender and resident of Sorokivka.

According to the information received:

Since May 2019, trucks have been passing through Sorokivka carrying loads of sand from the nearby quarry. The nearest houses in Sorokivka are located just 400m away from the sand quarry, with the road used by the trucks for the sand transportation also running alongside these houses. Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov, Ms. Natalia Shybayeva and Mr. Oleg Ivanichenko allegedly learned from open sources and requests for information that the sand extraction was environmentally damaging and the local authorities had granted the extraction permit to the company without informing and consulting residents, as required by law.

Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov, Ms. Natalia Shybayeva and Mr. Oleg Ivanichenko began attending and broadcasting sessions of the village and district councils, publicising their activities and raising awareness among local residents about the violations of their rights to a safe environment and access to information. Following their efforts, the residents allegedly submitted around 200 complaints to the local and central authorities to oppose the sand extraction. After months of unsuccessful complaints, local residents began to protest at the end of January 2021, which eventually resulted in blocking the road used by trucks for four days.

At 1:20 am on 5 February 2021, when Ms. Natalia Shybayeva, Mr. Mykhaylo Zubkov and their 11-year-old son were at home, unknown persons threw an RGD-5 grenade into their house. Having heard the explosion, they ran out onto the street and saw that unknown persons had set fire to their two cars, which were parked next to the house. The fire had already spread to the garage and had reportedly reached such a stage that had they not put it out in the time they did, the house could have exploded.

The Lipetsk Police Department of the Kharkiv Police Department of the Main Directorate of National Police in the Kharkiv region (“Lipetsk Police Department”) opened a criminal case under Article 194 (2) (“intentional destruction or damage to property”) and Articles 15 (2) and 115 (2) (“attempted premeditated murder”) of the Criminal Code of Ukraine, but the status of the case is unclear.

Following the attack, Ms. Shybayeva and Mr. Zubkov reportedly asked the Lipetsk Police Department for physical protection without success. Fearing for their son’s life, on 17 February 2021, Ms. Shybayeva and Mr. Zubkov took the decision to temporarily send him abroad.

On 16 April 2021 between 11:00am and 11:30am, three unidentified men, allegedly linked to the extraction company, attacked ten peaceful protesters (including Ms. Iryna Korshunova and Ms. Natalia Shybayeva) with knives at a pedestrian crossing in Vilkhivka, a neighbouring village. As a result, the Lipetsk Police Department reportedly opened a criminal case, but the status of the investigation is unclear.

Moreover, representatives of the Vilkhiv village council and the Lipetsk Police Department allegedly spread false information about Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov, Ms. Natalia Shybayeva and Mr. Oleg Ivanichenko in conversations with local residents. They reportedly claimed that the competitors of the extraction company paid the human rights defenders and that they had fabricated the attack of 5 February 2021 in order to move abroad, however they continue to live in Sorokivka.

Without prejudging the accuracy of the information received, we wish to express concern as to the alleged physical attacks on Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov and Ms. Natalia Shybayeva and their property. We furthermore express our concern at the alleged smear campaign against Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov, Ms. Natalia Shybayeva and Mr. Oleg Ivanichenko. Finally, we are concerned at the chilling effect that such attacks may have on human rights defenders in Ukraine, discouraging them from exercising their right to freedom of expression, including by defending their right to a clean, healthy and sustainable environment as per HRC resolution 48/13, for fear of retaliation or harassment.

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 comments you may have on the allegations mentioned above.
2. Please provide the details, and where available the results, of any investigation, which may have been carried out in relation to the allegations of the physical attacks on Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov and Ms. Natalia Shybayeva. If no investigation has taken place, or if it has been inconclusive, please explain why and how this is compatible with your Excellency's Government international human rights obligations under the ICCPR.
3. Please provide full details of any protective measures put in place to ensure physical and psychological security and integrity of Ms. Iryna Korshunova, Mr. Mykhaylo Zubkov, Ms. Natalia Shybayeva and Mr. Oleg Ivanichenko, as well as that of their families.
4. Please provide information about the current policies in place in relation to the granting of extraction contracts, specifically with regard to policies pertaining to prior public consultation.
5. Please indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in Ukraine in a safe and enabling environment without fear of harassment, threats, attacks or acts of intimidation of any kind towards them and their families.

We would appreciate receiving a response within 60 days. Past 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.

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.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

David R. Boyd  
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

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



## Annex

### Reference to international human rights law

In connection with the above-alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the following human rights standards:

We would like to refer your Excellency's Government to Articles 6 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Ukraine on 12 November 1973, that guarantee the right to life and the right to freedom of opinion and expression.

As interpreted by the Human Rights Committee in General Comment No. 36 (CCPR/C/GC/36), States have a duty to protect the right to life and must enact a legal framework and other measures that ensure the full enjoyment of that right (Paragraph 18).

Importantly, the duty to protect the right to life requires States to take special measures of protection for persons in vulnerable situations whose lives are at risk as a result of specific threats or pre-existing patterns of violence, including human rights defenders (Paragraph 23). States must respond urgently and effectively in order to protect individuals who find themselves under a specific threat, by adopting special measures such as the assignment of around-the-clock police protection (*Id.*). Moreover, States must create and maintain a safe and enabling environment for defending human rights (Paragraph 53).

Investigations into alleged violations of the right to life must be independent, impartial, prompt, thorough, effective, credible and transparent. Where it is found that a violation has taken place, there must be full reparation provided, including adequate measures of compensation, rehabilitation and satisfaction in view of the particular circumstances of the case (Paragraph 28).

The right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, *inter alia*, political discourse, commentary on one's own and on public affairs, and discussion of human rights (Paragraph 11). It is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression and any attack on a person, because of the exercise of this right, can under no circumstance be compatible with Article 19 (Paragraph 23). All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress (*Id.*).

Article 19 (2) embraces a right of access to information held by public bodies (Paragraph 18). To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest and make every effort to ensure easy, prompt, effective and practical access to such information (Paragraph 19).

We would also like to remind your Excellency's Government that any restrictions to the right to freedom of expression must meet the criteria established by international human rights standards, such as Article 19 (3) of the ICCPR. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity and proportionality. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), Article 19 (3) may never be invoked to justify the muzzling of any advocacy of human rights (Paragraph 23).

We would like to also remind your Excellency's Government of the Human Rights Council resolution 12/16 (A/HRC/RES/12/16), in which the Human Rights Council expresses its concern that violations of the rights to freedom of opinion and expression continue to occur, often with impunity, including arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence, increased abuse of legal provisions on surveillance, search and seizure, and censorship against persons who exercise, seek to promote or defend these rights, including human rights defenders. In resolution 12/16, the Human Rights Council calls upon the States to respect and ensure the respect for these rights, take all necessary measures to put an end to violations of these rights, bring to justice those responsible, ensure that victims of violations have an effective remedy, and refrain from imposing restrictions which are not consistent with Article 19 (3) of the ICCPR, including on reporting on human rights and government activities, and expression of opinion and dissent.

We would also like to refer to the Human Rights Council resolution 48/13 (A/HRC/RES/48/13), which recognises that having a safe, clean, healthy and sustainable environment is a human right.

Furthermore, we would like to refer your Excellency's Government 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 Recognised Human Rights and Fundamental Freedoms, adopted on 9 December 1998 (also known as the UN Declaration on Human Rights Defenders). Articles 1 and 2 of the Declaration state that everyone has the right to promote and to strive for the protection and realisation 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.

Likewise, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 6 (a), which provides for the right to know, seek, obtain, receive, and hold information about all human rights and fundamental freedoms;
- Article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters;
- Article 9 (1), which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right to benefit from an effective remedy and to be

protected in the event of the violation of those rights; and

- Article 12 (2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure, or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Both the General Assembly and the Human Rights Council repeatedly urged the States to create and maintain a safe and enabling environment in which human rights defenders can operate free from hindrance, reprisals, and insecurity (e.g., the General Assembly resolutions 74/146 (A/RES/74/146) and 70/161 (A/RES/70/161), and the Human Rights Council resolutions 22/6 (A/HRC/RES/22/6) and 13/13 (A/HRC/RES/13/13)).

They also repeatedly called upon the States to take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly, and association (e.g., the General Assembly resolutions 74/146 (A/RES/74/146), 72/247 (A/RES/72/247), 70/161 (A/RES/70/161), 66/164 (A/RES/66/164), and the Human Rights Council resolution 22/6 (A/HRC/RES/22/6)).

They also strongly condemned the violence against and the targeting, criminalisation, intimidation, and torture of human rights defenders and stressed the need to combat impunity by ensuring that those responsible for violations and abuses against human rights defenders, including against their legal representatives, associates and family members, are promptly brought to justice through impartial investigations (e.g., the General Assembly resolutions 72/247 (A/RES/72/247), 70/161 (A/RES/70/161), and the Human Rights Council resolution 31/32 (A/HRC/RES/31/32)).

In the report on environmental human rights defenders (A/71/281), the Special Rapporteur on the situation of human rights defenders raised the alarm about the increasing and intensifying violence against them. The Special Rapporteur called on all stakeholders to urgently and publicly adopt a zero-tolerance approach to the killings of and violent acts against environmental human rights defenders and to immediately launch policies and mechanisms to empower and protect them (Paragraph 96).

Finally, in the recent report on the killing of human rights defenders (A/HRC/46/35), the Special Rapporteur on the situation of human rights defenders stressed that such killings could and should be prevented. The States should support existing efforts to increase accountability for killings and other attacks on defenders, and ensure that State officials issue regular and public recognition of the value of the work of human rights defenders, and publicly denounce threats against them (Paragraph 104).

On 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment. In addition, the Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 provides, specifically, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”