

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

Ref.: AL RUS 3/2022
(Please use this reference in your reply)

28 March 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 41/12, 43/4 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged **violations of fundamental freedoms in the Russian Federation in the context of the ongoing and nation-wide peaceful protests against the invasion of Ukraine by Russian forces that have taken place on a daily basis since 24 February 2022**. In particular, we call attention to various alleged human rights violations reportedly committed in response to these protests, including instances of excessive use of force against protesters and the mass arrests of participants in these rallies, as well as a broader pattern of heightened restrictions to fundamental freedoms in the build-up to these protests.

The issue of the use of excessive force against peaceful protesters by members of the police force was previously the subject of several communications issued by United Nations special procedures, including RUS 2/2021 and RUS 6/2019. We appreciate the replies to RUS 6/2019, received on 28 November 2019, as well as to RUS 2/2021, received on 20 April 2021.

According to the information received:

In the afternoon of 24 February 2022, the date of the invasion of Russian troops into Ukrainian territory, the Investigative Committee of Russia issued a warning that participants in unauthorized assemblies in relation to the "tense foreign political situation" would be sanctioned and face legal repercussions. That evening, and notwithstanding the latter warning, several thousands of demonstrators took to the streets in at least 68 cities across Russia, including Moscow, Saint Petersburg, Chelyabinsk, Nizhny Novgorod, Novosibirsk, Omsk, Yekaterinburg, Irkutsk, Saratov and Perm. During these peaceful protests, participants called for the end of the Russian invasion of Ukraine and for peace. An estimated 2,000 people gathered in the capital Moscow, while over 1,000 assembled in Saint Petersburg, and hundreds gathered in Yekaterinburg. Police forces allegedly arrested several demonstrators, human rights defenders and political activists on their way to the protests, and thereafter used tasers and batons to disperse the protests, arresting and detaining at least 2,006 people across the country, of which 1,081 arrests took place in Moscow

alone.¹ The Ministry of Interior asked citizens in a public broadcast to refrain from participating in such “unsanctioned protests” and further stated that these arrests were based on restrictions related to COVID-19 and not due to their anti-war messaging.

From 25 to 28 February 2022, thousands of peaceful protesters continued to rally daily in cities across the country, including Moscow, Saint Petersburg and Yekaterinburg, *inter alia*, to protest the invasion of Ukraine by the Russian military. Police forces proceeded with additional arrests, including at least 635 people arrested on 25 February; 535 on 26 February; 2,855 on 27 February; and 516 on 28 February.²

On 27 February 2022, the date of the seventh anniversary of the assassination of the opposition politician Boris Nemtsov, a number of protesters also gathered at a memorial near the Kremlin in his honour. Police forces arrested a number of those present at the rally.

Protests continued from 1 March 2022 onwards. At least 329 were arrested on 1 March; 849 on 2 March; 497 on 3 March; 80 on 4 March; 68 on 5 March; and 122 on 8 March.³

On 1 March 2022, in Moscow, five children – aged 7 to 11 years old – and their mothers were arrested and kept in a police station for several hours after they placed flowers in front of the Ukrainian Embassy and held “No War” signs. They were released late in the evening that same day.

On 5 March 2022, police forces reportedly completed preventative raids, searches and detentions of hundreds of journalists, opposition politicians and human rights defenders, ahead of the anti-war rallies planned for 6 March 2022. After the searches, many activists were detained by officers and taken to the police office for interrogation.

On 6 March 2022, thousands of people rallied at peaceful anti-war protests in at least 77 cities nationwide, including Moscow, Saint Petersburg, Vladivostok, Irkutsk and Khabarovsk. Police officers continued to make mass arrests throughout these protests, arresting at least 5,513 people that same day.⁴

Other supporters of the anti-war movement were further allegedly charged for illegal picketing after placing anti-war posters on their windows in different cities across the country, while a driver was reportedly dragged out of his car

¹ According to information published by the independent human rights monitoring group, OVD-Info, retrieved at <https://ovd.news/news/2022/02/24/spiski-zaderzhannyh-v-svyazi-s-akciev-protiv-voyny-s-ukrainoy-24-fevralya-2022-goda>.

² According to information published by independent human rights monitoring group, OVD-Info, retrieved at <https://ovd.news/news/2022/02/28/spiski-zaderzhannyh-v-svyazi-s-akciyami-protiv-voyny-s-ukrainoy-28-fevralya-2022>.

³ According to information published by independent human rights monitoring group, OVD-Info, retrieved at <https://ovd.news/news/2022/03/08/spiski-zaderzhannyh-v-svyazi-s-akciyami-protiv-voyny-s-ukrainoy-8-marta-2022-goda>.

⁴ According to information published by independent human rights monitoring group, OVD-Info, retrieved at <https://ovd.news/news/2022/03/06/spiski-zaderzhannyh-v-svyazi-s-akciyami-protiv-voyny-s-ukrainoy-6-marta-2022-goda>.

and arrested for honking in support of protesters. Two students in Saint-Petersburg were reportedly expelled after participating in anti-war protests, while a number of others received expulsion threats for being associated with the anti-war protest movement. Other underage students were arrested and detained by police officers at the protests, who thereafter called the detainees' schools to make inquiries about their personal data. Ukrainian citizens detained at anti-war rallies since are reportedly being separately questioned by security forces.

In total, and as of 25 March 2022, at least 15,099 people⁵ – protesters and bystanders alike – were reportedly arrested throughout the peaceful anti-war protests that have taken place since 24 February 2022 in 155 cities of Russia. Over 100 minors have allegedly also been arrested and detained at protests. Reporters were allegedly detained in a number of cities, including Irkutsk, Ufa and Saint Petersburg. At least nine cases were reported in Saint Petersburg where journalists were detained despite wearing clearly visible press vests and badges.

Hundreds of protesters were reportedly kept overnight in police stations, where they were forced to sleep in chairs or on the bare and cold floor without being provided adequate bedding. Other detainees reported that they had been coerced into refusing legal aid. Police officers allegedly confiscated the phones and belongings of those detained, preventing them from contacting relatives or lawyers, as well as used force to unblock the confiscated phones. In Moscow, there have been reports that those detained were kept two days in police buses after their arrest and were deprived of food.

There were also dozens of reported cases of police officers verbally and physically assaulting detainees, including threats of torture. In some police stations, officers allegedly coerced detainees into giving their fingerprints and DNA samples. In Saint Petersburg, there have been reports of police officers depriving detainees of food and water for a day. Additionally, we received reports of police officers brutally beating the detainees both during their arrest, as well as while they were in police custody in at least eight cities, including Saint Petersburg, Moscow, Ulan-Ude, Yekaterinburg, Samara, Chelyabinsk, Nizhny Novgorod, and Yaroslavl. When detainees sustained injuries further to such instances of physical mistreatment, we received information that police officers in multiple cities refused to call an ambulance or give access to doctors – this included cases of, *inter alia*, a broken arm, a broken finger, a broken nose, a dislocated shoulder, swollen black eyes, and bruises from police batons.

These mass detentions are reported to have, as such, exceeded the legal statutory limits. Police and judicial authorities have allegedly refused to give access to or have forcibly removed attorneys from police stations and courts in at least 55 instances, effectively depriving detainees of their right to legal aid.

There have so far been a reported 16 people in different cities charged with criminal offences after their participation in the anti-war protests.

⁵ According to information published by independent human rights monitoring group, OVD-Info, retrieved at <https://ovdinfo.org>.

Furthermore, authorities have allegedly used digital tools to stifle participation and prevent other forms of expression of solidarity with the protests. Authorities have reportedly resorted to facial recognition technologies in order to identify participants in these peaceful rallies. There are further reports of authorities monitoring social media accounts and searching for social media posts mentioning the anti-war rallies to thereafter prosecute their authors. Additionally, police officers have allegedly searched the mobile phones of passers-by for any information related to the protests.

On 26 February 2022, the national media regulation agency reportedly demanded that the media delete any publications where the terms “war” or “invasion” are used in reference to the invasion of Ukraine, rather than “a military operation.” Moreover, the media regulation agency has allegedly further called on the media to remove any reports on the shelling cities of Ukrainian cities by the Russia military or on Russian military personnel losses, on penalty of being blocked or fined up to approximately 48,000 USD. The websites of at least 15 media resources have allegedly been blocked, with at least two of them having been designated as “foreign agents” under charges in the law on extrajudicial blockings adopted in December 2021.

In addition, on 25 February 2022, the General Prosecutor declared the social media platform Facebook a perpetrator of human rights violations following its temporary suspension of several media outlets (including state outlets) for spreading false information about the Russian invasion of Ukraine. The General Prosecutor further “partially blocked” access to Facebook *via* throttling, while also demanding that the social media platform TikTok stop suggesting “any” political or war-related content to minors. Some TV stations further broadcasted statements from law enforcement that protest participation is illegal.

On 4 March 2022, authorities announced that they had fully blocked all access to Facebook and restricted access to Twitter, as both social media platforms were deemed to spread “fake” reports.

On 14 March 2022, authorities blocked access to the social media platform Instagram, reportedly in order to protect Russian users from cyberbullying and hate speech.

While we do not wish to prejudice the accuracy of these allegations, we are gravely concerned by the allegations of the use of excessive force against peaceful protesters and human rights defenders at the daily anti-war rallies taking place across dozens of cities in Russia. We are equally concerned with the reports of mass arrests and the detention of thousands of protesters for the legitimate exercise of their right to freedom of expression and of peaceful assembly, as well as of the indiscriminate arrest and detention of children, journalists and other bystanders. We are troubled by the fact that these allegations could be reflective of a broader and seemingly systematic effort to restrict support for anti-war statements, and expressions of dissent towards the Government more broadly. In this regard, we are particularly concerned by alleged efforts to restrict the operation of social media platforms in the build-up, during and in the aftermath of said protests, and to restrict the holding of peaceful assemblies,

through instances of excessive use of force and the arbitrary detention of numerous protesters. If confirmed, this alleged pattern of heightened silencing of dissent would be in violation of your Excellency's Government's obligations under international human rights law, in particular articles 9, 14, 19, 21 and 25 of the International Covenant on Civil and Political Rights (ICCPR).

We would like to respectfully remind your Excellency's Government that peaceful assemblies may only be dispersed in exceptional cases. Although we understand that several of the peaceful protests were unauthorised, we emphasise that international standards related to freedom of peaceful assembly do not require prior authorisation for the holding of an assembly. The widespread allegations of indiscriminate use of force and mass arrests by the authorities would, if confirmed, constitute a manifestly disproportionate response to the fact that said rallies are "unsanctioned". In this regard, we would like to respectfully draw your Excellency's Government's attention to the fact that the primary responsibility of the authorities when policing assemblies is to protect peaceful protesters and to facilitate the exercise of the right to freedom of peaceful assembly.

We further remind your Excellency's Government that freedom of expression on matters of general interest enjoys particularly strong protection. This is a consequence of the principles of democracy and political pluralism underlying article 19 (2) of the International Covenant on civil and political rights. Similar to what has been expressed in our earlier communications, and previously by the European Court of Human Rights, we are concerned at what seems to be an attempt by the authorities to silence voices of dissent in the country. In this regard, we note the arrests of prominent activists, opposition politicians, and human rights defenders. Moreover, we note that the purpose of the protests was to express anti-war sentiments, and to react against the invasion of Ukraine by Russian military forces.

Lastly, we express our concern at the reported orders issued by the State body for media oversight to social media companies to take down content on their platforms. In this regard, we note that the State remains responsible for the implementation orders given to private actors. Thus, any takedown order must, in order to be compatible with the Covenant, be provided by law, pursue a legitimate aim and be necessary and proportionate. In this regard, we fear that the orders constituted undue restrictions to the rights of individuals, including children, to exercise their civil and political rights.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please explain how the restrictions placed on internet platforms in relation to the protests that have taken place since 24 February 2022 were

necessary and proportionate and consistent with your Excellency's Government's obligations under international human rights law, in particular article 19 of the ICCPR.

3. Please provide information as to how the Government is protecting the rights to peaceful assembly, in line with its obligations under article 21 of the ICCPR, including by ensuring that COVID-19 related restrictions are not arbitrarily used to hamper the right to freedom of peaceful assembly.
4. Please provide information on investigations into the use of force by police during the protests, especially if such force was proportionate and necessary.
5. Please provide information on the official number of persons arrested during the protests and the factual and legal basis justifying their detention, as well as the fundamental safeguards lawfully ensured for the detainees, including the right to contact a next of kin, the right to contact a lawyer and the right to be privately examined by independent medical personnel, in order to be screened for contagious diseases and potential signs of ill-treatment.
6. Please indicate what measures have been taken to ensure that human rights defenders and the political opposition in the Russian Federation are able to carry out their legitimate work, including through the exercise of their rights to freedom of opinion and expression, of peaceful assembly and of association in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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.

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.

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.

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

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Special Rapporteur on the rights to freedom of peaceful assembly and of association

Irene Khan
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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, which guarantee the rights not to be arbitrary deprived of liberty, to a fair trial, to freedom of opinion and expression and to freedom of peaceful assembly, respectively.

We would like to draw the attention of your Excellency's Government to article 9 of the ICCPR, which in its first paragraph guarantees the right to freedom from arbitrary detention and establishes that no one shall be deprived of their liberty except on such grounds and in accordance with such procedure as established by law. We wish to recall that any deprivation of liberty resulting from the legitimate exercise of the rights guaranteed by the ICCPR is arbitrary (see also CCPR/C/GC/35, para. 17). We would also like to refer your Excellency's Government to article 9(4) of the ICCPR, whereby anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

We further recall that detained persons should have access, from the moment of arrest, to legal assistance of their own choosing. In its most recent report to the Human Rights Council (A/HRC/45/16), the Working Group on Arbitrary Detention highlighted that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty, and that such assistance should be available at all stages of criminal proceedings, namely, during pretrial, trial, re-trial and appellate stages, to ensure compliance with fair trial guarantees (see paras. 50-55).

The freedom of opinion and expression is integral to the enjoyment of the rights to freedom of peaceful assembly and of association (General Comment 34 of the Human Rights Committee para. 4). The Human Rights Committee has affirmed that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression and that paragraph 3 (of article 19) may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights" (id. para. 23). The penalisation of individuals solely for expressing critical opinions about the government or the social system espoused by the government is incompatible with article 19 (id. para. 42). Moreover, attacks on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, are incompatible with article 19 (id. para. 23). "All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress" (id. para. 23).

We also recall that according to article 21 of the ICCPR, "[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order

(ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. The ‘provided by law’ requirement means that any restriction ‘must be made accessible to the public’ and ‘formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly’ (CCPR/C/GC/34).

We wish to underscore that failure to notify authorities of an assembly does not render it unlawful, and consequently should not be used as a basis for dispersing the assembly. We further note that this applies equally in the case of spontaneous assemblies, where prior notice is otherwise impracticable or where no identifiable organizer exists (A/HRC/31/66 para. 23). We would also like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms”, and the Code of Conduct for Law Enforcement Officials, ensuring protesters right to peaceful assembly and without resorting to excessive use of force. Only the minimum force necessary may be used where this is required for a legitimate law enforcement purpose during an assembly. Once the need for any use of force has passed, such as when a violent individual is safely apprehended, no further resort to force is permissible (Code of Conduct for Law Enforcement Officials, art 3). Law enforcement officials may not use greater force than is proportionate under the circumstances for the dispersal of an assembly, prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders (Code of Conduct for Law Enforcement Officials, commentary to art. 3).

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. In this regard, we remind that the State has the burden of proof to demonstrate whether the restrictions implemented are compatible with the requirements under the Covenant.

The legitimate aims must be restricted to those exhaustively listed in the ICCPR (see CCPR/C/21/Rev.1/Add. 13 para. 6). Furthermore, the requirement of legality entails that the law “must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution” (para 25). Lastly, the proportionality requirement entails that the restriction “must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected” (para. 34).

The general norm should be to permit the open and free use of the Internet and other digital tools. Resolution 15/21 of the Human Rights Council makes it clear that to be permissible restrictions should be “prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. Where such restrictions are made, “States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant

rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right”.

We would also 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 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.

Furthermore, 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 5 (a), which provides for the right to meet or assemble peacefully;
- and article 12, paragraphs 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 his or her legitimate exercise of the rights referred to in the Declaration.

Furthermore, we would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.

Finally, would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2007 (A/62/225, paras. 91 and 93), which underlines the importance of human rights monitors during demonstrations in providing an impartial and objective account of what takes place and in deterring human rights violations.