

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Ref.: AL RUS 9/2022  
(Please use this reference in your reply)

1 July 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention 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, 42/22 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 arbitrary detention and criminalisation of woman human rights defender Ms. Alexandra Skochilenko**. We would also like to bring to the attention of your Excellency's Government information we have received concerning **the recently introduced article 207.3 of the Criminal Code and its alleged use against human rights defenders**.

Ms. **Alexandra Skochilenko** is a woman human rights defender, promoting the absolute value of a human life and non-discrimination through her art, music, and writing.

According to the information received:

*Article 207.3 of the Criminal Code*

The Federal Law No. 32-FZ dated 4 March 2022 (supplemented by the Federal Law No. 63-FZ dated 25 March 2022) introduced article 207.3 of the Criminal Code. It criminalises public dissemination of "knowingly false information under the guise of reliable reports" about: (a) the use of Russian armed forces "protecting the interests of the Russian Federation and its citizens, maintaining international peace and security", or (b) the exercise of powers by Russian state bodies "protecting the interests of the Russian Federation and its citizens, maintaining international peace and security" abroad.

Any information contradicting the official information of the Russian government is reportedly considered "knowingly false".

Depending on the qualifying characteristics of the offence and the consequences, the liability may include:

- a fine from 700,000 RUB (approximately 10,300 EUR) to 5 million RUB (approximately 73,500 EUR) or in the amount of the convicted person's income for up to five years;
- correctional labour for up to one year;

- community service for up to five years; or
- imprisonment for up to 15 years.

In some cases, a convicted person may also be disqualified from certain positions or activities for up to five years.

Dozens of people, including human rights defenders, have reportedly been accused of committing this offence for spreading information about Russia's invasion of Ukraine or making anti-war statements.

#### *The case of Ms. Alexandra Skochilenko*

On 31 March 2022, Ms. Alexandra Skochilenko performed an anti-war art action. She replaced price tags in a St. Petersburg supermarket with stickers containing information about the Russian army's actions in Ukraine.

On 11 April 2022, Ms. Skochilenko was arrested by police in St. Petersburg. The Investigative Committee and the police searched her apartment and seized her computer, laptop, and phone. The Investigative Committee officers then interrogated Ms. Skochilenko for two hours until 1:30 am.

The same day, the Investigative Committee accused Ms. Skochilenko of public dissemination of knowingly false information about the use of the armed forces, allegedly committed with the motive of political hatred (Paragraph 2 (d) of article 207.3 of the Criminal Code).

Ms. Skochilenko reportedly admitted distributing the stickers but pleaded not guilty, denying that the information was false. She had reportedly received it from several independent sources and believed it to be truthful.

On 13 April 2022, the Vasileostrovsky District Court of St. Petersburg placed Ms. Skochilenko in pre-trial detention until 1 June 2022. The defence lawyer requested the court to impose a house arrest instead due to her health problems and reportedly provided all required documents as well as several personal guarantees. However, the court denied the motion. On 17 May 2022, the St. Petersburg City Court upheld the imposition of pre-trial detention.

Ms. Skochilenko reportedly suffers from celiac disease and cyclothymic disorder, a subtype of bipolar disorder. In detention, she was reportedly harassed by cellmates and did not receive appropriate diet, causing acute physical reaction to the food and inability to eat unless she received food in parcels. The regularity, weight, and content of parcels are restricted.

On 4 or 5 May 2022, Ms. Skochilenko was transferred to another cell where the harassment reportedly stopped and she allegedly started receiving more suitable food. Ms. Skochilenko requested a psychotherapist visit, the status of her request is unknown. The long-term implications of the detention on her physical and mental health remain of concern.

Without wishing to prejudge the accuracy of the information received, we wish to express concern as to the alleged arbitrary detention and criminalisation of Ms. Alexandra Skochilenko, which appear to be related to her legitimate human rights work and the exercise of the freedom of expression. We are also concerned with the impact of the detention on her health.

We furthermore express our concern at allegations received about the use of article 207.3 of the Criminal Code to punish human rights defenders for sharing information about the invasion of Ukraine or making anti-war statements.

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.

We are issuing this appeal in order to safeguard the rights of Ms. Skochilenko from irreparable harm and without prejudicing any eventual legal determination.

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 provide information on the legal and factual basis for the arrest and detention of Ms. Alexandra Skochilenko and the criminal case against her and explain how these are compatible with your Excellency's Government's international human rights obligations.
3. Please provide detailed information on Ms. Alexandra Skochilenko's state of physical and mental health and whether she receives all necessary medical assistance, medications, and diet in detention.
4. Please provide information on how the adoption and application of article 207.3 of the Criminal Code are compatible with your Excellency's Government's international human rights obligations.
5. Please indicate what measures have been taken to ensure that human rights defenders in Russia can exercise their right to freedom of expression and carry out their legitimate work freely and in a safe and enabling environment without acts of intimidation and harassment of any sort.

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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We may wish to 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 informed about these matters. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issues in question.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Mumba Malila  
Vice-Chair of the Working Group on Arbitrary Detention

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 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 article 19 of the International Covenant on Civil and Political Rights ("ICCPR"), ratified by the Russian Federation on 16 October 1973, which guarantees the right to freedom of opinion and expression.

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 political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse. They may also include commercial advertising (Paragraph 11). All forms of expression and the means of their dissemination are protected, including spoken, written and sign language and such non-verbal expression as images and objects of art, and audio-visual as well as electronic and internet-based modes of expression (Paragraph 12).

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. Article 19 (3) may never be invoked to justify the muzzling of any advocacy of human rights (Paragraph 23). Nor, under any circumstance, can an attack 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, be compatible with article 19 (Id.).

We would also like to refer to article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Russian Federation on 16 October 1973, that guarantees the right of everyone to take part in cultural life.

According to the General Comment No. 21 by the Committee on Economic, Social and Cultural Rights (E/C.12/GC/21), this right includes three interrelated main components: (a) participation in, (b) access to, and (c) contribution to cultural life (Paragraph 15). Everyone has, *inter alia*, the right to seek and develop cultural knowledge and expressions and to share them with others, as well as to act creatively and take part in creative activity (Id.).

Any limitations to the right to take part in cultural life must pursue a legitimate aim, be compatible with the nature of this right, strictly necessary for the promotion of general welfare in a democratic society, and proportionate (Paragraph 19). The States need to take into consideration existing international human rights standards on limitations that can or cannot be legitimately imposed on rights that are intrinsically linked to the right to take part in cultural life, such as the rights to privacy, to freedom

of opinion and expression, to peaceful assembly and to freedom of association (Id.).

We would furthermore like to refer to articles 9, 14 and 17 of the ICCPR, which guarantee the right not to be subjected to arbitrary arrest or detention, the right to a fair trial, and the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence.

Article 9 of the ICCPR provides that everyone has the right to liberty and security of person. In this context, we would like to remind your Excellency's Government that the right to be presented with an arrest warrant is procedurally inherent in the right to liberty and security of person and the prohibition of arbitrary deprivation, under articles 3 and 9, respectively, of the Universal Declaration of Human Rights and article 9 of the Covenant. Moreover, article 9(2) of the Covenant requires that anyone who is arrested is not only promptly informed of the reasons for arrest but also promptly informed of any charges against them. We also recall that it is a well-established norm of international law that pre-trial detention should be the exception and not the rule, and that it should be ordered for as short a time as possible.

We further recall that all persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and such access must be provided without delay.<sup>1</sup> We particularly emphasize that no interrogations should take place without the presence of a lawyer. In addition, in accordance with article 9(4) of the ICCPR, anyone who is deprived of his or her 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.<sup>2</sup> In this respect, we emphasize that the right of legal assistance is an essential safeguard to ensure the ability of detainees to personally challenge their detention.

We would like to remind your Excellency's Government that according to General Comment No. 35 of the Human Rights Committee<sup>3</sup> as well as the jurisprudence of the Working Group on Arbitrary Detention, arresting or detaining an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary. In addition, we recall that a deprivation of liberty is arbitrary if it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings. In this respect, the Working Group on Arbitrary Detention has concluded that being a human rights defender is a protected status under article 26 of the ICCPR.

We would like to refer your Excellency's Government to the absolute and non-derogable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, as enshrined in article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

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<sup>1</sup> See A/HRC/45/16, at paras. 51-52 and the UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, A/HRC/30/37, at principle 9 and guideline 8.

<sup>2</sup> See A/HRC/30/37.  
CCPR/C/GC/35, at para. 17.

Punishment, ratified by the Russian Federation on 3 March 1987.

We would like to remind your Excellency's Government of its obligations under article 12 of the ICESCR, which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. We also recall that States have a duty to protect the health of prisoners and detainees, in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), in particular, Rule 24.

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.