

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the independence of judges and lawyers**

Ref.: AL RUS 11/2022  
(Please use this reference in your reply)

9 September 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; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 43/16, 42/22, 50/17 and 44/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest and administrative charges against Mr. Edem Semedliaev, Ms. Emine Avamileva, [REDACTED] and [REDACTED], as well as the alleged arbitrary detention of the latter three, all of which was reportedly in connection with their legitimate human rights work, exercise of their legal profession and the freedom of expression.

Ms. Emine Avamileva is a woman human rights defender and defence lawyer, who provides legal assistance to Crimean Tatars.

[REDACTED], Mr. Edem Semedliaev and [REDACTED] are human rights defenders and defence lawyers, who provide legal assistance to Crimean Tatars.

We previously wrote to your Excellency's Government regarding the administrative offences charges and detention of Mr. Edem Semedliaev, allegedly as a result of the legitimate exercise of his legal profession, on 30 November 2021 (AL RUS 12/2021). We acknowledge the reply from your Excellency's Government dated 26 January 2022.

We also wrote to your Excellency's Government regarding the alleged disbarment, persecution, arrests and detention, searches, criminalisation, conviction, torture, and ill-treatment of other human rights defenders in Crimea<sup>1</sup> on 17 October 2017 (AL RUS 8/2017), 11 July 2018 (AL RUS 14/2018), 18 July 2018 (AL RUS 17/2018), 25 July 2018 (AL RUS 16/2018), 10 August 2018 (AL RUS 21/2018), 13 February 2019 (AL RUS 2/2019), 21 January 2020 (AL RUS 10/2019), 29 July 2020 (AL RUS 4/2020), and 9 June 2021 (AL RUS 7/2021), and 22 April 2022 (AL RUS 5/2022). We acknowledge the replies from your Excellency's Government dated 27 February 2018, 20 July 2018, 3 August 2018, 7 August 2018, 6 March 2019, 31 March 2020, 25 September 2020, 5 August 2021, and 8 June 2022.

<sup>1</sup> References to Crimea should be read in accordance with General Assembly Resolution 68/262, in which the General Assembly affirmed its commitment "to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognised borders" (A/RES/68/262, Paragraph 1).

However, we remain concerned about the environment human rights defenders are working in in Crimea, given the allegations below.

According to the information received:

*Regarding Mr. Edem Semedliaev*

On 26 May 2022, Mr. Edem Semedliaev was reportedly arbitrarily arrested in Simferopol by officers of the Center for Combating Extremism under the Ministry of Internal Affairs of the Russian Federation (“Center E”). He was charged with “public actions aimed at discrediting the use of the Russian Federation’s armed forces” (article 20.3.3 (2) of the Code of Administrative Offenses of the Russian Federation) for being tagged in a social media post against the Russian full-scale invasion of Ukraine published by another person. He had reportedly removed the tag as soon as he saw the post, several weeks before the arrest. On 26 May 2022, the Kyiv District Court tried Mr. Semedliaev, found him guilty and imposed a fine of 75 000 RUB (approximately 1 295 EUR). On 29 June 2022, the Supreme Court of Crimea upheld the decision on appeal.

*Regarding [REDACTED], Ms. Emine Avamileva, and [REDACTED]*

On 26 May 2022, following Mr. Edem Semedliaev’s court hearing, his lawyer, [REDACTED], was reportedly arbitrarily arrested outside the courthouse by the Center E officers. He was charged with “participation in a simultaneous mass gathering of citizens in a public place, resulting in a violation of sanitary norms and regulations” (article 20.2.2 (1) of the Code of Administrative Offenses of the Russian Federation). On 27 May 2022, the Central District Court of Simferopol found him guilty and sentenced him to eight days of administrative detention. He was reportedly released on 3 June 2022. On 29 June 2022, the Supreme Court of Crimea upheld the decision on appeal.

On 27 May 2022, [REDACTED] lawyers, [REDACTED] and Ms. Emine Avamileva, were reportedly arbitrarily arrested by the Ministry of Internal Affairs officers in presence of a Center E agent outside the courthouse while waiting to represent [REDACTED] in the above-mentioned case. They were both charged with “participation in a simultaneous mass gathering of citizens in a public place, resulting in a violation of sanitary norms and regulations” (article 20.2.2 (1) of the Code of Administrative Offenses of the Russian Federation). On 28 May 2022, the Central District Court of Simferopol found Ms. Emine Avamileva and [REDACTED] guilty and sentenced them to five and eight days of administrative detention, respectively. It is reported that Ms. Emine Avamileva was released on 1 June 2022 and [REDACTED] was released on 4 June 2022.

On 22 June 2022, the Supreme Court of Crimea upheld the decision in Ms. Avamileva’s case. On 4 July 2022, the Supreme Court of Crimea

overturned the decision in [REDACTED] case due to the breach of jurisdiction and the case was remitted for reconsideration.

The charges against [REDACTED], [REDACTED], and Ms. Avamileva were reportedly related to a peaceful gathering that took place on 25 October 2021 outside the Simferopol police station. The participants reportedly gathered to support Crimean Tatar activists arbitrarily detained earlier that day. [REDACTED], [REDACTED] and Ms. Avamileva allegedly did not participate in the gathering. They provided legal assistance to the detained activists in the police station. Then, they shared information with the relatives and friends of the detainees who gathered outside the police station and gave interviews to the local civic journalists who also gathered there.

Without wishing to prejudge the accuracy of the information received, we wish to express concern as to the alleged arbitrary arrest and administrative charges against Mr. Edem Samedliaev, Ms. Emine Avamileva, [REDACTED], and [REDACTED], as well as the alleged arbitrary detention of the latter three, all of which appear to be related to their legitimate human rights work, exercise of their legal profession and the freedom of expression.

If confirmed, these facts would be in breach of the guarantees that lawyers are entitled to in order to perform their professional functions without any threat, intimidation, harassment or interference, and without suffering, or being threatened with, prosecution or any administrative or disciplinary sanctions for actions undertaken in accordance with professional duties and ethical standards.

We also express our grave concern regarding the continuous intimidation and harassment of the human rights defenders in Crimea in connection to their human rights work. We remain concerned at the chilling effect that all this might have on human rights defenders in Crimea, discouraging them from exercising their 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 provide information on the legal and factual basis for the arrests and administrative cases against Mr. Edem Samedliaev, Ms. Emine Avamileva, [REDACTED], and [REDACTED], as well as for the administrative detention of the latter three, and explain how these are compatible with your Excellency's Government's international human rights obligations.

3. Please provide information on the measures taken to safeguard the rights of the above-mentioned individuals to a fair trial and due process. Please indicate how those are compatible with the obligations of your Excellency's Government under international human rights law.
4. Please indicate what measures have been taken to ensure that human rights defenders in Crimea 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.
5. Please provide detailed information on the legislative and other measures adopted by the Russian Federation to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference (principle 16 (a) of the Basic Principles on the Role of Lawyers) and to prevent that they are subject to, or be threatened with, prosecution or administrative, economic or other sanctions as a result of their identification with their clients or their clients' causes as a result of discharging their functions (principle 18).

We would appreciate receiving a response within 60 days. Past this deadline, 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 also like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit a case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

In accordance with General Assembly Resolution 68/262 on the territorial integrity of Ukraine, and taking into account General Assembly Resolutions 76/179, 75/192, 74/168, 73/263, 72/190, and 71/205 on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, we wish to inform you that a copy of this letter will also be sent to the authorities of Ukraine for their information.

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

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

Diego García-Sayán  
Special Rapporteur on the independence of judges and lawyers

## **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 articles 9, 14, and 19 of the International Covenant on Civil and Political Rights ("ICCPR"), ratified by the Russian Federation on 16 October 1973, which guarantee the right to liberty and security of person, the right to a fair trial, and the right to freedom of opinion and expression. We wish to draw your Excellency's attention to article 9 of the UDHR, prohibiting arbitrary detentions, and article 9 of the ICCPR, enshrining the right to liberty and security of person. The latter establishes, in particular, that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. As per the jurisprudence of the Working Group on Arbitrary Detention and General Comment No. 35<sup>2</sup>, any detention due to the peaceful exercise of rights, including the right to freedom of expression, is arbitrary. Further, the Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when 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.

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 commentary on one's own and on public affairs, discussion of human rights, and journalism (paragraph 11). All forms of expression and the means of their dissemination are protected (paragraph 12).

We would 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, be compatible with article 19 (Id.).

Article 14 (1) of the ICCPR, which sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. In addition, article 14 of the ICCPR provides a set of contain procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing.

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<sup>2</sup> CCPR/C/GC/35, para. 17.

In its General Comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14 (3) (b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. They should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34).

We wish to remind your Excellency’s Government that according to Paragraph 10 of the Human Rights Committee’s General Comment No. 31 [80] (CCPR/C/21/Rev.1/Add. 13), States Parties must respect and ensure the rights laid down in the ICCPR to anyone within their power or effective control, even if not situated within their territory. The enjoyment of the ICCPR rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness, who may find themselves subject to the jurisdiction of the State Party. This principle also applies to those within the power or effective control of the forces of a State Party acting outside its territory, regardless of the circumstances in which such power or effective control was obtained.

In Resolution 76/179 and previous resolutions on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, the General Assembly urged the Russian Federation to, inter alia, “uphold all of its obligations under applicable international law as an occupying Power” and “create and maintain a safe and enabling environment for journalists and media workers and citizen journalists, human rights defenders and defence lawyers to perform their work independently and without undue interference in Crimea” (A/RES/76/179, paragraphs 6 (a), (m)).

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 Recognized 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 states 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.

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), (b) and (c), which provides for the right to know, seek, obtain, receive, and hold information about all human rights and fundamental freedoms; 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;

- article 9 (3) (c), which establishes the right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms;

- 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.

Finally, we would like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba), in particular:

- Principle 16, according to which Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics;

- Principle 17, provides that "[w]here the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities".

- Principle 18, provides that "[l]awyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

- Principle 23, which enshrines that lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.