

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: UA LBN 1/2022
(Please use this reference in your reply)

7 September 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 43/20 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the purported imminent extradition of Mrs. **Viktoriya Matsakova**, from Lebanon to Russia on the basis of an arrest warrant issued by the Russian authorities accusing her of terrorism-related charges.

The case of Mrs Matsakova was previously addressed in an urgent appeal (UA LBN 2/2021) sent by the Special Procedures' mandate holders on 1 February 2021. We regret the lack of response from your Excellency's Government.

According to the information received:

Mrs. Viktoriya Matsakova is a Russian citizen, from the Republic of Kalmykia, born on 31 May 1987 and holding Russian passport 63N°2866121 issued on 22.08.2007.

Reportedly she left Russia with her Russian husband, in 2008, to the Czech Republic, before moving to Syria in 2012. After her husband was killed, in Syria, she was transferred to a shelter, with her two children. She subsequently met her current husband, a Lebanese national, and gave birth to twins in 2017.

In 2020, Mrs. Matsakova crossed the border into Lebanon with her children and husband. This latter has been detained and prosecuted by a Lebanese military court for terrorism-related charges.

On 11 August 2020, Mrs. Matsakova's family-in-law submitted to the Lebanese authorities the marriage act and a legitimisation judgment issued by the religious court to confer on her Lebanese nationality.

On 1 December 2020, Mrs. Matsakova was summoned by the General Security office in Tripoli for interviewing in relation to her residency documents, where she was informed of the existence of an Interpol red notice, issued against her at the request of the Russian authorities on 15 November

2020, requesting her extradition to Russia.

According to the extradition request, Mrs Matsakova is the subject of an arrest warrant issued on 26 August 2020, by the organised criminal activities investigation unit in Russia accusing her in case number 11901850029000018, in accordance with articles 208.2 (Organization of an Illegal Armed Formation, or Participation in It), stipulating that “Participation in an armed formation that is not provided for by a federal law shall be punishable by restraint of liberty for a term of up to three years, or by arrest for a term of up to six months, or by deprivation of liberty for a term of up to five years,” and 205.1 (Involvement of a Person in the Commission of Crimes of a Terrorist Nature or Otherwise Assisting in Their Commission) of the Russian Criminal Code.

On the basis of the arrest warrant, the Lebanese authorities arrested Mrs Matsakova for the purpose of her extradition to Russia, and she has been held in detention since then at the General Security office in Beirut, invoking article 35 of the Lebanese penal code stating that “the request for extradition shall be referred to the Public Prosecutor at the Court of Cassation, who shall check whether the legal conditions have been fulfilled and assess whether the charge has been adequately established. He may also issue an arrest warrant for the person whose extradition is requested after questioning him. He shall then refer the file together with his report to the Minister of Justice. The decision to grant or reject the request for extradition shall be taken pursuant to a decree adopted on the basis of a proposal by the Minister of Justice.”

Without having access to the criminal file against Mrs Matsakova, on 11 January 2021, her lawyer filed a request to challenge the extradition request made by Russia, with the Lebanese Public Prosecutor, arguing among other claims that his client’s name does not appear on the list of wanted persons listed by Interpol and that she is instead being prosecuted for criticizing the violations committed by Russia during the war in Syria. The lawyer also contests the legality of the extradition, given that Lebanon does not have an extradition agreement with Russia. According to the lawyer he has not been allowed to examine Mrs. Matsakova’s criminal file and the underlying information alleged to pertain to the charges she is facing in Russia, or any possible judgement made in absentia against her. He was told that the file would only be presented during the hearing with the Public Prosecutor of the Court of Cassation of Beirut, who is mandated to examine extradition requests and to decide on the credibility of accusations.

On 12 March 2021, Presidential Decree No 7581 of Lebanon ordered Mrs. Matsakova to be handed over to the Russian authorities. This decree was petitioned by Mrs Matsakova’s lawyer, on 11 May 2021, before the State Consultative (Shura) Council, requesting a stay of execution and nullification of the decree, citing, *inter alia*, the inexistence of an extradition agreement between the state of Lebanon and the Russian Federation, and the incompatibility of the extradition decree with the provisions of article 30 of the Lebanese Penal Code (“No one shall be extradited to a foreign State, except in

cases provided for in the provisions of this Law, except in the application of a treaty having the force of law”) and article 3 of the Convention against Torture (“1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. 2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”)

On 28 March 2022, the State Shura Council decided to accept the petition submitted by the plaintiff in form, and to reject it on the merits, invoking article 31.3 of the Lebanese Penal Code allowing the extradition of a citizen of the state requesting the extradition.

At present, the husband of Mrs. Matsakova and her lawyer have been undertaking administrative and judicial procedures to register the marriage and perform maternity DNA tests in order to confirm the maternity of their children and the related marital status of the couple. However, due to disruptions in the functioning of courts in Lebanon and the postponement of court sessions for the marriage registration, this process has not been completed.

In view of the nature of the charges, Mrs. Matsakova has expressed fears of being subjected to torture or ill-treatment, if returned to Russia, and has raised concerns regarding her potential separation from her two Lebanese children.

The extradition of Mrs Matsakova, who is currently held at the General Security Retention Center in Beirut, is expected to take place in the coming days, between 7 and 9 September 2022.

While we do not wish to prejudge the accuracy of these allegations, we wish to reiterate our preoccupation by the lack of information from Your Excellency’s Government on any measures taken to undertake a thorough individual assessment, in full respect of her fundamental safeguards, of the risks Mrs. Matsakova could incur upon extradition to Russia, including the potential risk of torture or ill-treatment, arbitrary detention and lack of access to due process of law. In this regard, we wish to draw the attention of your Excellency’s Government to article 3 of the Convention Against Torture (CAT), which provides that, “[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”; and that, “[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights”. Furthermore, we would like to refer to the Committee against Torture General Comment N.4 on the implementation of article 3, which states in paragraph 13 that “Each case should be examined individually, impartially and independently by the State party through competent administrative and/or judicial authorities, in conformity with essential procedural safeguards, notably the guarantee

of a prompt and transparent process, a review of the deportation decision and a suspensive effect of the appeal. In each case, the person concerned should be informed of the intended deportation in a timely manner...". This individual risk should be conducted in due consideration of the situations indicated as representing a risk of torture, in paragraph 29 of the General Comment, including "(d) Whether the person has been judged in the State of origin or would be judged in the State to which the person is being deported in a judicial system that does not guarantee the right to a fair trial."

We respectfully request the Lebanese authorities to proceed without delay with an independent and thorough individual risk assessment by the competent judicial authorities, or if one has already been carried out, to inform us of the results of that risk assessment, with a view to ascertain that Mrs Matsakova would not be at risk of serious human rights violations if returned to Russia, and take the results of such an assessment into account in any decision pertaining to the extradition request by Russia.

We would like to reference concerns raised by the Committee Against Torture, in its concluding observations on the Russian Federation in 2018, (CAT/C/RUS/CO/6, para.34), stating consistent reports "that members of the Federal Security Service routinely use torture to extract confessions from those accused of terrorist activities; and that no criminal prosecution has been brought with respect to allegations of torture," in violation of articles 2, 11, 12 and 16 of the Convention.

We would further like to draw the attention of your Excellency's Government to paragraph 16 of the resolution A/RES/65/205 of the UN General Assembly, which "...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."

The full texts of the human rights instruments and standards recalled above are available on 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 Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

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 factual or legal information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information, where available, on any risk assessment carried out by the Lebanese judicial authorities to ascertain the possible risk Mrs. Matsakova may face, including being subjected to torture or cruel, inhuman or degrading treatment or punishment as well as arbitrary detention and lack of access to due process of law, if

she is extradited to Russia, and how this assessment is compatible with international standards.

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.

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.

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism