

Mandates of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences

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(Please use this reference in your reply)

1 March 2023

Mr. Yevgeny Prigozhin,

We have the honour to address you in our capacities as Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on contemporary forms of slavery, including its causes and consequences, pursuant to Human Rights Council resolutions 51/13, 45/3, 44/5 and 51/15.

We are a group of independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic perspective. We are part of the special procedures system of the United Nations, which has 59 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention information we have received concerning the recruitment of prisoners serving their custodial sentences in Russian penitentiary facilities, for the private military and security contractor known as the Wagner Group, and their deployment in Ukraine.

According to the information received:

Since February 2022, members of the so-called Wagner Group have been visiting correctional facilities located in different regions of Russia and offering

Wagner Group

prisoners to join the group and participate in the war in Ukraine. It is alleged that prisoners in various facilities have been offered amnesty or pardon after six months of service with the Wagner Group, and a monthly payment of between 100 and 200 thousand Russian roubles (EUR 1,600 – 3,200) to be paid to the prisoners' relatives. The information provided suggests that by the end of October 2022 Wagner Group recruiters have visited approximately 63 correctional facilities in 34 Russian regions, and that around 7,130 prisoners have been recruited. In some cases, the recruiters offered financial compensation of up to 5 million roubles (EUR 68,000, approximately) to the relatives if a prisoner was killed in action and 300 thousand roubles (EUR 4,000, approximately) in case of injury. Furthermore, members of the Wagner Group are said to be primarily recruiting prisoners convicted of murder or robbery and having good physical condition, while those convicted of sexual offences or terrorism are excluded.

It has been reported that, in some cases, the recruiters visiting the penitentiary facilities were accompanied by the officers of the regional Department of the Federal Penitentiary Service (the FSIN) or Federal Security Service (FSB), and the recruiters carried firearms while interacting with the inmates. Recruitment interviews were allegedly undertaken at the detention facilities, and prisoners were asked to declare whether they would be interested in taking part in the conflict and their attitude towards the Russian authorities. It is reported that polygraphs were used during some of these interviews. There allegedly are also cases in which prisoners are being placed in disciplinary blocks after deciding not to join the Wagner Group. The allegations also indicate that in some cases after members of the Wagner Group left the prisons, so called “activists” or convicts who are used by the prison administration to enforce the discipline of other prisoners, exerted pressure on the inmates into accepting the offer and managed to persuade some of the prisoners to enlist with the Wagner Group. The use of such pressure tactics would suggest that recruitment was carried out under menace of penalty or intimidation and not on a strictly voluntary basis. Any work or service extracted from the prisoners by the Wagner Group under these conditions would therefore amount to forced or compulsory labour.

It is also reported that the Wagner Group has recruited foreign nationals serving sentence in Russia. Allegedly, in September 2022 over 40 foreign prisoners, including citizens of Ukraine, Uzbekistan, Tajikistan, Moldova, Serbia, and Egypt were recruited and transferred to Ukraine.

Furthermore, recruited prisoners are reportedly taken to IK-2, a detention facility located in the Rostov region to undertake training before being deployed to Ukraine. The prisoners are allegedly transferred without their identification documents and required to sign a contract with the Wagner Group. In some cases, relatives of the inmates have been unable to contact them through the electronic correspondence service and informed by the prison authorities that they had been transferred to another facility. However, prisoners had not informed their relatives about the transfer, some of these instances may amount to enforced disappearances or at least expose the inmates to such a risk.

Moreover, some relatives also informed that after the transfer prisoners contacted them asking for their passport details in order to authorize them to receive their salaries.

The Wagner Group has also extended its recruitment to correctional facilities in the Donetsk Region of Ukraine. Allegations also indicate that conscripted prisoners have been deployed in the Donetsk and Luhansk regions of Ukraine and involved in various activities including providing military services, rebuilding infrastructure in some Ukrainian cities, also directly participating in the conflict on the side of the Russian forces. The Wagner Group is also allegedly involved in the perpetration of violations of human rights and humanitarian law in the context of the ongoing armed conflict in Ukraine, including enforced disappearance of Ukrainian soldiers and officers they had captured in the context of hostilities with Ukrainian armed forces.

It is further reported that since the beginning of the recruitment drive, injured prisoners have been hospitalized in Luhansk and as of mid-October 2022, more than 500 recruited prisoners were killed in Ukraine. Allegedly, the recruited prisoners deployed in Ukraine are regularly threatened and ill-treated by their superiors, several prisoners have been executed for attempted escapes and in some cases publicly gravely injured as a warning for the other recruited individuals. Furthermore, all labour performed under such threat of injury or capital punishment would amount to forced or compulsory labour.

While we do not wish to prejudge the accuracy of this information, we are gravely concerned by the alleged exploitative and intimidatory recruitment of prisoners in Russian territory by the so-called Wagner Group and their deployment to Ukraine. We are notably concerned about the Wagner Group's involvement in military operations in Ukraine, including in alleged war crimes taking place, and also their alleged involvement in the perpetration of gross human rights violations in contravention with international humanitarian law and human rights law.

We also note that the deployment of personnel of the Wagner Group, including the recruited prisoners, contributes to the escalation and intensification of hostilities. The Working Group on the use of mercenaries has continuously expressed concern about the recruitment, financing, use and transfer of mercenaries and mercenary-related actors in conflict situations, noting that the presence of these private actors prolongs the conflict, acts as a destabilizing factor and increase the risk of human rights abuses and violations of international humanitarian law.

Furthermore, we are concerned about the lack of clarity in relation to the operations of the Wagner Group, and consequently, accountability regarding those responsible for the recruitment, financing and deployment of prisoners serving sentences in Russian prisons to Ukraine. This lack of transparency seriously impedes the ability of victims to access justice and remedy for human rights abuses committed and contributes to a context of impunity.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights and humanitarian 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 your exact role regarding the Wagner Group.
3. Please provide information on the legal status of the Wagner Group and related organizations, and whether they have been registered in any jurisdiction as legal entities.
4. Please provide information on the Wagner Group's management and ownership structures, as well as the chains of command.
5. Please provide information on the process of recruitment of personnel by the Wagner Group, and contractual agreements with the recruited individuals including the modes of payment for the provided services.
6. Please provide detailed information on the basis of the Wagner Group's presence in Ukraine, the role of the private military and security contractor in the country and the nature of its activities, including in combat operations.
7. Please provide information about the relationship between the Wagner Group and Russian armed forces, and any military chain of command.
8. Please provide information in relation to the alleged support provided by the Wagner Group to the Russian forces.
9. Please provide detailed information regarding the human rights due diligence policies and process put in place by the Wagner Group to identify and prevent adverse impacts on human rights caused by their activities and operations.
10. Please provide detailed information on the steps taken to ensure that persons captured by the members of the Wagner Group are not subjected to enforced disappearance.
11. Please highlight the measures that the Wagner Group is currently taking, or considering to take, to ensure the non-repetition of alleged violations and abuses perpetrated by personnel of the Wagner Group in other contexts and countries, and on which the Working Group has also expressed grave concern including those allegedly occurring in Central African Republic, Syria, Mali and Libya.

This communication and any response received from you 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 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 you to clarify the issue/s in question.

Please note that a letter addressing similar allegations was sent to the Government of the Russian Federation in January 2023, and that a copy of this letter will be sent to the Government as well.

Sincerely,

Ravindran Daniel Justin

Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Aua Baldé

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Tomoya Obokata

Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Annex

Reference to international human rights and humanitarian law

In connection with above alleged facts and concerns, we would like to draw your attention to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We wish to recall that both international humanitarian law and international human rights law continue to apply in a situation of armed conflict, and there are therefore certain obligations to respect fundamental human rights recognized in customary international law, including the Universal Declaration of Human Rights, the Geneva Conventions of 1949 and the Customary Rules of International Humanitarian Law identified in the study of the International Committee of the Red Cross (“Customary Rules”). Rules of customary international law are universally binding at all times.

The Universal Declaration of Human Rights enshrines in its article 6 the right of every individual to life and in article 5 the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, both provided for in the common article 3(1)(a) of the Geneva Conventions which categorically prohibits, “violence to life and persons in particular murder of all kinds, mutilation, cruel treatment and torture”, against those not taking active part in the hostilities.

The absolute and non-derogable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment applies at all times, including during armed conflict and other public emergencies. In the context of international and non-international armed conflict, or any other military operations, the obligation not to torture applies also to non-State actors. International humanitarian law prohibits any act of torture and other or cruel, humiliating and degrading treatment committed by organized armed groups in armed conflict.

We should like to recall that the International Convention for the Protection of All Persons from Enforced Disappearance considers "enforced disappearance" to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law (article 2).

Similarly, the preambular part of the 1992 Declaration on the Protection of all Persons from Enforced Disappearance, enforced disappearances occur when persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law. Furthermore,

enforced disappearance has been defined as a crime against humanity in article 7 (1) (i) of the Rome Statute of the International Criminal Court.

Today, the prohibition of enforced disappearance, together with the corresponding obligation to investigate and prosecute those responsible, have attained the status of *jus cogens*. Moreover, the customary international humanitarian law prohibits enforced disappearance (rule 98).

The Customary Rules are applicable to all parties to the international armed conflict. Under these Rules, parties must distinguish between combatants and civilians and direct attacks only against combatants (rules 1, 6 and 7). Acts or threats of violence, the primary purpose of which is to spread terror among the civilian population, are prohibited (rule 2). Indiscriminate attacks are also prohibited (rule 11). Further, launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, or damage to civilian objects, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited (rule 14). Parties to the conflict must “do everything feasible to verify that targets are military objectives” (rule 16) and take all feasible precautions to avoid and minimize incidental loss of civilian life (rule 15). Moreover, (rule 117) obliges parties to the conflict to “take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate”.

The Human Rights Council, in its resolution A/HRC/RES/42/9, requests all States to “exercise the utmost vigilance in banning the use of private companies offering international military consultancy and security services when intervening in armed conflicts or actions to destabilize constitutional regimes” (para 5). Similarly, General Assembly resolution A/RES/74/138 of 2019, stresses concerns over the “impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in armed conflicts” and noted that such “companies and their personnel are rarely held accountable for violations of human rights” (para 7). This resolution requests all States to “exercise the utmost vigilance in banning the use of private companies offering international military consultancy and security services when intervening in armed conflicts or actions to destabilize constitutional regimes” (para 5).

As set forth in the United Nations Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/31), all business enterprises have a responsibility to respect human rights. The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. Furthermore, it exists over and above compliance with national laws and regulations protecting human rights.

The Guiding Principles have identified two main components to the business responsibility to respect human rights. This requires that “business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed

to those impacts” (guiding principle 13). This dual-requirement is further elaborated by the requirement that the business enterprise put in place:

1. A policy commitment to meet their responsibility to respect human rights;
2. A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights. The business enterprise should communicate how impacts are addressed; and
3. Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute (guiding principle 15).

The guiding principles 25 to 31 provide guidance to business enterprises and States on steps to be taken to ensure that victims of business-related human rights abuse have access to effective remedy.

Finally, the Working Group on the use of mercenaries has noted that predatory recruitment is an emerging phenomenon whereby individuals are recruited as mercenaries or mercenary-related actors in a way that takes advantage of their situation of vulnerability and may involve coercion (A/HRC/51/25). Often, they are lured into enlisting by false promises of economic stability, sometimes without clarity in relation to the activities in which they will be involved, or in other cases falling victim to enlistment by mercenary-related entities that later withhold their salaries or even arrest and detain them. Others are recruited under duress or out of fear of reprisals against themselves or their families. These practices raise concerns about forced recruitment and trafficking of people for the purpose of providing mercenary-related services and activities. Furthermore, the Working has noted that targets of predatory recruitment suffer from multi-layered aspects of victimization, and many recruits are themselves primarily victims of armed conflicts. Their vulnerability is exacerbated in the recruitment process and aggravated through deployment in hostilities in foreign countries, putting their lives, liberty and physical integrity at risk.