

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the human rights of migrants**

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(Please use this reference in your reply)

27 June 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 52/4, 52/9, 44/8 and 52/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged refusal of entry to Georgia for human rights defenders Ms. **Dariana Gryaznova** and Mr. **Evgenii Smirnov** and the alleged recognition as a "threat to national security" and revocation of the residence permit of the latter, all of which were allegedly related to their legitimate human rights work. It is also alleged that the victims in question were not provided with any information or documentation concerning these decisions.

Ms. **Dariana Gryaznova** is a Russian woman human rights defender and lawyer. She litigates cases with a particular focus on women's rights and non-discrimination, as well as environmental rights and other human rights issues.

Mr. **Evgenii Smirnov** is a Russian human rights defender and lawyer. He has represented dozens of individuals and organisations in allegedly politically motivated cases and currently specialises in high treason and espionage cases in Russia. He also assists Ukrainian prisoners of war and refugees.

According to the information received:

Ms. Dariana Gryaznova and Mr. Evgenii Smirnov are both Russian citizens and have been in an unmarried partner relationship since January 2016.

While in Russia, both Ms. Gryaznova and Mr. Smirnov found themselves at risk because of their legitimate peaceful human rights work. Mr. Smirnov has faced surveillance since 2015, raids on his office in April 2021, disciplinary proceedings, and the closure of his human rights organisation, Team 29, which was deemed "undesirable" as per article 284.1 of the Criminal Code. Similarly, since 2021 Ms. Dariana Gryaznova has been targeted online by pro-government groups who slander her for her anti-war activism.

*Situation in Georgia*

Because of the increasing pressure, at the end of August 2021, Ms. Dariana Gryaznova and Mr. Evgenii Smirnov had to leave Russia and moved to

Georgia. Georgia was the most suitable country to continue their human rights work related to Russia because of the large community of Russian human rights defenders and proximity to Russia, making it easy to hold meetings and trainings with other human rights defenders.

According to the information received, the visa policy of Georgia allows Russian citizens to enter, reside, work, and study in Georgia without the necessity to obtain either a visa or a residence permit for one full year, and this term can be reset by departing and re-entering Georgia.

Ms. Gryaznova and Mr. Smirnov have developed close ties with Georgia and intended to stay there long-term. They have been learning Georgian since November 2021 and bought a house in May 2022. In May 2022, Ms. Gryaznova registered as an individual entrepreneur in Georgia.

Soon after moving to Georgia, Ms. Gryaznova and Mr. Smirnov started to encounter problems with re-entering the country. Their documents were photographed at the border and sent somewhere, and they were asked to wait while their entry was coordinated over the phone. As a result, they had to minimise their work trips outside Georgia.

In August 2022, Mr. Smirnov travelled to the Czech Republic to interview a witness in the case of one of his clients. Upon his return, on 22 August 2022, he was refused entry to Georgia at the border at the Tbilisi Airport and deported to Istanbul, the destination of his stopover on his way to Tbilisi, without any explanation. On 9 September 2022, upon a repeated attempt to return, he was allowed to enter the country.

On 26 September 2022, Mr. Smirnov applied for a temporary residence permit, on the grounds of owning a house in Georgia. On 6 October 2022, his residence permit request was granted by the Public Service Development Agency under the Ministry of Justice of Georgia. However, on 12 October 2022 it was revoked based on the decision of the Security Service of Georgia that he “represented a threat to national security.” The Security Service of Georgia allegedly refused to provide Mr. Smirnov and his lawyer with any reasons for treating him as a “threat to national security,” claiming that it was a State secret. Mr. Smirnov appealed the decision on the residence permit revocation with the Tbilisi City Court, but the court dismissed his appeal on 16 January 2023.

In March 2023, Ms. Gryaznova travelled to Turkey for a human rights defenders’ conference. Upon her return, on 28 March 2023, she was refused entry to Georgia at the border at the Tbilisi Airport and deported to Turkey under the following circumstances.

At around 4.50 p.m., a police officer with badge no. 3743, carrying out border control, reviewed her passport, a letter from the UN Special Rapporteur on the situation of human rights defenders confirming her human rights defender’s status, and documents confirming her ownership of property and her registration as an individual entrepreneur in Georgia, photographed the passport and the letter and sent them to someone by phone. At 4.56 p.m., other police officer allegedly came to passport control, took Mr. Gryaznova’s

documents, and asked her to wait outside of a passenger line.

At around 5.10 p.m., the third police officer who did not wear a badge approached Ms. Gryaznova to ask some questions about her work, her life in Georgia, her reasons for being there, and when she was going to leave. He allegedly came back with additional questions several times, periodically leaving the desk to join a plainclothes officer without a badge, as they were allegedly messaging and calling someone. At around 5.30 p.m., he allegedly informed Ms. Gryaznova that she was refused entry and would be deported. He allegedly refused to provide any reasons or documents about the decision.

At around 5.50 p.m., Ms. Gryaznova was allegedly escorted to the plane by the third officer and two other officers and several minutes later, she was deported to Istanbul. She has since then not tried to return to Georgia to her home and partner.

Ms. Dariana Gryaznova's and Mr. Evgenii Smirnov's case appears to be a part of a broader trend affecting Russian human rights defenders, journalists, and activists entering Georgia, including those who had to flee Russia and relocated to Georgia for safety months earlier. According to the information received, refusals of entry and deportations without an explanation, allegedly related to the affected persons' activity, have been taking place since summer 2021 and have become more frequent since 2022.

Without wishing to prejudge the accuracy of the information received, we wish to express concern at the allegations that Ms. Dariana Gryaznova and Mr. Evgenii Smirnov were not provided with the information and documents concerning their refusals of entry to Georgia and reasons for Mr. Evgenii Smirnov's recognition as a "threat to national security of Georgia," which allegedly led to the revocation of his residence permit. In view of this, we are also concerned at the allegations that all these decisions may be related to Ms. Dariana Gryaznova's and Mr. Evgenii Smirnov's legitimate peaceful human rights work, including their work as human rights lawyers. We are also seriously concerned with allegations that their case is representative of a broader trend targeting Russian human rights defenders, journalists, and activists entering Georgia.

The legal profession and its free exercise are an essential element of the rule of law, the protection of human rights, and the functioning of an independent judicial system. According to international standards, States must guarantee that those who practice law can do so free from intimidation, obstacles, harassment or interference. States must put in place all appropriate measures to ensure that lawyers are not subject to, or threatened with, prosecution or any administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics. International and regional standards also expressly prohibit the identification of lawyers with their clients or their clients' causes in the discharge of their professional duties. On the other hand, all migrants are entitled to the protection of the human rights framework, without any discrimination. States have the obligation to respect, protect and promote the rights of everyone in their territory or within their jurisdiction, including migrants, and regardless of their status.

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 about specific reasons for refusing entry to Georgia and deporting Mr. Evgenii Smirnov on 22 August 2022 and Ms. Dariana Gryaznova on 28 March 2023, as well as the legal and factual grounds of these decisions, and how these are compatible with international human rights standards.
3. Please provide information about specific reasons for considering Mr. Evgenii Smirnov a “threat to national security of Georgia,” as well as the legal and factual grounds of revoking his residence permit on 12 October 2022.
4. Please provide information about the grounds for not providing Mr. Evgenii Smirnov and Ms. Dariana Gryaznova the reasons for abovementioned refusals of entry and deportations and for considering Mr. Smirnov a “threat to national security,” as well as not providing relevant documents, and explain how this is compatible with your Excellency’s Government’s obligations under article 19 of the ICCPR.
5. Please provide information on measures taken by your Excellency’s Government to ensure that all human rights defenders in Georgia, including foreign nationals, are able to carry out their legitimate and peaceful work freely in an enabling and safe environment.

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 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.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

Felipe González Morales  
Special Rapporteur on the human rights of migrants

## **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), which guarantees the right to freedom of expression, including freedom 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), this article embraces the right of access to information held by public bodies (paragraph 18). Such information includes records held by a public body, regardless of the form in which the information is stored, its source, and the date of production (Ibid.).

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, they may only be imposed for one of the grounds set out in article 19(3)(a) and (b) (respect of the rights or reputations of others, protection of national security or of public order (*ordre public*), or of public health or morals), and they must conform to the strict tests of necessity and proportionality. As interpreted by the Human Rights Committee in general comment no. 34 (CCPR/C/GC/34), restrictions must not be overbroad (paragraph 34). As the Human Rights Committee observed in general comment no. 27 (CCPR/C/21/Rev.1/Add. 9), restrictions "must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected" (paragraph 14). According to the Human Rights Committee's general comment no. 34 (CCPR/C/GC/34), when a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualised fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat (paragraph 35).

We would also like to refer your Excellency's Government to article 17 of the ICCPR, which provides for the right to privacy. As observed in Human Rights Committee's general comment no. 16 (HRI/GEN/1/Rev.9 (Vol. I) p. 191), every individual should have the right to ascertain in an intelligible form, whether, and if so, what personal data is stored in automatic data files, and for what purposes (paragraph 10). Every individual should also be able to ascertain which public authorities or private individuals or bodies control or may control their files; and if such files contain incorrect personal data or have been collected or processed contrary to the provisions of the law, every individual should have the right to request rectification or elimination (Ibid.).

With regard to Mr. Smirnov's appeal of the revocation of residence permit, we would also like to refer your Excellency's Government to article 14 of the ICCPR, which guarantees the right to equality before courts and tribunals and to a fair trial.

According to the Human Rights Committee's general comment no. 32 (CCPR/C/GC/32), the right to equality before courts and tribunals ensures equality of arms, meaning that the same procedural rights are to be provided to all the parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant (paragraph 13). The principle of equality between parties demands, *inter alia*, that each side be given the opportunity to contest all the arguments and evidence adduced by the other party (Ibid.).

Finally, we would like to refer to article 23 of the ICCPR, according to which the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

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 are required by article 2(1) to respect and to ensure the rights laid down in the ICCPR to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party. The enjoyment of 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 in the territory or subject to the jurisdiction of the State Party. Similarly, we would like to refer Your Excellency's Government to the principle of non-discrimination enshrined in article 2 of the Universal Declaration of Human Rights, and article 2 and 26 of the ICCPR, which provide that every individual is entitled to the protection of their rights and freedoms without discrimination or distinction of any kind, and that all persons shall be guaranteed equal and effective access to remedies for the vindication of those rights and freedoms.

As observed by the Human Rights Committee in paragraph 5 of the general comment no. 15 (HRI/GEN/1/Rev.9 (Vol. I) p.189), the ICCPR does not recognise the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the ICCPR even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment, and respect for family life arise.

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 (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, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the Declaration are effectively guaranteed.

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, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- 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(5), which establishes that the State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.
- Article 12(2), 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.

We would also like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana (Cuba), 27 August-7 September 1990).

Principle 16 requires governments to take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to prevent lawyers from being threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Principle 18 provides that lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions. This principle must be read in conjunction with principle 16(c), referred to above, which requires national authorities to adopt all appropriate measures to ensure that lawyers are not subject to, or threatened with prosecution or any other administrative, economic or disciplinary sanctions for actions undertaken in good faith in the exercise of their professional duties and responsibilities.

In addition, we would also like to refer to the report of the Special Rapporteur on the human rights of migrants, on the right to freedom of association of migrant and their defenders (A/HRC/44/42). In this report, the Special Rapporteur highlighted that protecting migrants' civic freedoms is of particular importance, as many migrants cannot effectively exercise their political rights in their country of destination. Given



the interconnected nature of human rights, restrictions on freedom of association of migrants and their defenders further hinder migrants' enjoyment of other rights.

Finally, we would like to recall objectives 16 and 17 of the Global Compact for Safe, Orderly and Regular Migration, by which States committed to empower migrants and societies to realize full inclusion and social cohesion and to eliminate all forms of discrimination, including by protecting freedom of expression in accordance with international law.