

**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 15/2023  
(Please use this reference in your reply)

27 July 2023

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 52/4, 51/8 and 52/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the persistent judicial harassment, namely the two pending administrative charges, against the human rights defender **Mr. Abdureshit Dzhepparov**.

**Mr. Abdureshit Dzhepparov** is a human right defender and activist of the Crimean Tatar National Movement. He has raised awareness surrounding the issues faced by the indigenous community of Crimean Tatar people and has advocated for the community's right to return to their homeland after they were deported from the region in 1944, following the occupation of the region by the USSR. Moreover, Mr. Abdureshit Dzhepparov has coordinated the 'Crimean Contact Group on Human Rights', which deals with enforced disappearances on the Russia-occupied Crimean peninsula. Aside from this, the human rights defender has co-founded several other human rights initiatives, including the groups 'Crimean Solidarity' and '**Qirim Gayesi**'. The latter of these, which translates as "Crimean Idea", is human rights organisation which monitors violations of international humanitarian law in the Russia-annexed Crimean Peninsula and which issues news publications and overviews in relation to this. In 2020, Mr. Abdureshit Dzhepparov received a nomination for the Nobel Peace Prize.

Concerns relating to the prosecution of Mr. Abdureshit Dzhepparov in retaliation for his work in defence of human rights have previously been raised with your Excellency's government in a communication RUS 5/2022 sent on 22 April 2022. We acknowledge the response by your Excellency's Government to this communication, received on 8 June 2022, and appreciate the engagement of the Russian Federation with Special Procedures mandate holders on this occasion. Prior to this, on 28 March 2022, in our communication RUS 3/2022, we also raised our concerns with your Excellency's Government in connection to arbitrary detentions, attacks and violations of other fundamental freedoms perpetrated by state authorities in response to anti-war demonstrations, to which we have still received no response. We look forward to your Excellency's continued engagement with Special Procedures where these replies are still outstanding and, furthermore, we express our sincere concern at the clear pattern of violations against human rights defenders and anti-war protestors in the Autonomous Republic of Crimea and city of Sevastopol, Ukraine, occupied by the Russian Federation ("Crimea").

*According to the information received:*

On 27 September 2014, two of Mr. Dzhapparov's sons and his nephew were forcibly disappeared near the Crimean Tatar village of Sary-Su in the Bilohirsk district following continued harassment by state authorities.

On 19 August 2019, Mr. Dzhapparov published a video on social media where he made comparisons between a Soviet military march song, "Aviator's March" and a song from the Nazi regime in Germany.

On 16 March 2022, Federal Security Service of Russia (FSB) officials searched Mr. Dzhapparov's home in Sary-Su village of Bilogorsk District in Russia-annexed Crimea. They seized Mr. Dzhapparov's hard-drives, detaining his relatives and lawyer, and forbidding the presence of the latter as part of the search. We recall that in a reply dated 8 June 2022, your Excellency's government stated that the hard drive in question was returned to Mr. Dzhapparov on 31 March 2022.

On the same day, Mr. Dzhapparov and his lawyer appeared before the Belogorsk District Court on the charge of "propaganda and public display of Nazi paraphernalia and symbols" under article 20.3 of the Code of Administrative Offences of the Russian Federation pertaining to his video on 19 August 2019. He was given a 15 day administrative sentence in Evpatoria Temporary Detention Centre before being released on 31 March 2022.

On 25 April 2023 at 7 a.m., unidentified individuals wearing Russian military uniforms raided Mr. Abdureshit Dzhapparov's family home in Bilohirsk, in Russian-annexed Crimea. During the raid, it is reported that the phones of the human rights defender and his wife were seized immediately, as well as the laptop belonging to Mr. Dzhapparov. Furthermore, both Mr. Dzhapparov and his wife were forbidden from contacting their lawyers or any other person during the course of the raids.

Following the raid, these same individuals in military uniform reportedly kidnapped the human rights defender and brought him to an unknown location. At his disappearance, both his family members and his lawyer made efforts to track down the location of Mr. Dzhapparov by contacting the Russian Federal Security Service, the local department of the Ministry of Interior and the Center for Combating Extremism to seek information as to his whereabouts. However, when questioned as to Mr. Dzhapparov's location, the representatives of these government bodies denied that Mr. Dzhapparov was being detained on their premises.

Later on the same day, sometime after 9 p.m., Russian authorities communicated to Mr. Dzhapparov's lawyer and family that the human rights defender had in fact been transferred to the Detention Centre for Administrative Detainees, located in the police precinct of Zaliznychnyi district, in the city of Simferopol.

On 25 April 2023, Mr. Dzhapparov was charged with the administrative offence of "disobedience to the lawful order of a police officer," as per article 19.3 of

the Code of Administrative Offences of the Russian Federation, which carries a punishment of 12 days detention. This sentence was on account of allegedly obstructing the seizure of his laptop during the course of the raid on his home. Mr. Dzhepparov's lawyer was not informed as to when and where the court hearing took place, and consequently was not in attendance. Moreover, it is reported that Mr. Dzhepparov was not informed that he was facing administrative charges until he was present in the courtroom at his hearing, having been misleadingly advised beforehand that the raid on his home was nothing more than a "preventative measure".

On 7 May 2023, Mr. Dzhepparov was released after completing his 12 day administrative sentence. Reportedly, the group of people that had gathered at the site of his release were forcibly dispersed by police officers. These same police authorities also took the details of three human rights lawyers who were in attendance at the scene.

Furthermore, it is reported that, following the raid on Mr. Dzhepparov's family home, and while in possession of his laptop, Russian law enforcement officers reviewed the Facebook page of "Qirim Gayesi", the human rights organisation of which Mr. Dzhepparov is a cofounder.

Subsequent to this investigation, it is reported that Mr. Dzhepparov received two administrative charges in connection with social media posts that Russian law enforcement authorities, as a consequence of this review, believe him to have authored. Though these were also issued in April, Mr. Abdureshit Dzhepparov was not made aware of them until May.

The first administrative charge against Mr. Dzhepparov relates to a post on the "Qirim Gayesi" Facebook page, dated 3 March 2023, which commented on the transfer and incommunicado detention of civilian hostages from other Russian-occupied territories to Crimea. It also specifically discussed the illegal forced transfer of children from an orphanage in the formerly Russia-occupied Kherson region of Ukraine to Crimea. In the post, the Russian Federation was referred to as the "occupying power." This post, the Prosecutor for the case has stated, may amount to what is termed "discrediting the use of the Armed Forces of the Russian Federation," an administrative offence articulated in article 20.3.3 of the Russian Code of Administrative Offences. The human rights defender has maintained that, while he has been involved in the work of "Qirim Gayesi", he was not responsible for writing the Facebook post in question, since he does not administer the social media accounts belonging to the organisation.

The second administrative charge that Mr. Dzhepparov has been faced with is an alleged "abuse of freedom of the mass media," an administrative offence as per part 9 of article 13.15 of the Russian Code of Administrative Offences. This charge is similarly in connection with a Facebook post issued by "Qirim Gayesi" which commented on the sounds of explosions near the city of Feodosia on 8 April 2023, as well as the forced conscription of Crimean Tatars by the occupying authorities.

On 13 June 2023, the hearing on the first of these administrative cases against

the human rights defender, concerning the charge of “discrediting the use of the Armed Forces of the Russian Federation,” as per article 20.3.3 of the Russian Code of Administrative Offences, began in the Kyivskyi District Court in Simferopol in Russian-occupied Crimea.

On 26 June 2023, the court proceeded with the next hearing of Mr. Dzhepparov, in which they agreed to interrogate him.

In total, it is understood there has been four hearings associated with this case, each lasting over 2 hours, with the fourth and final hearing taking place on 7 July 2023. The judge agreed to hear the testimonies of the police investigator, as well as the two attesting witnesses who had been present at the time of the raids on Mr. Dzhepparov’s house on 25 April 2023. This is because it was mentioned in the protocol that Mr. Dzhepparov claimed that “Qirim Gayesi” was “his page” during the raid. However, in the course of the hearings, only the police investigator, Roman Filatov, and one of the attesting witnesses gave testimony. Furthermore, no other expert examinations were made, or other evidence presented.

On 4 July 2023, the case concerning the second administrative charge against Mr. Dzhepparov, “abuse of freedom of the mass media,” as per article 13.15 of the Russian Code of Administrative Offences, was transferred from the court in Simferopol to the Bilohirsk court in Crimea, where he lives. The date for the first hearing has still not been set and Mr. Dzhepparov has not yet received the court summons.

On 7 July 2023, the Kyivskyi District Court of Simferopol in Russian-occupied Crimea fined Mr. Dzhepparov 45,000 rubles, in relation to the first administrative offence against him; “discrediting the use of the Armed Forces of the Russian Federation,” as per article 20.3.3 of the Russian Code of Administrative Offences.

Without wishing to prejudge the accuracy of the information received, we express our grave concern at the reported judicial harassment of Mr. Dzhepparov, which appears to be in retaliation to his work as a human rights defender. Our concerns in this regard are aggravated by the apparent violations of due process guarantees in Mr. Dzhepparov’s case, including the fact that his transfer to Simferopol and his hearing on 25 April 2023 took place without his lawyer being duly notified. We are further concerned that the judicial harassment against Mr. Dzhepparov may have a broader chilling effect on freedom of expression and association in Crimea.

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 the above-mentioned individual from irreparable harm and without prejudicing any eventual legal determination. It is relief *pendente lite*.<sup>1</sup>

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<sup>1</sup> Article 41 ICJ Statute ‘Interim Protection’: Part III, Section D (Incidental Proceedings), Subsection 1

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 concerning the legal grounds for the arrest and detention of Mr. Abdureshit Dzhepparov and how these measures are compatible with international norms and standards as stated, *inter alia*, in the UDHR and the ICCPR. Please provide information on whether all detainees have access to family members, legal counsel, and medical personnel.
3. In connection with the above, please provide information on the access of human rights lawyers and human rights monitors to the detention and trials of human rights defenders, and on the mechanisms in place to ensure that the legal counsels are duly informed as to when these trials will take place.
4. Please explain what measures have been taken to ensure that all human rights defenders in Crimea, in particular those working on issues of rights pertaining to the Crimean Tatar indigenous community and anti-war sentiments, can carry out their peaceful and legitimate activities without fear of judicial harassment, or other restrictions.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the 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.

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.

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

Matthew Gillett  
Vice-Chair on communications 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**

While we do not wish to prejudge the accuracy of these allegations, we call the attention of your Excellency's Government to articles 9, 14, 19, 21 and 22 of the International Covenant on Civil and Political Rights ("ICCPR"), ratified by the Russian Federation on 16 October 1973, which guarantee the rights not to be arbitrarily deprived of liberty, to a fair trial, to freedom of opinion and expression and to freedom of peaceful assembly, and the right to freedom of association respectively.

We would like to draw the attention of your Excellency's Government to article 9 of the ICCPR, which in its first paragraph guarantees the right to freedom from arbitrary detention and establishes that no one shall be deprived of their liberty except on such grounds and in accordance with such procedure as established by law. We wish to recall that any deprivation of liberty resulting from the legitimate exercise of the rights guaranteed by the ICCPR is arbitrary (see also CCPR/C/GC/35, para. 17). 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. 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 also like to refer your Excellency's Government to article 9(4) of the ICCPR, whereby anyone who is deprived of his 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.

We further recall that detained persons should have access, from the moment of arrest, to legal assistance of their own choosing. In its most recent report to the Human Rights Council (A/HRC/45/16), the Working Group on Arbitrary Detention highlighted that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty, and that such assistance should be available at all stages of criminal proceedings, namely, during pretrial, trial, re-trial and appellate stages, to ensure compliance with fair trial guarantees (see paras. 50-55).

The freedom of opinion and expression is integral to the enjoyment of the rights to freedom of peaceful assembly and of association (general comment 34 of the Human Rights Committee para. 4). The Human Rights Committee has affirmed that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression and that paragraph 3 (of article 19) may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights" (id. para. 23). The penalisation of individuals solely for expressing critical opinions about the government or the social system espoused by the government is incompatible with article 19 (id. para. 42). Moreover, attacks 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, are incompatible with article 19 (id. para. 23). “All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (id. para. 23).

We wish to underscore that failure to notify authorities of an assembly does not render it unlawful, and consequently should not be used as a basis for dispersing the assembly. We further note that this applies equally in the case of spontaneous assemblies, where prior notice is otherwise impracticable or where no identifiable organizer exists (A/HRC/31/66 para. 23).

Article 19 of the ICCPR guarantees the right to freedom of expression, which includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”. Under article 19 (3) of the ICCPR, any restriction on the right to freedom of expression must be: (i) provided by law; (ii) serve a legitimate purpose; and (iii) be necessary and proportional to meet the ends it seeks to serve. In this context, we would like to recall that in its General Comment no. 34, the Human Rights Committee emphasized that article 19 protects inter alia, political discourse, commentary on one’s own and on public affairs, discussion on human rights, journalism, cultural and artistic expression, teaching and religious discourse among others. The rights to freedom of opinion and expression also form the basis for the full enjoyment of a wide range of other human rights, including the right to freedom of association, as also stated in general comment no. 34. In this connection, we recall that the Human Rights Council, in its Resolution 12/16, called on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We wish to emphasise that any restrictions to the exercise of these rights must be provided by law and be necessary and proportionate to the legitimate aim. As the Human Rights Committee observed in General Comment No. 27 (CCPR/C/21/Rev.1/add. 9), restrictive measure 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).

We also recall that according to article 21 of the ICCPR, “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. The ‘provided by law’ requirement means that any restriction ‘must be made accessible to the public’ and ‘formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly’ (CCPR/C/GC/34).

We would also 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state 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.

Furthermore, 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 5 (a), which provides for the right to meet or assemble peacefully;
- article 6 (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- and article 12, paragraphs (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 his or her legitimate exercise of the rights referred to in the Declaration.

Finally, we would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.