

**Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Russian Federation and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL RUS 21/2023  
(Please use this reference in your reply)

28 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Russian Federation and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 52/7, 51/8, 44/5, 52/9, 50/17, 44/8, 51/25 and 49/10.

We are writing to follow-up on the case of Mr. Alexei Navalny, particularly in light of a change of circumstances in connection with the sentence handed down of nineteen years of imprisonment on 4 August 2023.

The case of Mr. Navalny has been raised by Special Procedures on different occasions, most recently in UA RUS 5/2023, as well as in AL RUS 4/2021, AL RUS 11/2020 and UA RUS 7/2020<sup>1</sup>. We thank Your Excellency's Government for the replies provided to AL RUS 4/2021 and UA RUS 7/2020.

We regret that no reply has so far been received to UA RUS 5/2023 and to AL RUS 11/2020.

We recall that UA RUS 5/2023 focused on the overall conditions of detention of Mr. Navalny, including his alleged placement in solitary confinement over a period of approximately seven months, and his reportedly deteriorating health situation. In that urgent appeal, we recommended that Mr. Navalny be provided with urgent, adequate and comprehensive medical care, treatment and monitoring of his health situation, as appropriate, in a civil hospital.

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<sup>1</sup> See UA RUS 5/2023: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28059>; thus far no reply from the Government was received. See also AL RUS 4/2021: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26110>, the Government's reply can be accessed through the following link: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36165>; AL RUS 11/2020: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25830>, thus far no reply from the Government was received; and UA RUS 7/2020: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25527>, the Government's reply can be accessed through the following link: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35646>.

AL RUS 11/2020 concerned, *inter alia*, the assassination attempt against Mr. Navalny, allegedly perpetrated in August 2020, with lethal nerve agent Novichok, and the corresponding obligation incumbent upon the Government of the Russian Federation to effectively investigate the event in full compliance with international human rights standards.

We hope to receive substantive replies to these two communications as soon as possible and respectfully call on the Government of the Russian Federation to address all the concerns raised therein, in a comprehensive and thorough manner.

According to the new information received, on 4 August 2023, the Moscow City Court sentenced Mr. Alexei Navalny to nineteen years of imprisonment in a penal colony on different charges, including financing and inciting “extremism” and “rehabilitating the Nazi ideology”. These were reportedly related to the activities of the Anti-Corruption Foundation, the organization established by Mr. Navalny in 2011.

Mr. Navalny’s trial reportedly took place behind closed doors in the federal penal colony n. 6 of the Vladimir Oblast Department (known as “IK-6”), where he is currently serving a nine-year sentence, for alleged fraud and contempt of court<sup>2</sup>.

It is alleged that the new sentence imposed on Mr. Navalny, as the previous ones and his continued detention, are politically motivated, and are meant, in reality, to suppress dissent and intimidate or silence all forms of political opposition in the country.

We do not wish to prejudge the accuracy of the above-mentioned allegations. However, particularly in light of the absence of replies from Your Excellency’s Government to UA RUS 5/2023 and to AL RUS 11/2020, we cannot but reiterate all the concerns previously expressed in relation to the present case, particularly with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment (article 5 of the Universal Declaration of Human Rights (UDHR); article 7 of the International Covenant on Civil and Political Rights (ICCPR); and articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by the Russian Federation in 1987); the right to life (article 3 of the UDHR, and article 6 of the ICCPR); the right to liberty and security of the person (articles 9 of the UDHR and the ICCPR); the right to due process and fair trial (article 10 of the UDHR and 14 of the ICCPR); as well as the right to freedom of opinion and expression (article 19 of the UDHR and article 19 of the ICCPR); and the rights to freedom of peaceful assembly and association (article 20 of the UDHR and articles 21 and 22 of the ICCPR).

More specifically, we are writing on this occasion to express our continued concern at the overall conditions of detention in which Mr. Navalny is deprived of his liberty, including in light of his reportedly serious health situation. We stress that failing to provide dignified conditions of detention and adequate health provision, individually or cumulatively considered, could amount to torture or other cruel, inhuman or degrading treatment or punishment, and should therefore be effectively investigated, as per article 13 of the CAT, without delay. We are also seeking information concerning the location and conditions where Mr. Navalny may be

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<sup>2</sup> For more details see UA RUS 5/2023

transferred under the new sentence.

We also warn, once again, against the risk that, as they may entail life-threatening health risks, they could also amount to violations of Mr. Navalny's right to life, particularly if he is not provided with adequate and comprehensive medical care, treatment and monitoring of his health situation, including in a civil hospital, as appropriate.

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 – as well as those previously sent concerning AL RUS 11/2020 - 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 updated information on the present state of physical and mental health of Mr. Alexei Navalny; please provide information in detail on his current conditions and protocols of detention; and please provide details of the individualised assessment made of the location for where Mr. Navalny is expected to serve his most recent sentence, and the suitability of that location given his physical and mental health conditions.
3. Please also provide information on any measure taken to protect Mr. Navalny's life and preserve his health and well-being, including timely access to adequate medical care, as appropriate.
4. Please provide information as to investigations undertaken, and action taken, in respect of these allegations.
5. Please explain whether the most recent sentence to nine years of imprisonment, pronounced in August 2023, was delivered as a result of a trial conducted in compliance with all the due process and fair trial guarantees, in accordance with article 14 of the International Covenant on Civil and Political Rights.
6. Please provide detailed and substantive information in response to the questions raised in UA RUS 5/2023 and AL RUS 11/2020.

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.

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

Matthew Gillett  
Vice-Chair of the Working Group on Arbitrary Detention

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

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

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

Mariana Katzarova  
Special Rapporteur on the situation of human rights in the Russian Federation

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

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, the relevant provisions of international human rights law are already referred to in UA RUS 5/2023 and AL RUS 11/2020, to which reference is to be made.

On this occasion, we wish to emphasise article 5 of the Universal Declaration of Human Rights (UDHR); article 7 of the International Covenant on Civil and Political Rights (ICCPR); and, at least, articles 1, 2 and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) which establish the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment.

Attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute or extradite suspects, to punish those responsible and to provide remedies to victims<sup>3</sup>.

Victims of torture are to be protected from reprisals or intimidation (article 13 CAT) and have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (article 14 CAT)<sup>4</sup>.

We further refer to the body of standards and guidelines governing conditions of detention and treatment, not least the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), to which previous extensive references were made.

We also recall articles 21 and 22 of the ICCPR, which protect the rights to freedom of peaceful assembly and association. Everyone shall have the right to freedom of association with others, to pursue common interests, including the right to form and join political parties. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. The rights to freedom of peaceful assembly and freedom of association can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and the restrictions must be a necessary and proportionate means of achieving that purpose within a democratic society, with a strong and objective justification.

With regards to the most recent conviction of Mr. Navalny, we are alarmed by the use of counterterrorism and “extremism” legislation, notably in relation to

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<sup>3</sup> See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/52/30): <https://www.ohchr.org/en/documents/thematic-reports/ahrc5230-good-practices-national-criminalization-investigation>;

<sup>4</sup> See Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition): <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0>; as well as the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse#:~:text=Victims%20should%20be%20treated%20with,harm%20that%20they%20have%20suffered.>

organizing an extremist community (article 282.1, part 3 of the criminal code of the Russian Federation); desecration of symbols of Russian military glory (article 354.1, part 3); publicly calling for extremist activities (article 280, parts 1 and 2); organizing an association infringing upon individuals' rights and freedoms (article 239, part 2); involvement of a minor in carrying out anti-social actions endangering life (article 151.2, paragraphs a), b) and c) of part 2); justifying terrorism (article 205.2, part 2); and financing extremist activities (article 282.3, part 2), for the apparent purpose of silencing dissent. In this respect, we remind your Excellency's Government that counter-terrorism legislation should not be used to criminalize protected activities of civil society and human rights defenders, including freedom of expression as protected by international law (article 19, ICCPR) and the full scope of rights that enable a functioning civic space. States must ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. (Human Rights Council 22/6, OP 10).

It is counter to international human rights law for States to apply counter-terrorism legislation in order to criminalize freedom of expression or views, or to make non-violent criticism of State policies or institutions a criminal offence. (A/HRC/37/52 para. 47).