

**Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in the Russian Federation**

Ref.: AL RUS 23/2023  
(Please use this reference in your reply)

25 October 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights in the Russian Federation, pursuant to Human Rights Council resolutions 46/9, 52/9 and 51/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a series of legislative measures that are used to repress artistic expression and independent art and discourage political dissent through artistic expression in the Russian Federation.**

In that connection, previous related correspondence includes:

- a) the communication to your Excellency's Government on 5 February 2018 (OL RUS 2/2018) regarding the adoption and subsequent amendments to Federal Law No. 327-FZ dated 25 November 2017 ("Foreign Agent Media Law");
- b) the communication to your Excellency's Government on 1 May 2019 (OL RUS 4/2019), through which concerns were conveyed in relation to recently passed amendments to the law on "Information, Information Technologies and Information Protection" and the Code on Administrative Offenses, criminalizing "fake news" and "blatant disrespect for society, government, official government symbols, constitution or governmental bodies of Russia", as well as Amendments to the Code of Administrative Offenses on the distribution of foreign print media;
- c) the communication to your Excellency's Government on 30 November 2022 (JOL RUS 16/2022), through which concerns were conveyed in relation to Federal Law No. 121-FZ dated 20 July 2012 ("Foreign Agents Law") and its amendments; in particular, the concerns that the measures adopted in the Foreign Agents Law do not appear to conform with your Excellency's Government's international legal human rights obligations, in particular with regard to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Specifically, the law and its amendments would infringe on a number of fundamental human rights and would not meet the required thresholds of necessity, proportionality and non-discrimination under international law;
- d) the communication to your Excellency's Government on 16 August 2023 (JOL 20/2023), through which concerns were conveyed in relation to

Federal Law No. 386 “On Amendments to Certain Legislative Acts of the Russian Federation” (dated 24 July 2023). In particular, concerns were conveyed about a new bill banning legal recognition of gender identity and gender-affirming health care.

We welcome the replies of your Excellency’s Government to communication OL RUS 2/2018 (response dated 6 April 2018) and to communication JOL 16/2022 (response dated 13 February 2023). However, we reiterate our concerns expressed in those communications, to which we must add concerns about the use and implementation of this repressive legislative framework to quash dissent in relation to the invasion to Ukraine.

According to the information received:

The 2022 enlargement of the 2012 Foreign Agent Law enables authorities to include virtually anyone who is claimed to be influenced by foreign forces. Those identified as foreign agents face restrictions in their participation in key aspects of public life. Among those impacted are a significant number of artists.

In addition, provisions of the Criminal Code related to terrorism, anti-state activities, “discrediting the army” and spreading “false information” about the military or the war, as well as the 2002 Law on Combatting Extremist Activity, are used to prosecute, arrest and detain political opponents and dissenters critical of the government, including artists.

Since the 2022 invasion of Ukraine by the Russian Federation, artists have expressed anti-war statements. The legislation in place has been used to persecute and prosecute them. Artists participating in public performances such as the reading of poems and works with anti-mobilization and anti-draft themes have been arrested and detained. Plays by artists critical of the Government and the war have also been removed from theatres’ repertoires. The heightened campaign of repression following the 2022 invasion has also prompted many artists to leave the country.

The consolidation of state control over cultural institutions has been marked by resignations, firings, and replacements of artists who express opposition to the government, depriving them of work and money. Changes in leadership at various state theatres highlight this trend. Renowned establishments, such as The Gogol Center, have been forced to close, with numerous artists expressing concerns about the loss of cultural institutions.

This legislative context also provokes a crackdown on LGBTQ individuals and artistic expression, LGBTQ identities being depicted as undesirable Western imports that endanger national security, and as a form of “pure Satanism.” Russia has reportedly relied on its LGBT propaganda law to censor and eliminate books and artworks. Self-censorship is also reported, with streaming services altering or removing LGBTQ-related content. The law regarding the “insulting of religious feelings of believers” also offers a tool to curtail artistic expression.

Without wishing to prejudge the accuracy of the information received, we wish to express our concern as to the legislative framework put in place to enable systematic prosecution and repression of artists, cultural figures, and writers critical of the Government, particularly since the invasion of Ukraine by the Russian Federation. This framework is used to control artistic expression, discourage political dissent through artistic expression, and restrict independent art and creativity.

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 indicate how the Russian Federation reconciles its internal legislative framework with its obligations under international human rights law, in particular those referred to in the Annex.
3. Please indicate what measures have been put in place to ensure that artistic expression remains free from undue political influence and censorship.

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.

Please accept, Excellency, the assurances of our highest consideration.

Alexandra Xanthaki  
Special Rapporteur in the field of cultural rights

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

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

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to article 15 of International Covenant on Economic, Social and Cultural Rights (ICESCR), which the Russian Federation acceded on 16 October 1973, protecting the right of everyone to take part in cultural life. Under this provision, States Parties have also undertaken to respect inter alia the freedom indispensable for creative activity.

The Committee on Economic, Social and Cultural Rights, in its 2009 General Comment 21 on the right to take part in cultural life (E/C.12/GC/21) stressed that States must refrain from interfering with the exercise of and the access to cultural practices, goods and services. It further recalled the right of everyone to seek, receive and impart information and ideas of all kinds and forms including art forms; and to enjoy the freedom to create, individually, in association with others, or within a community or group. This implies that States parties must abolish censorship of cultural activities in the arts and other forms of expression. It also recalled the right of everyone to access to their own cultural and linguistic heritage and to that of others (E/C.12/GC/21, paragraph 44, 48, 49).

The mandate of the Special Rapporteur in the field of cultural rights has stressed that all persons enjoy the right to freedom of artistic expression and creativity, which includes the right to freely experience and contribute to artistic expressions and creations, through individual or joint practice, to have access to and enjoy the arts, and to disseminate their expressions and creations. In particular, decision makers, including judges, when resorting to possible limitations to artistic freedoms, should take into consideration the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision. (A/HRC/23/34, paras. 85 and 89 d).

We would like to recall that article 19 of the International Covenant on Civil and Political Rights (ICCPR), also acceded to by the Russian federation in 1973, guarantees the right to freedom of opinion and expression. In its General Comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching and religious discourse', subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination. The Human Rights Committee also provided that, based on Article 19 (2) ICCPR, all forms of expression and means of their dissemination are protected, and that "such forms include spoken, written and sign language and such non-verbal expression as images and objects of art. Means of expression include books, newspapers, pamphlets, posters, banners, dress and legal submissions. They include all forms of audio-visual as well as electronic and internet-based modes of expression."

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19 (3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof

to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, is compatible with Article 19 (General Comment 34, paragraph 23).

We would also like to recall that article 2 ICESCR and article 2 ICCPR oblige States parties to respect and ensure all individuals within their territory and subject to their jurisdiction all human rights without distinction of any kind. Furthermore, article 26 ICCPR guarantees to all persons equal and effective protection against discrimination on any ground and establishes the right to equality before the law. Sexual orientation and gender identity are prohibited grounds of discrimination under international law. In 2016, the Committee on Economic, Social and Cultural Rights explained that “State parties also have an obligation to combat homophobia and transphobia, which lead to discrimination, including violation of the right to sexual and reproductive health.” (E/C.12/GC/22, para. 23). The Human Rights Committee also found that States have a legal obligation to ensure to everyone the rights recognized by the Covenant without discrimination on the basis of sexual orientation or gender identity.