

**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 rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights in the Russian Federation**

Ref.: AL RUS 24/2023  
(Please use this reference in your reply)

25 October 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur 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 rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights in the Russian Federation, pursuant to Human Rights Council resolutions 52/4, 52/9, 50/17 and 51/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the recent sentencing and continued judicial harassment of human rights defender Mr. **Bakhrom Khamroev** in retaliation against his work in defence of human rights.

Mr. Bakhrom Khamroev is a human rights defender and lawyer specialising in migrants' rights. He has worked as an active human rights defender in Russia since 1992. He is the head of "Erdam" (Help), an organisation which works to protect and promote the rights of migrant workers from Central Asia in Russia. Mr. Khamroev has also assisted the cases of individuals who have allegedly been subject to judicial harassment based on perceived or actual membership with Hizb-ut-Tahrir, recognised as a terrorist organisation by the Supreme Court of the Russian Federation in 2003. He was previously a member of the Nobel Peace Prize-winning civil rights group Memorial, before its dissolution was ordered in 2021. The harassment of this organisation by State authorities was recently brought to the attention of Your Excellency's Government in a communication sent on 17 May 2023 (**AL RUS 7/2023**).

Mr. Khamroev has been the subject of three previous communications, the most recent of which was on sent 20 March 2018 (**AL RUS 4/2018**), on 24 June 2011 (**UA RUS 7/2011**), and on 20 December 2010 (**AL RUS 10/2010**). We thank the Government for the replies it supplied in relation to these letters of allegation, however we wish to reiterate our renewed concern at the persistent judicial harassment of the human rights defender in question.

*According to the information received:*

On 15 February 2018, a criminal investigation was opened against Mr. Bakhrom Khamroev after he was obliged to disclose the identity and details of the two foreign citizens who were residing with him at the time, one being an asylum seeker and the other his relative. The criminal case, which pertained to the offence of having assisted in the "fictitious registration" of foreign citizens as per article 322.3 of the Russian Criminal Code, was initiated by the Ministry of Internal Affairs of Russia, in the Bibirevo district

of Moscow. The Criminal Code allegedly does not stipulate the number of individuals who can be registered at a given address, nor does it define “fictitious registration”. The court ordered Mr. Khamroev to pay a fine of 200,000 rubles in relation to this charge.

In 2019, Mr. Khamroev was detained and subsequently fined for holding a solitary picket demanding the release of political prisoners in Tajikistan during that country’s presidential visit to Moscow, as well as for organizing a “For Fair Elections” rally in Moscow.

On 21 February 2022, it is reported that the Moscow Investigation Department of the Federal Security Service initiated a new criminal case against Mr. Khamroev in relation to his alleged connection to the organisation Hizb-ut-Tahrir.

On 24 February 2022, in connection with the above, Mr. Khamroev was arrested on charges of “propaganda of terrorism with the use of mass media or information and telecommunication networks, including the Internet”, an offence stipulated under article 205.2-2 of the Russian Criminal Code. According to the Federal Security Service, Mr. Khamroev used his personal Facebook page to post materials that fall under the definition of “propaganda of terrorism with the use of mass media or information and telecommunication networks, including the Internet”.

As part of the investigation process, the Moscow Investigation Department of the Federal Security Service requested the psycho-linguistic assessment of 6 posts on Facebook dated: 16 May 2018, 2 June 2019, 3 April 2020, 5 November 2020, 18 November 2020 and 15 October 2021, which were deemed to constitute the dissemination of materials on activities by Hizb-ut-Tahrir.

On 25 February 2022, Mr. Bakhrom Khamroev was placed in custody for two months. During this time, the human rights defender was held in the Lefortovo pre-trial detention centre, in Moscow.

On 4 March 2022, the Federal Security Service searched the offices of the organisation Memorial and the Civic Assistance Committee. It is alleged that the raid on these offices were carried out in relation to the criminal case against Mr. Bakhrom Khamroev, in an effort to obtain information about the human rights defender who, though not an employee of the organisation, was a member of the Memorial Human Rights Centre. The authorities in question seized documents and computers, and also subjected several people to questioning in the course of their activities.

On 9 December 2022, the charge of “organising activity of a terrorist organization”, as per article 205.5-1 of the Russian Criminal Code, was also levelled against the human rights defender in addition to that of previous charges. This charge was deemed to relate to the human rights defender’s activity in defence of individuals considered to have had associations with the terrorist designated Islamic organisation Hizb-ut-Tahrir, including support on asylum requests and cases before the European Court for Human Rights

On the 9 December 2022, Mr. Bakhrom Khamroev was officially indicted.

During the course of Mr. Bakhrom Khamroev's trial, the human rights defender was accused of multiple activities perceived to contravene articles 205.5-1 and 205.5-2 of the Russian Criminal Code.

Although it is reported that the evidence compiled in relation to Mr. Bakhrom Khamroev's activities did not show that he had undertaken any actions of "organizational character", the court characterized *inter alia* the following actions of Bakhrom Khamroev: Delivering a speech at a conference on 26 August 2011; the collection and dissemination of "extremist" literature; and the dissemination of materials on activities relating to Hizb-ut-Tahrir on Facebook.

Mr. Khamroev pleaded not guilty to the aforementioned crimes. He denied ever being a member of Hizb-ut-Tahrir and he refuted claims that he subscribes to their ideology. Rather, he stated that his only association with the organisation was that, through his work in defence of human rights, he assisted those who were facing unlawful prosecution, including cases of extremist and terrorist charges.

As regards the literature found in his home that was labelled of an "extremist" character, Mr. Khamroev maintained that he had studied these books by himself in pursuit of his human rights work. The Federal Security Service has found single copies of each book, which indicates that they were not intended for dissemination.

Similarly, he maintained that the speech he delivered on 26 August 2011 as part of a conference at a hotel centred on political repression in Uzbekistan rather than on religious ideology. Neither the conference space nor the invitation indicated that Hizb-ut-Tahrir was an organiser of the event.

On 23 May 2023, the Prosecutor's Office requested that the court sentence Mr. Bakhrom Khamroev to 21 years of imprisonment.

On the same day, the Second Western District Military Court delivered their verdict that the human rights defender be sentenced instead to a punishment of 14 years in prison. This sentence is to be comprised of three years in a prison, as well as 11 years in a maximum-security penal colony.

As part of the court's verdict, the charges brought against Mr. Bakhrom Khamroev were reportedly reclassified to include "participating in the activities of an organisation recognized as terrorist", as per article 205.5-2 of the Russian Criminal Code; and "public justification and propaganda of terrorism committed with the use of mass media or electronic or information and telecommunication networks", as per the same article. The court rejected the accusation of "organizing the activity of a terrorist organization".

It is reported that during the examination of the case, the court relied solely on evidence produced by the prosecution, which included the testimonies of two secret witnesses and the expert opinion of the texts posted on Facebook. The motions presented by the defence, including the request for an additional

analysis of the texts by a different expert, have been rejected. This reliance on the prosecution's evidence denied Mr. Bakhrom Khamroev the opportunity to have his side heard and present his defence, creating a situation in which there were significant imbalances and unfair advantages that undermined the fairness of the procedure.

On 10 October 2023, the Military Appellate Court reduced the sentence by three months, now amounting to 13 years and 9 months.

Without wishing to prejudge the accuracy of the information received, we wish to express concern about the criminalisation of Mr. Bakhrom Khamroev, as well as the continued judicial harassment of the human rights defender, which appears to be in connection with activities he has carried out as part of his work in defence of human rights, including the exercise of his rights to freedom of expression and freedom of peaceful assembly and of association. Moreover, we would like to raise concerns regarding the non-observance of the guarantees of Mr. Bakhrom Khamroev's right to a fair trial, which may render his deprivation of liberty arbitrary.

We similarly wish to reiterate our concern surrounding the searches carried out in the offices of the Memorial Human Rights Centre, which we note were conducted without prior judicial authorization and without the presence of lawyers.

We remain concerned at the serious chilling effect the aforementioned actions may have on human rights defenders and on fundamental freedoms, notably the freedom of expression, and the freedoms of peaceful assembly and of association, as well as the right to seek, receive and impart information and ideas of all kinds, including research and publications. Both the harassment of Mr. Khamroev, as well as the disbanding and continued harassment of civil society organisations, appear to point to an alarming trend of closing civic space, including through targeting human rights defenders, both individually and as part of organisations.

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 detailed information on the legal and factual bases for the charges against Mr. Khamroev. Please also explain how these charges are compatible with Russia's obligations under international human rights law.
3. Please explain what measures have been put in place to secure Mr. Khamroev's right to the guarantees of a fair trial, including the opportunity to present his case, present evidence, and be heard by an independent judicial authority without any significant imbalances or

unfair advantages.

4. Please indicate what measures have been taken to ensure that human rights defenders in Russia are able to carry out their legitimate work and exercise their rights to freedom of expression and freedom of peaceful assembly and of association, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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.

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

Clement Nyaletsossi Voule

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

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 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), ratified by the Russian Federation on 16 October 1973, which guarantees the right to freedom of opinion and expression.

The right to freedom of expression includes the right 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), such information and ideas include commentary on one's own and on public affairs, discussion of human rights, and journalism (paragraph 11). All forms of expression and means of their dissemination are protected (paragraph 12). As stated by the Special Rapporteur in the field of cultural rights, academic freedoms include the right for researchers and the academic community, individually or collectively, to pursue, develop and transmit knowledge and ideas through research, teaching, study, discussion, documentation, production, creation or writing. She stressed that history teaching should promote critical thinking and adopt a broad and multifaceted approach, taking into account the right to freedom of opinion and expression, the right to information and education, academic freedoms and the rights of individuals and groups to have access to their cultural heritage and that of others (A/68/296).

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 and conform to the strict tests of necessity and proportionality. Article 19 (3) may never be invoked to justify the muzzling of any advocacy of human rights (paragraph 23). Nor, under any circumstance, can an attack 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, be compatible with article 19 (Id.). In addition, in its General Comment No. 34, para. 49, the Human Rights Committee stated that laws that penalize the expression of opinions about historical facts are incompatible with the International Covenant on Civil and Political Rights, which does not permit general prohibitions of expressions of an erroneous opinion or an incorrect interpretation of past events.

We would also like to refer your Excellency's Government to articles 14 and 17 of the ICCPR, which provide for the right to a fair trial and the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence.

We note that article 21 of the ICCPR recognises that the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the Covenant and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. In its

resolution 24/5, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs and human rights defenders (A/HRC/26/29, para. 22.). We also recall article 22 of the ICCPR protects the right to freedom of association, which protects the rights of everyone to associate with others, to pursue common interests. 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. These rights 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. The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights also state in para. 30 that national security cannot be invoked as a reason for imposing limitations to prevent merely local or relatively isolated threats to law and order.

We would like to also refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba). According to principle 16 (a), Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

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 (also known as 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.

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), (b) and (c), which provides for the right to know, seek, obtain, receive, and hold information about all human rights and fundamental freedoms; to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters; 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 12 (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 their legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission,

attributable to States that result in violations of human rights and fundamental freedoms, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We also underline that any restriction on expression or information that a government seeks to justify on the grounds of national security and counter terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34). We would like to stress that national security legislations with penal sanctions should not be misused against individuals who peacefully exercise their rights to freedom of expression and freedom of peaceful association and assembly. These rights are protected under ICCPR and non-violent exercise of these rights is not a criminal offence.

Finally, we would like to stress the obligation of States to provide and protect the full range of fair trial and due process rights as required under international human rights law, to all individuals deprived of their liberty. In particular, we emphasize the legal and procedural safeguards provided for in article 14 of the ICCPR, including the presumption of innocence and the right to legal representation.