

Mandates of the Special Rapporteur on the independence of judges and lawyers; the Working Group on Arbitrary Detention; 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 defenders

Ref.: AL RUS 2/2024
(Please use this reference in your reply)

4 April 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Working Group on Arbitrary Detention; 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 defenders, pursuant to Human Rights Council resolutions 53/12, 51/8, 52/9 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning administrative cases and disciplinary proceedings against Mr. Aleksey Ladin, a lawyer and human rights defender, that are reportedly directly related to his professional activities in the territory of Crimea since 2015.

Aleksey Ladin, is a Russian citizen who resides in the city of Sevastopol in Crimea¹, currently occupied by the Russian Federation. He is a human rights defender and defense lawyer who has been admitted to practice law in the Russian Federation as a member of the Bar Association of the Ural Federal District. He frequently represents Crimean Tatar defendants in high-profile criminal cases in Crimea and the Russian Federation. Also, he has been a strong advocate for protecting the rights of the Crimean Tatar community, civilian detainees in Crimea and Ukrainian prisoners of war in Russia since 2015.

According to the information received:

Administrative charges and arrest

On 13 October 2023, representatives of the Russian Center for Combating Extremism of the Russian Ministry of Internal Affairs in Crimea, detained Mr. Ladin in Simferopol when he was returning from Rostov-on-Don from the court hearing in one of his cases. After the arrest, his house in Sevastopol was searched by Russian security officers. During the search, security officers seized documents from cases that would be protected under attorney-client privilege, as well as a laptop and a smartphone, also containing information protected under client-attorney privilege.

¹ References to Crimea should be read in accordance with General Assembly resolution 68/262, in which the General Assembly affirmed its commitment "to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognised borders" (para. 1).

Mr. Ladin faced two administrative charges under articles 20.3.3(1) and 20.3(1) of the Russian Federation's Code of Administrative Offences.

He was fined 45,000 rubles by the Kievskiy District Court of Simferopol for allegedly discrediting the Russian Armed Forces in a repost on Facebook condemning the use of cluster munitions by Russian forces (under article 20.3.3(1) of the Code).

A second decision was issued against Mr. Ladin for "dissemination of extremist symbols" for publicly displaying a poster with the slogan "Crimean Tatars are not terrorists" and the image of a tamga and a trident in 2018 (under article 20.3(1) of the Code). He was placed under 14 days of administrative detention under the second charge.

On 17 October 2023, the Supreme Court of the Republic of Crimea upheld the decision of the Kievskiy District Court of Simferopol regarding the arrest. On 27 October 2023, he was released from administrative detention.

The information suggests that there were violations of the due process in the administrative cases against Mr. Ladin. Firstly, security forces took unauthorized investigative measures and seized materials protected by attorney-client privilege in criminal cases in which Mr. Ladin was acting as a lawyer.

After his arrest, he was denied access to a lawyer, and the court ignored this fact during hearings. The court also refused to allow his lawyer to cross-examine an expert in philosophy, based on whose assessment he was accused of dissemination of extremist symbols.

Disciplinary proceeding and potential disbarment

On 4 December 2023, the Bar Association of the Tyumen Region received a request from the Office of the Ministry of Justice of the Tyumen Region to initiate disciplinary proceedings against Mr. Ladin. The Russian Center for Combating Extremism in Crimea also approached the Bar. The arguments against Mr. Ladin are based on the abovementioned decision of the Kievskiy District Court of Simferopol dated 13 October 2023, according to which he was found guilty of committing an administrative offence under 20.3(1) of the Russian Federation Code of Administrative Offences. The argument also suggests that he violated a lawyer's professional ethics code.

The information reports however, that the court decision of 13 October 2023 does not comply with the law since the trident and the Crimean Tatar tamga are not among the prohibited symbols under Russian legislation.

The disciplinary proceeding against Mr. Ladin by the Council of the Tyumen Region Bar Association was scheduled for 24 January and then rescheduled for 19 February 2024.

In the meantime, the Office of the Ministry of Justice of the Tyumen Region submitted to the Tyumen Region Bar Association another request, to initiate a second disciplinary proceeding against Mr. Ladin claiming that he was charged by the Kievskiy District Court of Simferopol for discrediting the Russian Armed Forces in the repost on Facebook condemning the use of cluster munitions (under article 20.3.3(1) of the Code).

The second proceeding was initiated on 5 February 2024. A hearing in this proceeding was scheduled for 22 February. However, on 19 February the Tyumen Region Bar Association merged both disciplinary proceedings into one and postponed the hearing until the results of the appeal submitted by Mr. Ladin in relation to his conviction of the administrative offence are available.

One of the potential penalties against him may be disbarment.

Without prejudging the accuracy of the allegations, we are concerned by reports that the administrative cases and disciplinary proceedings against Mr. Ladin are directly related to his professional activities as a lawyer and human rights defender in the territory of Crimea since 2015. We are also very concerned at reports suggesting that the penalty of disbarment and guilty verdicts from Crimean courts may be used as a means to pressure Mr. Ladin to stop his professional activities in favour of Crimean Tatars, Ukrainian civilian prisoners and other vulnerable groups of defendants in criminal cases.

If confirmed, these facts would be in breach of the guarantees that lawyers are entitled to in order to perform their professional functions without any threat, intimidation, harassment or interference, and without suffering, or being threatened with, prosecution or any administrative or disciplinary sanctions for actions undertaken in accordance with professional duties and ethical standards. In particular, international standards provide that lawyers should not be subject to civil, criminal or disciplinary liability for statements made in good faith in written or oral pleadings or in their professional appearances before the judicial authority.

We take this opportunity to recall that Special Procedures mandate holders previously expressed concern to your Government about the alleged interference with the legitimate exercise of the legal profession, and of lawyers working in favour of opposition leaders, peaceful protesters, independent journalists and human rights defenders in the Russian Federation (see AL RUS 13/2022).

We take note with concern that the UN Human Rights Monitoring Mission in Ukraine reported Mr. Ladin's case in paragraph 60 of its periodic report on the human rights situation in Ukraine from 1 August 2023 to 30 November 2023.

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 the factual and legal basis of Mr. Ladin's arrest and administrative detention and explain how these actions comply with the Russian Federation's obligations under international human rights law.
3. Please explain how the disciplinary proceedings against Mr. Ladin are in line with international obligations and standards related to the right to a fair trial as well as the standards for legitimate restrictions of the right to freedom of expression in line with Article 19 (3) of the ICCPR.
4. Please provide detailed information on the measures adopted to ensure that lawyers and human rights defenders in the Russian Federation and occupied territories can carry out their peaceful and legitimate activities without fear of judicial harassment and other interference.

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.

Please be informed that a copy of this letter has been also sent to the Permanent Mission of Ukraine.

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973.

In its General Comment No. 31 (2004) on the nature of the general legal obligation imposed on States Parties to the Covenant, the Human Rights Committee observed that States Parties are required by article 2(1) to respect and to ensure the Covenant rights “to all persons who may be within their territory and to all persons subject to their jurisdiction”. This means that a State party must respect and ensure the rights laid down in the Covenant to “anyone within the power or effective control of that State Party”, even if not situated within the territory of the State Party. This principle also applies to those within the power or effective control of the forces of a State Party acting outside its territory, regardless of the circumstances in which such power or effective control was obtained... (para. 10).

In resolution 74/168 and previous resolutions on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, the General Assembly urged the Russian Federation to, inter alia, “uphold all of its obligations under applicable international law as an occupying Power” (para. 6 (a)).

We would like to refer to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. As interpreted by the Human Rights Committee in General Comment No. 35 (CCPR/C/GC/35), the notion of “arbitrariness” is not to be equated with “against the law” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality (paragraph 12). According to the same General Comment (paragraph 17) and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR is arbitrary.

Article 14 (1) of the ICCPR, which sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. In addition, article 14 of the ICCPR provides a set of contain procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing.

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In the 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’, subject

only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

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, cannot be compatible with Article 19. (GC34 paragraph 23)

In its General Comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14 (3) (b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. They should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34).

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, held in Havana (Cuba) from 27 August to 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 that lawyers be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Principle 17 provides that “[w]here the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities”.

We would also like to draw your attention 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.

We like to draw particular attention to the following provisions of the Declaration:

- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and

fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;

- article 9 paragraph (3) point c), which provides for the right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms;
- article 11, which provides for the right of everyone, individually and in association with other, to the lawful exercise of their occupation or profession; and
- article 12 paragraphs (2) and (3), which provide 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.