

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 rights to freedom of peaceful assembly and of association

Ref.: AL RUS 4/2024
(Please use this reference in your reply)

30 April 2024

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; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/4, 51/8, 52/9 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged home search and seizure of Ms. Lutfiye Zudiyeva's electronic devices, her arrest and detention, and administrative charges leveled against her, all reportedly in connection with her legitimate human rights work and the exercise of the freedom of expression.

Ms. **Lutfiye Zudiyeva** is a woman human rights defender, a journalist, and a member of the human rights group Crimean Solidarity, which defends the rights of people subjected to politically motivated persecution in Crimea¹ and their families.

We previously wrote to your Excellency's Government regarding the alleged disbarment, persecution, arrests and detention, searches, administrative charges, criminalization, conviction, enforced disappearance, torture and ill-treatment, and designation as a "mass media foreign agent" of other human rights defenders in Crimea on 17 October 2017 (AL RUS 8/2017), 11 July 2018 (AL RUS 14/2018), 18 July 2018 (AL RUS 17/2018), 25 July 2018 (AL RUS 16/2018), 10 August 2018 (AL RUS 21/2018), 13 February 2019 (AL RUS 2/2019), 21 January 2020 (AL RUS 10/2019), 29 July 2020 (AL RUS 4/2020), 9 June 2021 (AL RUS 7/2021), 30 November 2021 (AL RUS 12/2021), 22 April 2022 (AL RUS 5/2022), 30 August 2022 (AL RUS 10/2022), 31 August 2022 (AL RUS 13/2022), 9 September 2022 (AL RUS 11/2022), 18 May 2023 (AL RUS 6/2023), 21 July 2023 (AL RUS 14/2023), and 27 July 2023 (AL RUS 15/2023). We acknowledge the replies from your Excellency's Government dated 27 February 2018, 20 July 2018, 3 August 2018, 7 August 2018, 6 March 2019, 31 March 2020, 25 September 2020, 5 August 2021, 26 January 2022, 8 June 2022, 9 September 2022, and 9 November 2022. However, we remain concerned about the environment human rights defenders are working in in the Crimea, given the allegations below.

According to the information received:

On 22 February 2024, between 6.00 and 8.40 a.m., a search was conducted at

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" (A/RES/68/262, Paragraph 1).

Ms. Lutfiye Zudiyeva's house in the town of Dzhankoi, Crimea.

The search was allegedly conducted by around 13-18 armed men, the majority of whom were wearing masks, while two female witnesses were present. The men arrived in five cars, three of which reportedly lacked license plates. Some of them reportedly scaled the fence of Ms. Lutfiye Zudiyeva's residence and then proceeded to open the gate for the others.

The men allegedly failed to introduce themselves. Nevertheless, based on her previous human rights work, Ms. Zudiyeva reportedly recognized two officers from the Centre for Combating Extremism, a unit within the Ministry of Internal Affairs of the Russian Federation, among them.

Before the search, the men read out an order from the Kyiv District Court of Simferopol, but allegedly refused to provide a copy. Furthermore, the court order that was read aloud authorized a visual inspection of the premises, and the conducted search exceeded its intended scope. The search took place in the absence of defense lawyers, who arrived at the scene but were denied entry to the house. The men seized a video surveillance recorder, all phones, and a laptop, and reportedly declined to provide Ms. Zudiyeva with a copy of the protocol documenting the seizure.

After the search, the men arrested Ms. Lutfiye Zudiyeva. Despite knowing that she is a practicing Muslim, they physically touched her during the arrest.

Ms. Zudiyeva was then taken to the office of the Ministry of Internal Affairs of the Russian Federation for the Republic of Crimea at 19 Dekabristov Street in Simferopol. During the journey, officers from the Centre for Combating Extremism reportedly informally inquired about her work and various events in Crimea. Upon arrival, they allegedly questioned her about journalistic activities and social media usage. Around 12.00 p.m., Ms. Zudiyeva was released but accused of committing administrative offenses under parts 2 and 2.1 of article 13.15 of the Code of Administrative Offenses of the Russian Federation ("abuse of freedom of mass media"). The accusations claimed that in two posts concerning the persecution of alleged Hizb ut-Tahrir members on her personal Facebook page, she failed to mention that this organization is recognized as a terrorist group in the Russian Federation. Additionally, in two other Facebook posts regarding the disbarment of lawyers and the imprisonment of a journalist, she mentioned Radio Free Europe/Radio Liberty without acknowledging that this organization is designated as a "foreign agent" according to Russian laws.

Ms. Zudiyeva's arrest was documented by protocol under article 27.2 of the Code of Administrative Offenses of the Russian Federation ("delivery, that is, the forcible escorting of an individual, for the purpose of drawing up a protocol on an administrative offense in cases where it is impossible to draw it up at the scene of the administrative offense detection").

On 20 March 2024, the Kyiv District Court of Simferopol found Ms. Lutfiye Zudiyeva guilty under part 2.1 of article 13.15 and imposed a fine of RUB 2500 (EUR 25). The hearing took place without Ms. Zudiyeva. She arrived three minutes late and informed the court through her lawyer, but the court did

not allow her to participate. Ms. Zudiyeva is planning to appeal the court ruling.

The alleged offense under part 2 of article 13.15 is considered by the Magistrate Judge of Judicial Sector No. 10 in Simferopol.

Without wishing to prejudge the accuracy of the information received, we wish to express concern as to the alleged home search and seizure of Ms. Lutfiye Zudiyeva's electronic devices, her arrest and detention, and administrative charges leveled against her, all of which appear to be related to her legitimate human rights work and the exercise of the freedom of expression. We also express our grave concern regarding the continuous intimidation and harassment of the human rights defenders in Crimea in connection to their human rights work. We remain concerned at the chilling effect that this might have on all individuals wishing to express themselves freely and to participate in public affairs in Crimea, discouraging them from exercising their rights.

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 on the legal and factual basis for the arrest and detention of Ms. Lutfiye Zudiyeva, home search and seizure of her electronic devices, and any administrative cases against her, and explain how these are compatible with your Excellency's Government's international human rights obligations.
3. Please specify why it was impossible to document Ms. Lutfiye Zudiyeva's alleged administrative offenses at her home and explain the grounds for physical touching by men during her arrest.
4. Please indicate what measures have been taken to ensure that human rights defenders, activists, journalists and others in Crimea can exercise their right to freedom of expression and carry out their legitimate work freely and in a safe and enabling environment without acts of intimidation and harassment.

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.

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.

In accordance with General Assembly Resolution 68/262 on the territorial integrity of Ukraine, and taking into account General Assembly Resolutions 78/221, 77/229, 76/179, 75/192, 74/168, 73/263, 72/190, and 71/205 on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as General Assembly Resolution ES-11/1 on aggression against Ukraine, General Assembly Resolution ES-11/2 on humanitarian consequences of the aggression against Ukraine, General Assembly Resolution ES-11/4 on territorial integrity of Ukraine: defending the principles of the Charter of the United Nations, General Assembly Resolution ES-11/5 on furtherance of remedy and reparation for aggression against Ukraine, General Assembly Resolution ES-11/6 on principles of the Charter of the United Nations underlying a comprehensive, just, and lasting peace in Ukraine, and Human Rights Council Resolutions 52/32, 49/1, S-34/1 on situation of human rights in Ukraine stemming from the Russian aggression, 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
Chair Rapporteur 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

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

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.

Article 19 requires the States to guarantee the right to freedom of expression, including 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, *inter alia*, political discourse, commentary on public affairs, discussion of human rights, and journalism (paragraph 11), and all forms of expression and means of their dissemination are protected, including electronic and internet-based modes of expression (paragraph 12). Free press and other media should be able to comment on public issues without censorship or restraint and to inform public opinion, and the public has a corresponding right to receive media output (paragraph 13).

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 their freedom of opinion or expression, including such forms of attack as arbitrary arrest, be compatible with article 19 (Id.). It is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (Id.). All such attacks should be vigorously investigated in a timely fashion, the perpetrators be prosecuted, and the victims receive appropriate forms of redress (Id.). The Human Rights Committee also notes explicitly that journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere (paragraph 44), and the penalization of a journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression (paragraph 42).

We wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16 (A/HRC/RES/12/16). The Resolution calls on States to refrain from imposing restrictions that are not consistent with article 19 (3), *inter alia*, on discussion of government policies, reporting on human rights, expression of opinion and dissent, and free flow of information and ideas, including practices such as the abuse of administrative measures and censorship (paragraph 5 (p)).

We would also like to refer your Excellency's Government to article 17 of the ICCPR, which guarantees that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or unlawful attacks on his honor and reputation. As emphasized by the Human Rights Committee in General Comment No. 16 (CCPR/C/GC/16), article 17 deals with protection against both unlawful and arbitrary interference (paragraph 12). In the Committee's view, the expression "arbitrary interference" can extend to interference provided for under the law and even interference provided for by law should be in accordance with the provisions, aims and objectives of the ICCPR and should be, in any event, reasonable in the particular circumstances (paragraph 4). Searches of a person's home should be restricted to a search for necessary evidence and should not be allowed to amount to harassment (paragraph 8). So far as personal and body search is concerned, effective measures should ensure that such searches are carried out in a manner consistent with the dignity of the person who is being searched (Id.). Persons being subjected to body search by State officials should only be examined by persons of the same sex (Id.).

We would furthermore like to refer your Excellency's Government to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention. 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, including freedom of opinion and expression, is arbitrary. 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 Government to article 14 of the ICCPR, which enshrines the right to equality before courts and tribunals and to a fair trial.

Furthermore, we would like to refer to article 22 of the ICCPR, which guarantees the right to freedom of association with others and remind your Excellency's Government that article 22 (2) provides that no restrictions may be placed on the exercise of this right other than those which are prescribed by 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.

We wish to remind your Excellency's Government that according to paragraph 10 of the Human Rights Committee's General Comment No. 31 [80] (CCPR/C/21/Rev.1/Add. 13), States Parties must respect and ensure the rights laid down in the ICCPR to anyone within their power or effective control, even if not situated within their territory. The enjoyment of the ICCPR rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of

nationality or statelessness, who may find themselves subject to the jurisdiction 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.

We would also like to refer your Excellency's Government to the UN 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). Principles 1 and 2, in particular, contain the States' obligations to ensure prompt and effective access to lawyers. Moreover, principle 16 requires governments to 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 Recognized 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 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.

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.

In the report on the situation of women human rights defenders (A/HRC/40/60), the Special Rapporteur on the situation of human rights defenders recognized and celebrated the significance of women defenders in the promotion and protection of human rights worldwide, and noted that they continue to face systematic discrimination, marginalization, and repression (paragraph 107). The Special Rapporteur recommended the States, *inter alia*, to:

- (a) Protect the rights of women defenders, including by taking a public stand against all State and non-State actors who violate these rights, ceasing all attacks and threats against women defenders and investigating all that occur, ensuring that impunity does not prevail;
- (b) Ensure that women defenders enjoy a safe and enabling environment to exercise their rights, considering their specific and diverse needs. This includes addressing systemic and structural discrimination and violence that women defenders experience and enacting laws that recognize and protect the rights of all human rights defenders, with a specific focus on the needs of women defenders;
- (h) Assess protection practices for women defenders against the seven principles underpinning good protection practices and examine ways of strengthening those practices (paragraphs 108 and 100).

Finally, in Resolution 78/221 and previous resolutions on the situation of human rights in the temporarily occupied 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,” “create and maintain a safe and enabling environment for journalists and media workers and citizen journalists, human rights defenders and lawyers to perform their work independently and without undue interference, including by refraining from travel bans, deportations, arbitrary arrests, detention and prosecution, and other restrictions on the enjoyment of their rights” and “respect, protect and fulfil freedom of opinion and expression, which includes the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers, enable a safe and enabling environment for independent media pluralism and ensure a safe and enabling environment for civil society organizations” (A/RES/78/221, paragraphs (a), (l) and (m)).