

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Russian Federation**

Ref.: AL RUS 9/2024  
(Please use this reference in your reply)

23 October 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 and Special Rapporteur on the situation of human rights in the Russian Federation, pursuant to Human Rights Council resolutions 52/4, 51/8 and 54/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **searches conducted at Mr. Tofik Abdulhaziiev's and his mother's homes, his arrest and conviction – reportedly linked to his legitimate human rights work and Crimean Tatar identity – his ongoing detention far from his family despite serious health conditions that should allegedly warrant his release, and the alleged poor conditions of his detention.**

Mr. **Tofik Abdulhaziiev** is a Crimean Tatar human rights defender and an activist with Crimean Solidarity as well as the Crimean Childhood project. He organized events for the children of political prisoners, delivered food to detainees, attended trials, and came to support other people during searches of their homes.

We previously wrote to your Excellency's Government regarding the alleged disbarment, persecution, arrests and detention, searches, disciplinary proceedings, 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<sup>1</sup> 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), 27 July 2023 (AL RUS 15/2023), 4 April 2024 (AL RUS 2/2024), and 30 April 2024 (AL RUS 4/2024). 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, 9 November 2022, and 19 April 2024. However, we remain concerned about the environment human rights defenders are working in in Crimea, given the allegations below.

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<sup>1</sup> 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).

According to the information received:

On 4 May 2017, officers from the Russian Center for Combating Extremism, a division of the Ministry of the Interior, searched Mr. Abdulhaziiev's home in Simferopol. This search was reportedly conducted as a less formal "inspection of residential premises." It is alleged that no court order was obtained and no search-related documentation was provided. Mr. Abdulhaziiev was then allegedly taken to the Center for Combating Extremism for a "talk" but released a couple of hours later.

On 27 March 2019, officers from Russia's Federal Security Service searched Mr. Abdulhaziiev's home in Simferopol and his mother's home on the outskirts of Simferopol, where he was reportedly registered. The former search was allegedly without a warrant and the latter search was pre-authorized by court. During the search at his mother's home, authorities seized a tablet, phones, and two Islamic books that were banned in Russia, which allegedly had been planted. After the searches, Mr. Abdulhaziiev was arrested for alleged involvement with Hizb ut-Tahrir, an Islamic group banned in Russia as a terrorist organization but legal in Ukraine. It is unclear whether a warrant had been issued for his arrest.

His arrest and prosecution were part of a larger criminal case involving over 20 Crimean Tatars arrested around the same time, many of whom were activists from the same human rights group, allegedly targeted for their human rights work and Crimean Tatar identity. They were all allegedly flown to Rostov-on-Don in Russia, about 700 km away from Simferopol, immediately after their arrest.

On 12 May 2022, the Southern District Military Court in Rostov-on-Don convicted Mr. Abdulhaziiev on allegedly fabricated charges of participating in a terrorist organization (part 2 of article 205.5 of the Russian Criminal Code) and preparing a violent seizure of power (part 1 of article 30, article 278). He was sentenced to 12 years of imprisonment. In May 2023, the Military Appeals Court in Vlasikha upheld the verdict after reviewing the defense's appeal. In August 2024, the Supreme Court of the Russian Federation rejected the cassation appeal.

In July 2023, Mr. Abdulhaziiev was transferred to a prison in the town of Verkhneuralsk, in the Chelyabinsk region of the Russian Federation, 2 700 kilometers from his home. After the transfer, he lost a significant amount of weight and complained of severe joint pain.

In March 2024, Mr. Abdulhaziiev's health rapidly declined, and he was taken in critical condition to the Specialized Tuberculosis Hospital No. 3 of the Main Directorate of the Federal Penitentiary Service in the Chelyabinsk Region. He was reportedly placed in a punishment cell, and only after he lost consciousness two weeks later, he was transferred to the intensive care unit.

He was later diagnosed with several diseases some of which are listed as grounds for release, in accordance with article 175 of the Criminal Executive Code of the Russian Federation, under the "List of diseases that prevent serving the sentence," approved by the decree of the Government of the

Russian Federation No. 54 of 6 February 2004 (as amended and supplemented).

In April 2024, his defense petitioned the Metallurgicheskiy District Court of Chelyabinsk to order the Federal Penitentiary Service of Russia to release him, citing the diagnosis as grounds for his release. On 6 August 2024, the court rejected the petition and ruled to keep Mr. Abdulhaziiev imprisoned. The court allegedly based its decision on a report from the prison commission, stating that Mr. Abdulhaziiev could serve his sentence under prison and strict regime conditions. The independent specialist's opinion provided by the defense was allegedly rejected.

Mr. Abdulhaziiev's health has deteriorated significantly during detention, worsened by the conditions. According to the information received, although he remains in the hospital, his cell is in a basement, with no hot water, he often cannot eat the food provided, as it contains pork, and for at least three days after intensive care he was not given any food at all.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about Mr. Abdulhaziiev's ongoing detention despite serious health conditions that should allegedly warrant his release, as well as the fact that he is being held far from his family under reportedly poor detention conditions. We are also alarmed by reports of the searches of his and his mother's homes, as well as concerns that he was targeted for these searches, his arrest, and subsequent conviction due to his legitimate human rights work and his Crimean Tatar identity. We express our grave concern over the continued intimidation and harassment of human rights defenders in Crimea and remain concerned about the chilling effect this may have on individuals seeking to engage in human rights activism in Crimea, discouraging them from exercising their rights.

In connection to national legislation which gave rise to charges against Mr. Abdulhaziiev, we wish to refer your Excellency's Government to concerns raised by the United Nations human rights mechanisms with regards to the vague definition of terrorism in the Federal Law No. 35-FZ "On Countering Terrorism" of 6 March 2006, and about a lack of clarity with regards to the crime of public justification of terrorism under the provisions of article 205.2 of the Criminal Code of Russia and the application of those provisions to allegedly target political opponents, journalists, and persons who criticize the Government, as well as reports of incommunicado detention, torture and ill-treatment of members of groups classified as terrorist organizations. The provisions have broad and vague definitions that may allow arbitrary application and restrict freedom of expression and opinion in the Russian Federation. These concerns were the subject of scrutiny in the recent report submitted by the Special Rapporteur on the situation with human rights in the Russian Federation to the Human Rights Council (see A/HRC/57/59, paras. 71-74). The number of convictions on terrorism-related charges has increased 50-fold in the past decade, with no acquittals. The range of crimes considered to be terrorism has been expanded and penalties increased.

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 for the home searches, arrest, detention, charging, and sentencing of Mr. Abdulhaziev and explain how these actions comply with the obligations of your Excellency's Government under international human rights law.
3. Please provide detailed information on Mr. Abdulhaziev's current health condition and explain how his continued detention aligns with Russian legislation and the obligations of your Excellency's Government under international human rights law.
4. Please clarify what steps have been taken to ensure appropriate detention conditions for Mr. Abdulhaziev, including access to adequate medical care, nutrition, and personal hygiene. Please also provide an explanation for the decision not to place him in a facility closer to his family.

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.

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, 55/23 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

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.

Firstly, we would like to refer your Excellency's Government to article 17 of the International Covenant on Civil and Political Rights ("ICCPR"), ratified by the Russian Federation on 16 October 1973, which guarantees that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, 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).

We would also like to refer your Excellency's Government to article 14 of the ICCPR, which enshrines the right to equality before courts and tribunals and to a fair and public hearing by a competent, independent, and impartial tribunal established by law if the person faces any criminal charges or if their rights and obligations are determined in a suit at law. As interpreted by the Human Rights Committee in general comment No. 32 (CCPR/C/GC/32), the right to equality before courts and tribunals guarantees, among other things, equality of arms, and ensures that the parties to the proceedings in question are treated without any discrimination (paragraph 8). The requirement of impartiality has two aspects (paragraph 21). First, judges must not allow their judgement to be influenced by personal bias or prejudice, nor harbor preconceptions about the particular case before them, nor act in ways that improperly promote the interests of one of the parties to the detriment of the other (*Id.*). Second, the tribunal must also appear to a reasonable observer to be impartial (*Id.*). The provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialized, civilian or military (paragraph 22). While ICCPR does not prohibit the trial of civilians in military or special courts, it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned (*Id.*). The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial, and independent administration of justice is concerned; therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14 (*Id.*).

Concerning Mr. Abdulhaziev's continued detention, we would like to remind your Excellency's Government about its obligations under 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, including freedom of opinion and expression (article 19), freedom of assembly (article 21), freedom of association (article 22), 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.

In relation to Mr. Abdulhaziiiev’s health, we would like to first refer your Excellency’s Government to article 6 of the ICCPR, which protects the supreme and non-derogable right to life. The Human Rights Committee in its general comment No. 36 (CCPR/C/GC/36) states that this right concerns the entitlement to be free from acts and omissions that are intended or may be expected to cause unnatural or premature death, as well as to enjoy a life with dignity (paragraph 3). This applies to all without any distinction, including persons suspected or convicted of crimes (Id.). States parties have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, including providing them with the necessary medical care and appropriately regular monitoring of their health, since by arresting, detaining, imprisoning, or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their life and bodily integrity (paragraph 25). States parties may not rely on lack of financial resources or other logistical problems to reduce this responsibility (Id.). States parties also have the responsibility to take appropriate measures to address conditions, including the prevalence of life-threatening diseases, that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity (paragraph 26).

In this connection, we would also like to recall your Excellency’s Government’s obligations under article 12 of the International Covenant on Economic Social and Cultural Rights, ratified by the Russian Federation on 16 October 1973, which establishes the right to the enjoyment of the highest attainable standard of physical and mental health.

We would also like to remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, enshrined in article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, ratified by the Russian Federation on 3 March 1987.

Concerning detention conditions, we would like to remind your Excellency’s Government of article 10 of the ICCPR, which requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. In this regard, we would also like to refer your Excellency’s Government to the UN Standard Minimum Rules for the Treatment of Prisoners

adopted by the General Assembly on 17 December 2015 (the Mandela Rules). We wish to draw your Excellency's Government's particular attention to rules 1, 18, 22, 24-35, and 59, concerning the respect due to the inherent dignity and value of all prisoners as human beings, prison administration's obligation to provide every prisoner with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served, as well as a number of obligations concerning healthcare services and personal hygiene, and allocation of prisoners, to the extent possible, to prisons close to their homes.

Concerning the events in Crimea, 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.

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 (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 5(a) and (b), which stipulates that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully and to form, join, and participate in non-governmental organizations, associations, or groups;
- 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 9(3)(b), which states that everyone has the right, individually and in association with others, *inter alia*, to attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

- 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 refer your Excellency's Government to the recommendations in the recent report on the long-term detention of human rights defenders (A/76/143), in which the Special Rapporteur on the situation of human rights defenders emphasized that States should immediately and unconditionally release all detained human rights defenders and cease jailing them for their legitimate work (paragraph 158(a), (b)). States should also stop subjecting them to unfair trials, torture, or cruel, inhuman, or degrading treatment, and ensure their legal rights (paragraph 158(c)-(e)). They should stop using vague anti-terror laws to jail human rights defenders for doing their legitimate human rights work and desist from trying civilian human rights defenders in military courts (paragraph 158(f), (g)). Furthermore, adequate care should be provided to detained defenders, including access to medical treatment, adequate nutrition, adequate sanitation, and ensuring that they are jailed close to their home cities/towns and are not transferred to prisons in other parts of the country to further punish them (paragraph 158(j)).

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)).