

Mandates of the Special Rapporteur on the situation of human rights in the Russian Federation; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on the enjoyment of all human rights by older persons and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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7 February 2025

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in the Russian Federation; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the situation of human rights defenders; Independent Expert on the enjoyment of all human rights by older persons and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 57/20, 53/14, 52/4, 51/4 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **criminal prosecution of 85-year-old prominent human rights defender, Mark Kuperman, in retaliation for his activity dedicated to promoting human rights in the Russian Federation, as well as for expressing anti-war views. Kuperman's advanced age, physical disability which requires constant support with daily tasks and mobility, and deteriorating health makes his criminal prosecution on charges of "terrorism", in what appears to be a toughening of the crackdown on dissenting voices, particularly concerning.**

Kuperman is the head of the Public Human Rights Center of the Sakhalin region. In 2022, he was awarded the Moscow Helsinki Group's human rights prize. Throughout his career, he has held several key positions, including mayor of the Okha district of the Sakhalin region, vice-governor of the Sakhalin region for economy and finance, and head of the non-governmental organization "Civil Responsibility". He also led the regional branch of the "Solidarity" movement and the Public Monitoring Commission of the Sakhalin region. Additionally, he was a board member of the "For Human Rights" movement, which was forcibly dissolved after its designation as a "foreign agent" and was a partner of the Moscow Helsinki Group before its forced dissolution.

According to information received:

On 4 April 2024, the Investigative Department of the Investigative Committee of the Russian Federation for the Sakhalin Region initiated a criminal case against Kuperman on charges of "extremism" under article 280, part 2 of the Criminal Code of Russia, which specifically applies when calls to "extremism" are made through mass media or the internet.

On 27 April 2024, at 6 a.m., representatives of the Investigative Committee of the Sakhalin region conducted a search at Kuperman's place of residence, which lasted five hours, denying him access to necessary medical care during this time.

During the search, all electronic devices were seized. Similar searches were carried out at the homes of nine of his colleagues, who were also engaged in human rights work and who have been assigned the status of witnesses in the case.

Kuperman was interrogated in his apartment immediately after the search. Just a few hours later, he was formally charged with “extremism” and the Investigative Committee of the Sakhalin region issued an order of restraint prohibiting him from leaving the town while awaiting trial.

The charges, which appear to be fabricated and groundless, are based on the claim that, on 15 January 2023, Kuperman sent a document titled “Plan for Western Involvement in Regime Change in Russia. Humanitarian Occupation” to seven of his acquaintances in a private conversation. Additionally, it is alleged that the day after sending the documents, a meeting took place in Kuperman’s apartment to discuss the content of the document. As described in the indictment, the document explored possible scenarios for Russia’s democratic development, including the hypothetical overthrow of President Putin’s government, as well as the role of the West in establishing and supporting democratic institutions in the event of a transition of power.

The surveillance and targeting of Mark Kuperman and his contacts by the Federal Security Services (FSB) began long before the criminal case was officially opened. At least since 5 September 2022, the Sakhalin branch of the FSB, with court approval, had been conducting operational-search activities. These measures included outside surveillance of Kuperman’s residence, video monitoring, audio recording, and wiretapping of his conversations, allegedly to identify an “extremist” group. On 1 April 2024, the FSB handed over the surveillance materials to the Investigative Committee, leading to the initiation of the criminal case.

On 2 December 2024, the investigation was officially declared completed, and the case moved to the stage of familiarization with the case materials. However, after the investigation had already ended, on 20 December 2024, it was suddenly reopened for one day and the charges against Mark Kuperman were requalified to a more severe offence, namely “public calls for terrorist activities” under article 205, part 2 of the Criminal Code of Russia.

On 26 December 2024, with the help of his lawyer, Kuperman began reviewing the case materials, which revealed that the FSB had secretly installed a listening device in his apartment without his prior knowledge or consent, therefore, breaching the confidentiality of the meetings with his lawyer, whom he cannot meet anywhere other than his apartment due to his mobility impairment and disability that necessitates constant support. Mark Kuperman’s right to confidentially communicate with his lawyer remains violated to this day.

The court is rushing the examination of the case by limiting Kuperman’s time to study the case materials. On 16 January 2025, the Yuzhno-Sakhalinsk City Court set a five-working-day limit for Kuperman to study the case files, starting from 17 January 2025. The court did not take into account Kuperman’s

disability and health condition including declining cognitive abilities, constant pain, movement restrictions, and weak vision.

Despite the pending appeal against this limitation, on 24 January 2025, the investigator arbitrarily issued a decision to end the studying of the case files, thereby hindering Kuperman's ability to prepare his defence strategy. Cutting short the review time prevented Kuperman from requesting the dismissal of the criminal case against due to the absence of a crime. Moreover, he did not manage to submit an independent linguistic analysis providing critical evidence concerning the document that served as a pretext for his criminal prosecution. This analysis should have been one of the defence's pieces of evidence for dismissing the case against Kuperman.

The Russian legislation does not include specific provisions regulating criminal procedure for persons with disabilities, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their equal and effective participation in all legal proceedings, including during investigative and court hearings.

Kuperman's presence at the criminal trial will be mandatory, and his absence may lead to a change of the restraint measure to pre-trial detention in custody.

While we do not wish to prejudge the accuracy of the aforementioned allegations, we express grave concern at the judicial harassment of 85-year-old prominent human rights defender, Mark Kuperman, with disabilities necessitating constant support and adequate access to medical treatment. His criminal prosecution appears to be solely linked to his human rights work and anti-war views. We are deeply concerned that continued harassment, including acts such as preventing Kuperman from receiving support with attending to vital bodily functions during the search, could have serious health consequences, endangering his life and well-being.

By means of this urgent appeal, we call on the Russian authorities to end all legal actions against Mark Kuperman and drop the criminal charges of "terrorism", which serve as a chilling warning to all human rights and civic activists in the Sakhalin region, especially those promoting democratic and anti-war views. This case appears to fit a broader trend of increased use of state security legislation, including counter-extremism and counter-terrorism charges, to target political opponents, activists, journalists, and human rights defenders and punish them for exercising their fundamental rights, such as freedom of expression, assembly, or association, or for doing their legitimate human rights work.

In her report to the Human Rights Council in September 2024 the Special Rapporteur on the situation of human rights in the Russian Federation has stressed that vague legal definitions, their wide, unpredictable and often abusive interpretations and the use of closed trials has allowed the Russian authorities to misuse and instrumentalize counter-extremism, counter-terrorism and national security legislation to suppress critics, outlaw anti-war expression and incarcerate legitimate political opponents (A/HRC/57/59, para. 140). In this regard, the Special Rapporteur recommended: (1) Review urgently and amend the counter-terrorism and extremism legal framework, aligning it with international standards, eliminating vague definitions

and removing the risks of arbitrary implementation, especially against individuals expressing criticism of and dissent about the war against Ukraine, and cease holding trials behind closed doors” (para. 150).

The surveillance of Kuperman on the basis of which the FSB and the Investigative Committee have brought the charges against him, appears to be aimed at fabricating a criminal case against the human rights defender and reinforcing state repression of civil society in Russia rather than investigating genuine criminal activity. His private discussions and human rights work have been criminalized, first as “extremism” and then under “terrorism” charges—suggesting an escalation in state repression. Finalizing an investigation and then reopening it solely to impose a harsher charge undermines the integrity of legal proceedings and violates due process.

Furthermore, we are concerned about the speeding up of court proceedings against Kuperman, which constitutes a documented tactic to deny due process and limit the ability of victims to challenge the charges in politically motivated cases. The facts in this case describe a lack of judicial independence and denial of fair trial rights, including the violation of Kuperman’s presumption of innocence, his right to have enough time and facilities to prepare his defence, the breach of lawyer-client confidentiality, the denial of accessibility and procedural and reasonable accommodation for persons with disabilities, and the denial of avenues to appeal or review. Authorities must stop obstructing Kuperman and his defence lawyers from reviewing and familiarizing themselves with case materials and submitting their evidence.

Noting with concern the deterioration of the human rights situation in Russia, especially following the full-scale invasion of Ukraine, the Special Rapporteur on the situation of human rights in the Russian Federation further recommended that the authorities should cease judicial harassment and the instrumentalization of the court system for political purposes to silence civil society and dissenters and foster a safe environment enabling human rights advocates to function without fear of reprisals (A/HRC/57/59, para. 150).

If the above allegations prove to be true, they may constitute a violation of article 6 (right to life), article 9 (right to liberty and security of person), and article 14 (right to a fair trial) of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation in 1973, and of various articles of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) ratified by the Russian Federation in 2012, including article 13 (right to access to justice of persons with disabilities). We further refer to the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Russian Federation in 1973. Article 12 (right to health) guarantees the highest attainable standard of health for every individual, irrespective of them having been charged with crimes. Violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life.

We remind your Excellency’s Government that counter-terrorism laws should not be used to criminalize freedom of expression as protected by international law (article 19, ICCPR) and States must ensure that measures to combat terrorism and

violent extremism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights (Human Rights Council Resolution 22/6 - A/HRC/RES/22/6 – op. 10). Furthermore, the non-violent criticism of State policies or institutions should not be made a criminal offence under counter-terrorism measures in any society governed by the rule of law and abiding by human rights principles and obligations (A/HRC/37/52, para. 47). We bring to the attention of your Excellency’s Government the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/70/371, on the impact of counterterrorism measures on civil society, in particular , paragraph 46(c) that urges States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds.

Although no universal treaty generally defines “terrorism”, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments,¹ the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004).² Based on these authoritative sources, the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism³ provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements. We further remind your Excellency’s Government that, as noted by the Special Rapporteur, “the term ‘extremism’ has no purchase in binding international legal standards” and “when operative as a criminal legal category, is irreconcilable with the principle of legal certainty; it is therefore per se incompatible with the exercise of certain fundamental human rights” (A/HRC/43/46).

We further wish 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, 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. Additionally, we would like to bring to the attention of your Excellency’s Government the provisions of article 12 of the Declaration, 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 their legitimate exercise of their rights.

In her report on older persons deprived of liberty, the Independent Expert on the enjoyment of all human rights by older persons calls for paying special attention to

¹ See https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.

² A/RES/49/49, annex, para. 3.

³ A/HRC/16/51, para. 28.

applying the principles of necessity and proportionality when the deprivation of liberty is decided against older persons in the context of criminal justice, considering the severity of the offence, and whether the dignity of older persons is being protected based on their age and intersectional factors (A/HRC/51/27, para. 17). States must treat older persons with dignity during the entire duration of the process and must take into consideration their specific needs with respect to their age, health and disability status. at every stage of the criminal justice process (especially pretrial, trial, sentencing, appeal and post-sentencing detention) (para. 15).

The Independent Expert made, inter alia, the following recommendations: (a) States must adopt age-sensitive policies and strategies in the criminal justice context to ensure respect for and protection of the human rights of older persons, in line with international and regional human rights standards regulating the deprivation of liberty; [...] (f) States, through their judicial systems, should consider the necessity and proportionality of detaining older persons with complex health conditions and in need of palliative care; States should also examine the possibility of non-custodial alternatives at all stages of detention, including serving sentences in facilities where the needs of older persons would be addressed through or benefit from humanitarian or compassionate release (para. 88).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response as soon as possible on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would also be grateful for your observations on the following matters:

1. Please provide any additional information and/or comments you may have on the above-mentioned allegations.
2. Please provide detailed information about the factual and legal basis for the criminal case and charges brought against Mark Kuperman, in relation to both extremism and terrorism offenses, and explain how these actions comply with the Russian Federation's obligations under international human rights law. Please explain what measures are being taken to enable him and his legal representatives to consult his case file and fully exercise his right to defence, in accordance with article 14 of the ICCPR.
3. Please explain how the Russian Federation aims to ensure that Mark Kuperman's human rights as an older person with disability are fully respected, especially ensuring access to due process and fair trial, and protection from arbitrary detention.
4. Please provide updated and detailed information on the present state of health of Kuperman, as an older person with disability, and measures that

have been taken, or are envisaged to be adopted, to protect his life and preserve his health and his physical and psychological well-being, including timely access to adequate medical care, as appropriate.

5. Please provide information on what measures are taken to prevent torture and other cruel, inhuman, or degrading treatment or punishment from being perpetrated against Mark Kuperman as an older person with disability.
6. Please provide information on procedural accommodations in the course of the criminal investigation and the judicial proceedings, as well as other legal and policy measures to ensure access to justice and fair trial for older persons and persons with disabilities in Russia.
7. Please provide information about measures taken to ensure that human rights defenders, as well as their relatives, are able to carry out their legitimate human rights activities in an enabling environment, without fear of reprisals, harassment, or criminal sanctions.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their recurrence 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.

We are considering publicly expressing concerns in the near future as the information at hand is sufficiently reliable to indicate a matter warranting immediate attention. Any public statement will indicate that we have been in contact with your Excellency's Government to clarify the issue(s) in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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