

**Mandates of the Special Rapporteur on the independence of judges and lawyers; the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the situation of human rights in the Russian Federation and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL RUS 13/2025

(Please use this reference in your reply)

29 December 2025

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 situation of human rights defenders; Special Rapporteur on the situation of human rights in the Russian Federation and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 53/12, 60/8, 52/4, 57/20 and 58/14.

We would like to refer Your Excellency's Government to the so-called "Lawyer's Monopoly" draft bill introducing amendments to the Federal Law No. 63-FZ "On Advocacy and the Bar in the Russian Federation", which could interfere with the capacity of lawyers to exercise their profession independently, and undermine their professional rights.

An assessment of the 2002 Federal Law "On Advocacy and the Bar in the Russian Federation" and its implementation has been carried out and shared with your Excellency's Government by the mandate of the United Nations Special Rapporteur on the independence of judges and lawyers, in the 2008 country visit report (A/HRC/11/41/Add.2)<sup>1</sup> and the 2013 follow-up report (A/HRC/26/32/Add.1).<sup>2</sup> Special Procedures mandate holders also sent an analysis of this law in March 2024 (OL RUS 1/2024).

In line with this issue, we are additionally bringing to the attention of Your Excellency's Government information concerning the prosecution of lawyers **Vadim Kobzev, Alexey Liptser and Igor Sergunin** in connection with the legitimate exercise of their legal profession in defending opposition politician Alexey Navalny.

Earlier this year, the Special Rapporteur on the situation of human rights in the Russian Federation had already condemned the sentencing on "extremism" charges of the three lawyers and had called for their release, speaking about the increasing persecution of legal professionals defending individuals in politically sensitive or national security-related cases as an alarming pattern of targeted repression and State control throughout Russia.<sup>3</sup>

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<sup>1</sup> A/HRC/11/41/Add.2: [Document Viewer](#)

<sup>2</sup> A/HRC/26/32/Add.1: [Document Viewer](#)

<sup>3</sup> [Russia: Special Rapporteur appalled by prison sentences to punish Navalny lawyers | OHCHR](#); [A/HRC/60/59](#), paras. 72-77.

Through this letter, we wish to highlight the connection between these developments, which together point to an interference in the legal profession through a broader restructuring of the framework of the legal profession, the diminishing independence of the Bar as a self-governing institution in the Russian Federation, and the unwarranted prosecution of lawyers for carrying out their functions.

According to the information received:

Draft bill on “Lawyer’s Monopoly”

The legal profession in the Russian Federation is regulated by the Federal Law No. 63-FZ “*On Advocacy and the Legal Profession*”, adopted on 31 May 2002. This law establishes the Russian Bar (*advokatura*) as a self-governing and independent professional body operating at both federal and regional levels. Its primary purpose is to ensure access to qualified legal assistance and to safeguard the right to professional defence, including free legal services in cases stipulated by the Constitution and the Criminal Procedure Code of the Russian Federation (CPC RF).

In July 2025, a draft bill was introduced proposing amendments to the Federal Law No. 63-FZ, informally referred to as the “lawyer’s monopoly.” Developed by the Ministry of Justice of the Russian Federation and supported by the Federal Chamber of Advocates (FCA), the bill is presented as a reform aimed at improving the quality of legal representation and standardizing professional practice before the courts.

The draft bill would establish the exclusive right of lawyers with advocate status to represent clients in civil, administrative, and arbitration proceedings. Legal representation before courts would thus become contingent on the possession of such status, requiring all trial lawyers currently practicing outside the Bar to obtain membership in a regional Chamber of Advocates.

The bill introduces new procedures for admission to the profession, the suspension and termination of advocate status, and the regulation of lawyers’ activities, training, and disciplinary responsibility. It also expands the authority of the Federal Chamber of Advocates and regional Chambers over professional conduct and governance. Under the proposed framework, presidents of regional Chambers would hold additional functions within councils and qualification commissions, while the Ministry of Justice would be granted a supervisory role, including the possibility to review and appeal certain decisions of Bar bodies.

The proposed amendments extend to foreign lawyers and law firms, setting new criteria for their practice within the Russian Federation. In addition, they establish procedures for deferred admission decisions and potential suspension of advocate status in cases of non-compliance with established requirements or procedures.

## Case of Vadim Kobzeb, Alexey Lipster and Igor Sergunin

On 13 October 2023, Russian police and the Investigative Committee conducted searches at the homes and offices of Vadim Kobzev, Alexey Liptser, and Igor Sergunin. On the same day, the three lawyers were arrested and detained at the Basmanny District Court in Moscow, facing charges of participation in an extremist organization under article 282.1(2) of the Russian Criminal Code.

The charges relate to the lawyers facilitating communication between Alexey Navalny, who was detained in a “special regime” facility before his death, and individuals outside, including the transfer of information between members of the Foundation for Combating Corruption (FCC), which was designated an extremist organization.

On 7 December 2023, the Basmanny District Court extended their detention until 13 March 2024. The Federal Financial Monitoring Service (Rosfinmonitoring) subsequently added Kobzev, Liptser, and Sergunin to its list of terrorists and extremists, affecting their ability to access banking services and indicating ongoing legal proceedings under Russian criminal law provisions concerning extremism and terrorism.

On 17 January 2025, the Petushinsky District Court (Vladimir region) convicted the three lawyers in closed proceedings. Vadim Kobzev received a sentence of 5 years and 6 months, Alexey Liptser 5 years, and Igor Sergunin 3 years and 6 months in general-regime penal colonies, along with a three-year professional ban on practicing law. The prosecution occurred while they were acting in their capacity as legal defense representatives for Navalny.

### Context

The context in which these events have taken place reflects broader measures affecting the independence of lawyers, as well as their ability to practice without undue interference in the Russian Federation.

#### *Discrimination to enter the Bar*

The FCA and regional Chambers are alleged to impose discriminatory and unlawful restrictions on access to the legal profession. Although legislation defines qualification and professional stability as criteria for entry into the Bar, many Chambers reportedly apply additional, extralegal conditions such as property and age requirements, residence criteria, and limits on extraterritorial practice.

Entrance fees and mandatory deductions for new or small law firms are often disproportionately high, creating financial barriers that amount to indirect discrimination based on economic status. In some regions, smaller firms and individual advocates are excluded from Chamber conferences or from participating in court-appointed defense cases, further restricting professional equality.

Furthermore, interregional mobility is curtailed by FCA instructions prohibiting lawyers from engaging in permanent practice outside their region of registration, despite national law granting the right to practice throughout the Russian Federation. Applicants are also required to pass qualification exams in regions where they have resided for at least one year, creating an additional administrative barrier.

### *Disciplinary abuse and repressive rulemaking*

The April 2024 amendments to the Federal Law expanded the Ministry of Justice's authority to oversee regional bar associations and the Federal Chamber of Advocates, including powers to monitor compliance with regulations, influence disciplinary proceedings, and review qualification exams. At the same time, the Federal Chamber's authority over regional Chambers was consolidated, allowing it to suspend leaders, enforce centralized codes of conduct, and override local decisions. Thus, lawyers no longer have autonomous control over representative bodies and operate under hierarchical oversight.

Further, procedural changes in the Criminal Procedure Code removed the prior requirement for court authorization before initiating criminal proceedings against lawyers, leaving cases subject to approval solely by regional heads of the Investigative Committee.

Disciplinary structures within the Federal Chamber and regional Chambers were also revised. Qualification commissions reviewed thousands of complaints and disciplinary cases each year, with many cases resulting in comments, warnings, or the termination of lawyer status. Between 2021 and 2024, thousands of disciplinary actions were recorded, including warnings, reprimands, and revocations of legal status. Grounds for disciplinary action included non-compliance with bar association decisions, professional ethics violations, non-fulfillment of duties to clients, or criminal convictions. Appeals of disciplinary decisions were largely unsuccessful, and procedural rules restricted impartial review, including limitations on recusal and the handling of absent lawyers.

Additionally, the Code of Professional Ethics for Advocates (CPEA) was amended to include broadly defined standards, covering actions perceived as undermining confidence in the profession or damaging the honor and dignity of lawyers. Such provisions applied to social media activity, correspondence, and professional conduct, expanding the scope for disciplinary measures. Disciplinary procedures were reportedly used in conjunction with administrative and criminal measures, with some actions based on appeals or expressions of criticism toward Chambers or bar leadership.

Information suggests that official clarifications and guidance restricted lawyers from reporting alleged misconduct within the Chambers or the Federal Chamber to State bodies, under threat of disciplinary action. Administrative detentions, minor violations, and internal appeals were reportedly sometimes treated as disciplinary matters, with regional Chambers initiating proceedings against lawyers participating in collective appeals or challenges to Chamber practices.

### *Systemic obstruction of legal defense and procedural inequality*

Monitoring of legal practice in Russia indicates widespread obstacles to lawyers' access to clients and case materials. In 2022, this monitoring effort documented 434 instances in which lawyers were denied client visits, predominantly in police departments (81 per cent), followed by investigative actions (7 per cent), courts (6 per cent), and penitentiary facilities (3.5 per cent). The highest numbers of cases occurred in Moscow, Saint Petersburg, and Sverdlovsk regions. In a majority of reports, lawyers' identities were documented, while some remained unspecified.<sup>4</sup>

Additionally, information also suggests that lawyers frequently cannot locate clients post-detention due to the absence of timely notifications from authorities, lack of accessible detainee registries, or withholding of location information. Detention facility procedures, including limited visiting hours and restricted office space, reportedly create significant delays in lawyer-client meetings. In some instances, meetings are monitored, with surveillance data potentially used as evidence. Lawyers have also been reportedly pressured to provide client information to State financial intelligence agencies.

Access to documents and case materials is reportedly also limited. Although the CPC RF grants lawyers rights to collect information, request documents, and review case files, investigative authorities and courts may restrict or delay access to materials, particularly pre-investigation records or inventories. Evidence collected by defense lawyers is frequently rejected or disregarded, while prosecution evidence is systematically admitted. Defence motions, including requests for witness summons or independent forensic examinations, are often rejected as untimely or improperly presented, and courts may limit time for case review.

Furthermore, court practices reportedly favour the prosecution. Defence witnesses may be rejected or not compelled to appear, cross-examination may be restricted, and acquittal rates remain extremely low. Independent forensic examinations requested by the defence are frequently denied, and defence lawyers are sometimes questioned about client-related matters despite prohibitions in law, raising concerns about confidentiality.

Reports also indicate tolerance of procedural irregularities, including evidence falsification, admission of closed hearings, and manipulation of case materials. While some issues have been acknowledged by the Federal Chamber of Advocates, responses have generally been limited, leaving lawyers reliant on extended procedural remedies that may be ineffective or unavailable in practice.

### *Suppression of dissent*

The Federal Chamber of Advocates (FCA) and regional Bar Chambers have also used administrative and institutional mechanisms to restrict independent

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<sup>4</sup> Centre for Constitutional Studies, *Report on the Rights of Human Rights Defenders in the Russian Federation* (Moscow, 2022), available at: <http://files.constlawcenter.ru/wp-content/uploads/2022/11/defenders-rights.pdf>.

initiatives, limit media access, and control professional discourse within the legal profession. It has been reported that journalists critical of Bar policies have been denied accreditation to cover professional events, including major forums such as the All-Russian Congress of Advocates. Independent legal media projects have faced official labelling as “foreign agents,” resulting in cessation of operations and reduced coverage of legal professional matters.

In parallel, independent public and professional lawyer associations have been dismantled, absorbed, or subordinated to the FCA and regional Chambers. Organizations offering alternative perspectives or platforms for professional development have been eliminated or placed under direct institutional control. Initiatives aimed at protecting human rights or advocating for persecuted colleagues have particularly been discredited, with accusations of violating professional conduct norms or creating “division” within the profession.

Additionally, institutional leadership within the Bar has used public communications to characterize dissenting lawyers in derogatory terms, employing media channels to challenge the legitimacy of lawyers critical of FCA policies. These practices contribute to a professional environment in which independent expression, internal debate, or organizational autonomy are constrained, and dissent is publicly delegitimized.

#### *Legislative assault on legal independence*

Reports indicate that since 2022, at least 145 incidents of attacks or reprisals against lawyers have occurred, including cases of physical violence, administrative prosecution, and the use of counter-terrorism and counter-extremism legislation. These measures have reportedly resulted in several deaths, injuries, and attempted murders, as well as the inclusion of lawyers on official “foreign agents” and “extremists and terrorists” lists, such as Vadim Kobzev, Alexey Lipster and Igor Segunin.

Lawyers engaged in politically sensitive or human rights-related cases have reportedly faced searches of their homes and offices, confiscation of professional equipment and case materials, and the seizure of documents protected under attorney–client privilege. In several instances, it has been alleged that access to confidential defense materials was the apparent objective of investigative actions.

The period has also seen a pattern of administrative and criminal prosecutions against lawyers for the exercise of their professional duties, including the use of online expression or the transmission of legal information in the context of representation. Such proceedings were often conducted under broadly interpreted provisions of the Criminal Code, including those related to extremism or the dissemination of “false information.” Convictions in these cases have included imprisonment and professional bans, often issued through closed proceedings.

Professional self-governing bodies of the Bar have reportedly demonstrated limited or delayed responses to these developments. While the FCA and regional

chambers are formally mandated to safeguard the independence and rights of lawyers, their public reactions to prosecutions and disciplinary measures against members have often been restricted to procedural commentary rather than substantive defense. This has raised concerns among legal observers about the institutional subordination of professional associations to executive authority.

### *Politization of the FCA*

Since 2014, monitoring indicates that the FCA and several regional Bar Chambers have aligned their activities with the geopolitical objectives of the Executive, particularly in relation to military operations in Ukraine. Institutional measures include the integration of lawyers from occupied territories – including Donetsk, Luhansk, Kherson, and Zaporizhzhia – into the organizational structures of the Russian Bar. This integration has been accompanied by institutional endorsements of State military actions, as well as the organization of trips, training, and conferences in these territories.

The Bar has publicly presented these activities as professional initiatives, normalizing the operation of Russian legal institutions in occupied regions. Reports indicate that the FCA and regional Chambers have participated in or financed events with military themes, including commemorations connected to national victory narratives. Membership dues collected from lawyers are reportedly used to fund such activities, with limited transparency or input from the lawyers themselves regarding the use of these funds.

The alignment of the Bar with these objectives has reportedly influenced disciplinary and professional practices. Lawyers who dissent from the institutional positions or express opposition to military operations in Ukraine have faced professional sanctions, public defamation, or criminal investigations. Additionally, youth-oriented initiatives sponsored or supported by the FCA, such as the Union of Young Lawyers of Russia, have reportedly aimed to cultivate professional adherence to the institutional and State-aligned political agenda. Institutional policies and practices emphasize alignment with State priorities over professional independence, neutrality, or traditional legal advocacy functions.

Without prejudging the accuracy of these allegations, we wish to express our serious concern that recent legislative, administrative, and disciplinary developments affecting the legal profession in the Russian Federation may substantially undermine the independence of lawyers and the right to a fair trial and due process guarantees for all people in the Russian Federation.

We recall that the free exercise of the legal profession contributes to ensuring access to justice, oversight of State power, protection of due process and judicial guarantees. According to international standards, States must guarantee that those who practice law can do so free from intimidation, obstacles, harassment, or interference. Standards also provide that lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions. The UN Basic Principles on the Role of Lawyers, namely principle 16, ensures that lawyers shall be able to perform their professional function without intimidation, hindrance, or proper interference, and

principle 23 provides that lawyers shall have the right to take part in public discussion of matters concerning the law and administration of justice.

We are particularly concerned that the proposed draft bill on the reorganization of the Bar, if adopted, may centralize control over the legal profession and weaken its self-governing structures. These risks limiting institutional safeguards for lawyers' independence, reducing their ability to organize freely, and increasing the vulnerability of lawyers to external influence or political pressure.

We wish to recall that without the protection provided by an independent bar association, lawyers are extremely vulnerable to attacks and to restrictions on their independence, especially from State authorities. Professional associations of lawyers are also intended to ensure effective and equal access to legal services for all, in accordance with recognized professional standards and ethical principles.

We are also deeply concerned that lawyers representing clients in politically sensitive cases have reportedly been subjected to prosecution, intimidation, and/or disciplinary action in connection with their professional activities. The detention and prosecution of several defence lawyers associated with high-profile political cases appear to form part of a broader pattern of retaliation. Such actions undermine the capacity of lawyers to perform their duties independently and may constitute arbitrary deprivation of liberty under article 9 of the International Covenant on Civil and Political rights (ICCPR), ratified by the Russian Federation on 16 October 1973.

These individual cases must be viewed within a wider institutional context in which the autonomy of the legal profession is being progressively eroded. Disciplinary and regulatory mechanisms appear to be increasingly used in ways that discourage dissent, limit professional independence, and suppress critical debate. Amendments to internal regulations and ethical codes reportedly broaden the grounds for disciplinary liability, including for expressions of professional opinion or participation in public discussion, transforming oversight from an ethical safeguard into a tool for administrative or political control. The consolidation of rulemaking authority within bar leadership structures aligned with executive policies further blurs the line between professional self-governance and State influence.

We are concerned about systemic obstruction affecting lawyers' ability to carry out their professional duties. Restrictions on access to clients and case materials, interference with confidential communications, and procedural barriers that hinder preparation of an effective defence undermine the principle of equality of arms and the right to a fair trial, as protected under article 14 of the ICCPR and reaffirmed in the Basic Principles on the Role of Lawyers (principles 16, 20, 22).

Furthermore, restrictions and conditions imposed on access to the legal profession, including disproportionate financial or administrative barriers, may limit equal participation and constitute discrimination contrary to international human rights standards. The ability to practice law must depend solely on objective criteria such as competence, integrity, and professional qualifications.

We are equally concerned that professional governance mechanisms have been used to suppress dissent, freedom of expression, and pluralism within the legal

community. Censorship, denial of media access, and marginalization of independent associations indicate that lawyers who criticize institutional practices or participate in independent initiatives may face disciplinary or reputational pressure. Such measures are incompatible with articles 19, 21, and 22 of the ICCPR, which protect the rights to freedom of expression, peaceful assembly, and association, as well as with principles 16 and 24 of the Basic Principles on the Role of Lawyers.

The increasing politicization of bar associations and their alignment with governmental interests may compromise the independence and integrity of the legal profession. When institutions responsible for safeguarding lawyers' rights are subject to external influence, they cannot effectively protect members from interference or retaliation. These risks eroding public confidence in the justice system and undermining the principle that lawyers must be able to defend their clients freely and impartially, as required under international human rights law.

The above-mentioned concerns and allegations are particularly concerning as lawyers are one of the few remaining actors in the shrinking civic space in the Russian Federation that defend human rights and protect victims of human rights violations.

Finally, we are alarmed at the reported practice of including lawyers, including Mr. Kobzev, Mr. Lipster, and Mr. Sergunin, to "terrorists" and "extremists" lists, in apparent retaliation against their legitimate professional activities. We remind your Excellency's Government that States must ensure that measures to combat terrorism and preserve national security comply 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). We are further concerned that the grounds and procedures for such listings are not consistent with international law (see (A/HRC/16/51, para. 35 and A/80/284, paras. 17-39).

We reiterate concerns raised previously (RUS 30.2023) regarding the practice of designating dissent as "extremist" and the chilling effect that such designations have on civic space. We recall that "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, para. 14). In 2022, in its Concluding Observations on the eighth periodic report of the Russian Federation on the observance of the International Covenant on Civil and Political Rights (CCPR/C/RUS/8/CO), the Human Rights Committee raised concern about "the vague, open-ended and regularly modified definition of 'extremist activity' in the federal law on combating extremist activity, which does not comply with the principles of legality, legal certainty and proportionality required for such legislation under article 19 of the Covenant" and "the frequent use of the law to target political opponents, human rights defenders, journalists, religious communities, artists and lawyers in order to limit civic space, including freedom of expression, for example through extrajudicial blocking of Internet sites or censorship of books, songs and other artistic expression" (para. 30).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the current legal status, conditions of detention, and factual circumstances surrounding the detention and prosecution of Vadim Kobzev, Alexey Lipster, and Igor Sergunin. In particular, please clarify how these measures comply with their rights to liberty, due process, and a fair trial under articles 9 and 14 of the ICCPR, and provide information on any measures taken for their release.
3. Please provide updated information on the status of the draft bill concerning the reorganization of the Bar. Explain how its provisions ensure the self-governing nature, institutional independence, and ability of lawyers to perform their professional duties freely, in line with international human rights standards and the Basic Principles on the Role of Lawyers.
4. Please indicate the measures adopted to ensure that disciplinary proceedings against lawyers are conducted in full respect of guarantees of independence, impartiality, and due process, and that they are not used to restrict legitimate professional activity, public statements, or expression of professional opinion.
5. Please provide information on steps taken to safeguard lawyers' access to clients, case files, and confidential communications, and to ensure that no procedural or administrative barriers impede the preparation of an effective defence, in accordance with article 14 of the ICCPR and the Basic Principles on the Role of Lawyers (principles 16, 20, and 22).
6. Please provide information on measures adopted to remove restrictions or disproportionate financial and administrative barriers that limit equal entry and participation in the legal profession and clarify how access to the profession is ensured based solely on objective criteria such as competence, integrity, and professional qualification.
7. Please provide information on measures taken to protect lawyers' rights to freedom of expression, peaceful assembly, and association within the legal profession, including their ability to participate in public debate, form independent associations, defend human rights, and publicly comment on matters of law and justice without risk of disciplinary or reputational sanctions, in line with articles 19, 21, and 22 of the ICCPR and principles 16 and 24 of the Basic Principles on the Role of Lawyers.

8. Please indicate the steps being taken to guarantee that bar associations and other professional bodies remain independent, free from political influence or administrative control, so that they can effectively protect the independence of their members and uphold the integrity of the justice system.
9. Please detail the factual and legal basis for including lawyers, including Mr. Kobzev, Mr. Lipster, and Mr. Sergunin, to “terrorists” and “extremists” lists, and explain how such designations comply with international legal standards, including the requirement of legal certainty under article 15 of the ICCPR, the right to fair hearing under article 14 of the ICCPR, and the right to an effective remedy under article 2 of the ICCPR.

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.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency’s Government to clarify the issues in question.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Mariana Katzarova  
Special Rapporteur on the situation of human rights in the Russian Federation

Ben Saul  
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

## **Annex**

### **Reference to international human rights law**

In connection with the above-mentioned allegations and concerns, we wish to draw your Excellency's Government's attention to the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, and to the Basic Principles on the Role of Lawyers.

Article 9 of the ICCPR guarantees the right to liberty and security of the person and protects against arbitrary arrest or detention. Any deprivation of liberty must be lawful, carried out in accordance with established procedures, and subject to prompt judicial review to prevent arbitrary detention. The United Nations Working Group on Arbitrary Detention has repeatedly affirmed that access to legal counsel is a fundamental safeguard against arbitrary deprivation of liberty and must be ensured at all stages of detention and judicial proceedings (A/HRC/45/16, paras. 50-55). As noted by the Human Rights Committee, any detention due to the peaceful exercise of rights is arbitrary (general comment No. 35, para. 17).

Article 14 of the ICCPR provides essential procedural guarantees for all persons charged with a criminal offence, including the right to a fair and public hearing by a competent, independent, and impartial tribunal, and the right to have access to, and to communicate confidentially with, counsel of one's own choosing. Legal assistance must be effective from the moment of detention and throughout pretrial, trial, retrial, and appellate proceedings. The Human Rights Committee, in general comment No. 32 (2007), emphasized that counsel must be able to advise and represent clients without undue interference, influence, or pressure (CCPR/C/GC/32, para. 34).

Article 19 of the ICCPR guarantees the right to freedom of opinion and expression, and article 21 recognizes the right to peaceful assembly. Any restrictions must be prescribed by law, pursue a legitimate aim, and be necessary and proportionate in a democratic society. General comment No. 34 of the Human Rights Committee affirms that States must protect individuals exercising these rights against intimidation or reprisals, including in contexts involving civil society and professional activity (CCPR/C/GC/34, paras. 4, 23, 42). The Special Rapporteur on the rights to freedom of peaceful assembly and of association has emphasized that a safe and enabling environment is essential for the enjoyment of civil and political rights, including access to legal counsel and participation in civic life (A/HRC/47/24).

We would also like to draw your attention 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 (Havana, 1990). Principle 16 provides that lawyers shall be able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference. Principle 18 specifies that lawyers shall not be identified with their clients or their clients' causes as a result of their professional functions. Principle 20 affirms that lawyers shall not be threatened with disciplinary or other sanctions for actions taken in accordance with professional duties, standards, and ethics. Principle 21 establishes that competent authorities must ensure lawyers have access to appropriate information, files, and documents in sufficient time to provide effective legal assistance. Principle 22 guarantees that all communications and

consultations between lawyers and their clients within their professional relationship are confidential. Principle 24 affirms lawyers' right to participate in public discussion of matters concerning the law, justice, and the protection of human rights without suffering professional disadvantage. Principle 26 requires that lawyers enjoy adequate safeguards and protection when their security is threatened as a result of discharging their professional functions. Principle 27 guarantees civil and penal immunity for statements made in good faith in professional appearances before courts, tribunals, or other legal or administrative authorities. Principle 28 affirms that lawyers have the right to form and join self-governing professional associations to represent their interests and protect their independence. Principle 29 establishes that the executive bodies of such associations must be freely elected and able to operate without external influence. Together, these principles ensure that lawyers can provide an effective defence, maintain professional autonomy, and uphold the rule of law.

We also draw attention to the UN Declaration on Human Rights Defenders (A/RES/53/144), which establishes the right of individuals and groups to promote and protect human rights. Articles 1 and 2 affirm that everyone has the right to engage in human rights activities and that States have the primary duty to protect these rights. Article 5(b) and (c) protects the right to form and join associations, including professional and advocacy organizations, and to communicate with national or international human rights bodies. Article 11 guarantees the lawful exercise of one's profession, individually or in association with others.

Finally, we remind your Excellency's Government that any measures taken to combat terrorism or violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law.<sup>5</sup> 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,<sup>6</sup> the General Assembly's Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004).<sup>7</sup> 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 terrorism provides clear "best practice" guidance by identifying conduct that is genuinely terrorist in nature and precisely defining the elements (A/HRC/16/51, para. 28).

The principle of legal certainty under article 15 (1) of the ICCPR requires that criminal laws be sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and the legal consequences of committing such an offence. This principle seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse to target civil society on political or other unjustified grounds.<sup>8</sup> According to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, "the term 'extremism' has no purchase in binding international legal standards and, when

<sup>5</sup> Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, among others.

<sup>6</sup> See [https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2\\_en.xml](https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml).

<sup>7</sup> A/RES/49/49, annex, para. 3.

<sup>8</sup> [A/70/371](#), para. 46(b).

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](#), para. 14).

Many resolutions of the United Nations General Assembly, Security Council and Human Rights Council reaffirm that any measures taken to combat terrorism and violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law.<sup>9</sup> Counter-terrorism measures must conform to fundamental requirements of legality, legitimate aim, necessity, proportionality, and non-discrimination. Disregard for these principles can have exceptionally harmful effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities, and civil society. States must ensure that measures to combat terrorism do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights (A/HRC/RES/22/6, para. 10(a)).

In regards to terrorist listings and designations, we recall that the designation of “terrorist” individuals or organizations must meet the requirements of due process and judicial protection under international human rights law, as set out by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, para. 35 and A/80/284, paras. 17-39). Specifically:

- (a) there must be reasonable grounds to believe that the person or entity has knowingly engaged in terrorism, as properly defined according to international standards, including the requirement of legality;
- (b) the listed person or entity must be promptly informed of the listing and its factual grounds, the consequences of such listing and the applicable procedural rights;
- (c) there must be a right to apply for de-listing and to have it reviewed within a reasonable time, and a right to judicial review of any resulting decision, in both cases affording due process, including sufficient disclosure of evidence and access to a lawyer;
- (d) the listed individual or entity must be afforded the right to make a fresh application for de-listing or lifting of sanctions in the event of a material change of circumstances or the emergence of new evidence relevant to the listing;
- (e) listings must lapse automatically after 12 months unless renewed afresh; and
- (f) reparation, including compensation, must be available for any wrongful listing.

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<sup>9</sup> Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, among others.