

18 May 2016

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the rights of indigenous peoples, pursuant to Human Rights Council resolutions 26/22, 19/10, 28/11, 25/2, 24/5, 25/18, and 24/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of unwarranted charges and disputed sentencing of Mr. **Sergey Nikiforov**. Mr. Sergey Nikiforov is an Evenki indigenous people's leader, environmental rights defender and head of the village council of Ivanovskoye. He has led a series of demonstrations in Ivanovskoye, in protest of the negative impact on the environment from the operations of UK-based gold mining company Petropavovsk. The company reportedly intends to extract ore from Evenk ancestral territories.

According to the information received:

In 2012, Mr. Nikiforov commissioned a building project from the engineering company DalTeploEnergo. It aimed at repairing the water tower and heating system for a kindergarten in Ivanovskoye village, where he served as a head of the village council. Despite receiving payment in advance, the company allegedly never carried out the works. In September 2013, Mr. Nikiforov lodged two complaints against the company for fraud and bribery. His complaints were successful and the company was reportedly requested to refund him. However, in October 2013 Mr. Nikiforov was accused by DalTeploEnergo of fraud and bribery. He was consequently placed under house arrest, pending trial. There was no further action until September 2015. In July 2015, Petropavlovsk mining company was reportedly granted a license to extract gold using explosives within two kilometres of Ivanovskoye village. It is claimed that there were no consultations with the affected Evenki community, as required under Russian law. On 10 September 2015, the Ivanovskoye villagers asked for all works to stop pending an ethnological and ecological survey and declared their intention to oppose the mining by all legal means. During house arrest, Mr. Nikiforov led the opposition against the license granted to Petropavlovsk. According to the information received, the 2013 case of Mr. Nikiforov was unexpectedly reactivated in September 2015 just at the time when the villagers announced their opposition to the mining project. During the trial, the court allegedly refused to consider vital evidence, such as banking documents proving that Mr. Nikiforov

could not have accepted bribes on particular dates in the city of Blagoveshchensk as he was in the regional administrative centre of Ekimchan, 650 kilometres away. The court allegedly refused to call crucial witnesses. The only witness present in court was unable to identify Mr. Nikiforov and testified she did not know the man. The complainant company DalTeploEnergO was not called as a witness and has not been charged. On 29 September 2015, Mr. Sergey Nikiforov was sentenced to five years in prison and a fine of 16 million roubles (\$246,600) for “bribery and fraud” by a court in Blagoveshchensk, Amur oblast of the Russian Federation. On 8 December 2015 and following an appeal, the sentence was reduced to four years and the fine to 3 million roubles (\$46,200). Mr. Nikiforov is serving his sentence in a strict-regimen correctional colony No.3 in Srednebelaya village, Amur oblast, where he was recently placed in solitary confinement.

Concern is expressed at the alleged unwarranted charges and sentencing of Mr. Nikiforov, which appear to be directly related to his activities in defence of human rights, including land and environmental rights. Further concern is expressed at the alleged relation of the sentencing to the peaceful opposition of the Ivanovskoye village under the leadership of Mr. Nikiforov against the mining by Petropavlovsk mining company, as well as alleged irregularities in the discharge of the trial.

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.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal grounds for the charges and the sentencing of Mr. Sergey Nikiforov, and explain how these measures are compatible with international human rights norms and standards.
3. Please provide information on the measures put in place to ensure that the human rights defenders, including environmental activists, in the Russian Federation are able to carry out their legitimate work in a safe and enabling environment, without fear of threats or acts of intimidation and persecution of any sort.
4. Please indicate which measures, including legislation and policies, the Government has put in place to prevent, investigate and redress human rights violations related to the activities of business enterprises operating in the country.

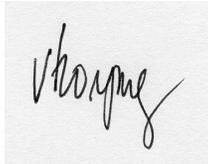
5. Please indicate if the Government has provided any guidance to business enterprises in the Russian Federation on their expected human rights due diligence process. Such a process allows companies to identify, prevent, mitigate and account for they address their impacts on human rights (as per the Guiding Principles on Business and Human Rights, Principles, 17-21).

We would appreciate receiving a response within 60 days.

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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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



Victoria Lucia Tauli-Corpuz
Special Rapporteur on the rights of indigenous peoples



Michel Forst
Special Rapporteur on the situation of human rights defenders



Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

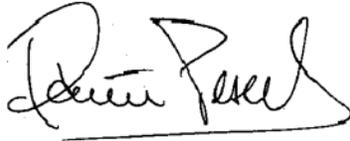


David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression



John Knox

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment



Dante Pesce

Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to recall articles 19 and 21 of the of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian federation on 16 October 1973, which provide for the right to freedom of expression and freedom of association.

We would also like to refer to 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 articles 1 and 2 which provide that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Furthermore, articles 5 and 6 provide for the right to form, join and participate in non-governmental organizations, associations or groups, as well as for the right to discuss and hold opinion of all human rights and fundamental freedoms and to draw public attention to those matters.

We further wish to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We would also like to refer to the Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/4) in 2011. The Guiding Principles apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure. They recognize the important and valuable role played by independent civil society organizations and human rights defenders. In particular, Principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. Principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.