

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

Ref.: AL KGZ 1/2022
(Please use this reference in your reply)

19 July 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 43/4 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary arrest and judicial harassment of Mr. **Bolot Temirov** and Mr. **Bolot Nazarov**.

Mr. **Bolot Temirov** is an investigative journalist and the founder of *Temirov Live*, a YouTube channel through which he reports on alleged cases of state corruption. Mr. **Bolot Nazarov** is a musician, poet and human rights defender. He supports the investigative work of *Temirov Live* and publishes songs about these investigations on his own social media channels.

According to the information received:

On 22 January 2022, the office of *Temirov Live* in Bishkek was raided by officers of the narcotic police. The officers ordered staff members to lie on the ground and allegedly confiscated drugs from Mr. Temirov's pocket. The police officers also confiscated equipment containing information about ongoing investigations. Mr. Temirov was arbitrarily arrested and sent to a drug testing facility. The tests carried out did not reveal any trace of narcotic substances in his system. On the same day, Mr. Nazarov was also arrested in front of *Temirov Live* offices, after having been found to be in possession of hashish. Both men claim that the confiscated narcotic evidence were planted on them by law enforcement officers.

Mr. Temirov and Mr. Nazarov were then subsequently taken to the Bishkek police department, where they were questioned in the presence of their lawyers.

On 28 January 2022, Mr. Temirov and Mr. Nazarov appeared before the Bishkek District Court. Mr. Bolot Temirov was charged with 'illegal making, acquisition, storage, transportation, or sending of narcotic drugs or psychotropic substances without the purpose of sale' (Part 1 of article 283 of the Kyrgyzstan Penal Code). Mr. Bolot Nazarov was charged with 'inducement to use drugs or psychotropic substances' (article 287 of the Kyrgyzstan Penal Code). Mr. Temirov was released on bail, with instructions on not to leave the city, while Mr. Nazarov was placed under house arrest, pending investigation.

If convicted, Mr. Temirov and Mr. Nazarov face imprisonment of up to five years or a fine of up to 200.000 Kyrgyz Soms (1.900 Euros).

The human rights defenders were reportedly investigating and reporting on cases of state corruption, including about the family of the head of the State Committee for National Security. It is also reported that Mr. Temirov and Mr. Nazarov have been under surveillance.

Without prejudging the accuracy of the above allegations, we wish to express our concern about the arbitrary arrest and judicial harassment of Mr. Temirov and Mr. Nazarov, which appear to be in retaliation for their work on state corruption and in particular investigating the alleged corruption of the family of the head of the State Committee for National Security. We also express concerns about the reported surveillance of the two human rights defenders.

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 legal basis for the arrest and detention of Mr. Temirov and Mr. Nazarov, including whether an arrest warrant was presented.
3. Please provide information about measures taken to ensure that civil society and human rights defenders in Kyrgyzstan, including those working on anti-corruption issues, can carry out their peaceful and legitimate activities without fear of restrictions or judicial prosecution.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to article 9 and 19 of the International Covenant for Civil and Political Rights (ICCPR), ratified by your Excellency's Government on 7 October 1994, which guarantees the right to not be subjected to arbitrary arrest or detention and the right to freedom of opinion and expression.

The right to freedom of opinion and expression includes the right to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, *inter alia*, discussion of human rights (Paragraph 11). Article 19 requires the States to guarantee the right to freedom of expression (Id.). It is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (Paragraph 23).

We would like to also remind your Excellency's Government of Human Rights Council resolution 12/16 (A/HRC/RES/12/16), in which the Human Rights Council expresses its concern that violations of the rights to freedom of opinion and expression continue to occur, often with impunity, including arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence, increased abuse of legal provisions on surveillance, search and seizure, and censorship against persons who exercise, seek to promote or defend these rights, including human rights defenders. In resolution 12/16, the Human Rights Council calls upon the States to respect and ensure the respect for these rights, take all necessary measures to put an end to violations of these rights, bring to justice those responsible and ensure that victims of violations have an effective remedy.

We would furthermore like to refer to articles 9 and 14 of the ICCPR, which guarantee the right not to be subjected to arbitrary arrest or detention, unlawful deprivation of liberty, as well as the right to a fair trial.

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, 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.

Likewise, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 6 (a), which provides for the right to know, seek, obtain, receive, and hold information about all human rights and fundamental freedoms;

- Article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters;
- Article 9 (1), which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights; and
- 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.

Both the General Assembly and the Human Rights Council repeatedly urged the States to create and maintain a safe and enabling environment in which human rights defenders can operate free from hindrance, reprisals, and insecurity (e.g., the General Assembly resolutions 74/146 (A/RES/74/146) and 70/161 (A/RES/70/161), and the Human Rights Council resolutions 22/6 (A/HRC/RES/22/6) and 13/13 (A/HRC/RES/13/13)).

They also repeatedly called upon the States to take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly, and association (e.g., the General Assembly resolutions 74/146 (A/RES/74/146), 72/247 (A/RES/72/247), 70/161 (A/RES/70/161), 66/164 (A/RES/66/164), and the Human Rights Council resolution 22/6 (A/HRC/RES/22/6)).

They also strongly condemned the violence against and the targeting, criminalisation, intimidation, and torture of human rights defenders and stressed the need to combat impunity by ensuring that those responsible for violations and abuses against human rights defenders, including against their legal representatives, associates and family members, are promptly brought to justice through impartial investigations (e.g., the General Assembly resolutions 72/247 (A/RES/72/247), 70/161 (A/RES/70/161), and the Human Rights Council resolution 31/32 (A/HRC/RES/31/32)).

The General Assembly in resolutions 74/146 (A/RES/74/146), 72/247 (A/RES/72/247) and 70/161 (A/RES/70/161) specifically called upon the States to take concrete steps to prevent and put an end to the arbitrary arrest and

detention of human rights defenders.

The need to investigate such violations, eliminate impunity, and as far as possible, to report publicly on investigations and proceedings was further repeatedly emphasised in the General Assembly resolutions 74/146 (A/RES/74/146) and 66/164 (A/RES/66/164), as well as the Human Rights Council resolution 31/32 (A/HRC/RES/31/32) and 13/13 (A/HRC/RES/13/13).