

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

23 December 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 50/17, 43/4, 43/16 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arrest and detention of peaceful protesters, human rights defenders, climate activists and journalists, both women and men, seemingly for the legitimate exercise of their rights to freedom of peaceful assembly and of association, and house searches that were carried out without a warrant or a court order.** We further would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention, denial of due process and fair trial, and authorities' alleged refusal to ensure adequate access to healthcare of those detained. **We are especially concerned about their deteriorating health conditions in detention.**

According to the information received:

On 26 September 2022, Kyrgyzstan and Uzbekistan signed an agreement on the delimitation of their non-demarcated borders, which has remained undefined since the Soviet Union's dissolution made it an international boundary. During the negotiations, the issue of management of water sources ownership for the Kempir-Abad reservoir was discussed, with its control transmitted to Uzbekistan. As the full text's agreement remained secret, near-border communities raised concern about losing access to water after the transfer.

On 10 October 2022, the head of Kyrgyzstan's security forces made the content of the agreement public, raising concerns from near-border communities. They also added to the agreement that 19,000 hectares of land would be ceded by Uzbekistan and that Kyrgyzstan would keep access to the reservoir. Following the announcement of the agreement and the reported lack of transparency from authorities, farmers and residents began to worry about losing access to water. Activists raised concerns about the negotiated pact that could eventually deprive Kyrgyzstani people in the region from access to

water resources and lead to further scarcity of such resources.

On 15 October 2022, a formal gathering was held in the Uzgen district of Osh region where participants raised concerns over the agreement. Further to this public gathering, participants agreed to create a movement and establish a commission in Bishkek to protect the reservoir. On 22 October 2022, a Committee for the Protection of the Kempir-Abad reservoir was created. Its members comprise political figures from opposition parties, activists, human rights defenders, a former ambassador, a former head of the State Committee for National Security and a former judge of the Constitutional Court. The Committee's main mission was defined as ensuring transparency of border negotiations and making sure that the reservoir stays under Kyrgyz territory.

On 23 October 2022, law enforcement authorities conducted home searches at the homes of the Committee's members, without providing a search warrant or court order. Authorities reportedly issued verbal threats against the Committee members and their relatives and used force, seizing personal belongings, including smartphones, computers and money. Shortly after, law enforcement officers arrested approximately 30 individuals, including human rights defenders, journalists, activists and other civil society representatives without presenting a warrant. The detainees were taken to different regional departments before being transferred to the Main Investigation Department of the Ministry of Internal Affairs. They were then sent to the temporary detention facilities ("IVS") of the Central Internal Affairs Directorate, where they were kept for 48 hours. Most of them were placed in pre-trial detention for time periods of up to two months. Prominent Ata Meken party members, women leaders and the Reforma Party members were reportedly also targeted and detained for 48 hours. Among the detainees, eight women activists were condemned to two months of prison. Detainees were not provided with the charges brought against them, nor were they provided with copies of the decisions to initiate criminal proceedings against them.

The search investigation was conducted under Article 37 (powers of investigator) and Article 212 part 9 (exceptional cases of search/seizure without the decision of the investigating judge) of the Code of Criminal Procedure of the Kyrgyz Republic. The arrests took place on the grounds of preparing to commit a crime, namely in "organizing mass riots accompanied by violence, pogroms, arson, destruction of property, use of firearms weapons, explosives or explosive devices, or the creation of armed resistance to a representative of the authorities", under Article 36-278 part 1. There is however no reported evidence showing that those searched and arrested were carrying any arms or trying to use violence. The protesters were peacefully demonstrating their opposition to the draft agreement, requesting more transparency in the negotiation process, as well as associating with others to form a committee and challenge the government's proposal for Kempir-Abad's reservoir at the time of arrest.

The Ministry of Interior advanced claims that those arrested were organising and preparing riots aimed at the "illegal seizure of power", further to the

release of recordings of conversations between activists online. Other reports indicate that these recordings have been cut, edited and presented in a way that did not reflect real conversations.

Shortly after the 23 October 2022 arrests and investigation, a two-month ban on Radio Azattyk was issued by the Government after the radio allegedly broadcast a programme on the armed conflict between Kyrgyzstan and Tajikistan in which tens of thousands of people were displaced. The Ministry of Culture expressed that they found the programme “inaccurate” and “contrary to the national interest” before shutting the radio. At the time this communication was sent, Radio Azattyk remained blocked in the country.

On 24 October 2022, protests took place in Bishkek and Osh, demanding the release of the detained activists and the sharing of information on the negotiations and agreement on the reservoir. Ahead of the peaceful demonstrations, residents saw their internet connection severely restricted, which, according to the authorities, was attributed to an accident on the provider’s channels.

Between 24 and 25 October 2022, a judicial hearing was held by the Pervomaisky district court in Bishkek to determine the measure of restraint for the persons arrested for alleged organization of mass disorder. The session resulted in almost all activists being detained for two months and placed in detention facilities. Most of the detainees, including journalists and human rights defenders, were detained until 20 December 2022. Three other activists are to stay in custody until, respectively, 21, 22 and 23 December 2022. All detainees are reportedly to be kept in custody in detention center 1 of Bishkek.

On 14 December 2022, the court extended pre-trial detention for 25 detainees for two more months - until 20 February 2023 - dismissing the defense lawyer’s arguments that there are no legal grounds for remand custody. A number of those detainees are reported to suffer from chronic diseases, including one with diabetes and two with prior serious health conditions. The detainees’ conditions of pre-trial detention allegedly do not meet the minimum standards as established by international law, with notably a lack of appropriate hygiene conditions and little to no access to daylight. That same day, four women detainees declared an indefinite hunger strike, two of whom declared a dry hunger strike, in protest of what they consider constitute political and judicial persecution of civil society actors. On 15 December 2022, at least 15 more detainees declared that they would also be joining the hunger strike. While detainees have had direct contact with their lawyers, there are grave concerns that they may not have access to timely healthcare services. There have further been reports that family members were denied visits to several detainees.

In the evening of 18 December 2022, the Ombudsperson asked for an ambulance and medical personnel to be dispatched to examine two of the female detainees on hunger strike as their health conditions have reportedly severely deteriorated. The Ombudsperson thereafter recorded that the

dispatched medical personnel refused to hospitalize the two female detainees in the civilian hospital.

On 19 December 2022, some of the detainees' lawyers appealed to the President for the release of their clients.

On 20 December 2022, the health conditions of several detainees are reported to have deteriorated to the extent that the continued hunger strike would pose a risk to their lives, with two detainees too weak to leave their beds. The Deputy Ombudsperson requested that the Minister of Health provide a thorough medical examination of the detainees on hunger strike. That same day the two detainees requiring immediate medical attention were admitted to a private clinic outside of the pre-trial detention center for a medical checkup, yet were still denied hospitalization in a civilian medical facility.

On 21 December 2022, it was reported that family members of detainees were allegedly subjected to surveillance measures. A growing number of journalists, bloggers, human rights defenders, and activists have also reported being subjected to surveillance, searches of their homes, interrogation, detention, and criminal prosecution following sharing information and opinion about issues that are perceived as sensitive by the authorities.

While we do not wish to prejudge the accuracy and the veracity of the above-mentioned allegations, we would like to express our utmost concern over the circumstances of the arrest and detention of over 30 human rights defenders, journalists, activists and other civil society representatives. We are gravely concerned about the physical and psychological integrity of those in pre-trial detention currently on indefinite hunger strike, and particularly those suffering from chronic illnesses and those on dry hunger strikes. We further note with concern the apparent lack of access to timely healthcare services, as several of the detainees facing serious health risks have repeatedly been denied admittance in a civilian medical facility.

We also express concerns over the multiple searches and alleged acts of harassment against those exercising their rights to freedom of peaceful assembly and of expression, which would seem to form part of a broader pattern of acts of intimidation against activists, human rights defenders, journalists, to prevent them from raising their voice on topics of public concern. The criminal cases initiated against those currently detained appear to constitute retaliation for their legitimate expression of dissenting views from government policies and their civic engagement on these issues. We fear that the current detentions and restricting measures may be used further to discourage others from raising their voice against Government decisions and exercising their rights to freedom of peaceful assembly, opinion and expression, which will likely have a "chilling effect" on civil society, including women human rights defenders and journalists.

In this regard, we would like to refer to the rights to freedom of peaceful assembly, as well as of opinion and expression, as enshrined in articles 20(1) and 19 of the Universal Declaration of Human Rights (UDHR), articles 22 and 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Kyrgyzstan

on 7 October 1994, and 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, 2 and 12. Serious concern is expressed at allegations about the use of criminal law to restrict critical expression, political dissent and opinion and political and public affairs. We would like to remind your Excellency's Government that any restriction to the rights to freedoms of peaceful assembly and of expression must meet the conditions established by articles 19 and 22 of the ICCPR, hereunder conform to the strict tests of necessity and proportionality.

We would like to respectfully remind your Excellency's Government that, as noted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association in a report to the Human Rights Council, the rights to freedom of peaceful assembly and of association, as well as of expression, are the cornerstone for any democratic society and a precondition for the enjoyment of human rights.¹ The guarantee of these rights is critical to ensure individuals' right to participate in public affairs, including their right to question Government policies and agreements which are against their legitimate interests. In this regard, we express our most serious concern at what appears to be an attempt to silence critical views about the agreement related to the delimitation of Kyrgyzstan-Uzbekistan's borders, and more precisely the transfer of the management of Kempir-Abad reservoir through peaceful association.

Furthermore, the above-mentioned allegations are consistent with the [preliminary findings](#) of the Working Group on Discrimination Against Women and Girls following their visit of Kyrgyzstan in April 2022. It has been reported to the experts that due to the increasingly hostile environment, a number of civil society organisations, particularly defending the human rights of women, were limiting their activities because they feared reprisal. Some of them refused to meet with the experts because of the possible negative consequences they would face. Other women human rights defenders and advocates have reported that they were leaving the sector due to constant threats, exhaustion, and victimisation. Following the visit, the experts raised serious concerns over the shrinking of civic space and increasing hostility towards human rights activists and journalists.

The International Convention on the Elimination of Discrimination against Women (CEDAW), in particular Article 7, acceded by Kyrgyzstan on 10 February 1997, which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country. As stressed by the Working Group on discrimination against women and girls in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder.

¹ A/HRC/35/28.

Violence against women defenders is sometimes condoned or perpetrated by State actors. Violence or confinement may be used to stifle and punish women politicians, or those who have an active voice in public, for transgressing traditional gender norms. Women human rights defenders, perceived as challenging traditional notions of family and gender roles in society, (A/HRC/40/60, para. 28), are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism (see A/HRC/16/44 and Corr.1). Women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including "complicity" laws, and "public order" laws or even anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. State authorities responding to conflict may detain and confine women in the service of their own cause. Measures corresponding national security measures sometimes profile and target women, in particular those from certain groups, and sometimes even women human rights defenders (A/HRC/41/33).

We are further concerned about the lack of consultation and transparency regarding an agreement which will impact the livelihood of local communities. Such consultation and transparency are necessary to ensure that the interests of communities living at the border are taken into account, in the interest of preventing future conflicts.

We would also like to refer to articles 9, 10 and 11 of the UDHR which prohibits in absolute terms arbitrary arrest and guarantees everyone the right to a fair and public hearing by an independent and impartial tribunal in the determination of their rights and obligations and of any criminal charge against them. In this context, we would also like to refer to relevant provisions of the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court.

On 26 October 2022, the United Nations High Commissioner for Human Rights [called](#) on the authorities to ensure they are fully afforded their due process and fair trial guarantees under international law, including being brought promptly before a judge and able to challenge the lawfulness of their detention, and reminded the authorities that these individuals are presumed innocent and that pre-trial detention should be an exception and resorted to only where reasonable, necessary and provided by law, in line with international human rights norms and standards. We express our support for such calls, and would like to appeal to your Excellency's Government to take all necessary measures to guarantee the rights of these persons not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial trial, in accordance with articles 9, 10 and 11 of the UDHR.

We would like to refer your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded by Kyrgyzstan 7 October 1994, which establishes that an obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health

services (General Comment 14, Para. 34).

In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

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 on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

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 indicate which measures your Excellency's Government has adopted to respect and protect the rights of the aforementioned detainees, including with respect to article 7 of the ICCPR, articles 11 and 12 of the ICESCR, the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 46/173 of 9 December 1988, and the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in its resolution 45/111 of 14 December 1990 and The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules').
3. Please provide information concerning the measures taken by your Excellency's Government to ensure the physical and psychological well-being of those detained, and please provide information regarding current policies and regulations in place to ensure that prisoners in similar situations have access to proper and adequate medical treatment.
4. Please provide information on the factual and legal grounds for the investigation, searches, arrests and detentions of protesters, activists and human rights defenders in general and, women human rights defenders in particular, following the creation of the Committee for the

Protection of Kempir-Abad reservoir, and how these measures are compatible with international norms and standards as stated.

5. Please provide information on the investigation, if any, on law enforcement authorities' use of force and threats against the individuals arrested and their family members during searches.
6. Please provide information about the disruption of Internet connection and shutdowns that took place around and during public protests.
7. Please provide any information about the steps taken by your Excellency's Government to ensure effective consultation with communities affected by the agreement.
8. Please indicate what measures have been taken to ensure that human right defenders, including human rights lawyers, civil society representatives, and activists, as well as journalists and women's rights defenders, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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 responsible of 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's 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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