

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

Ref.: AL KGZ 1/2023
(Please use this reference in your reply)

2 May 2023

Excellency,

We have the honour to address you in our capacities as Working Group on discrimination against women and girls; 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 and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 50/18, 43/4, 50/17 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **credible reports that the Kyrgyz Parliament (Jogorku Kenesh) may be considering, in the coming days, the early dismissal of Ms. Atyr Abdrakhmatova, Ombudsperson (Akyikatchy) of the Kyrgyz Republic.**

We are writing to express serious concern about a possible decision to dismiss Ms. Abdrakhmatova before the completion of her term, in apparent retaliation for her human rights work and increasing lack of compliance of your Excellency's Government of its international human rights obligations.

According to the information received:

On 2 March 2022, the Jogorku Kenesh elected Ms. Atyr Abdrakhmatova as the Ombudsperson of Kyrgyzstan for a five-year term. Ms. Abdrakhmatova is the first woman to hold the position. She has a background in human rights and journalism and prior to her appointment, she was a member of the Central Commission for Elections and Referendums of the Kyrgyz Republic.

Based on the mandate established by the Law no. 136 of 31 July 2002 on the Ombudsperson, she has exercised the duties of protection, promotion and prevention of human rights and freedoms as pronounced in the Constitution of the Kyrgyz Republic, the laws of the Kyrgyz Republic and international agreements and treaties ratified by the Kyrgyz Republic. Since the beginning of her tenure, she has been a strong advocate for human rights and has supported the work of human rights defenders. Ms. Abdrakhmatova has also sent a media law to the Venice Commission, alleging it might be violating fundamental rights and freedoms. Following her engagement with the Venice Commission, the National Security Forces allegedly summoned her and warned her about implementing her mandate.

In 2022, the Ombudsperson submitted alternative reports to the UN Human Rights Committee and the Committee on the Rights of the Child on the issue of violence against women and children in the country. The Ombudsperson

has collaborated with the Special Procedures Mandate Holders, especially, with the Working Group on discrimination against women and girls and the Special Rapporteur on extreme poverty and human rights, during their country visits in April and May 2022. Later, Ms. Abdrahmatova expressed serious concern about the proposal to dissolve the National Preventive Mechanism.

The Office of Ombudsperson under Ms. Abdrahmatova's leadership underwent more than six types of various inspections, including from the State Civil Service Agency, General Prosecutor's Office. These authorities have intimidated and harassed those who stand in solidarity with the Akyikatchy.

On 18 April 2023, in accordance with article 11 of the Law on Ombudsperson at a meeting of the Parliamentary Committee on Constitutional Legislative, State Order, Judicial Legal Issues and Regulations, Ms. Abdrahmatova presented her annual report on the observance of human rights and freedoms in the Kyrgyz Republic. The findings called attention to the situation of violence against women and children, pointing out that Kyrgyzstan was ranked as the most dangerous country for women in Central Asia in the Global Women's Peace and Security Index. The Committee concluded the meeting by taking note of the annual report and left it for the Parliamentary plenary to officially accept the report.

On 19 April 2023, the Parliament considered the Ombudsperson's annual report and decided not to accept it. During the plenary, Ms. Abdrahmatova was prevented from speaking and presenting her annual report. No substantive discussions took place in relation to the content of the report. Based on this outcome and following article 7 of the Law on the Ombudsperson that stipulates that in the event of non-approval of a report, the Ombudsperson and Deputies might be dismissed, some members of the Parliament proposed to consider Ms. Abdrahmatova's early dismissal.

On 27 April 2023, a motion to dismiss the Ombudsperson was approved in the Committee on Constitutional Legislative, State Order, Judicial Legal Issues and Regulations. A final decision is pending, with the plenary vote scheduled to take place on 3 or 4 May 2023.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned about what appears to be an act of retaliation against Ms. Abdrahmatova for her human rights work as a part of a broader campaign of intimidation and harassment of human rights defenders. We are also concerned about the legal framework of the Ombudsperson Institution which is inconsistent with the Paris Principles, especially, article 7 of the Law.

Should these allegations be confirmed, they would be in contravention of the human rights obligations that your Excellency's Government has accepted. We would like to remind your Excellency's Government of its obligations under articles 20(1) and 19 of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), acceded to by Kyrgyzstan on 7 October 1994, in particular, articles 19 and 22, which guarantee to all persons the rights to freedom of expression and freedom of association, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in particular article 7, acceded to 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. If Ms. Abdrahmatova is dismissed before the completion of her term, due to political disagreement with the findings of her annual report, prepared as part of her official duties as an Ombudsperson, which aims to draw attention to the human rights concerns of women and children and Kyrgyzstan's poor ranking in the Global Women's Peace and Security Index, we are concerned that it will compromise the independence of the office of the Ombudsperson. Further, we are concerned that similar tactics of retaliation may be used to discourage others from raising their voice against Government decisions and exercising their rights to freedom of peaceful assembly and association, opinion and expression, which will likely have a "chilling effect" on civil society, including women human rights defenders and journalists.

The Working Group on discrimination against women and girls, following their official visit to Kyrgyzstan in April 2022, expressed serious concern about the shrinking civic space and increasing hostility towards human rights activists and journalists, particularly those defending the human rights of women and girls. We would also like to take this opportunity to reiterate our concern about multiple 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 intimidation against activists, human rights defenders, journalists, to prevent them from raising their voice on topics of public concern. We have raised concerns regarding their alleged arbitrary detention, denial of due process and fair trial, and the authorities' alleged refusal to ensure adequate access to healthcare of those detained in UA KGZ 4/2022. We acknowledge your Excellency's reply.

We share concerns expressed by GANHRI' Sub-Committee on Accreditation that the provision allowing for the dismissal of the Ombudsperson in the event of non-approval of a report submitted to Parliament has the potential to affect the ability of the Ombudsperson "to submit independent and unbiased reports on the human rights situation in the country." As a result of this and other legislative gaps, the Akyikatchy was accredited with status B (i.e. not fully in compliance with the Paris Principles).

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.

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 Ms. Atyr Abdrahmatova, Ombudsperson (Akyikatchy) of the Kyrgyz Republic 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 provide detailed information about the Parliament's motion to possibly dismiss the Ombudsperson.
3. Please provide information concerning the measures taken by your Excellency's Government to ensure that the Akyiatchy Office is in full compliance with the Paris Principles.
4. 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, government officials, and women's rights defenders, can access information, operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization, criminalization or reprisals of any kind, as provided by the ICCPR.

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.

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.

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

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

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 draw the attention of your Excellency's Government to the principles and international standards applicable to this communication. The above-mentioned allegations appear to be in violation of articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Kyrgyzstan acceded on 7 October 1994 which provide for the right to liberty, the right to hold opinions without interference and to freedom of expression, the right to peaceful assembly, and the right to freedom of association with others.

We wish to refer to article 19 of the ICCPR, which provides the right to freedom of opinion and expression. As per article 19(2), the freedom of expression includes the "right to seek, receive and impart information and ideas of all kinds, regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of his choice." Intimidation or retaliation of any kind against a person for holding or expressing an opinion, such as an opinion critical of the government, is a violation of article 19(1). Article 19(3) requires that any restriction on the right to freedom of expression is (i) provided by law; (ii) serves a legitimate purpose; and (iii) is necessary and proportional to meet the ends it seeks to serve. In its General Comment no. 34, the Human Rights Committee stated that an attack on a person, because of the exercise of his or her freedom of expression, be compatible with article 19 (CCPR/C/GC/34/, para. 23). In this connection, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16. The Resolution calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including be persons belonging to minorities or vulnerable groups.

We would like to recall that article 22 of the ICCPR guarantees the right to freedom of association, and that "[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests" (ICCPR, art. 22 (1)). Article 22(2) further indicates that no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. In this light, States must "refrain from imposing restrictions which are not consistent with paragraph 3 [of article 19 of ICCPR], including on discussion of government policies and political debates; reporting on human rights, engaging in peaceful demonstrations or political activities, including for peace and democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups" (A/HRC/RES/12/16, para. 5(p) (i)).

Furthermore, we bring to your attention 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 following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a), which provides for the right to meet or assemble peacefully;
- article 5 (b) and (c), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental or intergovernmental organizations;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 9, paragraph 3, point c), which provides for the right to provide legal assistance in defending human rights and fundamental freedoms;
- article 12, paragraphs 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 his or her legitimate exercise for the rights referred to in the Declaration.

We would also like 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 State and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We wish to emphasise article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), acceded by Kyrgyzstan on 10 February 1997, which establishes the right of women to participate without discrimination in the political and public life of the country, including participation in non-governmental organisations and associations.

We would like to draw the attention of your Excellency's Government to General Assembly Resolution 68/181, as well as to Human Rights Council Resolution 31/32, in which States expressed particular concern about the systemic and structural

discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and integrate a gender perspective in their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women human rights defenders. Such policies and programmes should be developed with the participation of women human rights defenders themselves (OP5, 19 and 20).

As emphasised by the Working Group on Discrimination against Women and Girls in one of its reports (A/HRC/23/50), stigmatisation, harassment and direct attacks are used to silence and discredit women leaders, community workers, human rights defenders and women politicians. Women defenders are often subjected to gender-based violence, such as verbal abuse based on their sex; they may experience intimidation, attacks and may also be killed. Violence against women defenders is sometimes tolerated or perpetrated by state actors.

In a joint statement, the Working Group on Discrimination against Women and Girls stressed that women human rights defenders face unique challenges, driven by profound discrimination against women and stereotypes about their supposedly appropriate role in society. Today's growing fundamentalisms of all kinds and populism, as well as authoritarian governments and the unchecked drive for profit, further fuel discrimination against women, exacerbating the obstacles faced by women human rights defenders. In addition to the risks of threats, attacks and violence faced by all human rights defenders, women human rights defenders are exposed to specific risks such as misogynist attacks, gender-based violence, lack of protection and access to justice, and lack of resources for women's organisations and support for women defenders' participation in political and public life. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20938&LangID=E>)

We wish to recall the 2020 Universal Periodic Review, during which your Excellency's Government received and accepted several recommendations to strengthen the independence of the Akyikatchy in accordance with the UN Paris Principles relating to the Status of National Human Rights Institutions ("Paris Principles"). In 2021 and 2022, following consideration of the periodic reports on the implementation of the ICCPR, CEDAW, and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), all treaty bodies recommended strengthening the mandate and ensuring the independence of the Akyikatchy, in full compliance with the Paris Principles. A fundamental requirement of the Paris Principles is the need for National Human Rights Institutions (NHRIs) to be able to carry out their mandate independently and without interference from government or other actors.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association highlighted in his report that access to information is crucial, indeed "public authorities must provide accessible information for all regarding the legal framework governing the rights to freedom of peaceful assembly and of association and ensure public awareness about the law and relevant regulations [...]. That information should include any procedures to be followed by those wishing to exercise the right, who the responsible authorities are, the rules applicable to those officials and the remedies available for alleged violations of rights (CCPR/C/GC/37,

para. 28)” (A/HRC/47/24, para. 35).