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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention and of the Special Rapporteur
on freedom of religion or belief**

REFERENCE: UA G/SO 218/2 G/SO 214 (56-23)
KGZ 3/2011

30 May 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on freedom of religion or belief pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18 and 14/11.

In this connection, we would like to draw the attention of your Excellency's Government to new information we have received regarding the cases of **Mr. Janibek Nosirov** (aged 22) and **Mr. Iskender Kambarov** (aged 18). We would like to acknowledge receipt of your Excellency's Government's letter dated 23 May 2011, replying to our joint urgent appeal of 22 March 2011.

According to new information received:

Mr. Janibek Nosirov and Mr. Iskender Kambarov have reportedly been convicted and sentenced by the Kadamjai District Court on 18 May 2011, to seven years imprisonment for possessing two videos produced by the organization Hizb ut-Tahrir and violating Article 299-2.2.1 of the Criminal Code ("Acquisition, storage, transport and dispatch of extremist materials with the aim of distribution, or of their preparation and distribution, as well as the deliberate use of symbols or attributes of extremist organizations", conducted by a group of people).

However, Mr. Nosirov and Mr. Kambarov, who are cousins and both members of Jehovah's Witnesses, claim that they have never seen or viewed these two videos and that the videos had been left in their apartment by an officer from the State National Security Service (SNSS) during an "electricity inspection" on 23 January 2011. Mr. Kambarov and Mr. Nosirov furthermore argue that the subsequent search of their apartment on 29 January 2011, was conducted without a warrant and after dark, which would contravene Article 184 (5) of the Criminal Procedure Code. One of the police officers conducting the search of the apartment reportedly

ordered Mr. Nosirov to lift the carpet in the kitchen where the unmarked DVD was found, which might indicate that the police officer already knew of the DVD's placement.

Mr. Kambarov and Mr. Nosirov are being detained at Kadamjai Police Station. Even though they repeatedly asked to have religious literature and raised this issue at the beginning of their trial, the prosecutor called for the move to be rejected and the judge ruled against allowing them to have religious literature.

Concern has been expressed that the sentence rendered by the Kadamjai District Court on 18 May 2011, is both disproportionate and severe in light of the evidence produced at the trial. Moreover, since Mr. Nosirov and Mr. Kambarov are ethnic Kyrgyz and citizens of Uzbekistan, serious concern has been expressed of their possible deportation to Uzbekistan.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Nosirov and Mr. Kambarov is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the International Covenant on Civil and Political Rights.

We would also like to appeal to your Excellency's Government to ensure the right of freedom of religion or belief of Mr. Nosirov and Mr. Kambarov in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and Article 18 of the Universal Declaration on Human Rights as well as the International Covenant on Civil and Political Rights to which the Republic of Kyrgyzstan is a state party.

The General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end "(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated; (b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights; (d) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits, and to ensure that everyone has the right and the opportunity to have access, on general terms of equality, to public services in one's country, without any discrimination on the basis of religion or belief; (j) To ensure that all public officials and civil servants, including members of law enforcement bodies and personnel of detention facilities, the military and educators, in the course of fulfilling

their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided”.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details of the judgment of the Kadamjai District Court of 18 May 2011 with regard to Mr. Janibek Nosirov and Mr. Iskender Kambarov, particularly the legal grounds for their detention and how these are compatible with international norms and standards as stated, inter alia, in the International Covenant on Civil and Political Rights.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief