

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; 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

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
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28 July 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/4, 15/21, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the ongoing detention of human rights defender and trade unionist **Ms. Natalya Sokolova**. Ms. Natalya Sokolova is the legal representative for the trade union representing employees of the Karazhanbasmunbay oil company in the Aktau region.

According to the information received:

On 17 May 2011, the trade union representing the employees of Karazhanbasmunbay oil company in the Aktau region held a general assembly during which the head of the union, Mr. Kosarkhanov, was dismissed from his position based on allegations that he had links with the oil company. It is reported that Mr. Kosarkhanov refused to submit the trade union stamp and various documents relating to the union. Allegedly, as a response to this refusal, oil industry employees in Mangistau province went on strike.

The trade unionists reportedly, demanded the re-instatement of employees who had been dismissed following their participation in previous trade union activities, an increase in their salaries and that the director of the oil company refrain from interfering in union activities. It is reported that, in response to the strike, the

director of the oil company stated that all employees who continued to take part in the strike would be immediately dismissed from their employment. According to information received, the strike was declared illegal by a court in the Tupkaragan region on 20 May 2011.

On 23 May 2011, the Tupkaragan district court of Fort-Shevchenko ruled that the trade union's general assembly meeting was considered to be an unauthorised demonstration as prior authorisation should have been obtained for such an assembly. The court held that, therefore, Ms. Natalya Sokolova was guilty of organising an unauthorised demonstration and ordered her to pay a fine.

On 24 May 2011, Ms. Sokolova was asked to present herself at the Department of Internal Affairs at the Mangistau region, in connection with a complaint lodged against her by the director of the Karazhanbasmunbay oil company. That day, she was also accused by the district court of Fort-Shevchenki, Tupkaragan, of two counts of breaches of article 373 (3) of the Administrative Code, one based on the organisation of the aforementioned general assembly and the other for holding a demonstration outside the Department of Internal affairs with a group of oil workers, during which they called for the resignation of Mr. Kosarkhanov. She was allegedly sentenced to eight days of administrative detention based on these charges.

It was reported that on 31 May 2011, a criminal investigation was launched against Ms. Sokolova as a result of a complaint lodged by the director of the Karazhanbasmunbay oil company which could result in a sentence of up to seven years' imprisonment, if she is to be found guilty. On the same day, her home was searched by the police who also confiscated personal belongings, including her computer and that of her son.

Reportedly, her detention has been extended on two occasions, once by ten days on 3 June 2011, and then by a further two months on 10 June 2011, allegedly on the basis that she is undergoing investigation under the Criminal Code which legislates against "inciting social hatred". According to information received, Ms. Sokolova has been granted access to legal representation but has not yet been charged with a particular criminal offence.

It was reported that strikes are on going across the Mangistau region in which thousands of employees of oil companies are still participating.

Concern is expressed regarding the ongoing detention of human rights defender and trade union activist Ms. Natalya Sokolovo. It is feared that her detention and the criminal investigation launched against her may be directly related to her legitimate work in defence of human rights, in particular her work regarding the rights of employees working for the Karazhanbasmunbay oil company in the Aktau region.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to the right to physical and mental integrity of Ms. Natalya Sokolova.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Ms. Natalya Sokolova is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee her right not to be deprived arbitrarily of her 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 (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "[e]veryone shall have the right to freedom of expression; this right shall include freedom 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."

Furthermore, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others."

In connection with the allegations that the detention and the criminal investigation launched against Ms. Natalya Sokolova may be directly related to her legitimate work in defence of human rights, 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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 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, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Natalya Sokolova are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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. Natalya Sokolova in compliance with the above international instruments.

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, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the Ms. Natalya Sokolova?
3. Please provide information on the legal basis for the detention of Ms. Natalya Sokolova, as well as for the subsequent extensions of such detention, and how these measures are compatible with international human rights norms and standards.
4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders