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HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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

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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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Excellency,

We have the honour to address you in our capacity 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 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **alleged interrogation and detention of two staff members of International Crisis Group, a non-governmental organization founded in 1995, which works to prevent and resolve conflict worldwide.**

According to the information received:

At approximately 10:00 a.m. on 17 November 2012, Mr. **Conor Prasat**, an ICG analyst, and an ICG driver, were located in Sheraly, close to Uzgen City, when their vehicle was reportedly stopped by a traffic police officer. The ICG staff members were on a return trip from Osh to Bishkek, where Mr. Prasat had conducted interviews from 12 to 17 November 2012 with human rights defenders and representatives of local and international organizations in Osh and Kara-Suu.

According to the information received, as the police officer checked the two ICG staff members' identification, four Uzgen National Security Agency (GKNB) officers arrived and requested a work permit document from Mr. Prasat. When Mr. Prasat was unable to produce such a document, the GKNB officers allegedly confiscated the two ICG staff members' passports and ordered them to follow their vehicle to the GKNB offices in Uzgen. Upon their arrival at the GKNB offices, Mr. Prasat and the ICG driver were reportedly separated and interrogated during a period of one and a half hours by GKNB officers.

Reports state that the GKNB interrogation officers in question did not identify themselves to the ICG staff members or explain the grounds for interrogation. The request of Mr. Prasat and the driver to call the ICG office or their lawyer was reportedly denied, while their phones were allegedly removed. After approximately one hour, the two ICG staff members were threatened with charges of working in Osh without permission, and of inciting social unrest.

According to the information transmitted, during Mr. Prasat's interrogation, he was asked about his activities in the south of the country, and was accused of attempting to start a war. Reportedly, when Mr. Prasat sought legal representation, this was denied and he was subsequently searched for drugs. Sources state that the interrogation was carried out in Russian, resulting in some difficulty for Mr. Prasat, whose first language is not Russian.

Reports indicate that following their interrogation, a one hour search of the vehicle of Mr. Prasat and the driver took place, in the presence of two witnesses provided by the GKNB officers. The ICG staff members were told that the search was conducted by virtue of article 30 of the Kyrgyzstan Constitution without being further explained what this meant. A search warrant was reportedly not presented to them. During the search, a notebook, i-pad, camera and Sony tab were confiscated, as well as two flashcards and paper materials. These materials included reports of the interviews held by Mr. Prasat in Osh and Kara-Suu, including the names of the human rights defenders and civil society actors interviewed by Mr. Prasat. It is reported that all confiscated items remain with the State Committee of National Security (SCNS) in Osh.

At approximately 14:30 p.m. on 17 November 2012, the two ICG staff members were reportedly released, on the condition that they signed a document declaring that they would remain in Osh Province, pending an investigation of the items confiscated. A copy of the signed document was not provided to the two men. Sources indicate that attempts by Mr. Prasat and the ICG driver on 19 and 20 November to gain permission from the SCNS in Uzgen to leave Osh province were unsuccessful.

A complaint regarding alleged procedural violations during the detention and interrogation of the ICG staff members was submitted by the lawyer of the former to the Deputy Prosecutor General in Osh.

Grave concern is expressed at the alleged detention and interrogation of the above mentioned ICG staff members, and the seizure of their personal items, including confidential and sensitive information. Serious concern is also expressed at alleged procedural irregularities during the mentioned detention and interrogation, and that both ICG staff members are not currently permitted to leave Osh Province. Furthermore, concern is expressed at the allegation that the above actions may be related to the legitimate human rights work of ICG and Mr. Prasat in interviewing human rights defenders and other civil society actors in the south of Kyrgyzstan.

While we do not wish to prejudge the accuracy of these allegations, 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 c) which states that in order to promote and defend human rights and freedoms fundamental everyone has the right, individually or collectively, both nationally and internationally, "to communicate with non-governmental or intergovernmental organizations."
- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to 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, through these and other appropriate means, to draw public attention to those matters.

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 International Covenant on Civil and Political Rights, which provides that "Everyone 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."

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 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. 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.
3. Please provide the legal basis for the alleged detention and interrogation of Mr. Prasat and Mr. Kultigin, the search of their vehicle and confiscation of personal items, including items containing confidential and sensitive information related to human rights defenders. Please also provide the legal basis for the continued obligation of the two ICG staff members to remain in Osh Province.
4. Please provide information on measures taken to ensure the privacy and protection of those human rights defenders and civil society representatives mentioned in the confidential information allegedly seized by GKNB officers from Mr. Prasat, and to ensure that no acts of harassment are taken against them as a result of their cooperation with the International Crisis Group.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons 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.

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

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders