

Mandates 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 situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers

REFERENCE: UA
TJK 2/2015:

17 February 2015

Dear Mr. Khamidov,

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 situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 24/7, 25/2, 25/18, and 26/7.

In this connection, we would like to bring to your Government's attention information we have received concerning the detention, prosecution and sentencing of **Mr. Shukhrat Kudratov**.

Mr. Kudratov is a human rights lawyer, working at the news agency Asia-Plus, and serving as Deputy Director of the opposition Social-Democratic Party in Tajikistan. In 2011, he was named Human Rights Defender of The Year in Tajikistan by the local Bureau for Human Rights and Rule of Law. He has also legally represented victims of police torture, persons accused of religious extremism and opposition activists.

Mr. Kudratov was the subject of a joint urgent appeal sent on 3 November 2014 by 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 situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers. We acknowledge receipt of the responses of your Government dated 11 December 2014 and 19 January 2015, but we nevertheless remain concerned by the allegations described in our urgent appeal.

According to the new information received:

In 2013, Mr. Kudratov represented a former Government Minister and opposition activist as his legal counsel during his trial. On 15 July 2014, Mr. Kudratov issued a public letter addressing the international community and highlighting alleged human rights violations in the trial of his former client and denouncing the persecution of the former Minister's legal representatives. On 21 July 2014, Mr. Kudratov was arrested. He was charged on three criminal counts and kept in pre-trial detention. On 13 January 2015, Mr. Kudratov was sentenced to nine years in a penal colony for bribery and fraud by the Dushanbe City Court. It is reported that he intends to appeal this decision to the Supreme Court of the Republic of Tajikistan. The detention and conviction of Mr. Kudratov is reported to be directly linked to his human rights and legal activities, including his legal representation of the former Government Minister.

While we do not wish to prejudge the accuracy of these allegations, concern is expressed about the detention, conviction and sentencing of Mr. Kudratov, as these seem to be related to his peaceful activities as a human rights defender and the discharge of his professional duties as a lawyer.

We would like to draw the attention of your Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The above allegations appear to be in contravention with Mr. Kudratov's right not to be deprived of his liberty and his right to a fair trial, as set forth in 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 that was ratified by Tajikistan in 1999. These allegations further appear to be in contravention with the right of lawyers not to be identified with their clients or their clients' causes and the freedom of lawyers to perform professional functions without interference, intimidation or threats, as provided in principles 16 and 18 of the UN Basic Principles on the Role of Lawyers.

We would also like to draw the attention of your Government to article 19 of the ICCPR, which provides that everyone has the right to freedom of opinion and expression.

We would further like to 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 9 para. 3 point c.

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 Government to safeguard the rights of Mr. Kudratov in compliance with international instruments.

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 observations on the following matters:

1. Please provide any additional information and any comments you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the detention, conviction and sentencing of Mr. Kudratov and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
3. Please indicate what measures have been taken to ensure that lawyers are able to carry out their legitimate professional duties without intimidation or improper interference, and without suffering prosecution or other sanctions.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders in Tajikistan are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, including the bringing of legal charges.

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.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Khamidov, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers