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SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on freedom of religion or belief and
the Independent Expert on minority issues

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on freedom of religion or belief and Independent Expert on minority issues pursuant to Human Rights Council resolutions 14/11 and 16/6.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the imminent deportation of Ms. **Elena Tsyngalova** and her two minor children to the Russian Federation scheduled on Tuesday, 12 June 2012.

According to the information received:

Ms. Tsyngalova is a member of the minority Jehovah's Witnesses faith in Uzbekistan. Ms. Tsyngalova owns and lives in a small apartment in the city of Dostobad in Uzbekistan, along with her elderly mother (Uzbek citizen). Ms. Tsyngalova was born in Uzbekistan and has lived there her entire life. She reportedly obtained Russian citizenship shortly after the fall of the Soviet Union; she however has little connection with the Russian Federation--no friends, family, nor property in the Russian Federation. Her two minor sons, ages 14 and 16, were both born in Uzbekistan. The youngest son holds Uzbek citizenship while the older son possesses Russian citizenship.

On 5 September 2011, Ms. Tsyngalova was convicted by the Dostobad First Instance Court for sharing her religious views as a Jehovah's Witness with an interested person. She was fined "50 times" the minimum wage i.e. USD 1,414 for this activity.

On 6 September 2011, the police searched Ms. Tsyngalova's apartment and seized religious literature regarding the Jehovah's Witnesses. It was reported that she was again convicted and fined another "50 times" the minimum salary for possessing

this religious literature, for a total fine of USD 2,800 (2,486,750 UZ soms). Her elderly mother who lives in the same apartment was also fined "50 times" the minimum wage.

Ms. Tsyngalova lives on modest means and could not afford to pay the fine. She made arrangements to pay the fine in instalments using a portion of her mother's pension. However, the Uzbekistan authorities allegedly insist that the fine must be paid immediately.

In early June 2012, she was allegedly summoned by the migration police who told her that she is to be deported on 12 June 2012. To her knowledge, there has been neither court hearing nor any court decision ordering her deportation. The migration police told Ms. Tsyngalova that due to her alleged violation of Uzbek law by her "illegal religious activity", they were revoking her residence permit and ordering her deportation. The migration police gave Ms. Tsyngalova one-way electronic air tickets for her and her two sons, departing from Tashkent to Moscow on 12 June 2012.

Ms. Tsyngalova has reportedly appealed to the Committee of Religious Affairs, Prosecutor General's Office, Ministry of Internal Affairs, Ombudsman, Presidential Administration, and Committee of National Security for assistance, but to no avail.

Serious concern is expressed for the freedom of religion of Ms. Tsyngalova to be respected and protected. Concern is also expressed for the hardship that Ms. Tsyngalova would face if she was to be deported to the Russian Federation as she will have no means of supporting herself in the Russian Federation. Further concern is expressed for her elderly mother who needs her daily care and will be separated from Ms. Tsyngalova should she be deported.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

We would like to recall the rights guaranteed by Articles 18 of the International Covenant on Civil and Political Rights (ICCPR) that your Excellency's Government accessed on 28 September 1995 and the Universal Declaration of Human Rights (UDHR). Article 18 (1) of the ICCPR specifically provides that "[e]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and [...]." Art. 18 (3): "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."

Art. 1 (1) of the 1981 Declaration of the General Assembly also provided that "[E]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." Art. 1 (3): "Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others."

We are concerned that the treatment of Ms. Tsyngalova indicates discriminatory treatment against persons belonging to the Jehovah's Witnesses. We draw the attention of your Excellency's Government to international standards relevant to the protection and promotion of the rights of minorities. Article 27 of the ICCPR establishes that "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." The Human Rights Committee has recognized that the situation of "non-traditional" minority faith groups is cause for concern and noted a tendency to discriminate against newly established religious and belief groups, and hostility against them. Consequently its General Comment No. 22 stresses that the terms "belief" and "religion" should be broadly construed and that application of Article 18 must not be limited only to traditional or dominant religions.

Furthermore, the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires under article 1.1 that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity." Article 2.1 establishes that "Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination." In addition, article 4.1 of the Declaration establishes that: "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law."

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to ensure that Ms. Tsyngalova is not deported for exercising her right to freedom of religion.

Moreover, it is our responsibilities 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 summary of the case accurate?

2. Have complaints been lodged with regard to the incidents mentioned?

3. Please indicate which measures your Excellency's Government has adopted to ensure that the rights of Ms. Tsyngalova and other members of the Jehovah's Witnesses, including the right to freedom of religion or belief, are respected and protected according to the international standards and norms.

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 person 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.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Rita Izsák
Independent Expert on minority issues