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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the independence of judges and lawyers.

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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 rights to freedom of peaceful assembly and of association; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 15/18, 15/21, and 17/2.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the situation of Mr. **Zayd Saidov**, former Head of the Coordination Council of Business Associations of Tajikistan, former member of the Dushanbe City Local Council and former Minister of industry.

According to the information received:

On 6 April 2013, Mr. Saidov and a number of heads of other business associations, as well as representatives of civil society, announced that they would establish a new party called "Tojikistoni Nav" (The New Tajikistan), with a view to serving as a platform to unite pragmatic individuals, innovators, technocrats and other professionals. The initiators of this new party declared their intentions to register it with the Ministry of Justice, and Mr. Saidov indicated that there was no plan that the party would nominate a candidate for the forthcoming presidential elections in November 2013, due to the remaining short time.

On 10 May, Mr. Saidov reportedly received anonymous threats, and was urged to cease establishing his new party. According to sources, Mr. Saidov reported the case to law enforcement authorities. He reportedly received warnings from unnamed high level officials to comply with these requests.

On 11 May, Mr. Saidov departed to France with the Tajik tennis team that he supports. The same day it was announced that a charge for polygamy was brought against him, and his family was brought to the prosecutor's office for questioning.

On 13 May, the Coordination Council of Business Association gathered in the absence of Mr. Saidov and decided to dissolve the Council, some members claiming that Mr. Saidov was using the Council to serve his political interests. However, it is reported that these members were put under pressure to take such a decision.

While in Paris, Mr. Saidov made statements in the press that he would provide information to clarify the situation. He also mentioned that he would ask for independent auditing to prove that there were no facts of embezzlement and appropriation.

On 19 May, despite his immunity as member of the Dushanbe City Council, Mr. Saidov was arrested upon his arrival at Dushanbe airport by the Agency for State Financial Control and Fight against Corruption. He reportedly had no access to a lawyer for two days. On the same day, his office was searched by order of the court. To date lawyers have not been allowed to meet and communicate with Mr. Saidov privately, but only in the presence of the investigator.

On 20 May, the Dushanbe city council was hastily convened with the aim to strip Mr. Saidov of his immunity, which was done in his absence and without the possibly to defend himself. On the same day, Mr. Saidov was transferred from the detention facility of the Anti-corruption agency to the Committee of National Security. While in detention, Mr. Saidov complained that he had acute ulcer pain, but for several days had no access to medical assistance or medicines. After his defense lawyers strongly insisted with the authorities, he was eventually allowed to see a doctor, who was provided by the authorities.

On 25 May, a Public Committee to defend the constitutional rights of Mr. Saidov was established, comprising representatives of the civil society and human rights defenders. The Committee was formed as part of the broader Coalition for Democracy and Civil Society, established on the same day, with the aim to promote democracy, functioning of the civil society and the constitutional rights of association of the people of Tajikistan.

On 17 June, the lawyers of Mr. Saidov announced that the case had been declared "secret" by the authorities, although the present case reportedly does not relate to State secret issues. On the State television, a video document about one of the enterprises of Mr. Saidov was broadcast with negative comments about him. Defamatory brochures against Mr. Saidov were disseminated among the public in

Dushanbe streets, which were assessed by his lawyers as an attempt to influence the public opinion, and for the future the Court that will consider the case.

On 25 June, Mr. Saidov announced that he decided to dismiss one of his three lawyers, Mr. Shuhrat Qudratov, claiming that two lawyers were sufficient. On 5 July, Mr. Qudratov stated that he was beaten by investigators of the Agency for State Financial Control and Fight against Corruption, and he reported the case to the authorities, urging them to investigate the incident. It is believed that Mr. Saidov dismissed his lawyer under pressure from the authorities and also to protect his lawyer from having problems with authorities.

Serious concerns are expressed that the arrest and detention of Mr. Zayd Saidov may be linked to the exercise of his right to freedom of association. Further concerns are expressed for his physical and psychological integrity while in detention, as well as for the alleged violation of his right to defence, including right to be assisted by a lawyer of his own choosing.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Saidov is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his 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).

In addition, we would like to refer your Excellency's Government to article 22 of the ICCPR, which provides that “[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

We would like to further refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to refer your Excellency's Government to article 14(3) of the ICCPR, which states: “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defense and to communicate with

counsel of his own choosing.” In its General Comment No. 32, the Human Rights Committee further indicated that: “‘Adequate facilities’ must include access to documents and other evidence; this access must include all materials that the prosecution plans to offer in court against the accused or that are exculpatory.”

The right to be assisted by a lawyer is also set forth in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular in principle 1, which states: “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings”; and principle 5, which states: “Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.”

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 Mr. Saidov in compliance with the above international instruments.

Moreover, since 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, 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please indicate the legal basis of the arrest and detention of Mr. Saidov, and how these measures are compatible with the aforementioned international human rights norms and standards.

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 Mr. Saidov 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.

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

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

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers