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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of 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 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (3-3-16)
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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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 16/5, and 17/2.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged threats and harassment against Ms. **Tatiana Dovlatova** and her relatives, including irregularities in judicial proceedings against her.

Ms. Dovlatova is a member of the Human Rights Alliance of Uzbekistan, an organisation which advocates for the rights of vulnerable groups, as well as working on issues such as torture, fair trial rights, access to justice, and economic and social rights.

Ms. Dovlatova was the subject of three previous communications sent to your Excellency's Government by special procedures, the most recent of which was transmitted on 28 May 2010, by 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. We thank your Excellency's Government for its response dated 11 August 2010.

According to the information received:

On 24 April 2011, Ms. Dovlatova spoke on a Russian television programme about the difficult living conditions for pensioners and disabled persons in Uzbekistan due to the small social security payments provided by the Government. The broadcast followed an interview which she had given in February 2011 to a journalist.

On 25 April 2011, it is reported that four women went to the home of Ms. Dovlatova, demanded that she retract the statements she had made and warned her that she would regret shaming Uzbekistan. Sources indicate that Ms. Dovlatova

reported this occurrence to the Yakkasaray district police, but it was never followed up. The four women allegedly returned in August 2011 and threatened to burn down Ms. Dovlatova's house and to force her to leave the country.

On 11 May 2011, it is reported that Ms. Dovlatova was fined a total of 10,823,501 Uzbek Soms by the Yakkasaray District Court for a claim lodged by two individuals in connection with the interview given in February 2011. Ms. Dovlatova was allegedly fined for trespassing, and insulting and causing moral damage to an individual under Article 1022 (2) of the Civil Code of the Republic of Uzbekistan. She was also reportedly ordered to apologise for comments made by the programme director. It is reported that a lien was placed over the property of Ms. Dovlatova and a travel ban was imposed upon her due to her inability to pay the fines; and that her husband subsequently had to sell his apartment in order to pay off the fine.

Furthermore, it is reported that Ms. Dovlatova wrote a complaint to the municipality of Yakkasaray district against the chair of the local administration when her financial assistance was stopped. Reportedly, the chair of the local administration did not respond to the complaint against him, and he lodged a complaint of his own with the local prosecutor's office alleging that Ms. Dovlatova had insulted him.

On 7 July 2011, in relation to the allegations made by the chair of the local administration, Ms. Dovlatova was reportedly found guilty of disorderly behaviour and fined 200,000 Uzbek Soms. Allegedly, the trial lasted less than five minutes and Ms. Dovlatova was denied both legal assistance and an interpreter. According to the information received, Ms. Dovlatova appealed the decision to the Tashkent Criminal Court and specifically asked to be informed of the date of the appeal. Reports indicate that she was not informed of the date, and the appeal was rejected in her absence. On 27 October 2011, Ms. Dovlatova was allegedly forced to put her home up for auction due to the fact that she was unable to pay the fines against her.

According to the information received, after sending a letter to the authorities requesting permission to stage a demonstration in protest of the outlined events, Ms. Dovlatova received letters on 19 and 25 December 2011, warning her that she would be fined in accordance with the Administrative Liability Code if she chose to stage such a demonstration.

On 8 September 2011, allegedly at the request of the National Security Service (NSS), Ms. Dovlatova's husband was dismissed from his job. Moreover, on 11 September 2011, it is reported that a car company took possession of two cars which had been almost entirely paid for under a hire purchase agreement by Ms. Dovlatova's son-in-law and his brother; the company was allegedly told by the NSS that it would not have to reimburse any money which had already been paid.

Sources indicate that Ms. Dovlatova's daughter and her family have now left Uzbekistan due to the harassment which they have faced.

Concern is expressed that the harassment and threats suffered by Ms. Dovlatova and her relatives may be directly related to Ms. Dovlatova's human rights work, particularly her advocacy for the rights of members of vulnerable groups in Uzbekistan, and her legitimate exercise to her right to freedom of expression. Concern is also expressed for the physical and psychological integrity of Ms. Dovlatova, as well as her relatives.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and psychological integrity of Ms Dovlatova and her relatives.

In this connection, 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 9, para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

- 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.

Given our concern that the situation of Ms. Dovlatova and her relatives may be directly related to Ms. Dovlatova's human rights work and the exercise of her right to freedom of opinion and expression, we would like to remind your Excellency's Government of its obligation 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 (ICCPR), 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 addition, we wish also to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with article 19, paragraph 3 of the ICCPR, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

With respect to the fine imposed on Ms. Dovlatova for disorderly behavior on 7 July 2011 - reportedly in the absence of legal counsel and interpretation and following a very brief one-session hearing - we believe that any trial should allow for a thorough review of the case, the exercise of the right to defence and should ensure the fairness of the proceedings in full compliance with article 10 of the UDHR and 14 of the International Covenant on Civil and Political Rights. Furthermore, we would like to underline that principle 6 of the Basic Principles on the Independence of the Judiciary (endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985), provides that: "The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected". In addition, we would like to refer your Excellency's Government to 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, and in particular principle 1 stating that "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".

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Dovlatova are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Government adopts effective measures to prevent the recurrence of such 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 the forementioned person 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. 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.
4. Please provide the full details of the legal basis for each of the fines which Ms. Dovlatova was ordered to pay, as well as for the travel ban allegedly imposed on her.
5. Please indicate how the charges against Ms. Dovlatova are compatible with international human rights standards, in particular with article 19 of the International Covenant on Civil and Political Rights.
6. In light of the threats against Ms. Dovlatova, please provide full details of any protective measures put in place to ensure her physical and psychological security and integrity, as well as that of her relatives.
7. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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.

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

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers