

**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 and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
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19 October 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 34/18 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, detention, conviction and ill-treatment of Mr. **Buzurgmehr Yorov**.

Mr. Buzurgmehr Yorov is a lawyer. In 2007, Mr. Yorov founded the independent Sipar lawyers' union, taking on politically sensitive cases. In 2015, he began providing legal assistance to several leading members of the Islamic Renaissance Party of Tajikistan (IRPT).

The Islamic Renaissance Party (IRPT) is the largest opposition party in Tajikistan and was banned as "extremist" by the Supreme Court in September 2015.

Concerns about the arrest and conviction of Mr. Yorov were raised by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his report to the Human Rights Council following his official visit to Tajikistan in March 2016 (A/HRC/35/22/Add.2).

According to the information received:

On 28 September 2015, Mr. Buzurgmehr Yorov was arrested by police in Dushanbe. Shortly before his arrest, Mr. Yorov had announced establishing a public committee to defend the rights of arrested IRPT members. In connection with Mr. Yorov's arrest, police carried out a search of his office and confiscated documents concerning the cases of arrested IRPT members.

Mr. Yorov was initially charged with fraud and forgery under articles 247 and 340 of the Criminal Code. He was later charged with inciting national, racial, regional or religious hatred under article 189, and for having called publicly for violently

changing the constitutional order of Tajikistan as well as for extremist activities under articles 307 and 307-1.

The trial against Mr. Yorov began in May 2016. Since the case was classified, the trial was held behind closed doors. On 6 October 2016, Dushanbe City Court found Mr. Yorov guilty under Criminal Code articles 189, 247, 307, 307-1, and 340. He was sentenced to 23 years in prison. Mr. Yorov's sentence was upheld by the Supreme Court in early 2017.

Following the first verdict against Mr. Yorov in October 2016, several additional criminal cases were opened against him. Following non-public trials, he was sentenced to additional prison time on these charges. In January 2017, he was sentenced to two more years in prison on charges of contempt of court (article 355), during the first trial against him when he quoted an 11th century Persian poet as part of his defence. On the same grounds, he was also found guilty of offending an official (article 330) and sentenced to one year of "corrective labour". The sentence was confirmed by the Supreme Court in March 2017. In August 2017, he was sentenced to another three years in prison on charges of fraud (article 247), and offending the Leader of the Nation (article 137), a title bestowed on the current President. As a result of the August 2017 sentence, his overall prison term was extended to 28 years.

It has moreover been alleged that during the trial, the lawyers of Mr. Yorov were changed frequently. In several cases, they were reported to have been arbitrarily denied access to their client in detention as well as to case material. His lawyers have also been subjected to pressure. His first legal counsel was arrested shortly after Mr. Yorov, and charged and convicted on similar charges. Another of his lawyers was reportedly summoned and questioned by the Prosecutor General's Office and was held under surveillance, as a result of which she fled the country.

It has been alleged that Mr. Yorov has been subjected to torture and ill-treatment in detention, including beating and kicking by staff at the detention centre on his head and different parts of his body. Mr. Yorov was transferred to the hospital of the pre-trial detention centre at one point but was transferred back to his cell after several days and continued to be subjected to ill-treatment. Reportedly, the ill-treatment has worsened since September 2017. Mr. Yorov has allegedly been placed in solitary confinement on three occasions as punishment for alleged violations of the rules of the pre-trial detention centre.

On 29 September 2017, Mr. Yorov was reportedly again placed in solitary confinement for alleged violations of the rules of the detention centre.

It has been reported that relatives of Mr. Yorov have been subject to intimidation and pressure.

We express grave concern at the arrest, detention, and conviction of Mr. Yorov, as these seem to be directly related to the discharge of his professional duties as a lawyer. In this regard, we express concern at the use of repressive legislation to criminalize the peaceful exercise of the right to freedom of expression. We express equal concern at the use of closed trials against Mr. Yorov, and at the lack of due process. We moreover express concern at the allegations of torture and ill-treatment of Mr. Yorov and intimidation of his relatives.

The above allegations appear to be in contravention with articles 7, 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Tajikistan on 4 January 1999, which establish the absolute prohibition of torture and of arbitrary detention, the right to a fair trial, as well as the right to freedom of opinion and expression. Further, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which was acceded to by Tajikistan on 11 January 1995. Article 12 of the CAT further requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT requires State parties to prosecute suspected perpetrators of torture.

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 like to recall the updated United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015) which lay out generally accepted principles and practice in the treatment of prisoners and prison management. According to these rules, prolonged solitary confinement beyond 15 days is prohibited, as it may cause severe mental and physical pain or suffering.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 Excellency's Government to safeguard the rights of Mr. Yorov in compliance with international instruments.

As 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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about how the legal basis for the arrest, detention and conviction of Mr. Yorov is compatible with Tajikistan's obligations under international human rights law, in particular with article 19 of the ICCPR.
3. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out concerning the above-mentioned allegations of ill-treatment and torture of Mr. Yorov. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information about measures taken to guarantee the physical and psychological integrity of Mr. Yorov while in prison.
5. Please indicate what measures have been taken to ensure that lawyers are able to carry out their legitimate duties without intimidation or improper interference, and without suffering prosecution or other sanctions.

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

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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

Elina Steinerte  
Vice-Chair 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

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment