

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolution 34/18.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning Mr. Khayrullo Mirsaidov, a journalist and political analyst. He has reported for Deutsche Welle, Asia-Plus, and the Fergana media outlets, among others. He has often written about human rights issues, ecological problems, and ethnic minorities. He has also worked as media development trainer in projects sponsored by the OSCE, the UNDP, the UK Government's Department of International Development and the Index on Censorship. Since 2014, he has managed the Sughd region's youth satirical and comedy troupe (KVN).

Concerns about the harassment and criminal prosecution of journalists and media professionals were already raised in my report to the Human Rights Council following my official visit to Tajikistan in March 2016. In particular, I raised concerns at the use of trumped up charges, such as charges of fraud, to silence media professionals (A/HRC/35/22/Add.2).

According to the information received:

In November 2017, Mr. Mirsaidov wrote an open letter to President Emomali Rahmon, Prosecutor General Yusuf Rahmon and the head of the Sughd region, Abdurakhmon Kodiri, asking them to investigate an allegation of corruption. His letter detailed alleged attempts by the head of the Sughd Department of Youth and Sport to solicit a USD 1000 bribe from the funds Sughd authorities allocated to the local youth satirical comedy troupe (KVN).

On 5 December 2017, the regional Prosecutor General's Office ordered the arrest of Mr. Mirsaidov in Khujand, in the northern Sughd region of Tajikistan. He was charged with embezzlement; incitement of interethnic, national, or religious hatred; forgery; and providing false testimony after he voluntarily appeared at the Prosecutor General's Office for questioning. Authorities later dropped the charges of incitement.

On 11 July 2018, Mr. Mirsaidov was convicted on charges of embezzling and misusing state funds and false reporting to police.

The conviction followed what has been reported to be a deeply flawed investigation. Mr. Mirsaidov's attorney were not allowed to discuss the case in public and had severely limited access to the evidence against him following the issuance of a gag order by the Prosecutor's Office. Mr. Mirsaidov was furthermore held in pre-trial detention for seven months through the end of his trial.

I express grave concern at the arrest, the lengthy pre-trial detention, and conviction of Mr. Mirsaidov, as these seem to be directly related to the exercise of his right to freedom of expression as a journalist. The disclosure of public interest information by the media rests upon a core right to freedom of expression and the public's right to information. In this regard, I express concern at the use of what appears to be trumped up charges to criminalize the peaceful exercise of the right to freedom of expression. I express equal concern at the allegations of lack of due process.

The above allegations, if true, appear to be in contravention with articles 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Tajikistan on 4 January 1999, on the prohibition of arbitrary detention, the right to a fair trial, as well as the right to freedom of opinion and expression.

In its General Comment No. 34 on Freedoms of opinion and expression (CCPR/C/GC/34), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedoms of opinion and expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism', subject only to admissible restrictions (see above) as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

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.

The full text of the international human rights standards mentioned above can be found at [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to our attention, I would 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. Mirsaidov is compatible with Tajikistan's obligations under international human rights law, in particular with article

19 of the ICCPR. In particular, please provide information about the evidence used to convict Mr. Mirsaidov.

3. Please provide information about measures taken to guarantee the physical and psychological integrity of Mr. Mirsaidov while in prison.
4. 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.

I would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

I intend to publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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