

Mandates of the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences and the Special Rapporteur on trafficking in persons, especially women and children.

REFERENCE:
AL KGZ 3/2018

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of slavery, including its causes and consequences and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 34/21, 33/1 and 35/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. **Babaraim Akimov**, a Kyrgyz migrant worker who recently returned to Kyrgyzstan after having been allegedly subjected to trafficking for the purpose of forced labour and being held in extremely exploitative conditions in Kazakhstan.

According to the information received:

In October 2016, Mr. Akimov, after having been unemployed for a long time, while at the Osh market in Bishkek, heard of an announcement over the loudspeaker that a shepherd was needed in Kazakhstan. Since he had been working as a shepherd since childhood, he expressed his interest in knowing more about the offer. When he approached the person behind the loudspeaker, he was referred to an elderly couple from Kazakhstan that was seeking someone to work on their property. He reported hesitating at first but being later approached by a woman, informing him that her brother had a farm near Bishkek with 2,000 heads of cattle and that he needed a herdsman. He accepted the offer and the woman immediately took him to her house, picking up two other women along the way with the promise to go to the brother's farm. This happened in the evening and without allowing him to have time to take his passport with him. After having driven for a long time, he noticed a barbed wire and realized that they were at the border. He asked for clarification to the woman but without receiving any response. At the border, they met with Kyrgyz border guards who escorted him and the other two women across the barbed wire. When he opposed resistance and asked to go back, he was pushed into the car, where there was another man promising to hire him and to provide him with clothes and shelter. Given that he had nowhere else to go at that point, he accepted. He also reported that the two women were placed in a different car and that, at present, he still doesn't know what happened to them. The man who promised to hire Mr. Akimov declared later that he had bought him from the woman that accompanied him to the border and told him that he would work for him 'as long as he desires'. The 'owner' was called Satzhanat and, at that time, he was known to be a deputy in the district

Soviet and he lived in the aul of Zhaksylyk, Ryskulovsky District, Zhambyl'sky Oblast.

Mr. Akimov reported having started to work for him as a shepherd and having received 100 dollars as a salary for the first month. However, the second, third and fourth months passed and he stopped receiving any salary. He reported that the job was very hard as he had to take care of over 3,000 animals on his own. It was only after some months that he started looking into ways to go back to Kyrgyzstan, without any success. Due to his poor living and working conditions, he contracted tuberculosis and was reportedly hospitalised. Later on, he was finally able to contact members of the aul Zhaksylyk, who reportedly dismissed and ridiculed his complaints by telling him to seek help at the Kyrgyz police. He also reported having reached out to Kyrgyzstan authorities, who also refused to address his complaints. After a few months, Mr. Akimov managed to get in touch with his relatives who found him and bought him out from Mr. Satzhan. After returning to Kyrgyzstan, he faced stigma and discrimination within his family and community, due to the fact that he returned even poorer and in bad health. He reported receiving medical treatment in Kyrgyzstan twice a year at his own expenses. He also reported being in need of psycho-social support, given that he still appears highly traumatized from his trafficking experience.

We express our serious concern about allegations of human rights violations against Mr. Babaraim Akimov and other possible Kyrgyz migrant workers, who might have been trafficked for the purpose of forced labour and labour exploitation in Kazakhstan.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide information and any comments you have on the above-mentioned allegations.
2. Please provide information on measures that your Excellency's Government has undertaken or plans to undertake to ensure that Mr. Akimov is identified as a victim of trafficking and is referred to appropriate protection services, including psycho-social support and access to affordable healthcare, which takes into account his current health status in accordance with article 6 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). In connection to this, please provide information on what mechanisms are put in place to ensure prompt identification of victims or potential victims of

trafficking for the purpose of forced labour or labour exploitation and to which types of medical and psycho-social support services victims are referred to.

3. Please provide information on measures that your Excellency's Government plans to undertake to ensure that Mr Akimov is recognised as a victim of trafficking and has access to justice, including in the form of compensation as part of his right to an effective remedy;
4. Please provide information on measures that your Excellency's Government undertakes to prevent trafficking in persons and ensure that investigation and prosecution of traffickers and exploiters allegedly operating in the Osh market in Bishkek is carried out in an effective and timely manner. In connection to this, please provide information on the number of complaints registered as well as by the number of investigations and prosecutions undertaken with regards to reports of forced labour or labour exploitation, including women and children.
5. Please indicate if for the case in question, a criminal investigation for trafficking in persons has been initiated in potential cooperation with the government of Kazakhstan and if so, what the current status of the investigation is.
6. Please provide information on measures that your Excellency's Government undertakes to ensure access to appropriate protection and health services to victims of trafficking that are voluntarily or forcibly returned to Kyrgyzstan. Please also specify which avenues for reintegration and social inclusion exist for returned individuals.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations against Mr. Akimov and any other migrant worker in a similar situation 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(s) responsible for the alleged violations.

We also wish to inform you that a similar communication concerning the situation of Mr. Akimov will be sent to the Government of Kazakhstan.

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

Felipe González Morales
Special Rapporteur on the human rights of migrants

Urmila Bhoola

Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Maria Grazia Giammarinaro

Special Rapporteur on trafficking in persons, especially women and children

Annex
Reference to international human rights law

Without implying in advance, a conclusion on the alleged facts, we would like to draw the attention of your Government to the international standards and regulations applicable to the matters set forth above.

We would like to draw your attention to the Slavery Convention of 1926, which calls for the complete abolition of slavery and all its forms, and article 4 of the Universal Declaration of Human Rights, which states that “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”. We would also like to recall article 5 of the Slavery Convention, which calls on States to take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery. The ILO Forced Labour Convention, 1930 (No. 29), which Your Excellency has ratified on 31 March 1992, calls for suppression of the use of forced or compulsory labour in all its forms within the shortest possible period. In particular, according to article 2, forced or compulsory labour is defined as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’. Furthermore, your Excellency’s Government ratified the ILO Worst Forms of Child Labour Convention 199 (No. 182) on 10 May 2004. Said instrument creates a legal obligation for governments to “take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency”.

We would also like to bring to the your attention article 8 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency’s Government on 7 October 1994, which prohibits slavery, the slave trade, servitude and forced labour and article 7 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) (also ratified on 7 October 1994), which protects the right to just and favourable conditions of work. Furthermore, we wish to make reference to article 1 of the 1956 Supplementary Slavery Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery that prohibits debt bondage and provides that States Parties shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of debt bondage.

We also would like to draw the attention of your Excellency’s Government to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), ratified by your Excellency’s Government on 2 October 2003, through which your Excellency’s Government is obliged to refrain from acts which would defeat or undermine the Protocol’s objectives and purposes, which include to prevent and combat trafficking in persons, including for the purpose of forced labour or labour exploitation.

According to article 6 of the Protocol, States have an obligation to protect victims of trafficking by providing for their physical, psychological and social recovery, including in cooperation with civil society organizations, in particular with regards to appropriate housing, medical, psychological and material assistance, employment, education and training opportunities.

In addition, we would like to refer to the Recommended Principles and Guidelines on Human Rights and Human Trafficking (“Recommended Principles and Guidelines”), issued by the Office of the High Commissioner for Human Rights in July 2002. Principle 13 of the Recommended Principles and Guidelines provides that “States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors”.

Criteria and indicators of trafficking in persons for the purpose of labour exploitation should be strengthened in accordance with the benchmarks and indicators for ensuring trafficking-free supply chains proposed by the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/23/48/Add.4, appendix I and A/HRC/35/37).

We would also like to highlight article 12 of the ICESCR on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and article 7 of the ICESCR, which recognizes the “right of everyone to the enjoyment of just and favourable conditions of work”. Such conditions must ensure, inter alia, remuneration which provides all workers, as a minimum, a decent living for themselves and their families, safe and healthy working conditions, access to food and affordable healthcare, rest, leisure, and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays. The rights in the Covenant apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation (Committee on Economic, Social and Cultural Rights, general comment no 20, para. 30).

We would like to draw your Excellency’s Government’s attention on article 13 of the ICESCR, which states that: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent”.