

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on minority issues; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief

REFERENCE:
OL KGZ 3/2020

6 May 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on minority issues; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 40/16, 34/6, 35/15, 34/18, 41/12, 34/5 and 40/10.

In this connection, we offer the following comments on the proposed law of the Kyrgyz Republic on Countering Terrorism.¹ We respectfully address a number of serious human rights challenges evidenced in the legislation and advance our grave concerns on this proposed legislation, encouraging review and reconsideration of certain key aspects to ensure that the law is in compliance with Kyrgyzstan's international human rights obligations and in relation to pertinent international standards of counter-terrorism regulation.

Overview of international human rights law standard applicable

We respectfully call your Excellency's Government's attention to the relevant provisions enshrined in the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Kyrgyz Republic on 7 October 1994, and the Universal Declaration of Human Rights (UDHR). In particular, we refer to the general international legal obligation in the ICCPR art. 2, whereby the State is under a duty to adopt laws that give domestic legal effect to the rights and adopt laws as necessary to ensure that the domestic legal system is compatible with the Covenant.

We note that there is a derogation currently in place under Article 4 of the ICCPR submitted on 30 March 2020, in respect of measures taken to respond to the Covid-19 pandemic.² We note that no derogation is in place with respect to the use of exceptional

¹ The draft law would replace the Law of the Kyrgyz Republic "On Countering Terrorism", adopted on 8 November 2006.

² See C.N.129.2020.TREATIES-IV.4

counter-terrorism or extremism measures. We affirm the recommendation of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while counter terrorism that counter-terrorism laws must not be used as a form of *de facto* or covert emergency power (A/HRC/37/52, para 30-39) as appears to be envisaged by a number of provisions of the pending legislation.

Moreover, we refer to the rights enshrined in article 15(1) ICCPR and article 11 UDHR, which provide for the principle of legality, as well as in articles 18, 19, 21 and 22 ICCPR and 19 and 20 UDHR, which guarantee the right to freedom of thought, conscience and religion or belief, freedom of opinion and expression and freedom of peaceful assembly and association. We further refer to article 26 ICCPR, which affirms the right to equality and provides the prohibition of discrimination and to article 27 providing for the protection and promotion of the rights of persons belonging to ethnic, religious and linguistic minorities.

Article 19 of the ICCPR protects the right to freedom of opinion and expression. Whereas the right to freedom of opinion in article 19(1) is absolute, the right to freedom of expression in 19(2) is subject to certain restrictions based on the requirements in article 19 (3), which are narrowly tailored and have narrow application. The scope of art. 19 (2) is broad. It protects the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. This right includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others. The scope of paragraph 2 embraces even expression that may be regarded as offensive (CCPR/C/GC/34 para. 11). It protects all forms of expression and the means of their dissemination, including “spoken, written and sign language and such non-verbal expression as images and objects of art. [...] They include all forms of audio-visual as well as electronic and internet-based modes of expression.”³

Any restrictions on the right to freedom of expression must be compatible with the requirements of article 19(3). The State must demonstrate that any restrictions with article 19 (2) is compatible with the requirements of article 19 (3), as well as the principles of non-discrimination in article 26.⁴ All restrictions must therefore serve one of the legitimate aims exhaustively enumerated in the provision, be provided by law, and be necessary and proportionate.

According to article 6(c) of 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, also known as the UN Declaration on Human Rights Defenders, everyone has the right to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters. The Declaration guarantees this right for both individuals and those acting in association with others, such as through participation with a non-governmental organization.

³ [CCPR/C/GC/34](#), paragraph 12.

⁴ [CCPR/C/GC/34](#), paragraphs 27 and 35.

We further refer to the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. These resolutions require that States must ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with all of their obligations under international law.

Concerns relating to the compatibility of the Countering Terrorism law with international human rights law

We note that the stated objective of the law is to establish “... the basic principles of countering terrorism, the legal and organizational framework for preventing and countering terrorism, minimizing and (or) eliminating the consequences of terrorism, as well as the procedure for international cooperation in the field of countering terrorism”. We positively recognize that the law states that the goal is to address terrorism and “protect human rights and freedoms” (article 1, section 2).

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism underscores that “Terrorism”, “terrorists”, and “terrorist activities” must be limited to the purpose of countering terrorism and must be properly defined.⁵ We note that a number of Principles (Article 3) frame the interpretation of the law by; ensuring human rights and freedoms, legitimacy, systematic integration of multiple measures with counter-terrorism measures, cooperation of the states with, for example, public associations and international organizations; confidentiality of information on special tools, inadmissibility of political concessions and proportionality of counter-terrorism measures. We particularly welcome the explicit recognition of human rights and freedoms, legitimacy and proportionality in the guiding principles to the legislation (Article 3). However, they raise concerns about the principle of confidentiality on tools, techniques and tactics of counter-terrorism which may function as a basis to bar independent review of counter-terrorism measures, undermine legal accountability and deter transparency from military, intelligence and security actors. Moreover, the confidentiality extension to participants in counter-terrorism (specifically state agents) can be seen as a measure that provides preemptive impunity to security actors, who act in contravention of law or violate human rights while engaging in counter-terrorism activities. We strongly encourage review and reconsideration of this guiding principle.

We note that article 4 of the draft legislation addresses international cooperation in the field of countering terrorism. We recognize and support the regulation of such cooperation by domestic law. We acknowledge the value of affirming that such cooperation will also be based on “bilateral (multilateral) international agreements”. While it is implicit in this provision that international human rights agreements to which

⁵ [A/HRC/16/51](#), paragraph 26.

the State is a party are included, we would strongly encourage the explicit acknowledgement that human rights obligations are equally applicable to the sphere of bilateral and multilateral counter-terrorism cooperation.

We are however concerned that the range of acts and activities defined in article 5 of the proposed Act, and specifically the definition of an “act of terrorism” contained in article 5(3) differs substantially from and are markedly broader than the model definition advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.⁶ The provisions also appear *de facto* incompatible with Kyrgyzstan’s international human rights obligations. We underscore that the definition of terrorism and related offences must be “accessible, formulated with precision, non-discriminatory and non-retroactive.”⁷ To categorise an offense as a ‘terrorist act’ consistent with good practice in international law, three elements must be cumulatively present: a) the means used must be deadly; b) the intent behind the act must be to cause fear among population or to compel a government or international organization to do or refrain from doing something; and c) the aim must be to further an ideological goal. In contrast, the Act offers an overbroad and ambiguous definition of a ‘terrorist act’ which includes imprecise terms such as “serious consequences”, “violating public safety” and “exerting influence on decision-making by authorities” and “threat of these actions”. In this regard, we recall that the definition of terrorism and terrorism offences must be confined to acts that are ‘genuinely’ terrorist in nature in accordance to the elements identified by the Security Council in its resolution 1566 (2004). Criminal offences must thus be set out in “precise and unambiguous language that narrowly defines the punishable offense. Therefore, we urge the Government to adopt a definition of terrorism consistent with the core legal meanings adopted by the Security Council and by State Parties who have signed relevant multilateral terrorism conventions and commends the definition of terrorism developed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for your consideration,⁸ as well as compliant with the narrow and precise definition set out by the Security Council. We also underline that the definition of terrorism in national legislation should be guided by the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, which were approved by the General Assembly.⁹

We draw your Excellency’s Government attention to the “principle of legal certainty” under international law, enshrined in article 15(1) ICCPR and article 11 UDHR. This principle requires that criminal laws must be sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. This principle recognizes that ill-

⁶ [A/HRC/16/51](#)

⁷ [A/HRC/16/51](#), paragraph 27 (citing International Covenant on Civil and Political Rights, art. 15, General Assembly resolution 63/185, para. 18, and E/CN.4/2006/98, para. 49).

⁸ [A/HRC/16/51](#)

⁹ See General Assembly resolutions 49/60 and 51/210, which have been continuously recalled by the Assembly in its resolutions on measures to eliminate international terrorism, most recently in its resolution 72/123.

defined and/or overly broad laws are open to arbitrary application and abuse. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the dangers of overly broad definitions of terrorism in domestic law that fall short of international treaty obligations.¹⁰

We also caution against broad and overly inclusive definitions which pertain to “anti-terrorist operation” and “anti-terrorist trainings”. Given the overly broad nature of the acts already defined as ‘terrorist’, we correspondingly have concerns about the breadth of operations and trainings applied to such activities. The language of Article 5(1) is extraordinarily broad and permissive and appears to function as an emergency power within the domestic legal framework. The terms used including, “combat”, “physical force”, “weapons”, “special means”, and “neutralize terrorists” seem to enable impunity for violations committed during counter-terrorism operations, and appear to positively encourage the use of excessive force rather than contain it. In anti-terrorism operations, it appears that authorities are given broad and advance permission to use excessive force. This is further evidenced by Article 20 of the draft law, which appears to positively exhort the use of force as a primary response to terrorism. These provisions appear to allow for the use of proactive force, including lethal force, against any individual determined to be a terrorist. Such provisions are contrary to the strict provisions under international human rights law on the right to life and the use of force by law enforcement officials,¹¹ which require that any use of force must be proportionate and that the use of lethal force, as the *ultima ratio*, must be used solely in self-defence and when all other means have been exhausted, including non-lethal force.¹² We recall that the use of force should be strictly limited, and compliant with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.¹³ We also recall that these provisions are fully applicable to the armed forces and to special services and units, including of foreign countries operating on the territory of Kyrgyzstan, when operating in a law enforcement context governed by international human rights law. The provisions allowing for the disproportionate use of lethal force also run contrary to the principle of presumption of innocence. We are also profoundly concerned that “anti-terrorism training exercises” are structured to direct the use of lethal force and military engagement rather than directly and specifically aimed at ensuring arrest, detention and trial of persons who may have committed a criminal offence.

The designation of “anti-terrorist operation zones” appear to be designated areas of exceptional legal practice which seal off the oversight, review and transparency of geographical locales where “anti-terrorist operations” are carried out (Article 26). We have concerns with these draft legal provisions that appear to enable impunity for human rights violations committed during counter-terrorism operations and abrogate the rule of law entirely in the context of these actions. The enhanced police powers included in article 26 are also extremely problematic, as they appear to be operating absent any prior

¹⁰ A/70/371, para. 46(c)); A/73/361, para. 34.

¹¹ International Covenant on Civil and Political Rights, art. 6,

¹² International Covenant on Civil and Political Rights, art. 6, and Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 12.

judicial authorization or control. We express concern that these draft legal provisions appear to enable impunity for human rights violations committed during counter-terrorism operations and abrogate the rule of law entirely in the context of these actions. The enhanced police powers included in article 26 are also extremely problematic, as they appear to be operating absent any prior judicial authorization or control.

We are deeply concerned about the implications of the prohibition on “public calls for terrorist activities and public justification of terrorism” in draft Article 15 and a similar provision in Article 29, and its consequences for the right to freedom of opinion and expression. These vaguely worded expressions extend criminalization beyond acts or threats of lethal violence to acts protected under the freedom of expression, potentially including the independent reporting on terrorism and related issues. The requirement of legality in article 19 (3) requires any restriction to be “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly”. This applies with particular force when the restriction criminal sanction. The requirement of proportionality requires that the State adopt the least restrictive means necessary and that any restriction is strictly delimited to achieve its protective function. Moreover, we note that any prohibition pursuant to article 20 ICCPR of advocacy of hatred that constitutes incitement to discrimination, violence and hostility, must conform with the requirements of article 19 (3). The Human Rights Committee has particularly highlighted that prohibitions on the “encouragement”, “praising”, “glorification”, or “justification” of terrorism or of extremist activity, must adhere to the requirements in article 19 (3) (CCPR/C/GC/34, paras 25, 34, 46, 50 and 51). We express concern that the draft law does not delimit prohibited speech consistent with the limitations required by article 19 (3) of the ICCPR, that it goes beyond the requirements of Security Council resolution 1624 (2005), and that the provisions are likely to constitute an unlawful interference with the freedom of expression. Specifically, the provisions are likely to restrict an open public debate on anti-terrorism measures, extremism and other issues of general interest in society. Our concerns are exacerbated by the potential for abuse that they might entail, including for the silencing of expressions of dissent and criticism. It is likely to restrict journalists, human rights defenders, civil society actors and others from reporting on anti-terrorist operations. In consequence, it risks avoiding any public scrutiny on actions by the authorities to combat terrorism, but also limit any accountability for serious human rights violations committed during these operations.

The draft law articles 13 and 14 further constitute far-reaching interferences in the independence of mass media. They place a general duty to cooperate with the authorities, including through an extensive duty to reveal source information, restrictions on the types of reporting is permitted on individuals suspected of terrorism, requirements for prior authorization from the authorities to conduct interviews, and a general duty of prior self-censorship. The law does not provide for any safeguards against abuse of authority, such as through requirements of judicial control. We reiterate that a “free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society.” (CCPR/C/GC/34 para 13). One of the critical preconditions for the effective operation of the press is the journalistic privilege, that is, the protection source confidentiality. The restrictions proposed in draft articles 13 and 14

directly interfere at core principles of media freedom and journalistic privilege in a manner clearly incompatible with Article 19 ICCPR.

We would also like to express our concerns at the potential negative implications of Article 14 on the rights of persons belonging to ethnic, religious and linguistic minorities, as well as on the legitimate work of all those defending and advocating for these rights.¹⁴ In this respect, we would like to recall the State's obligations under ICCPR, in particular articles 18 and 27 of ICCPR providing for the protection of the freedom of thought, conscience and religion or belief and guaranteeing the rights of persons belonging to minorities. We also recall the Human Rights Committee's view that States should ensure that any prohibition and restriction of Article 20 of the ICCPR should be clearly justified in strict conformity with Article 19 of the ICCPR (General Comment No. 34, CCPR/C/GC/34, paras 50 to 52). In addition, we wish to refer to the Rabat Plan of Action, which provides that for any expression of incitement to hatred to be criminalized, a six-part threshold test should be fulfilled, in terms of its content and form, speaker, intent, extent of the speech act, and likelihood/imminence of the risk of harm (A/HRC/22/17/Add.4).

We would also like to bring to your Government's attention some concerns about the definition of "terrorist organization" (article 5 (8)). We note again that the definition is exceptionally broad and may as a result, criminalize a range of actors and organizations engaged in activities protected under international law. The use of terms such as 'movement', 'sect' and 'group' *prima facie* appears to extend to a wide range of entities and may have a chilling and detrimental effect on the rights of freedom of association and freedom of religion or belief. We are concerned that, for example, groups such as non-governmental organizations engaged in non-violent criticism of State policies can effectively be designated as "terrorist in nature," and that counter-terrorism law may directly or indirectly criminalize the peaceful exercise of freedom of expression, association and assembly, which is incompatible with a society governed by rule of law and abiding by human rights principles and obligations.¹⁵ Similarly, there is great concern with the provisions contained in article 16, relating to the recognition of organisations and materials as terrorist. This concern is, in our view, twofold. It relates first to the combination of this provision with the overly broad definition of terrorism contained in the draft law. Second, it relates to the fact that the determination that an organization is "terrorist" actually lies with the executive branch through a statement made by the General Prosecutor's Office that recognizes the organization as a terrorist and prohibits its activities (article 16(4) of the draft law). This provision severely restricts freedom of association, but can also be used to against legitimate civil society organisations. We are further concerned that this may imping on article 7 of the Declaration on Human Rights Defenders, which guarantees the right of everyone, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

¹⁵ A/HRC/37/52 para 47.

We also underscore our concerns that the provisions concerning “preparation” and “assistance” are insufficiently precise and may functionally operate to criminalize pre-criminal acts in a way which is inconsistent with the rule of law. We also note that ‘financing of terrorism’ is insufficiently defined in the proposed legislation, specifically under draft Article 17. Given our concerns about the vagueness and practice of terrorism definitions, terrorism financing adds another layer of legal uncertainty as its penalties have criminal, civil and administrative dimensions. Finally, the concluding provisions of Article 5 which uses the phrase “the commission of other crimes for terrorist purposes” is unacceptably broad, and brings within the ambit of the States’ terrorism regulation a range of crimes many of which may be minor and fall directly outside the ambit of a genuine definition of terrorism consistent with international law. We urge complete the removal of this provision given the imprecision and danger it poses for a widening of ‘terrorism’ beyond a framework of legality.

We recall that the failure to use precise and unambiguous language in relation to terrorism offences fundamentally affects the protection of a range of human rights and freedoms. The adoption of overly broad definitions of terrorism therefore carry the potential for deliberate misuse of the term and pose the risk that, where such laws and measures restrict the enjoyment of rights and freedoms, they will offend the principles of necessity and proportionality that govern the permissibility of any restriction on human rights.¹⁶

We are profoundly concerned about the contents of Article 28 (*Justified Infliction of Harm*) which seems to afford immunity from prosecution to any ‘individuals participating in an anti-terrorist operation from its beginning to the moment of completion’. This overreaching immunity clause for law enforcement officials, which seems to entirely shield them from accountability in such circumstances is entirely inconsistent with the State’s international law obligations and appears to thwart the obligation of the State to afford effective remedies for human rights violations. We underscore that when law enforcement or the military use lethal force, commit acts of torture, detain persons arbitrarily whether against innocent individuals or individuals suspected of terrorism, there needs to be an independent, impartial, effective and public investigation carried out by the authorities to determine the legality of the acts involved, and ensure accountability.

We also are deeply concerned by Article 31 whose provisions that limit burial ceremonies and that keep the places of burial secret for persons who have been convicted for acts of terrorism, and of ‘alleged terrorists’ who died at the hand of security forces in the course of counter terrorism operations. We stress that the dead must be treated with respect and dignity, which lies at the core of all international human rights law. The failure to return a dead body to the relatives for burial, or disclose where it was buried, can constitute a violation of the right to a family life and even a violation of the prohibition of torture and ill-treatment. Dignity entails that families have a right to know

¹⁶ A/HRC/16/51, para. 26.

where a relative has been buried, conduct religious ceremonies and to collect at the gravesite.¹⁷

The legislation Preamble refers to compliance with international law. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism notes that United Nations Security Council Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1566 (2004), 1617 (2005), 1735 (2006) and 1822 (2008) constitute guiding frameworks for the legislation based on the position that all States are required to take measures to combat international terrorism. She also points out that the UN Charter which frames the functioning of the Security Council makes substantial references to human rights protection, this affirms the requirement to promote and respect human rights norms including when addressing terrorism domestically. The Security Council now consistently includes language on the need for States to ensure that “any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law” in chapter VI and chapter VII resolutions addressing terrorism.¹⁸ It is not sufficient to state generically that a domestic law on terrorism complies with human rights obligations, rather the government is under an obligation to ensure that compatibility of each provision enacted with its specific human rights obligations across both derogable and non-derogable rights obligations. We remind your Excellency’s Government that the compliance with all human rights while countering terrorism represents a best practice because not only is this a legal obligation of States, but it is also an indispensable part of a successful medium- and long-term strategy to combat terrorism.¹⁹

We are concerned that such exceptional and broad counter-terrorism legislation is being passed during the global pandemic, and under restrictions of public health imposed in the jurisdiction. Such conditions disable full and transparent engagement by experts, civil society, and all relevant parliamentary processes in Kyrgyzstan. It also limits the capacity of Special Procedures to have timely and relevant engagement with the Government.

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:

¹⁷ UN Human Rights Committee, *Mariya Staselovich v. Belarus*, Communication No. 887/1999, CCPR/C/77/D/887/1999 (2003), ECtHR *Sabanchiyeva and others v. Russia*, App. 38450/05, 6 June 2013.

¹⁸ See Security Council resolution [1535 \(2004\)](#). See also Security Council resolutions [1456 \(2003\)](#), paragraph 6 (“States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law . . .”), and [1624 \(2005\)](#), paragraph 4 (“States must ensure that any measures . . . comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law . . .”).

¹⁹ A/HRC/16/51, para. 12; See A/60/825, para. 5; A/HRC/8/13; Statement by the President of the Security Council of 27 September 2010, op.cit. , eighth paragraph; the Internal Security Programme and National Counter- Terrorism Strategy of Finland; Switzerland questionnaire response; and the Human Security Act 2007 of the Philippines, sect. 2.

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned assessment of the proposed legislation.
2. Please explain how the amended Act is compatible with Kyrgyzstan's obligations under articles 2, 6, 14, 15, 17, 18, 19, 20, 21, 26 and 27 ICCPR and articles 11, 12, 19 and 20 of the UDHR and how it may remediate the aforementioned inconsistencies with international human rights standards enshrined in the proposed Act.
3. Please provide information in detail of how your Excellency's Government's counter-terrorism efforts comply with the United Nations Security Council resolutions [1373 \(2001\)](#), [1456\(2003\)](#), [1566 \(2004\)](#), [1624 \(2005\)](#), [2178 \(2014\)](#), [2341 \(2017\)](#), [2354 \(2017\)](#), [2368 \(2017\)](#), [2370 \(2017\)](#), [2395 \(2017\)](#) and [2396 \(2017\)](#); as well as Human Rights Council resolution [35/34](#) and General Assembly resolutions [49/60](#), [51/210](#), [72/123](#), [72/180](#) and [73/174](#) in particular with international human rights law, refugee law, and humanitarian law contained therein.
4. Please explain how the execution of "anti-terrorist operations" and the measures associated including detention of persons, wiretapping, and conducting "other" investigative actions are consistent with the human rights obligation engaged by your Excellency's Government.
5. Please identify any positive measures and oversight provided by your Excellency's government on the exercise of the powers proposed in this legislation the operation of the counter-terrorism center and the interdepartmental coordination commission, with particular reference to the structures set out in draft Articles 6, 7 and 8.
6. Please indicate what specific legal and administrative measures have been taken to ensure that human rights defenders, journalists as well as members of religious and other minorities in Kyrgyzstan will be able to carry out their legitimate work and activities, including through the exercise of their right to freedom of opinion and expression and their rights to freedom of association, in a safe and enabling environment without fear of being designated "terrorist".

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Fernand de Varennes
Special Rapporteur on minority issues

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief