

Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; 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 the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; 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 the situation of human rights defenders, pursuant to Human Rights Council resolutions 34/9, 42/22, 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of retaliation against Ms. Gurbansoltan Achilova's independent journalistic work, in the form of repeated assault, harassment, arbitrary detention, threats and theft, as well as the refusal to compensate her for the demolition of her house or provide her with alternative accommodation.**

Ms. Gurbansoltan Achilova is a freelance journalist and human rights defender. She worked for Radio Liberty's Turkmenistan Office from 2007 to 2019. She is specialized in the social and political life of Turkmenistan, with a focus on persons in poverty and socioeconomic vulnerability.

According to the information received:

In March 2006, Ms. Achilova's house was demolished by the local municipal government Kopetdag district, Ashgabat. The demolition was based on decisions No 356 as of 25 May 2005 of the Kopetdag municipality and decision No 247 of 27 March 2006 of the Ashgabat city municipal government. The latter was adopted after the demolition. Initially, Ms. Achilova was included in a waiting list for persons in need for social support by the Koptetdag district government and the Directorate of Registration, Distribution and Authorization of Houses of Ashgabat city municipality. However, as a result of her journalism work, to date she has been denied alternative housing or monetary support. She has been living at her son's apartment since the demolition.

On 13 December 2014, Ms. Achilova was taking photographs of a queue to buy meat at the Mir Bazaar, Ashgabat. Four to five individuals in civilian clothing approached her, stole her camera and berated her for “criticizing the motherland”. They asked for identification documents and took her to the Kopet Dag District police station, Ashgabat. She was questioned about her family and then released. She was given back her camera, but all photos taken at the bazaar had been deleted.

On 25 October 2016, Ms. Achilova was taking photos of persons queuing outside of a supermarket. A police officer and an employee of the supermarket started to chase her, and Ms. Achilova walked away to a nearby safe place. She sat on an outdoor bench, where the police officer and the supermarket employee questioned her about her reasons to take photographs. Ms. Achilova explained she was a journalist doing her job. Fifteen minutes later, another police officer, dressed in civilian clothing, arrived at the scene and identified himself to her as the deputy head of the Berkararlyk district police station. He questioned her about her private life and work. He asked her to delete all the photographs and accompany him to the police station, which Ms. Achilova refused. The deputy police chief left the scene, but the other police officer held Ms. Achilova on the outdoor bench in temperatures ranging from 3 to 5 degrees Celsius for two hours and a half. When she was finally allowed to walk away from the scene, three men and one woman approached her. They asked Ms. Achilova to delete the photos she had allegedly taken of the woman. Ms. Achilova did not recognize the woman from the supermarket queue, but told them she would delete any photographs of her when she got home. The group started to harass and insult Ms. Achilova. Two of the men prevented Ms. Achilova from being seen by bystanders, and the other twisted her arms. They grabbed her bag and her camera, and scattered her belongings on the ground, then left. Ms. Achilova could not recover her camera, her wallet and her glasses. Her arm suffered bruising, and she became ill from being forced to sit outside in cold for hours.

On 8 November 2016, two unidentified women assaulted Ms. Achilova at the cafeteria of the health centre of Archman, northwest of Ashgabat. They accused her of “taking pictures and pouring dirt on Turkmenistan”.

On 25 November 2016, a group of cyclists knocked into Ms. Achilova while she was on the way home from the United States embassy’s information centre, which houses a library, internet centre and an English-language school open to the public. The cyclists pretended it was an accident, but Ms. Achilova had seen them around her house earlier the same day.

On 11 April 2017, unidentified persons damaged a car belonging to Ms. Achilova’s son, Mr. Chary Achilov. The front and rear windows were broken.

The incident took place near his home in Ashgabat. On 25 April 2017, the police opened an investigation that did not yield results.

On 27 July 2017, an unidentified individual shouted at Ms. Achilova and asked her why she was taking pictures on the bus. He also took her smartphone. The following day, also on a bus, another individual grabbed her by the hand while she was trying to take a photo, followed her and threatened her: “you will see when you get off of the bus”.

On 29 July 2017, an unidentified individual in civilian clothes asked Ms. Achilova to stop taking photos of the Day of Bicycles in Ashgabat. He identified himself as a police officer, and threatened that she would be “finished” if she did not stop taking photos.

On 14 November 2017, a car followed Ms. Achilova from her home as she took a bus ride to the United States embassy’s information centre in Ashgabat. An unidentified man got off the car and boarded the bus. After she left the information centre, another of the occupants of the car followed her and harassed her as she was photographing people queuing to buy sunflower oil at a local shop. He yelled at her: “I’ll take a stone and break your head if you ever take a camera in your hands. I’ll destroy it along with you. Go home, stay in the house. If you leave, you die.” The car also followed Ms. Achilova on her way back home.

On 27 November 2017, at 11:50 a.m., Ms. Achilova was approached by an unidentified individual while she was filming demolished houses in Koshi, Ashgabat. He yelled at her: “Don’t take pictures! Why are you taking pictures?”. Another four men dressed in civilian clothing surrounded her and stole her camera. She was then arrested by three police officers in uniform, who drove her to an unknown location. After making a phone call, the police officers returned the camera (which was damaged and the photographs in it deleted) and released her. When she went back to the area of the demolition, the individuals in civilian clothes who had first harassed her threatened her not to come back.

On 9 May 2018, several unidentified individuals stopped Ms. Achilova while she was on her way to photograph a ceremony at a new World War II memorial complex in Ashgabat. They identified themselves as security agents. Three police officers also approached her and forbade her from taking photographs. They also asked her to delete any photograph she had taken. Two of the police officers grabbed her from under her arms and dragged her downstairs to an unidentified white car while they called her a “slut and traitor of the motherland”. They threatened to arrest her for drug-related charges if she didn’t erase the photographs she had taken. As Ms. Achilova refused and insisted she was not

breaking the law, they took her camera and deleted the photos themselves. They held her on the spot for two hours and then released her.

On 9 June 2018, Ms. Achilova noticed a car was following her in Yoloten, while she was on her way to the home of a neighbour of her relatives. When she left the neighbour's home, two young men on bicycles stopped her and asked why she had taken pictures of their homes. One of them men punched her in the chest, causing her fall.

For several months in 2019, the State Migration Service imposed a travel ban on Ms. Achilova, which was later lifted. Her internet connection was also temporarily restricted at the time, and her phone was blocked from receiving calls from abroad. Radio Liberty's website continues to be blocked from access in Turkmenistan.

On 4 July 2019, an unidentified person stole Ms. Achilova's handbag containing her identity documents, two voice recorders that had been used for interviews, a mobile phone, money and other personal items, while she was on a work trip in Balkan-Abat. The report that she filed to the police was not recorded, so she appealed to the Ministry of Interior on 6 July 2019. On 2 October 2019, she received a letter from the Balkan-Abat prosecutors office claiming that the investigation could not confirm the theft. A resident of Balkan-Abat who had been interviewed by Ms. Achilova was summoned to the Ministry of National Security (MNB, former Committee for National Security/KNB) and questioned about the interview. On 19 October 2019, Ms. Achilova sent an appeal to the President, asking for an investigation, which was rejected by the General Prosecutor's Office. On 19 November 2019, Ms. Achilova was summoned to the MNB, where she was asked to stop her journalistic work for Radio Liberty under the threat that she would be pursued for the creation of a group against the State funded by foreign forces.

While we do not wish to prejudge the accuracy of the information made available to us, we express serious concern at the repeated instances of alleged assault, harassment, arbitrary detention, threats and theft against Ms. Achilova, as well as the refusal to compensate her for the demolition of her house or provide her with alternative accommodation, in retaliation for her journalistic and human rights work. In this regard, we recall that journalism constitutes a necessary service for any society, as it provides individuals and society as a whole with the necessary information to allow them to develop their own thoughts and to freely draw their own conclusions and opinions (A/HRC/20/17 para 3). Arbitrarily depriving Ms. Achilova of her rights to compensation and alternative accommodation would also constitute a violation of her right to housing as a component of the right to an adequate standard of living.

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 above-mentioned person(s) 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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations including why there seems to be pattern of harassment of Ms. Achilova over the years.
2. Please provide detailed information of any investigation which may have been carried out in relation to the incidents of assault, harassment, threats and theft against Ms. Achilova mentioned above. If they have not taken place or have not been completed, please explain why.
3. Please provide information on the arrest of Ms. Achilova on 27 November 2017 and on any investigation or charges against her as a result of her journalistic work. Please provide information on the charges against her and the obligations of Turkmenistan to respect and ensure the freedom from arbitrary arrest or detention and the right to freedom of expression under international human rights law.
4. Please report on the existence, or not, of measures taken to ensure physical and psychological integrity of Ms. Achilova and her family.
5. Please provide information on the measures taken to ensure Ms. Achilova's right to housing. Please explain why all her requests for alternative housing or monetary support after the demolition of her house have been rejected.

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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit specific cases relating to the circumstances outlined in this communication through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and to the regular procedure.

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

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to your Excellency's Government's attention to article 11 of the International Covenant on Economic, Social and Cultural Rights, acceded to by Turkmenistan on 1 May 1997. The Committee on Economic, Social and Cultural Rights (CESCR), commenting on the right to adequate housing in its General Comment No. 4, stressed that the right to housing should not be interpreted in a narrow or restrictive sense, such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity.

In General Comment No. 4, the CESCR also stated that the right to adequate housing cannot be viewed in isolation from other human rights contained in the two International Covenants and other instruments: "[t]he full enjoyment of other rights - such as the right to freedom of expression, [...] is indispensable if the right to adequate housing is to be realized and maintained by all groups in society".

We would also like to refer to the obligations under the International Covenant on Civil and Political Rights (ICCPR/the Covenant), acceded to by Turkmenistan on 1 May 1997. Under article 9.1 of the Covenant "[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." Moreover, article 9.2 stipulates that the person must be informed, at the moment of the arrest, about the reasons for such deprivation of liberty; in addition, the information about the charges against the person should be provided without delay. According to Article 9.3, anyone deprived of his or her liberty "shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release." Article 9.4 incorporates the right to initiate proceedings before a court to determine the lawfulness of the detention. These guarantees must be satisfied since the very start of the detention period and irrespective of its duration.

Article 19 of the Covenant enshrines the right to freedom of opinion and expression. As stated by the Human Rights Committee, "Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights", CCPR/C/GC/34, para. 3. The protection of journalists is particularly strong. As further stated by the Human Rights Committee, "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", *id.* para. 13. In accordance with Article 19 (3), any restriction on the right to freedom of expression must pursue one of the exhaustively

enumerated aims of the provision, it must be provided by law, and it must be necessary and proportionate.

As stated by the Committee, “The penalization of a [...] journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression” *id.* para. 42. Moreover, the criminalisation of speech based on notions of falsehood is in and of itself too vague to comply with the requirement of legality in Article 19 (3), see e.g. *id.* para. 25 and the 2017 joint declaration from the Special Rapporteur on freedom of expression on freedom of expression and “fake news”, disinformation and propaganda, no. 2 *litra a.*

As stated by the Committee, the deprivation of liberty of an individual for exercising their freedom of expression constitutes an arbitrary deprivation of liberty contrary to Article 9 of the Covenant, see CCPR/C/GC/35 para. 17, and a concurrent violation of Article 19. Such attacks against individuals for exercising their rights to freedom of expression should be “vigorously investigated in a timely fashion, and the perpetrators prosecuted”, CCPR/C/GC/34 para. 23.

In particular we would like to draw to the attention of you Excellency’s Government 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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. We would also like to refer to article 11 which states that everyone has the right to the lawful exercise of his or her occupation or profession.