

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL KGZ 3/2021

4 October 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/16, 42/22, 43/4, 42/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged death threats against human rights defender and lawyer Mr. Kamilzhan Ruziev, who appears to be targeted for his legitimate human rights work and the exercise of the freedom of opinion and expression, as well as the allegations of his arbitrary detention, ill-treatment, and prosecution.**

Mr. Kamilzhan Ruziev is a human rights defender and lawyer from Karakol and director of the non-governmental human rights organisation Ventus. He defends the rights of victims of torture, domestic violence and discrimination.

According to the information received:

In 2017-2018, Mr. Kamilzhan Ruziev provided legal assistance to a victim of torture and widely publicised the case in the media. However, the purported perpetrator was reportedly not held accountable.

On 10 June 2019, Mr. Ruziev reportedly went to the Department of Internal Affairs (DIA) of Karakol City in connection with another case. The police investigator, who had allegedly committed acts of torture in the case mentioned, was reportedly on duty that day. He allegedly pointed his service pistol at Mr. Ruziev's head and threatened to kill him for exposing publicly the case of torture. On 12 June, 14 June and 4 November 2019, the police investigator and his colleagues again reportedly threatened to kill Mr. Ruziev, confronting him at the DIA of Karakol City.

On 12 and 14 June 2019, Mr. Ruziev reportedly complained to the Prosecutor's Office of Karakol City and on 4 November 2019 – to the State Committee for National Security of the Issyk-Kul Region (SCNS), asking them to investigate the threats. However, neither the SCNS nor the Prosecutor's Office reportedly initiated an investigation. Consequently, he appealed about their inaction to the Karakol City Court and the Issyk-Kul Regional Court.

On 3 March 2020, the Issyk-Kul Regional Court considered the appeal after Mr. Ruziev provided a medical certificate on acute bronchitis to the court to justify the delay in submitting the appeal.

On 11 March 2020, the SCNS reportedly initiated a criminal case against Mr. Ruziev under Article 359 (2) of the Criminal Code of the Kyrgyz Republic (“use of a knowingly false official document”) because the nurse issued the medical certificate without the doctor’s signature. Mr. Ruziev was reportedly unaware of the formal requirements.

On 28 May 2020, the SCNS officers reportedly invited Mr. Ruziev to the SCNS to receive responses to his motions concerning the threats. At 4:30 pm, they took him to one of the rooms and held him there against his will. The head of the SCNS reportedly forced him to testify about the falsity of the medical certificate. One of the SCNS officers allegedly said that he would “tear apart” anyone who complained about torture. Mr. Ruziev was not informed of the criminal case against him nor provided with any documents. Around 5:30 pm, he was released and told to come back with a lawyer. He could not find a lawyer, felt unwell and called an ambulance.

On 29 May 2020, Mr. Ruziev reportedly came to the Karakol City Court to attend a hearing on non-investigation of the threats against him. At the court’s exit, he was allegedly detained by the SCNS officer. The officer reportedly said that the detention was because Mr. Ruziev did not have an identity document and failed to appear for interrogation.

The night of 29-30 May 2020, the SCNS officers reportedly brought handcuffed Mr. Ruziev to the ambulance to check his state of health and the presence of alcohol in his blood. The ambulance doctor reportedly examined him and concluded that he could not be detained due to his health condition. However, the SCNS officials reportedly disregarded the doctor’s opinion and placed Mr. Ruziev in a temporary detention facility for 48 hours, reportedly telling him he was a witness in an unspecified criminal case.

While at the temporary detention facility, Mr. Ruziev was reportedly not permitted to meet with a lawyer of his choice. He was also allegedly denied the medication and medical assistance he needed. In addition, he was reportedly not given a blanket despite the cold temperature nor toilet paper. He wrote a complaint to the Ombudsperson for the Issyk-Kul region, but the temporary detention facility officer allegedly did not send it. He also reportedly asked for paper to write a complaint to the National Centre for the Prevention of Torture, but the temporary detention facility officer refused to provide it. Mr. Ruziev reportedly began a hunger strike protesting against violations of his rights.

On 30 May 2020, his complaint was accepted and the officers of the Prosecutor’s Office of Karakol City visited the temporary detention facility. However, they allegedly took no action on his complaints. On the same day, officers of the National Centre for the Prevention of Torture visited Mr. Ruziev. They reportedly called an ambulance, whose staff allegedly refused to examine him in accordance with the Manual on the Effective

Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). In total, on 30 and 31 May 2020, ambulance reportedly visited Mr. Ruziev four times due to his ill health and lack of medications.

In the morning of 31 May 2020, the SCNS officials reportedly transported Mr. Ruziev to the SCNS, held him there until the evening and interrogated him in the absence of the lawyer of his choice. The investigator allegedly told Mr. Ruziev that the lawyer did not answer the phone. The lawyer was reportedly standing in front of the building but was not allowed inside and not informed of the interrogation. Mr. Ruziev was then reportedly first informed of being accused under Article 359 of the Criminal Code but not provided relevant documents.

On the evening of 31 May 2020, the Karakol City Court found his detention lawful and imposed a two-month house arrest in connection with the criminal case. Mr. Ruziev reportedly complained about this decision, but the judge did not consider the complaint.

On 1 June 2020, Mr. Ruziev's health condition reportedly worsened and he was hospitalised at the Issyk-Kul Regional Hospital for ten days. On 8 June 2020, the SCNS officers reportedly interrogated Mr. Ruziev at the hospital without the lawyer and despite his objections and the doctors' opinion.

As a result of the SCNS's actions, Mr. Ruziev's health reportedly further deteriorated and in September 2020, he was hospitalised at the Clinical Hospital of the Presidential Administration in Bishkek. He also underwent rehabilitation for torture victims at the non-governmental organisation Voice of Freedom Foundation, where he was diagnosed with post-traumatic stress disorder.

The SCNS officers reportedly allowed Mr. Ruziev to be hospitalised only if he signed documents confirming that he had reviewed the criminal case materials. In pressing need of medical treatment, he reportedly agreed even though some documents (such as the indictment) were not provided and the pages of the case file were not bound and numbered, meaning that the documents could be subsequently supplemented and amended without his knowledge.

On 18 September 2020, the criminal case was reportedly sent to the Karakol City Court without Mr. Ruziev's actual knowledge of the indictment and other case materials. The criminal case is now reportedly at the trial stage. If found guilty, Mr. Ruziev could face up to five years of imprisonment.

In addition, on 29-31 May 2020, while Mr. Ruziev was in the temporary detention facility, six more criminal cases were reportedly initiated against him under Article 204 of the Criminal Code ("fraud"). The SCNS officers reportedly made people whose rights he had defended write crime incident reports. According to the accusations, he allegedly took money from them and did not help. Four of these cases have reportedly been dismissed. The status of the remaining two cases is unknown.

On 1 March 2021 and 8 April 2021, the Military Prosecutor's Office and the Balykchy City Court rejected all five of Mr. Ruziev's complaints alleging arbitrary detention and ill-treatment in the temporary detention facility. On 23 June 2021, the Issyk-Kul Regional Court rejected his appeals.

Dozens of his complaints to the Kyrgyz Republic authorities (including, but not limited to, the Government, the Cabinet of Ministers, the Parliament, the President, the Security Council, the Ministry of Internal Affairs, the DIA of the Issyk-Kul region, the Prosecutor General, the Issyk-Kul Region Prosecutor's Office, the Military Prosecutor's Office, the National Centre for the Prevention of Torture, the Ombudsman of the Kyrgyz Republic, the Ombudsman's Commissioner for the Issyk-Kul region) about violations of his rights were also reportedly rejected or not responded to. In some cases, the complaints were reportedly sent for consideration to the officials whose inaction he complained about. No one has allegedly been held accountable.

Without prejudging the accuracy of the information received, we wish to express concern about the allegations of death threats, arbitrary detention, ill-treatment and prosecution of Mr. Kamilzhan Ruziev, which appear to be linked to his legitimate human rights work, in particular his work as a lawyer defending victims of torture, domestic violence and discrimination.

In this regard, we would like to bring to the attention of your Excellency's Government the absolute obligation to "take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture" (paragraph 7b of Human Rights Council Resolution 16/23).

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 mandate 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 comments you may have on the allegations mentioned above.
2. Please provide the details, and where available the results, of any investigation, which may have been carried out in relation to the

allegations of death threats against and ill-treatment of Mr. Kamilzhan Ruziev.

3. Please provide detailed information on the measures taken in order to ensure the prompt and impartial investigation of the complaints submitted by Mr. Ruziev, including allegations of ill-treatment and denial of medical care, and if allegations are confirmed, measures taken to hold those responsible accountable of such violations and guarantee the right to reparation and redress for the victim.
4. Please provide information on the legal and factual basis for the detention of Mr. Kamilzhan Ruziev and any criminal cases against him, as well as the status of the criminal cases, and explain how these are compatible with the obligations of your Excellency's Government under international human rights law.
5. Please provide information on the extent to which Mr. Kamilzhan Ruziev has benefited of his legal and procedural safeguards from the outset of detention, including whether he was provided with prompt access to his lawyer and information and documents related to the criminal cases against him, and if not, please explain how this is compatible with the norms of due process recognised by international law.
6. Please provide detailed information on measures taken to evaluate the state of health of Mr. Ruziev upon his arrest and detention, as well as the appropriate physical and psychological health-care services made available to him throughout his detention.
7. Please indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in Kyrgyzstan in a safe and enabling environment without fear of harassment, criminalisation, threats or acts of intimidation of any kind.

We would appreciate receiving a response within 60 days. Thereafter, 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 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 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 of the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an allegation letter 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 letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Miriam Estrada-Castillo  
Vice-Chair of the Working Group on Arbitrary Detention

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
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punishment

## **Annex**

### **Reference to international human rights law**

In connection with the above-alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the following human rights standards:

#### *The right to freedom of opinion and expression*

We would like to refer your Excellency's Government to Article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Kyrgyzstan on 7 October 1994, that guarantees the right to freedom of opinion and expression.

The right to freedom of opinion and expression includes the right to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, *inter alia*, discussion of human rights (Paragraph 11). Article 19 requires the States to guarantee the right to freedom of expression (Id.). It is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (Paragraph 23). An attack on a person because of the exercise of their freedom of opinion or expression, including such forms of attack as arbitrary arrest and torture, can under no circumstance be compatible with Article 19 (Paragraph 23). All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress (Id.).

We would like to also remind your Excellency's Government of Human Rights Council resolution 12/16 (A/HRC/RES/12/16), in which the Human Rights Council expresses its concern that violations of the rights to freedom of opinion and expression continue to occur, often with impunity, including arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence, increased abuse of legal provisions on surveillance, search and seizure, and censorship against persons who exercise, seek to promote or defend these rights, including human rights defenders. In resolution 12/16, the Human Rights Council calls upon the States to respect and ensure the respect for these rights, take all necessary measures to put an end to violations of these rights, bring to justice those responsible and ensure that victims of violations have an effective remedy.

#### *The rights pertaining to detention and to be free from torture and ill-treatment*

We would like to refer your Excellency's Government to the absolute and non-derogable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, as enshrined in Article 7 of the ICCPR and Articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Kyrgyzstan on 5 September 1997. In its General Comment No. 20, the Human Rights Committee emphasised that the prohibition in Article 7 of the ICCPR relates both to the acts that cause physical pain and those that cause mental suffering to the victim (Paragraph 5). We would also like to emphasise that “[A]ll methods of torture are subject to the same prohibition and give rise to the same legal obligations, regardless of whether the inflicted pain or suffering is of a “physical” or “mental” character, or a combination thereof” (A/HRC/43/49).

In this context, we would like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture (CAT), which 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, which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw the attention of your Excellency's Government to article 13 of the CAT, which requires that "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."

We would furthermore like to refer to Articles 9 and 14 of the ICCPR, which guarantee the right not to be subjected to arbitrary arrest or detention, unlawful deprivation of liberty, as well as the right to a fair trial.

In its General Comment No. 35 (CCPR/C/GC/35), the Human Rights Committee has stated that arresting or detaining an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary (Paragraph 17). Furthermore, The State should, *inter alia*, ensure that, in practice, all persons deprived of their liberty are informed promptly of their rights and guaranteed all fundamental legal safeguards from the very outset of detention, including prompt access to counsel of their own choosing and confidential meetings with counsel. The State should also ensure that any failure in that regard constitutes a violation of procedural rights entailing appropriate sanctions and remedies.

A recent report of the Working Group on Arbitrary Detention to the Human Rights Council (A/HRC/45/16) reiterated that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty (Paragraph 50). The right to legal assistance must be ensured from the moment of deprivation of liberty and across all settings of detention (Paragraph 51). Legal assistance should be available at all stages of criminal proceedings, namely, during pretrial, trial, re-trial and appellate stages, to ensure compliance with fair trial guarantees (Paragraph 53).

We would also like to refer your Excellency's Government to the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990. Principle 2 requires governments to ensure effective and equal access to lawyers for all persons without distinction of any kind, such as based on political or other opinion. Principle 7 requires the governments to further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer. Finally, principle 8 requires the governments to provide all arrested, detained, or imprisoned persons with adequate opportunities, time, and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception, or censorship and in full confidentiality.

We would also like to remind your Excellency's Government of its obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to by Kyrgyzstan on 7 October 1994, in particular, Article 12, which



guarantees the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health.

As interpreted by the Committee on Economic, Social and Cultural Rights in General Comment No. 14 (E/C.12/2000/4), States are under the obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including detainees, to preventive, curative and palliative health services (Paragraph 34).

In this connection, we would also like to refer to the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) adopted by the UN General Assembly (A/Res/70/175) on 17 December 2015. Rule 1 requires treating all prisoners with respect due to their inherent dignity and value as human beings and protecting them from torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. Rule 13 states that all accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to heating. Rule 15 requires the sanitary installations to be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner. Rule 24 states that the provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community and should have access to necessary healthcare services free of charge without discrimination on the grounds of their legal status. Healthcare services should be organised in close relationship to the general public health administration and in a way that ensures continuity of treatment and care. Rules 56 and 57 stipulate that every prisoner shall be allowed to make a request or complaint regarding their treatment to the judicial or other competent authorities. Every request or complaint shall be promptly dealt with and replied to without delay. Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately. They shall result in a prompt and impartial investigation conducted by an independent national authority. Finally, Rule 61 emphasises that prisoners shall be provided with the adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice.

We also wish to remind your Excellency's Government about principles 1, 3, 6, 17, 18, 24 and 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the UN General Assembly (A/Res/43/173) on 9 December 1988, which state that all persons under any form of detention shall be treated in a humane manner, that there shall be no derogation from any of the human rights of persons under any form of detention, that no person shall be subjected to cruel, inhuman or degrading treatment or punishment, that persons in detention should be entitled to have the assistance of a legal counsel and to communicate and consult with their legal counsel, medical care and treatment shall be provided whenever necessary, that the detained person shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment and every request or complaint shall be promptly dealt with and replied to without undue delay.

*The rights of human rights defenders*

Furthermore, we would like to refer your Excellency's Government to 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 Recognised Human Rights and Fundamental Freedoms, adopted on 9 December 1998 (also known as the UN Declaration on Human Rights Defenders). Articles 1 and 2 of the Declaration state that everyone has the right to promote and to strive for the protection and realisation 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.

Likewise, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 6 (a), which provides for the right to know, seek, obtain, receive, and hold information about all human rights and fundamental freedoms;
- Article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters;
- Article 9 (1), which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights; and
- Article 12 (2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure, or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Both the General Assembly and the Human Rights Council repeatedly urged the States to create and maintain a safe and enabling environment in which human rights defenders can operate free from hindrance, reprisals, and insecurity (e.g., the General Assembly resolutions 74/146 (A/RES/74/146) and 70/161 (A/RES/70/161), and the Human Rights Council resolutions 22/6 (A/HRC/RES/22/6) and 13/13 (A/HRC/RES/13/13)).

They also repeatedly called upon the States to take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly, and association (e.g., the General Assembly resolutions 74/146 (A/RES/74/146), 72/247 (A/RES/72/247), 70/161 (A/RES/70/161), 66/164 (A/RES/66/164), and the Human Rights Council resolution 22/6 (A/HRC/RES/22/6)).

They also strongly condemned the violence against and the targeting, criminalisation, intimidation, and torture of human rights defenders and stressed the need to combat impunity by ensuring that those responsible for violations and abuses against human rights defenders, including against their legal representatives, associates and family members, are promptly brought to justice through impartial investigations (e.g., the General Assembly resolutions 72/247 (A/RES/72/247), 70/161 (A/RES/70/161), and the Human Rights Council resolution 31/32 (A/HRC/RES/31/32)).

The General Assembly in resolutions 74/146 (A/RES/74/146), 72/247 (A/RES/72/247) and 70/161 (A/RES/70/161) specifically called upon the States to take concrete steps to prevent and put an end to the arbitrary arrest and detention of human rights defenders.

The need to investigate such violations, eliminate impunity, and as far as possible, to report publicly on investigations and proceedings was further repeatedly emphasised in the General Assembly resolutions 74/146 (A/RES/74/146) and 66/164 (A/RES/66/164), as well as the Human Rights Council resolution 31/32 (A/HRC/RES/31/32) and 13/13 (A/HRC/RES/13/13).

Finally, the latest report of the Special Rapporteur on the situation of human rights defenders (A/HRC/46/35) reiterated that States could and should intervene to prevent killings of human rights defenders by responding more effectively to threats against them (Paragraph 103).