

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Special Rapporteur on the human rights to safe drinking water and sanitation**

Ref.: AL MNG 1/2023  
(Please use this reference in your reply)

22 June 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 52/4, 46/7 and 51/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the status of the criminal investigation opened against **Sukhgerel Dugersuren**.

Ms. Sukhgerel Dugersuren is a woman human rights defender and environmentalist. She is the director of the civil society organisation (CSO) Oyu Tolgoi Watch Mongolia (OT Watch), which is accredited to the United Nations Convention to Combat Desertification. She is also the Mongolian director of the regional CSO Rivers Without Boundaries International Coalition, which gathers over 30 environmental NGOs and experts from Russia, Mongolia, the US and China, dedicated to preserving the health of transboundary river basins in north-east Eurasia through joint advocacy and promoting best practices in river management. Ms. Dugersuren has for years been engaged in monitoring the human rights and environmental impact of corporate activity in Mongolia, with a focus on the extractive sector, promoting greater transparency and consultation, and ensuring adherence to environmental protection standards.

Ms. Sukhgerel Dugersuren was the subject of a communication addressed to your Excellency's Government by us on 6 September 2022 (AL MNG 1/2022), in which we expressed concern regarding a criminal investigation allegedly opened against her under article 19.4 of the Criminal Code for "illegal cooperation with [a] foreign intelligence agency [or] agent". We appreciate the response of your Excellency's Government to this communication on 2 November 2022, however, we express renewed concern at the confirmation therein of the investigation opened against Ms. Dugersuren.

According to the information received, including in the Government's response to our previous communication:

On 3 June 2022, Ms. Dugersuren published an opinion piece online arguing against the development of the Erdeneburen Hydropower Reservoir on the basis of the threats it would pose to the rights of local communities and wetlands (see AL MNG 1/2022).

On 27 July 2022, the Investigation Department of the General Intelligence Agency opened a case against Ms. Dugersuren for the suspected violation of Article 19.4 of the Criminal Code, which addresses “Illegal cooperation with [a] foreign intelligence agency [or] agent”. The investigation was launched following the appearance of an article in a German news website alleging that Ms. Dugersuren and one other person were being used by the Russian Federation to sabotage Mongolia’s efforts to break free of energy dependence on Russia. This article was translated into Mongolian and republished on a number of Mongolian websites.

While we do not wish to prejudge the accuracy of these allegations, we express concern at the confirmation by the Government, in its response to our previous communication, of the criminal investigation opened against Ms. Sukhgerel Dugersuren, which we fear to be directly connected to her exercise of her right to freedom of expression to highlight environmental and social risks connected to the development of the Erdeneburen Hydropower Reservoir.

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 all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide an update on the status of the investigation opened against Ms. Dugersuren.
3. Please outline the steps taken to inform Ms. Dugersuren of the status of the investigation against her.

We would appreciate receiving a response within 60 days. Past 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 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.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

David R. Boyd  
Special Rapporteur on the issue of human rights obligations relating to the enjoyment  
of a safe, clean, healthy and sustainable environment

Pedro Arrojo-Agudo  
Special Rapporteur on the human rights to safe drinking water and sanitation

## **Annex**

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

In connection with the above allegations, we would like to refer in detail to articles 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Mongolia on 18 November 1974, which guarantee the rights to liberty and security of person and freedom of expression.

We would like to underline that article 9 of the ICCPR guarantees the right to freedom from arbitrary arrest or detention. The Human Rights Committee, in its General Comment No. 35, has emphasised that any arrest or detention carried out in retaliation for the legitimate exercise of rights guaranteed by the ICCPR should be considered arbitrary, including the right to freedom of expression.

Article 19 of the ICCPR, which guarantees the right of all persons to freedom of expression, encompasses the freedom to seek, receive and information and ideas of all kinds. Any restrictions on freedom of expression must be strictly limited and meet the high threshold set out in article 19 (3) of the Covenant, following which any limitations must be determined by law and conform to the strict tests of necessity and proportionality.

As underlined by the Human Rights Committee in its General Comment no. 34, attacks on persons because of the exercise of their freedom of expression, including in the form of arbitrary arrest, cannot under any circumstance be compatible with article 19. In the same General Comment, the Committee stressed that persons engaged in gathering, analysing and reporting on human rights are frequently subjected to such acts of intimidation because of their activities.

In addition, we would like to draw the attention of your Excellency's Government to 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, otherwise known as the UN Declaration on Human Rights Defenders, which was adopted by consensus at the UN General Assembly in 1998. In particular we would like to highlight articles 1 and 2 of the Declaration, which state that everyone, individually and in association with others, has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms and that each State has a prime responsibility and duty to promote, protect and implement all human rights and fundamental freedoms.

Further to these articles, we would also like to reference article 6 (a) of the Declaration, which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; 6 (b), which affirms the right to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and 12, paragraphs 2 and 3, which provide 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 his or her legitimate exercise of the rights referred to in the Declaration.

Finally, both the United Nations General Assembly and the Human Rights Council recognized the right to a clean, healthy and sustainable environment with the adoption of resolutions A/RES/76/300 and A/HRC/RES/48/13. As detailed in the Framework Principles on Human Rights and the Environment (A/HRC/37/59), annex), which summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (Framework Principle 1). Furthermore, States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (Principle 2). Principle 4 provides, specifically, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”