

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

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(Please use this reference in your reply)

2 August 2023

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 and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/4, 51/8 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the sentencing of human rights defender Mr. **Dauletmurat Tajimuratov** to sixteen years in prison, allegedly in connection with his work in defence of human rights.

Mr. **Dauletmurat Tajimuratov** is a Karakalpak human rights defender and lawyer. He is a prominent community leader in the autonomous Republic of Karakalpakstan. In addition to this, Mr. Tajimuratov has worked as an editor for the newspaper "El Khyzmetinde" (In the Service of the People). As part of his human rights work, he has advocated for the rights of the Karakalpak national minority in Uzbekistan, particularly in the face of proposed legislation threatening the autonomous status of this people.

According to the information received:

The case of Mr. Dauletmurat Tajimuratov:

On 26 June 2022, the President of Uzbekistan, Mr. Shavkat Mirziyoyev announced a series of constitutional amendments including the removal of the autonomous status of the Republic of Karakalpakstan.

On 30 June 2022, at around 3 p.m., Mr. Dauletmurat Tajimuratov publicly informed residents of Nukus about an upcoming peaceful protest due to take place, which concerned the aforementioned constitutional amendments. The human rights defender was one of the leaders of this intended peaceful protest in Nukus, the purpose of which was to protect Karakalpakstan's autonomous status as an independent republic. Through his personal blog, the human rights defender encouraged people to peacefully gather in front of the local administration building on 5 July 2022. This protest was sanctioned by the Chairman of the Parliament of the Republic of Karakalpakstan.

On 1 July 2022, a large-scale peaceful protest was mobilised in the city of Nukus. Despite reports as to the peaceful nature of this assembly, it is alleged that the police intervened to disperse the participants. Crowd control weapons, including water cannons, rubber bullets, stun grenades and tear gas, were used.

As a result of the protests, a one-month regional state of emergency and Internet shutdown was imposed in the autonomous Republic of Karakalpakstan.

On 1 July 2022, Mr. Tajimuratov was arbitrarily arrested by Uzbekistani law enforcement officers from his house in Nukus, along with his relatives.

Uzbekistani law enforcement authorities detained Mr. Tajimuratov for several hours. During this detention, authorities subjected him to threats and physical assault, which may amount to torture or inhuman and degrading treatment. The authorities in question released him subsequently, as result of the public outcry in Nukus concerning his arrest.

Following this, on the same day, Mr. Dauletmurat Tajimuratov publicly revealed the violence that had been perpetrated against him by law enforcement authorities by publishing details of this in a video which he uploaded to his blog. In the video, he specified that he had suffered beatings to his chest. He also called once again on people in the Republic of Karakalpakstan to protest against the proposed constitutional amendments.

On 1 July 2022, in the evening between 6 p.m. and 7 p.m., Mr. Tajimuratov was arrested and detained once again by agents of the National Security Service. He has been arbitrarily detained ever since this time. His wife, daughter and his two brothers were also arbitrarily arrested.

Mr. Tajimuratov's wife and daughter were released shortly after this. Furthermore, his brothers, who also had been arbitrarily arrested, were both released after 7 and 15 days of detention respectively, during which time they allegedly suffered physical violence, which may amount to torture or inhuman and degrading treatment. Mr. Tajimuratov, however, was taken to an unknown location. His whereabouts remained unknown for more than one month following this.

In early August 2022, officers of the Ministry of Internal Affairs informed Mr. Tajimuratov's wife that Mr. Tajimuratov was being detained in a National Security Service prison, in Urgench.

On 6 September 2022, media sources in Uzbekistan reported that Mr. Tajimuratov was being held in pre-trial detention centre No. 11 in Urgench. WE understand that he continues to be detained in this same pre-trial detention facility.

On 28 November 2022, Mr. Tajimuratov appeared before the Bukhara Regional Criminal Court for the first hearing in his criminal trial. He was accused of multiple charges under the Criminal Code of Uzbekistan. These include: "Intentional grievous bodily harm" as enshrined in article 104, paragraph 3(a); "Conspiracy to seize power or overthrow the constitutional order" as per article 159, paragraph 4; "Theft by embezzlement or misappropriation at a large scale", as per article 167, paragraph 3(a); "Legalisation of proceeds of criminal activity" as per article 243; "Organisation of mass riots accompanied by violence" provided under article 244, paragraph 3; and finally "Preparation and dissemination of

materials containing threat to public security and public order” enshrined in article 244-1, paragraph 1(a, b, g).

On 31 January 2023, Mr. Tajimuratov was sentenced to 16 years in prison in relation to these charges.

In April 2023, ahead of Mr. Tajimuratov’s appeal concerning the charges, the lawyer acting for him publicly urged authorities to cease the persecution of his client. The lawyer also stated that the conditions in the pre-trial detention centre No. 11 are in violation of the rights accorded to him under international law. He claimed that while in this detention centre, Mr. Dautemurat Tajimuratov has been subjected to physical and psychological harassment by the detention facility officers. The lawyer also reported that Mr. Tajimuratov had suffered beatings on several occasions, that his head had been forcibly shaven, and that the detention officers had forced other detainees to intimidate and harass him.

Additionally, the lawyer reported that the living conditions experienced by Mr. Tajimuratov and the provisions made for detainees in the pre-trial detention centre No. 11 were unsatisfactory and inhumane.

It is noteworthy that the judge conducting the trial had previously been criticised by Mr. Tajimuratov in a video that he published to his YouTube channel in November 2021. In this video Mr. Tajimuratov denounced the judge’s alleged involvement in a corruption case. Should these allegations be correct, this would raise questions as to the right of due process afforded to Mr. Tajimuratov as part of his trial, namely over the fairness and impartiality of the ruling on the case.

On 5 June 2023, Mr. Tajimuratov appealed his sentence before the Higher Court of Uzbekistan. The Court ruled to uphold the decision of the Bukhara Regional Court to sentence Mr. Tajimuratov to sixteen years in prison.

Mr. Tajimuratov was reportedly tried along with twenty-two other Karakalpak protesters. While the sentences of the other protestors were reportedly favourably changed as part of this appeal trial, Mr. Tajimuratov’s sentence was the only one that remained unchanged.

Mr. Tajimuratov will reportedly spend the first two years of his sentence in a conventional prison before carrying out the remaining years of his sentence in a high-security detention facility.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our concern at the alleged arbitrary detention of Mr. Tajimuratov, as well as the long-term prison sentence issued against him, which appear to be related to his legitimate human rights work and the exercise of his right to freedom of opinion and expression, of peaceful assembly and association, namely in relation to the government’s policies on the Karakalpakstan people.

In particular, we also wish to express our sincere concern at the reported ill treatment of Mr. Tajimuratov, possibly amounting to torture, in particular the reported physical and psychological violations committed against him, in the form of

beatings, threats and intimidation.

Should these allegations be confirmed, the facts alleged would contravene the International Covenant on Civil and Political Rights, to which Uzbekistan acceded on 28 September 1995, as well as the United Nations Convention against Torture, ratified by the state in the same year. We underscore that the prohibition of any form of torture or ill treatment under international law is absolute and non-derogable. This prohibition has become a norm of jus cogens which is reflected in numerous international human rights instruments and Human Rights Council and General Assembly Resolutions. Furthermore, these allegations would represent a violation of the right to health, as protected by the International Covenant on Economic, Social and Cultural Rights, acceded to by Uzbekistan on 28 September 1995.

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.

We are issuing this appeal in order to safeguard the rights of the above-mentioned individual from irreparable harm and without prejudicing any eventual legal determination. It is relief *pendente lite*.

With this being said, since doubts have been cast on the legal basis for victim's detention, we stress that, should the case of Mr. Tajimuratov be litigated further, any grievances against the victim must be rectified in the course of future proceedings.

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, providing, where available, the results of any investigation and judicial or other inquiries which may have been carried out in relation to these cases.
2. Please provide the factual and legal basis for the arrest and detention of Mr. Dauletmurat Tajimuratov and explain how these actions comply with Uzbekistan's obligations under international human rights law. In addition, supply details as to the outcome of the investigation and evidence found against him.
3. Please explain what measures have been taken to ensure that all human rights defenders in Uzbekistan can carry out their peaceful and legitimate activities without fear of harassment, violence, or other restrictions, in particular, those working on issues affecting the status of minority peoples such as members of the autonomous Republic of Karakalpakstan.

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.

Further, 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 the case 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 allegation letter and the regular procedure.

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

Matthew Gillett
Vice-Chair on communications of the Working Group on Arbitrary Detention

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

Annex

Reference to international human rights law

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

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 Uzbekistan on 28 September 1995, which guarantees the rights to freedom of opinion and expression. The right to freedom of expression includes freedom to seek, receive and impart information and ideas of all kinds through any media.

As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas protected by article 19 of the ICCPR, include, *inter alia*, political discourse, commentary on one's own and on public affairs, and discussion of human rights (paragraph 11), and all forms of expression and the means of their dissemination are protected (paragraph 12). Article 19 requires the States to guarantee the right to freedom of expression (paragraph 11). 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, can under no circumstance be compatible with article 19 (paragraph 23). All such attacks should be vigorously investigated in a timely fashion, the perpetrators be prosecuted, and the victims receive appropriate forms of redress (Id.).

We would also like to remind your Excellency's Government that any restrictions to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19 (3) of the ICCPR. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity and proportionality.

Similarly, we wish to underscore the importance of articles 21 and 22 of the ICCPR, which protect the fundamental human rights of freedom of peaceful assembly of association. Article 21 enables individuals to express themselves individually and collectively and to participate in shaping their societies. Article 22 of the ICCPR protects the right of everyone to freely associate with others to pursue common interests. This right includes the right of individuals to form and join associations and the collective right of an existing association to pursue its lawful activities, without unlawful interference. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and the restrictions must be a necessary and proportionate means of achieving that purpose within a democratic society, with a strong and objective justification.

Moreover, with regard to the emergency powers recently enacted by the State, we would also like to emphasize that that any restriction on expression or information

that a government seeks to justify on grounds of national security and counter terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34).

We would, furthermore, like to refer to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. As interpreted by the Human Rights Committee in General Comment No. 35 (CCPR/C/GC/35), the notion of “arbitrariness” is not to be equated with “against the law” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality (paragraph 12). According to the same General Comment (paragraph 17) and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary. Further, the Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings. In this respect, the Working Group on Arbitrary Detention has concluded that being a human rights defender is a protected status under article 26 of the ICCPR.

Furthermore, we would like to refer your Excellency’s Government to articles 14 and 17 of the ICCPR, which guarantee everyone the right to a fair trial, and the right not to be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, as well as to unlawful attacks on their honour and reputation.

We would also like to remind your Excellency’s Government of 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 Uzbekistan on 28 September 1995.

Moreover, we would like to remind your Excellency’s Government of its obligations under the International Covenant on Economic, Social and Cultural Rights, acceded to by Uzbekistan on 28 September 1995, in particular, article 12, which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

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 (3), which provides for the rights to complain about the policies and actions of individual officials and governmental bodies about violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay; to attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments; and to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms;
- 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.

The Human Rights Council, in its resolution 13/13 (A/HRC/RES/13/13), urged the States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms. In resolution 22/6 (A/HRC/RES/22/6), the Council urged States to create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity (paragraph 2). In its resolution 31/32 (A/HRC/RES/31/32), the Council further called upon all States to take all measures necessary to ensure the rights and safety of human rights defenders (paragraph 2).