

Mandates of 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

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

11 January 2024

Excellency,

We have the honour to address you in our capacities as 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 52/9 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **independent journalist and woman human rights defender Ms. Gurban Soltan Achilova, who was prevented by customs authorities at Ashgabat airport from traveling to Geneva, Switzerland, where she was due to participate in an event in the context of the Geneva Human Rights week and to engage with representatives of the Office of the UN High Commissioner for Human Rights.**

Ms. Achilova is a freelance photojournalist, reporter and woman human rights defender. Her reporting specialises on social and political life with a focus on persons in poverty and socioeconomic vulnerability. She worked for Radio Liberty's Turkmenistan Office from 2007 to 2019. In 2021, Ms. Achilova was a finalist of the Martin Ennals Award, recognising her prominent role as a human rights defender.

In 2020, we sent a communication (AL TKM 1/2020) to your Excellency's Government in which we raised our concerns regarding allegations of retaliation against Ms. Achilova's independent journalistic work, in the form of repeated assault, harassment, arbitrary detention, and threats. We regret that to date no substantive response has been received to the allegations transmitted by Special Procedures mandate holders.

According to the information received:

In 2023, Ms. Achilova was invited to participate in the Human Rights Week, organised by the University of Geneva. The event took place in Geneva from 20-24 November and included prominent keynote speakers, including the current United Nations High Commissioner for Human Rights, Mr. Volker Türk. During her trip to Geneva, Ms. Achilova had planned meetings with representatives of the Office of the UN High Commissioner for Human Rights.

On 5 November the Martin Ennals Foundation, one of the organizers of the event, sent a letter to the Permanent Mission of Turkmenistan to inform the authorities about the event and the travel of Ms. Achilova, seeking the authorities' assistance in facilitating safe passage to Geneva.

On 18 November 2023, Ms. Achilova and her daughter were stopped at Ashgabat airport en route to Geneva. The customs authorities allegedly took her and her daughters passports, wet them with a damp cloth and then declared

they could not be used as they were ruined.

Ms. Achilova and her daughter had planned to travel from Ashgabat to Geneva on 21 November 2023, but forcibly cancelled their trip due to the above-mentioned incident.

Ms. Achilova has not been allowed to travel abroad on several occasions. She is under constant surveillance by the authorities and has been subject to harassment, intimidation, and threats for years linked to her photojournalistic work.

Without wishing to prejudge the accuracy of the information provided, we are concerned that the targeting of Ms. Achilova detailed in this communication may be aimed at discrediting and obstructing her legitimate work and activities for the defence of human rights. We are concerned that this is not the first time that Ms. Achilova has been prevented from leaving the country and we believe this instance of intimidation and harassment to be linked to her work and cooperation with international human rights networks, in particular UN human rights entities and mechanisms.

Such acts of intimidation and reprisal not only have a direct impact on the rights to freedom of movement, freedom of association and freedom of expression of Ms. Achilova, they can also have a chilling effect on all those wishing to express themselves and engage in legitimate human rights work, including cooperation with international actors and United Nations human rights mechanisms and participation in international events. We are particularly worried that this act of reprisal happened just days after Turkmenistan's human rights review in the context of the Universal Periodic Review in Geneva.

We urge your Excellency's Government to immediately cease all acts of reprisals and intimidation against human rights defenders, and to allow Ms. Achilova to freely and safely travel abroad to carry out her legitimate commitments and activities as a human rights defender in the future. We also call on your Excellency's government to carry out full investigation into the incidents of harassment and reprisals against Ms. Achilova and hold the officials accountable for any wrongdoing.

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 detailed information regarding the alleged incident in Ashgabat airport, specifically in relation to the alleged damage of both Ms. Achilova and her daughter's passports. Please provide information on whether an investigation into this incident has been initiated.

3. Please indicate how your Excellency's Government will facilitate safe passage of Ms Achilova to other countries for her participation in future human rights events.
4. Please indicate what measures have been taken to ensure that Ms. Achilova and other human rights defenders and civil society organisations in Turkmenistan are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any kind.
5. Please provide information about the measures in place, legally and institutionally, protecting individuals or groups in Turkmenistan to engage or communicate with United Nations entities, including to file complaints about alleged violations of their human rights. If no such measures exist, what prevents Turkmenistan nationals to engage or communicate with UN entities? Should such communications be prohibited under domestic law, please explain the grounds for such prohibition, and how this is compatible with Turkmenistan's international human rights obligations under the UDHR and ICCPR.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

In light of the allegations of intimidation and reprisals for cooperation with the United Nations in the field of human rights, we reserve the right to share this communication – and any response received from Your Excellency's Government – with other UN bodies or representatives, in particular with the senior United Nations official designated by the Secretary-General to lead the efforts within the United Nations system to address this issue.

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

Irene Khan
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 draw your Excellency's Government's attention to Human Rights Council resolutions 12/2, 24/24, 36/21, 42/28 and 48/17 reaffirming the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. The Human Rights Council urges States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urges States to ensure accountability for reprisals by providing access to remedies for victims and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

We would also like to refer to the obligations under the International Covenant on Civil and Political Rights (ICCPR), acceded to by Turkmenistan on 1 May 1997. Article 12 of the ICCPR guarantees the right to freedom of movement; (1) everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence; (2) everyone shall be free to leave any country, including his own; (3) the above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant and (4) no one shall be arbitrarily deprived of the right to enter his own country.

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. In this connection, we recall that the Human Rights Council, in its Resolution 12/16, called on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

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.

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