

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Ref.: AL TUR 11/2023

(Please use this reference in your reply)

28 December 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 52/4 and 52/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged denial of entry to and deportation from Türkiye of woman human rights defender Ms. **Tadzhigul Begmedova**, and the issuance of a five-year entry ban against her.

Ms. Tadzhigul Begmedova is a woman human rights defender from Turkmenistan and is the head of the Turkmen Helsinki Foundation for Human Rights, which is based in Bulgaria. The Turkmen Helsinki Foundation (THF) was originally established by Turkmen dissidents and reports on human rights violations in Turkmenistan, as well as issues faced by Turkmen migrants in Türkiye, given the high number of Turkmen migrants residing in the country. In the spring of 2023, THF participated in the preparation of reports related to the UPR of Türkiye and Turkmenistan as both countries were due to be reviewed by the Human Rights Council. In November 2023 in Geneva, ahead of the reviews of both countries, THF and other human rights organizations held a side-event, during which they highlighted concerns regarding human rights violations against Turkmen people. In 2023, THF also assisted in the registration of the human rights organization 'Hak Hukuga Daýanç' (Righteousness) in Türkiye, which advocates for the rights of Turkmen migrants.

According to information received:

On 5 January 2022, Ms. Begmedova was travelling on a bus from Bulgaria to Türkiye, to meet with Turkmen activists in the country, when she was prevented from entering the country by Turkish border authorities. The ban was allegedly issued due to Ms. Begmedova being considered as a "threat to public safety" and her leadership of a foreign NGO. Ms. Begmedova was not informed of the ban against her prior to attempting to travel to Türkiye.

Ms. Begmedova appealed the entry ban against her before the Ankara Administrative Court. During the proceedings, the lawyer for Ms. Begmedova argued that she had rarely visited Türkiye, had never violated Turkish law, and that the ban may be in response to a request from the Government of Turkmenistan. The prosecution was reportedly unable to provide evidence for the justification of the ban. On 8 March 2023, the Ankara Administrative Court lifted the ban against Ms. Begmedova.

On 1 November 2023, Ms. Begmedova flew from Varna, Bulgaria to Istanbul. She planned to fly from Istanbul to Bishkek, Kyrgyzstan a few days later, to attend the International Human Rights Documentary Film Festival, 'Bir Duino'. At around midday, Ms. Begmedova was passing through passport control when she was told by one of the airport employees to stop and wait. When Ms. Begmedova asked why she was being denied entry, one of the airport employees reportedly responded, "you know better".

At around 3pm, Ms. Begmedova was taken to a room for passengers denied entry, where she was photographed, fingerprinted, and had her luggage inspected. In response to Ms. Begmedova's questions about what was happening and why, she was reportedly told that she would find out later. There were other passengers in the room with Ms. Begmedova, where there were no seats or opportunity to use the toilet. At around 5pm, Ms. Begmedova was given a document which stated she would be sent back to Bulgaria on a flight at 9:15 am the next day.

On 2 November 2023 at approximately 6:00 am, Ms. Begmedova was given another document which stated that on 12 September 2023, the Turkish Migration Service had allegedly imposed a five-year ban against Ms. Begmedova entering the country. The document also reportedly included a security restriction code, issued by the Presidency of Migration Management (PMM) in relation to deportations. The code assigned to Ms. Begmedova was G-82, corresponding to a national security threat. In the event of a further "serious threat" to security, this ban can be extended by another 10 years. This was the first time Ms. Begmedova was informed of the ban issued against her, despite it allegedly being issued in September.

That morning, Ms. Begmedova was escorted to the flight and deported to Varna. Ms. Begmedova's luggage was reportedly never returned to her, despite her repeated requests. Ms. Begmedova is seeking to appeal the ban issued against her.

Without prejudging the accuracy of these allegations, we wish to express concern in relation to the reported denial of entry of woman human rights defender Ms. Tadzhi gul Begmedova to Türkiye on two occasions, and the five-year entry ban issued against her, both of which appear to be in relation to her legitimate human rights activities. We are concerned that the two bans against her, citing alleged security concerns, appear to lack a factual or legal basis and rather seem to be aimed at preventing her from carrying out her work, advocating for the rights of Turkmen citizens and migrants in Türkiye. The bans against Ms. Begmedova therefore would not meet the strict tests of necessity and proportionality, as stipulated in international human rights law, and therefore would be in contravention of Türkiye's human rights obligations. We are also concerned that Ms. Begmedova was not informed of either of the travel bans issued against her, and was only informed of their issuance when attempting to travel, potentially amounting to a breach of legality and legal predictability. Special Procedures mandate holders have on a number of occasions communicated their concern to your Excellency's Government regarding the unfounded use of national security legislation and measures against human rights

defenders in connection with their work, which is both detrimental to human rights defenders and civil society more broadly, but also undermines the legislation itself.

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 information as to the factual and legal basis for the denial of entry of Ms. Begmedova to Türkiye via bus on 5 January 2022, and the entry ban imposed against her.
3. Please provide information as to the factual and legal basis for the ban issued against Ms. Begmedova, ostensibly on 12 September 2023, and why she was not informed of this ban at the time it was issued.
4. Please provide information as to the factual and legal basis for the denial of entry of Ms. Begmedova to Türkiye at Istanbul airport on 1 November 2023, and her deportation to Bulgaria on 2 November 2023.
5. Please provide information as to the factual and legal basis for not informing Ms. Begmedova of either of the travel bans against her, at the time they were purportedly issued.

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 note that a copy of this communication has also been sent to the Government of Turkmenistan for their information.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

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 article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Türkiye on 23 December 2003, which guarantees the right to freedom of expression, which is also provided for by article 19 of the Universal Declaration of Human Rights (UDHR).

Article 19 of the ICCPR guarantees the right to freedom of expression, which includes "freedom to seek, receive and impart information and ideas of all kinds, regardless of *frontiers* (emphasis added), either orally, in writing or in print, in the form of art, or through any other media of his choice". We would like to remind your Excellency's Government that any limitation to the right to freedom of expression must meet the criteria established by article 19 (3) of the ICCPR. Any limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed, and must be directly related to the specific need on which they are predicated. Article 19 of the ICCPR protects, inter alia, political discourse, commentary on one's own and on public affairs, discussion on human rights and journalism (Human Rights Committee, General Comment no. 34, CCPR/C/GC/34 para 11). The Human Rights Committee has also asserted that it is not compatible with article 19(3) to invoke national security provisions to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information (Human Rights Committee, General Comment no. 34, CCPR/C/GC/34 para 30).

Furthermore, we bring to your attention 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.

Finally, 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 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights

and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights, and;

- article 8.2 which provides that all persons, individually or in association with others, have the right to submit to government authorities criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.