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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health**

REFERENCE: AL Health (2002-7)
TKM 1/2014

21 February 2014

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health pursuant to Human Rights Council resolution 24/6.

In this connection, I would like to bring to your Excellency's Government's attention information I have received concerning Mr. **Geldy Kyarizov**, who is in urgent need of specialist medical treatment outside Turkmenistan and has allegedly been denied leave to travel abroad to receive such treatment. Mr. Kyarizov is a horse breeder and former director of state-run Association Turkmen Atlary ("Turkmen Horses").

Mr. Kyarizov was subject of an allegation letter sent to your Excellency's Government on 17 March 2006 by the Special Rapporteur on the question of torture. I regret that to date, no response has been received from your Excellency's Government to the communication.

According to the information received:

Mr. Geldy Kyarizov suffers from poor health, including a heart condition, high blood pressure, chronic hepatitis, cholecystitis, gastric problems and severe arthritis. It is reported that Mr. Kyarizov requires urgent specialist medical care, which would be commonly sought abroad by Turkmen people in similar cases. However, it is alleged that Mr. Kyarizov and his family have been placed on a 'black list' and therefore denied permission to travel.

It is alleged that on 22 January 2014 Mr. Kyarizov was travelling with his wife, 12-year old daughter and his sister-in-law to seek medical treatment from an orthopaedic doctor. They were allegedly followed by officers from the Ministry of National Security, who forced them to stop and escorted them to a police station for questioning. It is alleged that the whole family were made to sign a paper attesting that they would not file a complaint against the officers for their actions.

It is further alleged that Mr. Geldy Kyarizov's wife, Ms. [REDACTED], has attempted to find treatment for an urologic condition (kidney stones). As she was told that no treatment was available for her in Turkmenistan, Ms. [REDACTED] tried to leave the country in 2006, 2008 and 2010 respectively but was denied exit by the authorities.

Grave concern is expressed at the allegations of repeated denial by Turkmen authorities of leave for Mr. Kyarizov to seek specialist medical care abroad, which may endanger his health if he does not receive prompt specialist medical treatment.

While I do not wish to prejudge the accuracy of these allegations, I would appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the enjoyment of the right to the highest attainable standard of health of Mr. Geldy Kyarizov. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Turkmenistan on 1 May 1997, which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. The right to health requires States to ensure that quality health facilities, goods and services are accessible to everyone without discrimination. It also requires States to take positive steps to enable and assist individuals and communities to enjoy the right to health.

I would also like to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which holds that States have a core obligation to ensure that health facilities, goods and services are accessible to everyone without discrimination, further elaborating that accessibility has four overlapping dimensions, such as non-discrimination, physical accessibility, economic accessibility and information accessibility (para.12(b)). It also provides that "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 prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services..." (para.34).

Moreover, it is my responsibility under the mandate provided to me by the Human Rights Council to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to Mr. Geldy Kyarizov case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide details of the measures taken by your Excellency's Government to ensure that Mr. Kiyarizov has access to the appropriate medical treatment that is urgently required.

I would appreciate a response within sixty days. Your Excellency's Government's response to each of these questions will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Kyarizov are respected and, in the event that your investigations support or suggest the allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health