

Mandate of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; and the Special Rapporteur on freedom of religion or belief

REFERENCE: AL
BGR 3/2015:

15 September 2015

Excellency,

We have the honour to address you in our capacity as Special Rapporteur in the field of cultural rights; Special Rapporteur on minority issues; and Special Rapporteur on freedom of religion or belief pursuant to Human Rights Council resolution 19/6, 25/5, and 22/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning archaeological excavation works in the vicinity of Kurshun Mosque, in Karlovo.**

According to information received:

On 14 June 2015, the local government of Karlovo allegedly started excavation works aimed at exposing archaeological remains in and around Kurshun Mosque, including an ancient Muslim cemetery, and at converting the site into a museum, without prior notification or consultation with the Muslim community of Bulgaria.

The ownership of the Kurshun Mosque has been long disputed. While the mosque historically belonged to the Muslim Community, the property was nationalized in the 20th century. The Muslim Denomination of Bulgaria attempted to reclaim ownership over the mosque but a recent court decision has held that they are not the legal successors of the Muslim communities of the past, and therefore have no rights to repossess the mosque. The Kurshun Mosque is not currently open for worship, however, it reportedly bears great religious importance for the Muslim community of Bulgaria. For the Muslim Denomination of Bulgaria, the unauthorized excavation in the site, including the mosque and an ancient cemetery, and its conversion into a museum, entail its desecration.

Similar projects of public works and excavations have allegedly also been carried out at other sites of religious significance for the Muslim community, including at

Hamza Bey Mosque in Stara Zagora, Makbul Pasha Mosque in Razgrad and Mihaloglu Mosque in Ihtiman. In none of these cases was there consultation with the Muslim community of Bulgaria. According to reports, controversies regarding the ownership and use of mosques in Bulgaria have caused tension in the country, including protests against the religious use of Muslim places of worship.

While we do not wish to prejudge the accuracy of these allegations, we are concerned that such excavation works and the conversion of the mosque into a museum appear to violate the religious freedoms of Bulgaria's Muslim community and their right to take part in cultural life, including through access and enjoyment of cultural heritage. The right to freedom of religion includes the right to establish and maintain places for worship, and obliges States to ensure that religious places, sites, shrines and symbols are fully respected and protected, and to take additional measures in cases where they are vulnerable to desecration or destruction.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to my 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 explain whether the municipality of Karlovo has an ownership title over the mosque and the surrounding land.
3. Please provide details on the excavation works being conducted by the local government of Karlovo and the plans to establish a museum in the mosque, including any assessment of the religious character of the site, and their compatibility with the human rights standards and obligations mentioned.
4. Please explain any measure taken by the Government to consider alternative solutions to promote the preservation of the historical site of the Kurshun mosque in Karlovo without jeopardizing the religious rights of Bulgarian Muslims, including consultations with the Muslim community of Bulgaria.
5. Please explain any measure taken by the Government to promote tolerance and understanding for religious and cultural diversity and prevent religious hatred against the Muslim community of Bulgaria.

I would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we call for Your Excellency's Government to halt the excavation works until representatives of the Muslim community of Bulgaria have been consulted and measures put in place to ensure that their religious rights are not being violated by the excavations and the conversion of the mosque into a museum.

We may publicly express our concerns in the near future as we may form the view that the information on which this allegation letter is based, and which may inform a press release, is sufficiently reliable to indicate a matter warranting immediate attention. If a press release is issued, it will indicate that we have been in contact with your Excellency's Government to clarify the issues in question.

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

Farida Shaheed
Special Rapporteur in the field of cultural rights

Rita Izsák
Special Rapporteur on minority issues

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to take this opportunity to draw your Excellency's Government's attention to applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

Both article 18 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights recognize the right of all persons to freedom of religion.

Freedom of religion does not only entail the right to hold religious beliefs, but also to worship, and for religious groups to maintain places of worship, such as mosques. In 1981, the United Nations General Assembly stated in its Declaration on Religious Tolerance and Non-Discrimination, article 6(a), that the right to freedom of thought, conscience, religion or belief includes the freedom "[t]o worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes".

The right to maintain places of worship obliges States to provide special protection to those places: in 2007, the Human Rights Council urged States in its resolution 6/37, article 9(b), "[t]o exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction".

We would also like to stress that in accordance with article 27 of the UDHR and article 15 of the ICESCR, everyone has the right to take part in cultural life. As stated by the Special Rapporteur in the field of cultural rights, this includes for all "the right of access to and enjoyment of cultural heritage", defined as the rights to "know, understand, enter, visit, make use of, maintain, exchange and develop cultural heritage, as well as to benefit from the cultural heritage and creations of others, without political, religious, economic or physical encumbrances". Participation of individuals and communities in cultural life is crucial and includes the right to develop multiple references and "contribute to the creation of culture, including through the contestation of dominant norms and values within the communities they belong to as well as those of other communities". "States should [...] acknowledge, respect and protect the possible diverging interpretations that may arise over cultural heritage" and "the choices of individuals and communities to feel associated (or not) with specific elements of cultural heritages". (A/HRC/17/38, para.10 and 80 a).

As cultural heritage represents values linked with the cultural identity of individuals and communities, access and enjoyment of cultural heritage also imply

“contributing to the identification, interpretation and development of cultural heritage, as well as to the design and implementation of preservation/safeguard policies and programmes” and should therefore include consultations with all concerned communities before deciding on the destruction of sites of cultural or religious significance (A/HRC/17/38, para.58 and 79).

Cultural and religious sites are also critical resources for safeguarding, questioning and transmitting historical knowledge and narratives of the past, and as such, are resources to ensure the right to education and training without any discrimination, as recognized in article 13 of the ICESCR. The Special Rapporteur in the field of cultural rights warns against the fact that “dominant homogenizing narrative blanches out diversity, ignoring the cultural heritage of everyone outside the group in power, simultaneously depriving the majority of the opportunity to understand the complexity of their country” (A/68/296, para. 31) and recommends a multiperspective approach to history.