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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

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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; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the trial and charges brought against human rights activist **Mr. Doros Polykarpou** in Larnaca for 'rioting and participating in an illegal assembly' following his participation in an anti-racism and multicultural festival. Mr. Doros Polykarpou is the executive director of Action for Support, Equality and Antiracism – KISA, which is a Non-Governmental Organization that works at combating racism and xenophobia in Cyprus.

According to the information received:

On 5 November 2010, the 13th Rainbow Festival, an annual anti-racism and multicultural festival organised by KISA, was held in Larnaca. It is reported that KISA had obtained all the necessary authorisations from the authorities and held the festival in the area specifically allocated by the aforementioned authorities. Speakers at the festival included the Mayor of Larnaca, the Head of the Representation of the European Commission in Cyprus, the Head of the Authority Against Discrimination and Racism and representatives of the Ombudsman's office.

It is reported that another march, organised by the Greek Resistance Movement, took place at the same time and place as the festival. It is alleged that individuals

who gathered for the march shouted remarks of a discriminatory nature against Turks, Jews, Muslim, refugees and KISA members who were participating in the Rainbow Festival. Reportedly, violence broke out as participants of the two events came into contact with each other during which a Turkish Cypriot musician was stabbed and another Turkish Cypriot musician was severely beaten as were a number of migrants who were present.

According to source information, the police failed to arrest any of the attackers but arrested five young refugees, some of them minors, and two Cypriot citizens. However, it is reported that following a public campaign and a press release by KISA calling on the Criminal Investigation Department of the Police Headquarters, the police charged five men who were thought to have led the attack on the Rainbow Festival participants.

Reportedly, on the 30 May 2011 Doros Polykarpou was served with a court summons in connection with his participation in the Rainbow Festival and charged with 'rioting and participating in an illegal assembly'. These charges are reported to be punishable by up to three years imprisonment.

On the 20 June 2011, according to information received from the source, the first hearing of Doros Polykarpou took place in Larnaca. At this session, it is reported that his lawyer requested access to the witness statements and adequate time to study these documents. A new hearing is scheduled for 22 July 2011.

Concern is expressed regarding the charges brought against human rights defender Mr. Doros Polykarpou as a result of his peaceful participation in the Rainbow Festival and the impending trial. Further concern is expressed that the charges brought against him may be directly linked to his work in defence of human rights and in particular his work against xenophobia and racism in Cyprus.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to the fundamental rights and freedoms enshrined in the Universal Declaration on Human Rights as well as in the International Covenant on Civil and Political Rights, which Cyprus acceded on 2 April 1969.

More specifically, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Furthermore, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of

this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

Given the allegations received indicating that the charges brought against Mr. Doros Polykarpou may be directly linked to his work in defence of human rights, in particular his work against xenophobia and racism in Cyprus, 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 Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to 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, through these and other appropriate means, to draw public attention to those matters.

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her 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, as well as acts of violence

perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of Your Excellency's Government the Human Rights Council Resolution A/HRC/RES/13/13 of 15 April de 2010, which recognizes "the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all" as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also "urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity".

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/65/223 of 4 August 2010, stated that "the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfill human rights, including those of human rights defenders. (...)." The Special Rapporteur argued that the State's obligation to protect "first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State's responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Doros Polykarpou are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we 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 this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide full details relating to the legal basis for the charges brought against Mr. Doros Polkarpou.
5. Please, provide information on how the legitimate right to meet and assembly peacefully is guaranteed and effectively protected. In this connection, kindly provide the full details of any prosecutions which have been undertaken in connection to the violence which took place at the 13th Rainbow Festival in Lacarna. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders

Frank La Rue

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

Maina Kiai

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