

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 rights to freedom of peaceful assembly and of association

REFERENCE: AL
MNE 2/2015:

10 December 2015

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 rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolutions 25/2 and 24/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged situation of **intimidation and violence against journalists and media outlets**, most recently of the individuals named below, as well as in the context of **protests** in the country.

We would also to bring to the attention of your Excellency's Government the conclusions and recommendations made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (see Report A/HRC/26/30/Add.1), who visited Montenegro in 2013, and to follow-up on the report.

Mr. **Tufik Softić** is a journalist for the daily newspaper *Vijesti* and the weekly newspaper *Monitor*; Ms. **Zorica Bulatović** is a journalist for the daily newspaper *Dnevne*; Ms. **Marijana Bojanić** is the Director of the television news channel *Vijesti*; Ms. **Ivana Drobnjak** is a journalist of the news channel *Pink M*; Mr. **Gojko Raičević** is the editor of the portal *IN4S*; and Mr. **Dražen Živković** is a journalist for the daily newspaper *Dan*.

A journalist for the newspaper *Monitor* was previously the subject of an allegation letter sent on 2 May 2008 (case no. MNE 1/2008). The journalist was convicted of defamation for exercising his right to freedom of opinion and expression. Serious concern was expressed for the criminalisation of defamation, allegedly used to stifle independent reporting and public criticism. We acknowledge receipt of your response on 2 July 2008.

A journalist for the newspaper *Vijeste* was previously the subject of an urgent appeal sent on 4 June 2008 (case no. MNE 2/2008). The journalist was attacked for his work as a journalist and suffered serious injuries, including a punctured cheek, a fractured

jaw and scarring. Grave concern was expressed for the attack against the journalist, allegedly for the exercise of his right to freedom of opinion and expression. We regret that no response has been received from your Excellency's Government.

The Public Assembly Act was previously the subject of an open letter sent on 2 March 2015 (case no. MNE 1/2015, see A/HRC/30/27). We acknowledge receipt of your response sent on 29 April 2015.

The mission report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (see A/HRC/26/30/Add.1) described the situation of freedom of opinion and expression in the country as an issue of concern in relation to the violence and intimidation of journalists. The following cases were brought to the attention of your Excellency's Government. The editor of the daily newspaper *Dan*, Mr. Duško Jovanović, was killed (initially reported in E/CN.4/2005/64/Add.4, para. 31); the poet and writer, Mr. Jevrem Brković, was violently attacked, and his driver, Mr. Srdan Vojičić, was killed; journalists for *Vijesti*, Mr. Željko Ivanović and Ms. Olivera Lakić, as well as a photojournalist, were violently attacked in separate instances; the *Dan* journalist, Ms. Lidija Nikčević, and two other journalists were verbally and physically attacked at political gatherings; and property of the media outlet *Vijesti* was subject to numerous arson attacks and the detonation of an explosive device. Serious concern was expressed that the alleged reason for these attacks was for the exercise of the journalists' right to freedom of opinion and expression and further serious concern was expressed for the safety of the press and impunity in these cases.

According to the information received:

In the case of Mr. Tufik Softić

On 1 November 2007, Mr. Tufik Softić was beaten with baseball bats by masked men outside of his home in Berane and in July 2013, Mr. Softić found an explosive device placed behind his cars, parked next to his home. The explosive device was not detonated. It is alleged that these attacks were an attempt to harm and intimidate Mr. Softić for his work as a journalist.

Later in 2013, investigations were initiated into both attacks and Mr. Softić was placed under twenty-four hour police security. In October 2015, the investigation into the first attack against Mr. Softić was dropped, although no alleged perpetrators have been held to account. The investigation into the explosive device remains ongoing.

In the case of Zorica Bulatović

On 12 May 2015, the car of Ms. Zorica Bulatović was attacked and the windows smashed in Kolasin, allegedly in an attempt to intimidate her from for her work as a journalist. She reported the incident to the police and a case was opened. On 2 June 2015, the State Prosecutor suspended the investigation and stated that Ms.

Bulatović should investigate and prosecute the crime independently in a private lawsuit. No alleged perpetrators have been held to account.

In the case of Mr. Gojko Raičević, Mr. Dražen Živković and Ms. Ivana Drobnjak

In October 2015, it is reported that thousands of individuals peacefully gathered in anti-Government protests in the capital city of Podgorica, which resulted in the injury of at least 30 people. Reportedly, their injuries were caused by the use of tear gas, rubber bullets and beatings by law enforcement officials.

On 17 October 2015, it is alleged that journalists reporting on the protests, Mr. Gojko Raičević and Mr. Dražen Živković, were beaten and arrested by the police in separate instances. Mr. Živković was informed by the police that he was being arrested for filming police conduct at the protests. Mr. Raičević and Mr. Živković have been charged with the misdemeanour of failing to comply with a police officer's orders and have been released on bail, awaiting trial.

On the 18 October 2015, Mr. Raičević was threatened by police officers who gestured that they would beat him. On the same day, Ms. Ivana Drobnjak was attacked and the offices of the news channel where she worked, *Pink M*, were stoned.

On the 24 October 2015, Mr. Raičević was reporting on an opposition party rally in front of the Montenegrin Parliament when he was hit by a policeman's baton. Ten minutes later, Mr. Raičević was attacked by a masked police officer and hit several times. Subsequently, Mr. Raičević has filed a complaint with the police about the attack.

No alleged perpetrators have been held accountable for the attacks in the cases of Mr. Gojko Raičević, Mr. Dražen Živković and Ms. Ivana Drobnjak. Also, no law enforcement officials have been held accountable for the violence at the protests in Podgorica, except for two law enforcement officers charged for an incident that involved over twenty law enforcement officers beating a protestor.

In the case of Marijana Bojanić

On 19 October 2015, Ms. Marijana Bojanić received death threats on the social media website, Twitter. On 20 October 2015, Ms. Bojanić and her children received a death threat over the social media website Facebook allegedly made by the Manager of the Democratic Party of Socialists. Ms. Bojanić has subsequently reported both incidents to the Cyber-crime Division of the Police Directorate. No alleged perpetrators have been held to account.

Grave concern is expressed at the reports of violence and threats against Mr. Tufik Softić, Ms. Zorica Bulatović, Ms. Marijana Bojanić, Ms. Ivana Drobnjak, Mr. Gojko Raičević and Mr. Dražen Živković, allegedly for their work as journalists and media

personnel. Serious concern is expressed about the arrest, detention and charges brought against Mr. Gojko Raičević and Mr. Dražen Živković. Further concern is expressed about the alleged culture of impunity in relation to such attacks, including in the case of Mr. Tufik Softić, and the statute of limitations that may soon prevent the prosecution of older cases.

Serious concern is expressed for the violent and verbal attacks, particularly against journalists, reported in the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression's report (see A/HRC/26/30/Add.1). The effect of such attacks on journalists and the media, coupled with the prevailing impunity reported, is a situation of fear and intimidation for media entities, stifling reporting on issues of public interest, particularly those expressing dissenting opinions.

Additional serious concern is expressed at the reportedly excessive use of force at peaceful protests, particularly against individuals with dissenting opinions. Further concern is expressed at the impunity for the excessive use of violence against protestors, allegedly in an attempt to restrict the rights to freedom of opinion, expression and association. Grave concern is expressed for the broader impact of the allegations above when considered together, and the overall 'chilling effect' on the rights of freedom of opinion and expression, peaceful assembly, and association in the country, essential in any functioning democracy.

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 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 any comment you may have on the above-mentioned allegations.
2. Please provide detailed information about the investigations of reports of violence and threats against Mr. Tufik Softić, Ms. Zorica Bulatović, Ms. Marijana Bojanić, Ms. Ivana Drobňak, Mr. Gojko Raičević and Mr. Dražen Živković. In particular, please provide detailed information about whether any alleged perpetrator or other persons ordering the attacks have been identified and held accountable.
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Gojko Raičević and Mr. Dražen Živković and how they are compatible with international norms and standards.
4. Please provide information about the investigation into the attack against Mr. Tufik Softić in 2007 and the reasons for its termination, and how they are compatible with international norms and standards.

5. Please provide detailed information about the work developed by the commission established under the Ministry of Interior to monitor investigations into attacks on journalists (see report A/HRC/26/30/Add.1, para. 35), including in particular the findings of the commission, its recommendations and measures taken to ensure their implementation.

6. Please provide detailed information on any additional measures adopted to prevent and respond to cases of violence against journalists and media personnel in Montenegro.

7. Please provide detailed information on measures adopted to ensure the protection of the rights to freedom of opinion, expression and association of all members of society in Montenegro, including those with dissenting opinions, in accordance with international norms and standards, including the UDHR and ICCPR.

8. Please indicate the status of the current revision of the Public Assembly Act and remaining steps until its possible adoption into law.

We would appreciate receiving a response within 60 days.

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 persons responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

David Kaye
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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to remind your Excellency's Government of the rights to freedom of opinion and expression, and freedom of peaceful assembly, as contained in articles 47, 49, 52 and 53 of the Constitution of Montenegro; articles 19 and 20 of the Universal Declaration of Human Rights (UDHR), and articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Montenegro on 23 October 2006.

We would also like to remind your Excellency's Government of the UN Human Rights Council Resolution 27/5 on the safety of journalists adopted on 2 October 2014, which strongly condemns attacks and violence against journalists and impunity for such conduct, which the Resolution states, contributes to the recurrence of these crimes. We would like to further remind your Excellency's Government that this Resolution urges on States to “promote a safe and enabling environment for journalists to perform their work independently and without undue interference, to prevent attacks and violence against journalists and media workers, to ensure accountability through the conduct of impartial, speedy, thorough, independent and effective investigations into all alleged violence against journalists and media workers falling within their jurisdiction, to bring perpetrators including, inter alia, those who command, conspire to commit, aid and abet or cover up such crimes, to justice, and to ensure that victims and their families have access to appropriate remedies.”

We would like to bring to the attention of your Excellency's Government the Report (A/HRC/26/30/Add.1) of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, following his country visit to Montenegro from 11 to 17 June 2013, which expressed grave concern at the impunity of violence against journalists, as well as the resulting situation of insecurity and intimidation in the country. The Report calls on the Montenegrin Government to ensure the protection of journalists and the media against violence, to prevent Government interference in the media and to overcome media polarisation and to support all efforts to promote self-regulation.

We would like to remind your Excellency's Government of the recommendations agreed to in both the first and second cycles of the Universal Periodic Review (see A/HRC/10/74/Add.1 and A/HRC/23/12/Add.1 respectively). This includes promoting and protecting the right to freedom of expression of journalists and the media, including by promoting a safe and enabling environment for journalists to perform their work independently and without undue interference. Also, your Excellency's Government agreed to undertake impartial and effective investigations into threats and attacks on journalists, as well as to hold alleged perpetrators to account, including in relation to older cases.

Furthermore, we would like to refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council “reminds States of their

obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

Finally, we would like to refer to the first report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in which he calls on Member States to “ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies” (A/HRC/20/27, para. 94).