

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 freedom of religion or belief

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Excellency,

We have the honour to address you in our capacity 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, Special Rapporteur on freedom of religion or belief pursuant to Human Rights Council resolutions 25/2,24/5,22/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **decision of the Supreme Court of Justice of Moldova to include the emblem of the associations Falun Dafa and Qigong Falun Gong Moldova in the State Registry of Extremist Materials, as well as the imminent deliberation of the Court on the dissolution of these associations for the use of an emblem qualified as extremist.**

Falun Dafa and Qigong Falun Gong Moldova are associations that share the same belief and practice Chinese spiritual discipline combining meditation and particular forms of physical exercises. They carry out legitimate activities and were registered by Moldova's Ministry of Justice in 2009 and 2011, respectively.

According to the information received:

In December 2013 and January 2014, the Buiucani's court, in Chisinau, and Chisinau's Commercial Court received a complaint accusing Falun Dafa and Qigong Falun Gong Moldova of being extremist organizations.

The complaint requested the courts to ban the emblem used by Falun Dafa and Qigong Falun Gong Moldova, and to include it in the Moldova's State Registry of

Extremist Materials. It argued that the emblem, consisting of one large and four small “sauwastika” symbols, resembled a Nazi swastika and could potentially affect legitimate interests of Moldovan citizens, including war veterans. Subsequently, the courts received a second complaint requesting them to dissolve Falun Dafa and Qigong Falun Gong Moldova for their use of a spiritual emblem qualified as extremist.

In their joint counter-claim, Falun Dafa and Qigong Falun Gong Moldova agreed to avoid using their emblem in their publications in Moldova. Furthermore, both associations provided the court with detailed information on the legitimate nature of their activities and explained that, for several thousand years and in many religious traditions, their emblem had had a positive connotation as an ancient symbol promoting peace, calm and personal balance.

On 20 January 2014, the Buiucani’s court in Chisinau issued a decision ordering to ban Falun Dafa and Qigong Falun Gong Moldova’s emblem, based on paragraph (b) of article 1 of the Moldova’s Law on combating extremist activity, dated 21 February 2013. The law defines extremism as *inter alia* “propagation and public display of Nazi attributes or symbols, or similar attributes or symbols that can be confounded with the Nazi attributes or symbols”.

On 2 April 2014, the Appeal Court in Chisinau dismissed the appeals of Falun Dafa and Qigong Falun Gong Moldova and. The same day, the Appeal Court dismissed an appeal of Moldova’s Ministry of Justice that argued that the emblem represented the Buddha and four small Taiji (yin-yang) symbols of the Daoist tradition.

On 18 April 2014, the Chisinau’s Commercial Court ordered the dissolution and liquidation of both organizations because of the use of an emblem included in the State Registry of Extremist Materials. The appeals against this decision were rejected by the Appeal Court in Chisinau on 15 July 2014.

On 28 January 2015, the Supreme Court dismissed the appeals of Falun Dafa and Qigong Falun Gong Moldova, as well as the appeal of the Ministry of Justice, and ordered to include the associations’ emblem in the State Registry of Extremist Materials.

On 11 February 2015 the Supreme Court is set to deliberate on the dissolution of Falun Dafa and Qigong Falun Gong Moldova.

We express our concern at the inclusion of the spiritual emblem of associations Falun Dafa and Qigong Falun Gong Moldova in the State Registry of Extremist Materials. We also express serious concern at the risk of Falun Dafa and Qigong Falun Gong Moldova, two associations that carry out legitimate activities in the country, being

qualified as extremist organizations and henceforth dissolved, due to the use of a spiritual emblem.

We acknowledge the legitimate interest of the State to prevent and ban the use of symbols that promote national, racial or religious hatred, as established under article 20 of the ICCPR. However, the emblem, while similar to the Nazi symbol, is not the same emblem; indeed, it is a symbol that predates Nazism by hundreds, if not thousands, of years, a common symbol in many Asian religious traditions. Moreover, the sauwastika in this case is not used to constitute incitement to discrimination, hostility or violence.

While we do not wish to prejudge the accuracy of these allegations, ordering the dissolution of an organization under such grounds would result in a prima facie violation of the rights to freedom of association, freedom of expression, and freedom of religion and belief, as enshrined in articles 18, 19 and 21 of the ICCPR.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response to this letter, and in particular, about the initial steps taken by your Excellency's Government to safeguard the rights to freedom of religion or belief, expression and association in compliance with international instruments.

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 comments you may have on the above-mentioned allegations.
2. Please provide in details how paragraph (b) of article 1 of the Moldova's Law on combating extremist activity is compatible with the aforementioned international human rights standards.
3. With regard to the aforementioned court decisions please provide information on any measures taken by your Excellency's Government to ensure the full protection and respect of the right of the members of Falun Dafa and Qigong Falun Gong Moldova to enjoy the rights to freedom of religion or belief, freedom of association and freedom of expression.
4. Please provide detailed information if national courts in Moldova are regularly updated about international norms, standards and international, regional and comparative jurisprudence relating to the right enshrined in articles 18, 19 and 20 of the ICCPR.

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 responsible of 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.

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opinion and expression

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