

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

**Mandates of 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**

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

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA Assembly & Association (2010-1) G/SO 214 (107-9)
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17 May 2013

Dear Mr. Uzunovski,

We have the honour to address you in our capacities as 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 Human Rights Council resolutions 15/21 and 16/5.

In this connection, we would like to draw the attention of your Government to information we have received regarding an **alleged physical attack and threats against LGBT rights defenders**.

The persons in this communication are members of the Association of Lesbian, Gay, Bisexual and Transgender People 'LGBT United', which promotes respect for the human rights of lesbian, gay, bisexual, transgender and intersex people through advocacy and awareness raising activities, and the Coalition for Sexual and Health Rights of Marginalized Communities, which promotes equal access to social, legal and health services for marginalised communities as well as social inclusivity.

According to the information received:

On 20 April 2013, a group of LGBT rights defenders was attacked by four unknown persons, later joined by three more, in front of the Diamond Hostel on Sirok Sokak in Bitola. The LGBT rights defenders in question were members of the two organisations mentioned above, and were reportedly peacefully marching through Bitola with a rainbow flag and putting up posters around the town which promoted equality, non-violence and non-discrimination.

It is reported that the unknown persons spat on the group, insulted them, and hit them on the face and head. They allegedly took their posters and took the mobile phone one of the LGBT rights defenders had taken out to call for help, warning in the meantime that they would be killed. Sources inform that the attack was registered with Bitola police.

It is reported that following the attack, threatening and insulting messages including death threats have been posted on the LGBT United page on the social network Facebook, making explicit reference to the incidents in Bitola. The messages included such texts as: “If you are stupid enough to come to Bitola again... be sure you will end up in a hospital with your bones broken, and some might end up in a graveyard.”

It is further reported that on 22 April 2013, photos of members of LGBT United were posted on a different Facebook page entitled ‘Macedonian Sports Fans’, along with threatening messages.

Concern is expressed for the physical and psychological integrity of the members of the above mentioned LGBT rights groups and their families, in the light of the allegations that they were violently attacked and were the subject of threats. Further concern is expressed at the allegations that these actions and messages may have been motivated by their legitimate and peaceful activities promoting respect for social diversity and non-discrimination.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international standards that are applicable to the issues brought forth by the situation described above.

We would like to appeal to your Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, 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.”

Regarding allegations received indicating that those physically attacked were members of organizations working in the defence and the promotion of human rights, mostly against discrimination of LGBT people, we would like to refer your 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 Government the following provisions of the Declaration:

- 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 7 which states that "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance."
- 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 unknown individuals, possibly non-State actors, we would like to call to the attention of your 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 paragraphs 28 and 29 of 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.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

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, when relevant to the case under consideration:

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 victims?
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 the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please explain what measures have been taken to ensure the physical and psychological integrity of the members of the groups LGBT United and the Coalition for Sexual and Health Rights of Marginalised Communities.
6. Please explain what measures have been taken to ensure that human rights defenders in the Former Yugoslav Republic of Macedonia, in particular those promoting the non-discrimination of LGBT people and other marginalized groups, can carry out

their legitimate and peaceful activities in defence of human rights without fear of violence or other restrictions.

We undertake to ensure that your Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Please accept, Mr. Uzunovski, the assurances of our highest consideration.

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders