

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

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.

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
RUS 1/2013

21 January 2013

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 Human Rights Council resolution 16/4, 15/21, and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **repeated undue restrictions related to the right to freedom of peaceful assembly and of association affecting mostly human rights defenders and activists.**

According to the information received:

In early November 2012, Mr. **Andrey Yakimov**, a staff member of the Anti-Discrimination Centre Memorial (ADC Memorial), notified the municipal authorities of Saint Petersburg about his intention to organize a peaceful assembly in Saint Petersburg, to commemorate the 7th anniversary of the killing of Timur Kacharava. This notification indicated that the participation of about 20 participants was expected. On 8 November 2012, a positive response from the municipal authorities was reportedly received.

It is reported that on 13 November 2012, about 15 individuals participated in the assembly, apart from journalists covering the event and by-passers.

When Mr. Yakimov sought to leave the place at the end of the assembly, he was reportedly stopped by the police who requested him to sit in a police car and sign an unspecified document. It is reported that as soon as he sat in the car, the police

drove him to the police station where he was informed that a case had been opened against him and that he had been charged for “exceeding the number of participants initially planned for a rally”, in accordance with article 20.2 of the Code of Administrative Offences. Mr. Yakimov reportedly replied that no more than 20 participants took part in the demonstration. He was released later on the same day. His trial took place in early January and he was reportedly acquitted on 21 January 2013.

Furthermore, it is reported that at the end of the aforementioned 13 November assembly, police officers destroyed the pictures and flowers put down by the crowd in commemoration of Timur Kacharava. As **Mr. Vitaliy Leonov**, one of the participants, tried to prevent them from doing so, he was reportedly arrested. He was reportedly accused of ‘disobedience’ and charged under article 19.3 of the Administrative Code. He was released on 14 November 2012. His case will reportedly be heard in the city of Barnaul where he resides.

Concerns are expressed about the charges against human rights defenders and individuals willing to exercise their legitimate and peaceful right to freedom of peaceful assembly and of association. Although Mr. Yakimov was acquitted on 21 January 2013, concern is expressed concerning the prosecution of organizers of peaceful assemblies in case the number of participants they estimated ahead of the assembly exceeds their forecast as it may amount to violation of the right to freedom of peaceful assembly, insofar as such a restriction does not comply with permissible restrictions detailed in article 21 of the International Covenant on Civil and Political Rights. Concern is also expressed that the incrimination of Mr. Yakimov did not take into account the 18 May 2012 decision of the Russian Constitutional Court, which stated that the organizers of a rally shall not be held responsible when the actual number of participants surpasses the expected number of participants.

On 19 December 2012, it is reported that police officers carried out searches in the Human Rights House of Voronezh, whose offices are rented by the Free Labour Confederation which unifies a number of human rights organizations, including the secretariat of the International Youth Human Rights Movement, the Interregional Human Rights Group, the Foundation “For Ecological and Social Justice” (EKOSOCIS), Golos and the Voronezh regional branch of Memorial. It is reported that a search warrant was briefly handed by police officers to some employees of one of the organizations subject to the search. It is reported that this warrant was issued for searching the whole building, but did not specify the various NGOs, commercial organizations and political groups that are located in the building with separate rental agreements. It is further reported that when the representatives of the other organizations targeted and their attorneys requested police officers to show the search warrant, police officers refused.

According to sources, some activists were brutally treated by police officers, who locked a number of them in one of the rooms, refused to allow an attorney to enter the building and further confiscated two hard drives, a personal laptop, a personal

tablet, an e-book and two USB drives. None of the equipment seized has been handed back to the owners since. A complaint has reportedly been filed before the Voronezh Court.

On the same day, the apartment of Ms. **Natalia Zvyagina**, programme coordinator of Interregional Human Rights Group - Voronezh/Chernozem and regional representative of Transparency International-Russia, was also searched by officials from the Anti-Extremism Department of the Interior Ministry and by officers of the National Investigative Committee. Such a search reportedly took place in the context of a case opened at the federal level against three opposition members accused of “plotting mass disorder”. Later on the same day, Ms. Natalia Zvyagina and some opposition members were taken to the Investigation Department of the Voronezh region for questioning, and then were compelled to sign a nondisclosure agreement whereby they would not disclose information on the searches and interrogations or they would be charged according to article 310 of the Criminal Code. The official spokesperson of the Investigative Committee reportedly declared a few hours later that they were questioned as witnesses.

Grave concern is expressed that these searches may prevent defenders and human rights activists from carrying out their legitimate activities and from exercising their legitimate right to freedom of association. Serious concerns are further expressed that such incriminations may be part of a broader campaign aimed at intimidating human rights defenders and individuals who try to exercise their human rights.

On 5 December 2012, , Mr. **Alexey Kozlov**, Head of the EKOSOCIS Foundation, received a first threatening anonymous phone call from an unknown individual who reportedly knew the brand and license plate number of his car, and threatened him with flooding his car with mercury. On 2 January 2013 Mr. Kozlov received a second threatening phone call. The first incident was reported to the police, but it is unclear whether an investigation was opened into the matter.

On 12 January 2013, Mr. **Vitaly Ponomarev**, head of the Central Asia programme of Human Rights Centre (HRC) Memorial, received several anonymous death threats through electronic mail. The messages reportedly follow the publication of a report criticising the activities of the security services of Uzbekistan on the territory of the Russian Federation.

Concern is expressed about the physical and psychological integrity of Mr. Alexey Kozlov and Mr. Vitaly Ponomarev, and more generally about the physical and psychological integrity of those exercising their right to freedom of peaceful assembly and of association in the Russian Federation.

While we do not wish to prejudge the accuracy of these allegations, we wish to refer your Excellency's Government to 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 or the protection of the rights and freedoms of others.”

We would also like to refer to 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 the described restrictions to the right to freedom of peaceful assembly and of association are affecting mostly human rights defenders and activists, 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 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations; and

- 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.

Moreover, 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. Are the facts alleged in the above summary of the cases accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims? If yes, please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to these cases.
3. Please provide information concerning the legal grounds for the charges against Mr. Vitaliy Leonov and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
4. Please provide information concerning the legal grounds for the aforementioned searches and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
5. Please explain which protection measures have been provided to the aforementioned alleged victims, and in particular to Mr. Alexey Kozlov and Mr. Vitaly Ponomarev.
6. Please provide information on measures taken to ensure the physical and psychological integrity of those exercising their right to freedom of peaceful assembly and of association and to ensure an environment where all human rights defenders can carry out their legitimate and peaceful activities without fear of violence, threats and intimidation.

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

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons and associations 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 Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders