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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 Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (56-23) G/SO 214 (3-3-16) G/SO 214 (89-15) Cultural rights (2009)
RUS 2/2012

11 May 2012

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on violence against women, its causes and consequences pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 19/6, 16/4, 14/11, 17/2, and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **the detention of Ms. Nadezhda Tolokonnikova, Ms. Maria Alekhina and Ms. Ekaterina Samutsevich**, band members of 'Pussy Riot', in Moscow.

According to the information received:

On 21 February 2012, a few members of Pussy Riot, a punk band, wearing bright coloured outfits and balaclavas masking their faces, entered and performed a "punk prayer" in the Christ the Saviour Cathedral in Moscow. They danced in front of the altar and sang their song for a very short moment before being removed from the building. Reportedly, no violence or damage took place during the action.

Reportedly, on 4 March 2012, Ms. Nadezhda Tolokonnikova and Ms. Maria Alekhina were arrested and charged with hooliganism under article 213 of the Russian Criminal Code for allegedly performing at the Christ the Saviour Cathedral without authorization and the content of the song lyrics. Reportedly,

Ms. Ekaterina Samutsevich was arrested on 15 March 2012 and charged with a similar offence.

It is reported that since their arrest, some of their family members as well as one of their lawyers received threats. In addition, the bank account of the lawyers' association where the lawyer of one of the three women works had reportedly been blocked. Furthermore, the husband and civil partner of two of the women (Ms. Tolokonnikova and Ms. Alekhina, respectively) have reportedly not been allowed to visit them.

On 19 April 2012, Tagansky Court in Moscow reportedly extended the detention of the three women to 24 June 2012, referring to the need to find further witnesses and participants at the event. Reportedly, the defense attorney has appealed against the extension of the detention and the date of the appeal hearing has not yet been scheduled. According to the information received, police arrested some of the demonstrators and journalists, who gathered outside the court to support the group members and called for their release.

Concerns are expressed that the three women will be held in detention without trial for over three months. Besides, there are concerns that if convicted, they would face up to a maximum of seven-years of imprisonment.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and their right to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

Furthermore, without in any way implying any conclusion as to the facts of the case, 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 the ICCPR that your Excellency's Government has ratified on 16 October 1973. It provides that "[E]veryone 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."

We would also like to appeal to your Excellency's Government to take all necessary measures to guarantee to Ms. Tolokonnikova, Ms. Alekhina and Ms. Samutsevich, the right to be free from any violence, discrimination or abuse. Towards that end, we would like to draw your Excellency's Government's attention to article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty,

whether occurring in public or in private life. We would also like to refer to article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) to participate in non-governmental organizations and associations concerned with the public and political life of the country.

In this context, concerning the alleged threats to lawyer(s) of the above-mentioned persons, we deem it appropriate to make reference to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990. In particular, we would like to draw the attention of your Excellency's Government to Principle 16, which provides that "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics; Principle 17, which states that "where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities"; as well as the Principle 18 according to which "lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

Furthermore, we would also like to refer Your Excellency's Government to Principle 23 of the Basic Principles on the Role of Lawyers, which provides that "lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession".

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Tolokonnikova, Ms. Alekhina and Ms. Samutsevich are respected. In the event that your investigations support or suggest the above alleged violations of their rights and freedoms to be correct, we would also urge your Excellency's Government to ensure the accountability of any person responsible of such violations. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Ms. Tolokonnikova, Ms. Alekhina and Ms. Samutsevich 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 summary of the cases accurate?
2. Have complaints been lodged with regard to the alleged violations mentioned?
3. Please provide the details and where available, the results or reports, of any judicial investigation in relation to the involvement of the three women in this case.
4. Please provide details of how the alleged arrests and the detention of the three women are compatible with the above-mentioned international norms and standards, including the right to freedom of opinion and expression.
5. Please indicate what measures have been taken to ensure that the family members and the lawyer(s) representing the three women, as well as people supporting them, are not subjected to threat or harassment.
6. Please indicate which measure your Excellency's Government has adopted to ensure that the appeal hearing or a trial could take place soon.

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

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Farida Shaheed
Special Rapporteur in the field of cultural rights

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

Heiner Bielefeldt

Special Rapporteur on freedom of religion or belief

Gabriela Knaul

Special Rapporteur on the independence of judges and lawyers

Rashida Manjoo

Special Rapporteur on violence against women, its causes and consequences