

**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)
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28 October 2011

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 General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the ban of the 2011 Belgrade Pride Parade**.

According to the information received:

In early August 2011, the association "Belgrade Pride Parade" submitted a written request to the Ministry of Interior to hold the 2011 Belgrade Pride Parade on 2 October 2011, starting at 11:00 a.m. in "Manjež" Park. The Ministry decided to seek the opinion of the National Security Council, which is composed of the President and Prime Minister of Serbia; the Ministers of Defense, Justice and Police; the Chief of Staff of the Serbian Army; the BIA (Intelligence) Director; and the Heads of Military Security Service and Military Intelligence Service within the Ministry of Defense.

In the meantime, the organization Dveri announced a series of peaceful protests against the Parade for 1 October 2011, and the organization Obraz, with the support of Movement for Serbia, of SNP Nasi, and of Ravnogorski Pokret announced for 2 October 2011, the "walk of prayers for a healthy family."

On 29 September 2011, the Prime Minister stated that the police were to make a security assessment about the parade. On the same day, the Mayor of Belgrade

called on all sides to give up on the announced gatherings for the weekend, in fear of possible clashes.

On 30 September 2011, the National Security Council met, after which the Minister of Interior announced that all public gatherings for the weekend of 1 and 2 October 2011, were banned, under article 11(1) of the Law on Gathering of Citizens of the Republic of Serbia, stating that “during the meeting there may appear obstruction of public transport, endangering health, public moral or safety of individuals and properties.”

Concern is expressed that the blanket ban on all assemblies may have been a disproportionate measure, aimed to circumvent the State’s positive obligation to facilitate and protect peaceful assemblies, including from the threat of potentially violent counter-demonstrations. Further concern is expressed that this measure may have been discriminatory on the ground of sexual orientation. Finally, concern is expressed about the inability for organizers to appeal the decision in a timely and expeditious manner, given that it was taken two days before the scheduled parade, while the written request to hold such parade was submitted several weeks in advance.

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 International Covenant on Civil and Political Rights (ICCPR), which provides that “Everyone 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 steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, 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 of the protection of the rights and freedoms of others.”

In this connection, 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 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”; 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.

Finally, we would also refer to the report A/62/225 of the then Special Representative of the Secretary General on the situation of human rights defenders to the General Assembly, which states that in the context of demonstrations on Lesbian, Gay, Bisexual and Transgendered people rights, States should “(i) [t]ake adequate measures to hold accountable officials and authorities taking unlawful decisions banning demonstrations; ii) Ensure the protection of participants in gay pride parades before, during and after marches from acts of violence and intolerance by counter-protestors; (iii) Train law enforcement officials on appropriate conduct, particularly as it relates to the implementation of the non-discrimination principle and respect of diversity” (para. 101 (d)).

We urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the organizers of the "Belgrade Pride Parade" are respected, and that accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency’s Government adopts effective measures to prevent the recurrence of these acts.

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:

1. Are the facts alleged in the above summary of the case accurate?

2. Please indicate the legal basis of the blanket ban on all assemblies declared for 1 and 2 October 2011. Please indicate how this measure is compatible with the aforementioned international human rights norms and standards, including with regard to the claims that it was a disproportionate and discriminatory measure.
3. Please indicate why the organizers were not given the possibility to appeal the decision in a timely and expeditious manner.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

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freedom of opinion and expression

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