

**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 Chair-Rapporteur of the Working Group on Arbitrary Detention; 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: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)  
RUS 13/2011

22 December 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 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 **alleged acts of intimidation and harassment against activists and human rights defenders and massive arbitrary detentions and excessive use of force against peaceful protesters in the context of the parliamentary elections held on 4 December 2011.**

Human rights organizations, including the independent election monitoring group "Golos" as well as other human rights defenders, were allegedly subjected to threats, harassment and intimidation in the run up to the parliamentary elections as well as in its aftermath. It is further reported that arbitrary detentions and excessive and arbitrary use of force would have been employed against peaceful protesters claiming fraudulent election results on 5 and 6 December 2011, in Moscow and other cities within the Russian Federation.

According to the information received:

In the week prior to election day, 4 December 2011, a number of newspapers and television stations were allegedly engaged in a campaign to deliberately criticize

and discredit the independent election monitor group “Golos”. This organization was allegedly subjected to internet hacking of its website in the run up to the election. On 2 December 2011, Golos was allegedly brought before an administrative hearing accused of breaching the election law on a case brought by the Head of Russia’s Central Election Commission. The Meshchansky District court of Moscow allegedly sanctioned “Golos” for its actions.

Reportedly, on 5 December 2011, an estimated 5,000 to 10,000 demonstrators gathered at the Chistye Prudy area in Moscow to express dissent against the reportedly fraudulent parliamentary election results. Moscow authorities allegedly had not authorized the event organized by civil society and opposition groups.

At approximately 7:30 p.m., protesters began to march towards the Central Electoral Building; riot police allegedly responded with excessive use of force, forcibly dispersing the march, randomly detaining people, and hauling them into police vans. By 11:00 p.m., the riot police had a significant presence within the Chistye Prudy area, as well as the State Duma and the Kremlin. Meanwhile, other pro-government assemblies allegedly gathered without impediment.

It is reported that according to the Ministry for Internal Affairs, approximately 300 persons, including opposition leaders, journalists, and activists, were detained. Journalists were allegedly detained even after they showed their official press badges. On 5 December 2011, a number of well-known activists were arbitrarily detained, without any alleged provocation at their places of residence and on their way to the demonstration.

On 6 December 2011, approximately 600 persons in the proximity of Triumfalnaya square were also detained and taken to different police precincts within Moscow. On the same day, an estimated 200 protesters were also allegedly arrested in Saint Petersburg.

On 7 December 2011, it is alleged that approximately 100 election protesters were still under detention.

Should this information be corroborated, serious concern is expressed that the alleged acts of intimidation and harassment against activists and human rights defenders; and the detention and forcible dispersal of peaceful protesters could constitute a coordinated effort to challenge any dissenting views regarding any possible wrongdoing in the conduct of the parliamentary elections held on 4 December 2011.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the aforementioned persons is arbitrary, 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 to fair proceedings before an

independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We wish to remind your Excellency's Government that the right to freedom of peaceful assembly, as recognized under article 21 of the ICCPR, is to be enjoyed free of arbitrary restrictions. In this context, we wish to recall the consensus that brought the adoption of Human Rights Council resolution 15/21, and in particular preambular paragraph 7 where it recognizes that "exercising the rights to freedom of peaceful assembly and of association free of restrictions, subject only to the limitations permitted by international law, in particular international human rights law, is indispensable to the full enjoyment of these rights, particularly where individuals may espouse minority or dissenting... political beliefs".

Moreover, we reiterate that under article 3 of the UN Code of Conduct for Law Enforcement Officials, "(l)aw enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty". As well, and in line with provisions 4 and 7 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, law enforcement officials shall make use of non-violent means, as far as possible; and that States should ensure that "arbitrary or abusive use of force... by law enforcement officials is punished as a criminal offence under their law."

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, 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."

Regarding the information received on acts of intimidation and harassment against activists and human rights defenders, we wish 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 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.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) of the then Special Representative of the Secretary-General on the situation of human rights defenders and in particular to paragraph 98 which states that "in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urged States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advised all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials."

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 case accurate?
2. Please provide any information concerning the conduct of law enforcement officials who were responsible for dispersing the assemblies in Moscow and other cities within the Russian Federation on 5 and 6 December 2011.
3. Has a complaint been lodged regarding any of the aforementioned allegations?
4. Please provide information concerning the legal grounds for the arrest and detention of the aforementioned persons and how these measures are

compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.

5. Regarding the detentions that followed as a result of the protests held on 5 and 6 December 2011, was access to legal representation granted to detainees? Were the administrative trials open to the public? Please provide any details on how the right to a fair trial and due process guarantees were respected.
6. Kindly provide information on the measures taken to ensure that human rights defenders and activists are able to carry out their legitimate activities without fear of intimidation or harassment.

We undertake to ensure that your Excellency's 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.

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

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

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