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**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 situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (53-24)  
SWE 2/2013

2 May 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 16/5, 17/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government information we have received concerning the alleged imminent deportation of **Mr. Saif Ur Rahman Shirzad**, an Afghan journalist.

According to the information received:

Mr. Saif Ur Rahman Shirzad is a journalist from Afghanistan who was forced to flee the country after receiving death threats from the Taliban. On 18 April 2011, Mr. Shirzad applied for asylum in Sweden. However, his application for asylum was rejected by the Swedish Immigration Authorities on 14 December 2011. The appeal was rejected on 15 November 2012. At the moment of preparing this communication, Mr. Shirzad has not yet been deported. However, he could be deported at any moment. Allegedly, Mr. Shirzad might be tortured and killed, if forcibly returned to Afghanistan.

Mr. Shirzad, while based in Jalalabad in eastern Afghanistan, reported on the border area between Afghanistan and Pakistan for the Daily Wahdat and Khyber TV before fleeing the country with his family to Peshawar, in northern Pakistan in August 2008, allegedly due to the death threats, including life-threatening calls

and text messages, by the Taliban in retaliation the journalist activities by him and his brother.

It is further reported that, in June 2010, the Daily Wahdat verified in its letter to the UNHCR that the newspaper had also received threats due to its working relationship with the victim. In early 2011, Mr. Shirzad was reportedly kidnapped by the Taliban and was tortured and ill-treated while detained for 20 days in Miranshah, Pakistan near the Afghan border. Reportedly Mr. Shirzad's family received protection and was relocated to the United States of America by the UNHCR in 2009. Also, his brother has been already granted asylum in Sweden.

Furthermore, it is noted that journalists are gravely affected by the precarious security situation in the border region as they are vulnerable to human rights violations from the Taliban, which caused both Afghan and foreign journalists to be held hostage or executed in the past. It is also reported that a Pakistani journalist was killed in February 2013 by unidentified gunmen in Miranshah, where the abovementioned abduction took place. It is further noted that, in 2013 only, at least 30 cases of physical attacks and threats against journalists, including gunshot attack that left a radio journalist injured in the chest, have been reported in Afghanistan.

It is reported that the Migration Board will meet on 2 May 2013 to make a decision whether to deport him to Afghanistan or not.

Without prejudging the accuracy of the information made available to us, we would like to express concern that Mr. Saif Ur Rahman Shirzad is at imminent risk of being deported, where he would be at risk of being tortured and killed. In this regard, we urge your Excellency's Government not to deport him and ensure that his rights as an asylum seeker are respected in compliance with international law, in particular the international principle of non-refoulement.

With regard to the information that Mr. Shirzad would be at risk of being subjected to tortured or other ill-treatment we would like to draw the attention of your Excellency's Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture."

In this context, we would like to draw your Excellency's Government attention to article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Sweden on 8 January 1986, which provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, we would also like to remind your Excellency's Government paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights

Committee states that State parties “must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement”.

We would also like to bring to the attention of your Excellency’s Government paragraph 16 of the Resolution 65/205 of the UN General Assembly which urges States “not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.”

Furthermore, paragraph 7(d) of Human Rights Council Resolution 16/23 urges States not to expel, return (refouler), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, stressing the importance of effective legal and procedural safeguards in this regard, and recognizing that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.

With regard to the information that Mr. Shirzad would be at risk of being killed, if returned to Afghanistan, we would like to refer your Excellency’s Government to article 6 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Government of Sweden on 6 December 1971, which provides that every individual has the right to life and security of the person. Furthermore, the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, in particular principle 5 states that “no one shall be involuntarily returned or extradited to a country where there are substantial grounds for believing that he or she may become victim of extra-legal, arbitrary or summary execution in that country.”

Serious concerns are expressed about the risk of death threats and further violations against Mr. Shirzad due to his journalistic activities in defence of human rights, should your Excellency’s Government decide to deport him to Afghanistan.

While we do not wish to prejudge the accuracy of these allegations, we would like to remind your Excellency’s Government of article 19 of the International Covenant on Civil and Political Rights, 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.”

In this connection, we would also 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 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; 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.

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 Mr. Saif Ur Rahman Shirzad 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. Please provide detailed information concerning the legal grounds for the decisions to deport Mr. Shirzad and how this decision is compatible with the aforementioned international norms and standards, in particular with the principle of non-refoulement.

3. Please provide information regarding measures available for the protection of those who claim to be victims of persecution and torture, seeking asylum in Sweden.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Saif Ur Rahman Shirzad are respected and, in the event that your investigations support or suggest the above allegations to be correct, not to deport him to Afghanistan.

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

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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