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CONSEIL DES DROITS DE L'HOMME

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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 the independence of judges and lawyers; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

REFERENCE: AL G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214 (78-15)
GRC 1/2012

8 June 2012

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 situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance pursuant to Human Rights Council resolution 16/4, 16/5, 17/2, and 16/33.

In this connection, we would like to bring to the attention of your Excellency's Government's information we have received concerning **alleged physical and verbal attacks and threats against Messrs. [REDACTED] and [REDACTED], and the alleged failure to bring those responsible to justice.**

Mr. [REDACTED] is the Spokesperson of the Greek [REDACTED] and a member of the World Organisation Against Torture (OMCT) General Assembly. Mr. [REDACTED] is a lawyer who acts as legal counsel for [REDACTED].

Previously, [REDACTED] and another human rights organization filed complaints in relation to allegations of racist statements purportedly made by members of the Hellenic Coast Guard against members of the Albanian and Macedonian minority communities during the Greek Independence Day Parade in March 2011. On 20 September 2011, following a court hearing regarding these complaints, Mr. [REDACTED] was pursued by supporters of coastguardsmen who had congregated outside of the courthouse. He managed to escape in spite the failure of the police officers present to intervene. On 29 September 2011, Messrs. [REDACTED] and [REDACTED] filed a complaint in relation to hundreds of

threatening Internet messages, including death threats, which had been directed at them in the wake of the court hearing.

Messrs. [REDACTED] and [REDACTED] were the subject of a communication sent to your Excellency's Government on 1 December 2011 by the Special Rapporteur on the situation of human rights defenders. We thank your Excellency's Government for the response which was transmitted on 26 January 2012, and we welcome the fact that measures have been taken for the protection of Messrs. [REDACTED] and [REDACTED].

Mr. [REDACTED] was also the subject of a previous communication sent to your Excellency's Government on 25 January 2008 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. We acknowledge receipt of the response which was transmitted by your Excellency's Government on 18 April 2008.

According to new information received:

On 16 December 2011, at a hearing of the case concerning the alleged racist remarks made by coastguardsmen, Messrs. [REDACTED] and [REDACTED] were subjected to verbal abuse and threats by unknown persons both inside and outside the Naval Court of Piraneus. Furthermore, it is alleged that both men were attacked during Mr. [REDACTED]' testimony in an area of the court that is normally inaccessible to the public. Reportedly, Mr. [REDACTED] was punched in the head and Mr. [REDACTED] narrowly avoided being struck. It is alleged that no action was taken against the perpetrators of either the physical or the verbal attacks.

According to reports, hundreds of messages were subsequently posted on the Internet in praise of these incidents, and messages containing further threats were also posted. These threats were made against Messrs. [REDACTED] and [REDACTED], as well as against the Naval Court of Piraneus in the event of a conviction.

It is reported that no sanctions have been imposed on the perpetrators of the acts outlined above.

Concern is expressed that the alleged physical attack, verbal abuse and threats against Messrs. [REDACTED] and [REDACTED] may be directly related to their legitimate work in the defence of human rights, particularly their efforts to combat racism against minority communities in Greece. Further concern is expressed for the physical and psychological integrity of Messrs. [REDACTED] and [REDACTED]. Should it be confirmed, the alleged failure to bring the perpetrators to justice would set a worrying precedent for human rights defenders in Greece.

While we do not wish to prejudge the accuracy of these allegations, with regard to the concern that the alleged physical attack, verbal abuse and threats against Messrs. [REDACTED] and [REDACTED] may be also directly related to their legitimate exercise of the right to freedom of opinion and expression, we wish 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."

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 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters;

- article 9 para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights;

- article 9 para. 3 point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal

assistance or other relevant advice and assistance in defending human rights and fundamental freedoms; 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 this connection, we would like also to refer your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, in particular to Principle 6 which states that "The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.", as well as to principle 2, which provides that "The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason."

With regard to the legitimate activities of the subjects of this communication as lawyers/legal counselors in defense of human rights, we would like to draw the attention of your Excellency's Government 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 refer 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"; as well as to principle 17, according to which "Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities"; and to principle 18, which states that "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions".

In this context, we would also like to refer your Excellency's Government to the ICCPR, to which your Government is a party, and in particular to article 20, paragraph 2, which states: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law"; and the International Convention on the Elimination of All Forms of Racial Discrimination, in particular article 4, which provides that "States Parties [...] undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia, (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination."

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 summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. In the event that the perpetrators have been identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please indicate whether the protective measures mentioned in the aforementioned response transmitted by your Excellency's Government on 26 January 2012 remain in place or whether they have been altered in any way.
5. Please indicate whether the alleged facts about the irregularities reported to have occurred during the court proceedings are accurate, and, if so, what measures were taken to prevent or stop the occurrence of the reported acts of verbal abuse, attacks and threats during the court hearing, and what measures will be taken to prevent the recurrence of such acts in future hearings.
6. Please provide details on what measures have been taken to safeguard the rights of the above-mentioned persons in compliance with the above international instruments and standards.

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 Messrs. [REDACTED] and [REDACTED] 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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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discrimination, xenophobia and related intolerance