

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers.

REFERENCE: AL
LKA 8/2014:

8 August 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 25/18 and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged surveillance and intimidation of Mr. Upul Jayasuriya and the lack of protection provided to him by the authorities.**

Mr. Upul Jayasuriya is a long-standing lawyer and was elected as President of the Bar Association of Sri Lanka in February 2013. He has been an outspoken critic on issues pertaining to the rule of law, constitutional rights and the independence of the judiciary in Sri Lanka. Mr. Jayasuriya was one of the main lawyers who led a public campaign against the impeachment of the 43rd Chief Justice in 2012-2013.

According to the information received:

In July 2009, Mr. Jayasuriya together with four other lawyers who were representing the newspaper The Sunday Leader in a case of contempt of court were listed on the Sri Lankan Ministry of Defence website in the article "Traitors in Black Coats Flocked Together", reportedly for defending LTTE guerrilla members. Three of their pictures, including that of Mr. Jayasuriya, were featured in the website's article.

On 15 July 2014, two men on a motorcycle allegedly followed Mr. Upul Jayasuriya after he left the court premises at Hulftsdorp. The men on the motorcycle were reportedly wearing safety helmets that fully covered their faces.

Mr. Jayasuriya then went to the Galadari Hotel, which is in a high security zone and where all movements are monitored by close circuit surveillance cameras.

The two men reportedly remained outside the hotel for the approximately 30 minutes that Mr. Jayasuriya was in the hotel.

Mr. Jayasuriya proceeded to an office at Flower Road (Colombo 07) and the men on the motorcycle reportedly followed him to his office and remained outside the said premises. The two men on the motorcycle allegedly talked to two persons in a three-wheeler for approximately two to three hours while waiting outside the office and then left.

At 5 p.m. the same day, Mr. Jayasuriya lodged a complaint about this incident at the Cinnamon Gardens Police Station and provided all relevant details such as times, locations involved and the registration numbers of the motorcycle and the three-wheeler.

On 15 July 2014 and 17 July 2014, two motorcyclists were observed around Mr. Jayasuriya's residence. The motorcyclists allegedly appeared to be monitoring the movements in the area. Mr. Jayasuriya then filed an additional complaint at the Thalangama police station about these two incidents and requested protection.

On 16 July 2014, the State media allegedly reported that Mr. Jayasuriya has been provided with adequate protection. However, this information is allegedly not accurate.

On 20 July 2014, after having not received a response from the Thalangama police station, Mr. Jayasuriya personally contacted the Inspector General of the Police to request protection.

Allegedly, the police obtained the CCTV recordings from several cameras which showed Mr. Jayasuriya's vehicle being followed and also showed two men waiting outside of his office. However, the police allegedly informed Mr. Jayasuriya that they do not have software to increase the resolution of the images.

To this date, the men that followed and intimidated Mr. Jayasuriya have not been identified and he has not been provided with protection.

Concerns are expressed regarding the surveillance and intimidation of Mr. Jayasuriya and that this might be linked to his peaceful and legitimate work as a lawyer. Further concerns are expressed regarding the lack of protection provided to Mr. Jayasuriya by the authorities.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information, and where available the results of any investigation, judicial or other inquiries carried out in relation to the case of Mr. Jayasuriya. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information on the measures taken to ensure that Mr. Jayasuriya is able to perform all of his professional functions without intimidation, harassment or interference. Please also provide information on the protection measures available to lawyers in Sri Lanka.

We would appreciate a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

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Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Annex
Reference to international human rights law

While we do not wish to prejudge the accuracy of these allegations or to express an opinion, they appear to be in contravention of the government's responsibility to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference and to adequately safeguard the security of lawyers when it is threatened as a result of discharging their functions, as set forth in the Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990, and in particular in principles 16 and 17.

We also 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.