

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
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25 February 2016

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 Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the liquidation of the non-governmental organization (NGO) Agora**.

Agora is a prominent human rights NGO founded in 2005, which provides legal aid to civil society and political activists across the Russian Federation. Agora's lawyers have notably represented in court the feminist punk group Pussy Riot and the leading opposition politician Alexei Navalny.

Agora has been listed as a "foreign agent" since July 2014 under the Law on Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-commercial Organizations which Carry Functions of Foreign Agents.

The adoption and application of this Law was the subject of previous communications sent on 11 July 2012, case code RUS 5/2012, ref A/HRC/22/67; 13 June 2013, case code RUS 3/2013, ref A/HRC/25/74; 18 December 2013, case code RUS 13/2013, ref A/HRC/16/21; sent 20 June 2014, case code RUS 5/2014, ref A/HRC/28/85; 14 November 2014, case code RUS 9/2014, ref A/HRC/28/85; and 7 August 2015, case code RUS 4/2015, ref A/HRC/31/79. We acknowledge the replies sent by your Excellency's Government to a number of these communications, but we remain concerned given the allegations below.

According to the information received:

On 10 February 2016, in an unprecedented move the Supreme Court of the Republic of Tatarstan reportedly granted Ministry of Justice's request for the liquidation of Agora, following a series of investigations conducted in 2015 in relation to the work of this NGO. Agora is to appeal the court's decision before the Supreme Court of the Russian Federation.

The Ministry of Justice accused Agora of, inter alia, conducting political actions with a view to "influencing public opinion" to believe that the Russian Federation authorities violate human rights, of publishing documents on the Internet that "foster critical attitude toward the government" without indicating that their author had been labelled a "foreign agent" organization, and of undertaking efforts to be excluded from the registry of "foreign agents".

In summer 2014, Agora unsuccessfully challenged in courts the Government's decision to include it in the list of "foreign agents". Agora later requested the Ministry of Justice to withdraw its name from the foreign agents list, as it had not received any foreign funding for over a year. The Ministry of Justice rejected this request and filed the aforementioned lawsuit, which appeared to be in retaliation to the vocal opposition by Agora to its enlistment as a 'foreign agent'.

These investigations are not the first ones against Agora which was reportedly subject to extensive investigations by the Ministry of Justice, prosecutor's office, tax office and police in 2009, as well as further checks by the prosecutor's office of Tatarstan in 2013 and 2014. The investigations were challenged by Agora in courts, which found no legal basis for carrying out those investigations.

Serious concern is expressed about the judicial decision authorizing the liquidation of Agora, which appears to be related to its legitimate human rights activities. In this connection, concerns are reiterated about the negative consequences of the implementation of the Law on Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-commercial Organizations which Carry Functions of Foreign Agents, in particular its highly detrimental impact on human rights organizations, as in the case of Agora.

In particular, we are deeply concerned that the interpretation of vaguely defined concepts such as "engaging in political activities" or "staging political actions to influence public policy or opinion" are used to obstruct and stigmatize the legitimate work of human rights defenders and civil society organizations and have a serious damaging effect on these organizations and the rights to freedom of opinion and expression and freedom of association in the Russian Federation.

In connection with 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 therefore 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 indicate how the actions undertaken by the Ministry of Justice and the Supreme Court of the Republic of Tatarstan regarding the aforementioned case are compatible with the international human rights norms and standards of the rights to freedom of association and freedom of opinion and expression.

3. Please provide information on how the aforementioned implementation and interpretation of the provisions contained in the Law on Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents are in line with your obligations under international human rights law, particular with article 22 of the ICCPR.

4. Please kindly indicate what measures have been taken to ensure that civil society organizations, particularly those working in the defence and promotion of human rights, are able to carry out their work without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to review the decision on liquidation of Agora and its labeling as foreign agent, and undertake a thorough human rights assessment of the impact of the Law on Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-commercial Organizations which Carry Functions of Foreign Agents.

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.

David Kaye
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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

First, we would like to refer to articles 19 and 22 of the International Covenant on Civil and Political Rights, ratified by the Russian Federation in 1973, that guarantee the rights to freedom of opinion and expression and freedom of association respectively.

We would also like to refer to Human Rights Council resolution 24/5 (operative paragraph 2), in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

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 are also highly relevant in this case. 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.

In that context, we would also like to refer to article 5(b) of the aforementioned Declaration, which provides for the right to form, join and participate in non-governmental organizations, associations or groups; and article 6, which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, as well as the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.

We also wish to refer to Human Rights Council resolution 22/6, which calls upon States to ensure that procedures governing the registration of civil society organizations are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration and are in conformity with international human rights law.