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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

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**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur  
on the situation of human rights defenders.**

REFERENCE: UA G/SO 217/1 G/SO 214 (107-9)  
THA 9/2013

2 January 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/16 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the situation of **Ms. Angkhana Neelaphaijit**, the wife of human rights lawyer Mr. Somchai Neelaphaijit, who disappeared on 11 March 2004. Ms. Neelaphaijit has campaigned publicly for justice in case of her husband's enforced disappearance. She is currently part of the witness protection programme of the Department of Special Investigation, under the Ministry of Justice. Ms. Neelaphaijit is also the President of the Justice and Peace Foundation, a human rights organisation which promotes access to justice, and campaigns for an end to impunity in Southern Thailand.

Ms. Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 September 2005; an urgent appeal sent by the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 March 2006; an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders pursuant to Commission on Human Rights resolutions on 16 March 2007; an

urgent appeal sent by the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Representative of the Secretary-General on the situation of human rights defenders on 26 February 2008; an urgent appeal sent 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 on 20 March 2008; and an urgent appeal sent by the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the situation of human rights defenders on 16 February 2011.

According to the information received:

Ms. Neelaphaijit has recently received threatening calls and warnings from unknown persons.

It was reported that the Department of Special Investigation (DSI) might want to terminate the investigation on the case of Mr. Somchai Neelaphaijit's enforced disappearance in early January 2014. Consequently, Ms. Neelaphaijit will be removed from the witness protection programme.

It was further reported that if the DSI stops investigating the case of Mr. Somchai Neelaphaijit, there will not be any further investigation on his case unless new evidence is found.

Concern is expressed for the physical and psychological integrity of Ms. Neelaphaijit, considering the nature of the phone calls received. Further concern is expressed that the threatening phone calls may be related to Ms. Neelaphaijit's work as a human rights defender, in particular, her search for justice in the cases of enforced disappearances, including the case of her husband Mr. Neelaphaijit.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government attention to the right to physical and mental integrity of Ms. Neelaphaijit.

In this regard, we would like to bring your Excellency's Government attention to article 13 (3) and (6) of the Declaration on the Protection of all Persons from Enforced Disappearance, which states that "Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal"; and "An investigation, in accordance with the procedures described [in article 10 of the Declaration], should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified".

We would like to recall that, in its resolution 7/12, the Human Rights Council urged Governments to take steps to provide adequate protection to witnesses of enforced

or involuntary disappearances, human rights defenders acting against enforced disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected. The protection of families of disappeared persons should be carried out regardless of the existence of criminal investigation.

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 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 Ms. Angkhana Neelaphaijit 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 the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case.

3. Please provide the full details of measures of protection available to Ms. Neelaphaijit and the manner in which such protection measures are implemented.

4. Please provide information on measures undertaken to improve the responsiveness and effectiveness of domestic protection mechanisms available to human rights defenders, as well as measures undertaken to ensure human rights defenders do not face retaliation after having presented complaints to the relevant authorities.

We undertake to ensure that your Excellency's Government's response will be available 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 Ms. Angkhana Neelaphaijit 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.

Ariel Dulitzky  
Chair-Rapporteur of the Working Group on Enforced or Involuntary  
Disappearances

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders