

NATIONS UNIES
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 Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

REFERENCE: UA G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1)
UKR 4/2013

10 December 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolutions 16/16, 16/4, and 24/5.

In this connection, we would like to draw the attention of your Excellency's Government information we have received concerning the **alleged excessive use of force against peaceful protestors, including 53 journalists** (please see Annex 1), and the alleged disappearance of 7 individuals.

According to the information received:

On 29 November 2013, a major protest begun in central Kyiv against the Government's decision not to sign a partnership agreement with the European Union. On 1 December 2013, some 300,000 protesters gathered at the Maidan Square. The anti-government protests are still taking place as of the date of this communication.

It is further reported that 53 journalists were injured by police forces including by stones and grenades thrown at them. The same day, Prime Minister Mykola Azarov apologized to the public for the actions of the law enforcement officials during the crackdown.

It is further reported that 7 individuals, namely, Ms. **Hryhoryan Inna**, Messrs. **Brovko Oleh**, **Vokatiuk Volodymyr**, **Humeniuk Denys**, **Okhrymovych Volodymyr**, **Rosputnyi Vyacheslav**, and **Shynkaruk Anatoliy**, allegedly remain missing as of 9 December 2013. It was reported that the 7 individuals, most of

whom are youth activists and students, were last seen on the night of 29 November 2013, at the protest on Maidan Square, which was reportedly dispersed by force by the police. According to the source, persons associated with the aforementioned individuals have been looking for them at hospitals and police stations to no avail. Their fate and whereabouts remain unknown.

Grave concerns are expressed that the peaceful demonstrations were met by excessive police force unduly limiting their legitimate rights to freedom of opinion and peaceful assembly. Similar concerns are expressed at allegations that a group of students and activists remain missing following the police intervention.

Without in any way implying any determination on the facts of the case, we would also like 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, that Ukraine ratified on 12 November 1973, 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."

We would like to further refer to article 21 of the International Covenant on Civil and Political Rights, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others".

In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "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."

In relation to the allegations according to which 15 individuals remain missing, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which sets out necessary protection by the State, and in particular:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);

- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);

- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest); and

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 the above-mentioned persons 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 information on the whereabouts of Ms. Hryhoryan Inna, Messrs. Brovko Oleh, Vokatiuk Volodymyr, Humeniuk Denys, Okhrymovych Volodymyr, Rosputnyi Vyacheslav, and Shynkaruk Anatoliy.
3. Has a complaint been lodged by the victims or on their behalf?
4. Please provide the details, and where available the results, of any judicial investigation, or any criminal charges, medical examinations, and other inquiries carried out in relation to this case.
5. Please provide the details on how the aforementioned actions undertaken by public officials are compatible with the international human rights norms and standards of the right to freedom of opinion and expression and the right to freedom of peaceful assembly.

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.

We would like to bring to the attention of your Excellency's Government that should sources submit the allegations of enforced disappearances mentioned in this communication concerning Ms. Hryhoryan Inna, Messrs. Brovko Oleh, Vokatiuk Volodymyr, Humeniuk Denys, Okhrymovych Volodymyr, Rosputnyi Vyacheslav, and Shynkaruk Anatoliy, as cases to the Working Group on Enforced or Involuntary

Disappearances, it will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any persons 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.

Given the seriousness and urgency of the allegations, we would like to inform your Excellency's Government that we are considering issuing a press release on the issues contained herein in the near future.

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

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

Frank La Rue
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

Annex 1.

1. Mr. Gnap Dmytro
2. Mr. Lyubchych Yakiv
3. Ms. Zhyzhko Natalia
4. Mr. Usik Yuriy
5. Mr. Garanich Glib
6. Mr. Prikhno Dmytro
7. Mr. Kubriyanov Roman
8. Mr. Pieniżek Pawel
9. Mr. Perevoznyk Oleksandr
10. Ms. Burlakova Viktoriya
11. Mr. Nayem Mustafa
12. Mr. Levin Maks
13. Mr. Johannes Vamberg Andersen
14. Mr. Puchych Vlad
15. Mr. Supynsky Sergiy
16. Mr. Kudynets Maxim

17. Mr. Chuzavkov Sergiy
18. Mr. Larin Dmytro
19. Mr. Stepanov Anatoliy
20. Mr. Chernichkin Ivan
21. Mr. Zakletsky Oleksandr
22. Mr. Chernyshov Anton
23. Mr. Danko Denys
24. Mr. Galata Yaroslav
25. Mr. Zagorskyi Mykhailo
26. Mr. Nakonechnyi Ivan
27. Mr. Kozlyuk Stanislav
28. Mr. Golovatyuk Yevgen
29. Mr. Khavruk Oeg
30. Mr. Butusov Yuriy
31. Mr. Kalantatov Emin
32. Mr. Maloletka Evhen
33. Mr. Volosiankin Igor
34. Mr. Kolosyuk Valeriy
35. Mr. Yurchenko Sergiy
36. Mr. Syvenkyi Jozeph
37. Mr. Polezhaka Sergiy
38. Mr. Dolzhenko Sergiy
39. Mr. Feldman Eufene
40. Mr. Kachura Dmytro
41. Mr. Tomac Piechal
42. Mr. Chernov Mstyslav
43. Mr. Volkov Dmytro
44. Mr. Zhogalko Oleksandr
45. Mr. Maksymov Vasyl
46. Mr. Marusenko Ivan
47. Mr. Bigus Denys
48. Ms. Koval Lesya
49. Mr. Dzhavardzhadze Zurab
50. Mr. Osyka Oleksiy
51. Mr. Furman Oleskandr
52. Mr. Terlyuk Oleksandr
53. Mr. Garauts Valeriy