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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: AL G/SO 214 (107-9) G/SO 214 (89-15)
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/5 and 16/7.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the sentencing of the following members of Pink Life LGBTT (Lesbian, Gay, Bisexual, Transvestite and Transsexual) Solidarity Association: Ms. **Buse Kiliçkaya**, founder and Chair; Ms. **Selay Tunç**, founder and Vice-Chair; and Ms. **Naz Gudumen**, member of the organization. Pink Life LGBTT is an Ankara based organization that works to eliminate all forms of discrimination and violence based on sexual orientation and gender identity.

According to the information received:

On 25 October 2011, Ms. Buse Kiliçkaya, Ms. Selay Tunç and Ms. Naz Gudumen, were reportedly found guilty of "resisting public officials and preventing them from performing their duty" and "insults". They were handed down prison sentences by the Ankara 15th Court of First Instance.

Ms. Gudumen was reportedly charged and convicted with "resisting public officials and preventing them from performing their duty" as well as "insults". She allegedly received a suspended 18-month prison sentence, with six months of the sentence relating to the first charge and twelve months to the second.

Ms. Tunç was reportedly convicted of "resisting public officials and preventing them from performing their duty" and was given a six-month suspended prison sentence.

Ms. Kiliçkaya was reportedly also convicted of “resisting public officials and preventing them from performing their duty.” It is alleged that she was sentenced to five months in prison. She has allegedly appealed this sentence and remains at liberty pending the hearing of the appeal.

According to information received, the aforementioned convictions followed the arrests of Ms. Gudumen, Ms. Tunc and Ms. Kiliçkaya on 19 June 2010. The three women were reportedly arrested by police officers in the Seyranbaglari Mah neighbourhood in Ankara; they were not provided with any reason for their arrest.

It is reported that when the three women responded that they would not go to the police station without a legal reason, the police officers said that the crime was that they “did” transvestism. It is alleged that the women then stated that being a transvestite was an identity and not a job and offered to show the police officers their identity documents. The police officers allegedly refused to look at the documents and forcibly pulled the women out of the car and insulted them based on their gender identities.

It is reported that the women were brought to the police station where they were held for five hours before being released. It is alleged that they subsequently filed an official complaint against the police with the Public Prosecutor for ill-treatment and insults, who reportedly dismissed the complaint and instead permitted charges to be brought against the three women.

Concern is expressed that the arrests and sentencing of Ms. Buse Kiliçkaya, Ms. Selay Tunç and Ms. Naz Gudumen may be directly linked to their gender identities as well as their legitimate and peaceful work in defence of human rights and fundamental freedoms, in particular their work in combatting all forms of discrimination and violence based on sexual orientation and gender identity.

While we do not wish to prejudge the accuracy of these allegations, we wish to recall article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country. In this regard, article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women notes that States should recognize the important role of the women's movement and non-governmental organizations world-wide in raising awareness and alleviating the problem of violence against women, and should, moreover, facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels.

We would also like to refer your Excellency's Government to article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which

stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. Article 4 (c & d) of the Declaration also notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.

Moreover, we would also like to bring to your Excellency's Government attention Commission on Human Rights Resolution 2005/41 on the Elimination on Violence against women, which provides that women should be empowered to protect themselves against violence and, in this regard, stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, free of coercion, discrimination and violence.

In that respect, we would also like to make reference to paragraph 96 the Beijing Women's Conference Platform for Action, which reaffirms that equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behaviour and its consequences.

Regarding allegations indicating that the situation of Ms. Buse Kiliçkaya, Ms. Selay Tunç and Ms. Naz Gudumen could be directly related to their legitimate and peaceful work combatting all forms of discrimination and violence based on sexual orientation and gender identity, we 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, 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 7, which states that "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance."; 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.

With regard to article 7 of the Declaration on human rights defenders, the Special Rapporteur on the situation of human rights defenders has stated¹ that the right to develop and discuss new human rights ideas is enshrined in the Declaration on Human Rights Defenders as an important provision for the ongoing development of human rights. This includes the right to discuss and advocate for human rights ideas and principles that are not necessarily new but that, in some contexts, may be perceived as new or unpopular because they address issues that might challenge tradition and culture. In this connection, the Special Rapporteur has encouraged States to do the necessary to guarantee the principle of pluralism and recognize the right of defenders to promote and advocate for new human rights ideas or ideas that are perceived as new. She has further encouraged States to take additional measures to ensure the protection of defenders who are at greater risk of facing certain forms of violence and discrimination because they are perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes, including about sexual orientation and gender identity.

Finally, we would like to recall resolution 17/19 of the Human Rights Council, where the Council expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Buse Kiliçkaya, Ms. Selay Tunç and Ms. Naz Gudumen are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

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 above summary of the cases accurate?
2. Please provide the full details as to why the complaint filed by Ms. Buse Kiliçkaya, Ms. Selay Tunç and Ms. Naz Gudumen was dismissed.

¹ A/66/203, paras. 56-61 and 112-114.

3. 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.
4. Please provide the full details of any prosecutions which have been undertaken.
5. Please provide information on the measures taken to ensure that human rights defenders can carry out their activities in a free and safe environment, particularly those working to combat discrimination and violence based on sexual orientation and gender identity.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Rashida Manjoo
Special Rapporteur on violence against women, its causes and
consequences