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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

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

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

**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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)  
TJK 4/2012

20 November 2012

Excellency,

We have the honour to address you in our capacity 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 15/21, 16/5 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the closing of the **Association of Young Lawyers of Tajikistan (Amparo)** following the decision of the Khujand City Court. The association of lawyers "Amparo" is a leading organization which provides free legal aid, human rights education and training. It is a member of the Coalition against Torture which brings together several civil society organizations that research and report on torture allegations throughout the country.

The situation of the mentioned association, including concerns about lack of procedural safeguards in the case against it, was already raised with your Excellency's Government in an urgent appeal dated 29 August 2012 sent jointly by the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and association. While we acknowledge receipt of the response transmitted by your Government, which has been sent to our document processing unit for translation, we remain concern about new information received.

According to the new information received:

On 23 and 24 October 2012, hearings were held at the Khujand City Court, first instance court. The decision of the court on 24 October granted the request made by the Ministry of Justice in June requesting the dissolution of the organization.

In addition to what had already been raised in our communication dated 29 August 2012, the association “Amparo” reportedly never received a copy of the audit initiated by the Ministry of Justice in July 2012, hence it has not been able to comment on it. In addition, the lack of procedural guidelines on how the audit was conducted was raised during the hearing. It is reported that in response to this the Ministry of Justice presented the Judge with internal instructions from the ministry which had allegedly not been published and do not provide the procedural guidelines for audits. These instructions were reportedly accepted by the Judge as evidence and attached to the case.

We would like to express our deep concern about the closing of the association “Amparo” as well as about allegations received pointing to the lack of transparency and clear procedural guidelines regarding the conduct of the audit as well as significant irregularities in the auditing process itself, in particular contrary to arts. 17 and 34 of the Law on Public Association.

Moreover, we are disturbed at information received indicating that the judicial harassment and closing of the mentioned association may be linked, not only to their legitimate activities in the promotion and defence of human rights, but also to their active engagement with UN human rights mechanisms, particularly on issues related to torture and ill-treatment. This engagement includes their recent participation in the preparation by the Coalition against Torture of a shadow report submitted to the UN Committee against Torture before the consideration of the 2nd periodic report of Tajikistan by the Committee on 7 and 8 November 2012. Furthermore, members of the association “Amparo” met with the UN Special Rapporteur on torture, cruel, inhuman and degrading treatment, Juan Mendez, during his official visit to the country in May 2012 to provide information about the prevalence of abuse of recruits and hazing in the military. Before and during his visit to Tajikistan, the UN Special Rapporteur on torture asked for and received assurances from the authorities that clear instructions would be communicated, to all levels of authority, that neither intimidation nor any sort of reprisals would be tolerated.

While we do not wish to prejudge the accuracy of these allegations, we encourage the Government to enter in a constructive dialogue with the association in a view to resolve any issues that might exist in a spirit of good will and mutual understanding.

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 (ICCPR), 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 further like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

Moreover, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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."

Furthermore, the Special Rapporteur on the rights to freedom of peaceful assembly and of association makes reference to paragraph 75 of his thematic report A/HRC/20/27, in which he emphasized that "[t]he suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law."

Regarding allegations received indicating that the case against "Amparo" and its dissolution are linked to their legitimate human rights activities, 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 the provision of the Declaration made under article 12 paras 2 and 3 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.

Concerning allegations indicating that the situation of “Amparo” could be linked to its active engagement with UN human rights mechanisms, we also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, *inter alia*, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

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 association and its staff and members 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 explain the legal basis for the closure of “Amparo” and explain how this measure complies with international standards related to freedom of association.
3. Please provide information about allegations received indicating that the case against “Amparo” and its closing could be linked to their active engagement with UN human rights mechanisms, including the Committee against Torture and the UN Special Rapporteur on torture.
4. Please indicate what measures have been taken to ensure that human rights defenders can carry out their legitimate activities without fear of intimidation, reprisals or harassment of any sort.

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.

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 association and its staff 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.

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

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment