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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to Human Rights Council resolution 16/4.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding the attack against Mr. **Nick Nostitz**, a freelance journalist, while he was covering an anti-government rally.

According to the information received:

On 25 November 2013, Mr. Nick Nostitz, a German national photojournalist based in Bangkok, was at one of the anti-government rallies organized by the Civil Movement for Democracy (CMD) in front of the Bangkok Metropolitan Police Headquarters. Mr. Nostitz has resided in Thailand for the past 20 years, and has a fluent command of Thai language.

In addition to his work as a photographer, he had previously written on the political situations in Thailand. His articles were often accompanied by photographs that he had taken from rallies, demonstrations and violent clashes. He had also testified in two cases as a prosecution's witness where the court ruled against the Thai Army, in relation to the political violence in 2010 during which he observed violence and death first-hand. It is alleged that due to his past work and testimony against the military, he has been accused of being biased towards the pro-government United Front for Democracy against Dictatorship (UDD), known as the "Red Shirts."

It is alleged that when Mr. Nostitz reached the protesters and the police line to take photos on 25 November 2013, the main speaker on the stage at the rally, Mr. Chumpol Julsai, a former Democrat Member of Parliament, screamed into microphone that "This journalist is a Red-Shirt journalist! Kick him out!" Subsequently Mr. Nostitz was allegedly hit several times by those participating in the rally before the police managed to pull him inside of their barricade. The incident was live-broadcasted by a pro-CMD cable channel, Blue Sky. The Blue Sky channel subsequently broadcasted an interview with a Thai journalist who accused Mr. Nostitz of being biased.

On 26 November 2013, the leadership of the CMD issued a public apology which was circulated among media. The apology contained a line which portrayed Mr. Nostitz as “a well-known government supporter who has long since abandoned the principle of objectivity required by journalists.”

On 2 December 2013, a foreign correspondent based in Bangkok who was familiar with Mr. Nostitz’s work raised concerns about the 25 November attack against him with Mr. Abhisit Vejjajiva, the former Prime Minister and senior leader of the CMD. Mr. Abhisit allegedly replied that “We don’t condone attack on any journalist, but you should bear in mind that he [Mr. Nostitz] is a biased supporter of the Red Shirts.”

It is reported that, on the day of the incident, the police took Mr. Nostitz to the police hospital where the injuries were deemed not serious after which he filed a complaint. However, he continues to receive messages from journalist colleagues based in Bangkok warning him of the high security risks and advising him not to get close to the anti-government rallies. His friend allegedly overheard protesters saying that they would “finish him”, if he appears at rallies. He fears for his safety which severely limits his reporting on political rallies in Thailand.

Grave concerns are expressed about allegations that Mr. Nostitz was physically attacked in direct relation to his journalistic activities. Further concerns are expressed at the alleged lack of safe environment for him to perform his work independently and without undue interference, harassment and threats which severely restrict the right to freedom of opinion and expression.

While I do not wish to prejudge the accuracy of these allegations, I would 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, 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.”

I would further like to refer to Human Rights Council resolution 21/12 on safety of journalists adopted on 27 September 2012, which calls upon States to “promote a safe and enabling environment for journalists to perform their work independently and without undue interference”, “condemns in the strongest term all attacks and violence against journalists,” and also “calls upon States to ensure accountability through the conduct of impartial, speedy and effective investigations into such acts falling within their jurisdiction, and to bring to justice those responsible and to ensure that victims have access to appropriate remedies.” It further calls upon States to “put in place voluntary protection programmes for journalists, based on local needs and challenges, including protection measures that take into account the individual circumstances of the persons at risk.”

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with the above international instruments.

Moreover, it is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I 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. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation, medical examinations, 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.

I undertake to ensure that your Excellency's Government's response will be available in the report I will submit to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person 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. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression