

**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; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: OL  
LKA 12/2014:

24 November 2014

Excellency,

We have the honour to address you in our capacities 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

We acknowledge your Excellency's response of 24 July 2014 to the communication sent on 27 March 2014 (case no. LKA 5/2014) concerning allegations of threats made to Mr. Visuvalingam Kirupaharan (General Secretary of the Tamil Centre for Human Rights) at a Human Rights Council side-event in Palais des Nations, Geneva.

Further to your Excellency's request for clarifications, we wish to reassure you that the urgent appeal was sent in line with articles 6, 9 and 10 of the Code of Conduct for special procedures mandate-holders of the Human Rights Council (the "Code of Conduct"), as well as paragraph 43 of the Manual of Operations of the special procedures of the Human Rights Council of August 2008 (the "Manual"). In this connection, we would like to make the following observations.

We wish to highlight that the communication was issued as an urgent appeal, as envisaged by article 10 of the Code of Conduct. Moreover, as regards your Excellency's concern that the allegations referred to in the communication do not concern the Government of Sri Lanka since they relate to non-State actors, article 14 of the Code of Conduct stipulates that mandate-holders shall address all their communications to concerned Governments. This is also justified in light of the fact that States are the primary duty-bearers in protecting, defending and promoting human rights, and as such, they should address violations of human rights committed by both State and non-State actors.

Concerning your Excellency's statements regarding the authenticity of the allegations referred to in the communication, paragraph 45 of the Manual declares that the allegations contained in communications are based on the available facts. Paragraph 30 further states: "Communications do not imply any kind of value judgment on the part of the Special Procedure concerned and are thus not per se accusatory." The urgent appeal therefore makes reference to information received concerning alleged threats made to Mr. Kirupharan. If the information is correct, the threats represent a serious human rights violation. The situation thus warrants that we, as mandate-holders, bring the allegations to the attention of your Excellency's Government, in accordance with the requirements of article 9 of the Code of Conduct.

Finally, paragraph 30 of the Manual states that the main purpose of communications "is to obtain clarification in response to allegations of violations and to promote measures designed to protect human rights." We regret that the responses of your Excellency's Government did not provide information on establishing the accuracy of the allegations, or measures adopted to protect the alleged victim from the threats to which the communication refers, or on the reasons for not taking such steps. We would therefore welcome further information on these matters, in particular in relation to the specific questions posed to the Government concerning the accuracy of the information and any measures taken to protect human rights defenders in Sri Lanka from reprisals.

We appreciate the reply received from your Excellency's Government and encourage continuing the dialogue and cooperation in relation to the allegations made. While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Visuvalingam Kirupaharan 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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

David Kaye  
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

Michel Forst  
Special Rapporteur on the situation of human rights defenders