

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 Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

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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 Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 34/18, 32/32, 34/5 and 32/2.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **possible restrictions to the right to peaceful assembly, freedom of association and to the freedom of expression of the LGBT community following threats and acts of intimidation against organizers and participants to the Tbilisi Pride.**

In this context, reference is made to the joint allegation letter (GEO 1/2013) sent to your Excellency's Government on 13 June 2013 regarding alleged lack of effective protection provided to demonstrators during the International Day against Homophobia and subsequent threats made against members of an LGBT organizations. In this letter concerns were expressed at the lack of sufficient and effective protection provided to LGBT human rights defenders, and the subsequent injuries inflicted on protesters and others, as well as threats received by members of Identoba, especially as these appear to be in response to the individuals' peaceful activities in defence of human rights. We thank your Excellency's Government for the reply provided on 12 January 2015.

According to the information received:

The first ever Tbilisi Pride Week was scheduled to take place between 18-23 June to raise awareness about sexual orientation and gender identity. The organizers planned three events: a theatre performance, an international conference and a march of dignity. The event aimed at replacing the demonstration that has traditionally been taking place on 17 May, on the occasion of the International Day against Homophobia, Transphobia and Biphobia (IDAHOT), a day that was also declared as Family Purity Day in 2013 by the Georgian Orthodox Church and, during which, every year marches and celebrations are organized by the

Orthodox Church and believers. According to information at our disposal, despite a statement released by the Ministry of Internal Affairs stating that the police will ensure public order and security, as well as freedom of expression of each person during the various events planned on 17 May, regardless of the participant's "political and other views, religious belonging, sexual orientation, gender identity, etc.", the LGBT community decided not to hold any demonstrations for IDAHOT to avoid tensions and possible clashes and instead celebrate the Pride a month later.

On 31 May, during a meeting with the Ministry of Internal Affairs of Georgia, the organizers of the Pride event announced that they were planning their activities take place in an open area in central Tbilisi. On this occasion, the Ministry of Internal Affairs explained that in consideration of the security risks it was impossible to implement the activities at the locations and in the format planned by the organizers. It suggested alternative locations, such as a club or the stadium but these suggestions were allegedly rejected by the organizers.

On 14 June, the Georgian Orthodox Patriarchate issued a statement condemning the Pride and calling upon the State not to allow the event to take place. More particularly, the statement considered the Tbilisi Pride to be "absolutely unacceptable" and that members of the LGBT community "adhere to the rules that are the sin of Sodom". The statement further noted that "the pride [parade] organizers are trying to make it look as if they are facing and fighting discrimination, but in reality they are striving to popularize and promote their way of life and further formalize it.". In the statement the patriarchate dissociated itself from any violence but declares "a great threat that may be caused by the so-called gay pride" and therefore, it called on the authorities to prevent the event which will cause "public outrage".

The same day, LGBT activists gathered in front of the State Chancellery (Government Administration) requesting the government to take position regarding the upcoming Tbilisi Pride.

In parallel, opponents to the Pride, including businessman [REDACTED] - one of the founders of Georgian Demographic Society XXI - members of the Union of Orthodox Parents, priests and right-wing activists, held a counterdemonstration in the same area resulting in confrontations between the two camps that led to the arrest of 28 persons.

According to information at our disposal, the Patrol Police Department released 21 persons the same evening and detained seven persons who were involved in the counterdemonstration in preliminary detention facilities on charges of disobedience to Police (article 173 of the Administrative Offences Code of

Georgia). The individuals had allegedly attempted to break the Police cordon aimed at protecting the safety of the participants.

On 15 June, [REDACTED], stated in a video address: “We will not allow the LGBT activists to hold any public action, wherever this would happen, in movie theatres, in parks, in the streets, in the mountains or on the lakes, we will visit you everywhere, we will break through any cordon, and we will overwhelm you”. The next day, during a meeting with supporters gathered in Vere Park, he announced a plan to ruin the Tbilisi Pride with a view to “protect and restore the order in Georgia”. [REDACTED] urged volunteers to join “people’s squads” which will be patrolling in Tbilisi from 18 June in order to prevent the Tbilisi Pride participants of the opportunity to hold the events scheduled.

Subsequently, the Ministry of Internal Affairs of Georgia launched an investigation against [REDACTED] on the facts of creating, joining and managing an illegal formation in accordance with Paragraph 1 of article 223 of the Criminal Code.

In a statement released on 17 June, the Ministry of Internal Affairs recalled that the only structure responsible for the provision of public order is the Ministry itself and that any attempt to fulfil the functions of the police or other State agencies will therefore be prevented. The Ministry further noted that it will respond and investigate every acts of violence, disobedience to the police or any other offenses.

A number of clergymen, members of the LGBT community and public figures, including members of Parliament, condemned [REDACTED] speech and attempted to ease the tensions and to build bridges for dialogue. For instance, orthodox Deacon Irakli Jinjolava and Father Leon released statements condemning hate speech, violence, aggressiveness and disobedience, recalling that love is at the heart of religion.

Similarly, the LGBT activist [REDACTED] sent an open letter to Ilia II, the Catholicos-Patriarch of Georgia, asking for “help and assistance” and noting: “We are neither monstrous nor demons. We want others to understand that the similarity between us is much more than the difference. We share the experiences of other societies and see that the gap between us can disappear.” In her letter, [REDACTED] adds that LGBT people need to “come out and be seen” and says that “it is impossible to live when people around hate us... Please help us and understand us on this difficult path”.

According to information at our disposal, most recently, the Ministry of Internal Affairs said that they were not in a position to guarantee security for the Pride if it were taking place in any outdoor area.

We acknowledge the significant efforts taken by your Excellency's Government to protect the security of the participants to the 14 June demonstration and to launch an investigation against [REDACTED] and welcome the statements made by the Ministry of Internal Affairs affirming the universality of the right to freedom of peaceful assembly and to freedom of expression and stating that it will respond firmly to any acts of violence. We are however concerned at acts of intimidation and threats against organizers and participants to the Tbilisi Pride, especially as these appear to be aimed at preventing the exercise of the rights to peaceful assembly and association, and to the freedom of expression of the LGBT community. In this connection, we note with concern that, since 2013, public celebrations by the LGBT community have been severely restricted or annulled, therefore hindering the exercise of the rights to peaceful assembly and to freedom of expression by the LGBT community.

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly and of association as recognized in articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Georgia on 3 May 1994. Interferences with the rights to freedom of peaceful assembly and of association are legitimate only insofar as they comply with the requirements of the ICCPR, see CCPR/C/21/Rev.1/Add. 13, para. 6. Thus, any restriction must be prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others', see CCPR/C/GC/34 para. 22 and Human Rights Council resolution 15/21, OP 4). As indicated by the UN Human rights Committee, States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression, CCPR/C/GC/34 para. 23.

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 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."

Additionally, we call on your Excellency's Government to ensure the effective protection of organizers and participants to public demonstrations and events related to sexual orientation and/or gender identity, as per articles 9 of the ICCPR which recognizes and protects the liberty and security of person to everyone, including LGBT persons (CCPR/C/GC/35, para. 3).

Finally, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Rights and Responsibility of Individuals,

Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, in particular article 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”.

With regard to article 7 of the Declaration on human rights defenders, the Special Rapporteur on the situation of human rights defenders 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.

In his report to the visit conducted in Georgia in 2018 (A/HRC/41/45/Add.1), the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity noted that since the 2013 IDAHOT celebration during which a small group of members of the LGBT community and their allies was attacked by a crowd of thousands, strong limitations put in the 17 May demonstrations have hampered the ability of the LGBT community to celebrate the International Day. In his report, the Independent Expert found consensus on the fact that clerics from the Orthodox Church and members of extremist groups were involved in inciting the violence.

The Independent Expert also noted with great concern that a significant part of society seemed to be convinced – according to a survey – that the whole community does not possess the rights to freedom of expression and peaceful assembly. He further noted that the fact that the State failed to publicly condemn the attacks perpetrated at the 2013 event and that the Church never made a public apology may have been understood by the general public as tacit acquiescence in the violence and may indirectly have fuelled discriminatory sentiments against the community.

In his report, the Independent Expert noted with appreciation that during his dialogue with authorities of the Patriarchate, they distance themselves and the Orthodox Church from the homophobic sentiments that had been expressed by some members of the clergy in 2013 and reaffirmed that tradition should never be used to justify violence and discrimination.

Finally, the Independent Expert called on the State to ascertain the measures necessary to enable the safe and peaceful celebration of IDAHOT and take preventive measures to deter violence, hatred and discriminatory attitudes and behaviours. He further

recommended to Georgia to launch mediation between the Orthodox Church and members of the LGBT community to find solutions that allow for peaceful coexistence and avoid unnecessary confrontations during demonstrations. Finally, her requested Georgia to adopt measures to ascertain the truth of the events of 17 May 2013, the establishment of different responsibilities and measures of reparation, including what assurances of non-repetition would be necessary.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the LGBT community 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

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 abovementioned 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. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate what measures have been taken to ensure that the legitimate right to assemble peacefully and the related right to freedom of expression is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
3. Please explain what measures have been taken or are envisaged to address the recommendations related to the rights of freedom peaceful assembly, association and of expression made by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity after his visit to Georgia in 2018.
4. Please explain measures taken to address acts of intimidation and threats against LGBT people, raise awareness about diverse sexual orientations

and gender identities, and promote tolerance and acceptance of the LGBT community within the wider society.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure the liberty and security of the LGBT community, prevent violations of their right to freedom of peaceful assembly and expression, and to ensure that the rights can be fully enjoyed without unnecessary restrictions.

We may decide to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public may need to be alerted to the potential implications of the above-mentioned allegations. The press release would indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Victor Madrigal-Borloz
Independent Expert on protection against violence and discrimination based on sexual
orientation and gender identity