

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief

Ref.: AL GRC 1/2022
(Please use this reference in your reply)

21 April 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 43/16, 43/4, 43/8 and 49/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the conviction and sentencing of human rights defenders Andrea Gilbert and Panayote Dimitras**.

Ms. Andrea Gilbert and Mr. Panayote Dimitras are members of the Greek Helsinki Monitor, a non-governmental organisation founded in 1993 to monitor and litigate on issues pertaining to human rights in Greece, including the rights of minorities and anti-discrimination. Ms. Gilbert is the organisation's Researcher on Antisemitism and LGBT+ Rights while Mr. Dimitras is its Spokesperson.

According to the information received:

On 29 April 2017, Ms. Gilbert and Mr. Dimitras submitted a complaint against a Bishop of the Greek Orthodox Church, the Metropolitan of Piraeus Seraphim, to the Attica Security Directorate at the Department for Combating Racist Violence. The complaint accused the Bishop of public incitement to violence or hatred, under article 1 of Law 927/1979, on punishing acts or activities aimed at racial discrimination, and abuse of ecclesiastical office, under article 196 of the Greek Penal Code. It was submitted by the human rights defenders in response to a publication the Bishop had released on the website of the Diocese of Piraeus the previous day, which allegedly included a series of antisemitic statements and tropes. While both human rights defenders were plaintiffs in the case, Ms. Gilbert was also acting as a civil complainant.

On 14 October 2019, over two years after the complaint was submitted by Ms. Gilbert and Mr. Dimitras, it was archived by the First Instance Prosecutor of Piraeus on the basis that the statement by the Bishop proclaimed the doctrine of the Greek Orthodox Church and was not antisemitic or racist in nature. This decision was allegedly not served to Ms. Gilbert, despite her having a right to appeal as a civil complainant.

On 7 April 2021, Ms. Gilbert and Mr. Dimitras were summoned upon order of the First Instance Prosecutor of Athens in relation to a complaint made against them by the Metropolitan of Piraeus, in which the Bishop alleged they had knowingly lodged false accusations against him, in violation of article 229 of the Greek Penal Code.

On 17 December 2021, Mr. Dimitras received a summons to face trial in the case. On 4 January 2022, Ms. Gilbert was also delivered a summons.

On 15 February 2022, Ms. Gilbert and Mr. Dimitras were convicted by the Three-Member Misdemeanors Court of Athens of making false accusations under article 229 of the Greek Penal Code and sentenced to twelve months imprisonment suspended for three years. They have appealed the decision, with a date for their appeal hearing yet to be set.

Without wishing to prejudge the accuracy of the information received, we wish to express our concern as to the criminal sanctions imposed upon Ms. Gilbert and Mr. Dimitras. We fear that the human rights defenders may have been pursued in the case in retaliation for their having raised legitimate concerns as to possible human rights violations, or incitement thereof, via established judicial mechanisms, and that the judicial proceedings launched against them in response may represent an attempt to deter them from exercising their right to bring such complaints in the future, in particular where powerful societal actors are the alleged perpetrators of the possible violations in question. We further fear that their conviction in the case will instill a chilling effect among others who would seek to raise concerns about possible human rights violations committed by powerful actors in Greek society.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information as to the legal and factual basis for the prosecution of Ms. Gilbert and Mr. Dimitras, and how the action pursued against them is compatible with Greece's regional and international human rights obligations.

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.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Fernand de Varennes
Special Rapporteur on minority issues

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 2, 18, 19, 20 and 27 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Greece on 5 May 1997, providing for the principle of non-discrimination, freedom of thought, conscience, religion or belief, freedom of opinion and expression, the prohibition on incitement to discrimination, hostility or violence by means of propaganda for war or any advocacy of national, racial or religious hatred, and the protection of the rights of persons belonging to minorities.

Concerning articles 19 and 20, the Human Rights Committee, in its General Comment No. 34 (CCPR/C/GC/34), has made clear that all acts addressed in article 20, which include any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, are to be subject to the restrictions pursuant to article 19, paragraph 3, and that State parties are required to prohibit such acts by law. Article 19 requires the States to guarantee the right to freedom of expression (paragraph 11).

We would also like to refer to 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 (A/RES/53/144, adopted on 9 December 1998), also known as the UN Declaration on Human Rights Defenders. In particular, we would like to draw your attention to articles 1, 2 and 9 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, and that everyone whose rights or freedoms are allegedly violated has the right to complain to and have that complaint promptly reviewed in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

Furthermore, we wish to refer to the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) which condemns discrimination and intolerance on the basis of religion or belief. In Article 4 (2), the General Assembly states that: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter". Moreover, the Special Rapporteur on freedom of religion or belief emphasized that "international human rights instruments also stress the responsibility of public officials to refrain from expressing religious, racial and other forms of intolerance, as well as a duty to condemn expression that, even if protected by law, nevertheless reflects antisemitic attitudes" (A/74/358, paragraph 55).