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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of 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 contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

REFERENCE: UA Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (78-15)
MKD 2/2013

5 July 2013

Dear Mr. Uzunovski

We have the honour to address you in our capacity as 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 contemporary forms of racism, racial discrimination, xenophobia and related intolerance pursuant to Human Rights Council resolutions 15/2, 16/5, and 16/33.

In this connection, we would like to draw the attention of your Government to information we have received concerning the **on-going harassment of lesbian, gay, bisexual, transgender and intersex (LGBTI) rights defenders**.

An urgent appeal on alleged physical attack and threats against LGBTI rights defenders was sent on 17 May 2013 to your Government by 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. We thank your Government for its preliminary response dated 25 June 2013.

According to the new information received:

On 22 June 2013, a group of masked individuals reportedly crashed the windows of the Helsinki Committee for Human Rights-run centre in support of LGBTI persons, located in the Old Bazaar in Skopje. The attack happened during an event which included the projection of a film and a forum for the rights of transgender people, at the start of the "Pride Week". One of the two police officers securing the event reportedly got injured. On the same day, an unidentified group of people

physically assaulted Mr. [REDACTED] [REDACTED], a teenager who was in the vicinity of a peaceful protest held by LGBTI activists near the Stone Bridge in Skopje. This attack was reportedly motivated by homophobia as it is believed that the assailants perceived Mr. [REDACTED] as taking part in the protest, but also by racism as they thought the victim was an ethnic Albanian. At the time of writing, the police were reportedly investigating the aforementioned incidents.

On 5 July 2013, unidentified individuals climbed on the roof of the abovementioned LGBTI support centre, removed several tiles, poured petrol, and set on fire the premises. Two square meters of the wooden roof construction were reportedly burnt. This attack occurred one day after ambassadors and representatives from the European Union, the Organization for Security and Cooperation in Europe, the United States of America, Sweden and the Netherlands visited the centre to discuss the attack of 22 June. Members of the centre reported the case to the police.

While welcoming the efforts of the police to monitor the conduct of the aforementioned event during the “Pride Week”, serious concerns are reiterated on the physical and psychological integrity of LGBTI rights defenders, in the exercise of their rights to freedom of association and of peaceful assembly.

Without in any way implying any determination on the facts of the case, we would like to refer your Government to article 21 of the International Covenant on Civil and Political Rights, ratified by the former Yugoslav Republic of Macedonia on 18 January 1994, which provides that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

Similarly, we would like to refer your Government to article 22 of the ICCPR, which provides that “[e]veryone 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.”

We would also like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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.”

We should further like to recall the right to equality and non-discrimination in accordance with your Government’s obligations under the International Convention on the Elimination of All Forms of Racial Discrimination such as the one established in article 5 (d) point vii, and other relevant international human rights instruments, including resolution 47/135 of 18 December 1992 adopted by the General Assembly entitled “Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities”.

In addition, we would also like to refer your 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 Government article 12 paras 2 and 3 of the Declaration 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.

With regard to article 7 of the Declaration on human rights defenders, the Special Rapporteur on the situation of human rights defenders has stated that the right to develop and discuss new human rights ideas is enshrined in the Declaration on Human Rights Defenders as an important provision for the on-going development and articulation of human rights. Article 7 provides for the right to discuss and advocate for human rights

ideas and principles that, in some contexts, are perceived as new or unpopular because they address human rights issues that might challenge tradition and culture. In this connection, the Special Rapporteur has encouraged States to do the necessary to guarantee the principle of pluralism and recognize the right of defenders to promote and advocate for new human rights ideas or ideas that are perceived as new. She has further 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.

We would also like to recall resolution 17/19 of the Human Rights Council, where the Council expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the LGBTI rights defenders in compliance with the above international instruments.

Moreover, since 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, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the three incidents. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecution which has been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please indicate whether compensation will be provided to the victims.
5. Please indicate what further protection measures will be taken to effectively put an end to acts of violence and harassment against LGBTI rights defenders and to ensure that they can work in a safe and enabling environment.

We undertake to ensure that your Government's response is reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Government to take all necessary measures to guarantee that the rights and freedoms of the LGBTI rights defenders 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 Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Mr. Uzunovski, the assurances of our highest consideration.

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of
association

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Special Rapporteur on the situation of human rights defenders

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