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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
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17 May 2013

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 16/4, 15/21 and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **the de-routing of the 2013 Chisinau Pride Parade**, currently scheduled to take place this Sunday, 19 May 2013.

According to the information received:

On or around 8 May 2013, pursuant to a request by GenderDoc-M, Moldova's premiere LGBT rights organization, the Chisinau municipality posted notification, pursuant to Moldova's Law on Public Assemblies of a Prime March "LGBT for Traditional Values", to be held on 19 May 2013, from 11:00-12:00 in the morning. The posted route was on Stefan cel Mare si Sfint Boulevard, from the building of the Ministry of Interior to the main square in front of the Government building. The posting indicated that GenderDoc-M expected 50 participants.

A number of widely broadcast public statements were subsequently made by high-ranking members of the Orthodox Church, urging the authorities to ban the march.

On 15 May 2013, GenderDoc-M reportedly received a notification from the Chisinau municipality that the march would be re-routed and moved from the centre of Chisinau to a marginal location of the city in the Valea Morilor. Reportedly, if no agreement is reached between GenderDoc-M and the Chisinau municipality, the case will be brought to court.

Concern is expressed about allegations this peaceful march may be re-routed, which may prevent individuals and human rights defenders involved in the organization of the mentioned parade to deliver their message to their targeted audience and to effectively defend and promote human rights, in this case the right not to be discriminated on the basis of sexual orientation and gender identity. Concern is similarly expressed about the physical and psychological integrity of individuals holding dissenting views or opinion to exercise their right to freedom of peaceful assembly and of expression.

While we do not wish to prejudge the accuracy of these allegations, we would like to recall the right to freedom of opinion and expression as set forth in article 19 of the International Covenant on Civil and Political Rights (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.”

We would further like to refer your Excellency's Government to article 21 of the ICCPR, which provides that "The 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.

In this connection, we would 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 would also like to refer to the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (HRC/20/27 (para. 40)), in which the Special Rapporteur underlines that “Restrictions [to freedom of peaceful assembly] must be facilitated within “sight and sound” of its object and target audience.”

Furthermore, we would like to refer your Excellency's 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”.

We would also like to bring to the attention of your Excellency’s Government the following provisions of the Declaration, and in particular article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

Moreover, in his 2012 report to the Human Rights Council following his September 2011 mission to Moldova, the Special Rapporteur on freedom of religion or belief expressed concern that “members of Lesbian Gay Bisexual and Transgender groups, were denied the use of central public spaces in Chisinau, reportedly as a result of opposition voiced by some sectors from within the Orthodox Church or affiliated groups.”

We should also like to refer to paragraph 59 of the mission report to Moldova of the Working Group on the issue of discrimination against women in law and in practice (A/HRC/23/50 Add. 1), which states that "The Working Group is concerned that Lesbian, Bisexual and Transgender (LBT) women are not able to enjoy the right to free assembly and association. For example, following the ban of “aggressive propaganda of non-traditional sexual orientation” and the declaration of “a support zone for the Orthodox Church” by the City Council of Bălți in March 2012, at least four other municipalities, two districts, and a village reportedly also issued similar ordinances."

Since it is our responsibility under the mandates provided to us by the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide information about the legal grounds for the authorities’ proposal to re-route a peaceful march.
3. Please indicate what measures have been taken to ensure that the Chisinau Pride March “LGBT for Traditional Values” takes place in a central public location as notified by the NGO GenderDoc-M, and what measures have been taken to ensure the safety and security of participants and others.

We would appreciate a response within sixty days. Your Excellency’s Government’s response will be made available in a report to the Human Rights Council for its consideration.

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

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

Frank La Rue
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freedom of opinion and expression

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Special Rapporteur on the rights to freedom of peaceful assembly and
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