

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE:
AL ARM 2/2019

18 April 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 35/15, 32/2, 34/18, 34/5 and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning threats received online, and incitement to violence against woman human rights defender Ms. Lara Aharonian. We have furthermore received information regarding death threats against transgender rights defender Ms. Lilit Martirosyan, allegedly as a result of her speech about the human rights of transgender people at a discussion about the United Nations Universal Periodic Review at the National Assembly of Armenia.

Ms. Lara Aharonian is a vocal women's rights defender in Armenia, working on gender equality and sexual and reproductive rights of women. She is the director of the Women Resource Centre Armenia (WRCA), a non-governmental organisation based in Yerevan, combatting discrimination based on gender and providing psychological and legal support to survivors of gender-based violence in Armenia.

Ms. Lilit Martirosyan is the president of the human rights organisation Right Side which focuses on transgender issues and provides support for members of the Armenian trans community. The Right Side promotes equal rights of all, regardless of their sexual orientation, gender identity or gender expression.

Threats and harassment against human rights defenders and Armenian organisations working on gender issues, including the WRCA, were previously addressed in Special Procedures communication ARM 1/2013, dated 10 September 2013. In light of reports of an increasingly difficult environment for women human rights defenders in Armenia and the new allegations, we wish to reiterate our concerns.

According to the new information received:

Ms. Lara Aharonian

In recent months, Ms. Aharonian and other women human rights defenders have faced several threats online. On 8 March 2019, Ms. Aharonian gave a speech in the context of the Civil Society Parliament cooperation platform for gender equality and equal opportunity. During her speech, she addressed the rights of particularly vulnerable groups, such as women in poverty, women with disabilities, single mothers, lesbian, trans and bisexual women. Immediately after this speech, she became the target of online threats, including death and rape threats, as well as threats to harm her family.

Most of the threats and attacks online appeared on social media platforms and include posts like “Women like you should be publicly burned alive, you fools (sic). Don’t slander the name of our nation. Armenia will be Armenian – the home’s mother and you are just trash.”, “We should beat them up like dogs.” and “Who will cut her throat?”

On 11 March 2019, Ms. Aharonian reported these threats to the General Department on Combating Organized Crime of the Police of the Republic of Armenia. It is reported that the threats against her and her family remain ongoing.

Ms. Lara Aharonian and her family have been facing threats related to her human rights work since 2013. The online threats and calls for violence against the WRCA in 2013 included calls to “blow up the Women’s Resource Centre” and to “burn the women’s human rights defenders” for speaking out on gender issues and challenging gender stereotypes in Armenian society. There were also reports of a member of the National Assembly attacking the WRCA verbally and filing an official complaint with the Prosecutor General’s office that aimed at criminalising the work of the Centre in promoting gender equality and combatting domestic violence. Ms. Aharonian had filed two complaints with the police in 2013 that led to an official investigation but did not result in the prosecution of the perpetrators.

Ms. Lilit Martirosyan

On 5 April 2019, Ms. Lilit Martirosyan talked about the dangers faced by the transgender community in Armenia at the discussion “National human rights agenda: UN Universal Periodic Review” which took place in the National Assembly of Armenia. This was the first time that transgender issues were raised in the National Assembly.

The chair of the Standing Committee on Human Rights and Public Affairs, Naira Zohrabyan, described Ms. Lilit Martirosyan’s speech as irrelevant and disrespectful to her, to the agenda, and to the National Assembly. Several civil society representatives left the building following these comments and the hearings were stopped later on.

After her speech, Ms. Lilit Martirosyan and her colleagues began to receive threats from prominent individuals, radical nationalists, religious groups, and media representatives. Unknown individuals also threatened her parents. On 8 April a group of demonstrators, including priests, members of Parliament, and radical groups, gathered outside the National Assembly to demand that the tribune be cleaned with incense as it had, according to them, been desecrated by the presence of a transgender person. They also called for the adoption of a law prohibiting the “propaganda of transgenders” and violence against Right Side staff and transgender people. The addresses of staff members of the Right Side NGO together with death threats and videos containing incitement to violence against Ms. Martirosyan are still being circulated among users on social media platforms.

In response to statements addressing the case issued by the EU and United Nations Armenia Office, the Armenian Ministry of Foreign Affairs published the following on 10 April 2019: "Therefore, [...] our international partners should show more respect and sensitivity towards the Armenian society and refrain from unnecessary directions of public debates, even if they do not agree with their tone. We would like to remind that the principle of public morality is part of international human rights obligations and cannot be ignored. In their turn, the Armenian authorities will not tolerate any unlawful acts and will continue to defend the constitutional rights of all citizens. "

Ms. Lilit Martirosyan reported these incidents to the police and the Armenian Ombudsman. The police opened an investigation and herself and her family were placed under police protection. Nonetheless, the recent escalation of targeted attacks against Ms. Martirosyan already forced her to temporarily leave the country. It is reported that her current location, which was only known to the police and very few people, was made public, which further puts her at risk.

Members of the Right Side NGO have previously reported threats and attacks against them: on 28 February 2018, one member was physically attacked by unknown men in her apartment in Yerevan.

While we do not wish to prejudge the accuracy of the information provided, we would like to express our serious concern at the ongoing threats, including death threats and threats of rape, against Ms. Aharonian and her family. Given the lack of results in the previous police investigations into cases of threats and online attacks against women human rights defenders, we are further concerned that this sends a message of tolerance and impunity for acts like this. We are further concerned due to the fact that online and ICT-facilitated acts of gender-based violence against women and girls include threats of such acts that result, or are likely to result, in psychological, physical, sexual harm or suffering to women. This could encourage negative social mobilisation leading to expression of intolerance, incitement to hatred, violence, including gender-based violence, as well as discriminatory practices against women and the perpetuation of

harmful stereotypes, effectively worsening the climate in which women human rights defenders exercise their vital work.

We express further concern about the well-being and safety of Lilit Martirosyan, her colleagues and her family members. While we welcome the police protection measures in place, we are concerned that the threats seem to be directly linked to her peaceful work protecting the human rights of transgender people in Armenia and fuelled by stigmatising statements and hate speech made by public officials. Our concerns are heightened by the fact that the death threats occur within the context of the discussion about the UN Universal Periodic Review in the National Assembly. Furthermore, we are concerned by the undermining of freedom of expression based on the lack of measures taken to create a safe and an enabling environment for freedom of expression, in particular for women and members of the LGBTI community, including in the online space.

We would like to recall that one of the recommendations put forward in the report on the situation of women human rights defenders presented by the Special Rapporteur on the situation of human rights defenders to the fortieth session of the Human Rights Council (A/HRC/40/60) is to prioritise the protection of women defenders in online spaces and adopt laws, policies and practices that protect their right to privacy and protect them from libel and hate speech. We would further like to recall that it is the obligation of the state to protect the right to freedom of opinion and expression of everyone, including protection against threats and violence arising from views expressed in the context of one's work as a human rights defender or journalist. Victims of violations of the right to freedom of expression have the right to an effective remedy, and states have a corresponding obligation to investigate effectively threats and acts of violence, and to bring to justice those responsible, to combat impunity.

In view of the urgency of the matter, we call on your Excellency's Government to investigate the threats and take all necessary measures to ensure the safety and security of Ms. Aharonian and Ms. Martirosyan and their families, and would appreciate a response on the initial steps taken to safeguard their human rights in compliance with international human rights instruments and standards.

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 the full details of any measures put in place to ensure the physical and psychological integrity of Ms. Lara Aharonian, Ms. Lilit Martirosyan, their colleagues and family members.
3. Please provide details of any investigations or inquiries that may have taken place, and in case no investigation has been carried out, please provide reasons as to why.
4. In the event that the alleged perpetrators of the above mentioned hate speech and hate crimes were identified, please provide the full details of any prosecutions undertaken. Have penal, administrative or other sanctions been imposed on the alleged perpetrators?
5. Please provide information on the measures your Excellency's Government has taken to publicly condemn the hate speech disseminated through public posts and comments on on-line platforms, including by opinion leaders and public figures.
6. Please provide information concerning any national legislation providing protection to victims of online violence.
7. Please indicate what measures have been taken to ensure that human rights defenders, including those defending women and LGBTI rights, can operate in an enabling environment and can carry out their legitimate activities without fear of threats, harassment or criminalisation of any kind.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. 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.

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

Victor Madrigal-Borloz

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

David Kaye

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

Dubravka Šimonović

Special Rapporteur on violence against women, its causes and consequences

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, without expressing at this stage an opinion on the facts of the case, we would like to recall Articles 2, 9, 17, 19, 20 and 26 of the International Covenant on Civil and Political Rights (ICCPR), to which Armenia acceded in 23 June 1993. These rights are of universal nature and apply to everyone, irrespective of their sexual orientation or gender identity.

We would like to refer to 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.”

We would like to also recall that the International Covenant on Civil and Political Rights provides in its Article 20(2) that States must prohibit by law and to ensure full enforcement of the law against every incident of advocacy of hatred that constitutes incitement to discrimination, hostility or violence in accordance with Article 20(2), which is further provided for by the Human Rights Committee in Paragraph 8 of its General Comment No. 34.

With respect to the threats against Ms. Aharonian and Ms. Martirosyan, we remind your Excellency that states parties have a positive obligation to exercise due diligence and ensure the protection of individuals against violations of rights, which may be committed not only by its agents, but also by private persons or entities (CCPR /C/103/D/1862/2009) and that it is incumbent upon States to provide “effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats,” (paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65).

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 Article 1, 2, and 6 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, as well as right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Article 7 of the same Declaration provides for the right to develop and discuss new human rights ideas and principles and to advocate their acceptance.

In 2018, the Special Rapporteur on the situation of human rights defenders expressed concern at the rise of the concept of “gender ideology” as posited by religious leaders, politicians and members of conservative groups, who, misunderstanding and misusing gender matters, describe the “ideology” as a threat to religious values, the family and morals in society (A/HRC/38/46, para. 14). He recommended that States ensure that women defenders enjoy a safe and enabling environment to exercise their rights, including through addressing systemic and structural discrimination and violence that women defenders experience and enacting laws that recognise and protect the rights of all human rights defenders, with a specific focus on the needs of women defenders. He also recommended that States prioritise the protection of women defenders in online spaces and adopt laws, policies and practices that protect their right to privacy and protect them from libel and hate speech (A/HRC/40/60).

We would like to recall that the Committee on the elimination of all forms of discrimination against women, in its General Recommendation 35 on gender-based violence, states that under general international law, as well as under international treaties, a private actor’s acts or omissions may engage the international responsibility of the State. It also recalls that Article 2 (e) of the Convention on the Elimination of all Forms of Discrimination against Women explicitly provides that States parties are required to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise. This obligation, frequently referred to as an obligation of due diligence, underpins the Convention as a whole and accordingly States parties will be responsible if they fail to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-State actors which result in gender-based violence against women.

We would also like to refer to resolution 24/21 of The Human Rights Council, which reminds States of their obligation to respect and fully protect the civil, political, economic, social and cultural rights of all individuals, inter alia the rights to freedom of expression and opinion and to assemble peacefully and associate freely, online as well as offline, including for persons espousing minority or dissenting views or beliefs, and that respect for all such rights, in relation to civil society, contributes to addressing and resolving challenges and issues that are important to society, such as (...) empowering persons belonging to minorities and vulnerable groups, (...) empowering women and youth, (...) and the realization of all human rights. (A/HRC/RES/24/21, para 1)

We would also like to remind your Excellency’s Government that States have the responsibility to protect persons from human rights violations committed by non-state actors, by exercising due diligence to prevent, punish, investigate and bring perpetrators to justice; this is set out by the Human Rights Committee General Comment No. 31 (CCPR/C/21/Rev.1/Add.13, paras. 8).

We would also like to recall resolutions 17/19, 27/32 and 32/2 of the Human Rights Council, expressing grave concern for acts of violence and discrimination based on sexual orientation and gender identity. On the basis of international human rights norms and standards and the work of the United Nations human rights treaty bodies and special procedures, the United Nations High Commissioner for Human Rights has

recommended that States, *inter alia*, prohibit discrimination and protect individuals from violence and discrimination on the basis of sexual orientation and gender identity; prohibit incitement of hatred and violence on the grounds of sexual orientation and gender identity, and holding to account those responsible for related hate speech; ensure that individuals can exercise their rights to freedom of expression, association and peaceful assembly in safety without discrimination on grounds of sexual orientation and gender identity and support public information campaigns to counter homophobia and transphobia (A/HRC/29/23, A/HRC/19/41).

In its 2018 report to the Human Rights Council, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity urged States to take measures to protect defenders and supporters of the rights of lesbian, gay, bisexual, trans and gender non-conforming persons from attacks, intimidation and other abuses, and to create safe and enabling spaces for their work (A/HRC/38/43).