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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the rights of indigenous peoples

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) Indigenous (2001-8)
RUS 7/2012

27 November 2012

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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the rights of indigenous peoples pursuant to Human Rights Council resolution 16/4, 15/21, 16/5, and 15/14.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the **alleged suspension of the Russian Association of Indigenous Peoples of the North by Government authorities**.

According to the information received:

The Russian Association of Indigenous Peoples of the North (RAIPON) is an organization formed in 1990 to promote the human rights of indigenous peoples in the North, Siberia and Far East regions of the Russian Federation. The organization represents 41 indigenous groups, around 34 regional and ethnic organizations and has various regional offices throughout the Russian Federation. RAIPON's work has focused on issues related to the protection of indigenous traditional lands, self-governance and social, economic and cultural development. RAIPON has been involved in the development of indigenous rights legislation and has sought to work with local and federal government authorities to that end. It has been reported that the organization has been active in voicing its opposition to oil production in traditional indigenous use areas in the Arctic region.

The organization has consultative status with the United Nations Economic and Social Council, is a permanent participant of the Arctic Council, and has observer status within the United Nations Environment Programme Governing Council/Global Ministerial Environment Forum. Members of RAIPON have

actively participated in national and international fora in promotion of indigenous peoples' rights, including through cross-border cooperation with indigenous peoples, organizations and governmental agencies from neighboring countries.

In November 2012, the Ministry of Justice of the Russian Federation ordered the suspension of RAIPON's activities until April 2013 reportedly due to noncompliance of the organization's charter and statutes with Russian federal legislation on "public associations". According to the information, RAIPON has previously attempted to adjust its internal statutes to meet the Ministry of Justice's requirements for registration of RAIPON as a public association. However, it has been reported that those changes have not been considered acceptable by the Ministry of Justice. The information received indicates that the Ministry of Justice's decision not to recognize those changes was based on its consideration that the organization's representatives who had made the adjustments to RAIPON's internal statutes were members of RAIPON's regional organizations and not officially recognized as "legal entities" and thus their actions were invalid. RAIPON has on two occasions disputed the Ministry's decision before domestic courts with no success and has planned to appeal those judgments.

It has been alleged that RAIPON's suspension has affected its ability to continue its work in the promotion of the rights of indigenous peoples and in its ability to participate in national and international cooperation efforts with other indigenous peoples and organizations. Concerns have been expressed that this action seriously undermines the rights to freedom of association and freedom of expression by indigenous peoples of the Russian Federation.

While we do not wish to prejudge the accuracy of this information, we would like to draw the attention of your Excellency's Government to relevant international standards that are applicable to the issues brought forth by the situation described above. Although Russia abstained from voting for the United Nations Declaration on the rights of indigenous peoples, we have previously noted that Government officials have expressed that the Russian Federation nonetheless accepted most of its provisions.

As stated in article 1 of the Declaration, "[i]ndigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law." The Declaration provides for the right of indigenous peoples to "maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State" (art. 5). Article 33(2) provides for indigenous peoples' right to "determine the structures and to select the membership of their institutions in accordance with their own procedures." Additionally, article 36 states that indigenous peoples divided by international borders "have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders." It further provides that "States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right."

The Declaration's provisions are grounded in core international human rights treaties ratified by the Russian Federation, including the International Covenant on Civil and Political Rights (ICCPR), which provides for the rights of freedom of expression, peaceful assembly and freedom of association (arts. 19, 21 and 22). Regarding the latter, the Covenant states that no restrictions on the exercise of freedom of association may be placed "other than those which are prescribed by 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."

Furthermore, the national legislation must allow associations to freely "determine their status, structure and activities and to make decisions without State interference" as mentioned in of the thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27, para. 96). In the same report the Special Rapporteur made clear that "[s]uspension or involuntarily dissolution of associations should be sanctioned by an impartial and independent court in case of a clear and imminent danger resulting in a flagrant violation of domestic laws, in compliance with international human rights law". (A/HRC/20/27, para. 100)

In this context, we would also like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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 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".

Furthermore, we would like to bring to the attention of your Excellency's Government article 5 points b) and c) of the Declaration, which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.

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 "[e]veryone 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."

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 above-mentioned organization and its staff in compliance with the above international instruments.

Further, as we continue to monitor and clarify the circumstances surrounding the present situation, we would be interested in knowing your Excellency's Government's views on the accuracy of the information contained in this letter, and we would be grateful to receive any additional information your Government may deem relevant. In particular, we would like to know further information about:

1. Whether the Russian Association of Indigenous Peoples of the North (RAIPON) was ordered to suspend its activities and if so, what was the legal basis for the suspension order?

2. If in the process leading to issuance of the suspension order, consideration was given to international human rights standards concerning the rights of indigenous peoples to freedom of expression, peaceful assembly and freedom of association, as well as their rights to form their own institutions and develop contacts, relations and cooperation with indigenous peoples and other peoples across international borders.

3. Please provide information on the current state of any legal actions and appeals instituted by RAIPON within domestic courts in relation to the substantive issues underlying the alleged suspension of its activities.

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 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.

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

Frank La Rue

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

Maina Kiai

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

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders

James Anaya

Special Rapporteur on the rights of indigenous peoples