

URGENT ACTION

LGBTI+ ACTIVIST CRIMINALISED FOR GRAFFITI PROTEST

Pierina Nochetti, a lesbian human rights activist, is facing criminal charges of “aggravated damage” for allegedly painting graffiti in protest questioning the disappearance of a young trans man in the city of Necochea, Argentina. Her trial is scheduled for 6 March and she s a sentence of up to 4 years in prison. The charges appear to be an unnecessary and disproportionate restriction on the right to freedom of expression that the authorities should drop.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

**José Luis Cipolletti,
Head prosecutor, UFI n°1, Departamental Necochea
Public Prosecutor's Office of the
Province of Buenos Aires**

Adress: Avenida 75, 371, Necochea, PBA, CP: 7630
Email: ufi1.ne@mpba.gov.ar; jcipolletti@mpba.gov.ar

Dear Head Prosecutor Jose Luis Cipolletti,

I am concerned over the prosecution of Pierina Nochetti on charges of “aggravated damage” for allegedly painting a graffiti in a public wall with the question “Where is Tehuel?”. This question has been a wide call of a collective claim for justice in the disappearance of a 21-year-old trans man when he was on his way to a job interview in 2021.

Pierina is an artist, educator, mother of three kids and the main provider for her family. She is also an employee of the local government, where she has already faced administrative reprisals for her activism during the 2022 Pride Parade, including salary reduction. Since there seems to be no record of accusations for other paintings on the same wall, which include hateful messages, I am concerned that she is being targeted for her activism in support of LGBTI+ rights, as well as for her gender identity, gender expression and sexual orientation. Pierina is at greater risk of discrimination due to her identity.

International human rights law requires restrictions to the right to freedom of expression to be clearly established in law, and to be necessary and proportionate to a legitimate aim. Criminalising an LGBTI+ activist solely for allegedly painting a graffiti in a public wall seems to be an unnecessary and disproportionate sanction that could have a further chilling effect deterring others from freely expressing their opinions and ideas.

I call on you to drop the charge of “aggravated damage” against Pierina Nochetti as it appears to be an unnecessary and disproportionate restriction on the right to freedom of expression. Imposing such charges on human rights defenders for freely expressing themselves sends a chilling message that could further curtail the right to protest peacefully.

Yours sincerely,

ADDITIONAL INFORMATION

Pierina Nochetti is a mother of three kids and the primary provider at home. She defines herself as a visible lesbian and an LGBTI+ activist. For a long time, she has participated on the committee organising the Pride Parade in Necochea, a coast town in the Buenos Aires Province. Over the years, she has shown a commitment to human rights speaking up to build a world where people can enjoy their human rights freely and equally.

Pierina Nochetti has been amplifying calls for justice in the disappearance of a young trans man, Tehuel de la Torre. Tehuel's family, together with transfeminist and LGBTI movements and human rights organisations, have led this campaign since his disappearance. Tehuel was last seen on 11 March 2021, when he was going to a job interview.

Pierina has already faced penalties involving a ten-day salary reduction at the local Government where she works. After that, they filed a criminal complaint on the graffiti and have promoted the legal action against her. This prosecution comes after Pierina spoke to her superiors about her unequal conditions and treatment at work potentially based on her sexual orientation and gender identity.

Argentina is a party to various international human rights treaties that protect the right to freedom of expression, including the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights. Under international human rights law, restrictions to the right to freedom of expression must be provided by law and be necessary and proportionate to a legitimate aim. The UN Human Rights Committee has clarified that penalties for damages to property in the context of protests need to be narrowly construed, and has set a high threshold for considering pursuing cases only when damages are "serious" as they would otherwise constitute an undue restriction.

There has been much progress in protecting the rights of LGBTI+ people in Argentina in the last decades, including equal marriage, the right to gender identity, the right to an employment quota for trans people in the public sector, the right to abortion and the right to comprehensive sexual education, among others. However, LGBTI people, primarily trans and non-binary people, experience severe discrimination in accessing their rights to health, employment, education and the right to live free from violence based on their gender identity or sexual orientation. In 2022, the National Observatory of LGBT Hate Crimes registered 129 hate crimes in Argentina against people because of their identity, gender expression or sexual orientation: 84% of these attacks were against trans women. Of the total number of crimes, 40 were attacks against physical integrity. This violence and exclusion are more profound when analysed from an intersectional perspective, including LGBTI+ activists and defenders.

Name: Pierina Nochetti.

DEMAND TO STOP THE PROSECUTION AGAINST LGBTI+ ACTIVIST AND DROP THE CRIMINAL CHARGES

PREFERRED LANGUAGE TO ADDRESS TARGET: [SPANISH]

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: [5th March 2024, as the 6th the trial starts]

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PREFERRED PRONOUN: [Criminal Prosecutor Jose Luis Cipolletti] (he/him)

LINK TO PREVIOUS UA: [n/a]