



## **SOUTH AFRICAN PERMANENT MISSION GENEVA**

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Ref: 235/2020

The Permanent Mission of the Republic of South Africa to the United Nations Office at Geneva and other International Organisations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and has the honour to refer to the Joint Communication dated 3 June 2020, reference number: AL ZAF1/2020.

The Permanent Mission of the Republic South Africa hereby submits the Government of South Africa's response regarding joint Communication from the United Nations Special procedures on alleged verbal and physical assault against a journalist P. Nthoba, by South African police officers.

The Permanent Mission of the Republic of South Africa to the United Nations Office at Geneva and other International Organisations in Switzerland avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 21 December 2020



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Dear Special Procedures

**Response to Joint Communication from United Nations Special Procedures on alleged verbal and physical assault against a journalist, Mr Paul Nthoba, by South African police officers**

In relation to the above-mentioned matter, I wish to advise as follows.

With regard to information on the legal and factual basis for the charges against Mr Nthoba, the South African Police Service (SAPS) informed that Mr Nthoba was arrested by members of the SAPS in May 2020 and was subsequently charged with contravening the COVID-19 lockdown (level 4) regulations, which were promulgated under the Disaster Management Act (Case No. 401/05/2020). The charge is in relation to the contravention of the regulations related to Mr Nthoba leaving his place of residence for reasons not authorised under the Act and its regulations.

Mr Nthoba alleged that when he was arrested by members of the SAPS, he was verbally and physically assaulted. The SAPS confirmed that Mr Nthoba registered a criminal case of assault at Ficksburg Police Station under case number CAS 402/05/2020. This case was referred to the Independent Police Investigative Directorate (IPID), for investigation.

Mr Nthoba was released on warning (SAPS 496 number A360433) on 15 May 2020. According to the SAPS, Mr Nthoba was supposed to appear in court on 27 August 2020. The Police have indicated that they will monitor the outcome of Ficksburg CAS 401/05/2020 case and regard the matter as finalised.

Furthermore, additional information was sought from the IPID. The latter confirmed that investigations relating to the alleged assault of Mr Nthoba by the police were ongoing (CAS 402/05/2020). In this regard, I would like to bring to your kind attention the following points as conveyed by the IPID on the investigation they conducted.

1. IPID was notified of the case on 15 May 2020 and attempts were made to contact the complainant, Mr Paul Nthoba by telephone on 17 May 2020. Several phone calls were made but his phone was not answered. On 18 May 2020, the IPID investigating officer managed to interview Mr Nthoba, who also reported that he was in hiding at his aunt's home. He indicated that he wanted to make a detailed supplementary statement, as the initial one was a summary.
2. Mr Nthoba and the IPID investigating officer agreed to meet on 19 and 20 May 2020 to formalise the statement, which would include where his witness resides. They also agreed that Mr Nthoba would phone the IPID investigating officer whenever he felt threatened by the police.

3. On the afternoon of 19 May 2020, the IPID investigating officer made several telephone calls to Mr Nthoba in order to finalise the statement, Mr Nthoba's phone was not answered. The officer then proceeded to the residence of Mr Nthoba's aunt, and was informed that Mr Nthoba had returned to his home, which is in the same township of Meqheleng, Ficksburg. The investigating officer went to Mr Nthoba's home but did not find him. He went back for a second time later on the same day, but still did not find him and his phone continued to go unanswered.
4. It was only through media queries that the IPID investigative officer became aware that Mr Nthoba might have crossed the border into neighbouring Lesotho.
5. The IPID officer later managed to make contact with Mr Nthoba who indicated that he was serving a COVID-19 quarantine period required when entering Lesotho. He also indicated that once back in South Africa, he would finalise his statement with the investigating officer. The investigation continued and the relevant police dockets and medical reports obtained.
6. On 24 June 2020, Mr Nthoba was repatriated to South Africa. Once again, he had to serve a compulsory COVID-19 quarantine on arrival, and his supplementary statement was received on 25 June 2020.
7. Mr Nthoba was interviewed regarding his safety concerns and was informed that IPID was in the process of arranging for him to be placed under witness protection. Mr Nthoba declined this offer, indicating that he preferred to return to his family.
8. In October 2020, the Acting Director of Public Prosecutions indicated that four officers would be charged with two counts of assault in the Magistrate's Court. In addition, after consultation, the prosecutor may bring further charges should the need arise.

The South African Government stands ready to provide the Special Procedures with additional information if required.

Yours sincerely



**Dr GNM Pandor, MP**

Minister of International Relations and Cooperation

Date: 6-11-2020.

Ms Beatriz Balbin

Chief: Special Procedures Branch

Office of the United Nations High Commissioner for Human Rights (OHCHR)

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**GENEVA**

Mr David Kaye

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

Ms Mary Lawlor

Special Rapporteur on the situation of human rights defenders

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Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment