

*Mission Permanente
du Royaume du Maroc
Genève*



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La Mission Permanente du Royaume du Maroc auprès de l'Office des Nations Unies et des autres Organisations Internationales à Genève présente ses compliments au Haut-Commissariat aux Droits de l'Homme – Service des procédures spéciales et, en référence à sa correspondance en date du 30 juillet 2025, a l'honneur de lui faire parvenir ci-joint les éléments de réponse des Autorités marocaines à la communication conjointe sous la référence AL MAR 5/2025 concernant le cas de M'Hamed Hali.

La Mission Permanente du Royaume du Maroc auprès de l'Office des Nations Unies et des autres Organisations Internationales à Genève saisit cette occasion pour renouveler au Haut-Commissariat aux Droits de l'Homme – Service des procédures spéciales de l'ordre les expressions de sa parfaite considération.



Genève, le 26 septembre 2025

Haut-Commissariat aux Droits de l'Homme
Service des procédures spéciales
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(Translated from Arabic)

Permanent Mission of the Kingdom of Morocco

Geneva

Kingdom of Morocco

Reply of the Moroccan authorities to joint communication No. AL MAR 5/2025.

Joint communication No. AL MAR 5/2025, concerning the case of Mr. M'hamed Hali, was received from the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The Moroccan authorities hereby submit the following observations and explanations in regard of that communication:

I. General observations

1. The Moroccan authorities wish to emphasize their complete openness and their desire to engage in constructive cooperation with the special procedures mechanism within a framework of objectivity, good faith and impartiality, which are fundamental principles for supporting and encouraging States to promote and advance respect for human rights.
2. Since the Moroccan authorities can confirm the correctness of the detailed information and explanations they previously provided regarding the case in question, in their reply to joint communication AL MAR 3/2022, they have to wonder what value there can be in the clarifications now being sought by the mandate holders, particularly since the most recent communication merely repeats the allegations contained in the previous one.
3. The Moroccan authorities categorically reject the allegations contained in the joint communication, especially as concerns the methodology used by the source, a methodology based on distorting facts in order to present a warped picture of the human rights situation in the southern provinces of Morocco and on making value judgments that lack any legal or factual basis. The authorities also regret to see the individual communications procedure being used to serve political agendas that go beyond the noble objectives for which that procedure was created, which was to support and encourage States in their efforts to respect and promote human rights.
4. The authorities have, therefore, sought to reply to the inaccuracies and false allegations contained in the joint communication, using only official information and documents emanating from the competent judicial and administrative authorities, as well as other documentation, all of which testifies to the respect that has been shown for all the legal and procedural safeguards envisaged in national law and in international treaties, particularly the International Covenant on

Civil and Political Rights, the Basic Principles on the Independence of the Judiciary, and the Basic Principles on the Role of Lawyers.

II. Facts and procedures

5. It is important to bear in mind at the outset that the legal profession in Morocco is regulated by Act No. 28.08, and that lawyers exercise their functions under the aegis of the Bar Associations, of which there is one for each court of appeal. The Bar Association, which has legal personality, undertakes its duties independently and operates under its own internal regulations (Code of Conduct). The main role of the Association is to represent the legal profession before the State, State institutions and other entities, to ensure the welfare of lawyers, defend their interests and protect and promote their independence.

6. Under the aforementioned Act, in order to practise law in Morocco, candidates must not only fulfil a body of general requirements but also submit an application for registration on the list of trainee lawyers to the president of the Bar Association where they wish to complete their training. The board of the Association then conducts an investigation into the candidate's moral character, using any means it deems appropriate. The board may decide whether applications meet all requirements vis-à-vis documentation and other aspects but may not take any decision to reject or accept an application without first hearing the candidate.

7. On 2 October 2019, Mr. M'hamed Hali submitted an application to be registered on the list of trainee lawyers at the Bar Association of the courts of appeal of Agadir, Guelmim and Laayoune. Acting under article 11 of the aforementioned Act, the president of the Association requested the Prosecutor-General of the King at the court of appeal in Laayoune to conduct an administrative investigation into the candidate's moral character.

8. After meeting with Mr. M'hamed Hali on 3 February 2020, the board of the Association issued a decision rejecting his request to be registered as a trainee lawyer, on the grounds that he had not provided sufficient guarantees of compliance with the ethical standards required for the practice of law. This was because the investigation conducted under article 11 of Act No. 28.08 showed that he had committed acts that constituted incitement to war and violence, that undermined national values and that threatened State security and public peace. Such acts amount to a violation of the Constitution and national law, the duties of citizenship and the principles governing the legal profession, as well as being an abuse of the professional oath that imposes respect for judicial institutions and the rules of the profession to which the candidate aspires to belong.

9. On 26 February 2020, the individual in question lodged an appeal with the court of appeal of Agadir against the Bar Association's decision to reject his application, and on 7 October 2020 the court – having first examined the case file, considered the depositions of the parties and scrutinized

grounds whatsoever to justify the conclusion it reaches, which would effectively represent an insurmountable obstacle to appeal and to judicial oversight over the validity of that decision or ruling.

13. As concerns an independent assessment of the legitimacy of the grounds adduced in decisions of the Bar Association, it is important to bear in mind that decisions of this type are subject to judicial review in the form of an appeal to the courts, which then determine the legality of such decisions. In the present case, the party in question, via his defence team, lodged an appeal with the court of appeal of Agadir, sitting in chambers. The appeal, which set forth both formal and substantive arguments, was lodged in accordance with articles 94 and 95 of Act No. 28.08. On 7 October 2020, the court of appeal – having observed all due fair trial safeguards – handed down a reasoned ruling upholding the legal grounds adduced in the contested decision not to admit the party concerned to the list of trainee lawyers. In its ruling, the court emphasized that, in order to enter the legal profession, it is not sufficient for candidates merely to fulfil the conditions described in article 5 of Act No. 28.08, including the requirement to hold Moroccan nationality. They must also fulfil the conditions set forth in article 11 of the Act, including a positive outcome of the Bar Association’s investigation into their moral character. In the current case, the court made it clear that – according to the outcome of the investigation carried out under article 11 of Act No. 28.08 – the actions of the party concerned exceeded freedom of expression as guaranteed under the Constitution and international treaties, and amounted to a violation of national values, laws, internal regulations, State security and public peace, and were incompatible with the requirements of the legal profession. The outcome of the appeal was immediately communicated to the person concerned. He then challenged that outcome before the administrative chamber of the Court of Cassation, which is the highest instance of the administrative courts in Morocco. Having completed all due procedural measures related to the case, the administrative chamber of the Court of Cassation issued a ruling rejecting his appeal.

14. In response to the allegation concerning a lack of transparency in the “social investigation” carried out by the police and the absence of a confrontation, it is important to note that the investigation into the complainant as a candidate for admission to the legal profession was conducted following a body of controls that are regulated by law and professional practice. It was an administrative investigation carried out under the supervision of the Public Prosecutor’s Office that has jurisdiction over the area in which the individual in question resides. The procedure – which is applicable to all candidates without discrimination – is a mandatory requirement for admission to the legal profession as it serves to ensure that candidates’ moral character is consistent with national values and sufficient for the exercise of the legal profession. The investigation is

conducted in the absence of the person concerned. In fact, according to national law, it is not enough for candidates to meet the general requirements specified in article 5 of the Act, it is also necessary for an investigation to be conducted under the supervision of the Public Prosecutor's Office. This is what happened in the case in question, which involved the same investigation procedures as for any other candidate seeking to be admitted to the list of trainee lawyers. The investigation takes the form of an inquiry into conduct and ethics; it does not concern criminal records.

15. In line with the procedure followed by the board of the Bar Association and with article 11 (8) of the aforementioned Act, as soon as the report of the investigation had been submitted to the registry of the Association, a judicial summons was issued to the candidate, which was delivered to him in person on 30 January 2020. He appeared before the Bar Association on 3 February 2020 and was confronted with the findings of the investigation; however, he was unable to provide any evidence or acceptable justification to refute those findings. The party concerned lodged an appeal against the administrative investigation conducted in his regard. One of the grounds adduced for the appeal was the alleged discriminatory nature of the investigation procedure and the failure on the part of investigators to hear his own account. The appeal was examined by the court of appeal, sitting in chambers – one of the safeguards entrusted to the court being that of determining the legality of decisions taken by Bar Association – which reached the conclusion that the administrative investigation had been conducted in full compliance with current legal requirements in force, and that it could not be considered as defective under the law. This is because administrative investigations of this type are limited to collecting information about the conduct and ethics of candidates to the legal profession, and do not require the person who is the subject of the investigation to be heard. This means that the administrative investigation was carried out according to correct procedure and that the legal grounds currently being invoked by the source are invalid.

16. The allegation was made that the removal of the individual in question from the list of lawyers, while ostensibly done on grounds of ethical violations, appears, in fact, to be a retaliatory measure against him for exercising his right to freedom of expression and defending certain causes. The Moroccan authorities are deeply surprised by the suggestion that the decision to reject this person's application is linked to the exercise of freedom of opinion and expression. The facts outlined above demonstrate the exact contrary, as the behaviour and actions identified in the investigation cannot in any way be considered as defending human rights and do not fall within the internationally recognized standards and criteria for freedom of opinion and expression. That conduct, in fact, apart from being at variance with national law, is fundamentally contrary to good

morals, which is an essential requirement for admission to the legal profession and the practice of the law, and which are precisely the qualities that the Bar Association has to verify in candidates.

17. Such behaviour is, in fact, unacceptable under national law as well as under international human rights norms (art. 20 of the International Covenant on Civil and Political Rights). Nor is it admissible under international jurisprudence. Indeed, the European Court of Human Rights has previously confirmed in one of its judgments that complainants cannot benefit from the protection of article 10 of the European Convention on Human Rights, because they exploited the right to freedom of expression for purposes contrary to the values of the Convention, in particular by inciting violence or supporting terrorist activities.¹

18. It should also be noted that Bar Associations, as independent professional bodies with legal personality, also enjoy independence in their decision-making, in accordance with international standards, in particular the 1990 United Nations Basic Principles on the Role of Lawyers. As such, they have the legal authority to determine whether candidates meet the legal requirements set forth in articles 5 and 11 of the above-mentioned Act No. 28.08. Their decisions in this regard are subject to oversight only by the courts, within the framework of the legally authorized appeals process. The person concerned in the present case duly exercised that right while also enjoying the right to a defence and all fair trial guarantees at every stage of the proceedings.

19. For these reasons, the Moroccan authorities wish to make it clear that the rejection of the request in question has absolutely no connection with the exercise of freedom of opinion and expression, which remains guaranteed under the Constitution and national law, equally and in the same manner, for all citizens in all regions of Morocco. Furthermore, the international human rights instruments to which Morocco is a party all state that freedom of opinion and expression remains subject to legitimate restrictions and exceptions aimed at protecting national security, public order, public health and morals, and the rights and reputation of others. This is clearly stipulated in article 29 of the Universal Declaration of Human Rights and in article 19 (3) of the International Covenant on Civil and Political Rights. The same principle is enunciated in general comment No. 34 of the Human Rights Committee as well as in the Basic Principles on the Role of Lawyers, paragraph 23 of which affirms that lawyers are entitled to freedom of expression, belief, association and assembly, in accordance with the law and the recognized standards and ethics of the legal profession.

20. Accordingly, the Moroccan authorities reiterate their deep surprise at the fact that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has taken up the complaint, particularly as the relevant facts do not fall within her

¹ *Sürek (No. 1) v. Turkey*, 8 July 1999 (Grand Chamber).

mandate but relate rather to regulatory and ethical issues surrounding independent professional practice.

21. In the same way, the Moroccan authorities would like to draw attention to the fact that entry to the legal profession in Morocco as a profession regulated by law to defend rights and freedoms – be it via the Bar Association to which this person sought access or through any other Bar Association – remains a right guaranteed to all citizens of Morocco and to citizens of countries that have an agreement with Morocco. This right is without discrimination of any kind and on condition that the persons concerned comply with national law and the Constitution. A confirmation of this state of affairs is the number of officially registered lawyers in Morocco, which stood at 15,664 as of September 2025. They are free to practise their profession and exercise their rights, foremost among which are freedom of opinion, expression, association and assembly, while respecting the laws and institutions.

22. Lastly, as concerns measures taken to protect human rights defenders, the Moroccan authorities reiterate the information already submitted in that regard in replies to joint communications No. AL MAR 3/2025 and No. AL MAR 1/2025.