

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; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning the alleged arbitrary arrest and detention of the following fourteen human rights activists**: Mr. Henrique Luaty da Silva Beirão, Mr. Manuel Chivonde, Mr. Nuno Álvaro Dala, Mr. Afonso Mahenda Matias, Mr. Nelson Dibango Mendes dos Santos, Mr. Hitler Jessy Chivonde, Mr. Albano Evaristo Bingobingo, Mr. Sedrick Domingos de Carvalho, Mr. Fernando António Tomás, Mr. Arante Kivuvu Italiano Lopes, Mr. Benedito Jeremias, Mr. José Gomes Hata, Mr. Inocência António de Brito and Mr. Domingos da Cruz, as well as the situation of Mr. Osvaldo Sérgio Correia Caholo. We would also like to draw your Excellency's attention to the charges pressed against them and Ms. Rosa Kusso Conde and Ms. Laurinda Manuel Gouveia, as well as the current health situation of Mr. Henrique Luaty da Silva Beirão.

According to the information received:

Mr. Henrique Luaty da Silva Beirão, also known as Luaty Beirão, is a 33-year old musician and member of Central Angola 7311, an online platform created by a group of young people to document human rights violations. He has also recently

been involved in the preparation of the “Buzina Só” social justice campaign, organized through social media.

Mr. Manuel Chivonde, also known as Manuel Nito Alves, is an 18-year old student.

Mr. Afonso Mahenda Matias, known as Mbanza Hanza, is a 30-year old primary school teacher. M. da Silva Beirão, Mr. Chivonde and Mr. Mahenda Matia were subject of a previous communication sent by the Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and association, on 26 April 2013, see A/HRC/25/74, case number AGO 2/2013. We acknowledge receipt of the response by your Excellency’s Government to this communication dated 30 September 2013.

Mr. Nuno Álvaro Dala, is a 31-year old university lecturer at the Technical University of Angola (UTANGA). He is also a teacher at the Centre for Services and Integration of Children with Special Needs.

Mr. Nelson Dibango Mendes dos Santos is a 32-year old computer technician, who runs his own IT company.

Mr. Hitler Jessy Chivonde, known as Hitler Samussuko, is a 25-year old student and musician.

Mr. Albano Evaristo Bingobingo is a 29-year old driver.

Mr. Sedrick Domingos de Carvalho is a 25-year old journalist with the newspapers Folha 8 and O Golo.

Mr. Fernando António Tomás, also known as Nicolas o Radical, is a 37-year old, generator technician, who runs his own company.

Mr. Arante Kivuvu Italiano Lopes is a 20-year old student.

Mr. Benedito Jeremias, known as Dito Dali, is a 26-year old student.

Mr. José Gomes Hata, known as Cheick Hata, is a 29-year old musician.

Mr. Inocência António de Brito is a 28-year old student and head of the Boy Scouts São Francisco de Assis' Parish in Viana.

Mr. Domingos da Cruz is a 31-year old journalist, human rights defender and writer. He is also a lecturer at the Independent University of Angola as well as the Coordinator of the Observatório de Imprensa (Observatory of the Press), a platform created in December 2014 to monitor the Angolan press in order to defend democracy and freedom of expression.

Mr. Osvaldo Sérgio Correia Caholo is a 26-year old Lieutenant in the National Air Force. He is also a lecturer in African History at UTANGA.

It is reported that on 20 June 2015, Mr. Henrique Luaty da Silva Beirão, Mr. Manuel Chivonde, Mr. Nuno Álvaro Dala, Mr. Afonso Mahenda Matias, Mr. Nelson Dibango Mendes dos Santos, Mr. Hitler Jessy Chivonde, Mr. Albano Evaristo Bingobingo, Mr. Sedrick Domingos de Carvalho, Mr. Fernando António Tomás, Mr. Arante Kivuvu Italiano Lopes, Mr. Benedito Jeremias, Mr. José Gomes Hata and Mr. Inocência António de Brito were reportedly arrested by Angolan security forces in Luanda. Mr. Domingos da Cruz and Mr. Osvaldo Sérgio Correia Caholo were arrested on 21 and 24 June respectively. These arrests occurred after the abovementioned activists and Mr. Osvaldo Sérgio Correia Caholo had attended several peaceful meetings to raise concerns over good governance, as well as to discuss the principle of non-violent protest.

Following their arrest, Mr. Afonso Mahenda Matias was detained at the prison “Cadeia de Caquila” in the province of Bengo; Mr. José Gomes Hata, Mr. Hitler Jessy Chivonde, Mr. Albano Evaristo Bingobingo, Mr. Nelson Dibango Mendes dos Santos, Mr. Nuno Álvaro Dala and Mr. Benedito Jeremias were detained at the prison “Comarca Central de Luanda”; and the other activists were detained at the prison “Cadeia de Calomboloca” in Icolo e Bengo. The whereabouts of Mr. Fernando António Tomás and Mr. Osvaldo Sérgio Correia Caholo remained unknown for a few days.

On 26 June 2015, the Attorney General’s Office issued a decision imposing an isolation regime on the fourteen activists and Mr. Osvaldo Sérgio Correia Caholo, preventing them from contacting their lawyers and their families for 10 days. At the end of this period, the fourteen detained activists and Mr. Osvaldo Sérgio Correia Caholo finally had access to their lawyers.

On 16 September 2015, the fourteen abovementioned activists and Mr. Osvaldo Sérgio Correia Caholo were formally charged with “crime of preparatory acts to practice rebellion” as well as “plotting against the President and other sovereign institutions”. These charges are considered as crimes against the security of the Angolan State under the Law 23/10 of 3 December 2010 and the accused face up to three years’ imprisonment or a corresponding fine (article 28). On the same

day, Ms. Rosa Kusso Conde and Ms. Laurinda Manuel Gouveia, who are also human rights activists, were also charged alongside the fourteen detained activists and Mr. Osvaldo Sérgio Correia Caholo, but they remain free while awaiting their trial. They also attended several meetings alongside the detained activists. In addition to the charges indicated above, Mr. Osvaldo Sérgio Correia Caholo was also charged with “misappropriation of documents” (Article 424 of the Angolan Penal Code), Mr. Manuel Chivonde with “illegal alteration of his name/identity” (Article 234 of the Angolan Penal Code) and Mr. Henrique Luaty da Silva Beirão with three crimes of falsification of documents (Article 216 of the Angolan Penal Code).

On 8 October 2015, the Provincial Court of Luanda formally notified the fifteen abovementioned detained persons of their indictment. They were allegedly held in pre-trial detention for longer than 90 days, in breach of the law.

Between 9 and 14 October 2015, it is reported that Mr. Benedicto Jeremias, Mr. Albano Evaristo Bingobingo and Mr. Afonso Mahenda Matias were beaten with electric truncheons by the police after protesting against the fact that they were not able to talk to each other during breaks.

On 20 September, some of the detained activists went on hunger strike to protest against their arbitrary detention. Mr. Henrique Luaty da Silva Beirão is the only one remaining on hunger strike at the moment. From the beginning of his hunger strike, Mr. da Silva Beirão was only drinking water mixed with salt and sugar provided by his family. He had difficulties to ingest liquids and to walk, in addition to experiencing stomach pain. On 2 October 2015, Mr. da Silva Beirão was transferred a first time to the Prison Hospital of São Paulo, from where he was sent back to the prison “Cadeia de Calomboloca” the weekend following his admission, without being provided a thorough medical examination. On 9 October 2015, as his health condition had critically deteriorated, he was transferred a second time to the Prison Hospital of São Paulo and he agreed to take intravenous saline for the first time on 11 October 2015. On 15 October 2015, Mr. da Silva Beirão was transferred to a private hospital named Clinica Girassol, after several European Union representatives met with the Angolan Minister of Justice on 14 October 2015. On 17 October 2015, it is reported that some European Union representatives met with Mr. da Silva Beirão.

On 18 October 2015, the fourteen activists and Mr. Osvaldo Sérgio Correia Caholo were transferred to the Prison Hospital of São Paulo, while Mr. da Silva Beirão remained at the Clinica Girassol.

On 19 October 2015, it was reported that the activists’ trial will take place between 16 and 20 November 2016 at the Provincial Court of Luanda.

Serious concern is expressed regarding the alleged arbitrary arrest and detention of the fourteen human rights activists and Mr. Osvaldo Sérgio Correia Caholo; the charges brought against them, and the ensuing judicial proceedings, which seem to be aimed at preventing them from peacefully exercising their legitimate human rights activities, including their rights to freedom of expression and peaceful assembly. We are particularly concerned at the apparent use, in this case, of criminal law proceedings to silence non-violent dissenting voices and criticism of the Government. Further concern is expressed regarding the health situation of Mr. Henrique Luaty da Silva Beirão.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the international principles and norms applicable to the present case. In particular the above allegations appear to be in contravention to Article 9 and Article 10 of the Universal Declaration of Human Rights (UDHR) and Article 9 and Article 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Angola on 10 January 1992. These articles refer to the right not to be deprived arbitrarily of liberty and the right to a fair hearing. They also appear to contravene the rights to freedom of expression and opinion, freedom of peaceful assembly and freedom of association as set forth in articles 19 and 21 respectively, of the ICCPR, and articles 9 and 11 of the African Charter on Human and People's Rights, which Angola ratified on 2 March 1990. Any restrictions, in particular to the exercise of the right freedom of expression, in accordance with article 19(3) ICCPR, must be provided by law and necessary and proportionate. We recall that, in circumstances of public debate concerning public figures and institutions, the value placed by the ICCPR upon uninhibited expression is particularly high and the fact that forms of expression are considered to be critical of public figures is not sufficient to justify the imposition of penalties (CCPR/C/CG/34, para. 38).

We would also like to refer to article XII (1) of the Declaration of Principles on Freedom of Expression in Africa, where public figures shall be required to tolerate a greater degree of criticism and any sanctions imposed for such criticism should not be so severe as to inhibit the right to freedom of expression.

These allegations further appear to contravene the provisions of 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, also known as the UN Declaration on Human Rights Defenders, in particular, its articles 1, 2, 5 and 12.

Last, the Special Rapporteur on the rights to freedom of peaceful assembly and of association reiterates that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline (A/HRC/RES/24/5, op. 2).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 person(s) in compliance with international instruments, in particular the obligations of Angola under the international treaties it has ratified.

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 any comment you may have on the above mentioned allegations.
2. Please provide information concerning the factual and legal grounds for the arrest and detention of the fourteen abovementioned human rights activists, of Mr. Osvaldo Sérgio Correia Caholo, Ms. Rosa Kusso Conde and Ms. Laurinda Manuel Gouveia, as well as the charges brought against them.
3. Please indicate what measures have been taken to ensure the physical and psychological integrity of all the fifteen abovementioned persons while in detention.
4. Please provide information on whether Mr. Henrique Luaty da Silva Beirão has had access to appropriate medical treatment.
5. Please provide detailed information concerning measures taken to ensure that human rights defenders can carry out their legitimate work and peacefully exercise their rights to freedom of assembly and expression in Angola, including the ability to peacefully express views critical of Government policies and practices, as well as of government officials.

We are intending to publicly express our concerns shortly as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention.

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. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

David Kaye
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
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Special Rapporteur on the situation of human rights defenders