

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

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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 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 25/2 and 25/13.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received **concerning allegations on the expulsion of Rwandan journalist, Madjaliwa Niyonsaba scheduled for this Sunday, 16 November 2014, considering serious risks of harassment, arbitrary detention, ill-treatment and torture, and death if forcibly returned to Rwanda.**

According to the information received:

Mr. Madjaliwa Niyonsaba worked in 2003 and 2004 as a staff member of the Rwandan newspaper *Umuseso*, which, alongside the newspaper *Umuwugizi*, was one of the country's few independent news publications. It is reported that Known for its outspoken style, the paper and its staff suffered reprisals in the form of arrests, harassment, and the seizure of issues allegedly by government forces. It is reported that the newspaper was officially closed by the Rwandan government in 2010, and that the closure was accompanied by the arrest of the newspaper's publisher, editor, and one of its reporters. Other members of the *Umuseso*'s staff reportedly fled the country over the course of 2009 and 2010 and many remain in exile. It is reported that prior to the newspaper closure, Mr. Niyonsaba had been forced into hiding during a government crackdown on the newspaper in 2005. It is alleged that Mr. Niyonsaba, when he was detained in Uganda where he had fled,

suffered ill-treatment and several arrests in 2004 by Rwandan officials and twice in 2012 while trying to leave the country.

Several sources report patterns of targeted attacks, including killings, and harassment against Rwandan journalists, both at domestic level and abroad, allegedly perpetrated, instigated or with the acquiescence of government officials. Reports include targeted attacks including shooting against editorial staff of the *Umuvugizi* newspaper, and heavy sentences, including some in absentia, of Rwandan journalists for civil disobedience and insulting or criticizing the president. Moreover, there are reported cases of cyber-attacks of the website of the *Umuvugizi* newspaper. It is reported that harassment against Rwandans has also occurred abroad, including several assaults and killings of Rwandan journalists in Uganda and that perpetrators were linked with the Rwanda authorities. It is reported that in the light of this situation, some journalists were resettled by UNHCR and many are now recognized refugees in Sweden. It is also alleged that one Rwandan journalist, also working for the *Umuvugizi* news website, is missing since February 2014, when he was detained in Kampala, by men identifying themselves as Ugandan police officers.

In August 2012, Mr. Niyonsaba left Rwanda and relocated to the United Kingdom, where he has been seeking asylum. It is reported that Mr. Niyonsaba maintains relations and continues being in contact with other Rwandan journalists, including some active through the *Umuvugizi* news website.

On 12 November 2014, Mr. Niyonsaba was reportedly detained and taken to the Coinbrook Immigration Removal Centre. It is alleged that he is currently scheduled to be forcibly expelled from the United Kingdom to be returned to Rwanda on 16 November 2014.

It is alleged that, considering Mr. Niyonsaba's work with and links to the *Umuseso* newspaper, the attacks and threats he has suffered in the past while in Rwanda and Uganda, his relation and regular contacts with other Rwandan journalists in exile, who had also suffered threats, attacks and reports of continued reprisal against journalists in Rwanda, there are serious risks that Mr. Niyonsaba will face reprisals for his work as journalist, including the possibility of harassment, arbitrary detention, ill-treatment and torture, and death if forcibly returned to Rwanda.

While we do not wish to prejudge the accuracy of these allegations, we express concern about the expulsion of Mr. Madjaliwa Niyonsaba to Rwanda, considering the risks he may face in relation to his rights to freedom of opinion and expression, his right to life and the risks to be subject to torture, and cruel, inhuman, or degrading treatment upon his return to Rwanda, in light of the United Kingdom's international obligations

under, inter alia, articles 6, 7, 9 and 19 of the International Convention on Civil and Political Rights (ICCPR), ratified by the United Kingdom on 20 May 1976.

We would like to remind your Excellency's Government of article 3 of the Convention against Torture (CAT), which the United Kingdom ratified on 8 December 1988, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. Moreover, we would like to draw the attention of your Excellency's Government to paragraph 9 of General Comment No. 20, to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly, and to paragraph 7(d) of the Human Rights Council Resolution 16/23.

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 Mr. Madjaliwa Niyonsaba, and urge the United Kingdom to suspend his removal.

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 detailed information concerning the procedures followed and legal grounds for the decision to forcibly expel Mr. Niyonsaba to Rwanda and how this decision is compatible with the aforementioned international standards, in particular with the principle of non-refoulement.
3. In continuation of this, please provide detailed information on the steps taken to assess the potential risks related to the expulsion Mr. Niyonsaba.
4. Please provide information regarding the measures available in the United Kingdom for the protection of those who claim to be victims of persecution in their country of origin, including journalists.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment