



PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights defenders

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 214 (107-9) G/SO 214 (33-27)
BRA 7/2010

1 December 2010

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 8/3 and 7/8.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the situation of Mr. **Alexandre Anderson de Souza**, head of the Associação dos Homens do Mar – AHOMAR (Association of Seamen), and his wife, Ms. Daize Menezes de Souza. AHOMAR is an organisation which aims to defend the rights of fisher folk in Rio de Janeiro, in particular those affected by the construction of a gas pipeline for the company Petrobras, which AHOMAR opposes. Petrobras is a publicly traded corporation, the majority stockholder of which is the Government of Brazil, working in the exploration, production, refining, trade and transportation of oil and natural gas in the country.

According to the information received:

On 31 July 2010, at approximately 6:30 p.m., Mr. Alexandre Anderson de Souza and his wife survived an apparent assassination attempt by two armed individuals. It is reported that as they were returning to their home, Mr. Anderson de Souza and his wife noticed two unidentified armed individuals observing their house and looking in the windows to establish whether anyone was present. Mr. Anderson subsequently approached two military police officers who were present in the vicinity and informed them of what was happening, before retreating out of sight.

As the two officers approached the house, the two unidentified men opened fire on them, leading to a shoot-out which lasted approximately 15 minutes. One of the officers was slightly injured, and one of the alleged perpetrators was

hospitalised. The other alleged perpetrator was reportedly taken into custody before being released.

It is reported that a State Deputy from the Socialism and Freedom Party subsequently contacted the police to request information on the case, but was told that no such incident had occurred, despite the fact that Mr. Anderson de Souza had reported the incident to the Magé Municipality Police while the shootout was ongoing.

The alleged assassination attempt in July 2010 against Mr. Anderson de Souza follows the killing, on 22 May 2009, of Mr. Paulos Santos Sousa, former Treasurer of AHOMAR. It is reported that Mr. Santos Sousa was taken from his home and in front of his family was beaten and questioned regarding documents belonging to AHOMAR before being shot five times in the head. The killing of Mr. Santos Sousa reportedly took place on the same day that work on the Petrobras pipeline, opposed by AHOMAR, was suspended by a local environmental agency; it is further reported that prior to this killing, other members of AHOMAR had received death threats. Furthermore, it is reported that Mr. Anderson de Souza survived a previous assassination attempt, on 1 May 2009, when he was shot at by two individuals in the area near the gas pipeline construction site.

On 6 September 2010, the wife of Mr. De Souza, Ms. Daize Menezes de Souza, allegedly received a series of phone calls threatening her and her husband. Moreover, throughout October and November 2010, armed men have reportedly walked in an intimidating manner around Mr. De Souza's house. Gun shots have been heard near the house on several occasions at night.

Reportedly, Mr. Anderson de Souza has suffered several assassination attempts, the last one in May 2009 when unidentified individuals shot at him four times. In addition, according to the information received, on 1 September 2009, the premises of AHOMAR were raided by the State military police without a warrant or any explanation as to the reasons of their intrusion. During this incident, it is alleged that Mr. Anderson de Souza was nearly abducted by the military police.

Since 8 September 2010, Mr. Anderson de Souza has been granted police protection as part of the National Protection Programme for human rights defenders of the Federal Government of Brazil. However, it is reported that he and his wife is still face credible and serious risks connected to his work defending the rights of fisher people in Rio de Janeiro, in particular those affected by the construction of a gas pipeline for the company Petrobras. It is reported that even the police officers who escort Mr. De Souza feel threatened and fear for their lives due to the work they are doing.

Grave concern is expressed for the physical and psychological integrity of Mr. Alexandre Anderson de Souza, his wife and other members of AHOMAR. Further concern is expressed that the alleged assassination attempts, as well as the killing of Mr. Paulos Santos Souza, may be related to their peaceful and legitimate human rights activities, particularly in opposing the aforementioned Petrobras gas pipeline project.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the fundamental principles applicable under international law to this case.

In connection to the killing of Mr. Paulos Santos Souza, former Treasurer of AHOMAR, we would refer your Excellency's Government to the International Covenant on Civil and Political Rights ("ICCPR") (acceded by your Excellency's Government to on 24 January 1992), which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). As the Special Rapporteur on extrajudicial, summary or arbitrary executions noted in a report to the Commission on Human Rights, "crimes, including murder, can also give rise to State responsibility in instances in which the State has failed to take all appropriate measures to deter, prevent and punish the perpetrators." (E/CN.4/2005/7, para. 71.) In Resolution 8/3 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4), the Human Rights Council reiterates that all States have "to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions". The Council added that this obligation includes the obligation "to adopt all necessary measures, including legal and judicial measures, in order to bring and end to impunity and prevent the recurrence of such executions as stated in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions".

We would also like to refer your Excellency's Government to the fundamental principles set forth in 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration, and in particular to article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de

jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Anderson de Souza and the members of AHOMAR 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.

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. Anderson de Souza and his wife in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details of the measures, if any, which have been taken to ensure that the protection that Mr. Alexandre Anderson de Souza and his wife receive, is effective in order to guarantee their physical and psychological integrity. In addition, please provide information on the measures taken to ensure the security of the members of AHOMAR.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please provide information on any investigations and prosecutions that have been undertaken in relation to the killing of Mr. Paulos Santos Souza.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders