

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Independent Expert on the promotion of a democratic and equitable international order; and the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

REFERENCE:
AL RUS 23/2018

23 January 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Independent Expert on the promotion of a democratic and equitable international order; and Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, pursuant to Human Rights Council resolutions 35/15, 34/18, 36/4 and 33/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killing of three Russian journalists, Mr. Orkhan Djemal, Mr. Alexander Rastorguev and Mr. Kirill Radchenko, in the Central African Republic.

Mr. Orkhan Djemal was the former political editor of *Novaya Gazeta*. He had covered conflicts in Georgia, Ukraine, Somalia and Libya.

Mr. Alexander Rastorguev was a director, known for his documentary *Srok*, about opposition to the President of the Russian Federation.

Mr. Kirill Radchenko was a photographer, who also served as an elections monitor in Chechnya during presidential elections.

The three journalists were working for the Investigations Management Centre (IMC).

According to the information received:

On 5 December 2013, the Security Council adopted resolution 2127 (2013) which imposed a general arms embargo on the Central African Republic. In its resolution 2399 (2018) of 30 January 2018, the Security Council extended the sanctions against the country. Paragraph 1(a-h) and paragraphs 14, 17, 18 and 19 of resolution 2399 (2018) provides the basis for exemptions.¹

¹ See Security Council Sanctions Committee on the Central African Republic
<https://www.un.org/sc/suborg/fr/sanctions/2127>

On 26 December 2017, the Sanctions Committee of the Security Council on the Central African Republic received notification from the Russian Federation regarding the training of defense and security forces of the Central African Republic by five Russian military instructors and 170 Russian civil instructors for a period of one year. Between 26 January and 7 February 2018, within a framework of military cooperation between the Government of the Russian Federation and the Government of the Central African Republic, an exemption to the arms embargo was granted by the Sanctions Committee of the Security Council, allowing nine airplanes to transport weapons and munitions to Bangui airport.²

On 27 July 2018, Mr. Djemal, Mr. Rasorguev and Mr. Radchenko arrived in the Central African Republic. They were said to be seeking to report on weapons and training support provided by the Russian Federation to the Central African armed forces and specifically on the alleged activities of a private military company, the Wagner Group, in the country. The Wagner Group is reportedly based in the Russian Federation. Upon arrival they travelled to Berengo, and attempted to visit a military base believed to be run by the Wagner Group, but were reportedly denied entry due to lack of military accreditation.

On 30 July 2018, the journalists travelled towards diamond and gold mines in the east of the country, while keeping in contact with their editors in the Russian Federation. During the night, they travelled north, deviating from a pre-arranged plan to go eastwards. It is unclear why they changed their route.

On 30 July 2018, the journalists were reportedly ambushed and killed near the village of Sibut, located about 300 km north of Bangui. Their bodies were found with multiple gunshot wounds, alongside their abandoned vehicle. The journalists were reportedly carrying thousands of dollars in cash and cameras at the time of the ambush.

On 31 July 2018, the Ministry of Foreign Affairs of the Russian Federation confirmed the deaths, and stated that the men had entered the Central African Republic as tourists.

On 31 July 2018, media outlets reported that the Russian Investigative Committee, the main federal investigative authority of the Russian Federation, had opened an investigation into the killings. On 27 August, three employees of Russian Investigate Committee reportedly arrived in the Central African Republic and stayed until 1 September.

² See letter dated 23 July 2018, addressed to the President of the Security Council by the Group of Experts on the Central African Republic under resolution 2399 (2018) of the Security Council (S/2018/729).

On 2 August, media outlets reported that the authorities of the Central African Republic had opened an investigation.

Both the Russian Investigative Committee and the Central African authorities have concluded that the journalists died following an armed robbery.

Additional information received suggests, however, that the killings may have been pre-planned. For example, it appears at odds for armed robbers to leave expensive items in the car and for the car not to have been stolen. In addition, eye witnesses reportedly identified a car carrying three armed men of “European” appearance, and two “locals”, passing a checkpoint near the site of the ambush a short while before the journalists’ car passed through. The car reportedly returned in the opposite direction an hour later. It has been reported that these elements were not considered in the investigations.

We express serious concern at the alleged killing of Mr. Orkhan Djemal, Mr. Alexander Rastorguev and Mr. Kirill Radchenko. We take note of the initial investigation carried out by the authorities and further call on them to re-open the investigation to consider all relevant information, in accordance with international standards of independence, thoroughness and transparency. Such an investigation should take into consideration the information suggesting that the killings may have been pre-meditated. We further call on the authorities to take immediate measures to ensure the safety of journalists, in particular journalists engaged in investigative reporting.

We furthermore take note that this is the second incident of suspicious deaths of journalists who are engaged in investigative journalism focused on the operations of the Wagner Group. Specifically, in a communication dated 28 May 2018 (ref. RUS 10/2018), Special Procedures mandate holders raised concerns about the death of a Russian journalist and called for an independent investigation into his death, noting the possible link with his investigative reporting on private military contractors employed by the Wagner Group. We thank your Excellency’s Government for the response of 27 June 2018. We take note of the information provided that the initial investigation by the Criminal Investigation Division of the Investigation Committee of the Russian Federation gave no grounds for supposing that the journalist’s death was related to his profession as journalist. Yet, we remain concerned at the new information received regarding the death of three other journalists working on the same subject-matter.

We urge the authorities to investigate any link or involvement of the *Wagner Group*, as a private military company, in military operations in the Central African Republic. In this regard, we wish to reiterate the call made by the Human Rights Council to all Member States to exercise the utmost vigilance in banning the use of private companies offering international military consultancy and security services when intervening in armed conflicts (A/HRC/RES/36/3, para.5).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations concerning the killings of Mr. Orkhan Djemal, Mr. Alexander Rastorguev and Mr. Kirill Radchenko, as well as any follow-up action taken by the authorities in response to the findings of the investigation.
2. Please provide detailed information about the methodology and conclusions of the investigation, in particular why the killing was deemed to be the result of an armed robbery and whether conclusions were reached regarding the identity of the suspected perpetrators.
3. Please provide information as to whether the investigation into the killings has examined other possible reasons for the attack, as well as possible linkages with the Wagner Group.
4. Please provide information and/or comment(s) you may have on the Wagner Group, including the legal and administrative framework governing its operations in the Central African Republic as well as on the company's activities in the country.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

Finally, we would like to inform you that a letter with similar content will be sent to the Government of the Central African Republic.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye

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

Livingstone Sewanyana
Independent Expert on the promotion of a democratic and equitable international order

Saeed Mokbil
Chair-Rapporteur of the Working Group on the use of mercenaries as a means of
violating human rights and impeding the exercise of the right of peoples to self-
determination

Annex

Reference to international human rights law

Without prejudice to the above-mentioned allegations, we would like to draw the attention of your Excellency's Government to articles 6 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation on 16 October 1973, and which guarantees the inherent right to life and the right to freedom of opinion and expression.

In this regard, we would also like to highlight that the Human Rights Committee in General Comment No. 34 has stated that under no circumstance can an attack on a person, because of the exercise of his freedom of opinion or expression be compatible with article 19. The Committee furthermore states that as journalists are frequently subjected to threats, intimidation and attacks because of their activities, all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted (CCPR/C/GC/34). As underlined by the Special Rapporteur on freedom of expression, an attack against a journalist is not only a violation of his or her right to impart information, but also undermines the right of individuals and society at large to seek and receive information, both of which are guaranteed under articles 19 of the ICCPR. An attack against a journalist is therefore an attack against the principles of transparency and accountability, as well as the right to hold opinions and to participate in public debates, which are essential for democracy (A/HRC/20/17).

In its General Comment No. 31, the Human Rights Committee, recalled that it is the responsibility of the State party to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by both State and non-State actors (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). A failure on the part of the State to do so could in and of itself give rise to a separate breach of the ICCPR (Ibid, para. 15).

The Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ECOSOC resolution 1989/65 of 24 May 1989), are of particular relevance in this context. Principle 9 recalls the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. Furthermore, Principle 11 imposes that "in cases where the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. [...] In particular, [members of such a commission] shall be independent from any institution, agency or person that may be the subject of the inquiry."

Moreover, Principle 16 adds that the family and legal representative shall be informed of, and have access to any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. In addition, according to Principle 17 "[a] written report shall be made within a reasonable period of time on the

methods and findings of such investigations.” This report must be made public immediately detail, inter alia, specific events that were found to have occurred and the evidence for these findings.

We further recall that under international law, States that directly contract for the services of private military and security companies (‘Contracting States’) retain their obligations even if they contract private military and security companies to perform certain activities. In addition, ‘Contracting States’ are responsible to implement their obligations under international human rights law, including by adopting such legislative and other measures as may be necessary to give effect to these obligations. To this end, they have the obligation, in specific circumstances, to take appropriate measures to prevent, investigate and provide effective remedies for relevant misconduct of private military and security companies and their personnel. These and other obligations are outlined in the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict.