

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; 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 Special Rapporteur on the situation of human rights defenders; and the Independent Expert on the promotion of a democratic and equitable international order

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Ms. Kristalina Georgieva,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Independent Expert on the promotion of a democratic and equitable international order, pursuant to Human Rights Council resolutions 35/7, 35/15, 34/18, 34/5 and 36/4.

We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received.¹ Special Procedures mechanisms can intervene directly with Governments and other stakeholders on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to the attention of the World Bank information we have received concerning **death threats and attempted kidnappings against human rights defender Mr. [REDACTED]** as well as **allegations of possible acts of reprisals for his cooperation with the World Bank and its Inspection Panel for documenting and denouncing human rights violations related to the *High-Priority Roads Reopening and Maintenance Project* (ProRoutes) in the Democratic Republic of the Congo.** The ProRoutes project is funded by the World Bank.

¹ Further information about the communication procedure is available at:
<http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>

Mr. [REDACTED] works for the *Réseau d'aide aux Femmes et Enfants Nécessiteux* (Support Network for Women and Children in Need - RAFEN). The organisation is based in Goma and documents, monitors and denounces human rights violations against women and children.

According to the information received:

In early 2017, RAFEN began to document human rights violations related to the *High-Priority Roads Reopening and Maintenance Project* in the DRC (ProRoutes). RAFEN was informed of several abuses perpetrated by employees of the construction company Société Zhengwei Technique Coopération (SZTC). The company is a subsidiary of the Chinese Weihai International Economic & Technical Cooperative Co., Ltd. and in charge of building the Bukavu-Goma road, as part of the ProRoutes project. The documented abuses include many cases of sexual and gender-based violence committed by SZTC employees against women and girls living around the ProRoutes project construction sites. RAFEN also documented cases of child labour by SZTC, as well as the refusal to pay for the services and goods of local construction companies.

In August 2017, Mr. [REDACTED] together with one of his colleagues, sent a request for an evaluation of the ProRoute project to the World Bank's Inspection Panel. Following the publication of the inspection request on 27 September 2017, Mr. [REDACTED] began receiving death threats by telephone: He received further death threats on 20 November 2017 after the World Bank's Inspection Panel visited the project's construction sites. On 21 November 2017, the Panel published conclusions confirming that human rights violations had occurred in the context of this project. On 27 November 2017, the World Bank announced the temporary suspension of reimbursements for all civil engineering works in the ProRoutes project due to the seriousness of the allegations.

Since then, the World Bank has approved the restart of the project's activities. Mr. [REDACTED] informed the members of the World Bank's Inspection Panel and representatives of the World Bank several times of the threats made against him.

In early 2018, Mr. [REDACTED] and RAFEN accompanied survivors to court for cases related to the ProRoutes project. On 26 February and 9 April 2018, he was the target of two kidnapping attempts by unknown persons wearing helmets. On 9 November 2018, Mr. [REDACTED] escaped a third kidnapping attempt, during which he was beaten and wounded.

On 6 and 8 February 2019, Mr. [REDACTED] received threats by telephone. He refused to participate in a meeting organised by the World Bank with civil society actors scheduled for 12 February 2019, because of a lack of adequate security measures in place.

The reported threats, kidnapping attempts and physical attacks against Mr. [REDACTED] appear to constitute an act of reprisal for cooperating with the World Bank and its Inspection Panel in reporting facts relevant to the Panel's project supervision role on human rights-related issues.

On 9 and 12 February 2019, a group of representatives of SZTC, the local village chief and the captain of the city police visited two of Mr. [REDACTED] brothers at their homes. It is reported that they offered US\$8,500 in compensation for the exploitation of the Tongo-Butale quarry, and asked Mr. [REDACTED] to refrain from discussing the project and bringing the case to court. When the brothers refused to accept the money, they were threatened with eviction from the village on the grounds that they had blocked the development of their community. Rumours that the family was working against the interests of the community also circulated in the village after the event.

On 12 April 2019, Mr. [REDACTED] filed a complaint with the local police regarding the threats received. It is reported that the World Bank is in regular contact with Mr. [REDACTED] and other stakeholders potentially at risk.

Concerns at the threats and acts of harassment against Mr. [REDACTED] and his family as well as concerns at the adverse impact on human rights in the context of the activities of the company engaged in the ProRoute project have been raised with the Government of the Democratic Republic of the Congo, the Government of China as well as with Weihai International Economic & Technical Cooperative Co., Ltd. Our concerns in this case are heightened by the fact that the threats, attempted kidnaps and related physical attacks against Mr. [REDACTED] are linked to his reporting of human rights abuses to the World Bank and its Inspection Panel and appear to be acts of intimidation and reprisals for his cooperation with the latter institution. We welcome the engagement of the World Bank with Mr. [REDACTED] and others in this connection. The World Bank is well-placed to include the impact of alleged human rights violations in its review and assessments of compliance with the terms of the projects it funds, and to develop and implement robust policies and procedures to address intimidation and risks of reprisals faced by project-affected populations. In the same vein, the World Bank needs to ensure that protection against acts of intimidation and reprisals is included as a legally binding condition in loan agreements.

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.

2. Please provide information as to what human rights due diligence has been undertaken by your institution to prevent, identify and remedy the adverse human rights impacts related to the World Bank-funded ProRoutes projects, in line with the UN Guiding Principles on Business and Human Rights.
3. Please provide information about actions taken by the Bank to fully implement recommendations of the Inspection Panel, including efforts to prevent additional harms to the affected communities and the Management action plan by the World Bank's Board of Executive Directors adopted in September 2018 in response to the Inspection Panel investigation.
4. Please provide the reason behind the decision to resume the ProRoutes project's activities.
5. Please indicate any remedial action taken vis à vis the victims and/or their families, including any actions to address reprisals faced as a result of cooperation with the Inspection Panel.
6. Please provide information on how the World Bank collaborated with the review of its Inspection Panel and measures taken as part of this process to support people who are facing reprisals for denouncing these failures, as well as efforts to develop and implement policies and procedures to address intimidation and risks of reprisals faced by project-affected populations.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your institution 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.

In light of the allegations of reprisals for cooperation with the World Bank and its Inspection Panel on human rights issues, we reserve the right to share this communication and any response received with other UN bodies or representatives addressing intimidation and reprisals for cooperation with the UN in the field of human rights, in particular the senior United Nations official appointed by the Secretary general to lead efforts within the United Nations system to address this issue.

While awaiting a reply, we urge the World Bank to exercise all due care and help to ensure 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.

Please accept, Ms. Kristalina Georgieva, the assurances of our highest consideration.

Surya Deva
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

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

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to articles 9, 17, 19 and 22 of the International Covenant on Civil and Political Rights, which guarantee the rights to liberty and security of person, to not be subjected to arbitrary or unlawful interference with one's family or home, to freedom of opinion and expression and to freedom of association.

We would also like to refer 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 Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Article 9 paragraph 1, of the UN Declaration on Human Rights Defenders establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

We would also like to refer to Human Rights Council Resolutions 12/2, 24/24 and 36/21, which reaffirm the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council calls on States to prevent and refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies [as well as the issuance of appropriate guidance to national authorities] in order to effectively protect those who seek to cooperate, cooperate or have cooperated with the United Nations. The Council also urges States to ensure accountability for any act of intimidation or reprisal by ensuring impartial, prompt and thorough investigations of any alleged act of intimidation or reprisal in order to bring the perpetrators to justice; to provide access to effective remedies for victims in accordance with their international human rights obligations and commitments; and to prevent any recurrence.”

Furthermore, we would like to draw your attention to the United Nations Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/31), after years of consultations involving governments, civil society and the business community.

The Guiding Principles have been established as the global authoritative norm for all States and companies to prevent and address the negative consequences related to companies on human rights. The responsibility to respect human rights is a global standard of conduct applicable to all companies, wherever they operate. It exists independently of the ability and/or willingness of States to meet their own human rights obligations and does not reduce those obligations.

The Guiding Principles underlines that States retain their international human rights law obligations when then participate in international financial institutions, and encourages such institutions, within their respective mandates and capacities, to promote business respect for human rights (Guiding Principle 10 and its Commentary).

"The responsibility to respect human rights requires that business enterprises:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts."(Guiding Principle 13).

To fulfill their responsibility to respect human rights, business enterprises should have in place:

- “(a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute."(Guiding Principle 15)

The Guiding Principles also recognise the important and valuable role played by independent civil society organisations and human rights defenders. In particular, Principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The Commentary to Principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.