

Mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

REFERENCE:
OL HUN 3/2019

10 July 2019

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolution 40/16.

In this connection, I would like refer to communication AL HUN 2/2019 and your correspondence dated 30 April 2019 transmitted with note verbale reference No. 56/2019/HUMIS/GVA.

I regret that the content of your letter does not address the allegations contained in my communication regarding the forcible return from Hungary to the Syrian Arab Republic of [REDACTED]. I expressed my concern that the forcible return of [REDACTED] to Syria may expose him to torture, inhuman and degrading treatment in contravention of the principle of non-refoulement, and result in other severe violations of his rights, including his rights to life, personal security, integrity and liberty.

The letter does not address the concerns expressed regarding the Hungarian statutory definition of terrorism containing the overbroad and vague offence of an “act of terrorism”, which the retrial court applied in [REDACTED] case. Similarly, it does not respond to the alleged vilification campaign against [REDACTED], including through the 2017 “National Consultation” survey that was sent to the households of all eligible voters in Hungary (about eight million people) by the government; or to the creation of an official Hungarian government Facebook page creating an album of photos entitled “[REDACTED] is a terrorist” before he was convicted.

Furthermore, the letter ignores the serious concerns about the legal basis for the criminalization of [REDACTED] alleged conduct as complicity in an act of terrorism, and the prejudice that appears to be demonstrated by political conduct and opinion directly related to this case. It does not address the concerns that provisions of Criminal Code of the Republic of Hungary on terrorism and complicity in an act of terrorism do not meet the requirements of legal certainty under international human rights law in violation of article 15(1) of ICCPR and article 7(1) of ECHR. Finally, it disregards the concerns that [REDACTED] right to fair trial and the presumption of innocence have been substantially prejudiced by legal proceedings.

All aforementioned concerns, among others, have been detailed in my letter AL HUN 2/2019 of 23 April 2019 which also contains an annex on reference to international human rights law citing international human rights instruments and standards relevant to these allegations, for ease of reference.

I respectfully reiterate these concerns, and would be grateful for a response to the substance of my letter. In my letter I outlined concerns which were based on the information in my possession at the time, and requested the Government of Hungary additional information in relation to case, as I am mandated to do so by the Human Rights Council in similar situations. My sole purpose in writing to your Government was to ascertain the facts, to draw your attention to the case, and to examine the treatment of [REDACTED] against the international human rights obligations of Hungary under the treaties it has ratified, so as to prevent any further serious violation of [REDACTED] rights.

Lastly, I regret deeply the language and tone used in an official correspondence that is expected to be a substantive response of the Government. Instead the response is an attack on the Human Rights Council's Special Procedures. I equally regret and am deeply dismayed by your public statements on 2 May 2019, which both attacked the independence of the mandate and compromised my security.

I would like to remind you that the Human Rights Council *urges all States to cooperate with, and assist, the special procedures in the performance of their tasks and to provide all information in a timely manner, as well as respond to communications transmitted to them by the special procedures without undue delay*. I underscore that my role, as entrusted by the Human Rights Council, is to assist in implementing and overseeing the Human Rights Treaties to which States, including Hungary are a Party.

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

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism