

**Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

REFERENCE:  
AL ARE 5/2020

30 September 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 43/20, 42/22, 36/6 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. Paul Rusesabagina, who reportedly has been forcibly transferred from Dubai to Kigali under uncertain circumstances, and is currently detained in Rwanda facing terrorism related charges.

Please note that a letter expressing similar concerns is being sent to the Government of Rwanda.

According to the information received:

Mr. Paul Rusesabagina is a Rwandan national born in 1954. He studied hotel management and became the managing director of luxury Hotel "Des Mille Collines", where he reportedly offered shelter and protection to 1268 Tutsis and moderate Hutus, who were fleeing the genocide atrocities in 1994.

In 1996, following alleged threats and intimidation by the Rwandan authorities, Mr. Rusesabagina and his family left to Belgium, where they sought refuge, and later obtained Belgian nationality in 1997. He is also a permanent resident in the United States of America (USA).

In 2006, Mr. Rusesabagina founded a non-governmental organisation called "the Hotel Rwanda Rusesabagina Foundation", in Chicago, USA, to promote peace in Africa and support victims of the genocide.

Since 2007, the Rwandese Government and its officials have reportedly been blocking the activities of the Foundation, making false accusations against Mr. Rusesabagina in the media. They have been suspected of break-ins into his house in Belgium where only documents in Kinyarwanda language were taken. Meanwhile, Mr. Rusesabagina has been outspokenly criticising the Rwandese authorities, including the current President.

### *Forced transfer and arrest*

On 27 August 2020, Mr. Rusesabagina travelled from the USA to Dubai in the United Arab Emirates (UAE). He contacted his family the night of his arrival to Dubai, and then went missing for four days, until 31 August 2020, when he appeared before the media at the Rwandan Investigation Bureau (RIB) headquarters. During that morning, the RIB issued a statement, on their official twitter account, explaining that Mr. Rusesabagina was suspected to be the founder, leader, sponsor and member of violent, armed, extremist terror groups including Rwandese Movement for Democratic Change (MRCD) and PDR-lhumure. He has been arrested through international cooperation, as he was subject to an international arrest warrant, he was facing charges of serious crimes including terrorism, arson, kidnap and murder, perpetrated against unarmed innocent Rwandan civilians on Rwandan territory, notably in Nyabimata-Nyaruguru district in June 2018 and in Nyungwe-Nyamagabe district in December 2018; and that he was detained at the Remera Police Station following Rwandan criminal procedures.

On 1 September 2020, the RIB spokesperson confirmed the information on the arrest and charges, and stated that the investigator had 15 days to determine whether Mr. Rusesabagina should stay in custody, and that Mr. Rusesabagina had the right to a lawyer, and the right to speak to his family.

On 2 September 2020, international press reported that an Emirati official denied any official role in Mr. Rusesabagina's transfer from Dubai to Kigali, stating that the country has no extradition agreements with Rwanda and that Mr. Rusesabagina entered and left the country legally. According to reported information, the UAE authorities confirmed that Mr. Rusesabagina was in Dubai for approximately five hours. After landing, he allegedly went to a hotel, and then left on a private jet, from Al Maktoum airport, shortly after midnight, on 28 August 2020. In the absence of any official statement from the Rwandan or Emirati Governments concerning the circumstances under which Mr. Rusesabagina was transferred, his family maintain that he would not have travelled willingly to Rwanda.

According to the flight records from that evening, it appears likely that Mr. Rusesabagina travelled to Kigali on a Bombardier Challenger 605 Plane, operated by the private jet charter company GainJet Aviation, which left Dubai at 12.55am local time and arrived in Kigali, Rwanda at 4.50am local time. This information could not be confirmed by the aviation company or by the Governments of UAE and/or Rwanda.

On 6 September, the Rwandan President reportedly discussed the case of Mr. Rusesabagina, on national television, stating that he had not been kidnapped, and describing his transfer as “flawless”, adding that “[Mr. Rusesabagina] got here based on what he believed he wanted to do and he found himself here”, and insisting that Mr. Rusesabagina had to pay for his crimes.

### *Due process and procedural safeguards*

On 5 September 2020, a Rwandan lawyer appeared in a press conference claiming that he was Mr. Rusesabagina's legal counsel. This was refuted by his family, who claimed that this lawyer had been imposed by the Government, and insisted that the family-appointed lawyer had been trying to visit Mr. Rusesabagina at the Remera Police station, but that his requests had been repeatedly denied.

Furthermore, since the family learned of Mr. Rusesabagina's place of detention, they contacted the police station incessantly, requesting to speak with him. Mr. Rusesabagina's family was finally eventually allowed to speak with him over the phone on 8 September 2020. During the call, Mr. Rusesabagina was reportedly not alone and could not speak freely, or explain the circumstances of his transfer from Dubai to Kigali. He mentioned, nonetheless, that he woke up in Kigali, which alludes to the possibility of having been drugged during the forcible transfer from Dubai.

Mr. Rusesabagina was held incommunicado and denied any contact with the external world, from his arrest on 28 August and until 7 September 2020, when the Belgian Deputy Ambassador in Kigali visited him. During this visit, Mr. Rusesabagina was found to be in good health but afraid to speak due to the presence of the Government-imposed legal counsels. There are concerns that Mr. Rusesabagina might not be provided with the necessary medication for his blood pressure and cardiovascular condition, and that he has not been examined by an independent medical doctor.

On 9 September 2020, the RIB handed Mr. Rusesabagina's file to the Public Prosecutor and the first pre-trial hearing was held on 14 September 2020, when Mr. Rusesabagina appeared before the Kicukiro Primary Court in Kigali, accompanied by two State-imposed legal counsels. The Court confirmed twelve charges against Mr. Rusesabagina. Those charges were not announced publicly. The prosecution requested the Court to continue detaining Mr. Rusesabagina pending investigations, while he reportedly requested bail based on his health condition. On 17 September, the Court denied bail for Mr. Rusesabagina, and confirmed his detention. He is believed to be currently detained in Mageragere prison, outside of Kigali.

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 any comment you may have on the above-mentioned allegations.

2. Please provide detailed information on the arrival of Mr. Rusesabagina to Dubai and his summary transfer to Kigali and explain your Excellency's Government involvement, including any cooperation with the Rwandan Government to extradite, transfer or hand over Mr. Rusesabagina.
3. Please clarify whether Mr. Rusesabagina has been in UAE custody at any point, and provide detailed information on the informal detention facilities during between 28 to 31 August 2020 and on the assessment measures that may have been taken to assess the risk of arbitrary deprivation of liberty torture and other cruel, inhuman or degrading treatment or punishment upon extradition, transfer or hand-over (refoulement) to Rwanda.
4. Please provide any available information on the factual and legal grounds of the arrest and extradition of Mr. Rusesabagina.
5. Kindly provide details on measures taken by the UAE to prevent, investigate and prosecute the cooperation of its security forces in the commission of enforced disappearances in the period between 28 and 31 August 2020.
6. Please provide detailed information on any investigations, which may have been undertaken, with regard to the forced transfer of Mr. Rusesabagina, from Dubai to Kigali, including any potential outcome.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Luciano Hazan  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to remind your Excellency's Government that the forced transfer of Mr. Rusesabagina from Dubai to Kigali is a prima facie violation of **article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**, providing that, "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture"; and that, "[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights". In the same vein, the **Human Rights Committee** considered the link between removal, expulsion or refoulement and torture in its **General Comment No. 20**, reiterating that, "States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement".

We would also like to draw your Excellency's Government attention to the **Committee Against Torture General Comment No. 1 (2017) on the implementation of article 3 of the Convention in the context of article 22**, stating that "[E]ach case should be individually examined by the State party through competent administrative and/or judicial authorities...". The Committee further called on Governments to consider the access to procedural safeguards as "pertinent examples of human rights situations which may constitute an indication of a risk of torture to which they should give consideration in their decisions for removal of a person from their territory and take them into account to apply the principle of "non-refoulement" (**Para.30**).

Furthermore, we would also like to bring to the attention of your Excellency's Government to **paragraph 7 of the Resolution A/RES/70/146 of the UN General Assembly** which urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, stresses the importance of effective legal and procedural safeguards in this regard, and recognizes that **diplomatic assurances**, where given, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement."

We are further drawing your Excellency's Government's attention to the United Nations **Declaration on the Protection of All Persons from Enforced Disappearances**, which establishes the prohibition to practice, permit or tolerate enforced disappearances (**article 2**); the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (**article 3**) and that no circumstances whatsoever, whether a threat of

war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (**article 7**). The Declaration recognizes the right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty (**article 9**), the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention (**article 10**). The same article of the Declaration establishes the obligation of the detaining authorities to make available accurate information on the detention of persons and their place or places of detention, including transfers, to their family, counsel or other persons with a legitimate interest (article 10). The Declaration also establishes the obligation to make the findings of an investigation into the circumstances of the disappearance available upon request to all persons concerned (**article 13**).

In particular, we wish to further draw the attention to the obligation of every State not to forcibly expel, return or extradite a person to another State where there are substantial grounds to believe that the individual would be in danger of enforced disappearance as stipulated in **Article 8 of the Declaration**. The Working Group stressed on numerous occasions that a failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance, even if it is of a short duration. Any transfer of a person has to comply with the human rights obligations of all State parties, including in relation to habeas corpus, the respect of due process, and the principle of non-refoulement (**CAT, article 3**). When states actively condone practices of incommunicado detention and transnational abductions, they may not only violate their national laws and procedural safeguards that provide for fair and due process. Therefore, it is essential that in each case, as provided for in international law, comprehensive individual assessments are carried out to determine whether and what risks for their rights the individual may face upon return. Furthermore, the Declaration sets out an obligation for States to take any lawful and appropriate action available to them to bring to justice all persons presumed responsible for an act of enforced disappearance, who are found to be within their jurisdiction or under their control (**article 14**).