

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
AL PRT 1/2020

23 October 2020

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 44/5, 41/12, 43/16 and 43/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning racist harassment, intimidation and death threats made against human rights defender Mr. **Mamadou Ba**.

Mr. **Mamadou Ba** is a human rights defender, one of the funding members of the European Network Against Racism (ENAR) and leader of SOS Racismo. SOS Racismo is a civil society organisation combating racial discrimination in Portugal through events, documentation and monitoring.

According to the information received:

Mr. Ba has been harassed and has receiving threats related to his anti-racism work since August 2012. These incidents were seen to increase from May 2014 onwards, following public statements made by Mr. Ba in connection with Portugal's colonial legacy, and again from 2018 onwards, after the human rights defender denounced attacks on the Roma community in Portugal.

In January 2020, an email containing a death threat was sent to Mr. Ba at his home in Lisbon. The threat, which gave the human rights defender an ultimatum for him and his family to leave the country and included an image of a bullet, was suspected as having been made by far-right groups. Mr. Ba reported the threat to the police and filed a complaint to the public prosecutor, who opened an investigation. His request for police protection was denied.

In July 2020, graffiti stating "war to the enemies of our fatherland" was sprayed on the wall of the SOS Racismo office in Lisbon.

On 2 August 2020, an email was sent to Mr. Ba by an allegedly newly-formed right-wing group. In the email, the group announced themselves to the human rights defender as "patriots" ready to defend their "homeland... using arms if

necessary, against invaders”, stating that “for every citizen killed, ten foreigners will be eliminated.”

On 8 August 2020, swastikas and racist slurs were sprayed on the SOS Racismo office during a far-right 'anti-national racism' march directly targeting the organisation's premises. The march was participated in by approximately 20 masked persons carrying torches and was organised by an umbrella far-right group.

On 11 August 2020, Mr. Ba received an email giving him 48 hours to leave Portugal or “measures would be taken” against him and his family “in order to guarantee the security of the Portuguese people”. The email was signed by the same far-right group who organised the march to the SOS Racismo office three days previously and was sent to other nine individuals, Mr. Ba understood this message as a death threat. After the human rights defender filed a complaint with the public prosecutor's office, an investigation into the incident was opened. Two weeks after the email was received, police protection was offered to Mr. Ba in some circumstances.

On 29 September 2020, unknown individuals vandalised the SOS Racismo office, forcing the door and destroying the organisation's mailbox.

Mr. Ba has also been harassed in the street by members of far-right groups, followed by members of these groups, including while with his son, and subjected to continuous smear campaigns on social media platforms. Furthermore, he has been targeted with allegedly baseless criminal complaints by individuals and groups with links to the far-right.

As a cumulative result of this series of incidents, Mr. Ba does not feel safe in Portugal and has thus left the country in order to protect his safety.

Without prejudging the accuracy of the information received, we wish to express serious concern at the persistent harassment and serious threats directed towards Mr. Ba, in particular given their racist and xenophobic nature, continuance over several years and apparent direct relation to his legitimate human rights work with SOS Racismo. We regret that this ongoing harassment and recent serious threats might prevent Mr. Ba from continuing his human rights work in Portugal, unless the perpetrators and those responsible are brought to justice, and a safe and enabling environment is ensured for Mr. Ba and all other human rights defenders, in particular those advocating for equality and non-discrimination on the basis of race, ethnicity and any other grounds, and documenting racist speech, behaviour and related human rights violations. We are additionally concerned by the initial denial of Mr. Ba's request for police protection and the two week delay in offering protection in some circumstances.

We note that the threats were allegedly repeated and specific, in one case giving a 48 hour timeline, indicating the risk was continuing and immediate.

Furthermore Mr. Ba's identity as a human rights defender places him in a specific situation of risk. We remind that States must ensure effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats and must take reasonable, positive measures that do not impose disproportionate burdens on them in response to reasonably foreseeable threats to life including if appropriate through special measures such as the assignment of around-the-clock police protection.

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 comment(s) which you may have on the above mentioned allegations.
2. Please provide information as to the results of any investigation(s) that may have been carried out following complaints made by Mr. Ba in relation to the threats made against him. If no such investigation(s) has taken place, please explain how this is compatible with the Government's responsibilities under international human rights law.
3. Please provide information as to any protective measures which may have been offered to Mr. Ba or SOS Racismo in light of the above-mentioned threats and harassment.
4. Please provide detailed information as to measures taken by your Excellency's Government to ensure that human rights defenders in Portugal, in particular those working to combat racism and xenophobia, can do so free from fear of harassment and reprisal of any sort.
5. Please provide specific information on the policies, procedures and national prevention and protection mechanisms in place to ensure that security agencies and other relevant actors are meeting their due diligence obligation to protect the right to life of those who may be targeted by States and non-State actors for their peaceful expression and activities, both online and offline.

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.

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

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

Clement Nyaletsossi Voule

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

E. Tendayi Achiume

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Annex

Reference to international human rights law

In relation to the above-mentioned allegations, we would like to refer your Excellency's Government to article 6(1) of the International Covenant on Civil and Political Rights, ratified by Portugal on 15 June 1978, which protects the right to life. In connection with this article, we would like to refer to Human Rights Committee General Comment No. 36, wherein the Committee stated that the obligation upon State parties to respect and ensure the right to life extends to reasonably foreseeable threats, including those emanating from private persons and entities. The duty to protect the right to life requires State parties to take special protective measures for persons in situations of vulnerability who have been placed at particular risk because of specific threats, including human rights defenders. Following the Committee, State parties must respond “urgently and effectively”¹ in order to protect individuals who find themselves under a specific threat, including by adopting special measures such as the assignment of around-the-clock police protection. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life.²

We would further like to refer to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on the Investigation of, accountability for and prevention of intentional State killings of human rights defenders, journalists and prominent dissidents (A/HRC/41/36, paragraph 38), which observes that the jurisprudence on the implementation of the due diligence principle and its operationalization by police forces point to consideration of several elements including;

a) Whether there are credible threats that are objectively verifiable; in other words, whether they are supported by reference to a range of sources of information;

(b) Whether the perpetrators have the intention to implement their threats, whether they are in a position, including physical proximity, and have the capabilities to carry out the threats;

(c) Whether the risk is immediate, meaning continuing and soon;

(d) Whether the identity of the victim places the victim in specific situations of vulnerability or risk;

(e) Whether there are patterns of violence against groups of individuals by virtue of their identities.

The report calls on states to review and, if needed, strengthen policies and procedures to ensure that security agencies and other relevant actors are meeting their due diligence obligation to protect the right to life of those who may be targeted by States

¹General Comment No. 36, *Human Rights Committee*, para 23.

² *Ibid*, para. 7

and non-State actors for their peaceful expression and activities, both online and offline (para 89 (h)).

We would further like to recall the International Convention on the Elimination of All Forms of Racial Discrimination, acceded to by your Excellency's Government on 24 August 1982. In particular, we would like to refer to article 4(b) of the Convention, which holds that State parties shall declare illegal and prohibit organizations which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law; article 5, which holds that State parties undertake to prohibit and eliminate racial discrimination in all its forms; and article 6, wherein it is stated that State parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and State institutions, against any acts of racial discrimination which violate his or her human rights and fundamental freedoms.

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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to recall 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. We would furthermore like to make specific reference to article 12(2) of the Declaration, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.