

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the human rights of migrants

REFERENCE:
AL BIH 2/2020

22 October 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 43/16, 44/5 and 43/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **harassment, intimidation and threatening of women human rights defender Zehida Bihorac**.

Ms. **Zehida Bihorac** is a woman human rights defender and teacher from the Una-Sana Canton in Bosnia and Herzegovina. In 2018 she began providing humanitarian assistance to refugees and migrants around her hometown of Velika Kladusa, at the border between Bosnia and Croatia, and has since been active in documenting the human rights and humanitarian situation of people on the move in the region.

As of August 2020, approximately 7,000 refugees and migrants were reported to be in the Una-Sana Canton, with around half of these people living in designated refugee camps and approximately 3,000 reported to be sleeping rough, in squats and abandoned buildings. On 19 August 2020, the Canton's Migration Coordination Committee put in place new measures restricting the freedom of movement of migrants not accommodated in designated refugee camps. These included bans on their access to public transport and taxis, and on providing them with accommodation in private homes.

According to the information received:

In June and July 2020, Ms. Bihorac was followed and stopped by police on several occasions as she drove near the border with Croatia. On these occasions, the police accused her of aiding illegal immigration and implied that she would be arrested. She was filmed by police while visiting refugee camps in the region on at least one occasion during this period.

In August 2020, smears targeting Ms. Bihorac that had been circulating online began to intensify. From mid-August, comments made against her in a newly created Facebook group included smears of a sexual nature, claims that she was an "immoral woman" and unfit to teach children, a detailed description of how refugees and those providing them with aid should be killed, and threats of physical violence against those providing assistance to people on the move. On 24 August 2020, Ms. Bihorac filed a complaint at her local police station against the individuals behind these statements, however, no action was taken.

Since August, members of the Facebook group have continuously revealed personal information about Ms. Bihorac online, including pictures of her, and she has been repeatedly followed and filmed by alleged members of anti-migrant vigilante groups.

On one such occasion, on 17 September 2020, Ms. Bihorac was filmed by two men as she left a refugee camp outside Velika-Kladusa. As Ms. Bihorac drove away from the camp, she was followed by three persons in a car, which proceeded to overtake her and block her from continuing on the road. The driver and passengers then stepped out of the car and began to verbally assault the women human rights defender, accusing her of being a “traitor to her country”. The male driver proceeded to violently bang the front of her vehicle. Ms. Bihorac was then able to turn her car around and escape, driving to the local police station with the three individuals following her in their car. She filed a complaint over the incident at the police station, yet despite her presentation of evidence to substantiate her complaint, no action was taken. Upon returning to the station at a later date to enquire as to the status of her complaint, Ms Bihorac was told that she was lucky the police on duty had even listened to her.

Without prejudging the accuracy of this information, we wish to express concern at the alleged repeated harassment and intimidation of Ms. Bihorac, both in its online and offline forms. We wish to express further concern at the alleged lack of action taken by local police officers in response to the women human rights defender’s complaints into the attacks against her, in particular given their apparent link to her legitimate human rights and humanitarian work.

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 the results of any investigation(s) that may have been carried out following complaints made by Ms. Bihorac in relation to the above-detailed information. If no such investigation(s) have taken place, please explain how this is compatible with the Government's responsibilities under international human rights law.
3. Please provide detailed information as to concrete steps put in place by your Excellency's Government to ensure that human rights defenders in Bosnia and Herzegovina, in particular those working to protect the rights of migrants, can do so free from fear of harassment and reprisal

of any sort. If no such measures have been put in place, please indicate a manner in which we may be able to engage with your Government as to the development and implementation of such concrete steps.

4. Please provide information on measures taken to ensure that migrants can exercise their rights and have access to basic services.

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 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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Felipe González Morales
Special Rapporteur on the human rights of migrants

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 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.

We would also like to make reference to the report of the former-Special Rapporteur on the situation of human rights defenders, presented at the 37th session of the Human Rights Council, on defenders of the rights of people on the move (A/HRC/37/51). In particular, we would like to refer to the recommendations laid out by the former Special Rapporteur in paragraph 66 (b) and (d), which call on States to condemn publicly all instances of violence, discrimination, intimidation or reprisals against defenders of the rights of people on the move, emphasizing that such practices can never be justified and to ensure that perpetrators of crimes against people on the move and those who defend their rights are held accountable for their actions and brought to justice.

We also wish to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to article 9 of the resolution, which calls upon States to exercise due diligence and take practical steps to prevent threats, harassment and violence against women human rights defenders, and to combat impunity by ensuring that those responsible for violations and abuses, including gender-based violence and threats against women human rights defenders, offline and online, are promptly brought to justice through impartial investigations.

We would like to mention the Global Compact for Safe, Orderly and Regular Migration, which establishes in Objective 7 "Address and reduce vulnerabilities in migration" the commitment of states to "respond to the needs of migrants who face situations of vulnerability, which may arise from the circumstances in which they travel or the conditions they face in countries of origin, transit and destination, by assisting them and protecting their human rights, in accordance with our obligations under international law". Objective 15 "Provide access to basic services for migrants" establishes the commitment to "ensure that all migrants, regardless of their migration status, can exercise their human rights through safe access to basic services".

The Special Rapporteur on extrajudicial, summary or arbitrary executions has argued that by obstructing the work of human rights defenders providing life-saving services to refugees and migrants, failing to protect them against attacks by non-State actors or criminalizing these acts of solidarity, States are violating normative pillars of international human rights law. In situations where States are unwilling or unable to provide humanitarian relief themselves, they must let others provide such services (A/73/314). By failing to do so, States may put the lives, health and safety of migrants at risk, including cruel, inhumane or degrading reception conditions and the denial of essential life-saving services ([A/HRC/37/34](#), para. 15).