

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on the issue of human rights and transnational corporations and other business enterprises and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

REFERENCE:
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5 February 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on the issue of human rights and transnational corporations and other business enterprises and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/16, 44/15 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a series of attacks, including death threats, against Mr. **Camille Occius** related to his work as a human rights defender.

Mr. Camille Occius is a lawyer and Executive Director of the NGO "l'Organisation Citoyenne pour une Nouvelle Haïti (OCNH)". Within the framework of his institution's activities, he documents cases of violations of the right to life and liberty as well as cases of alleged corruption.

According to the information received:

Since 2019, Mr. Occius led a campaign to denounce the illegality of a contract signed between a German firm and the Haitian government. He documented cases of alleged corruption in connection with the stipulation of the contract between the Haitian Government and the company DERMALOG Identification Systems GmbH, which was responsible for manufacturing biometric devices. The contract, stipulated on 13 July 2018, related to the renewal of the national identification documents in 2017 Haiti.

In July 2020, he received death threats on his cell phone from unidentified individuals who threatened to kill him if he did not stop criticizing the DERMALOG contract.

On 31 July 2020, he filed a complaint with the Judicial Police in Haiti (Direction Centrale de la Police Judiciaire - DCPJ).

On 13 October 2020, his organization, OCNH, sent a letter to the Administrator of the Court of First Instance of Port-au-Prince to request the status of the case.

On 30 November 2020, two unidentified armed individuals broke into Mr. Occius' home, threatening his maid with their weapons. The maid explained that the owners were not present. The two individuals searched the various rooms and, according to the maid, looked at a picture of Mr. Occius' family for

a prolonged time. Both individuals left without taking anything with them. Neighbours alerted Mr. Occius that at the same time, there was a vehicle with tinted windows parked in front of the residence, which withdrew at the same time as the two-armed individuals.

Upon Mr. Occius' request, in the afternoon of the same day, a judge from the Pétion-Ville Justice of the Peace Court visited the scene to make a legal determination of the scene. Since the incidents, Mr. Occius and his family have fled the area.

While we do not wish to prejudge the accuracy of these allegations, we do wish to express our concern over the alleged attacks and death threats against Mr. Occius as a result of his work in the defence of human rights. Such threats appear to be in retaliation for his work against corruption cases in his country, including the DERMALOG case.

At the outset, we remain concerned at the chilling effect that these attacks might have on other human rights defenders for their legitimate work. Any sort of intimidation might discourage them from exercising their rights for fear of retaliation or further harassment.

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 any information you have about the legal domicile of the company DERMALOG Identification Systems GmbH.
3. Please highlight the steps that your Excellency's Government has taken, or is considering taking, to ensure that any business or enterprise, domiciled in your territory and/or under your jurisdiction conduct effective human rights due diligence to identify, prevent, mitigate, and account for how they address their impacts on human rights throughout their operations (including abroad), as set forth by the UN Guiding Principles on Business and Human Rights.
4. Please describe the guidance, if any, that the Government has provided to business enterprises based in Germany on how to respect human rights throughout their operations in line with the UN Guiding Principles. This guidance may include measures, inter alia, conducting human rights due diligence, clarifying the connection between corruption and human rights risks and impact, consulting meaningfully with potentially affected stakeholders, and remediating any adverse impacts. In

particular, please indicate whether guidance, if any, was provided to DERMALOG prior to the start of its operations in Haiti.

5. Please indicate the steps that your Excellency's Government has taken or is considering taking to ensure that business enterprises domiciled in its territory and/or under its jurisdiction establish or participate in effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to, including the alleged corruption case of the DERMALOG project in Haiti.

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 be informed that similar letters on the same subject have also been sent to the Government of Haiti, as well as to the company allegedly involved in the abovementioned allegations.

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Dante Pesce

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

Clement Nyaletsossi Voule

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

Annex

Reference to international human rights law

In relation to the above-mentioned facts and concerns, we would like to draw the attention of your Excellency's Government to its obligations under binding international human rights instruments including the International Covenant on Civil and Political Rights (hereinafter, "ICCPR") and the International Covenant on Economic, Social and Cultural Rights, both ratified by Germany on 17 December 1973. We would also like to draw your Excellency's Government's attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation, including the Universal Declaration of Human Rights, 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 and the UN Guiding Principles on Business and Human Rights.

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. These articles provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone whose rights or freedoms are allegedly violated has the right to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress where there has been a violation of that person's rights or freedoms; and that the State shall take all necessary measures to ensure the protection of anyone facing violence, threats, discrimination, or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. 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. Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 13 (b) and (c) which stipulate that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the purpose of peacefully promoting and protecting human rights and fundamental freedoms.

The Human Rights Council resolution 31/32 in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy.

The United Nations Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in resolution A/HRC/RES/17/31 in 2011 are grounded in recognition of:

- a) “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b) “The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; and
- c) “The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

It is a recognized principle that States must protect against human rights abuses by business enterprises within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (Guiding Principle 1). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (Guiding Principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

The Guiding Principles also clarify that business enterprises have an independent responsibility to respect human rights. However, States may be considered to have breached their international human rights law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors.

Finally, 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.

We would like to refer to the thematic report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (ref. A/HRC/44/43) and recommendations contained therein elaborating on how the business and human rights agenda, articulated in the Guiding Principles on Business and Human Rights, and anti-corruption efforts, are interconnected, and calling on States to move from policy to practice in relation to anti-corruption efforts, and to prevent and address business-related human rights impacts by fostering responsible business conduct. This includes the following considerations:

77. (c) Introduce regulations that require human rights due diligence by business enterprises in line with the Guiding Principles, and provide

guidance clarifying the connection between corruption and human rights risks and impacts;

- (m) Explore avenues for addressing adverse human rights impacts resulting from business-related corruption, including appropriate legal frameworks and associated legal liability;
- (n) Examine how parties who suffer human rights abuses following corruption by business may gain access to reparations or remedy;