

**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:  
AL OTH 8/2021

5 February 2021

Dear Mr. Jean François Kipp,

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.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 55 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this context, we would like to draw the attention of company information we have received concerning a series of attacks, including death threats, against Mr. **Camille Occius** in relation to his work as a human rights defender on a case of a contract stipulated between your company and the Haitian government. The contract relates to the purchase by the Haitian government of biometric devices for the national identifications in 2017 in Haiti.

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:

DERMALOG Identification Systems GmbH

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 wish to express our concern over the alleged attacks and death threats against Mr. Occius for his work in the defence of human rights. In this regard, the contract between your company and the government of Haiti has been allegedly tainted with irregularities which drove Mr. Occius to act.

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 information about the human rights due diligence policies and processes put in place by your company to identify, prevent, mitigate and remedy adverse human rights impacts of your activities, in line with the UN Guiding Principles on Business and Human Rights.
3. Please provide information about specific due diligence taken by your company in relation to the stipulation of the contract with the Haitian Government. Moreover, please clarify whether your company has policies, procedures and training focused on, and setting clear expectations regarding, the prevention of corruption and the respect for human rights.
4. Please describe the measures that your company has taken, or plans to take, to prevent recurrence of such negative impacts in the future.
5. Please provide information on the measures taken or to be taken by your company to provide for, or contribute to providing, effective remedies (including compensation) for any adverse impact your activities may have on the human rights and fundamental freedoms of human rights defenders. This may include establishing or participating in effective operational-level grievance mechanisms

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.

Please be informed that similar letters on the same subject have also been sent to the Governments of Haiti and Germany, where your company is allegedly based.

Please accept, Mr. Kipp, 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 connection with above alleged facts and concerns, we would like to remind your company of its responsibilities under the Guiding Principles on Business and Human Rights (A/HRC/17/31). The Guiding Principles have established themselves as the authoritative global standard for business to prevent and address negative business-related impacts on human rights. The responsibility to respect human rights is a global standard of conduct applicable to all businesses, wherever they operate. It exists independently of the ability and/or willingness of States to meet their own human rights obligations and does not diminish those obligations. It is an additional responsibility to that of complying with national laws and regulations protecting human rights.

“The responsibility to respect human rights requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts”. (Guiding Principle 13).

In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- (a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute. (Guiding Principle 15)

In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships [...] meaningful consultation with potentially affected groups and other relevant stakeholders (Guiding Principle 18).

Also, Principle 22 provides that "Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes". "Establishing grievance mechanisms at the operational level for those potentially affected by business activities can be an effective means of redress provided they meet certain requirements listed in Principle 31 (Commentary on Guiding Principle 22).

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 recall 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 demonstrating how measures driving responsible business practices in relation to business and human rights and anti-corruption efforts, can reinforce each other to ensure coherent policy. In particular, we would like to highlight the following conclusions and recommendations:

78. (a) *Conduct human rights due diligence systematically, as part of their responsibilities under the Guiding Principles;*
- (b) *Consider how addressing corruption risks and business-related human rights abuses with a risk-to-people approach rather than a risk-to-business approach could help drive a corporate integrity culture;*
- (c) *Recognize that going beyond anti-corruption compliance and implementing human rights commitments is sound risk management and policy;*
- (d) *Ensure that commitments to responsible business conduct and business ethics, which exist in corporate reports and partner/supplier contracts, are reinforced by policies, procedures and training focused on, and setting clear expectations regarding, preventing corruption and respecting human rights;*

Furthermore, we would like to recall articles 9 and 12 (2) of Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144, adopted on 9 December 1998), 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.