

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE:  
AL OTH 220/2021

13 September 2021

Dear Mr. Güleş,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 43/16, 46/7 and 44/5.

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 56 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 connection we bring to the attention of your company to information we have received regarding the defamation lawsuit and deaths of Mr. **Ali Ulvi Büyüknöhtü** and Ms. **Aysin Büyüknöhtü**.

Mr. **Ali Ulvi Büyüknöhtü** was the spokesperson for Taurus Mountains and Mediterranean Coasts Environment Association Platform (TORACDER). He and his wife, woman human rights defender Ms. **Aysin Büyüknöhtü**, were environmental defenders, protecting forests, rivers, agriculture and local heritage sites from the effects of open-pit mining in the Finike district in southern Turkey. The couple denounced in particular the deforestation of the Calabrian pine and cedar tree groves to make way for mining activities, which polluted the surrounding areas.

Bartu Mermer LTD

According to the information received:

In October 2015, the Antalya Second Administrative Court ruled to revoke the mining license of Bartu Mermer open-pit mine. The decision came after a case was brought by Ali Ulvi Büyüknohutçu and around 50 other villagers, who requested the annulment of the decision to grant a mining license to Bartu Mermer, after the Local Forestry Directorate decided that an environmental impact assessment (EIA) would not be necessary. The court ruled that an environmental impact assessment survey would be required due to the scale of the project and potential for environmental damage. The decision was appealed by the Ministry of Forestry and Water, the Antalya Governorship and Bartu Mermer, who also requested a stay of execution while the trial took place.

On 4 July 2014, Bartu Mermer opened a defamation case against Mr. Büyüknohutçu at the Antalya 9<sup>th</sup> Civil Court of First Instance, seeking 100,000TL in compensation. On 23 February 2017, it lost the defamation case. On 14 April 2017, Bartu Mermer also lost its appeal against the EIA requirement following a ruling by the 14<sup>th</sup> Chamber of the Council of State. The decision was believed to have set a precedent which could lead to the closure of 13 quarries in the region.

On 9 May 2017, Mr. Ali Ulvi Büyüknohutçu and Ms. Aysin Büyüknohutçu were shot dead in their home.

On 12 May 2017 Mr. [REDACTED], a man reportedly with a history of working at mines and who had moved to the area 15 days previous, was detained. He confessed to the murder, initially saying that he was unemployed and killed the couple as part of a robbery. On 18 May 2017, he changed his statement, claiming that he had been offered 50,000TL by a man named “Çirkin” (Ugly), to carry out the killing and make it look like a robbery. Çirkin, allegedly the owner of another mine in the region, Bahçeci Mermer, had offered him 3,000 lire up front but had failed to pay the rest on completion.

Authorities intercepted a letter that Mr. [REDACTED] gave to his wife, which was addressed to the owner of Bahçeci Mermer. The letter read “Pay the money as you promised me. If you don’t, I will tell the truth on judgment day. You said, ‘kill them and we will pay’. Why are you waiting? In 10 days if you don’t pay, your life will be in my pocket.”

On 19 May 2017, Mr. [REDACTED]’s wife was arrested for “aiding and abetting a crime”.

On 20 September 2017, following multiple reported delays in the investigation, Mr. [REDACTED] was found dead in his cell in a high security L-type prison. His death was ruled to have been suicide by the Alanya Prosecutor’s Office. According to information received, inmates are usually under close supervision and the prison was designed to be “suicide proof”. A request to open an investigation file into his death was refused.

Mr. [REDACTED]’s wife was released on bail on 15 March 2018 and acquitted by the Elmalı High Criminal Court on 17 April 2018, reportedly without a clear

reason being stated. The verdict was upheld on appeal and her case is reportedly now in the Court of Cassation.

No further suspects were charged in relation to the murder of Mr. Ali Ulvi Büyüknöhtü and Ms. Aysin Büyüknöhtü. The decision not to investigate the owners of the local marble quarries was appealed and is currently at the Elmalı Penal Court of Peace.

Without prejudging the accuracy of the allegations, we express our deep concern that, following environmental concerns raised by Mr. Büyüknöhtü about the Bartu Mermer quarry, and his successful case in the courts to bring the operations of the mine in line with the law, the company sought to retaliate by launching a defamation case against the human rights defender. In line with the 2021 report to the 47<sup>th</sup> session of the UN Human Rights Council by the Working Group on the issue of human rights and transnational corporations and other business enterprises<sup>1</sup>, in every situation where there are adverse human rights impacts that a business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships, the corporate responsibility to respect human rights includes engaging constructively with human rights defenders who raise concerns about adverse impacts to people or the environment, and preventing, mitigating and remedying the human rights risks posed to them.

We find the failed defamation lawsuit against Mr. Büyüknöhtü particularly concerning as it may have unduly stigmatised the work of environmental defenders in the region, creating an environment conducive to violence against the defenders. Also underlined in the Human Rights Council 47 report by the Working Group on the issue of human rights and transnational corporations and other business enterprises is how strategic lawsuits against public participation (SLAPPs) are not only incompatible with responsible business, but engaging in them reflects poor strategic sense, as they destroy any credibility of corporate commitment to respecting human rights at large.

We also draw your attention to the report presented by the UN Special Rapporteur on the situation of human rights defenders to the 46<sup>th</sup> Session of the UN Human Rights Council, on the killings of human rights defenders. In the report she highlighted that environmental defenders, and those working in the context of the human rights impacts of business activities, were among those most at risk.

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:

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<sup>1</sup> A/HRC/47/39/Add.2, paragraph 53. The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders - Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises to the forty-seventh session of the UN Human Rights Council: <https://undocs.org/A/HRC/47/39/Add.2>.

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Is Bartu Mermer engaging with Turkey in relation to the challenges faced by human rights defenders in the country in general, in order to respect the work of defenders in relation to business-related human rights abuses?
3. In relation to civic space in Turkey, what steps has Bartu Mermer taken to use its leverage in Turkey to ensure respect for human rights, including the rights to freedom of expression, and of freedom of assembly and association, including in relation to the rights of human rights defenders who criticise the activities of (the company) on the ground?
4. Does Bartu Mermer engage in quiet or public diplomacy with Turkey in relation to the specific challenges faced by human rights defenders working on business-related human rights abuses in the country?

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your company 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.

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 you to clarify the issue/s in question.

Please be informed that a similar letter on the same subject has also been sent to the Government of Turkey and to Bahçeci Mermer LTD.

Please accept, Mr. Güleş, the assurances of our highest consideration.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

David R. Boyd  
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to applicable international human rights norms and standards.

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution 17/31. The Guiding Principles clarify that business enterprises have an independent responsibility to respect human rights. Business enterprises should conduct human rights impact assessments in accordance with the Guiding Principles on Business and Human Rights, which provide that businesses “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”, include “meaningful consultation with potentially affected groups and other relevant stakeholders”, “integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action” (see Guiding Principles 18–19).

The Guiding Principles have been established as the global authoritative norm for all States and companies to prevent and address the negative consequences related to companies on human rights. The responsibility to respect human rights is a global standard of conduct applicable to all companies, wherever they operate. It exists regardless of the ability and / or willingness of States to meet their own human rights obligations and does not reduce those obligations. It is an additional responsibility to comply with national laws and regulations for the protection of 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).

Finally, we would like to refer you to the United Nations Declaration on Human Rights Defenders, which states that everyone has the right to promote and to strive for the protection and realization of human rights and indicates State's prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms (articles 1 and 2). The Declaration details the State's obligation to ensure that no one is subject to violence, threats, or retaliation as a consequence of carrying out their legitimate work as human rights defenders (article 12). We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.