

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the independence of judges and lawyers

Ref.: AL AGO 2/2024
(Please use this reference in your reply)

22 July 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 52/9, 51/8, 55/5, 50/17 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of the **arrest, detention, prosecution and conviction to prison of activists Mr. Adolfo Campos, Mr. Abraão Pedro Santos, Mr. Gilson Morreira and Mr. Hermenegildo Victor José** on charges of disobedience and resisting orders, **as well as of Ms. Ana da Silva Miguel**, charged with outrage against the State's symbols after criticizing His Excellency President João Lourenço and his Government's policies in a livestreamed video.

In this context, some communications previously sent by Special Procedures already addressed cases of judicial prosecution against human rights defenders, including [AL AGO 1/2021](#) and [AL AGO 2/2018](#). We thank your Excellency's Government for the replies provided to these communications sent by Special Procedures while encouraging a substantive reply to those that remain unanswered.

According to the information received:

Mr. Adolfo Campos, Mr. Abraão Pedro Santos, Mr. Gilson Morreira and Mr. Hermenegildo Victor José

Adolfo Miguel Campos André is an activist and leader of the Angolan Revolutionary Movement who works for a local newspaper in Luanda.

Hermenegildo Victor José, known as "Gildo das Ruas", is an activist and member of the Malangina Resistance Movement. In 2021, he was detained for 6 months in Malange province reportedly in connection to his peaceful activism.

Abraão Pedro dos Santos is an activist, member of Sociedade Civil Constestatária Movement and leader of the Panterra Negra Revolutionary Movement. He has reportedly been detained several times for participating in peaceful protests.

Gilson Morreira, known as “Tanaice Neutro”, is an activist and singer who uses Kuduro, an Angolan genre of music, to express his opinions on social problems such as poverty, inequalities, and corruption. In October 2022, Mr. Morreira was sentenced to 15 months’ imprisonment for the crime of ‘Outrage against the State, its symbols and bodies’ under article 333 of the Criminal Code after calling the President of the Republic a “clown” in one of his videos posted on Facebook. After having completed his sentence, and despite a release order from the court, he was reportedly kept in prison beyond the terms of his sentence until 23 June 2023, when he was released.

On 16 September 2023, Mr. Campos, Mr. Santos, Mr. Morreira, and Mr. José were arrested without a warrant hours before taking part in a peaceful demonstration in solidarity with motorcycle taxi drivers in Luanda. The event organizers had reportedly complied with all legal requirements, including communicating with the authorities about the details of the demonstration.

The public prosecutor initially accused the four activists of “outrage and injury to the President of the Republic” and later modified the charges to “disobedience” and “resisting orders”, amid various inconsistencies.

On 19 September 2023, the four activists were reportedly summarily tried and convicted for ‘disobedience and resisting orders’ despite the lack of evidence presented to sustain the charges. In contrast, during the trial, one of the officers on duty on the day of the demonstration reportedly testified that the activists had obeyed all orders given by the authorities. Furthermore, witness reports and videos taken at the time reportedly indicated that, at the time of their arrest, the activists were lying on the ground and did not show resistance.

The activists were sentenced to 2 years and 5 months in prison and fined 80 thousand Kwanzas (approximately 100 USD) each. Their lawyers submitted an appeal and a complaint against the decision, but both were rejected by the court.

Since their arrest, the penitentiary service has reportedly restricted their visits to their wives and lawyers exclusively and prevented the activists’ family members from delivering food directly to the prisoners on several occasions. Further, it is reported that Mr. Campos is being held in a cell with more than 100 other detainees where there are constant incidents of violence, while Mr. Morreira was initially placed in solitary confinement for 36 days, for no clear reason.

Ms. Ana da Silva Miguel, known as “Neth Nahara”

Ana da Silva Miguel, known as “Neth Nahara” is a digital ‘influencer’ who uses her social media accounts to comment and express her views on political matters in Angola, often involving artists and politicians, in addition to sharing her own personal life.

On 12 August 2023, Ms. da Silva streamed a live video in the platform ‘TikTok’ in which she criticized the President of the Republic and his Government’s policies and management. Ms. da Silva accused President João Lourenço of creating an “anarchy” and “disorganization” prejudicial for the

citizens of the country and serving the needs of those around him while most Angolans lack appropriate housing, schools, food and jobs. In the video, Ms. da Silva repeatedly employed allegedly insulting language to refer to President Lourenço.

On 13 August 2023, Ms. da Silva was arrested at Quatro de Fevereiro International Airport, in Luanda, by the Criminal Investigation Services.

On 14 August 2023, she was reportedly summarily tried and convicted to 6 months in prison and a fine of 1 million Kwanza (approximately 1,200 USD) for the crime of ‘outrage against the state, its symbols and bodies’, under article 333 of the Criminal Code, for criticizing the President during her live video.

On 1 September 2023, Ms. da Silva’s lawyers were notified of an appeal by the public prosecutor seeking to extend the prison sentence. Ms. da Silva’s lawyers were reportedly not allowed to submit their counter-appeal as the prosecution’s appeal was sent directly to the Court of Appeals, the “Tribunal da Relação de Luanda”, violating the rule in Angolan criminal procedural law that gives 20 days for counter-appeals before a judge can make a decision. The lawyers then submitted a complaint of unconstitutionality to the Court of Appeals, which is yet to be answered.

On 27 September 2023, the Court of Appeals decided to uphold the prosecution’s appeal, increasing the sentence from 6 months to 2 years in prison.

During the first eight months of her detention, Ms. da Silva was reportedly denied access to her daily medication. On 3 December, she underwent an urgent hospitalization due to her deteriorating health. Her lawyers’ request to allow her to receive medical care from her doctors outside the prison hospital was reportedly not granted. Only by the end of April 2024 could her lawyers confirm that Ms. da Silva had access to her prescribed medication.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we express concern about the judicial prosecution and conviction to prison of activists Mr. Adolfo Campos, Mr. Abraão Pedro Santos, Mr. Gilson Morreira, and Mr. Hermenegildo Victor José as well as of Ms. Ana da Silva Miguel, in a context of alleged violations of the fair trial standards in all cases.

In the case of Mr. Campos, Mr. Santos, Mr. Morreira, and Mr. José, we express our concern at the allegedly arbitrary detention of the activists, arrested before taking part in a peaceful demonstration and the numerous reported inconsistencies and failures to comply with fair trial standards, including the alleged modification of the charges in the midst of the proceedings, the reported lack of evidence sustaining the accusations and the failure to take into account of the evidence contradicting the charges. We are further worried about the conditions of detention, which reportedly fail to meet the relevant international human rights standards.

Regarding the case of Ms. da Silva, we are concerned about the breaches of the right to defense and fair trial standards alleged, including the extension of the sentence without the due notification and an opportunity for the defense to issue its

counter-affidavit, as well as about the chilling effect in terms of freedom of expression that the sentence to prison of an outspoken critic of the Government may trigger. We are also concerned about her health conditions in custody and the difficulties in accessing the medication she requires.

Should they be confirmed, the allegations could amount to violations of several human rights rules and standards contained in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), acceded by Angola on 10 January 1992. In particular, we refer to the right to liberty and security of person, which includes the right not to be subject to arbitrary arrest or detention, the right to fair trial before an independent and impartial tribunal, the right to freedom of opinion and expression, including in the form of arts and with the use of symbols, and the right to freedom of assembly and association, guaranteed under articles 9, 14, 19, 21 and 22 of the ICCPR.

We wish to emphasize that any limitation on the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19(3) and 20(2) of the ICCPR. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated. We wish to remind Your Excellency's Government that defamation laws are restricting the right to freedom of expression and, as such, the laws and their implementation are subject to the narrow requirements of article 19(3) ICCPR, including the requirements of legality, necessity and proportionality. We wish to reiterate that defamation laws should never serve to stifle freedom of expression and that they should never be used to prevent criticism of public figures. At several instances, the Special Rapporteur for freedom of opinion and expression has called for a global ban on criminal defamation and seditious libel laws criminalizing the criticism of State institutions and officials. The Human Rights Committee, in its general comment No. 34, called for the decriminalization of defamation, stating that criminal laws should only be used for the most serious cases and that imprisonment is never an appropriate penalty.

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 detailed information concerning the factual and legal grounds for the arrest and detention of Mr. Campos, Mr. Santos, Mr. Morreira, Mr. José and Ms. da Silva.
3. Please provide detailed information on whether the judicial proceedings of Mr. Campos, Mr. Santos, Mr. Morreira, Mr. José and

Ms. da Silva have taken place in full conformity with the relevant procedural norms, due process and fair trial standards and guarantees for the right to a defence. Please indicate the steps taken to review in depth the above-mentioned convictions, in consideration of their appeals, as well as the measures adopted to carry out a re-trial of these cases or proceed to their immediate release, if it is found that the said norms were breached.

4. Please indicate how Mr. Campos, Mr. Santos', Mr. Morreira's, Mr. José's prosecution and conviction are in line with international human rights standards regarding freedom of expression, including artistic expression, freedom of peaceful assembly and freedom of association, indicating the factual and judicial basis for their conviction as well as the steps taken to ensure their arrest, detention, prosecution and conviction do not occur in retribution to their work as activists.
5. Please indicate how do Ms. da Silva's prosecution and sentence to prison comply with international human rights standards regarding freedom of expression and fall within the restrictions to this right allowed by article 19 (3) ICCPR. Please explain how the Governments ensures that criticism of the Government is not criminalised under article 333 of the Criminal Code referring to the crime of "outrage against the state, its symbols and bodies". Please indicate whether the Government is considering revising this provision to ensure that this article does not generate a chilling effect for the exercise of freedom of expression.
6. Please provide information on the measures adopted to ensure that the conditions of detention of Mr. Campos, Mr. Santos, Mr. Morreira, Mr. José and Ms. da Silva meet the international human rights standards, including in terms of access to medicines, visits, conditions of safety and absence of unjustified isolation.
7. Please indicate the role of the NHRIs and the Ombudsman's Office (Provedora de Justiça) in the protection of human rights of Mr. Campos, Mr. Santos', Mr. Morreira's, Mr. José and Ms. da Silva.

We would appreciate receiving a response within 60 days. Past 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.

Further, we would like to inform that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge your Excellency's Government to take the necessary steps to review the above-mentioned cases and, if found justified, to carry out a retrial, in accordance with the relevant international human rights standards. Further, we respectfully ask your Excellency's Government to review the policies, legislation and governmental practices that may be having a grave and unjustified impact on the rights to freedom of opinion and expression, association and peaceful assembly, beyond the limits allowed under international human rights law. We also urge your Excellency's Government to ensure that the conditions of detention of Mr. Campos, Mr. Santos, Mr. Morreira, Mr. José and Ms. da Silva meet international human rights standards, for as long as they remain in prison.

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Ganna Yudkivska
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the norms contained in the International Covenant on Civil and Political Rights (ICCPR), acceded by Angola on 10 January 1992. In particular, we would like to refer your Excellency's Government to articles 9, 14, 19, 21 and 22 of the ICCPR, which guarantee the rights to liberty and security of the person, not to be subjected to arbitrary arrest or detention, to be promptly informed of the reasons for the arrest and of any charges against him or her, to be brought promptly before a judge, to a fair trial within a reasonable time, as well as the rights to freedom of expression, assembly and association. These articles shall be read individually and together with article 2.3. of the ICCPR, which provides for the right to an effective remedy for every person whose rights contained in the Covenant have been violated.

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline. Any restriction to the right to freedom of expression must be “provided by law” and meet the criteria established by international human rights standards. Under these standards, limitations must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

In particular, decision makers, including judges, when resorting to possible limitations to artistic freedoms, should take into consideration the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision. (A/HRC/23/34, paras. 85 and 89 d).

Article 20 (2) of the ICCPR prescribes that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. Yet, the prohibition has a high threshold as it requires the fulfilment of three components: a) advocacy of hatred; b) advocacy which constitutes incitement and c) incitement likely to result in discrimination, hostility or violence (A/67/357, paragraph 43).

In its [General Comment No. 34](#), the Human Rights Committee, interpreting article 19, stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (paragraph 11). The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (paragraph 23). Further, the Human Rights Committee, calls for the decriminalization of defamation, stating that criminal laws should only be used for the most serious cases and that imprisonment is never an appropriate penalty and underlines that “defamation laws must be crafted with care to ensure that they comply

with paragraph 3, and that they do not serve, in practice, to stifle freedom of expression” (paragraph 47). We wish to reiterate that defamation laws should never be used to prevent criticism of public figures. At several instances, the Special Rapporteur for freedom of opinion and expression has called for a global ban on criminal defamation and seditious libel laws criminalizing the criticism of State institutions and officials.

Further, [Human Rights Council Resolution 12/16](#) called on States to refrain from imposing restrictions that are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Additionally, we note that States have the challenge of ensuring the full implementation of artistic freedoms and resort to limitations only when absolutely necessary (A/HRC/23/34, paras.3 and 32). Regarding the imposition of sanctions, including criminal sanctions, deprivation of liberty and the closing of public space, we would like to recall the recommendations made by the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur in the field of cultural rights to distinguish between a) expression that constitutes a criminal offence; (b) expression that is not criminally punishable but may justify a civil suit or administrative sanctions; and (c) expression that does not give rise to criminal, civil or administrative sanctions but still raises a concern in terms of tolerance, civility and respect for the rights of others (A/66/290, para. 18; A/HRC/23/34, para. 31). What may be morally objectionable (from one point of view) may not necessarily be legally inadmissible or condemnable. Criminal sanctions should be the very last resort measures only, to be applied in strictly justifiable situations. In this regard, we would like to draw your Excellency’s Government attention to a particularly useful suggestion in the Rabat Plan of Action, to use a six-part threshold test for those expressions that are criminally prohibited, implying an analysis of the context, speaker, content or form (which implicitly also refers to “the form of art”), extent of the speech, and likelihood, including imminence (A/HRC/22/17/Add.4).

We also wish to refer to the African Charter on Human and Peoples Rights, whose article 9 recognizes the right to freedom of expression, including the right to receive information and to express and disseminate his opinions within the law, while articles 10 and 11 of enshrine the right to freedom of association and assembly.

Regarding the allegations of arbitrary detention, article 9 of the ICCPR states that no one shall be subjected to arbitrary arrest or detention or deprived of his liberty except on such grounds and in accordance with such procedures as are established by law. As interpreted by the Human Rights Committee in its [General Comment No. 35](#), the notion of "arbitrariness" should not be equated with "against the law", but should be interpreted more broadly to include considerations of inappropriateness, injustice, unpredictability and due process, as well as considerations of reasonableness, necessity and proportionality (paragraph 12). In addition, the Working Group on Arbitrary Detention has established in its jurisprudence that preventive deprivation of liberty, as a precautionary and non-punitive measure, must also comply with the principles of legality, necessity and proportionality to the extent strictly necessary in a democratic society. It may only proceed in accordance with the limits strictly necessary to ensure that the efficient development of investigations is not impeded

and justice is not evaded, and provided that the competent authority substantiates and accredits the existence of the aforementioned requirements. We would like to recall that in accordance with the jurisprudence of the Working Group on Arbitrary Detention, and general comment no. 35, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary.

Finally, we would like to remind Your Excellency's Government of the duty of States to investigate and punish serious human rights violations, as established by the Human Rights Committee in its [General Comment No. 31](#), which asserts that failure to take the necessary measures to ensure the investigation and prosecution of such violations may in itself constitute a breach of human rights treaties (CCPR/C/21/Rev.1/Add.13, paras. 15-18). Impunity for such human rights violations can be an essential element contributing to their repetition.