

**Mandates of the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

Ref.: AL MOZ 1/2025  
(Please use this reference in your reply)

17 February 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 53/12, 53/4 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the **killing of lawyer Mr. Elvino Dias, legal advisor of an opposition politician, and Mr. Paulo Guambe, who served as spokesperson of an opposition political party, PODEMOS, in the wake of the 9 October 2024 general elections, in Mozambique.**

Special Procedures mandate Holders have already expressed concerns on reports of serious human rights violations following the 9 October 2024 general elections held in Mozambique in our communication (MOZ 2/2024). We regret to note that we have not received responses to this communication yet and urge your Excellency's Government to take measures to ensure prompt, impartial, thorough and transparent investigations into the alleged violations addressed in our previous communication and bring to justice those responsible.

Mr. **Elvino Dias** was a well-known lawyer in Mozambique and was the legal advisor to an opposition politician and presidential candidate at the 2024 general elections. In previous years, during local elections, he led several elections-related court cases contesting announced election results.

Mr. **Paulo Guambe** was a representative and spokesperson for an opposition political party, PODEMOS.

According to the information received:

*2024 general elections*

On 9 October 2024, general elections were held in Mozambique. They included presidential elections simultaneously with legislative elections and elections for provincial assemblies and governors.

On 24 October, the National Electoral Commission announced provisional election results, according to which the leader of the ruling party (FRELIMO) won the presidential elections with 70,67% of the votes, followed by 20% of the votes for the opposition politician with whom Mr. Dias worked.

Consequently, PODEMOS presidential candidate declared his intention to contest the results and announced that he would appeal to the Constitutional Council following the announcement of the provisional results by the National Electoral Commission.

The information suggests that the provisional results were contested by several national and international observers, who reportedly raised concerns about elections' irregularities. The announcement triggered nationwide protests by the opposition, which were reportedly violently repressed by the police, resulting in the killing of more than 120 persons (MOZ 2/2024).

Since then, a large number of international and national observation missions have called upon the National Electoral Commission (NEC) to publish the disaggregated electoral results by voting section in order to enhance transparency and safeguard the integrity of the process. The information suggests that to date, the NEC has not made this information public.

#### *Killing of Mr. Elvino Dias and Mr. Paulo Guambe*

Mr. Elvino Dias and Mr. Paulo Guambe were attacked by gunmen while in a car in the center of Maputo City on Friday 18 October 2024 at about 11.30 p.m. Reports suggest that around 10-15 shots were fired. One victim died instantly, while the other succumbed later to his wounds. Reports also suggest that the ambulance arriving to assist the victims found its access blocked.

Both victims supported the PODEMOS candidate during the October general elections.

The information suggests that when murdered, Mr. Elvino Dias was preparing to contest the election results on the basis that, according to the parallel count carried out by the PODEMOS opposition party, victory should have gone to its candidate. The information further suggests that the killings of Mr. Dias and Mr. Guambe, carried out in the center of the city and at a strategic time in the challenge of the election results, appear to have been designed to intimidate anyone demanding transparency in the tally of the general elections.

To date, reports suggest there has been no information on the investigation into the killing of Mr. Dias and Mr. Guambe.

On 23 December, the Constitutional Council confirmed the victory of the leader of the ruling party with 65,17% followed by the candidate with whom Mr. Dias worked with 24,19% of the votes.

Without prejudging the accuracy of the information received, we express our serious concern regarding the killing of Mr. Dias and Mr. Guambe, which may be related to their work as a lawyer and as a spokesperson for a political party. In this regard, we note with alarm the reports that there has been no progress in the investigation of these killings and remind your Excellency's Government of the obligation to protect the right to life, to promptly, impartially, and thoroughly

investigate any potentially unlawful killing in accordance with international standards outlined in the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), and, to prosecute and punish those responsible.

If confirmed, the reported allegations would be in contravention of the absolute and non-derogable right not to be arbitrarily deprived of life, as enshrined in article 2 of the International Covenant on Civil and Political Rights (ICCPR), acceded by your Excellency's Government on 21 July 1993. We are concerned that these attacks may have been carried out in connection with Mr. Dias' legitimate exercise of his professional duties as a lawyer and in retaliation for his role as legal advisor to an opposition presidential candidate, as well as against Mr. Guambe for his position as spokesperson of an opposition party.

We remind your Excellency's Government that the failure to properly investigate unlawful killings is considered in itself a violation to the right to life as protected by the ICCPR.

We are further concerned about the guarantees of a fair trial, provided by article 14 of ICCPR, which sets out due process guarantees of a fair and public trial led by an independent and impartial tribunal. These guarantees ensure that lawyers are entitled to perform their professional functions without any threat, intimidation, harassment or interference, and without suffering, or being threatened with, prosecution or any administrative or disciplinary sanctions for actions undertaken in accordance with professional duties and ethical standards.

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 updates on the investigations into the killings of Mr. Dias and Mr. Guambe.
3. Please indicate what measures have been taken to ensure that lawyers are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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.

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

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

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

Gina Romero  
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 refer your Excellency's Government to article 3 of the Universal Declaration of Human Rights (UDHR) and articles 6, 9, 14 and 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Mozambique on 21 July 1993, which guarantee the right of every individual to life, liberty and security, and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of their life, the right to a criminal trial and to freedom of assembly and association.

We remind your Excellency's Government that the right to life is a norm of jus cogens and customary international law applicable at all times and under all circumstances. The Human Rights Committee in its general comment No. 31, para. 8, stated that there is a positive obligation on States Parties to ensure the protection of Covenant Rights not only against violations by state agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. A State Party's act of permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities would give rise to a violation under the ICCPR (CCPR/C/21/Rev.1/Add.13, para. 8). In general comment No. 35, the Committee emphasized that the right to personal security under article 9 of the ICCPR also obliges State Parties to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors (CCPR/C/GC/35, para 9).

Furthermore, an important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequence. Investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent (general comment 36).

We recall to your Excellency's Government that the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary, and Summary Executions, adopted by Economic and Social Council resolution 1989/65, establish the obligation of States to thoroughly, promptly, and impartially investigate all suspected cases of extrajudicial, arbitrary, or summary executions (principle 9). These investigations must be carried out in strict compliance with the Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016). The Minnesota Protocol stipulates that investigations must, at a minimum, take all reasonable steps to determine the individuals involved in the death and their individual responsibility, and that the investigation must determine whether there was a violation of the right to life. The investigations should aim to identify not only the direct perpetrators but also all others responsible for the death, including, for example, officials in the chain of command who were complicit in the death. The failure of the State promptly to investigate does not relieve it of its duty to investigate at a later time: the duty does not cease even with the

passing of significant time (Minnesota Protocol, para. 23).

We recall article 14 of the ICCPR, which states that ‘all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law’.

Article 22 of the International Covenant on Civil and Political Rights (ICCPR), protects freedom of association. Its paragraph 2 further stipulates that “No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.”

The protection of freedom of association is especially significant in the context of elections because of the vulnerabilities and risks associated with this period. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has emphasized that all associations are entitled to engage in the activities related to the electoral process without any regard to the character or position of the association, “whether they are apolitical in their means and operations, partially or totally supportive of the Government or express criticism of Government policies” (A/HRC/68/299, para 15(e) and 49).

The African Commission of Human and People’s rights, in its ‘Guidelines on Freedom of Association and Assembly in Africa’<sup>1</sup>, states that the right to freedom of association protects, inter alia, expression; criticism of state action; advancement of the rights of discriminated-against, marginalized and socially vulnerable communities, including the rights of women and children; and all other conduct permissible in the light of regional and international human rights law. And indicates that States shall: i) respect, in law and practice, the right of associations to carry out their activities, including those denoted above, without threats, harassment, interference, intimidation or reprisals of any kind; and ii) protect associations, including their principal and most visible members, from threats, harassment, interference, intimidation or reprisals by third parties and non-state actors (paras 28, 29 and 30).

In its general comment N 32, the Human Rights Committee notes that article 14, paragraph 1, guarantees access tribunals to all who have criminal charges brought against them. These tribunals should be established by law, is independent of the executive and legislative branches of government or enjoying in specific cases judicial independence in deciding legal matters in proceedings that are judicial in nature. This right cannot be limited, and any criminal conviction by a body not constituting a tribunal is incompatible with this provision. Furthermore, whenever rights and obligations in a suit at law are determined, this must be done at least at one stage of the proceedings by a tribunal within the meaning of this sentence. The failure of a State party to establish a competent tribunal to determine such rights and obligations or to allow access to such a tribunal in specific cases would amount to a violation of article 14 (paragraph 18).

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<sup>1</sup> Adopted at the Commission’s 60th Ordinary Session held in Niamey, Niger, from 8 to 22 May 2017; further to resolution 319 (LVII) 2015

Article 21 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of peaceful assembly. It states that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. Article 22 of the ICCPR protects the right to freedom of association with others. As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1).

In addition, we would like to refer your Excellency’s Government to the provisions of the UN Basic Principles on the Role of Lawyers. Under principle 16, governments are required to ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics. Principle 18 provides that lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.

We would like to refer you to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, which establish that all governmental and other institutions must respect and conform to the independence of the judiciary (principle 1) and that judges will decide cases impartially, on the basis of the facts and in accordance with the law, “without any restriction and without undue influence, incitement, pressure, threat or interference, direct or indirect, from any sector or for any reason” (principle 2). These Basic Principles on the Independence of the Judiciary also provide that “everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures” (principle 5). Further, the principles provide that “the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.” (principle 6)