

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity as First Vice-Chair of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning the alleged arbitrary arrest and detention of Mr. José Marcos Mavungo, and the charges brought against him, as well as the alleged arbitrary arrest and detention of Mr. Arão Bula Tempo and Mr. Manuel Biongo.**

Mr. José Marcos Mavungo was the Vice President of the human rights organisation Mpalabanda - Associação Cívica de Cabinda (MACC), based in the province of Cabinda, which monitored and reported on human rights violations in the province. The organization was closed down in 2006 by the authorities, and an appeal against this decision is still pending.

Mr. Arão Bula Tempo is a human rights lawyer and the President of the Provincial Council of the Angolan Bar Association in Cabinda. He has been involved in litigating human rights cases and denouncing human rights violations in the province.

Mr. Manuel Biongo is a client of Mr. Arão Bula Tempo.

According to the information received:

Case of Mr. José Marcos Mavungo

On 14 March 2015, **Mr. José Marcos Mavungo** was reportedly arrested at a Catholic church by a large number of police agents allegedly acting under the instructions of the municipal commander of the National Police. They failed to provide an arrest warrant.

Prior to his arrest, Mr. Mavungo had been involved in the organization of a peaceful demonstration denouncing bad governance practices and calling for the protection of human rights in Cabinda, scheduled to take place on that same day. Although article 47 (1) of the Constitution states that approval from authorities is not required to hold peaceful demonstrations, it is reported that the Governor of Cabinda banned the demonstration because he deemed it to represent a “lack of honour and consideration” for the people and governmental institutions. Mr. Mavungo is also accused of association with a group of unidentified men who were found with explosives and leaflets a day before the planned protest. He has denied such accusations.

Following his arrest, Mr. Mavungo was taken to the Provincial Directorate of Criminal Investigation, where he was held in pre-trial detention for several days, before being transferred to the Yabi Prison in Cabinda. He was initially charged with ‘sedition’. However, he was informed on 20 March 2015 that the charge brought against him had been changed to ‘rebellion’, thus allowing the authorities to extend the remand period from 45 to 90 days under article 25 of the Law on Remand (Lei da Prisão Preventiva). Mr. Mavungo was subsequently transferred to another prison in Cabinda known as the ‘Cadeia Civil da Comarca de Cabinda’.

On 27 May 2015, Mr. Mavungo was formally charged with ‘rebellion’, but was only officially informed of his indictment on 22 June 2015.

On 26 August 2015, Mr. Mavungo’s trial started at the Cabinda Provincial Court, during which the General Sub-Prosecutor accused Mr. Mavungo of being associated with the group of men previously found with explosives and pamphlets. The respective pamphlet calling for rebellion, which was allegedly disseminated around the time of the planned protest, was attributed to him allegedly without any evidence. The prosecution failed as well to show evidence of his relationship with this group of men. Mr. Mavungo denied the accusations made against him.

On 14 September 2015, Mr. Mavungo was sentenced to six years’ imprisonment and ordered to pay 50,000 Kwanzas (approx. US\$400) in legal fees. On 16

September, an appeal, based on procedural irregularities, was lodged by Mr. Mavungo's lawyers before the Supreme Court of Justice but no confirmation that the appeal will be considered was received to date.

During his pre-trial detention, Mr. Mavungo was reportedly kept in a humid and poorly ventilated cell, infested with mosquitoes. He reportedly suffered from heart and liver problems, and malaria. He was taken twice to hospital, on 4 April 2015 and 30 May 2015, and returned to prison the same day. Mr. Mavungo remains in urgent need of adequate medical treatment.

Case of Mr. Arão Bula Tempo and Mr. Manuel Biongo

On 14 March 2015, **Mr. Arão Bula Tempo**, while travelling with his client, **Mr. Manuel Biongo**, on business near the border with the Republic of Congo, was reportedly approached by an individual who claimed to be one of his former students and who requested a meeting with him in an office nearby. Mr. Tempo and Mr. Biongo voluntarily followed the man to the office, which later turned out to be the office of the criminal investigation police in the town of Massabi. After being urged by the municipal police commander to meet the provincial delegate of the Interior Ministry in Lândana, Mr. Tempo and Mr. Biongo were escorted by the police to the police commander's office in Lândana on the same day. From there, they were taken in a police van to the Provincial Directorate of Criminal Investigation in the city of Cabinda. They were not informed of any charges or even that they were being arrested. They were told only to wait for the meeting with the Interior Ministry provincial delegate. The provincial criminal investigation police in Cabinda city reportedly confiscated their phones and detained them on the same day.

It is reported that Mr. Tempo and Mr. Biongo were held at the premises of the provincial criminal investigation police until 17 March 2015, when they were transferred to the Cadeia Civil da Comarca de Cabinda. On the same day, they were informed that they were being held on suspicion of having committed the crime of "collaboration with foreigners to constrain the State of Angola". This crime, defined under article 6 of the Law against the Security of the State, is a State security crime. It is reported that the suspicion was based on allegations that on 6 March 2015, Mr. Tempo gave a speech during a ceremony for recently qualified lawyers in which he stressed the need for the independence of lawyers in Cabinda and other parts of Angola, and that he had invited journalists from the Republic of Congo to cover the demonstration which Mr. José Marcos Mavungo had been organising.

On 13 May 2015, Mr. Tempo and Mr. Biongo were conditionally released pending trial. They have since not been allowed to leave the country without

permission and have not yet been formally charged. Since his release, Mr. Tempo has reportedly received threats allegedly from Angolan authorities, and his family has been intimidated, with a view to deterring him from pursuing his human rights activities.

Mr. Tempo suffers from hypertension and he has been unable to seek the needed medical care, as he is not allowed to leave the province of Cabinda. It is reported that his health is continuously deteriorating.

Mr. Biongo, who was on his way to the Republic of Congo when he was arrested, had planned to sell his shares in a company to one of his partners, in order to invest the resulting capital in a new shop in Cabinda. Since the transaction did not happen, the new shop is still not operational and Mr. Biongo cannot properly provide for his family.

If found guilty, Mr. Arão Bula Tempo and Mr. Manuel Biongo face up to 10 years' imprisonment.

Serious concern is expressed regarding the alleged arbitrary arrest and detention of Mr. José Marcos Mavungo, and the charges of "sedition" and "rebellion" brought against him, as well as the alleged arbitrary arrest and detention of Mr. Arão Bula Tempo and Mr. Manuel Biongo and , which seem to result from their peaceful and legitimate human rights activities. We are particularly concerned at the apparent use of criminal law to silence dissenting opinions and expressions of discontent and criticism of the Government. Further concern is expressed at the deteriorating health of both Mr. Mavungo and Mr. Tempo, and at the alleged lack of access to appropriate medical care.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the international principles and norms applicable to the present case.

The above allegations appear to be in contravention to Article 9 and Article 10 of the Universal Declaration of Human Rights and Article 9 and Article 14 of the International Covenant on Civil and Political Rights. These articles refer to the right not to be deprived arbitrarily of liberty and the right to a fair hearing.

We would also like to draw the attention of your Excellency's Government to the rights to freedom of expression and opinion, freedom of peaceful assembly and freedom of association as set forth in articles 19, 21 and 22, respectively, of the International Covenant on Civil and Political Rights, and acceded by Angola on 10 January 1992 and articles 9, 10 and 11 of the African Charter on Human and People's Rights, which Angola ratified on 2 March 1990.

Any restrictions, in particular to the exercise of the right freedom of expression, in accordance with article 19(3) ICCPR, must be provided by law and necessary and proportionate. Extreme care must be taken by States to ensure that laws relating to sedition are applied in a manner that conforms to the strict requirements of paragraph 3 of article 19 ICCPR. Such laws must not be used to prosecute human rights defenders or others for disseminating information of legitimate public interest (CCPR/C/GC/34, para.30).

We would also like to refer to article XII (1) of the Declaration of Principles on Freedom of Expression in Africa, where public figures shall be required to tolerate a greater degree of criticism and any sanctions imposed for such criticism should not be so severe as to inhibit the right to freedom of expression.

In addition, we would like to draw the attention of 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. In particular, we would like to highlight articles 1, 2, 5 and 12.

Furthermore, we would like to highlight OP2 of the Human Rights Council resolution 24/5, in which the Council reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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 any comment you may have on the above-mentioned allegations.

2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Mavungo, as well as the charges brought against him.
3. Please provide information on whether he has had access to appropriate medical treatment.
4. Please provide information concerning the legal grounds for the charges brought against Mr. Tempo and Mr. Biongo. Please provide information on whether Mr. Biongo, while on parole, has had access to adequate medical care.
5. Please provide detailed information concerning measures to ensure that human rights defenders can exercise their rights to freedom of peaceful assembly and expression in Angola, including the ability to peacefully express views critical of the human rights situation and of the conduct of the government or government officials.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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