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11 March 2015

Update and further request for urgent action concerning prosecution of journalist and human rights defender Rafael Marques de Morais (Angola)

Dear Ms Tlakula, Ms Alapini-Gansou, Mr Kaye and Mr Forst,

We are writing to you regarding the upcoming trial of award winning Angolan journalist and human rights defender Rafael Marques de Morais.

This letter follows up on a previous Letter of Allegation dated 2 August 2013 (Annex I) and an Urgent Appeal dated 11 August 2014 (Annex II) regarding the defamation proceedings brought against Mr Marques de Morais in the Republic of Angola (“Angola”). With this letter, we request the Special Rapporteurs to act in accordance with the requests set out in the Letter of Allegation and the Urgent Appeal as soon as possible, most importantly by urging the government of Angola...
to immediately halt the defamation proceedings against Mr Marques de Morais and refrain from any further pursuit of charges against him. In addition, we respectfully request the Special Rapporteurs to call on Angola to repeal its criminal defamation laws and end all ongoing prosecutions on the basis of these laws.

As set out in detail in the Letter of Allegation and the Urgent Appeal, Mr Marques de Morais was indicted in January 2013 on charges of defamation in relation to his book “Blood Diamonds: Corruption and Torture in Angola.”1 His book, which was published in Portugal in 2011, describes how Angolan military officials and private security companies committed human rights abuses against Angolan villagers in the course of diamond mining operations.2 Following criminal complaints by seven Angolan generals, a civilian, two mining companies and a private security company implicated in the book, 11 charges of criminal defamation were brought against Mr Marques de Morais.3

Even though there have not been any hearings in his case yet, numerous procedural irregularities have already taken place in the pre-trial phase of Mr Marques de Morais’ case.4 Mr Marques de Morais was for instance given a five-day deadline to make submissions on the merits of his case and submit a list of witnesses, while access to the case file was withheld rendering it impossible to present any meaningful arguments.5

As set out in the Letter of Allegation and the Urgent Appeal, Mr Marques de Morais has previously been detained for the lawful exercise of rights conferred to him by the African Charter on Human and Peoples’ Rights (the “African Charter”) and the International Covenant on Civil and Political Rights (the “ICCPR”).6

Both the Letter of Allegation and the Urgent Appeal submitted that, during his most recent prosecution, the Angolan Government appeared to be using its criminal defamation laws to deter Mr Marques de Morais from his human rights reporting, thereby (i) violating his right to freedom of expression as protected by Article 9 African Charter and Article 19 ICCPR, (ii) violating his right to a fair trial as protected by Article 7 African Charter and Article 14 ICCPR, and (iii) acting contrary to the principles and rights set out in the UN Declaration on Human Rights Defenders.7 The signatory organisations respectfully requested, inter alia, that the Special Rapporteurs urgently call upon the Government of Angola to halt

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1 For further details, see also the Letter of Allegation, p. 2 and the Urgent Appeal, under I, p. 2.
2 Id.
3 Id.
4 For further details, see e.g. the Letter of Allegation, under II, p. 9-11 and under II, p. 12. See also the Urgent Appeal, under II, p. 3-4 and under III, p. 4.
5 See the Urgent Appeal, under II, p. 3.
6 For further details, see also the Letter of Allegation, under I, p. 3-6 and the Urgent Appeal, under section I, p. 2.
7 For further details, see also the Letter of Allegation, under I, p. 3-6 and the Urgent Appeal, under section I, p. 3.
the proceedings against Mr Marques de Morais for defamation and to refrain from any formal pursuit of charges.\footnote{See also the Letter of Allegation, under IV, p. 13 and the Urgent Appeal, under IV, p. 5.}

Since the Urgent Appeal, Mr Marques de Morais’ trial was scheduled to take place on 15 December 2014. Contrary to Angolan criminal procedure, Mr Marques de Morais’ lawyer was not formally notified 15 days prior to the scheduled hearing. Despite the fact that he had not yet been formally notified, Mr Marques de Morais’ lawyer immediately requested postponement of the hearing until March 2015, indicating that he would be abroad to undergo surgery and would be unable to represent Mr Marques de Morais. Nonetheless, the trial was only postponed on 12 December 2014, a mere three days before it was set to commence. Mr Marques de Morais believes that the Angolan authorities deliberately postponed the trial at the last minute to ensure that the hearing, once it does happen, receives minimal international attention.

Furthermore, in December 2014, the African Court on Human and Peoples’ Rights has handed down judgment in the case of \textit{Konaté v. Burkina Faso}, which concerned a journalist from Burkina Faso who was also prosecuted on charges of criminal defamation. The African Court ruled that imprisonment for defamation violates the right to freedom of expression and that criminal defamation laws should only be used in restricted circumstances. Ignoring this landmark judgment, which is binding on all African Union member states including Angola, the Angolan authorities have scheduled Mr Marques de Morais’ trial for 24 March 2015. Given the numerous procedural irregularities that have already taken place, and the fact that Mr Marques de Morais has previously been targeted for the lawful exercise of his right to freedom of expression, it is clear that Mr Marques de Morais will not receive a fair trial in Angola.\footnote{For further details, see e.g. the Letter of Allegation, under II, p. 9-11 and under II, p. 12. See also the Urgent Appeal, under II, p. 3-4 and under III, p. 4.}

In light of Mr Marques de Morais’ upcoming trial, his case requires urgent attention. We therefore request that the Special Rapporteurs consider acting on this information in accordance with the requests set out in the Letter of Allegation and the Urgent Appeal as soon as possible. In addition, we respectfully reiterate our request that the Special Rapporteurs call on Angola to repeal its criminal defamation laws and end all ongoing prosecutions on the basis of these laws.
We would very much appreciate it if you could update us on any action taken following the Letter of Allegation, Urgent Appeal and this update letter. We remain at your disposal for any additional information you might require.

Yours faithfully,

[Signature]

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