

[Human Rights Council: Time to act on legal obligation to end reprisals](#)

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(Geneva / New York) - The UN Human Rights Council and its President and Bureau have a legal duty to prevent and promote accountability for threats and attacks against those who submit information or seek to engage with the Council, the International Service for Human Rights said today.

In a legal advice submitted on behalf of ISHR to the United Nations top human rights body, leading international law firm [Freshfields Bruckhaus Deringer](#) found that the Human Rights Council is '[legally obliged to take action](#) if it possesses information about a credible risk or allegation of reprisals', and to protect individuals who communicate, cooperate or seek to engage with the Council, its independent experts or the Universal Periodic Review process.

'Any failure by the Council to take appropriate action where it possess information about reprisals having occurred or a credible risk of their occurring would be inconsistent with its obligations,' said Sir Nicolas Bratza, a former President of the European Court of Human Rights and one of the authors of the legal opinion. Professor Egbert Myjer, a former judge of the European Court, is also a signatory to the advice.

In addition to developing the legal foundations of the Council's obligation, the advice details the resulting responsibilities of the Council's President and Bureau to 'protect the Council's process and defend its integrity', particularly as it relates to the right of civil society to participate fully and safely in its work.

'This legal opinion by a leading international law firm confirms what the Human Rights Council has itself recognised: reprisals are unacceptable and must end. It goes, further, however, by setting out the legal duty to translate this recognition into action,' said Michael Ineichen of the International Service for Human Rights.

'The worsening incidence of reprisals - with recent reports of intimidation, attacks, enforced disappearances and torture against human rights defenders and others who have engaged with the Council or its mechanisms in States including Cameroon, China, Egypt, Sri Lanka and Viet Nam - is prima face evidence that the Council is not discharging its duty,' Mr Ineichen said.

'This advice unequivocally underscores the need for concrete action by the Council to effectively prevent reprisals, provide protection to individuals, and ensure investigation and accountability where reprisals occur. We look forward to working with the Council's President, Bureau and Member States to implement these obligations and to substantially increase the political cost imposed on States who tolerate or carry out reprisals,' he concluded.

While the legal advice affirms the Council's special responsibility to prevent and address reprisals, it also underscores the need for the entire UN system to act. Despite the request by the Human Rights Council in Resolution 24/24, the UN Secretary-General is yet to appoint a United Nations-wide senior focal point to combat reprisals and intimidation, following a decision by [the Third Committee](#) of the General Assembly to postpone action on this resolution.

'Freshfields' legal advice is particularly timely because the United Nations as a whole is still struggling to live up to its legal obligation to protect those who cooperate.' said Eleanor Openshaw of ISHR's New York office

'There is a clear obligation - in law - that the United Nations as a whole address this system-wide problem. It's now imperative for the Third Committee to clear the way for the Secretary-General to designate the UN-wide focal point,' said Ms Openshaw.

In the absence of a UN wide focal point, however, the advice affirms the obligation for the Human Rights Council's response to be unified, internally consistent and to reflect the best practice of the United Nations human rights mechanisms. Failure of the Council to match the good practice of other mechanisms, including the [treaty bodies](#), would risk providing better protection to those who cooperate with some mechanisms rather than others.

'This would be antithetical to the United Nations' official position that human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner,' said Sir Nicolas Bratza.

Freshfields submitted the [legal advice](#) on behalf of the International Service for Human Rights. It was presented on 20 November by one of its main authors, Sir Nicolas Bratza, a former President of the European Court of Human Rights at the Palais des Nations in Geneva.

Freshfields is a leading global law firm, advising governments, multinational corporations and international organisations. It is one of just four firms worldwide ranked in Band 1 in the area of Public International Law by Chambers & Partners.

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