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# REPRISALS HANDBOOK

 ISHR | INTERNATIONAL SERVICE  
FOR HUMAN RIGHTS

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# PREFACE

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## **ABOUT ISHR'S WORK ON INTIMIDATION AND REPRISALS**

ISHR seeks to ensure that national, international and regional human rights systems have the mechanisms to prevent reprisals and ensure accountability where they occur. ISHR provides protective publicity to human rights defenders at risk and works to bring cases of alleged intimidation and reprisals to the attention of relevant officials in an effort to press for effective preventative measures and responses.

## **ABOUT THE HANDBOOK**

This handbook is aimed first and foremost at human rights defenders who engage with regional and international human rights systems. The focus is in particular on the United Nations (UN) human rights system, the African Commission on Human and Peoples' Rights (the ACHPR), the Inter-American Commission on Human Rights (the IACHR), and the Council of Europe.

The handbook highlights the risks that defenders can face from interacting with those systems, and suggests ways in which defenders can leverage the weight of the UN and regional human rights mechanisms to provide some degree of protection against those risks. In doing so it does not aim to provide a fully comprehensive protection solution. In all cases defenders should consider which option might be best, based on the context and particulars of a case.

Apart from some of the options touched on that may be available through diplomatic missions (Chapter 4) and non-governmental organisations (Chapter 5), it is important to note that the options presented in this handbook do not provide physical protection. In many cases the aim in engaging one of these options is to increase visibility and publicity, which may in turn provide some protection in particular contexts through deterrence, denunciation and prevention. These options should be resorted to in conjunction with a more comprehensive security plan.



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*“Like my predecessors, I stress the absolute unacceptability of any act of intimidation or reprisal against individuals or groups seeking to cooperate or having cooperated with the UN in the field of human rights, as well as their family members, legal representatives or others with professional or personal ties to such individuals. These acts run contrary to the very principles of the United Nations, and violate human rights. I reiterate that States must end these acts, investigate all allegations, provide effective remedies and adopt and implement preventative measures to prevent reoccurrence.”*

António Guterres, Secretary-General, ‘Cooperation with the United Nations, its representatives and mechanisms in the field of human rights’, Report of the Secretary-General (A/HRC/36/31 para.68)



# CHAPTER I CONTEXT

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## 1.1 THE NATURE AND EXTENT OF INTIMIDATION AND REPRISALS

*“Activists submitting reports to the UN are subjected to retaliation. You find that at every step you can be stopped, silenced, persecuted, and harassed. The more you want to express your view, the more you want to say about the injustice you have witnessed, the harsher the persecution.”*

*Renee Xia, The Network of Chinese Human Rights Defenders (CHRD)*

Preventing and addressing cases of intimidation and reprisals are closely associated with States' obligations to ensure a safe and enabling environment for human rights defenders and other civil society actors to carry out all aspects of their work. However, in recent years there has been increased concern at the threats, intimidation and reprisals experienced by human rights activists and defenders, whether at the local, regional, or international levels.

Whether it be by speaking to local media, taking part in a protest, publishing a research paper, or submitting information to the UN or regional human rights systems, raising one's voice in any context against the State or other powerful bodies can bring with it risks. This handbook focuses on reprisals suffered as a consequence of an individual's cooperation or attempted cooperation with the UN or a regional human rights body.

Governments have no desire to be portrayed as human rights violators on a regional or international stage. Many cases of intimidation and reprisals take place in a context of systematic harassment, threats and attacks against human rights defenders. Reprisals are often carried out by powerful State agents, such as the police, military or security forces, or the judiciary, who act to protect the State from criticism. They are also often carried out by non-State agents, such as businesses, members of criminal groups, or armed groups, whose links to the State can be more or less direct, indirect, or totally absent.

Abuses come in many forms, including the use and abuse of laws to criminalise the work of human rights defenders, the initiation of arbitrary legal proceedings intended to hinder such work, defenders having their activities unreasonably restricted and their organisations unfairly scrutinised, being spied on or defamed, denied access to funding, or being subject to arbitrary arrest, physical violence, and death. In addition to being used punitively, reprisals often take place as a deterrent measure. These

cases are harder to measure but the UN,<sup>1</sup> the Inter-American Commission<sup>2</sup> and the European Court of Human Rights<sup>3</sup> have recognised the deterrent effect of reprisals and the obligation of States to ensure that human rights defenders can access and fully engage with these mechanisms.<sup>4</sup>

While reprisals often take place in defenders' home countries, they can also take place at the very moment that defenders are participating in meetings of regional or UN human rights bodies and mechanisms. For example, human rights defenders participating in sessions of the Human Rights Council in Geneva sometimes face threats and harassment from members of their country's delegation. These incidents can be combined with press campaigns at home in which defenders are publicly denounced and threatened. Threats against human rights defenders can come from as high up as government ministers and heads of State.

## 1.2 THE LEGAL OBLIGATION OF STATES AND THE UN TO ADDRESS REPRISALS

International law provides for a right to unhindered access to and communication with international bodies on matters of human rights and fundamental freedoms. This right is derived from the human rights to freedom of expression, association, assembly and movement contained in international human rights instruments and in customary international law.<sup>5</sup>

The right to unhindered access to and communication with international bodies is also explicitly recognised in the UN Declaration on Human Rights Defenders<sup>6</sup> and is codified in specific provisions applying to certain UN human rights treaty bodies.<sup>7</sup>

Enjoyment of this right implies that those accessing or attempting to access or communicate with these bodies should not face any form of intimidation or reprisal for doing so. The Declaration on Human Rights Defenders recognises the right of human rights defenders to be protected from reprisals linked to their communication or cooperation, or attempted communication or cooperation, with the UN's human rights bodies.<sup>8</sup>

1 United Nations General Assembly, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/18/19, 21 July 2011, para.69, available at: <http://bit.ly/loA14o1>

2 Inter-American Commission for Human Rights, 'ACHR Deplores Reprisals Against Individuals who Come Before the Inter-American Commission', 4 November 2011, available at: <http://bit.ly/XTAt6l>

3 Parliamentary Assembly of the Council of Europe, 'Member States' duty to cooperate with the European Court of Human Rights', resolution 1571, para. 7, 2007, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>

4 Parliamentary Assembly of the Council of Europe, 'Member States' duty to cooperate with the European Court of Human Rights', resolution 1571, para. 7, 2007, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>

5 In 2012, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association called on States to ensure that these rights 'are enjoyed by everyone and any registered or unregistered entities' and that no one is subject to 'harassment, persecution, intimidation or reprisals' for exercising them.

6 United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, Annex to UN Doc A/RES/53/144, 8 March 1999, Articles 5(c) and 9(4).

7 See: Optional Protocol to the Convention on the Prevention of Torture, Article 15; Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women, Article 11; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Article 13; and Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, Article 4.

8 Declaration on Human Rights Defenders, Articles 2(1), 9(1) and 12(2).

The right to be free from reprisals that threaten an individual's life or physical liberty is also an aspect of the protection afforded by other international human rights, such as freedom from arbitrary arrest, detention or deprivation of liberty, torture, cruel, inhuman and degrading treatment, and arbitrary deprivation of life. Furthermore, international human rights jurisprudence establishes that States that confiscate passports, issue travel bans or prevent human rights defenders or representatives of non-governmental organisations (NGOs) from attending international meetings may contravene the right to freedom of movement under article 12 of the International Covenant on Civil and Political Rights.<sup>9</sup>

States have the primary duty to uphold the co-related rights to unhindered access to the UN and to be protected from intimidation and reprisals in connection with any cooperation or attempted cooperation with the UN. As subjects of international law, UN bodies such as the Human Rights Council and the Committee on NGOs of the Economic and Social Council (ECOSOC) may also be bound by these obligations.<sup>10</sup>

### 1.3 A WORD ABOUT RISK

*“It is human rights defenders who are the people who are really fighting for all rights in countries. When you see that someone who has been known in the country and been in the human rights field for a long time, can be named and shamed very quickly, everyone starts to think twice, ‘why do I want to do this?’”*

*Sunanda Deshapriya, Sri Lankan human rights defender*

It would be extremely detrimental to the effective functioning of regional and UN human rights systems if, as a result of the risks faced, human rights defenders avoided interacting with them. Defenders bring crucial information and perspectives regarding human rights situations on the ground and international and regional mechanisms depend on that knowledge and input to make informed decisions.

However, there are unfortunately cases where State institutions are simply unable, willfully neglectful, or deliberately obstructive when it comes to ensuring that defenders can cooperate safely with UN and regional human rights bodies and mechanisms. In those situations, defenders who dare to speak out face heightened risks.

<sup>9</sup> United Nations Human Rights Committee, ‘Concluding Observations: Morocco’, UN Doc CCPR/CO/82/MAR, 1 December 2004, §18.

<sup>10</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt (Advisory Opinion)* [1980] ICJ Rep 73, pp 89–90. See also *Reparations for injuries suffered in the service of the United Nations (Advisory Opinion)* [1949] ICJ Rep 174, p 179. The Secretary-General has repeatedly raised the unfair and arbitrary deferral of NGO applications for consultative status by the ECOSOC Committee on NGOs in his annual reprisals reports. See for example *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, Report of the Secretary-General*, A/HRC/33/19, paras 12–15.

Defenders should be fully aware that, as important as it is to pursue international and regional human rights work, doing so could increase their exposure to significant danger. Because the UN system in particular can seem remote, there is perhaps a tendency to underestimate the risks that can be faced from engaging with it. Those seeking to engage with the UN should be aware of the importance some States place on being able to control what information is heard in international and regional fora, and therefore of the potential risks associated with that engagement. Similarly, it can be difficult for many States or experts to appreciate that defenders can face real dangers when cooperating or seeking to cooperate with international or regional human rights bodies and mechanisms.

### **HOW CAN I PROTECT MYSELF OR OTHERS FROM FURTHER REPRISAL?**

If you suffer reprisals as a result of cooperating or attempting to cooperate with the UN or regional human rights systems you are unlikely to want to risk further reprisals through continuing that engagement.

If you are planning to pursue a case of reprisal through any of the avenues outlined in this handbook you should always consider the risks involved in having a case of reprisal made public. While the publicity can serve a protective function, it can also further expose you and make you, and those connected to you such as colleagues, associates or family members, more vulnerable.

Many of the suggested avenues in this handbook adopt a 'do no harm' approach and take the safety of the victim into account to the extent possible. For example, the Secretary-General's report (see section 2.5.1 below) will not include a case without the explicit permission of the affected persons. However, the report does not include anonymous cases; all published cases reveal the identity of the individual(s) and organisation(s) involved. That being said, there are reasons to submit your case even if you prefer that it not be published. This assists the UN in building a true picture of the extent and scope of reprisals, which helps in developing an appropriate response.





# CHAPTER 2 UN RESPONSE TO INTIMIDATION AND REPRISALS

## 2.1 THE TREATY BODIES

The UN has a system of expert bodies, known as ‘treaty bodies’<sup>11</sup>, which monitor the implementation of the nine key human rights conventions. Each State party to a treaty has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty. There are ten treaty bodies composed of independent experts of recognised competence in human rights, who are nominated and elected for fixed renewable terms of four years by State parties. The treaty bodies perform a number of functions in accordance with the provisions of the treaties that established them. These include: considering State parties’ periodic reports that set out how the rights in the treaty are being implemented; considering individual complaints by individuals who claim that their rights under the treaty have been violated; initiating country inquiries upon receipt of reliable information containing well-founded indications of serious, grave or systematic violations of a treaty; adopting general comments that interpret treaty provisions; and holding thematic discussions related to the treaties.

With the endorsement of the Guidelines against Intimidation or Reprisals (the ‘San José Guidelines’)<sup>12</sup> in July 2015, the treaty bodies Chairpersons sent a strong signal that the intimidation of individuals and groups cooperating with the treaty bodies is unacceptable.

During their annual meeting in July 2016, the Chairs further recommended the implementation of the Guidelines by all treaty bodies and reaffirmed their decision to include reprisals as a standing item on the agenda of the annual meeting of the Chairs.<sup>13</sup> To date, eight treaty bodies out of ten have adopted the San José Guidelines or a policy on reprisals. Only the Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Elimination of Discrimination against Women (CEDAW) have not adopted the guidelines or a policy on reprisals.

The San José Guidelines emphasise the responsibility of States ‘to avoid acts constituting intimidation or reprisals and to prevent, protect against, investigate and ensure accountability and to provide effective remedies to victims of such acts or omissions’. They further acknowledge that the treaty bodies have to take action,

11 [www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx](http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx)

12 Twenty-seventh meeting of chairpersons of the human rights treaty bodies, HRI/MC/2015/6, 30 July 2015, <http://dcostore.ohchr.org/SelfServices/FilesHandler.ashx?enc=FhOD6sgqgzAhFXD9F%2FfeKaHS27qvpChe6dsIpf%2fUJwxIT1COp6pApv%2fKS4scgBIC1dCOEV43rwH11wkdiQZvdiUHTmY%2fXyh1kcccfNL9lbQs7r5luy6Q1KSMYG%2fDt5eJQ>

13 Report of the Chairs of the human rights treaty bodies on their twenty-eighth meeting, A/71/270, 2 August 2016, <http://undocs.org/A/71/270>

including reactive measures when allegations of intimidation or reprisals are received as well as preventative measures to protect individuals or groups at risk.

The San José Guidelines envisage the appointment within each treaty body of a **rapporteur or focal point on intimidation or reprisals**, to coordinate proactive implementation of the policy, which includes receiving and assessing allegations, and determining the appropriate course of action.

The Committee against Torture (CAT) is unique in that it maintains a **webpage** with links to documentation relating to allegations of reprisals and responses by States parties.<sup>14</sup> Both the CAT and the Sub-Committee on the Prevention of Torture have published **Guidelines** on the receipt and handling of allegations of reprisals.<sup>15</sup>

## BURUNDI

In August 2016 the CAT took action on allegations of reprisals against representatives of Burundian NGOs that sent reports and participated in the CAT session during which the situation of Burundi was reviewed. Four of the representatives were lawyers, three of whom were subsequently disbarred and one suspended for one year at the request of the Attorney General of Bujumbura. The Committee expressed concern that the request of the Attorney General related to the cooperation of these members of civil society with it. The Committee sent a letter to the State asking for information on the measures taken to stop all reprisals against members of civil society working with the Committee and addressed the issue of reprisals in the concluding observations of their review of Burundi.

### **If you have suffered an act of intimidation or reprisal when seeking to cooperate, while cooperating, or after having cooperated with the treaty bodies, you should contact:**

- The relevant focal point or rapporteur on reprisals for the treaty body you are engaging with, if there is one, and/or the Chair of the treaty body (see text box below for contact information of the secretariats of each treaty body.)

#### **You can also:**

- Contact the senior official on reprisals at: [reprisals@ohchr.org](mailto:reprisals@ohchr.org) (see section 2.4 below)

<sup>14</sup> [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=130](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=130)

<sup>15</sup> <http://undocs.org/CAT/C/55/2>, <http://undocs.org/CAT/OP/6/Rev.1>

- Contact the UN Special Rapporteur on human rights defenders at: [defenders@ohchr.org](mailto:defenders@ohchr.org)
- Submit your case to the annual report of the Secretary-General on reprisals (see *section 2.5.1 below*). Submissions are usually solicited in May of each year and should be sent to [reprisals@ohchr.org](mailto:reprisals@ohchr.org)
- Submit an individual communication to a treaty body (see *text box below*)
- Submit information to the Committee on the Elimination of Racial Discrimination's urgent action procedure (see *text box below*)

## OTHER OPTIONS FOR REMEDIES FROM THE TREATY BODIES

For many of the treaty bodies you can submit an **individual communication** regarding the violation of a right under the treaty that the body monitors. However, you are only eligible to make such a complaint if your country has ratified the relevant convention, if your country has recognised the competence of the treaty body that monitors that convention to receive individual communications, and if you have exhausted domestic remedies.<sup>16</sup> Submitting a communication to a treaty body also opens up the possibility of the treaty body issuing a request to a State to take **'interim measures'** where this is required to prevent irreparable harm to the victim. The State would be required to report back to the Committee on the steps it has taken to implement those interim measures and protect the victim.

The **Committee on the Elimination of Racial Discrimination (CERD)** also has an early warning and urgent action procedure through which it can respond to problems requiring immediate attention to limit the number of serious violations of the convention. This would be particularly relevant when reprisals take a racist tone, or when a group attempts to engage at UN or regional levels to address a racial or ethnic issue and faces reprisals as a result. This procedure does not require that domestic measures be exhausted.

For more information on how to use the treaty bodies' individual communications procedures, and the CERD's early warning and urgent action procedure, see ISHR's 'Simple Guide to the UN Treaty Bodies'.<sup>17</sup>

<sup>16</sup> There are exceptions to this rule, when proceedings at the national level have been unreasonably prolonged, or the remedies are unavailable or would plainly be ineffective.

<sup>17</sup> <http://www.ishr.ch/news/updated-simple-guide-un-treaty-bodies-guide-simple-sur-les-organes-de-traits-des-nations-unies>

## Contact details for the secretariats of the treaty bodies

- Human Rights Committee<sup>18</sup> (CCPR) Secretariat: [ccpr@ohchr.org](mailto:ccpr@ohchr.org)
- Committee on Economic, Social and Cultural Rights<sup>19</sup> (CESCR) Secretariat: [cescr@ohchr.org](mailto:cescr@ohchr.org)
- Committee on the Elimination of Racial Discrimination<sup>20</sup> (CERD) Secretariat: [cerd@ohchr.org](mailto:cerd@ohchr.org)
- Committee on the Elimination of Discrimination against Women<sup>21</sup> (CEDAW) Secretariat: [cedaw@ohchr.org](mailto:cedaw@ohchr.org)
- Committee against Torture<sup>22</sup> (CAT) Secretariat: [cat@ohchr.org](mailto:cat@ohchr.org)
- Committee on the Rights of the Child<sup>23</sup> (CRC) Secretariat: [crc@ohchr.org](mailto:crc@ohchr.org)
- Committee on Migrant Workers (CMW) Secretariat<sup>24</sup>: [cmw@ohchr.org](mailto:cmw@ohchr.org)
- Committee on the Rights of Persons with Disabilities<sup>25</sup> (CRPD) Secretariat: [crpd@ohchr.org](mailto:crpd@ohchr.org)
- Committee on Enforced Disappearances<sup>26</sup> (CED) Secretariat: [ced@ohchr.org](mailto:ced@ohchr.org)
- Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)<sup>27</sup> Secretariat: [opcat@ohchr.org](mailto:opcat@ohchr.org)

## 2.2 THE HUMAN RIGHTS COUNCIL



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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 its independent experts or the

18 <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx>

19 <http://www.ohchr.org/EN/HRBodies/CESCR/pages/cescrindex.aspx>

20 <http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx>

21 <http://www.ohchr.org/EN/HRBodies/CEDAW/pages/cedawindex.aspx>

22 <http://www.ohchr.org/EN/HRBodies/CAT/pages/catindex.aspx>

23 <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>

24 <http://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx>

25 <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

26 <http://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx>

27 <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx>

Universal Periodic Review process.<sup>28</sup> The Human Rights Council's President and Bureau have the responsibility to protect its processes and defend its integrity, particularly as it relates to the right of civil society to participate fully and safely in its work.<sup>29</sup> Attacks against those that cooperate with the Human Rights Council, or its mechanisms, constitute not solely an attack on those individuals but on the institution itself.

While the President and Bureau of the Human Rights Council maintain their rhetorical commitment to ensuring no reprisals occur, visible action to prevent, respond and ensure accountability for cases of reprisals remains weak. As the Presidency changes every year, and the effectiveness of their action depends on the personal commitment of the holder of the post, the nature and quality of the response to reprisals also varies. There have been good outcomes from engaging with the President on cases of reprisals in the past. By giving high profile visibility to particular defenders, the President shines a spotlight on them and makes explicit the responsibility of the government to ensure those defenders are safe, or face accountability for what it did or did not do to assure their safety. This can be a source of protection.

The Secretary-General also invites the President of the Human Rights Council to orally update the Council on cases brought to their attention at each session<sup>30</sup> in line with the Council's September 2017 resolution.<sup>31</sup>

### **When is it appropriate to engage the President of the Human Rights Council?**

Anytime the intimidation or reprisal relates to engagement with the Human Rights Council. This includes engagement with the Council's mechanisms and procedures, including the **Universal Periodic Review** and the **Special Procedures**.

### **How to engage with the President of the Human Rights Council?**

- **Seek a meeting with the President** if you are in Geneva and have suffered reprisals or if you are worried about the risks you face on returning home after attending a session of the Human Rights Council or one of its mechanisms and procedures.
- **Send information to the President**, asking them to take action by raising your case with the State concerned. The working languages of the

28 See further Memorandum of Advice from Freshfields Bruckhaus Deringer, Sir Nicolas Bratza and Professor Egbert Myjer of October 2014; available at: <http://www.ishr.ch/news/human-rights-council-time-act-legal-obligation-end-reprisals>

29 See further Memorandum of Advice from Freshfields Bruckhaus Deringer, Sir Nicolas Bratza and Professor Egbert Myjer of October 2014; available at: <http://www.ishr.ch/news/human-rights-council-time-act-legal-obligation-end-reprisals>

30 Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights-Report of the Secretary-General', A/HRC/36/31 para. 68, 15 September 2017.

31 Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/RES/36/21 para. 11, 29 September 2017, encourages the Presidents of the Council to continue to address allegations of intimidation and reprisal and to provide information on cases brought to their attention at each session of the Council.

Secretariat of the Human Rights Council are English and French. To the extent possible your communication should be sent in those languages.

- You can reach the Office of the President at: [hrcpresidency@unog.ch](mailto:hrcpresidency@unog.ch)

- You should also copy the Secretariat of the Human Rights Council at: [hrcngo@ohchr.org](mailto:hrcngo@ohchr.org)

**Additional engagement.** You can also:

- Contact the UN Special Rapporteur on human rights defenders at: [defenders@ohchr.org](mailto:defenders@ohchr.org)
- Contact the senior official on reprisals at: [reprisals@ohchr.org](mailto:reprisals@ohchr.org)
- Submit your case to the annual report of the Secretary-General on reprisals (see section 2.5.1 below). Submissions are usually solicited in May of each year and should be sent to [reprisals@ohchr.org](mailto:reprisals@ohchr.org)

## BAHRAIN

In 2012, the President of the Council took up the case of a group of Bahraini defenders who were participating in the country's Universal Periodic Review. These defenders had come to Geneva to observe delegates from their country face questions from other States about its human rights record. However, they faced threats from their own government as a result. The information about the threats was passed on to the President of the Council, who made a statement listing the names of all the defenders who had faced threats, and called on the government to ensure their safety once they returned to their country.

### 2.3 THE SPECIAL PROCEDURES

The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. With the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), Special Procedures undertake country visits,<sup>32</sup> act on individual cases and concerns of a broader, structural nature by sending communications<sup>33</sup> to States and others in which they bring alleged violations or abuses to their attention, conduct thematic studies, convene expert consultations,<sup>34</sup> contribute to the development of international human rights standards, engage in advocacy, raise public awareness, and provide advice for technical cooperation. Special Procedures report annually<sup>35</sup> to the Human Rights

32 <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryandothervisitsSP.aspx>

33 <http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>

34 <http://www.ohchr.org/EN/HRBodies/SP/Pages/SeminarsConsultations.aspx>

35 <http://www.ohchr.org/EN/HRBodies/SP/Pages/AnnualreportsHRC.aspx>

Council; the majority of the mandates also report to the General Assembly.<sup>36</sup> Their tasks are defined in the resolutions creating or extending their mandates.

Addressing acts of intimidation and reprisal is a stated priority for Special Procedures. As a result of the growing attention given to this phenomenon and the increasing instances of intimidation and reprisals observed by mandate holders, the Special Procedures agreed during their 22nd Annual Meeting in June 2015 to consolidate and enhance their response by establishing a coherent framework for action.<sup>37</sup>

The Special Procedures' toolkit for action includes: confidential and public actions, such as meeting with government officials, sending communications to States and other stakeholders, raising cases with UN representatives in the field and at headquarters, including the UN Secretary-General, the High Commissioner for Human Rights and the President of the Human Rights Council, raising cases in public statements, press releases, reports to the Human Rights Council and the General Assembly, or during their interactive dialogues with these two bodies. Special Procedures consider these options on a case-by-case basis, always with the consent of the persons concerned and in line with the principle of 'do no harm'. You should keep in mind that although all individual experts have access to the same tools, some use them more effectively and proactively than others.

## CHINA

After the Special Rapporteur on extreme poverty visited China, one of the human rights lawyers he met with, Jiang Tianyong, was arbitrarily detained and charged with subverting State power. The Special Rapporteur made a specific reference<sup>38</sup> to Jiang Tianyong during the presentation of his country mission report to the Human Rights Council. Making a 'special plea' to China to release him, the Special Rapporteur stated that the charges were 'the equivalent of a legal sledgehammer and should have no place in such contexts.' The country visit report<sup>39</sup> explicitly referred to actions taken by the Special Rapporteur to respond to reprisals against human rights defenders who had met or were planning to meet with the mandate holder during the country visit, which included a communication and press release. The Special Rapporteur followed the case closely, and with other mandate holders issued four press releases from the time of his disappearance to March 2018, raising concerns about access to adequate medical care while serving a two-year sentence.

36 <http://www.ohchr.org/EN/HRBodies/SP/Pages/GAReports.aspx>

37 <http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>

38 <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21772&LangID=E>

39 <http://undocs.org/AI/HRC/35/26/Add.2>

The Coordination Committee<sup>40</sup> of the Special Procedures is comprised of six Special Procedures mandate holders and is designed to enhance coordination among mandate holders and act as a bridge between them and both the rest of the UN system and civil society. The Coordination Committee appoints a focal point on reprisals every year who is responsible for keeping a comprehensive record of all cases of reprisals submitted to the Special Procedures. The Coordination Committee is meant to raise the issue of reprisals with the Human Rights Council, the High Commissioner for Human Rights, the Assistant Secretary-General for Human Rights and the Secretary-General. When necessary and in consultation with the mandate holder(s) concerned, the Coordination Committee may take additional action, including contacting the State or stakeholder concerned and issuing a press statement. The Annual Report<sup>41</sup> of the Special Procedures contains a section on reprisals that reflects the main concerns of, and actions taken by, mandate holders over the past year.

## EGYPT

In an urgent joint statement<sup>42</sup> on 15 September 2017, the Chair of the UN Working Group on enforced or involuntary disappearances (WGEID) and the Special Rapporteur on the situation of human rights defenders expressed dismay about the arrest of lawyer and activist, Ebrahim Abdelmonem Metwally Hegazy. Metwally, the co-founder of the Association of the Families of the Disappeared – a network of families of forcibly disappeared in Egypt – was arrested and prevented from boarding a flight to Geneva on 10 September to attend the 113th Session of the WGEID. Metwally founded the Association of the Families of Disappeared following the disappearance of his son in July 2013, whose whereabouts remain unknown. Metwally's whereabouts remained unknown for two days following his arrest. It has been alleged that he was tortured during that time. He was charged with 'running a group that was illegally established, spreading false news, and cooperating with foreign organisations.' He was issued with a 15-day detention order and transferred to the Maximum Security Prison known as Scorpion (*al-Aqrab*) at the Tora Prisons Complex in Cairo, a prison notorious for inhumane detention conditions and the ill-treatment of prisoners. The UN experts called on the Egyptian authorities to 'immediately provide us with all relevant information concerning his arrest and detention, to fully ensure Mr Metwally's right to physical and psychological integrity as well as to due process.'<sup>43</sup> The experts expressed serious concern with regard to the allegations that Metwally had been tortured. Their statement was also endorsed by the WGEID. At the time of writing, Metwally's pre-trial detention continues to be renewed, no investigation has taken place regarding the allegations of torture, and he remains in solitary confinement under inhumane conditions.

40 <http://www.ohchr.org/EN/HRBodies/SP/CoordinationCommittee/Pages/CCSpecialProceduresIndex.aspx>

41 <http://www.ohchr.org/EN/HRBodies/SP/Pages/Annualreports.aspx>

42 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22079&&LangID=E>

43 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22079&&LangID=E>

**If you have suffered an act of intimidation or reprisal when seeking to cooperate, while cooperating, or after having cooperated with the Special Procedures, you should contact:**

- The relevant thematic or country-specific mandate holder<sup>44</sup> (you can also use the online questionnaire for communications<sup>45</sup>).

**You can also:**

- Contact the UN Special Rapporteur on human rights defenders at: [defenders@ohchr.org](mailto:defenders@ohchr.org)
- Contact the senior official on reprisals at: [reprisals@ohchr.org](mailto:reprisals@ohchr.org)
- Contact the President of the Human Rights Council through the Office of the President at: [hrcpresidency@unog.ch](mailto:hrcpresidency@unog.ch); and copy the Secretariat of the Human Rights Council at: [hrcngo@ohchr.org](mailto:hrcngo@ohchr.org)
- Submit your case to the annual report of the Secretary-General on reprisals (see section 2.5.1). Submissions are usually solicited in May of each year and should be sent to [reprisals@ohchr.org](mailto:reprisals@ohchr.org)

## 2.4 THE SENIOR OFFICIAL

Alarmed by the increase in the number of reported cases of intimidation and reprisal, in October 2016, then Secretary-General Ban Ki-moon designated Andrew Gilmour, Assistant Secretary-General for Human Rights, as senior official to lead the efforts within the UN system to address intimidation and reprisals against those cooperating with the UN on human rights. The designation was warmly welcomed by civil society as well as by a core group of countries.<sup>46</sup>

This function is complementary to existing UN mechanisms to address reprisals and does not in any way diminish the obligation of other bodies and mechanisms to develop and implement policies and take necessary actions to prevent, investigate and remedy cases of reprisals. It includes intimidation and reprisals related to the larger UN family (which includes all UN bodies and agencies, including the International Criminal Court and the World Bank, for example). It does not include cases related to intimidation and reprisals in the context of cooperation with regional human rights mechanisms. The senior official primarily fulfils this work through outreach and engagement with victims and those who may be in a position to prevent and address reprisals. He also raises awareness about the need to prevent reprisals more generally during speeches and statements and encourages other UN agencies to adopt a zero tolerance policy against reprisals.

44 <http://www.ohchr.org/EN/HRBodies/SPI/Pages/Communications.aspx>

45 <https://spsubmission.ohchr.org/>

46 <https://www.ishr.ch/news/reprisals-high-level-un-official-should-ensure-access-victims-and-accountability-perpetrators>

When the Assistant Secretary-General receives allegations, he sends confidential letters to, and meets bilaterally with, high-level government officials, although he does not exclude the possibility of public statements.<sup>47</sup> The letters to, and meetings with, government officials have the objective of engaging the government on an alleged case or patterns, and governments are encouraged to investigate and respond to the allegations.

## HONDURAS

In September 2015, the email accounts of the Asociación para una Ciudadanía Participativa (ACIPARTICIPA) were reportedly hacked. In March 2017, Hedme Castro, general coordinator of ACIPARTICIPA, was briefly held at Tegucigalpa airport when she was about to travel to Geneva to participate in the Human Rights Council. She was reportedly questioned about her activities scheduled in Geneva and the human rights related complaints she intended to make. Castro was also subjected to further acts of intimidation, including the slashing of the tires on her car and physical attacks during a demonstration against a mining company. Special Procedures took action in response to these allegations and have been in contact with the government to that end. Furthermore, the Assistant Secretary-General addressed cases with the government of Honduras.

### How to submit a case to the Assistant Secretary-General?

Send an email to [reprisals@ohchr.org](mailto:reprisals@ohchr.org) with the following information:

- Describe how the situation is linked to the victim's cooperation with the UN.
- Describe the case: Who? When? Where? What? How? Alleged perpetrator(s)? Any evidence or documentation?
- Does the victim or family member/legal representative consent to have the case taken up with the State concerned/shared with UN entities for potential action (use of information in a meeting with the Member State in question, letter, public report, etc.)?
- If a complaint has been submitted to any national, regional or other international bodies it is useful to provide details but this is not a requirement. There is no requirement to exhaust domestic remedies or any reason why cases cannot be submitted simultaneously to other UN bodies or mechanisms.

47 At the time of writing the senior official has only been known to do this once, when he addressed cases of reprisals in Egypt and Bahrain while presenting the Reprisals Report to the Human Rights Council in September 2017. A copy of his statement can be found here: [https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/16/OTH/OTH\\_272\\_56\\_416d12d8\\_bfb7\\_4c28\\_9244\\_5bd5036fff5f.docx](https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/16/OTH/OTH_272_56_416d12d8_bfb7_4c28_9244_5bd5036fff5f.docx) (user name: hrc extranet, password: 1 session).

### What can you expect once you have submitted a case?

- Once you have submitted your case, you will receive an acknowledgement that the case was received and is being considered.
- If the senior official decides to act on your case, you will be notified. Should they decide not to act, you will not hear anything further.
- The senior official does not, as a matter of course, systematically provide any further updates to victims on actions taken. Cases may be referred to UN field presences for follow-up action and monitoring.
- Communications the senior official sends are confidential. These will not be shared with victims.
- The senior official may decide to act on a case themselves or to refer it to another mechanism or body for action. The senior official will usually inform the relevant UN body (with which the victim cooperated or sought to cooperate) about the allegation. Ordinarily, the relevant UN body should be the 'first responder' to any allegations of reprisals, but this does not preclude the senior official from taking action simultaneously with other mechanisms where there are patterns of violations, or severe or urgent cases.

### IS THERE A BENEFIT TO REPORTING A CASE TO MORE THAN ONE BODY OR MECHANISM?

Reporting a case to several different bodies or mechanisms can help to increase the visibility of the case and thereby also increase the attention given to the failings of the State. It also supports the senior official's work in ensuring there is a UN-system wide response to reprisals.

## 2.5 THE SECRETARY-GENERAL'S REPORT AND INTERACTIVE DIALOGUE AT THE HUMAN RIGHTS COUNCIL

### 2.5.1 The Secretary-General's 'Reprisals Report'

Human Rights Council resolution 12/2<sup>48</sup> invites the Secretary-General to submit an annual report to the Council containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals, as well as recommendations on how to address the issue of intimidation and reprisals. This report, entitled 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', is known as the 'Reprisals Report', and

<sup>48</sup> Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/RES/12/2, 12 October 2009, [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_12\\_2.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_12_2.pdf)

has been produced annually since 1991.<sup>49</sup> The most recent report at the time of writing (2017) had an unprecedented number of cases and countries mentioned.

Consistent with the mandate given to the Secretary-General, the Reprisals Report may include cases of intimidation and reprisals related to cooperation with the whole of the UN in the field of human rights. It may therefore include cases in relation to engagement with *all* UN organs, entities or agencies, anywhere in the world including: UN headquarters, country offices and peacekeeping missions, the General Assembly, the Human Rights Council, the Security Council, the Economic and Social Council (ECOSOC), the International Criminal Court, the International Labour Organization, the World Bank/International Monetary Fund, as well as UN meetings and conferences on trade, development and environment issues. The report now also reflects the activities of the Assistant Secretary-General for Human Rights, the senior UN official designated by the Secretary-General to address the issue of reprisals and intimidation.

Then Secretary-General Ban Ki-moon stated in regard to the Reprisals Report that: 'by making cases of reprisals public as requested by the Human Rights Council, the [...] report contributes to the fight against impunity with regard to reprisals and intimidation for cooperation with the United Nations, its representatives and mechanisms in the field of human rights, with the aim of curbing these unacceptable practices.'<sup>50</sup>

The report is not comprehensive. Not all cases are reported to OHCHR, either due to lack of awareness of the Report's existence, or fear of further reprisals. For example there has been under reporting of reprisals cases against defenders who work on the human rights of women or gender issues. Certainly OHCHR will not include cases in which the defender's situation will be made worse if the case is publicly reported or if consent by the victim is not obtained. Also, though the report addresses intimidation, it clearly does not include cases where defenders have chosen to 'self-censor' and not to engage at all with the UN system due to fear of reprisals. Prior to the appointment of the senior official, many cases were excluded on the basis that they were not contained in another UN report. It is hoped that the appointment of the senior official will result in a more comprehensive collation of cases.

States see and hear the participation of NGOs in the Human Rights Council, but they may not see the difficulties that human rights defenders and their relatives, colleagues or friends can face on their return home. The apparent distance between cause and effect can make it hard for relevant decision makers at the UN to see the direct link and the real dangers attached to engagement with the UN system. From the point of view of continuing to develop a systematic response by the UN,

49 See for example the report submitted to the 36th session of the Human Rights Council in September 2017, <http://www.ohchr.org/Documents/HRBodies/SPIA-HRC-36-31.docx>

50 Human Rights Council, 'Report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/14/19, para 12, 7 May 2010.

it is important that cases of reprisal suffered by those who cooperate with it or its mechanisms are reported. Unless the UN and member States are confronted with the real extent of the problem, it is difficult to elicit an urgent response.

The Report is not intended as a protection mechanism, but as a basis to give publicity to cases and call for accountability, it can serve a deterrent function. It is hoped this aspect of the Report will be strengthened through more systematic follow-up and the interactive dialogue in the Human Rights Council (see 2.5.2 below).

### **How to submit a case to the Secretary-General's Reprisals Report?**

Contact [reprisals@ohchr.org](mailto:reprisals@ohchr.org) with the information below. While submissions can be sent at any time, submissions for the Reprisals Report are usually solicited in May of each year and need to be provided by a specific deadline (usually mid to end May) to be included in the Report to be presented to the September session of the Human Rights Council:

- Describe how the situation is linked to the victim's cooperation with the UN.
- Describe the case: Who? When? Where? What? How? Alleged perpetrator(s)? Any evidence or documentation?
- Has there been any government response to the allegations?
- Has the situation been referred to in any UN documents? (provide citations)
- Does the victim or family member/legal representative consent to have the information included in the report? Note that this is necessary even if consent was given for prior action, such as a letter.
- Does the information being submitted entail follow-up/updates/developments to an ongoing case or a case that was reflected in a previous UN report?

## **2.5.2 The Interactive Dialogue in the Human Rights Council**

*“There is something grotesque and entirely contrary to the Charter and spirit of the United Nations, and particularly this Council, that people get punished, through intimidation and reprisals, for cooperating with the UN on human rights.”*

*Oral presentation by the Assistant Secretary-General for Human Rights, Andrew Gilmour, of the report of the Secretary-General on cooperation with the UN, its representatives and mechanisms in the field of human rights.*

In practice, the Council's discussion of cases in the Reprisals Report and follow-up to those cases has not been very systematic. Even though follow-up on previous cases is now included in the Reprisals Report, States have not used this information effectively to hold other States accountable when the Report is presented to the Council.

In September 2017 Human Rights Council resolution 36/21<sup>51</sup> decided that the presentation of the Secretary-General's report will be followed by an **interactive dialogue** with a view to ensuring adequate attention to the report and to sharing good practices, challenges and lessons learned. This dialogue will take place for the first time in September 2018. It is possible that this will provide an opportunity to lobby States that are responsive to concerns about reprisals to raise cases and push States to ensure the safety of the human rights defenders involved. The dialogue could also provide an opportunity to draw the media's attention to cases.

When approaching State representatives in the UN context it is important to exercise caution, keeping in mind the role of some governments in perpetrating or condoning reprisals. Make sure you are aware of which States are likely to be sympathetic to your cause.

### 2.5.3 Submitting follow-up information on previously reported cases

As mentioned above, the Reprisals Report may include follow-up information on cases included in previous reports. When making the call for submissions for the Report, the OHCHR requests follow-up information, including whether additional reprisals took place and whether States have taken measures in relation to cases included in previous reports.

Given the limited follow-up by both OHCHR and the Council to previously reported cases and that the OHCHR does not have the capacity to seek out this information in a systematic way itself, supplying this information directly to OHCHR is the most effective way of improving the quality of the information OHCHR provides to States. More detailed information on follow-up is likely to increase the extent to which States use that information in the interactive dialogue in the Council on the Reprisals Report.

#### **SUBMITTING FOLLOW-UP INFORMATION**

If you are familiar with a reported case and have additional information to share with OHCHR either on the case itself, or on steps taken or not taken by the government and other bodies, you can submit this to OHCHR at: [reprisals@ohchr.org](mailto:reprisals@ohchr.org). You should reference the case you are referring to by report number and paragraph number.

51 Human Rights Council, 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', A/HRC/RES/36/21, 29 September 2017, <http://undocs.org/A/HRC/RES/36/21>



# CHAPTER 3 RESPONSE OF REGIONAL HUMAN RIGHTS BODIES TO INTIMIDATION AND REPRISALS

## 3.1 INTER-AMERICAN COMMISSION ON HUMAN RIGHTS



Regarding **hearings**, the rules of procedure of the Inter-American Commission on Human Rights (the IACHR) set out that States 'shall grant the necessary guarantees to all the persons who attend a hearing or who in the course of a hearing provide information, testimony or evidence of any type to the Commission', and that 'States may not prosecute witnesses or experts, or carry out reprisals against them or their family members because of their statements or expert opinions given before the Commission'.<sup>52</sup>

Furthermore, regarding '**On-Site Observations**', the rules of procedure set out that 'in extending an invitation for an on-site observation or in giving its consent thereto, the State shall furnish to the Special Commission all necessary facilities for carrying out its mission. In particular, it shall commit itself not to take any reprisals of any kind against any persons or entities cooperating with or providing information or testimony to the Special Commission.'

More generally, the General Assembly of the Organization of American States has urged member States 'to persist in their efforts to provide Human Rights Defenders with the necessary guarantees and facilities to continue freely carrying out their

52 *Inter-American Commission on Human Rights, Rules of Procedure, Article 63*, available at: <http://www.oas.org/en/iachr/mandate/basics/rulesiachr.asp>

work of promoting and protecting human rights, at the national and regional levels, in accordance with internationally recognized principles and agreements.<sup>53</sup>

There is therefore recognition by the Inter-American system that human rights defenders are at risk when they engage with regional mechanisms, and that States have an obligation to protect them in those cases.

The IACHR does not have a mechanism explicitly dedicated to monitoring and responding to reprisals, but has the capacity to send requests for information to States regarding allegations of reprisals, to adopt precautionary measures to prevent irreparable harm to someone, and to issue press releases. Each of these is discussed briefly below.

### 3.1.1 Requests for information

Under article 41 of the American Convention on Human Rights, and article 18 of the IACHR Statute, the Commission can request information from a member State on the measures adopted by them in matters of human rights.<sup>54</sup> This is a confidential procedure in which the Commission can raise allegations of human rights violations with member States and require States to respond within a timeframe (usually 15 days).

Requests for information sent to States do not need the approval of the entire Commission. They are handled by the IACHR Rapporteur on human rights defenders,<sup>55</sup> and require further approval by the relevant country Rapporteur and the President of the Commission. Thus, action can be taken relatively quickly (usually within a week).

### 3.1.2 Precautionary measures

The IACHR has the capacity to request States to adopt 'precautionary' or 'interim' measures to prevent irreparable harm to someone.<sup>56</sup> These precautionary measures have been requested in cases where human rights defenders are facing reprisals.<sup>57</sup> The mechanism for precautionary measures is established in article 25 of the Rules of Procedure of the IACHR.<sup>58</sup> In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, 'request that a State adopt precautionary measures. Such measures, whether related to a petition

53 *Organization of American States General Assembly, AG/RES. 1671 (XXIX-O/99) Human rights defenders in the Americas, support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas*, June 7 1999, Res. 2, <http://www.oas.org/juridico/english/ga-res99/eres1671.htm>

54 *American Convention on Human Rights*, 22 November 1969, <https://www.cidh.oas.org/basico/english/basic3.american%20convention.htm>, OAS General Assembly, *Statute of the Inter-American Commission on Human Rights*, October 1979, <http://www.oas.org/en/iachr/mandate/basics/statuteiachr.asp>

55 <http://www.oas.org/en/iachr/defenders/default.asp>

56 *Inter-American Commission on Human Rights, Resolution 8/18*, 21 February 2018, <http://www.oas.org/en/iachr/decisions/precautionary.asp>

57 See for instance, the precautionary measure adopted in favour of a Venezuelan human rights defender *Inter-American Commission on Human Rights, Resolution 9/15*, 20 March 2015, <https://www.oas.org/es/cidh/decisiones/pdf/2015/IMC71-15-es.pdf>

58 *Inter-American Commission on Human Rights, Rules of Procedure, Article 25*, available at: <http://www.oas.org/en/iachr/mandate/basics/rulesiachr.asp>

or not, shall concern serious and urgent situations presenting a risk of irreparable harm to persons or to the subject matter of a pending petition or case before the organs of the Inter-American system.' The measures may be of a collective nature to prevent irreparable harm to persons due to their association with an organisation, a group, or a community with identified or identifiable members.

Precautionary measures require that the persons affected have approached the pertinent national authorities first, but only if this is possible. In the case of human rights defenders facing threats from the State or its authorities for their work, attempts to pursue the case domestically are likely to invite further harassment. In such cases this condition would be waived.

The measures called for from the States concerned include taking steps to 'guarantee the life and physical integrity' of the human rights defender, and 'to inform on the actions taken to investigate the facts that led to the adoption of precautionary measures.'

As with the treaty bodies' system of 'interim measures', precautionary measures under the IACHR impose duties on the State to protect human rights defenders. The State cannot avoid the burden of care by claiming it had no knowledge of the danger the defender was under. It makes it clear that if harm comes to that person, it will be the State, and specifically how far the State attempted to implement the precautionary measures, that will be under scrutiny. This could be sufficient to motivate the State to either halt its own harassment or persecution of the defender, or to intervene in cases where the threats or harassment are coming from non-State actors.

The protection offered by precautionary measures can be more robust than a request for information. However, the procedure has more stringent requirements to prove that the situation is 'serious and urgent' and that they present a risk of irreparable harm. Precautionary measures can also take longer (one to three months) than requests for information, as the Commission as a whole must approve them.

## **CONFIDENTIALITY**

### **Can the IACHR keep the identity of the proposed beneficiary of precautionary measures or a request for information confidential?**

In general, when the Commission addresses the State in relation to a request for precautionary measures, it must communicate the identity of the proposed beneficiary, since the State must know to whom it is to provide protection or information on. If there is a concern in this regard, the situation can be communicated to the Commission for its consideration but practically, it is difficult to imagine a scenario where confidentiality can truly be maintained.

In certain cases, the Commission may opt to protect a proposed beneficiary's identity in the documents that are made public, for example, by replacing the full name with their initials. The request to protect the identity of the proposed beneficiary should be made to the Commission with a statement of the reasons.

### **Can the Commission keep the name of the applicant for precautionary measures or a request for information confidential?**

Yes. Provided that the applicant expressly requests it, the Commission can keep their name confidential. However, if the applicant and the proposed beneficiary are the same person, the Commission generally informs the State of the person's identity. If there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

## **FOLLOW-UP – WHAT HAPPENS NEXT?**

The extent of follow-up with victims of reprisals varies, depending on whether you are requesting precautionary measures or asking the Commission to initiate a request for information.

In the case of precautionary measures, the Commission will keep victims informed at all stages of the process. Because the request for information procedure is confidential, victims should not expect to be kept informed beyond an acknowledgment that their case was received. However, victims can contact the Commission's Special Rapporteur on human rights defenders who can provide basic information such as whether a request for information was sent, and whether it was answered by the State.

Some defenders have used freedom of information requests domestically to obtain access to requests for information sent by the IACHR and the concerned State's response. This is potentially a way around the fact that the procedure is otherwise confidential. For example, this has been used successfully in Mexico through the 'Comisión para la Transparencia'.

### 3.1.3 Press releases

The IACHR also frequently addresses the issue of reprisals in its end of session reports and press releases.<sup>59</sup> These reports and press releases may contribute to shining light on the State's activities and making it harder for authorities to act with impunity against human rights defenders. Press releases are frequently used in situations in which defenders experience reprisals related to their participation in sessions of the IACHR. Press releases can be particularly useful for countries that do not react to requests for information and precautionary measures.

Several civil society organisations and defenders attending IACHR hearings have also adopted the practice of making specific requests at the end of a hearing exhorting the concerned State not to take any reprisals against those who have collaborated with the IACHR. The Commissioners that are present in the hearings generally respond to these requests by reminding the concerned State of its obligations under article 63 of the Rules of Procedure of the IACHR. In some circumstances, Commissioners have also expressed their concern regarding statements made by the State representatives during the hearings.

In the report of its 161st session in March 2017, the IACHR expressed concern about alleged reprisals, threats, and stigmatising statements made against individuals and organisations in Honduras, Nicaragua and Venezuela for having participated in hearings and other activities during the IACHR's session. The IACHR noted that the situation had previously been raised regarding these same countries, and the fact that it was happening again was disturbing. The IACHR reiterated article 63 of the Rules of Procedure and stated that it is absolutely unacceptable for a State to take any type of action motivated by the participation or activities of individuals or organisations that engage the bodies of the Inter-American human rights system in the exercise of their rights under the American Convention on Human Rights.

<sup>59</sup> Report on the 161st Session of the IACHR, Annex to Press Release 35/17, [www.oas.org/en/iachr/media\\_center/docs/report-161.doc](http://www.oas.org/en/iachr/media_center/docs/report-161.doc)

**If you have sought to cooperate, are cooperating or have cooperated with the Inter-American system on human rights and have suffered an act of intimidation or reprisal, you can:**

- Contact the IACHR Special Rapporteur on human rights defenders at [cidhdefensores@oas.org](mailto:cidhdefensores@oas.org) to ask:
  - that the Commission initiate a **request for information** from a State; and
  - that the Commission issue a **press release** expressing concern.
- Contact the Commission at [cidhdenuncias@oas.org](mailto:cidhdenuncias@oas.org) to request **precautionary measures**. You can also copy the Special Rapporteur on human rights defenders at [cidhdefensores@oas.org](mailto:cidhdefensores@oas.org).
- Make a specific request at the end of a hearing regarding reprisals against those who have collaborated with the IACHR and request that Commissioners remind the concerned State of its obligations under article 63 of the Rules of Procedure.

Also bear in mind that if you fear reprisals in the context of a hearing at the IACHR, you can request that the hearing be held behind closed doors.

These options can all be requested concurrently. When asking for a request for information and precautionary measures concurrently, most of the time the Commission will choose one of these options to pursue.

## 3.2 THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS



### 3.2.1 The Focal Point on reprisals

The African Commission on Human and Peoples' Rights (the ACHPR) created a monitoring mechanism by extending the mandate of the Special Rapporteur on

human rights defenders to include the role of Focal Point on reprisals following the 'grave concern' expressed by the Commission in the face of frequent and serious reprisals against civil society activists, particularly human rights defenders.<sup>60</sup> This ought to provide the basis for a systematised response, but has yet to be fully operational despite being in existence since May 2014.

The **Special Rapporteur on human rights defenders and Focal Point on reprisals** is mandated to: gather information on and effectively address cases of reprisals against civil society stakeholders; document and maintain a database on cases of reprisals brought to its attention; provide guidance to the Commission on urgent measures to be adopted to deal with specific cases of reprisals; present reports on cases of reprisals at each ordinary session of the Commission as part of activity reports of the Special Rapporteur; and ensure follow-up of registered cases.

In order to operationalise this new mandate and contribute effectively to the prevention and fight against reprisals, the Special Rapporteur organised a regional meeting with civil society actors in February 2015 to brainstorm on appropriate strategies to be adopted in order to adequately address the issue of reprisals. Three important documents were called for at the end of this meeting: a Procedural Guide for Communication between the African Commission's Focal Point on reprisals, alleged victims and States parties; a Form to collect and transmit information relating to allegations of reprisals and intimidation of human rights defenders; and a Briefing and guidance note on communication with the African Commission Focal Point on reprisals. These three documents have been merged into an 'Information Note', which will be published as a brief document that provides information on the focal point's mandate, how to submit cases, and working methods. At the time of writing this document had yet to be published.<sup>61</sup>

### 3.2.2 Communications, including provisional measures

The ACHPR can receive **communications** from individuals and NGOs alleging violations of human rights. Communications must be in writing, and addressed to the ACHPR's Secretary or Chairman. There is no form or special format, but a communication should contain the name(s) of the complainant(s), their nationalities, occupations or professions, addresses and signatures. If the communication is from an NGO, it should include the address of the institution and the names and signatures of its legal representatives. Communications should describe the violation of human and/or peoples' rights that took place and indicate the date, time, and place where it occurred. It should also identify the State concerned. The communication should also include the victim's names (even if they want to remain

<sup>60</sup> ACHPR/Res.273 (LV) 14 of 12 May 2014.

<sup>61</sup> *Mandate of the Special Rapporteur on human rights defenders and Focal Point on reprisals in Africa, End of Mandate Report, presented by Madam Reine Alapini-Gansou, Commissioner and Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, November 2017*, [http://www.achpr.org/files/sessions/61st/inter-act-reps/295/comm\\_gansou\\_srhrrd\\_61\\_act\\_report\\_eng.pdf](http://www.achpr.org/files/sessions/61st/inter-act-reps/295/comm_gansou_srhrrd_61_act_report_eng.pdf)

anonymous, in which case, this should be stated), and if possible, the names of any authority familiar with the facts of the case. Communications should also provide information indicating that all domestic legal remedies have been exhausted. If all remedies were not exhausted, the communication should indicate the reasons why it was not possible to do so. Communications should also indicate whether the communication has been or is being considered before any other international human rights body.<sup>62</sup>

In the context of communications, the ACHPR also has a system of '**provisional measures**' that it can request of a State 'to prevent irreparable harm to the victim or victims of the alleged violation as urgently as the situation demands'.<sup>63</sup> The State party is expected to report back on its implementation of those measures within 15 days.

**If you have sought to cooperate, are cooperating or have cooperated with the African system on human rights and have suffered an act of intimidation or reprisal, you should:**

- Contact the ACHPR Special Rapporteur on human rights defenders and Focal Point on reprisals. The current mandate holder is Prof. Rémy Ngoy Lumbu. Correspondence should be sent to [au-banjul@africa-union.org](mailto:au-banjul@africa-union.org).

**You can also:**

- Submit a **communication** to the ACHPR at [au-banjul@africa-union.org](mailto:au-banjul@africa-union.org), and ask for **provisional measures** if the situation demands it.

62 *The African Commission on Human and Peoples' Rights Information Sheet no.3. Communication Procedure, Organisation of African Unity*, [http://www.achpr.org/files/pages/communications/procedure/achpr\\_communication\\_procedure\\_eng.pdf](http://www.achpr.org/files/pages/communications/procedure/achpr_communication_procedure_eng.pdf)

63 *Rules of Procedure of the African Commission on Human and Peoples' Rights, Rule 98*, [http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules\\_of\\_procedure\\_2010\\_en.pdf](http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules_of_procedure_2010_en.pdf)

### 3.3 THE EUROPEAN SYSTEM



#### 3.3.1 The Council of Europe

##### *Relevant standards*

There is substantial recognition in the European system of the need for defenders to be protected from intimidation and reprisals.

In Resolution 1571 (2007) on 'Member States' duty to co-operate with the European Court of Human Rights',<sup>64</sup> the **Parliamentary Assembly of the Council of Europe** addressed the issue of intimidation and reprisals, calling upon member States to, inter alia, refrain from putting pressure on applicants, take positive measures to protect applicants from reprisals, and thoroughly investigate and take action to prosecute and punish the perpetrators and instigators of such acts.

A 2008 Declaration of the Committee of Ministers of the Council of Europe on Action to Improve the Protection of Human Rights Defenders calls on member States to 'ensure the effective access of human rights defenders to the European Court of Human Rights' and other human rights protection mechanisms.<sup>65</sup> The Parliamentary Assembly Committee on Legal Affairs and Human Rights endorsed this declaration in 2009 in its Resolution 1660.<sup>66</sup>

64 Parliamentary Assembly of the Council of Europe, 'Member states' duty to co-operate with the European Court of Human Rights', Resolution 1571 (2007), <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>

65 Committee of Ministers of the Council of Europe, adopted at the 1017th meeting of the Ministers' Deputies, 6 February 2008, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805d3e52](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d3e52)

66 Parliamentary Assembly of the Council of Europe 'Situation of human rights defenders in Council of Europe member states', Resolution 1660 (2009), adopted on 28 April 2009, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17727&lang=en>

Furthermore, in 2016, the **Parliamentary Assembly of the Council of Europe** adopted Recommendation 2085 (2016)<sup>67</sup> and Resolution 2095 (2016)<sup>68</sup> on 'Strengthening the protection and role of human rights defenders in Council of Europe member States'. The Resolution addressed the issue of reprisals and called on member States to 'show solidarity with organisations and individuals that defend human rights by designating, in their relevant foreign missions, diplomats specifically responsible for keeping in contact with human rights defenders.'

Reprisals and intimidation are also addressed directly in article 34 of the **European Convention on Human Rights**, which sets out that States undertake not to hinder in any way the effective exercise of the right to submit applications to the European Court of Human Rights.<sup>69</sup> The Court has also addressed reprisals in its jurisprudence, notably in *Ryabov v. Russia*, in which the Court defined that 'the expression 'any form of pressure' must be taken to cover not only direct coercion and flagrant acts of intimidation of applicants or their legal representatives but also other improper indirect acts or contacts designed to dissuade or discourage them from pursuing a Convention remedy.'<sup>70</sup>

### *Protection measures*

Since the adoption of the Declaration of the Committee of Ministers of the Council of Europe on Action to Improve the Protection of Human Rights Defenders, the institution of the **Commissioner for Human Rights** has reportedly strengthened its action to support the work of human rights defenders, increasingly using tools at its disposal to address challenges faced by human rights defenders. The Commissioner is not mandated to address individual complaints. However, the outgoing Commissioner, Nils Muižnieks, outlined in a statement in February 2018, that the Commissioner can raise the situation of human rights defenders with member States and can publicly intervene in cases that require urgent attention, such as cases of reprisals. The Commissioner can also intervene as a third party before the European Court of Human Rights in cases involving human rights defenders whose rights have been affected by restrictive measures. The Commissioner also meets with human rights defenders and cooperates with national and international stakeholders on issues concerning defenders' safety and the environment in which they operate.<sup>71</sup>

There is also a **Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe**, which has held discussions on the

67 <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=22501&&lang=en>

68 <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=22500&&lang=en>

69 Council of Europe, [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

70 *Ryabov v. Russia*, European Court of Human Rights, Application no. 3896/04, 31 January 2008, para 57.

71 Council of Europe Commissioner for Human Rights, 'Statement on the 10th anniversary of the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities', 6 February 2018, <https://www.coe.int/en/web/commissioner/-/statement-on-the-10th-anniversary-of-the-declaration-of-the-committee-of-ministers-on-council-of-europe-action-to-improve-the-protection-of-human-rights?inheritRedirect=true&redirect=%2Fen%2Fweb%2Fcommissioner%2Fhuman-rights-defenders>

difficulties faced by those who attempt to engage with the Court. The Committee has included in its report of those discussions a listing of cases in which defenders faced threats or harassment as a result of their engagement. The **Chairperson of this Committee** is therefore also someone to whom defenders could report cases with the intention of having them included in this report.<sup>72</sup> In terms of possible future developments, in a 2015 memorandum on strengthening protections for human rights defenders, the Rapporteur of the Committee noted that the Council of Europe should reflect without delay on whether intergovernmental organisations could establish a mechanism of protection of those who cooperate with them by providing first-hand information on human rights abuses.<sup>73</sup>

In his third annual report in 2016, **Council of Europe Secretary-General** Thorbjørn Jagland proposed to establish, under the authority of the Secretary-General, a **mechanism strengthening the protection of human rights defenders that would focus on reprisals** related to their interaction with the Council of Europe. The proposed mechanism will process reported reprisals in a simple, structured procedure, with individual steps and timeframes being defined and known in advance. A member of the Private Office will be appointed as the Focal Point. Reported incidents will be communicated to the member states concerned for response and ultimately reported by the Secretary-General to the Committee of Ministers with, if necessary, recommendations for further action. Where necessary, the Secretary-General may consider public interventions.<sup>74</sup> At the time of writing, no such mechanism had been established.

In the **European Court of Human Rights** parties are able to make a request for **'interim measures'**. The Court's rules of procedure state that interim measures may be required 'in the interest of the parties or of the proper conduct of the proceedings before [the Court]'.<sup>75</sup> There must be a threat of irreparable harm of a 'very serious nature', which is 'imminent and irremediable'. The Court's case law has established that interim measures are binding on States, and they are therefore a potentially useful resource for human rights defenders engaging with the European system who are facing threats from State authorities as a result. The Court has been commended for taking an assertive stand in counteracting pressure on lawyers working on the exhaustion of domestic remedies prior to their application to

72 *Parliamentary Assembly of the Council of Europe, 'Member states' duty to co-operate with the European Court of Human Rights'*, Report of the Committee on Legal Affairs and Human Rights, Doc. 11183, Appendix I, 9 February 2007, <https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=11183&lang=en>

The current Chairperson of the Committee is Thorhildur Sunna Aevarsdottir,

<http://www.assembly.coe.int/nw/xml/AssemblyList/AL-XML2HTML-EN.asp?lang=en&XmIID=Committee-Jur>

73 *Committee on Legal Affairs and Human Rights, 'Strengthening the protection and role of human rights defenders in Council of Europe member States'*, provisional version adopted 8 December 2015, [http://www.eoi.at/d/COE%20-%20Council%20of%20Europe/COE-20151208-protectiondefenseurs-EN%20\(2\).pdf](http://www.eoi.at/d/COE%20-%20Council%20of%20Europe/COE-20151208-protectiondefenseurs-EN%20(2).pdf)

74 *Secretary-General of the Council of Europe, 'State of Democracy, Human Rights and Rule of Law - A Security Imperative for Europe'*, May 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680646af8>; *Speaking Notes of the Secretary General to the 1283rd meeting of the Ministers' Deputies (5 April 2017)*, *SG/Inf(2017)17*, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680706e1b>

75 *European Court of Human Rights, Rules of the Court, Rule 39*, available at: [https://www.echr.coe.int/Documents/Rules\\_Court\\_ENG.pdf](https://www.echr.coe.int/Documents/Rules_Court_ENG.pdf)

the Court.<sup>76</sup> The specific potential of interim measures to protect applicants to the Court has been recognised and it has been suggested that 'the Court could require respondent States to take positive action to protect applicants, as the Inter-American Commission and Court have done.'<sup>77</sup> The **Commissioner for Human Rights** has been charged with monitoring States in their observance of their duty to cooperate with the Court.<sup>78</sup>

**If you have sought to cooperate, are cooperating or have cooperated with the European system on human rights and have suffered an act of intimidation or reprisal, you could contact:**

- The office of the Secretary-General of the Council of Europe:  
<https://www.coe.int/en/web/secretary-general/private-office>,  
+ 33 3 88 41 20 00 (tel), + 33 3 88 41 27 99 (fax)
- The office of the Commissioner for Human Rights of the Council of Europe: [commissioner@coe.int](mailto:commissioner@coe.int), +33 (0)3 88 41 34 21 (tel),  
+33 (0)3 90 21 50 53 (fax)
- The Chairperson of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe.<sup>79</sup>

If you are facing intimidation or reprisals in the context of proceedings before the European Court of Human Rights, and there is a threat of irreparable harm of a 'very serious nature' that is 'imminent and irremediable', you could consider making a request for interim measures.<sup>80</sup>

### 3.3.2 The Organisation for Security and Cooperation in Europe (OSCE)

There is also recognition at the level of the OSCE of the need for defenders to be protected from intimidation and reprisals. The **Guidelines on the Protection of Human Rights Defenders** by the Office for Democratic Institutions and Human Rights (ODIHR) underline that communicating information about human rights to international bodies, including international and regional human rights mechanisms, is both a recognised right requiring protection and a legitimate human rights activity.<sup>81</sup> However, there are no specific mechanisms or procedures in place at the OSCE level to address reprisals and intimidation against those engaging with it.

76 Parliamentary Assembly of the Council of Europe, 'Member States' duty to cooperate with the European Court of Human Rights', resolution 1571 para. 10, 2007, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>

77 Parliamentary Assembly of the Council of Europe, 'Member States' duty to cooperate with the European Court of Human Rights', resolution 1571, para. 53, 2007, available at <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>

78 Parliamentary Assembly of the Council of Europe, 'Member States' duty to cooperate with the European Court of Human Rights', resolution 1571, para. 19, 2007, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17576&lang=en>

79 Since the membership of this committee is subject to change, the contact information of the chairperson can be found here: <http://website-pace.net/web/as-jur>

80 For more information, see: [https://www.echr.coe.int/Documents/PD\\_interim\\_measures\\_ENG.pdf](https://www.echr.coe.int/Documents/PD_interim_measures_ENG.pdf)

81 Organisation for Security and Cooperation in Europe, 2014: <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders?download=true>

## CHAPTER 4 SUPPORT FROM STATES

The steps taken by international and regional bodies in response to reprisals, either through establishing mechanisms or making use of existing mechanisms to address reprisals, illustrate that the UN and regional systems are attempting to meet their obligations to ensure that defenders who engage or attempt to engage with them have some form of protection. However, these mechanisms may not provide sufficient protection. There are other sources of protection, including at the national level, that defenders may access in an effort to protect against reprisals when engaging at the regional and UN levels.

### 4.1 SUPPORT THROUGH DIPLOMATIC MISSIONS AT THE NATIONAL LEVEL

The diplomatic community can be an important source of protection, albeit limited in most cases, at the national level. Some States have developed specific guidelines for their missions on the protection of human rights defenders in the countries in which their missions operate. Therefore, those missions would be particularly responsive to human rights defenders who have faced or are facing reprisals as a result of their engagement with regional or UN human rights systems. That being said, it is important to keep in mind that defenders seen going to and from embassies may be putting themselves more at risk.

At present the **European Union (EU)**,<sup>82</sup> **Ireland**,<sup>83</sup> **Norway**,<sup>84</sup> **Switzerland**,<sup>85</sup> **Canada**,<sup>86</sup> **Finland**,<sup>87</sup> **the Netherlands**,<sup>88</sup> and the **United Kingdom (UK)**<sup>89</sup> have developed guidelines for their diplomats on the protection of human rights defenders in the countries in which their missions operate, and the responses their embassies and consulates should provide.

82 EU Guidelines on Human Rights Defenders, available at: [https://eeas.europa.eu/sites/eeas/files/eu\\_guidelines\\_hrd\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/eu_guidelines_hrd_en.pdf)

83 Irish Department of Foreign Affairs, 'Guidelines for Irish Embassies and Missions on Human Rights Defenders', 2010, [https://www.humannrights.ch/upload/pdf/150415\\_iris\\_hrd\\_guidelines\\_en.pdf](https://www.humannrights.ch/upload/pdf/150415_iris_hrd_guidelines_en.pdf)

84 Norwegian Ministry of Foreign Affairs, 'Norway's efforts to support human rights defenders. Guide for the foreign service', 2010, <https://www.regjeringen.no/globalassets/ulpload/ud/vedlegg/menneskerettigheter/menneskerettighetsforrkgaempere/veiledningmrforkjengelskfin.pdf>

85 Federal Department of Foreign Affairs, 'Swiss Guidelines on the Protection of Human Rights Defenders', 2013, [https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtelhumanitaerePolitikundMigration/Leitlinien-zum-Schutz-von-HRD\\_en](https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtelhumanitaerePolitikundMigration/Leitlinien-zum-Schutz-von-HRD_en)

86 Voices at risk: Canada's guidelines on supporting human rights defenders, [http://international.gc.ca/world-monde/issues\\_development-enjeux\\_developpement/human\\_rights-droits\\_homme/rights\\_defenders\\_guide\\_defenseurs\\_droits.aspx?lang=eng](http://international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders_guide_defenseurs_droits.aspx?lang=eng)

87 Ministry for Foreign Affairs of Finland, 'Protecting and Supporting Human Rights Defenders - Public Guidelines of the Foreign Ministry of Finland on the implementation of the European Union Guidelines on Human Rights Defenders', 27 November 2014, [https://um.fi/documents/35732/48132/protecting\\_and\\_supporting\\_human\\_rights\\_defenders\\_\\_\\_public\\_guidelines\\_of](https://um.fi/documents/35732/48132/protecting_and_supporting_human_rights_defenders___public_guidelines_of)

88 Dutch Ministry of Foreign Affairs, 'Action Plan for Human Rights Defenders', 15 June 2012, <https://www.government.nl/topics/human-rights/documents/reports/2012/06/15/action-plan-for-human-rights-defenders>

89 The UK guidelines are not publicly available.

Defenders who approach the EU, Swiss, Irish, Finnish, Dutch, British, Norwegian or Canadian missions should therefore find that they can speak to people who are prepared to take their concerns seriously and respond to them. It would be useful to establish contact with relevant diplomats before reprisals arise so that if it is necessary to ask for help, diplomats will already be familiar with defenders and their work.

It is important to note that embassies can be limited in what they can do if their actions would put their own staff at risk. Furthermore, some smaller embassies do not have enough staff to dedicate resources in this area.

**CANADA's** guidelines outline that support for human rights defenders is a priority issue for diplomatic missions, including through diplomatic engagement, making public statements and using social media, attending trials and hearings and visiting detained human rights defenders, liaising with organisations providing emergency assistance, and providing asylum through the UN High Commission for Refugees under its Urgent Protection Program.

The **EU** guidelines on human rights defenders provide practical suggestions for enhancing EU action supporting human rights defenders. The EU guidelines provide for interventions for human rights defenders at risk and suggest practical means to support and assist them. Measures that EU missions can take include: coordinating closely and sharing information on human rights defenders, including those at risk; maintaining suitable contacts with human rights defenders; providing visible recognition to human rights defenders through the use of appropriate publicity, visits or invitations; and attending and observing trials of human rights defenders.

**FINLAND's** guidelines have been prepared on the basis of the EU guidelines and are intended to encourage Finnish diplomatic missions to take an active role in promoting an enabling environment for defenders. Support and protection for defenders at risk include public or private diplomacy and assistance with relocation within the country or to another country.

**IRELAND's** 'Guidelines for Irish Embassies and Missions on Human Rights Defenders' provide an overview of Ireland's work in support of human rights defenders and suggest practical steps for embassies in supporting human rights defenders, including: direct contact with human rights defenders and/or their families; confidential diplomatic action; using informal channels; national or EU démarches; dialogue with domestic human rights institutions; public statements; highlighting the case locally among EU partners or at the relevant Brussels-based geographic working group; and granting temporary respite in Ireland under the humanitarian visa scheme.

The **NETHERLANDS'** 'Action Plan for Human Rights Defenders' recognises that defenders who work with the UN are experiencing problems and outlines that embassies provide support to human rights defenders wherever possible (ideally through the EU), to protect them from intimidation and bolster their security. Protection measures envisaged in the Action Plan include statements, démarches, support at public gatherings and in the media, monitoring adherence to the EU Guidelines, raising individual situations, attending trials, and facilitating the expedited issuance of short-stay visas in the Netherlands to defenders in distress.

**NORWAY's** guidelines set out a range of measures including formal enquiries, official meetings, démarches, official statements, observation of court cases, prison visits and visits to persons under house arrest, and use of the media. The guidelines also outline measures to be taken in situations where there is an acute need for protection, including financial and practical assistance to enable a person to access short-term protection in a safe house or refuge, to move to another part of the country, to another country in the region, or even to Norway in extremely serious cases.

**SWITZERLAND's** guidelines outline several potential protection measures, including direct protection such as temporary protection at the embassy, assistance with relocation within the country or abroad, assistance with return to/entry into home country from meetings abroad (e.g. after they have taken part in a UN conference in Geneva), conveying confidential information via diplomatic channels, contact with the competent authorities, diplomatic démarches, and public statements.

The **UK** guidelines are not publicly available.

#### **4.2 OTHER SUPPORT FROM STATES**

It can also be helpful to lobby States that are responsive to concerns about reprisals to raise cases bilaterally or in multilateral spaces and push States to ensure the safety of human rights defenders. For example, States might be persuaded to raise cases of reprisals in their statements at the Human Rights Council, in the context of the Universal Periodic Review, or at the General Assembly.

#### **CUBA**

During a pre-session for Cuba's Universal Periodic Review (UPR) in April 2018, two of the scheduled panellists were not in attendance on account of having been detained by Cuban authorities at the airport (in Cuba). NGOs participating in the pre-session condemned this reprisal by the Cuban government, and noted that the OHCHR and the High Commissioner for Human Rights had been informed of the incident. Representatives from Germany, the Czech Republic, Sweden, Belgium, Denmark, the UK, Finland, USA, Ireland, Slovakia, Croatia and Mexico all made interventions reinforcing this point.



## CHAPTER 5 SUPPORT FROM NGOS

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NGOs can also be an important source of support and protection, whether administrative, material, financial, logistical, or practical. This could include urgent monitoring, reporting and advocacy support, appeals to relevant authorities, protective publicity, practical help with temporary relocation or assistance with medical or legal expenses, rapid practical support, emergency subsistence, legal advice, physical security, digital security, communications, capacity building in security, secure transportation and social assistance (including family support).

ISHR aims to highlight cases of reprisals and communicate those cases to the international and regional human rights systems, provide protective publicity to human rights defenders at risk, and work towards ensuring that national, international and regional human rights systems have the mechanisms to prevent reprisals and ensure accountability where they occur.

Some options available for human rights defenders facing imminent threats or who have experienced targeted violence include the following organisations. This list is by no means exhaustive, nor is the inclusion of an organisation here an endorsement of any kind:

- ***Agir Ensemble pour les Droits de L'Homme: Emergency Fund***  
<http://www.aedh.org/en/home/what-we-do/emergency-fund-for-human-rights-defenders>
- ***Arab Human Rights Fund***  
<http://www.ahrfund.org>
- ***Canadian Journalists for Free Expression (CJFE): Journalists in Distress Fund***  
[http://www.cjfe.org/journalists\\_in\\_distress\\_fund](http://www.cjfe.org/journalists_in_distress_fund)
- ***The Digital Defenders Partnership: Emergency Grants***  
<https://www.digitaldefenders.org/>
- ***Doha Centre for Media Freedom: Emergency Assistance***  
<http://www.dc4mf.org/en/programmes/assistance/>
- ***The East and Horn of Africa Human Rights Defenders Project***  
<https://www.defenddefenders.org/protection/>
- ***The European Instrument for Democracy and Human Rights (EIDHR) or the EIDHR team***  
[https://ec.europa.eu/europeaid/how/finance/eidhr\\_en.htm\\_en](https://ec.europa.eu/europeaid/how/finance/eidhr_en.htm_en)  
[europeaid-eidhr@ec.europa.eu](mailto:europeaid-eidhr@ec.europa.eu)
- ***Euro-Mediterranean Foundation of Support for Human Rights Defenders***  
<http://www.emhrf.org/en/guidelinesemergency.php>
- ***Free Press Unlimited: Reporters Respond***  
<https://www.freepressunlimited.org/en/projects/reporters-respond-emergency-funding-for-the-media>

- ***Freedom House: Lifeline Embattled CSO Assistance Fund***  
<https://www.csolifeline.org/emergency-assistance>
- ***Front Line Defenders Security Grants***  
<https://www.frontlinedefenders.org/en/programme/protection-grants>
- ***The Fund for Global Human Rights***  
<http://globalhumanrights.org/grants/funding-criteria/>
- ***International Federation of Journalists: Safety Fund***  
<http://ifj-safety.org/en/contents/the-ifj-safety-fund>
- ***International Media Support: Safety Fund***  
<https://www.mediasupport.org/about/safety-fund/>
- ***International Women's Media Foundation: Emergency Fund***  
<https://www.iwmf.org/programs/emergency-fund/>
- ***La Maison des Journalistes***  
<http://www.maisondesjournalistes.org/about-la-maison-des-journalistes/>
- ***ProtectDefenders.eu: Supporting Defenders***  
<https://www.protectdefenders.eu/en/supporting-defenders.html>
- ***Reporters Without Borders: Assistance Desk***  
<https://rsf.org/en/overview>
- ***Rory Peck Trust: Assistance Grants***  
<https://rorypecktrust.org/freelance-assistance/Assistance-Grants>
- ***Urgent Action Fund for Women's Human Rights***  
<https://urgentactionfund.org/apply-for-a-grant/apply-for-an-evacuation-grant/>
- ***World Organization Against Torture (OMCT)***  
<http://www.omct.org/human-rights-defenders/links/2015/10/d23598/>

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[information@ishr.ch](mailto:information@ishr.ch)



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