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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere

Addendum

Observations on communications transmitted to Governments and replies received*

* Reproduced as received.

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I. Introduction

1. The present document is submitted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Mutuma Ruteere, to the Human Rights Council, pursuant to resolutions 5/1 and 16/33 of the Human Rights Council. The document provides observations on the communications on specific cases addressed by the Special Rapporteur and his predecessor to States, as well as on the replies by States received.

2. The cases, raised by the Special Rapporteur and his predecessor in this addendum, include communications sent between 1 March 2011 and 15 March 2012.

3. The addendum contains observations on the replies received from States between 1 May 2011 and 15 May 2012. The responses by States refer to cases raised by the Special Rapporteur and his predecessor during the period between March 2011 and March 2012; however some of the responses are related to cases addressed by his predecessor in earlier reporting periods. These communications are marked with a footnote in the text. Replies to communication which were received by the Special Rapporteur after 15 May 2012 will be reflected in his next communications report.

4. For ease of reference, cases have been grouped by country, with countries listed alphabetically according to their names in English. Each communication is referenced in one of four categories: urgent appeal (UA), allegation letter (AL), joint urgent appeal (JUA) and joint allegation letter (JAL). This is followed by the date the communication was issued, as well as the case number and the State reply. The electronic version of the present document has both of these items hyperlinked, and clicking on them will open the communication sent and the reply from the concerned State, respectively, as uploaded on the OHCHR website. The relevant communications reports of Special procedures, which contain the communications sent and the replies received from States during the period under review, are cited in footnotes. Finally, in bold, is a summary of the allegations contained in the communication in the language of submission.

5. The Special Rapporteur is grateful to all States which have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. The Special Rapporteur urges those States which have not yet responded to do so at their earliest convenience as he remains interested in receiving updated information on the issues raised in his communications.

A. Bulgaria

6. JUA¹ 18/07/2011 Case No. : BGR 1/2011 State Reply: None to date **Alleged threat of forced eviction against Roma community.**

Observations

7. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communication sent during the reporting period regarding the alleged threat of forced eviction against Roma community in Sofia district. The Special Rapporteur is deeply concerned about the situation of the Roma community who reportedly have not been offered alternative housing. In this connection,

¹ A/HRC/19/44, page 34

he wishes to refer the Government of Bulgaria, to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, which obliges States “to prohibit and to eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] the right to housing”.

8. The Special Rapporteur would also like to refer to the General Recommendation No. 27 of the Committee on the Elimination of Racial Discrimination, which recommends that States “develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing; involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance; act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; act firmly against local measures denying residence to and unlawful expulsion of Roma, and refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities”.

9. The Special Rapporteur also encourages the Government of Bulgaria to enhance its efforts in the implementation of the Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD), adopted on 3 March 2009, which recommends that “the State party continue taking positive measures to improve living conditions of Roma in respect of access to work, health care, housing and education within the framework of the Plan of Action for Roma Inclusion and the Decade for Roma Inclusion, in accordance with article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and General Recommendation XXVII (2000) on discrimination against Roma adopted by CERD in 2000”.²

B. Italy

10. JAL³ 18/08/2011 Case No. : [ITA 1/2011](#) State Reply: [15/11/2011](#) **Alleged forced evictions of Roma families in Rome.**

Observations

11. The Special Rapporteur is grateful that the Government of Italy provided a detailed response to the communication regarding the reported evictions of Roma families in Rome. He encourages the Government of Italy to enhance its efforts aimed at addressing the issue of provision of alternative housing for the affected communities and individuals.

12. In this regard, he would like to refer to the General Recommendation No. 27 of the Committee on the Elimination of Racial Discrimination (CERD), which recommends that States “develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing; involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance; act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; act firmly against local measures denying residence to and unlawful expulsion of Roma, and refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities”.

² CERD/C/BGR/CO/19, para 15

³ A/HRC/19/44, page 60

13. The Special Rapporteur also encourages the Government of Italy to enhance its efforts to implement the Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD), adopted on 3 and 4 March 2008, which also recommended that “the State party develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing, to involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance, and [...] act firmly against local measures denying residence to Roma and the unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other basic facilities”.⁴

14. JAL⁵ 26/12/2011 Case No.: [ITA 3/2011](#) State Reply: [21/02/2012](#) **Alleged killing of two Senegalese migrants in Florence by an Italian citizen in the context of a general pattern of racism, xenophobia and intolerance against migrants in Italy.**

Observations

15. The Special Rapporteur thanks the Government of Italy for the response provided with regard to the communication concerning the allegedly racially motivated killing of two Senegalese migrants in Florence. The Special Rapporteur welcomes the steps undertaken by the Government to investigate these killings. He urges the Government of Italy to enhance its efforts to implement existing legislation on combating racism, racial discrimination and xenophobia, and strengthen mutual understanding and the respect for multiculturalism and diversity among ethnic and racial communities.

16. The Special Rapporteur also encourages the Government of Italy to take possible preventive measures to address the concerns expressed with regard to the current disturbing dynamic of xenophobia and extreme manifestations of racism in the country, which mainly affect migrants and asylum seekers, primarily those of African descent.

C. Kyrgyzstan

17. JUA⁶ 20/07/10 Case No.: [KGZ 5/2010](#) State Reply: [02/11/10](#); [14/07/11](#) **Alleged detentions and torture and ill-treatment of ethnic Uzbeks.**

18. JUA⁷ 16/03/11 Case No.: [KGZ 1/2011](#) State Reply: [31/05/11](#) **Alleged violation of due process rights and guarantees in the conduct of criminal proceedings in relation to the June 2010 violence.**

Observations

19. The Special Rapporteur thanks the Government of Kyrgyzstan for the detailed responses to the communications sent during the reporting period. The Special Rapporteur expresses his hope that continued measures are taken by the authorities to prevent recurrence of acts of discrimination on the basis of ethnic origin and ensure the accountability of persons responsible for such violations.

⁴ CERD/C/ITA/CO/15, para 14

⁵ A/HRC/20/30

⁶ A/HRC/18/51, page 131. Although this communication was sent prior to the period covered by this report, the Government’s additional response was transmitted within the current reporting period.

⁷ A/HRC/18/51, page 68

20. With regard to the concerns expressed about the alleged unfairness of trials and the unequal treatment in the administration of justice, the Special Rapporteur would like to refer the Government of Kyrgyzstan to the provisions of article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which requires State Parties [...] to guarantee the right of everyone, without distinction to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (a) the right to equal treatment before the tribunals and other organs administering justice; (b) the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual groups or institution.

21. The Special Rapporteur would like to encourage the Government of Kyrgyzstan to further enhance the implementation of preventive measures to address inter-ethnic tension and conflict and ensure security of the affected ethnic groups.

D. Nigeria

22. JAL⁸ 09/03/2012 Case No.: [NGA 1/2012](#) State Reply: None to date **Alleged religion and ethnicity based violence by Boko Haram in northern Nigeria.**

Observations

23. The Special Rapporteur regrets that at the time of the finalization of this report, the Government of Nigeria had not transmitted a reply to the communication sent during the reporting period regarding the alleged religion and ethnicity based violence by Boko Haram in northern Nigeria. He welcomes the steps taken by the Government to arrest the alleged perpetrators, and remains concerned by Boko Haram's continuing deplorable acts of violence incited by religious hatred and discrimination on ethnic origin.

24. The Special Rapporteur would like to reiterate the importance of comprehensive measures to be undertaken by a broad range of actors to prevent and eliminate racism, racial discrimination, and religious intolerance and hatred; and to promote tolerance and harmony.

E. Romania

25. JAL⁹ 19/08/2011 Case No. : [ROU 1/2011](#) State Reply: None to date **Alleged building of a wall surrounding apartment building populated mainly by Roma residents, and additional discriminatory treatment in regard to the right to housing.**

Observations

26. The Special Rapporteur regrets that no reply has been received from the Government of Romania to the allegation letter sent during the reporting period with regard to the alleged building of a wall surrounding apartment building populated mainly by Roma residents, and additional discriminatory treatment with regard to the right to housing. The Special Rapporteur remains concerned about information received regarding possible discriminatory impact and de facto segregation that may result from the decisions of local authorities including the erection of a wall to surround a building mostly inhabited by

⁸ A/HRC/20/30

⁹ A/HRC/19/44, page 63

member of Roma community in Baia Mare as well as the alleged chosen area of the social housing project which targets members of Roma community.

27. The Special Rapporteur wishes to refer the Government of Romania to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, which obliges States “to prohibit and to eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] the right to housing”, as well as to the General Recommendation No. 27 of the Committee on the Elimination of Racial Discrimination, which recommends that States “develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing; involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance; act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; act firmly against local measures denying residence to and unlawful expulsion of Roma, and refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities”.

28. The Special Rapporteur would also like to draw the attention of the Government of Romania to the Concluding Observations of the CERD, adopted on 23 August 2010, which encourages “the State party to continue its efforts and take the necessary to prevent and combat racial discrimination against Roma” and recommends that the State party “enforce existing legislation and other measures banning any discrimination against Roma:[...]; and facilitate access by Roma to housing, including avoiding unlawful expropriation and forced evictions without offering alternative accommodation”.¹⁰

F. Saudi Arabia

29. JUA¹¹ 14/02/2012 Case No.: [SAU 2/2012](#) State Reply: None to date **Alleged arrest and detention of Ethiopian Christians linked to the exercise of their freedom of religion.**

Observations

30. The Special Rapporteur regrets that at the time of the finalization of this report, the Government of Saudi Arabia had not transmitted a reply to the communication sent during the reporting period regarding the alleged arrest and detention of Ethiopian Christians. He would like also to draw the attention of the Government of Saudi Arabia to the General Recommendation No. 30 of the Committee on the Elimination of Racial Discrimination which recommends the State party “19. To ensure the security of non-citizens, in particular with regard to arbitrary detention [...]” and “18. To ensure that non-citizens enjoy equal protection and recognition before the law [...]”. In its General Recommendation the Committee further recommends: - “21. To combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights”; - “25. To ensure that laws concerning deportation or other forms of removal of non-citizens from the jurisdiction of the State party do not discriminate in

¹⁰ CERD/C/ROU/CO/16-19, para .14

¹¹ A/HRC/20/30

purpose or effect among non-citizens on the basis of race, colour or ethnic or national origin, and that non-citizens have equal access to effective remedies, including the right to challenge expulsion orders, and are allowed effectively to pursue such remedies”; - “26. To ensure that non-citizens are not subject to collective expulsion, in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account”; and - “28. To avoid expulsions of non-citizens, especially of long-term residents, that would result in disproportionate interference with the right to family life”.

G. Thailand

31. JAL¹² 11/11/09 Case No. : THA 10/2009 State Reply: 05/07/11 **Alleged exploitation of and systematic discrimination against migrant workers from Myanmar.**

32. JAL¹³ 02/02/10 Case No. : THA 1/2010 State Reply: 05/07/11 **Alleged negative effects of the nationality verification process on the human rights of migrant workers from Myanmar.**

33. JAL¹⁴ 08/09/10 Case No. : THA 6/2010 State Reply: 05/07/11 **Alleged negative impact of the nationality verification process on the human rights of migrants.**

Observations

34. The Special Rapporteur thanks the Government of Thailand for the detailed response received to the communications sent during the reporting period. The Special Rapporteur has been concerned about the significant number of reports on the situation of human rights of migrant workers in Thailand due to the impacts of the nationality verification process. He welcomes the efforts undertaken by the Government of Thailand to improve the situation of migrant workers, simplify the process of nationality verification, ensure the basic rights of migrant workers, improve the access to health services, provide sufficient information to affected individuals about the process and disseminate relevant information on the rights of migrant workers and responsibilities of employers.

35. The Special Rapporteur would like to encourage the Government of Thailand to continue its efforts to ensure better coordination among relevant state agencies to avoid mistreatment of migrant workers in particular by law enforcement agencies, provide adequate protection in terms of work safety and equal remuneration, as well as to ensure equal access to health services and access to justice.

36. In this connection, the Special Rapporteur wishes to refer the Government of Thailand to the principle of equality and non-discrimination, provided in the article 2 of the International Covenant on Civil and Political Rights (ICCPR), which applies to all individuals within the territory, regardless of their citizenship, nationality and immigration status. Furthermore, he would like to refer to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, which requires that States undertake

¹² A/HRC/14/43 Add.1, page 31. Although this communication was sent prior to the period covered by this report, the Government’s response was transmitted within the current reporting period.

¹³ A/HRC/14/43 Add.1, page 35. Although this communication was sent prior to the period covered by this report, the Government’s response was transmitted within the current reporting period.

¹⁴ A/HRC/17/40/Add.1, page 32. (Although this communication was sent prior to the period covered by this report, the Government’s response was transmitted within the current reporting period.)

“[...] to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (i) the rights to work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; [...] (iv) the right to public health, medical care, social security and social services.

37. The Special Rapporteur also wishes to refer to paragraph 29 of the General Recommendation XXX relating to Discrimination against non-citizens, in which the Committee on the Elimination of Racial Discrimination recommends that States “remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health. Also, he deems it appropriate to refer to paragraph 33 which recommends that State party “[...] take measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects” and to paragraph 35 which provides that “all individuals are entitled to the enjoyment of labour and employment rights...once an employment relationship has been initiated until it is terminated”.

H. United States of America

38. JAL¹⁵ 24/03/2011 Case No.: [USA 4/2011](#) State Reply: [17/10/2011](#) **Alleged burning of the Qur’an.**

Observations

39. The Special Rapporteur thanks the Government of the United States of America for the response to the communication regarding the act of burning the copy of Qur’an by church members of the Dove World Outreach Centre in Gainesville, Florida in March 2011.

40. The Special Rapporteur recognizes the strong condemnations expressed by the Government regarding this action. He encourages the Government of the United States of America to continue its efforts against intolerance and discrimination. The Special Rapporteur expressed his concern about the negative impact of such acts that incite intolerance and discrimination upon the interaction, harmony and respect for tolerance and diversity among ethnic, cultural and religious communities. In this regard, he would like to refer to paragraph 106 of the Durban Review Conference Outcome Document which “reaffirms that the eradication of racism, racial discrimination, xenophobia and related intolerance should aim not only at promoting equality and eliminating discrimination but also at promoting interaction, social harmony and integration, respect for tolerance and diversity among ethnic, cultural and religious communities”.

¹⁵ A/HRC/19/44, page 156