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Human rights situations that require the Council's attention

Albania,* Australia, Austria, Belgium,* Bulgaria, Canada,* Croatia, Cyprus,* Czechia, Denmark, Estonia,* Finland,* France,* Germany,* Greece,* Hungary, Iceland, Ireland,* Italy, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands,* North Macedonia,* Norway,* Poland,* Portugal,* Romania,* Slovakia, Slovenia,* Spain, Sweden,* Ukraine and United Kingdom of Great Britain and Northern Ireland: draft resolution

42/... Situation of human rights in Burundi

The Human Rights Council,

Guided by the principles and purposes of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling also General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council resolution 5/1 of 18 June 2007,

Recalling further Human Rights Council resolutions 30/27 of 2 October 2015, S- 24/1 of 17 December 2015, 33/24 of 30 September 2016, 36/2 of 28 September 2017, 36/19 of 29 September 2017 and 39/14 of 28 September 2018,

Recalling Security Council resolutions 2248 (2015) of 9 November 2015, 2279 (2016) of 1 April 2016 and 2303 (2016) of 29 July 2016,

Reaffirming that States have the primary responsibility to respect, protect and fulfil all human rights and fundamental freedoms,

Stressing the primary responsibility of the Government of Burundi for ensuring security in its territory and protecting its population in compliance with international law, including the rule of law, international human rights law and international humanitarian law, as applicable,

Reaffirming its strong commitment to the sovereignty, political independence, territorial integrity and national unity of Burundi,

Recalling the Arusha Peace and Reconciliation Agreement for Burundi, which provides the foundation for peacebuilding, national reconciliation, and the strengthening of democracy, good governance, pluralism and the rule of law,

* State not a member of the Human Rights Council.



Considering that the international community, including the Human Rights Council, can play a relevant role in preventing human rights violations and abuses and in mitigating the risk of escalation of conflict and deterioration in humanitarian situations,

Underlining the importance of holding elections in compliance with international law and standards, in particular credible, peaceful, transparent and inclusive elections, due to be held from 20 May 2020, as announced by the Independent National Electoral Commission,

Recalling the announcement of the President of Burundi not to run for the 2020 presidential elections, and welcoming the accreditation of opposition parties as an encouraging sign contributing to attaining a rule-based change of power and opening up public and democratic space,

Noting the efforts made by the international community, including the African Union and the East African Community, as well as the decision made by the Heads of State at the twentieth Ordinary Summit of the East African Community on 1 February 2019 to consult further on the inter-Burundian dialogue process, while underlining the importance of determining the next steps in resolving the Burundian crisis ahead of the 2020 elections,

Taking note of the report of the Secretary-General on the situation in Burundi,¹ and taking into consideration the observations and recommendations contained therein, including those on the importance of the inter-Burundian dialogue as a means to create a conducive environment in which the country can fulfil its potential and the people of Burundi can enjoy their rights and freedoms, including participation in credible and inclusive elections, of stepping up efforts to improve the security, human rights and humanitarian situations in the country before the 2020 elections, and of re-establishing cooperation with United Nations human rights mechanisms,

Welcoming the work of the Commission of Inquiry on Burundi, including its recent report,² and the analysis of the risk factors for atrocity crimes contained therein, and deploring the persistent refusal by the Government of Burundi to cooperate with the Commission, including the deeply regrettable decision to declare the three members of the Commission of Inquiry on Burundi *personae non gratae*,

Deploring the threats, intimidation and personal attacks being directed by representatives of the Government of Burundi against the members of the Commission of Inquiry, including during the interactive dialogues held during the sessions of the Human Rights Council and the Third Committee of the General Assembly,

Deploring also the lack of follow-up to the recommendations made to the Government of Burundi contained in the previous reports of the Commission of Inquiry,

Encouraging the Government of Burundi to follow up on the recommendations made by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions in order to facilitate the return of the Independent National Human Rights Commission of Burundi to full compliance with the principles relating to the status of national institutions for the promotion and protection of human right (the Paris Principles),

Deeply regretting the decision made by the Government of Burundi on 5 December 2018 to close the United Nations Human Rights Office in Burundi, while noting the Government's commitment to work with United Nations human rights mechanisms after the closure of the Office and to engage constructively,

1. *Condemns in the strongest terms* all persistent human rights violations and abuses in Burundi, particularly those involving extrajudicial killing, enforced disappearance, arbitrary arrest and detention, acts of torture and of other ill-treatment, all acts of violence, including sexual and gender-based violence, persecution directed against members of civil society, journalists and bloggers, members of the political opposition and demonstrators, and severe restrictions on the freedoms of expression, peaceful assembly and association, and movement, contributing to creating a climate of fear and intimidation among the population;

¹ S/2018/1028.

² A/HRC/42/49.

2. *Urges* the Government of Burundi to enable a safe and open environment that ensures the right to freedom of opinion and expression and is conducive to the holding of free, peaceful, credible, transparent and inclusive elections, in accordance with international law and standards, and to end the practice of non-voluntary and forced financial contributions to the organization of elections;

3. *Calls upon* all parties to the electoral process to refrain from acts of violence, harassment and intimidation in the run-up to the elections, and calls upon the authorities to invite international and national observers to monitor the entire electoral process, in support of a transparent process;

4. *Urges* the Government of Burundi to put an immediate end to all human rights violations and abuses, to respect, protect and fulfil all human rights and fundamental freedoms for all, including freedom of expression, movement, assembly and association, to promote the rule of law and good governance, to end impunity for sexual violence, to ensure the safety, physical integrity and protection of its population, while fully adhering to international human rights law and humanitarian law, and to ensure that those who commit unlawful acts of violence are held accountable and brought to justice;

5. *Expresses grave concern* at the findings of the Commission of Inquiry on Burundi, which documents persistent human rights violations and abuses committed by the Burundian national security forces, including the national intelligence service, the police, and the Imbonerakure, the youth wing of the ruling party, in a persistent climate of widespread impunity, while providing reasonable grounds to believe that some human rights violations may constitute crimes against humanity, as first stated by the Commission of Inquiry in its report covering the events of 2015 and 2016,³ and reiterated in subsequent reports;

6. *Expresses particular concern* at accounts of sexual violence, including rape and gang rape of women and girls for purposes such as intimidation or punishment, associated with perceived political affiliation, as well as sexual violence against men, including genital torture;

7. *Expresses particular concern* at the increasing role and latitude granted to Imbonerakure, which the Commission of Inquiry found was being used as an auxiliary or substitute for law enforcement, particularly in the interior of the country, and in this context notes the possible responsibility of the Government of Burundi for the wrongful acts committed by the Imbonerakure;

8. *Condemns* the practice of widespread impunity for all human rights violations and abuses and related crimes, while noting that the few investigations opened by the Government of Burundi have not yielded credible or tangible results, and reaffirms its call upon the Burundian authorities to conduct full, impartial, independent, effective and thorough investigations into all violations and abuses so that all perpetrators, regardless of their affiliation, are held to account before a court and all victims have access to effective remedy and adequate reparation;

9. *Strongly urges* the Government of Burundi to give due consideration to the recommendations made by the Commission of Inquiry in its reports, and to implement them, including with a view to substantially reducing the risks identified in the most recent report, particularly in the electoral context, and to reconsider and revoke its decision to declare the three members of the Commission of Inquiry *personae non gratae*;

10. *Strongly condemns* all statements that incite discrimination, hate, violence or segregation against Burundian citizens, including civil society actors;

11. *Expresses deep concern* at the continued acts of intimidation and harassment against civil society and the arbitrary arrest, detention and criminalization of human rights defenders and civil society activists, and urges the Government of Burundi not to impose measures that restrict the capacity of non-governmental organizations to operate in a safe and enabling environment;

³ A/HRC/36/54 and Corr.1.

12. *Welcomes* the release of more than 3,000 prisoners benefiting from a presidential pardon, and calls upon the Government of Burundi to release all human rights defenders and other persons who have been arbitrarily arrested and are still being detained;

13. *Urges* the Government of Burundi to re-establish the conditions for all media outlets to resume their activities, free from harassment and intimidation and without undue interference, while expressing deep concern at the recent decisions of the Government to limit the activities of media houses, including the suspension measures against several local and international media outlets, threats and attacks against several media, and decisions that undermine the benefits of a free press and the creation of a conducive environment for free, transparent, credible and inclusive elections;

14. *Calls upon* the Government of Burundi to follow up on and implement the recommendations accepted by the State in the context of its universal periodic review on 18 January 2018 and at its two previous reviews and to, inter alia, take the measures necessary to ensure that the newly constituted Independent National Human Rights Commission complies fully with the Paris Principles;

15. *Regrets* the withdrawal of Burundi from the Rome Statute of the International Criminal Court, and notes the conduct of an investigation opened by the Prosecutor of the International Criminal Court in April 2016 and effective as of 25 October 2017 following the decision of the Pre-Trial Chamber, which considered that the supporting materials presented by the Prosecutor offered a reasonable basis to proceed with an investigation in relation to crimes against humanity allegedly committed since at least 26 April 2015 by State agents and other groups, such as the Imbonerakure, implementing State policies, and stresses the relevance of the findings and the evidence collected by the Commission of Inquiry to international accountability mechanisms;

16. *Calls upon* the Government of Burundi to cooperate fully with the International Criminal Court in relation to the investigation that was authorized and initiated before the withdrawal of Burundi from the Rome Statute came into force;

17. *Urges* the Government of Burundi to cooperate fully with the treaty bodies, to allow special procedure mandate holders to enter and visit the country, to engage constructively with the regional office of the Office of the United Nations High Commissioner for Human Rights, and to stop any reprisal against human rights defenders who are cooperating with international human rights mechanisms, including the Human Rights Council;

18. *Welcomes* the work of the African Union human rights observers in Burundi, and calls upon the Government of Burundi to facilitate their effective work and movement in the country and to engage in negotiations with the African Union on a memorandum of understanding thereon;

19. *Encourages* the Government of Burundi to cooperate, without preconditions, with the regionally led mediation efforts to create conditions for an inclusive and genuine inter-Burundian dialogue that ensures the active participation of women and involves all relevant stakeholders, including civil society representatives, from both inside and outside the country;

20. *Expresses its deep concern* at the difficult situation of Burundians who have fled the country, including of the nearly 350,000 Burundians who are currently settled in five neighbouring countries, underlines the importance of upholding the voluntary nature of return for refugees and of ensuring that conditions in Burundi are conducive for sustainable refugee returns, calls upon Governments in the region to ensure that those returns are voluntary, in accordance with existing international agreements signed with the Office of the United Nations High Commissioner for Refugees, based on informed decisions and in safety and dignity, and welcomes the efforts of neighbouring countries and the international community to provide humanitarian support and international protection to those persons;

21. *Recommends* that the General Assembly submit the report of the Commission of Inquiry on Burundi to the relevant United Nations bodies for their consideration and appropriate action, taking into account the relevant conclusions and recommendations of the Commission;

22. *Decides* to extend the mandate of the Commission of Inquiry on Burundi in order for it to deepen its investigations, including into respect for and observance of political, civil, economic and social rights in the electoral context, with particular reference to the economic underpinnings of the State, until it presents a final report to the Human Rights Council during an interactive dialogue at its forty-fifth session and to the General Assembly at its seventy-fifth session, and requests the Commission to present an oral briefing to the Council at its forty-third and forty-fourth sessions during an interactive dialogue;

23. *Urges* the Government of Burundi to cooperate fully with the Commission of Inquiry, to authorize it to conduct country visits and to provide it with all the information necessary to properly fulfil its mandate;

24. *Requests* the Office of the High Commissioner to provide all the resources necessary to the Commission of Inquiry to allow it to properly fulfil its mandate;

25. *Decides* to remain seized of the matter.
