



*Permanent Mission of the Republic of Rwanda
Geneva*

GE/196/16/2016

Geneva, 22 September 2016

The Permanent Mission of the Republic of Rwanda to the United Nations Office in Geneva presents its compliments to the Special Procedures Branch of the OHCHR and has the honour to forward the attached response by the Government of Rwanda, regarding the case of Mr. Epimack Kwokwo.

The Permanent Mission of the Republic of Rwanda to the United Nations Office in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the OHCHR the assurances of its high consideration.

A handwritten signature in blue ink, consisting of a stylized 'E' followed by a vertical line and a flourish.



**Special Procedures Branch
OHCHR
GENEVA**



MINISTRY OF JUSTICE
P.O BOX 160 KIGALI

Karim Ghezraoui
Chief, a.i.
Special Procedures Branch
OHCHR
GENEVA

Ambassador Jeanine KAMBANDA
Permanent Secretary

09 SEP 2016

Through:
Ministry of Foreign Affairs and Cooperation
KIGALI



Re: Clarifications on the alleged expulsion of Mr. Epimack Kwokwo

Reference is made to the joint communication of July 5, 2016 from Special Procedures concerning allegations of expulsion and declaring of persona non grata Mr. Epimack Kwokwo.

I wish to clarify that Mr. Epimack Kwokwo was expelled due to his repeated violation of Rwanda's migration laws and the expulsion had nothing to do with his human rights work as alleged.

I would like to call the attention of the joint Special Rapporteurs to article 13 of Law N° 04/2011 of 21/03/2011 on Immigration and Emigration in Rwanda and article 39 of Ministerial Order no 02/01 of 31/05/2011 establishing regulations and procedures implementing Immigration and Emigration law on undesirable foreigner and prohibited immigrant. It is only proper and fair for the joint Special Rapporteurs to appreciate the principle of general application of laws. The requirement to comply with the provisions of the aforementioned law cannot be considered a specific requirement to Mr. Kwokwo only.

Therefore measures taken against Mr. Kwokwo were due to his intentional disregard of Rwanda's immigration laws and the procedure to expel him was lawful and in accordance with the above mentioned laws.

That said, I will take this opportunity to explain in details each of the four issues raised by the Special Rapporteurs.

1. Information and any comment on the allegations

Mr. Kwokwo, a Congolese national, was employed by “La Ligue des Droits de la Personne dans la Region des Grands Lacs (LDGL) in Kigali, Rwanda from 2009 to 2016. He worked in different capacities, respectively as the Program Coordinator, Executive Secretary and Project Coordinator.

Mr. Kwokwo was residing legally in Rwanda from 2009 to 31st December 2014 and after that date never renewed his residence/work permit since then. This illegal stay was despite several advices that he was breaking the law.

On two occasions, in May and July 2015, when crossing back from DRC, Mr. Kwokwo was advised to comply with the immigration laws and extend his residence permit but failed to do so and continued to move back and forth from Rwanda to DRC.

On 12 October 2015, Mr. Kwokwo was not stopped and detained by immigration officers for 7 hours on the border between Goma and Rwanda as claimed in the communication of the Special Rapporteurs. Instead, on that date Mr. Kwokwo was rather interviewed at Immigration Headquarters in Kigali about his illegal stay. He promised that he would regularize his stay as soon as possible. His passport was left at Immigration Office for him to return and get permit as he had promised. Mr. Kwokwo was summoned over immigration matters and never was he interrogated about his daily activities or contribution to Universal Periodic Review.

Instead of complying with the law, Mr. Kwokwo acquired a CEPGL (Communauté Economique des Pays des Grands Lacs) travel document from Goma-DRC to facilitate his movements between Rwanda, Burundi and DRC. The three month validity travel document was renewed once.

Working in Rwanda using CEPGL travel document violates CEPGL and Rwanda Immigration regulations which provides that holders of the travel documents are obliged to seek a work permit if they intend to work in Rwanda (Procès verbal of the meeting of CEPGL held in Bujumbura on 06th and 07th August 2014, Page 7, IV.2 (1).

Mr. Kwokwo was never stopped between January and March 2016 nor summoned by immigration services to be questioned about his work or residence in Rwanda as alleged in the communication. There is no record or any evidence on this matter.

After the interview of 12 October 2015, Mr. Kwokwo was again summoned on 13 April 2016 and asked about the same issue of not regularizing his stay in Rwanda. He was reminded to get a work/resident permit. He made a written commitment signed the same day 13 April 2016.

On 27 May 2016, Mr. Kwokwo was summoned for the 3rd time over the issue and informed of the consequences which include a fine of up to 500,000 RWF (Five hundred thousand Rwanda Francs) and/or being declared undesirable person in accordance with article 34 para 1, 6 and 2 of the Ministerial Order no 02/01 of 31/05/2011 establishing regulations and procedures implementing Immigration and Emigration Law. Subsequently, on 28 May 2016, Immigration declared Mr. Kwokwo undesirable person and deported back to DRC border and given back his passport.

Mr. Kwokwo himself acknowledged the infringement of the immigration and emigration laws in different occasions (see the letter addressed to the Director General of Immigration on 13 April 2016 and the statement of 27 May 2016).

Mr. Kwokwo was never declared persona non grata as alleged. He was instead declared undesirable and removed from the country as provided by law. The immigration regulations provide for an appeal within 30 days once a person is declared undesirable which Mr. Kwokwo did not do.

2. Legal procedure and grounds for expelling and declaring Mr. Kwokwo undesirable person

Mr. Kwokwo was expelled from the country according to article 13, 2o of the Law No 04/2011 of 21/03/2011 on Immigration and Emigration in Rwanda and article 39 of Ministerial Order no 02/01 of 31/05/2011 establishing regulations and procedures implementing Immigration and Emigration Law.

Article 13: Undesirable person

A foreigner may be declared undesirable in Rwanda where he/she entered and stayed in Rwanda with a valid visa or residence permit but overstayed in Rwanda after expiration of validity of his/her visa or residence permit.

Article 39: Declaring undesirable person or prohibited immigrant

Without prejudice to the Immigration law, the Director General or any other duly authorized Immigration Officer informs a foreigner, that he/she is undesirable person or a prohibited immigrant within the meaning of the law and orders him/her to leave or refuse him/her to enter Rwanda.

A prohibited immigrant shall not be allowed re-entry in Rwanda unless the decision formally made by the competent authority is repealed. Undesirable person may be allowed re-entry in Rwanda if such a person complies with the requirements that led to his/her expulsion.

3. Measures taken to ensure that NGOs and human rights defenders can freely operate without interference and fear for harassment, stigmatization or criminalization of any kind.

The government of Rwanda has put in place different measures to enable safe environment for NGOs and Human Rights defenders. NGOs have rights to advocate, protect and promote human rights and to express their views and opinions on national policies and legislation. (See article 28 of the Law no 04/2012 of 17/02/2012 governing organization and functioning of NGOs). Any lawful person or legal entity operates freely in the country. Therefore, measures taken against Mr. Kwokwo had nothing to do with his work as a human rights defendant.

4. Procedural guarantees in place to protect migrants from arbitrary expulsion and respect of the principle of non-refoulement

First and foremost, there is no way the principle of non- refoulement can be associated with the case of Mr. Kwokwo. The non-refoulement principle requires states to not forcing refugees or asylum seekers to return to a country in which they are liable to be subjected to persecution. Mr. Kwokwo was not a refugee or asylum seeker. Mr. Kwokwo was a Congolese national legally working in Rwanda until his working permit expired and he chose not to renew it despite multiple advise to do so. Immigration law and refugee law guarantees safe and secure stay of refugees, asylum seekers and regular migrants.

The Government of Rwanda respects the principle of non-refoulement. Non-refoulement is a key facet of refugee law that concerns the protection of refugees from being returned or expelled to places where their lives or freedoms could be threatened. Article 21 of the Rwandan Law n°13ter/2014 of 21/05/2014 relating to refugees states that under no circumstances may a refugee be sent back or deported to a country where his/her life or liberty may be compromised for reasons provided for by law. Mr. Kwokwo was not threatened in his home country (DRC) and he was not threatened in Rwanda either. He simply chose to disregard the law and he paid the price for that.

The non-refoulement evoked by the Special Rapporteurs in their communication has nothing to do with the removal of Mr. Kwokwo as an irregular immigrant.

Please accept the assurances of my highest consideration.



for **BUSINGYE Johnston**
Minister of Justice/Attorney General

KALIHANGABO Isabelle
Permanent Secretary
Solicitor General

C.c:

- Rt Hon. Prime Minister
- Director General/Immigration and Migration

KIGALI