



*Permanent Mission of the Republic of Rwanda  
Geneva*

GE / 185 / 16 / 2015

The Permanent Mission of the Republic of Rwanda to the United Nations Office in Geneva and other International Organizations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit the attached communication from the Government of Rwanda.

The Permanent Mission of the Republic of Rwanda to the United Nations Office in Geneva and Other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurance of its high consideration. *ME*

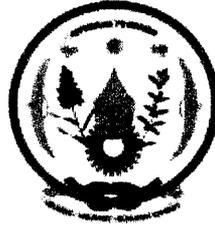
Geneva, 23 July 2015

**OHCHR REGISTRY**

**24 JUL 2015**

Recipients : ..... *PPD* .....  
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REPUBLIC OF RWANDA  
MINISTRY OF FOREIGN AFFAIRS AND COOPERATION

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N° *1366* /09.06/27/15

The Ministry of Foreign Affairs and Cooperation of the Republic of Rwanda presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR), Geneva, Switzerland and has the honour to refer to a joint communication from the United Nations Special Rapporteurs on the right to freedom of peaceful assembly and of association, the situation of human rights defenders as well as the working group on Arbitrary Detention of 8<sup>th</sup> December, 2014.

The Ministry of Foreign Affairs and Cooperation, takes this opportunity to provide a response to the joint appeal from special procedures.

The Ministry of Foreign Affairs and Cooperation of the Republic of Rwanda avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights (OHCHR), Geneva, Switzerland the assurances of its highest consideration. *JK*.

Kigali, 30 JUN 2015

Office of the United Nations High Commissioner for Human Rights (OHCHR)  
**GENEVA - SWITZERLAND**

**C.C:**

- The office of H.E. the President of the Republic of Rwanda
- The office of the Rt. Honourable Prime Minister
- The Ministry of Justice

**KIGALI**

- ✓ -The Rwandan Embassy in Switzerland

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**RESPONSE TO THE JOINT APPEAL FROM SPECIAL PROCEDURES**

Dear Excellencies;

Reference is made to your joint letter inquiring into the case relating to the current situation of some former members of LIPRODHOR Reference UA:RWA 2/2014 dated 8th December 2014.

After due consideration of the concerns raised in that communication, the Government of Rwanda makes the following response to the issues raised:

**I. Matters Relating to the Arrest and Prosecution of Some LIPRODHOR Members**

Evariste NSABAYEZU, Daniel UWIMANA and BIGIRIMANA Andre were indeed arrested on the 21st and 24th of November 2014 on charges of forgery and use of counterfeit documents, offences under Article 609 and 610 of Rwanda's Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code. The arrest was made following a complaint made by the legal representative of Liprodhor and subsequent investigation. The arrests were done in accordance with the law N° 30/2013 of 24/5/2013 relating to the code of Criminal Procedure, especially with due consideration of Article 37 thereof relating to arrest and detention as well as Articles 96-104 relating to provisional detention. According to that article, *if an offense is punishable with imprisonment of at least two (2) years or if there are serious grounds for believing that a suspect may escape or his/her identity is unknown or regarded as doubtful, a Judicial Police Officer may, for the purposes of investigation, arrest and detain the suspect in a relevant custody facility if there are serious grounds for suspecting that he/she has committed the offense.*

Article 609 of the penal code provides that *Any person who forges or alters documents by forged signature or fingerprint, falsifying documents or signatures or impersonation, forging agreements, its provisions, obligations, discharged obligations shall be liable to a term of imprisonment of more than five (5) years to seven (7) years and a fine of three hundred thousand (300,000) to three million (3,000,000) Rwandan francs.*

In addition, article 610 of penal code provides that, *any person who knowingly, uses a counterfeit document shall be liable to the same penalty as the person counterfeiting a document.*

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The 3 persons were accorded all of the fair trial guarantees as stipulated in the Constitution of the Republic of Rwanda<sup>1</sup> and all international human rights instruments to which Rwanda is a State Party.

As such there is no connection between the arrest of those individuals and management or operation of LIPRODHOR and there was thus no violation of the right to Freedom of Association.

## **II. Matters Relating to the Right to Freedom of Association and the Right not to be Deprived of One's Liberty**

Messrs UWIMANA, BIGIRIMANA and NSABAYEZU were arrested within the confines of the law and were duly treated in accordance with all of the fair trial rights guaranteed by the Constitution, the ICCPR and the Criminal Procedure Code. In particular Article 18 of the Constitution guarantees the right to personal liberty and no person can be arrested, detained, prosecuted or punished unless it is provided for by the Law. Their arrest was therefore not in any way a violation of Article 22 of the ICCPR.

Furthermore, given that Messrs UWIMANA, BIGIRIMANA and NSABAYEZU were arrested in conformity with the existing laws, there was no violation of their right not to be deprived arbitrarily of their liberty as their arrest was a lawful act.

In addition, contrary to what is stated in the communication from the Special Procedures, to date there have been no warrants of arrest issued against Messrs KALIBANYI, MANIRIHO and TUGANUMUREMYI.

## **III. Matters Relating to the Change in Leadership (Freedom of Opinion and Expression)**

As stated in the communication by your Excellencies, the Board of LIPRODHOR was changed on the 21/07/2013 in accordance with the Statute of the organisation. Thereafter on the 23/07/2013, the newly elected President of LIPRODHOR's board submitted a letter to the Rwanda Governance Board informing them about the decisions taken at the LIPRODHOR General Assembly relating to the change in leadership. This was in fulfilment of the Law governing NGOs which provides in its Article 29 that:

*Every national non-governmental organisation shall notify the competent authority of changes concerning the statutes, the legal representative and the head office.*

On the 24/07/2013 the Rwanda Governance Board responded by acknowledging receipt of the notification. That acknowledgement was in no way an expression of the position of RGB on the propriety of the change in leadership. This is because Article 10 of the law governing NGOs specifically gives NGOs the right to administrative autonomy in the management of their affairs.

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<sup>1</sup> Constitution of the Republic of Rwanda of 4<sup>th</sup> June 2003 as modified to date

In any case, the aggrieved parties maintained their right to seek redress within the conflict resolution mechanisms of the organisation as well as the formal court process. To that end, a case relating to the propriety in the change in leadership was the subject of litigation. In that regard, on the 08/08/2014, the Intermediate Court of Nyarugenge rejected the claim made by the former leadership of LIPRODHOR because the filing of the claim had not been done in accordance with the appropriate procedures.

The Court concluded that the claimant should have waited for the decision of LIPRODHOR's internal conflict resolution committee as stipulated in their statute, before filing a claim before Court. That decision was appealed before the High Court of Kigali which upheld the decision of the lower court of the matter and thus dismissed the case pending the proper exhaustion of the organisation's internal conflict resolution mechanisms.

It is therefore clear from the foregoing summary that the Government of Rwanda has no involvement whatsoever in what was clearly a misunderstanding among members of an independent privately run non-governmental organisation. Given the independence of organisations such as LIPRODHOR it would be outside the confines of the law for the Government to get involved in the issue whether in favour of the present or former leadership. In that regard, there was no deterrent whatsoever on the enjoyment of the right to freedom of expression and opinion as provided in Article 19 of the ICCPR.

#### **IV. The Situation of Human Rights Defenders in Rwanda**

Human Rights defenders as well as all other Civil Society organisations have freedom of assembly and association in Rwanda. Article 35 of the Constitution stipulates that, "freedom of association is guaranteed and shall not require prior authorization." To promote and protect the freedom of association of all individuals and groups such as civil society and human rights defenders various laws have been adopted in Rwanda. It should be noted that from 1962 to 2011 only 350 Civil Society organizations were registered in Rwanda. After the promulgation of new Laws on NGO in 2012, registration was accelerated and made easier and in a period of only 2 years, 1509 local NGOs were registered by RGB, a number which continues to grow.

As previously highlighted Article 10 of the Law relating to local NGOs specifically ensures that they have autonomy in the conduct of their work.

In Article 18 & 22 of the law governing local NGOs, the process of equal treatment in the registration for all NGOs was established. All National NGOs enjoy the same rights and obligations as stipulated in Article 28 (rights) and 29 (Responsibilities) of that law. A similar law relating to international NGOs also provides a framework for their registration and operation.

All of these laws and policies are recent developments which have completely changed the framework for the operation of Civil Society Organizations in Rwanda and provide a platform for the continued operation of human rights defenders in Rwanda.



## **V. Conclusion**

The Government of Rwanda continues to be open to constructive engagement with the UN Special Procedures in relation to the promotion and protection of the human rights of all people living in Rwanda. This can be evidenced by the open invitation that was issued to all UN Special Procedures in January 2011. Since then, Rwanda has received 3 Special Rapporteurs.

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