



LESOTHO

**THE PERMANENT MISSION OF THE KINGDOM OF LESOTHO**

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**NOTE No.074/17**  
**LG/UN/21**

The Permanent Mission of the Kingdom of Lesotho to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to transmit the Note No.2, FR/UN/2 from the Ministry of Foreign Affairs of the Kingdom of Lesotho.

The Permanent Mission of the Kingdom of Lesotho to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

**GENEVA,**  
**18 SEPTEMBER 2017**



**OHCHR REGISTRY**

19 SEP. 2017

Recipients :.....S.P.D.....

Enclosure



**NOTE NO. 2**

**FR/UN/12**

The Ministry of Foreign Affairs and International Relations of the Kingdom of Lesotho presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to the Communications sent to the Kingdom of Lesotho regarding the 23 Members of the Lesotho Defence Force who were detained at the Lesotho Maximum Prison in 2015 and were set to appear before the Court Martial in 2016.

The Ministry herewith transmits an update on the status of those 23 Members of the LDF pursuant to the said Communications.

The Ministry of Foreign Affairs and International Relations of the Kingdom of Lesotho avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

**MASERU**

**08 SEPTEMBER, 2017**



## **RESPONSES TO SPECIAL PROCEDURES MANDATE HOLDERS OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**

The Government of the Kingdom of Lesotho (the Government) wishes to give an update to the Special Mandates of the Office of the High Commissioner for Human Rights (OHCHR), which include the Special Rapporteur on extrajudicial or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, on the status of the 23 members of the Lesotho Defence Force (LDF) who were detained at the Lesotho Maximum Prison and were set to appear before the Court Martial in 2016.

The Government is committed to ensuring that the rule of law, democracy and good governance, which play a pivotal role in every democratic society are being upheld. It is also dedicated to ensuring that prolonged or continued detention and incidents of torture are eliminated. As such, the Government wishes to report that since 2016, the 23 Members of the LDF have been released from the Maximum Prison. They are currently kept under open arrest, pursuant to the LDF (Imprisonment and Detention) Regulations of 2000. Open arrest gives the detainees the opportunity to reside at their respective homes and ensure remand on a daily basis to those in authority at the LDF. Open arrest was executed by Government with a view to guaranteeing various rights belonging to the detainees, as enshrined in Chapter 2 on the Bill of Rights of the Constitution of Lesotho, which include freedom of movement, right to personal liberty, freedom from torture and most importantly, right to a fair hearing, within a reasonable time by an independent and impartial court. At the time when open arrest was effected, the Court Martial was put on halt, hence the Government felt it befitting to refrain from detaining them for long periods without according them their right to a fair trial. Currently, the Government is looking into reviewing the terms of the open arrest, particularly the issue pertaining to remands.

The Government is cognizant of the fact that, as a duty bearer, it is incumbent upon itself to ensure the respect, promotion and protection of every citizen's rights. The findings of the Report that was issued consequent to the 2015 Phumaphi Commission of Inquiry that was set up to inquire into the circumstances of the death of the former LDF Commander, Lt. General Maaparankoe Mahao, are reiterated by the

current Government. The Phumaphi Report asserts that “having taken into consideration the evidence that was put before the Commission, as well as that of the suspects subjected to torture, the object being to extract confession from them, as well as the evidence that Lt. General Kamoli himself, when he was reappointed as Commander of LDF, stated that he would deal with those who celebrated his termination in 2014, it makes the whole case of mutiny highly suspicious.”<sup>1</sup> In the same vein, the Commission also made a recommendation which later translated into a Southern African Development Corporation (SADC) decision, to the effect that Government should facilitate an amnesty that will cover the detained mutiny suspects.<sup>2</sup> Pursuant to that decision, the newly formed Government is desirous of looking into all aspects encompassing the issue; its sensitivity and the legal aspects thereof. The Government intends to ensure that when this matter finally rests, the suspects will not in any way be stigmatized to the alleged mutiny. After careful scrutiny on the issue, an appropriate instruction as regards the Court Martial will be issued by the Right Honourable the Prime Minister.

Worthy of note is that, during the SADC Summit held in Pretoria in August 2017, the Summit received a commitment from the Government of the Kingdom of Lesotho to implement all the SADC decisions pertaining to the Phumaphi Commission Findings. In that regard, the Government has already initiated talks with the exiled soldiers with a view to facilitating their safe return to Lesotho. The discussions were held from 9-10 August 2017. To further execute this, the Government intends to put before the courts of law, those that are suspected of committing crimes as well as restituting the status quo ante of both the mutiny suspects and the exiled soldiers.

Further, the Government intends to present a Progress Report on the implementation of the SADC decisions during the Double Troika Summit on 30<sup>th</sup> November 2017. The Government has also committed to undertaking Security Reforms. This shall be implemented by expeditiously commencing a National-Multi Stakeholder dialogue, with the purpose of ensuring a transparent means of implementing the said Security Reforms. Issues emanating from such dialogues will be discussed during the above-mentioned Double Troika Summit.

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<sup>1</sup> SADC Commission of Inquiry into the Circumstances Surrounding the Death of Brigadier Maaparankoe Mahao, Final Report: November 2015 pg 61

<sup>2</sup> Ibid (SADC Commission of Inquiry) pg 61.

The Government reiterates its commitment to upholding and safeguarding the constitutional rights of its citizens. It also bears in mind its international human rights obligations emanating from various human rights instruments binding Lesotho, as well as adhering to core principles establishing regional and international bodies which Lesotho is a Member State.