



**THE EMBASSY OF THE REPUBLIC OF THE GAMBIA TO THE SWISS CONFEDERATION AND THE
PERMANENT MISSION OF THE REPUBLIC OF THE GAMBIA TO THE UNITED NATIONS OFFICE
AND OTHER INTERNATIONAL ORGANISATIONS IN GENEVA**

GMB/32/2026

NOTE VERBALE

The Permanent Mission of the Republic of The Gambia to the United Nations Office, WTO and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit herewith the written responses of the Government of the Republic of The Gambia to the joint communication **AL GMB 1/2025** issued by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders.

In this regard, the Permanent Mission has the honour to enclose the Government's written responses addressing the issues and questions raised in the above referenced joint communication for onward transmission to the concerned mandate holders.

The Permanent Mission would appreciate it if the present note verbale and its enclosure could be brought to the attention of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders.

The Permanent Mission of the Republic of The Gambia avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration. *Mk101*

Geneva, 5th February, 2026

To;

**The Office of the High Commissioner for Human Rights (OHCHR)-Palais Wilson,
Geneva, Switzerland**



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**RESPONSE TO THE COMMUNICATION FROM THE UNITED NATIONS SPECIAL
RAPPORTEUR(S)**

The Government of the Republic of The Gambia extends its compliments to the United Nations Special Rapporteurs for being accorded the honour to respond to the communication requesting information concerning the arrest, pre-trial detention, and prosecution of certain individuals in connection with recent protest activities in The Gambia, and by extension the existing measures relating to the protection of human rights defenders and the exercise of fundamental freedoms in The Gambia.

The Government welcomes the opportunity to clarify the factual and legal context of the matters raised and to reaffirm its continued commitment to its obligations under domestic and international human rights law.

QUESTION NO 1 (ADDITIONAL INFORMATION)

The Government reiterates its firm commitment to the protection of the rights to freedom of expression, peaceful assembly, and association, as guaranteed under the 1997 Constitution of The Gambia and the International Covenant on Civil and Political Rights (ICCPR), to which The Gambia is a State Party. The Government recalls that, in accordance with article 21 of the ICCPR and section 25 of the Constitution, the doctrinal profile of the right to peaceful assembly is such that the exercise of the right to may be subject to restrictions that are prescribed by law and necessary in a democratic society in the interests of public order, public safety, and the protection of the rights and freedoms of others. The Public Order Act establishes a legal framework for regulating assemblies and processions, particularly in public spaces such as major highways, where disruption may have significant implications for public safety and the rights of others. The measures taken by the authorities on the events referenced were based on this framework and were directed at maintaining public order rather than limiting lawful expression.

The Government further wishes to clarify that the arrests referred to in the communication occurred following repeated lawful orders to disperse, issued after it was noticed that the individuals involved were without permits as required by section 5 the Public Order Act. The reported actions included obstruction of public roads, affecting public order and the rights of other members of the public and refusal to comply with dispersal directives issued by the police.

Arrests were carried out on an individual basis and in accordance with established legal procedures. Those concerned were promptly informed of the charges against them, which are clearly defined under Gambian law, including unlawful assembly, unlawful procession, and public nuisance. All individuals were brought before a competent court of law within the constitutional time frame, and subjected to judicial oversight, including bail proceedings. Further detention of the arrested individuals was effected pursuant to lawful judicial processes.

On the use of force by law enforcement officers, the Government recognises the obligation of law enforcement officials to facilitate peaceful assemblies. However, where assemblies cease to be peaceful or present a serious risk to public order or safety as in respect to the referenced instances, law enforcement authorities in fulfilment of their duty to maintain peace and order may be required to intervene in a proportionate manner.

In the situations described the use of force by the police was limited to effecting the arrest following the refusal to obey the lawful orders to disperse. The force used was proportionate and not excessive.

The Government emphasises that law enforcement officials operate under operational guidelines informed by the principles of legality, necessity, proportionality, and accountability. Allegations of misconduct against law enforcement officials are addressed through existing internal review and oversight mechanisms.

Furthermore, the Government notes the concerns expressed regarding alleged targeting of political activists, human rights defenders, civil society actors, and young people. It respectfully clarifies that the actions taken by the authorities were not based on the content of the views expressed, but rather on specific conduct that raised concerns relating to public order and safety, and most importantly the assemblies were without the legally required permits.

With respect to issues raised in connection with the removal of the Auditor General, the Government underscores that the Gambia retains strong and clear constitutional and statutory mechanisms to address disputes relating to public office holders. Such matters are appropriately addressed through legal and institutional processes, including judicial review. The Auditor General in exercise these institutional processes has instituted a suit against the Government before the Supreme Court challenging among others the constitutionality of his removal, the case is currently ongoing.

The Government remains committed to maintaining an open civic space and continues to support political participation, public debate, and civil society engagement through democratic institutions.

The Government of the Republic of The Gambia submits that the measures taken in the circumstances described both in respect to the Auditor General's case and the protest were grounded in law, pursued legitimate aims, and were proportional to the situations faced. The Government remains open to continued dialogue and cooperation with the Special Rapporteurs and reaffirms its commitment to strengthening democratic governance, the rule of law, and the protection of human rights.

QUESTION NO 2

In response to issue No.2, The Government wishes to emphasize at the outset that all actions taken by law enforcement authorities were conducted strictly in accordance with the Constitution of the Republic of The Gambia (1997) and applicable domestic legislation, specifically the Public Order Act and Police Act.

Section 19 of the Constitution specifies that arrests may lawfully be effected where there exists reasonable suspicion that a person has committed, is committing, or is about to commit a criminal offence. The individuals specified in the communique were arrested not on account of the peaceful expression of opinions or lawful assembly, but in circumstances where their specific conduct gave rise to reasonable grounds for suspected violations of criminal law, including conduct affecting public order and public safety. All the persons arrested were:

- Promptly informed of the reasons for their arrest, in accordance with section 19(2) of the Constitution.
- Afforded access to legal counsel.
- Brought before a competent court within the constitutionally prescribed timeframes, in line with section 19(3).
- Informed of their rights to apply for bail.

These steps manifest the government's commitment to uphold the letter and spirit of the constitution and its international Human rights Obligations regardless of the circumstances and the personalities involved

In respect to the decisions regarding pre-trial detention of the arrested individuals, the decision to detain the arrested individuals was a judicial decision invoked, following consideration of the applicable legal guidelines, including the nature of the offences charged.

In the same breath, the decision to initiate criminal charges in this case and in every other case falls under the exclusive constitutional mandate of the Director of Public Prosecutions who has an oversight role over all institutions of prosecutorial powers. Accordingly, the exercise of prosecutorial powers is an independent function guided by two principles: the sufficiency of evidence and the public interest.

Compatibility of Domestic Legislation with International Human Rights Obligations

The Government of The Gambia reiterates its unwavering commitment to its international obligations, including but not limited to its obligations under the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, both of which are reflected in the existing constitutional guarantees in The Gambia.

The rights to freedom of expression, peaceful assembly, and association enshrined in articles 19, 21, and 22 of the ICCPR, and in sections 25 of the Constitution are fully respected and consistent with international human rights law. The doctrinal profile of these rights permits the restriction on their exercise subject to lawful, necessary, and proportionate limitations for legitimate aims such as the protection of public order, public safety, and the rights and freedoms of others. It is imperative to highlight that the Public Order Act which was the basis for the arrest and detention of the said individuals was challenged before the Supreme Court of the Gambia (apex domestic court) in *Ousainou Darboe & Others v The Attorney General SC 033/2016* and at the ECOWAS Court, and both courts upheld the constitutionality of the Public Order Act. The measures taken by the authorities were assessed on an individual basis and were not directed at suppressing dissent or legitimate civic engagement. The Government therefore respectfully submits that the actions in question do not amount to arbitrary arrest or detention within the meaning of article 9 of the ICCPR.

QUESTION 4

The Government notes the request for the immediate and unconditional release of detained persons and the dropping of charges. In this regard, it respectfully underscores that, under The Gambia's constitutional framework, such actions cannot be unilaterally effected by the Executive outside the judicial process.

The Gambia's constitutional guarantees are anchored on the principle of separation of powers and respect for the rule of law, which requires that:

- a. The lawfulness of detention is determined by the courts.
- b. Decisions on bail, discontinuance, acquittal, or dismissal of charges are judicial or prosecutorial in nature.
- c. The Executive cannot lawfully interfere in ongoing judicial proceedings, as that would amount to an interference of the executive into judicial conduct.

The Gambia's constitutional framework provides an avenue where if an individual conceived that his or her arrest, detention and prosecution is at variance with the constitution and international human rights order, the person retain the unfettered right to challenge the legality of his or her detention, to apply for bail, and to seek redress before independent and impartial tribunals and adjudicatory bodies nationally and internationally. These safeguards are poised to ensure compliance with both domestic and international human rights standards.

QUESTIONS NO 3 AND 5

The Government of The Gambia recognizes the essential role played by human rights defenders, civil society organizations, journalists, and activists in a democratic society. It reaffirms its obligation to ensure that they can operate safely, independently and in an enabling environment, free from repression and intimidation.

The existing measures in realising these objectives include

- Constitutional protections for fundamental freedoms under Chapter 4 of the 1997 Constitution.
- Ongoing law enforcement and security sector reforms emphasizing human rights compliant policing. Notable examples of these include the review of the Police Act, establishments and support of the Human rights Unit of all the security Apparatus in the Gambia among others.
- Enacting of the Access to Information Act and establishment of the commission to administer the Act.

- Training of law enforcement personnel on crowd control, proportionality, and the protection of peaceful assemblies.
- Established accountability mechanisms to address allegations of misconduct by public officials including the establishment of the National Human Rights Commission.
- Establishment of a Standard and functional Human Rights unit at the Police headed by a commissioner to ensure that the police are human rights compliant.
- Regular engagement with Civil Society at the Government Ministerial Town Hall Meeting (Mansa Kunda).

Law enforcement agencies are under a duty both to facilitate lawful assemblies and to protect participants, while ensuring that public order is maintained in a manner consistent with international standards, including the principles of necessity and proportionality.