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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Chairperson-Rapporteur of the Working Group on the use of mercenaries and the
Special Rapporteur on extrajudicial, summary or arbitrary executions.**

REFERENCE: AL G/SO 214 (2005-4) G/SO 214 (33-27)
LBR 1/2012

21 September 2012

Excellency,

We have the honour to address you in our capacities as Chairperson-Rapporteur of the Working Group on the use of mercenaries and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolution 18/4 and 17/5.

In paragraph 17 of resolution 18/4, the Council requested the Working Group *“to continue to monitor mercenaries and mercenary-related activities in all their forms and manifestations, including private military and security companies, in different parts of the world, including instances of protection provided by Governments to individuals involved in mercenary activities;”*.

In this connection, we would like to bring to the attention of your Excellency's Government's information we have received with regard to the alleged involvement of Liberian mercenaries in several attacks against civilians in the western part of Côte d'Ivoire, along the border with Liberia.

According to the information received:

On 13 April 2011, Liberian authorities captured in eastern Liberia the Liberian mercenary, [REDACTED], also known as “[REDACTED]” or “[REDACTED]”. Mr. [REDACTED] allegedly helped to orchestrate two massacres in which more than 120 men, women and children were killed in and around Bloléquin, Côte d'Ivoire, on 22 and 25 March 2011. Mr. [REDACTED] reportedly acknowledged that he had been hired as a mercenary to fight the Forces républicaines de Côte d'Ivoire and to fight as a mercenary in support of forces that supported the previous government of Laurent Gbagbo. Despite this admission, Mr. [REDACTED] was released on bail by the Monrovia Circuit Court on 1 February 2012.

In January 2012, Liberian police arrested 73 Ivorians and one Liberian person identified as a mercenary recruiter near Liberia's south-eastern border with Côte d'Ivoire. These persons were suspected of planning an attack on Côte d'Ivoire. Reportedly, all 74 detainees were released on 20 February 2012 by the Attorney General of Grand Gedeh, a decision which, according to the UN Panel of Experts on Liberia, was taken after a short and inadequate investigation.

On 24 April 2012, a group of approximately 20 men attacked the Ivorian village of Sakré. According to the UN Panel of Experts on Liberia, the attackers were Ivorians and Liberians aiming to create instability and loot property. Seven civilians were killed and two were injured, several houses were destroyed and more than 3000 civilians fled to nearby villages. Reportedly, the Forces républicaines de Côte d'Ivoire managed to capture four of the attackers, all of Ivorian nationality, who are all currently in custody.

In June 2012, seven UN peacekeepers from Niger were killed in Côte d'Ivoire by unidentified militia fighters while they were on a patrol in the proximity of the border with Liberia. It has been alleged that mercenaries were involved in the attack.

Reportedly, armed militias hostile to the government of Côte d'Ivoire have been recruiting and training Liberian children between the ages of 14 and 17 in Liberian border towns to carry out raids in Côte d'Ivoire.

While we do not prejudge the accuracy of these allegations, we would like to recall that your Excellency's Government is a party since 2005 to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

Article 6 of this Convention provides that "States Parties shall co-operate in the prevention of the offences set forth in the Convention, particularly by: (a) taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories, including the prohibition of illegal activities of persons, groups, organisations that encourage, instigate, organize or engage in the preparation of such offences; (b) co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences."

Article 9 of the same Convention states that "Each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences set forth in the present Convention which are committed: (b) by any of its nationals or, if that State considers it appropriate, by those stateless persons who have their habitual residence in that territory."

Finally, article 12 of the Convention requires that "the State Party in whose territory the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed on its

territory, to submit the case to its competent authorities for the purpose of the prosecution, through proceedings in accordance with the laws of that State.”

In addition, we recall that your Excellency’s Government is a party to the Convention on the Rights of the Child, which provides that “States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.” Your Excellency’s Government has also signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and is thus bound to act in accordance with the object and purpose of that treaty.

We draw to the attention of your Excellency’s Government the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency’s Government in line with the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles), in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. This principle was reiterated by the Human Rights Council in Resolution 17/5 on the “Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions” (OP 4). The Council added that this includes the obligation “to identify and bring to justice those responsible ... to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions.”

It is the responsibility of the mandate provided to the Working Group on the use of mercenaries by the Human Rights Council to seek to clarify all cases brought to its attention regarding mercenaries and mercenary-related activities. The Working Group on the use of mercenaries is particularly concerned to see that Member States take all necessary measures to ensure that any person involved in mercenary activities is held accountable. In addition, the Special Rapporteur on extrajudicial, summary or arbitrary executions is equally concerned and urges your Excellency’s Government to take all necessary measures to investigate, prosecute and impose appropriate sanctions on any person responsible for the alleged violations. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged above accurate?
2. Can your Excellency’s Government provide information about the measures undertaken to prevent mercenaries from offering their services for activities in Côte d’Ivoire?
3. What is the current state of investigations and prosecutions regarding the above mentioned cases?
4. Please also provide specific information on:

- a. whether the charges against [REDACTED] were dropped or he was released on bail and the charges are still pending;
 - b. the legal grounds why the 74 Ivorian and Liberian persons arrested in January 2012 on suspicion of mercenary activities in Côte d'Ivoire were later released;
 - c. the status of the Liberians who were involved in the attack on the Ivorian village of Sakré on 24 April 2012
 - d. any measures that the Liberian authorities have taken regarding the killing of the seven UN peacekeepers in Côte d'Ivoire in June 2012.
5. Please describe any legislative or policy measures or national strategy adopted by your Excellency's Government aimed at addressing the cross-border movement of armed elements between Liberia and Côte d'Ivoire.
6. Please provide information on the investigations, prosecutions or other measures undertaken by your Excellency's Government related to the reported recruitment and training of Liberian children to carry out mercenary related activities.
7. Any additional information which your Excellency's Government wishes to share with us in this regard would be much welcome.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

We would like to inform your Excellency's Government that we have also been in contact with the Government of Côte d'Ivoire in order to understand the measures taken by the Ivorian authorities with regard to the presence and activities of Liberian mercenaries in Côte d'Ivoire.

Please accept, Excellency, the assurances of our highest consideration.

Faiza Patel
Chair of the Working Group on the use of mercenaries

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions