

**Mandates of Special Rapporteur on the situation of human rights defenders and the Special  
Rapporteur on the independence of judges and lawyers**

REFERENCE: AL  
MDV 2/2014:

3 October 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 25/18, and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **charges brought against the five members of the Human Rights Commission of the Maldives**, the National Human Rights Institution of Maldives which has B status under the Paris Principles.

According to the information received:

On 14 September 2014, the Human Rights Commission of the Maldives (HRCM) submitted a report to the Office of the High Commissioner for Human Rights in view of the Universal Periodic Review (UPR) of the Maldives in 2015. Among other issues mentioned, the report allegedly criticised the judiciary and the Supreme Court. The report was published on the HRCM's website on 15 September 2014 and it received wide local media coverage.

On 18 September 2014, the Supreme Court of the Maldives summoned the five members of the HRCM to appear before the Court on the same date. According to the information received, the members were not informed of the reason for their summons. Upon request by the HRCM, the date of the court appearance was postponed to 22 September 2014.

On 22 September 2014, after having individually summoned the members of the HRCM before the Court and presented the charges against them, the Supreme Court initiated a case against the members of the HRCM, using the *suo moto* procedure enacted by the Court itself in a regulation from 6 February 2014. The charges against the members were phrased as follows: "[...] through a report, produced and shared with international organizations, devoid of any factual basis and in a way that undermines the credibility and functioning of the Supreme

Court, [the HRCM] has tried to influence the functioning of the Courts, undermined the independence and sovereignty of the Country and wilfully undermined the Constitution of the Country”.

On 24 September 2014, the first hearing in the *suo moto* case took place. During the hearing, the members were presented with the following charges; “spreading wrongful information and giving a wrongful impression of the constitutional mandate of the Supreme Court”. The members have denied the charges.

On 30 September 2014, the second hearing took place and the members were allegedly questioned about the content of their UPR report. The date for the next hearing has not been scheduled yet.

Grave concern is expressed regarding what is seen as an act of reprisals against the Human Rights Commission of the Maldives for their cooperation with the United Nations and its human rights mechanisms. Further concerns are expressed regarding the undue interference of the Supreme Court into the independent work of the Commission, whose independent mandate is enshrined in article 189 (b) of the 2008 Constitution of the Maldives and in article 3 of the Human Rights Commission Act (No. 6/2006). Finally, we are concerned that should the members be condemned by the Supreme Court, there exists no superior judicial instance in the Maldives to which an appeal could be presented.

In connection with the above-mentioned alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please indicate what measures have been taken to ensure the independence of the HRCM and that its members can carry out their legitimate activities and exercise their right to freedom of opinion and expression without fear of reprisals, judicial proceedings, including criminalization, or intimidation of any sort.
3. Please provide detailed information on the *suo moto* judicial procedure currently underway against the five members and explain how such procedure is in line with international human rights standards, in particular standards related to fair trial and due process guarantees enshrined, *inter alia*, in the International Covenant on Civil and Political Rights.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any persons responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

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Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Furthermore, we would like to draw specific attention of your Excellency's Government to article 5, paragraph (c), article 6, paragraphs (b) and (c) and article 9, paragraph 4(a) of the Declaration.

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

We would further like to refer to your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Finally, we would like to refer your Excellency's Government to the fair trial and due process provisions enshrined in article 14 of the International Covenant on Civil and Political Rights, and in particular to paragraph 5 of said article which provides for the right of all persons convicted of a crime to have their conviction and sentence reviewed by a higher tribunal.