

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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**

REFERENCE:  
AL GMB 1/2017

19 January 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 25/2, 32/32 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **restrictions on the right to freedom of expression in Gambia, including internet shutdowns, shutdowns of media outlets and arrests of journalists, in the run-up to and in the aftermath of the presidential elections.**

According to the information received:

On 1 December 2016, presidential elections took place in Gambia. From 30 November until 2 December, a general ban was imposed on access to Internet and on international telephone calls in the country. Prior to this period, a number of journalists and media workers, including the head of the Gambia Radio and Television Services (GRST) were fired, arrested and detained by the authorities.

On 2 December 2016, the Independent Electoral Commission (IEC) declared the Opposition Coalition candidate, Adama Barrow, as winner in the presidential elections.

On 9 December 2016, President Jammeh in a TV speech, rejected the results of the presidential elections, and stated that he had been left with no choice but to reject the totality of the election results and called for new elections to be held. It was reported that this decision came after one of the opposition coalition members vowed to bring charges against him for alleged crimes against humanity during his reign.

On 10 December 2016, President-elect, Adama Barrow, stated Jammeh had no constitutional authority to reject the poll results. On the same day, Jammeh's party (APRC) announced that the party would file a petition at the Supreme Court challenging the results.

On 13 December, the Chairman and staff of the IEC were prevented from entering the IEC building by the military. The IEC office was occupied by the armed soldiers from 13 until 29 December 2016.

On 13 December 2016, the APRC filed a petition at the Supreme Court, challenging the election result.

On 30 December 2016, the Chairman of the IEC fled Gambia after having received death threats.

On 31 December 2016, two persons were arrested for wearing #Gambiahadecided T-shirts. On the same day, three persons selling #Gambiahadecided merchandise in the Westfield area of Serrekunda were arrested.

On 1 January, Gambian security forces shut down the radio stations Teranga FM, Hill Top FM and Afri Radio. Afri Radio was reopened on 3 January 2017.

On 8 January 2017, Gambian security forces shut down the radio station Paradise FM.

On 9 January 2017, the Ministry of Information and Communication Infrastructure (MoICI) wrote an official letter to the radio station “Paradise FM” to inform them that their licence had been revoked. In this letter, the revocation of licences for three other radio stations- “Teranga FM”, “Hill Top FM”, and “Afri Radio” were also mentioned.

On 10 January 2017, the Supreme Court hearing on the APRC petition was supposed to take place but the case has been postponed to May 2017.

On the same day, in a speech on TV, Jammeh asked people to “await the Supreme Court review and ruling on the election results”. He also stated that the Cabinet and National Assembly are preparing an amnesty bill.

On 10 January 2017, at least 2 Senegalese journalists reporting on the APRC petition at the Supreme Court were expelled from Gambia.

We express serious concern at the total Internet shutdown and ban on international telephone calls prior to the presidential elections, representing a severe restriction on freedom of expression, stifling reporting on a matter of great public interest and limiting the public’s right to information at a time where this was of particular importance. We express concern that the delay of the Supreme Court hearing on the election results will cast doubt on whether a peaceful political transition will happen on 19 January 2016. We express concern at the critical situation for opposition members, the IEC staff, human rights defenders, journalists and public officials that have been openly critical of President Jammeh.

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of expression as well as the right to freedom of association in accordance with fundamental principles set forth in article 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Gambia on 22 March 1979. We reiterate the principle enunciated in Human Rights Council Resolution 12/16 which calls on States to refrain from imposing restrictions which are not consistent with article 19(3) of the ICCPR, including on discussion of government policies and political debate, engaging in election campaign and expression of opinion and dissent.

We would also like to refer to 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 draw your attention to article 1, 2, and 6 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, as well as right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

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

As 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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the legal basis for the general ban on the Internet and on international phone calls in the period 30 November – 2 December 2016, and explain how this is compatible with Gambia's obligations under article 19 of the ICCPR.
3. Please provide information about the legal basis for the arrest and firing of a number of journalists and media workers prior to and following the presidential elections.
4. Please provide information about the legal basis for revoking the licenses of three radio stations, and explain how this is compatible with Gambia's obligations under article 19 of the ICCPR.

5. Please provide information about the legal basis for arresting people wearing or selling #Gambiahhasdecided merchandise, and explain how this is compatible with Gambia's obligations under international human rights law.

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 person(s) responsible for the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

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

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in 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." In this connection we reiterate the principle enunciated by Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on access to or use of information and communication technologies, including radio, television and the Internet; discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; and engaging in election campaigns.

We would also like to refer to 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 draw your attention to article 1, 2, and 6 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, as well as right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.