

Mandate of the Special Rapporteur on the situation of human rights defenders

REFERENCE:
AL SLE 2/2018

19 October 2018

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolution 34/5.

In this connection, I would like to bring to the attention of your Excellency's Government information received concerning the alleged dissolution of the Human Rights Commission of Sierra Leone (HRCSL), which has resulted in the removal of all three human rights commissioners from their appointments prematurely and unofficially.

Mr. Usman Jesse Fornah, Ms. Grace Coleridge-Taylor, and Mr. Rashid Dumbuya are human rights defenders who were appointed in April 2017 as the three commissioners that conform the Human Rights Commission of Sierra Leone (HRCSL).

According to the information received:

On 24 March 2017, the then-President of Sierra Leone nominated Mr. Usman Jesse Fornah, Ms. Grace Coleridge-Taylor, and Mr. Rashid Dumbuya as the three commissioners that make up the Human Rights Commission of Sierra Leone (HRCSL), subject to parliamentary approval.

On 6 April 2017, during the fourth sitting of the Committee on Appointments and the Public Service, the nominees were presented to the parliament.

On 18 April 2017, Mr. Usman Jesse Fornah, Ms. Grace Coleridge-Taylor, and Mr. Rashid Dumbuya each received formal correspondences from the Office of the Secretary of the President appointing them as members of the HRCSL. The letter from the President stated that on 11 April the parliament had approved their appointments for a period of five years, effective on the date that they would report for duty. Mr. Fornah, Ms. Coleridge-Taylor, and Mr. Dumbuya Esq reported for duty on the first week of May 2017.

On 7 March 2018, general elections took place that brought the Sierra Leone Peoples' party (SLPP) into government. The HRCSL visited the new President, to apprise him of the ongoing work and the challenges facing the HRCSL. The President of the country pledged to work with the commissioners in protecting and promoting the rights of people living in Sierra Leone.

On 26 June 2018, the President's State House Office issued a public notice entitled "Restructuring of Boards/Commissions/ Authorities/Agencies". The notice ordered the dissolution with immediate effect of "oversight boards of

parastatals and other state institutions”. Those that had been appointed in May or June 2018 were exempt from dissolution, as well as other named institutions including the Electoral Commission, the Law Reform Commission, and the Teaching Service Commission.

On 27 June 2018, the commissioners requested that the Executive Secretary write to the Secretary to the President, to seek clarification as to why the HRCSL had not been exempt. A response was received from the Secretary to the President on 9 July 2018 stating that the HRCSL was among the institutions that had been dissolved by the notice.

On 3 July 2018, the chairperson of the HRCSL, Mr. Fornah wrote to Attorney General and the Minister of Justice on behalf of the HRCSL to raise concern about the public notice. In the letter, he urged them to intervene and underlined the implications that the dissolution of the HRCSL could have for Sierra Leone.

In his letter, Mr. Fornah pointed out that HRCSL was created by Act of Parliament no. 9, 2004, and that according to Section 4(3)(G) of that act, the dismissal or removal of a HRCSL commissioner before the end of their appointed tenure must follow due process according to Section 137, sub-section (7) of the 1991 Constitution of Sierra Leone. He also referred to the Paris Principles in his letter, explaining that the international legal document requires States to respect independence of national human rights institutions and to refrain from interfering in their operations. The importance of the HRCSL’s independence is reflected in Section 14 of the 2004 HRCSL Act. To date, no reply has been received from the Minister of Justice and the commissioners have made repeated unsuccessful attempts to visit her office.

The commissioners also attempted to meet with the Secretary to the President, the Foreign Affairs Minister, the Chief Minister, the Clerk of Parliament, Chairman of the Parliamentary Oversight Committee for Human Rights, and the President of Sierra Leone. Their efforts continue to be unsuccessful.

On 9 July 2018, after the HRCSL received the Secretary to the President’s reply clarifying that the HRCSL had been dissolved by the public notice, Mr. Fornah called a meeting of the commissioners. At the meeting, they agreed to continue their work until they received formal notice of their dismissal. The commissioners have not been paid since the end of July 2018.

In August, the Office of Attorney General and Minister for Justice issued a press release requesting that the public nominate commissioners for the HRCSL. At the beginning of October, the Permanent Secretary of the Ministry of Justice appointed people to serve in a Selection Committee to shortlist nominees for onward presentation to the President, for their subsequent appointment.

Mr. Fornah, Ms. Coleridge-Taylor, and Mr. Dumbuya have, to date, received no formal notice of their dismissal and the Government has not initiated the due legal process for the dismissal of a HRCSL commissioner, as set out in Section 4(3)(G) of the Act of Parliament no. 9, 2004 and in Section 137, sub-section (7) of the 1991 Constitution of Sierra Leone.

While I do not wish to prejudge the accuracy of these allegations, I wish to express my serious concern at what appears to be the unofficial dismissal of Mr. Fornah, Ms. Coleridge-Taylor, and Mr. Dumbuya from their duties as HRCSL commissioners. I am concerned that the public notice ordering the dissolution with immediate effect of “oversight boards of parastatals and other state institutions” issued at the end of June 2018, has deprived the HRCSL and its three commissioners of the necessary time and resources to adequately carry out their duties in defence of human rights in Sierra Leone and that human rights in the country could be negatively impacted as a consequence.

Finally, I am concerned that the actions taken by your Excellency’s Government will cost the HRCSL its internationally recognised A status accreditation, for its compliance with the Principles relating to the Status of National Institutions, also known as The Paris Principles. In 2011, HRCSL was accredited with A status for its compliance with the Principles relating to the Status of National Institutions, and in May 2016, it was re-accredited with the same A status. The recent actions of the Sierra Leonean Government undermine the six criteria set out in The Paris Principles, but particularly the HRCSL’s autonomy from Government and the HRCSL’s independence.

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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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 detailed information on the factual and legal bases for dismissing Mr. Usman Jesse Fornah, Ms. Grace Coleridge-Taylor, and Mr. Rashid Dumbuya.
3. Please indicate what measures have been taken to ensure that human rights defenders in Sierra Leone are able to carry out their peaceful and legitimate work in an enabling environment.

I would appreciate receiving a response within 60 days. Your Excellency’s Government’s response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, I 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.

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

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

I wish to refer your Excellency's government to the Principles relating to the Status of National Institutions, also known as The Paris Principles, adopted by General Assembly resolution 48/134 of 20 December 1993. Principle 1, 2, and 3 of the 'Composition and guarantees of independence and pluralism', states that the composition of the national institution and the appointment of its members shall be established in accordance with a procedure, that the institution should be independent of the Government and not subject to financial control which might affect its independence, and that in order to ensure a stable mandate for the members of the national institution, their appointment shall be effected by an official act.

Furthermore, I would 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 Right Defenders. In particular, I 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.