

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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human rights of migrants

REFERENCE: AL RWA 1/2016:

5 July 2016

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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 25/2, 24/5, 25/18, and 26/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of expulsion and declaring of *persona non grata* Mr. Epimack Kwokwo.**

Mr. **Epimack Kwokwo** is a human rights defender and the executive Secretary of the League for the Defense of Human Rights in the Great Lakes region (*La ligue des droits de la personne dans la region des Grands Lacs (LDGL)*), an umbrella organization consisting of 25 different organizations based in the Great Lakes region (Rwanda, Burundi and the Democratic Republic of Congo (DRC)), working with victims of human rights violations. He is a national of the Democratic Republic of the Congo but has been living and working in Rwanda since March 2009.

Mr. Kwokwo was the subject of a previous joint letter of allegation, sent on 6 November 2015, see A/HRC/31/79 case no. RWA 2/2015, concerning allegations of detention and harassment of members of non-governmental organisations. We regret that a response to this communication has not yet been received.

According to the information received:

Between September 2014 and March 2015, Mr. Epimack Kwokwo coordinated the work of various civil society organizations reporting on the situation of human rights in Rwanda towards a submission to the Universal Periodic Review (UPR) of the country, scheduled for November 2015. The report was sent to the United Nations in March 2015.

On 12 October 2015 Mr. Kwokwo was stopped and detained by immigration officers for 7 hours on the border between Goma and Rwanda as he was coming back from work mission in the DRC. He was interrogated on his work on human rights and the reports produced by LDGL. Mr. Kwokwo's passport was confiscated by immigration authorities. . He was also told that he had contributed

to “frame Rwanda in a bad light” given his contribution to the submission to the UPR.

Between January and March 2016 he was stopped by immigration services 5 times and asked about his work and his residence in Rwanda.

On 27 May 2016, Mr. Kwokwo, was interviewed at the immigration office in Kigali for three hours about the activities of the LDGL and his work permit in Rwanda. He was informed that he needed to pay USD 800 to cover the cost of a renewal of his work permit and an additional fine. Mr. Kwokwo is in possession of a travel document from the Economic Community of the Great Lakes Countries (ECGLC) which gives him permission to pursue his activities in these countries even when a process of renewal of a work permit is taking place.

On 28 May 2016, Mr. Kwokwo was again summoned to the immigration office in Kigali and informed that he was declared *persona non grata* in Rwanda and was subsequently being expelled from the country. He was shown a letter, signed by the Director General of Immigration, with a decision based on article 13 of Rwanda’s immigration and emigration law, stating that he needed a valid work permit to stay in the country. He was not given a copy of the decision. Immediately after, Mr. Kwokwo was driven by immigration officers to the border between Rwanda and the Democratic Republic of the Congo. At the border Mr. Kwokwo’s passport was returned to him and he was assisted over the border to the Democratic Republic of the Congo. He was never given the opportunity to retrieve his private belongings and alert his family.

Concern is expressed at the above-mentioned allegations that Mr. Epimack Kwokwo was declared *persona non grata* and subsequently arbitrarily expelled as an act of reprisal for his legitimate and peaceful human rights work for LDGL, the legitimate exercise of the rights to freedom of expression and peaceful assembly, and particularly for his cooperation with the United Nations, its representatives and mechanisms in the field of human rights, namely by contributing to a civil society submission to the universal periodic review of Rwanda..

In connection with the above 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.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comments you may have on the above-mentioned allegations.
2. Please provide information on the legal procedure and grounds invoked for expelling and declaring Mr. Kwokwo a *persona non grata* in Rwanda,

in particular in relation to the provisions of the Economic Community of the Great Lakes Countries (ECGLC).

3. Please indicate what measures have been taken to ensure that human rights defenders – including non-citizens - and NGOs in Rwanda can freely operate in a safe and enabling environment and can carry out their legitimate activities without interference from public authorities and fear of harassment, stigmatization or criminalization of any kind.
4. Please explain what procedural guarantees are in place to protect migrants from arbitrary expulsion and please explain how Rwanda is complying with its obligation of the non-refoulement principle.

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.

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

François Crépeau
Special Rapporteur on the human rights of migrants

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to draw your Excellency's Government's attention to article 19 and 21 of the International Covenant on Civil and Political Rights, ratified by Rwanda on 16 April 1975, which provides for the right to freedom of expression and the right to freedom of association and assembly. We reiterate the principle enunciated in Human Rights Council Resolution 12/16, underlining that restrictions on the expression of opinion on government policies and political debate and reporting on human rights are not consistent with article 19 (3) of the ICCPR. Moreover, we would like to bring to Your Excellency's Government's attention article 26 of the International Covenant on Civil and Political Rights, stating that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

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 bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups
- article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms; and
- article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.

Furthermore, we wish to reiterate that Human Rights Council in its resolutions 12/2 and 24/24 urges Governments to prevent and refrain from all acts of intimidation or reprisal against those who seek to cooperate or have cooperated with the United Nations,

its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them. Resolution 24/24 urges States to take all appropriate measures to prevent the occurrence of reprisals, including by adopting and consequently implementing specific legislation and policies and by issuing appropriate guidance to national authorities in order to effectively protect those who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights from any act of intimidation or reprisal.

Moreover, the 2015 report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights pursuant to Human Rights Council resolution 12/2 (A/HRC/30/29) reiterates the Secretary-General's firm position that "any act of intimidation or reprisal against individuals or groups for their engagement with the United Nations, its mechanisms and representatives in the field of human rights is completely unacceptable and must be halted, immediately and unconditionally" (para. 47).

We would further like to refer your Excellency's Government to Human Rights Council resolution 24/5, in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law".

Further, we would like to bring to your Excellency's Government's attention to article 13 of the International Covenant on Civil and Political Rights, stating that an alien lawfully in the territory of a State party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against this expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.