

Joachim Ruecker
President of the Human Rights Council
Palais des Nations
Geneva

Geneva, 18 June 2015

Dear Ambassador Ruecker,

Reprisals against national human rights institution in the Maldives

I write regarding an alleged case of reprisal which merits your urgent attention as President of the Human Rights Council.

According to reliable press reports,¹ on 16 June 2015 the Maldives Supreme Court declared that a report² submitted by the Human Rights Commission of the Maldives (HRCM) in the context of the country's Universal Periodic Review (UPR) is unlawful, and issued an 11-point guideline barring the HRCM from communicating with foreign organisations without government oversight. While the written judgment is not yet available, the press reports state that the Supreme Court gave oral orders that the HRCM refrain from communicating with international bodies other than through the government and that it 'uphold the Maldives' reputation'. We have confirmed this understanding with Commissioners present at the hearing.

The HRCM's UPR report touched on the politicisation and lack of independence of the judiciary in the Maldives, together with other human rights challenges in the country. The Court's decision arose from a court-initiated prosecution of the HRCM on charges of treason.

The decision of the Court is in clear breach of international law and flagrantly incompatible with the Maldives' membership of the UN Human Rights Council.

The UPR is a critical mechanism of the Human Rights Council and the participation of national human rights institutions is essential to ensure that the process is based on 'objective and reliable information' as required by General Assembly Resolution 60/251. The participation of national human rights

¹ See 'Supreme Court renders human rights watchdog toothless' at <http://minivannews.com/politics/supreme-court-renders-human-rights-watchdog-toothless-99848#sthash.8dti4DW4.yskeNoM9.dpbs>.

² The UPR submission of the Human Rights Commission of the Maldives of September 2014 is available at http://www.hrcm.org.mv/Publications/otherdocuments/UPR_submission_Sept_2014.pdf.

institutions is directly envisaged by General Assembly Resolution 60/251³ and Human Rights Council resolution 5/1.⁴

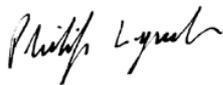
Preventing relevant stakeholders from participating undermines the UPR process as a whole and constitutes an impermissible reprisal. In this regard we recall Human Rights Council Resolution 24/24 which urges States to ‘prevent and refrain from all acts of intimidation or reprisal against those who seek 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.’

We also recall Human Rights Council resolution 27/18, which explicitly ‘welcomes the important role played by national human rights institutions in the Human Rights Council’ and ‘commends in particular the increasing engagement of national human rights institutions at all stages of the universal periodic review’. The resolution further specifies that ‘national human rights institutions and their members and staff should not face any form of reprisal or intimidation’ and ‘emphasises that any cases of alleged reprisal or intimidation against national human rights institutions and their members and staff or against individuals who cooperate or seek to cooperate with national human rights institutions should be promptly and thoroughly investigated, with the perpetrators brought to justice’.

For a member State of the UN Human Rights Council to retaliate against a national human rights institution for providing a report to the Council is tantamount to contempt and is plainly incompatible with membership of that body.

In light of the information above, we urge you, as the President of the Human Rights Council and the custodian of the integrity and quality of the UPR, to follow up with the concerned State’s representatives in Geneva and ensure that this case of reprisal is fully and promptly investigated and effectively remedied in line with Council resolutions 24/24 and 27/18.

Yours sincerely,



Philip Lynch
Director

CC: Members of the Human Rights Council Bureau
Secretary General of the United Nations
Secretary of the Human Rights Council

³ Para 5 (h). Decides that the Council shall, inter alia: Work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society.

⁴ Para 3 (m). The universal periodic review should: Ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions, in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996, as well as any decisions that the Council may take in this regard.