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SEYCHELLES: Judicial Independence and Accountability

The undersigned organisations are gravely concerned about recent reports of events affecting the judiciary in the Seychelles. The developments in Seychelles have the potential to affect the actual and perceived independence of the court.

Multiple international guidelines and best practice standards highlight the crucial importance of the independence of the judiciary. The Latimer House Principles recognised that “an independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice.”¹ This principle is reiterated in section 119 (2) of the Constitution of Seychelles which guarantees the independence of the judiciary and makes it subject only to the Constitution and laws of the country. In addition article 1 of the Seychelles Code of Judicial Conduct, states that an independent judiciary is indispensable to the proper administration of justice. An important prerequisite to ensuring independence is a credible appointment process. Not only does this ensure that the right people are appointed but it goes a long way to ensure and sustain public confidence in the independence of the Judiciary. To this extent we are concerned about proposed changes to the Constitutional Appointments Authority (CAA). The CAA as the organ mandated to deal with the appointment of judges, and to set up tribunals to inquire into the potential impeachment of judges is central to the perception of the court in Seychelles. It is our understanding that the composition of CAA is being changed, the net effect of which is to exclude the Chief Justice or any other judge. These changes have the potential to render the judiciary subservient or under the influence of an external organ. A credible system of judicial appointment and discipline must guard against such a possibility of external influence on the judiciary.

Equally as important to judicial independence, is the credibility and efficacy of the mechanisms set up to hold judges accountable for their misconduct. The procedures or mechanism for holding judges to account should be fair and objective. The effectiveness of the accountability mechanism is diminished if its recommendations are not executed. We understand that an official inquiry into the conduct of a senior judge unanimously came to the conclusion that the judge should be removed from office, on the basis of his responsibility for shocking delays in finalizing cases, and for making changes to court orders after the orders had been made in open court, without notifying the parties to the case. Furthermore, the Tribunal criticised the judge’s conduct towards the Chief Justice and legal practitioners, although it did not find this to be a factor justifying removal from office. This conduct included attempts to intimidate the Chief Justice. We note that despite the President being legally obliged to do so, the President has not taken action to implement the Tribunal’s recommendations; the judge remains in office. The president’s inaction negatively affects the perception of the independence and integrity of the judiciary in the Seychelles.

The principles of judicial accountability and independence underpin public confidence in the judicial system and the importance of the judiciary as one of the three pillars upon which a responsible government relies.² We register our concern with actions that have the effect of undermining the

¹ Principle IV – *Independence of the Judiciary* Commonwealth Latimer House Principles

² Principle VII(b) – *Judicial Accountability* Commonwealth Latimer House Principles

independence and integrity of the judiciary in the Seychelles. We call on all affected parties, including the government of the Seychelles, to take all necessary steps to ensure the independence and integrity of the judiciary in the Seychelles. We further call on the President of the Seychelles to implement the decision of the Tribunal and to dismiss the judge who has been found unfit for judicial office.

The Tribunal report can be found here.

<https://www.seylli.org/content/report-tribunal-set-under-article-134-2-constitution-republic-seychelles-inquire-inability>

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