



TÉLÉCOPIÉ • FACSIMILE TRANSMISSION

DATE: 22 October 2014

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OBJET/SUBJECT: COMMUNICATION FROM SPECIAL PROCEDURES

Please find attached a communication sent by 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.



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**Mandates of 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: OL
OTH 11/2014

22 October 2014

Dear Director General,

We have the honour to address you in our capacities as 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 24/5 and 25/18.

We are writing in relation to the dismissal of Mr. Moncef Kateb, President of the World Intellectual Property Organization (WIPO) staff council on 19 September 2014. According to the information we have received, Mr. Kateb was dismissed for having improperly used confidential information pertaining to disciplinary cases of two WIPO staff. We understand that he has been accused of breaching confidentiality rules and conflict of interest.

However, we have been informed that these charges may not be in line with a decision of the ILO Administrative Tribunal which already ruled that "[s]tatements made in legal proceedings are privileged [which] cannot be the subject of legal proceedings or sanction. [...] In Judgement 1391 the Tribunal recognized that the privilege attaches to its proceedings, as well as those of internal appeal bodies". It reportedly results from this decision, as well as from the fact that proceedings are shared with the staff member in order for them to prepare their appeal, that Mr. Kateb did not breach any confidentiality rules. Moreover, it has been brought to our attention that conflict of interest in the WIPO Standards of Conduct relates to the context of procurement and to the acceptance of gifts only, which is reportedly not applicable in the case of Mr. Kateb. In this context, we are concerned that the decision to dismiss him may have been taken in retaliation of his

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activities as a staff representative and as a result of his legitimate exercise of his right to freedom of association.

It further appears that the decision to dismiss Mr. Kateb took place only a few days before WIPO's annual governing body meeting, where Mr. Kateb was reportedly expected to criticize some management practices within the Agency.

We are also aware that the decision taken against Mr. Kateb is the latest of a series of measures taken against him in the last years. In 2011, he was reportedly subjected to a disciplinary charge that was later withdrawn. In 2012, after he had denounced secret transfer of computer equipment by the Agency administration to a country that was subject to worldwide condemnation and sanctions, he was reportedly prevented by the administration from testifying before one country's investigative bodies. On 5 September 2014, Mr. Kateb was also suspended without pay in relation to the current case.

Within this context, we would like to express concerns at the alleged harassment and arbitrary dismissal of Mr. Kateb. We would urge your organization to safeguard Mr. Kateb's rights to freedom of association and to reconsider your decision to dismiss him. We would indeed like to reiterate the importance of the rights to freedom of peaceful assembly and of association which shall be exercised in both national and international levels as highlighted in the last report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association to the General Assembly A/69/365. We would further like to encourage your organization to consider adopting positive measures in this regard, including with respect to:

- Ensuring the physical and psychological integrity of Mr. Kateb and of those exercising their rights to freedom of peaceful assembly and of association at WIPO;
- Safeguarding the rights to freedom of peaceful assembly and of association of all WIPO staff;
- Providing redress for those unduly restricted in the exercise of their right to freedom of peaceful assembly and of association; and
- Consulting with WIPO staff association on issues of interest to staff.

We look forward to receiving additional information about the case of Mr. Kateb.

Should you require any additional information or clarifications concerning issues raised in this letter, please do not hesitate to contact us at freeassembly@ohchr.org or defenders@ohchr.org.

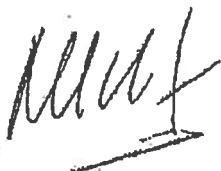
Your response will be made available in a report to be presented to the Human Rights Council for its consideration.

We are considering the possibility of publicly expressing our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. Any press release would indicate that we have been in contact with you to clarify the issues in question.

Please accept the assurances of our highest consideration.



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