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United Nations Working Group on Arbitrary Detention
OHCHR-UNOG
8-14 Avenue de la Paix
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VIA ELECTRONIC MAIL

Dear Members of the Working Group on Arbitrary Detention,

RE: FOLLOW-UP ON THE WORKING GROUP'S RECOMMENDATIONS (Opinion 47/2022)

The Unrepresented Nations and Peoples Organisation (UNPO) wishes to draw your attention to the most recent circumstances regarding the arbitrary arrests and detentions of members of the Homeland Study Group Foundation (HSGF) in the Volta Region by Ghanaian authorities. These arrests have severely restricted the rights to freedom of expression, association and assembly as well as the self-determination of Western Togoland.

Background

The Working Group may recall that an initial submission was made by the UNPO on 25 January 2022 whereby the arrest of George Kobla Nyakpo was set out in detail. Mr. Nyakpo is a leading member of the HSGF and was first detained on 14 July 2021 and held in custody for 56 days before receiving a formal charge from the authorities. Mr. Nyakpo's arrest was based on an alleged contravention of the Prohibited Organisations Act of 1976 which criminalises the self-determination of the Volta Region and associated activities. Mr. Nyakpo was imprisoned for a total of 156 days and released on bail on 17 December 2021. Alongside Mr. Nyakpo, other HSGF supporters were also arrested based on the Prohibited Organisations Act.

Based on the information provided to the Working Group by the UNPO, the Working Group provided an opinion on 30 January 2023 (Opinion 47/2022). The opinion that it emphasised the arbitrary nature of Mr. Nyakpo's arrest on four grounds for arbitrary detention as set out by the WGAD. As highlighted in the opinion, Mr. Nyakpo's arrest was arbitrary in that (1) the arrest and detention lacked legal basis; (2) the detention was a result of Mr. Nyakpo's peaceful exercise of the freedoms of expression and opinion, and freedom of association; (3) Mr. Nyakpo's right to a fair trial was violated; and (4) Mr. Nyakpo was deprived of his liberty on discriminatory grounds, namely based on his political or other opinion.

Consequently and in order to remedy the situation, the WGAD recommended that Mr. Nyakpo be unconditionally released and provided with the right to compensation and other reparations; that Ghana take active and immediate steps to ensure the situation is in accordance with international law and norms; that a full and independent investigation be conducted; and that the matter be referred to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

As part of the follow-up procedure, the WGAD requested information on the following:

- a) Whether Mr. Nyakpo has been unconditionally released and, if so, on what date;
- b) Whether compensation or other reparations have been made to Mr. Nyakpo;
- c) Whether an investigation has been conducted into the violation of Mr. Nyakpo's rights and, if so, the outcome of the investigation;

- d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Ghana with its international obligations in line with the present opinion;
- e) Whether any other action has been taken to implement the present opinion.

Events Following the WGAD Opinion

In light of the above, the UNPO wishes to provide the WGAD with further and updated information in respect of the implementation of its recommendations.

While Mr. Nyakpo was indeed released on 17 December 2021, the formal charges against him have yet to be finalised and dismissed. Mr. Nyakpo is accordingly still required to regularly appear before the court for his prior arrest. As such, Mr. Nyakpo has also not received any compensation or other reparations for his arbitrary arrest and detention. The UNPO has recently been informed that despite the WGAD's opinion and recommendations, a re-arrest campaign has been instituted against Mr. Nyakpo on the basis of the Prohibited Organisations Act of 1976. The Republic of Ghana has additionally made the use of this Act to justify their arrests of Mr. Nyakpo and other HSGF supporters in its Statement of Defence to the Community Court of Justice of the Economic Community of West African States (ECOWAS). This Defence emphasises the alleged treasonous nature of Mr. Nyakpo's activities, as well as his purported involvement in recruiting youth for an HSGF military group – which the HSGF indicate is untrue. Under Ghana's Criminal Offences Act 1960, the act of treason is punishable by death. Although Ghana has recently taken the steps to remove the death penalty for ordinary crimes acts of high treason remain punishable by death.

On 8 February 2024, an official court order was issued for Mr. Nyakpo's re-arrest. The re-arrest campaign is believed to be influenced by Mr Nyakpo's new position as the chairman of the HSGF following the demise of Mr. Charles Kormi Kudzordzi in 2021. As a result of the above, and out of fear for his life, Mr. Nyakpo has not been able to continue attending court for his bail hearings. Prior to receiving news of his re-arrest, Mr. Nyakpo had diligently attended all appearances required for the purposes of his charges before the court.

Those arrested alongside Mr. Nyakpo (as mentioned in the previous submission to WGAD) either remain in custody or have outstanding charges against them. Similarly, it is reported that many people continue to be arrested under the Prohibited Organisations Act by the Accra High Court and the Wa High Court of the upper West region of Ghana. Evidently, the Act continues to be utilised by Ghanaian authorities, despite any attempt to clarify this legislation as recommended in the Working Group's opinion. Furthermore, Ghana has not taken any active measures to implement the recommendations.

The UNPO are aware that on 9 October 2023, a meeting between Mr. Nyakpo with the Office of the United Nations High Commissioner for Human Rights (OHCHR) took place to report the ongoing situation in Western Togoland. However, aside from this meeting there does not appear to have been much engagement with investigative bodies, nor has an independent investigation taken place as the WGAD recommended. The HSGF continues to be targeted by Ghanaian authorities in their endeavour for self-determination of Western Togoland. On 9 May 2024, the HSGF arranged an annual commemoration known as 'Western Togoland Heroes Day'. This service entails the hoisting of the Western Togoland flag in memory of those who lost their lives in 1956 in an act of resistance to the British Togoland plebiscite on the status of the territory. Western Togoland rejected the plebiscite and requested that the Union be ratified. Until such a point, Western Togoland refused to allow the Ghanaian flag in the Volta Region, resulting in the Gold Coast soldiers being sent to the area and responding to the refusal with force. This is now known as the Kpando, Alavanyo and Hodzo Fight. On this day in 2024, the Ghanaian authorities (including the police service) removed and desecrated the flags that were raised and threatened to arrest anyone advocating for Western Togoland's self-determination. In the past, supporters were arrested for wearing T-shirts commemorating Heroes Day, and continue to be at risk of arrest in any act of support for Western Togoland's self-determination.

The Present Circumstances

The situation in Western Togoland has not improved since the opinion provided by the Working Group. Members of the HSGF and supporters of Western Togoland's self-determination remain

at risk of being arbitrarily detained by Ghanaian authorities. Their liberties and rights to freedom of expression, assembly and association are similarly limited.

The Republic of Ghana has still elected not to make any comments in respect of the WGAD submission and opinion, or reach out to the HSGF. Nonetheless, and as previously mentioned, they have submitted a Statement of Defence to the ECOWAS Court in an ongoing application. In this defence, Ghana almost solely relies on the Prohibited Organisations Act, indicating that it is 'still good law'. The activities of the HSGF therefore continue to be regarded as illegal and treasonous by Ghanaian authorities under the arcane and disused Act.

In light of continued arrests and human rights violations in Western Togoland, the Unrepresented Nations and Peoples Organization (UNPO) kindly requests the Working Group's consideration of the following actions, building upon Opinion 47/2022 concerning Mr. George Kobla Nyakpo and other members of the Homeland Study Group Foundation (HSGF):

- In response to Ghana's continued arrests and repression under the Prohibited Organisations Act of 1976, we request that the WGAD publish a follow-up opinion addressing these recent violations and reaffirming the need for compliance with its initial recommendations, including the immediate cessation of arbitrary detentions.
- Given the persistent violations and lack of implementation of WGAD recommendations, we request that WGAD propose an official country visit to Ghana to directly assess the situation in Western Togoland and engage with Ghanaian authorities.
- We request that the WGAD encourage Ghana to actively engage with relevant UN mechanisms to facilitate alignment with international human rights standards and legislative reform.
- Finally, we kindly request that the WGAD provide guidance on further actions UNPO may take to support the realization of these recommendations, including any potential avenues for advocacy or engagement with other international bodies.

Thank you for your time and consideration.

Yours Sincerely,

A handwritten signature in blue ink, appearing to be 'M. Monje', with a long horizontal stroke extending to the right.

Mercè Monje Cano

Secretary General, Unrepresented Nations and Peoples Organization (UNPO)