



*Permanent Mission of the Republic of Rwanda
Genève*

GE 129 /16/2019

Geneva, 17 June 2019

The Permanent Mission of the Republic of Rwanda to the United Nations Office and other International Organisations in Geneva presents its compliments to the Working Group on Arbitrary Detention and has the honour to refer to its **Opinion: No. 24/2019** (Rwanda) and to transmit herewith the Government of Rwanda's observations on the **Opinion**.

The Permanent Mission of the Republic of Rwanda requests the Working Group to publish the above mentioned observations on the Working Group's website and reference it in the report which the Working Group will present to the Human Rights Council in 2020.

The Permanent Mission of the Republic of Rwanda to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Working Group on Arbitrary Detention the assurances of its high consideration.

**Chair-Rapporteur
Working Group on Arbitrary Detention**



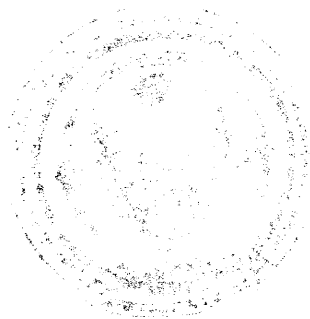
OHCHR REGISTRY

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Enclosure





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Introduction

1. The Government of Rwanda strongly objects to the Working Group's Opinion A/HRC/WGAD/2019 and finds it to be lacking in legal basis and contrary to one of the core mandates of the working group, which is to conduct its tasks with objectivity. The working group's contempt for the Rwandan judiciary, its disregard and apparent disdain for the Government's comments, the inclusion of unfounded allegations unrelated to the case before it and its treatment of the claims by the "source" without a modicum of scrutiny as fact, render the working group's opinion fundamentally flawed.
2. As stated in the Government of Rwanda's response, the detention of Diane and Adeline Rwigara was fully in accordance with the law, due process was followed to the letter, including their right to legal representation and their human rights protected at all times. The underlying assertion that their detention was in anyway linked to their apparent political activities is subjective and without foundation in fact.

Substance of opinion

3. The Government of Rwanda submits that Rwanda is not in contravention of articles 5, 9, 12, 19, 20 and 21 of the Universal Declaration of Human Rights or articles 7,9, 10, 14, 17, 19, 22, 25 and 26 of the International Covenant on Civil and Political Rights. Diane and Adeline Rwigara have never been subject to arbitrary detention. Regarding the finding of

arbitrary detention under category 1, the Government of Rwanda reiterates that Diane and Adeline Rwigara were arrested and detained following the legal provisions of Rwandan Law as provided by articles 37, 38, 39 and 96, 98, 106 para 1 of the Rwanda Criminal Procedure Law. They were notified of the grounds for their detention following a failure to respond to summons by the police and presented with the appropriate warrants. On 23rd September 2017, according to the statement of arrest, the suspects were informed of the charges against them, they were informed of their rights to choose legal representation and signed the statement of arrest. Mrs. Adeline Rwigara declined to sign her statement of arrest. Diane Rwigara and Adeline Rwigara were represented by legal counsel Me Buhuru Pierre Celestin. Mrs. Adeline Rwigara later changed her legal representation to Me Gatera Gashabana. In accordance with the Rwanda Criminal Procedure Law, on 28th September 2017, the suspects were issued with a provisional detention order detaining them pending trial.

Their provisional detention and subsequent detention were at all times in line with relevant legislation and regulations in Rwanda, including those providing for oversight and redress for persons deprived of their liberty. According to the court ruling ordering the provisional detention of Diane Rwigara and Adeline Rwigara, on 23rd October 2017, the judges found there were serious grounds to believe there was a prima facie case and ordered the provisional detention of Diane and Adeline. The same order released Anne Uwamahoro Rwigara (Case RDP00672/2017/TGI/NYGE. Follow-up inquiries with the Government, as were afforded to the "source", would have established these publicly available facts. The Government of Rwanda objects to the finding contained in paragraph 37.

4. Regarding the finding of arbitrary detention under category 2, while taking note of the working group's mandate to coordinate with other human rights mechanisms, the Government of Rwanda wishes to state that the reference by the working group to its previous opinions and observations by other human rights mechanisms on different cases that are distinct from each other is prejudicial and naturally contribute to an inaccurate conclusion. They further point to the subjective nature of the working groups consideration of the case.
5. The Government of Rwanda strongly protests the contempt shown by the working group for Rwanda's laws and judiciary. While on the one hand recognising that Diane and Adeline Rwigara were acquitted of all charges by Rwandan Courts, the working group's conclusions on the

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nature of the charges illustrate a level of bias and lack of objectivity not expected of a UN human rights mechanism. There was absolutely no relation between political participation, freedom of opinion or expression and the charges against Diane and Adeline Rwigara. A cursory analysis of the facts would have shown that equal political participation and the exercise of the freedom of expression and opinion characterised the elections in Rwanda. This again was addressed comprehensively in the Government response to the working group but overlooked.


6. Regarding the findings of arbitrary detention under category 3, the GoR wishes to reiterate that the pre-trial detention of Diane and Adeline Rwigara was made by a court and in accordance with relevant legal provisions (article 96 and 106 of the Code of Criminal Procedure. The Court, in its decision RDP00672/2017/TGI/NYGE of 23rd October 2017, found that there were serious grounds for suspecting them of an offence which is punishable with imprisonment of at least two (2) and ordered their provisional detention. The suspects appealed against that decision, and the High Court, on its decision of RDPA00549/2017/HC/KIG of 21/11/2017, confirmed the decision of the Intermediate Court of keeping the suspects under provisional pre-trial detention.

During the whole process, Diane and Adeline Rwigara were afforded the right to legal representation at all times and all the rights provided for by law for persons deprived of their liberty. Mrs Adeline was allowed to change her lawyer in the decision of 11/10/2017. The conclusion that violations of the right to fair trial constitute arbitrary detention under category 3 are not supported by the facts of the case including their subsequent acquittal.

7. Regarding allegations of torture, the competent authorities examined the allegations of torture in the case and found them to be unfounded.

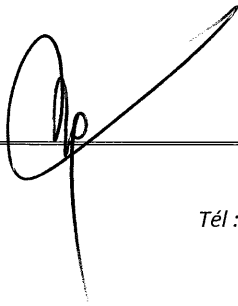
Conclusion

8. The Government of Rwanda considers the case of Diane and Adeline Rwigara concluded by the Rwandan Judiciary and will not engage any further on it.
9. The Government of Rwanda remains firmly committed to fulfilling and upholding all its human right obligations for all Rwandan citizens without discrimination on any grounds. The Government is equally committed to ensuring that Rwanda is governed through the rule of law and in that regard have every confidence in our institutions to uphold that.

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10. We deeply regret that important human rights mechanisms such as the Working Group on Arbitrary Detention have opened themselves to politicisation rather than supporting States in fulfilling their human rights obligations.

END

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