**Case N°1**

**REPORT ON THE MATTER OF THE A.M.E. AGAINST THE UNIVERSITY OF KARA**

By application dated on 11 March 2011 at Lomé and in accordance with Article 17 of Law No. 2005-004 of 9 February 2005, amending and supplementing the Law No. 96-12 of 11 December 1996 on the composition, organization and functioning of the National Human Rights Commission (NHRC), Mr A.M.E has asked before the National Commission on Human Rights (NHRC) for intervention with the authorities of the University of Kara to resume his duties.

**I-** **The facts**

In support of his application, the applicant states:

That following the recruitment session for government agents held on the 1st and 2nd August 2008, he was declared appointed and ​​placed under the Ministry of Higher Education and Research, which assigned him to the University of Kara by decision No 017/MESR/SG/DAC dated 24 February 2009;

That when he presented himself for duty on 27February 2009 to take up office at his place of employment, the Chair of the University told him to leave and that he would call him at the appropriate time;

That on 19 April 2009, he was brought in by the police force of Kara and charged by the Judge of the Court of said city for incitement to revolt, in the context of open information for an attempt to undermine state security and placed in protective custody from 21 April 2009 to 16 April 2010.

That upon his release he returned to the University of Kara to resume service, but was declined by the chair of said University.

That is why he sought the aid of the NHRC for the above mentioned application.

**II-** **Investigations**

On 20July 2011, the appointed Special Rapporteur, Mr KK, Chair of the Commission, paid a visit to the University of Kara for the purpose of studying the case in point.

From the evidence, including Order No. 788/MFPRA of 28 May 2009 of the Minister of Public Service and Administrative Reform and Decision No 017/MESR/SG/DAC 24 February 2009 of the Minister of Higher Education and Research, it appears that Mr AME was indeed admitted to the post following the government recruitment session of 1st and 2nd August 2008 and was made ​​available to the Ministry of Higher Education and Research in the capacity of rural geographer, 2nd class, 2nd level trainee;

That the person was unable to actually take office before his arrest.

**Recommendation**

Considering that Mr AME was admitted at the public servant recruitment session and designated to the Ministry of Higher Education and Research, then assigned to the University of Kara as is indicated in the documents in the file;

Considering that the applicant has not been able to properly take up his post before his arrest April 19, 2009;

Considering that by an Order dated 18 February 2010, the judge stated that there is no follow up case against the accused AME with regards to the facts alleged against him;

Considering that the preventive detention only has the effect of suspending the contract of employment and that until the accused’s guilt is established by a trial court, the accused enjoys the presumption of innocence and retains all civil and political rights, including the right to employment, and that, considering that the applicant has received an order of dismissal, it is his right that he seeks the effective resumption of his duties at the University of Kara, and that by refusing to take him back, it goes without saying that the authorities of said University violated his right to employment; thus it appears that the application of the aforementioned AME is justified, and consequently he must have his right; in light of the reasons set out above,

**The Special Rapporteur recommends that the Minister of Higher Education and Research instruct the Chair of the University of Kara to ensure Mr AME takes up his office within the said University.**

Dated at Lomé 9 September2011.

Following this recommendation, Mr AME was integrated as a member of staff of the University of Kara in October 2011.

**Case N°2**

**MEDIATION REPORT OF THE NHRC ON THE RESOLUTION OF A STUDENT CRISIS**

Within the framework of the application of the “Honours Masters Doctorate” system (HMD) introduced in the universities of Togo in 2008, one conflict related to the difficulties of its application that arose between the students and the university authorities. After many unsuccessful attempts to settle this conflict, student representatives sought the intervention of the National Commission on Human Rights by an application dated 28 April 2011.

**I-** **The facts**

Acting on behalf of the applicant class of 2008-2009 students from the Faculty of Law (FDD); considering that the introduction of the HMD system has resulted in a violation of their right to education due to the fact that the Students of this year were not issued with any certificate (degree). They demand the issuance of classic Honours and Masters, taking umbrage to orders No. 8369, No. 8370, No. 8371 and No. 8373 of 15,16,17 and 21 September 2010 of the Minister of Higher Education and Research which recognize classic degrees until this is removed by another decree. They denounce the violation of the above mentioned orders by the Dean of the Faculty of Law (FDD) who prematurely removed these classic degrees.

The problem raised by this group of Students falls within the comprehensive scope of student claims characterized by student strikes and demonstrations supported by the Association of Students called Movement for the Fulfilment of the Togolese Student ( MEET), nevertheless, these events were still dispersed by police who are alleged to have used violence against peaceful demonstrating students. The severity of the crisis prompted the government to close the University in May 27, 2011 and reopen in June 8, 2011 after reaching a consensus that had come to fruition during a meeting held in June 6, 2011 at the office of the Prime Minister between the Prime Minister himself, the university authorities and the student organizations concerned. However, this consensus that justified the reopening of the university, far from putting an end to this crisis, has instead worsened. Believing that this was an early reopening for reasons of proceeding with further discussions which would lead to a real agreement, the MEET called Students for a General Assembly which was subsequently dispersed. Student arrests were made among them the President of MEET. This intervention forces exacerbated the crisis, which was now characterized by daily demonstrations which were continually dispersed.

The radicalization of the parties in conflict made it ​​uncertain and even impossible to attempt to resolve the crisis. Thus the NHRC initiated a mediation process with the object of dealing with the crisis as a whole and not the specific issue raised above.

**II-** **The actions of the NHRC**

The first action on 16June 2011 led the NHRC to the national police force where they met with the first head of the institution Lieutenant Colonel YD, joined for the occasion by Captain A., on the issue of detention of the President of MEET and of the students who were arrested on campus. After discussion, it was agreed that there was a need to release these student prisoners to facilitate the peaceful settlement of the crisis. These students were then visited at their place of detention by the NHRC in order to hear their concerns.

On 17June 2011, all students were released. However, the President of MEET was excluded from universities in Togo for a period of 6 years - a decision that has exacerbated the crisis and led to the intensification of events on campus that consequentially extended the series of meetings initiated by the NHRC with regards to its mediation.

As a result, several meetings were organized by the NHRC, some with student organizations and others with academics and even government authorities.

**1-** **Meetings with student organizations**

The NHRC has met with three student groups of over 12 working sessions: Students members of the Inter-University Dialogue Monitoring Committee, Students in involved in the above specified query as well as officials from MEET.

The first group was satisfied with the proposals made in the 6 June meeting and therefore had no other specific claims. The second group however made a claim for the issuance of conventional bachelors and masters, as opposed to the modern HDM degrees given to them by the university authorities. In addition to this claim, MEET requested the organization of a supplementary session instead of reprogramming the basic education units as was proposed by the authorities. Two supplementary demands were also added: the release of the President of MEET and the repeal of the decision excluding him from universities in Togo. As previously stated, the request for his release was granted.

**2-** **Meetings with the university authorities**

The NHRC held several meetings with academics authorities and mainly with the Chairman of the University of Lomé. On 24June 2011 they organized a plenary meeting on the premises of the Presidency of the University, which saw the participation of all those involved in the crisis, except MEET.

From all these meetings, no progress was made due to the inflexibility of all parties concerned. In order to influence the authorities, MEET, supported in its cause by some political parties, called on all students and all those who shared their views to take to the streets of Lome on Friday, 1July 2011 to protest peacefully at Republic’s Presidential seat and submit their complaint to the President of the Republic. To prevent the holding of this event which foreshadowed violence and thus the violation of human rights, the NHRC intensified its mediation by maintaining regular telephone discussions with MEET officials, university authorities as well as certain members of the government, including the Prime Minister. The order suspending the protest was obtained late in the night of 30 June, but event took place in the absence of this information being timeously released, but it was quickly stopped by MEET officials. It was agreed that in return for the suspension, new discussions could begin following the lifting of the decision to exclude the President of MEET from universities in Togo. On the same day - that is to say, on 1 July 2011 - the exclusion was suspended before being cancelled entirely on 3August 2011 pursuant to the agreement of 7July 2011 which sanctioned the meeting held on 2July2011 at the office and under the chairmanship of the Prime Minister who witnessed the participation of all student organizations and the presence of the NHRC. The agreement was signed by all parties except MEET who had, however, expressed their consent to the NHRC. In a show of good faith, government and academic officials have begun implementing the provisions of this agreement, including the lifting of the exclusion of the President of MEET. As a result of this the latter expressed his desire to affix his signature to the document but his request was denied.

Following this agreement, the situation normalized at the Lomé University campus, with the effective resumption of academic activities - namely, the organization of the end of year examinations.t.

**Case N°3**

**REPORT OF NHRC’S MEDIATION IN SOLVING A CASE OF CONTAMINATED RICE**

By a letter dated 22 August 2011, the Togolese Consumers Association (ATC) sought the National Commission of Human Rights in the coordination of a second opinion regarding the importing of rice by a company called Elisee Cotrane.

**I-** **The facts**

To support its request, the ATC stated that a few days prior, they had encountered alarming reports relayed by the media stating a cargo of rice contaminated with fumigation products had landed at the Lome Autonome Harbour (PAL), .

The Association argues that the diffusion of this information about the presumed contaminated rice to the public has prompted reactions from importing companies and the Ministry of Trade and promotion of the private sector, , reassuring the public through the press about the quality of the product and that it would not present any dangers to the consumer,

The ATC concludes, however, that whilst not doubting at all the good faith of the other party, the extent of the rumour remains a concern to them, ,especially with regards to the consequences that may arise from the consumption of the rice in question. That is the reason why they asked the NHRC to assemble a team of experts, comprising the Togolese Agricultural Research Institute (ITRA), the Higher School of Biological and Food Technology (ESTEBA) and the National Institute of Hygiene (INH).

The NHRC responded positively to this request.

**II-** **The actions of the NHRC**

In the context of the request, the NHRC convened two meetings on 29 August 2011, the first held with the Director of the company Elisée Cotrane - assisted in the circumstance by his lawyer - , and the second with all parties involved - namely, the company Elisee Cotrane represented by their Advisory Lawyer, a representative from ATC as well as a committee of experts comprising the Director of ITRA, the Director of INH and a representative of the Director of ESTEBA.

Following these meetings, all parties, including the Director of the importing company, agreed to the creation of the group of experts.

Consequently, on 5 September 2011, a delegation led by the Chairman of the NHRC, assisted by Head of the Safety Division, paid a site visit to the Lome Autonome Harbour (PAL). This delegation was comprised of, on the one hand, experts from the School of Biological and Food Technology (ESTEBA) and the Togolese Agricultural Research Institute (ITRA), and on the other hand, by representatives of the ATC and civil society representatives led by the Elisee Cotrane company’s advisor and attorney. The team of experts was led by the Director of ESTEBA and the Director of ITRA Laboratory.

The purpose of this visit was to obtain samples of the offending rice for testing, as requested by ATC.The process of obtaining the samples was carried out in two stores where the rice in question was stored. This rice, delivered in bulk on 8 August,2011, was packaged from 10 to 16 August 2011 before being taken to the stores stores.

The Manuport EMATO store, which was the first to be visited, contained 90,022 50kg bags - equivalent to 4501 tonnes of rice. In the same store were torn bags of the same rice and those containing mouldy rice. To obtain a representative result of the imported rice, the sampling focused on 90 bags, or 1/1000 of the total number of bags.

In the Manuport C store were 97,910 bags which amounts to 4858.750 tons of rice. Sampling was done using the same method and under the same conditions as above.

The team finally visited a container in which, the superficial rice that had been scraped away due to its being in direct contact with fumigants, was being kept. A total of 102 bags with a total weight of 5,200 tons were stored in this container.

On 10 September 2011the results of the team of expert’s investigation were sent to the NHRC and made public during a conference held at the headquarters of the Commission. The results indicated that the rice was not considered unsuitable for consumption, dispelling concerns among consumers and allowing the importing company to put their rice back in the Togolese market.

**Case N°4**

**REPORT ON THE MATTER OF T.A.W. AGAINST THE DIRECTOR OF THE UNDERGRADUATE DEGREE OFFICE**

By an application dated 27 September 2013, Mrs TAW requested the intervention of the NHRC in contacting the Director of the undergraduate degree office to access a copy of her history and geography exam written for her Bachelor’s degree in June 2013. Through this application, the applicant was hoping to confirm that the mark reflected on her academic record was indeed the one she had actually obtained.

**I-** **The facts**

In support of her application, she stated that the Director of the Office had refused her access to a copy despite her regularly submitting applications to this effect. In addition, the Director told her on the phone that she would never have access to her exam paper even if a person, whomever they should be, interceded on her behalf.

**II-** **Investigations**

According to the Director, when asked about these claims, he explained that a request for access to an examination paper must follow a specific procedure and must be carried out according to the regulations of the school office. It is forbidden to disclose the =an exam mark in the event of such a request to the student in question. This can only be done through a trusted person specified by the claimant. The Director added that he had explained this procedure to the applicant on the phone and that at he had never made ​​the remarks reported by the applicant. Right then and there, he showed the exam paper in questionto the Commission and they found that the mark reflected on the complainant’s academic record was indeed the actual mark she had obtained. The claimant was duly informed of this.

The Commission noted a lack of information on the procedure described by the Director and recommended that the Director take actions to address this.