



THE SENATE
FEDERAL REPUBLIC OF NIGERIA
NATIONAL ASSEMBLY

**COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND
LEGAL MATTERS**

REPORT OF THE CHAIRMAN

ON

**THE ALLEGED RESUMPTION OF EXECUTIVE
SECRETARY OF NATIONAL HUMAN RIGHTS
COMMISSION TO OFFICE**

MARCH, 2018

REPORT BY THE CHAIRMAN, SENATE COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND LEGAL MATTERS ON THE ALLEGED RESUMPTION OF EXECUTIVE SECRETARY OF NATIONAL HUMAN RIGHTS COMMISSION TO OFFICE WITHOUT CONFIRMATION BY THE SENATE

1.0 Preamble

The Senate at its Plenary Sitting on Wednesday 28th February, 2018, deliberated on a Matter of Privilege, raised by *Distinguished Senator Dino Melaye (Kogi West Senatorial District)*. The Matter of Privilege was moved pursuant to *Order 14 of the Senate Standing Rules 2015, as amended* on the *Alleged Resumption of Executive Secretary of the National Human Rights Commission to office, a nominee of Mr. President, Commander-In-Chief, without the confirmation of the Senate*. The Matter of Privilege was raised based on a publication in THISDAY Newspaper of Monday 27th February, 2018, captioned "AGF dares Senate, asks Ojukwu to resume office as National Human Rights Commission Boss without confirmation". It was also observed by the mover of the Motion that the Attorney-General of the Federation breached the provisions of the 1999 Constitution of the Federal Republic of Nigeria, as amended by playing the role of the Senate, thereby impugned on his privilege as a Senator.

After extensive deliberations, the Senate mandated the Chairman, Senate Committee on Judiciary, Human Rights and Legal Matters to investigate the matter, vide *Senate Order of Referral dated 1st March, 2018*.

You will recall, Mr. President, Distinguished colleagues that, in a related development, the President and Commander-In-Chief of the Armed Forces, had on Tuesday 5th December, 2017, vide Executive Communication requested this Distinguished Senate to confirm the nomination of his nominee, Mr. Anthony O. Ojukwu, for appointment as the Executive Secretary, National Human Rights Commission, a matter that is still pending before this Hallowed Chamber.

2.0 Legislative Action

In furtherance of the referral, Letters were written to all the relevant stakeholders requesting for their comments and explanation of their various roles in the subject matter of investigation. This was followed by personal interaction between each of them and the Chairman. The said stakeholders are:

1. The Secretary to the Government of the Federation;
2. The Hon. Attorney General of the Federation and Minister of Justice;
3. The Solicitor-General and Permanent Secretary Federal Ministry of Justice; and
4. The National Human Rights Commission.

3.0 Investigation Proceedings

Below, is the legislative summary of the interface with the stakeholders. It is intended to provide insight into the alleged resumption of office by the Executive Secretary of the National Human Rights Commission upon which a Matter of Privilege was raised pursuant to ***Order 14 of the Senate Standing Rules 2015, as amended.*** This summary, no doubt, will form the basis of our observations/findings and recommendations.

Firstly, the allegation on the resumption to office of the Executive Secretary, National Human Rights Commission is to the effect that the Hon. Attorney General of the Federation and Minister of Justice had directed the nominee to resume office without confirmation by this distinguished Senate. However, from investigations, it is revealed that the then incumbent Acting Executive Secretary of the Commission, Oti Anukpe Ovwah, had written a letter dated 6th February, 2018 referenced NHRC/ADM/108/1V to the Secretary to the Government of the Federation, seeking clarification, guidance/directive on whether she should hand-over the administration of the day-to-day running of the Commission to the Presidential nominee who is also a Senior Director in the Commission and not an outsider. He normally acts in her place whenever she is out on official assignment.

Secondly, upon receipt of the letter, the Secretary to the Government of the Federation wrote to the Honourable Attorney General of the Federation and Minister of Justice (HAGF), vide letter dated 19th February, 2018 reference no. 59798/III/680 for legal advice. Thereafter, the HAGF, on receipt of the said letter, minuted on the same to the Solicitor General of the Federation and Permanent Secretary, Federal Ministry of Justice instructing him to advise and revert to him (HAGF). But the Solicitor General, instead of reverting to the HAGF with the requested advise, erroneously wrote a letter, dated 8th February, 2018, referenced SGF/PS/NHRC/180/T granting "approval to Mr. Anthony Okechukwu Ojukwu, the nominee of Mr. President, for the position of the Executive Secretary of the Commission to act as Acting Executive Secretary of the Commission pending confirmation by the Senate".

Thirdly, the Solicitor General of the Federation and Permanent Secretary, Federal Ministry of Justice, upon realising that he had acted

in error and contrary to the directives of the HAGF to "advise and revert", and had instead given "approval for the nominee to resume duty as Acting Executive Secretary of the Commission" wrote a letter dated 27th February, 2018 referenced SGF/PS/NHRC/180, to inform him (the nominee) to discountenance the earlier directive and await further instructions from the Secretary to the Government of the Federation. It is worthy of note that in his submission, the Solicitor-General of the Federation regretted the rancour generated by his action, as the directive ought not to have emanated from the Federal Ministry of Justice but rather, from the Office of the Secretary to the Government of the Federation. In the meantime, the Attorney General of the Federation's Legal Advice on the matter was eventually forwarded to the SGF, vide a letter dated 27th February, 2018 referenced SGF/PS/NHRC/180 after the Solicitor-General had reverted to him as directed.

Fourthly, it is noted that investigation has revealed that the Office of the Secretary to the Government of the Federation, in accordance with its mandate of coordinating appointments made by the President to head Statutory Bodies, Commissions and Agencies, had issued directives, vide a Circular dated 4th December, 2017, enjoining departing Chief Executive Officers to hand-over affairs of their establishments to the most senior Directors, without the discretion of choosing the officer to hand over to.

Fifthly, it should be stressed that from the facts espoused by this investigation, it is evident that this whole controversy arose as a result of efforts by all the persons involved to not only avoid a vacuum in the administrative structure of the Commission but to preserve its integrity and interest as well as that of Nigerian Nation in the international domain. In this regard, the need for the Senate to consider and

confirm the nomination of the substantive Executive Secretary of the Commission is imperative, in order for Nigeria to be seen to fulfil its own part of the international obligation on human rights institutions. By this action the Senate will undoubtedly prevent a situation that could lead to downgrading of Nigeria from its present status "A" status Accreditation to "B", thereby blocking its access to interactions and activities at the UN, AU and ECOWAS levels.

Finally, Mr. President, Distinguished colleagues, I wish to respectfully state that the umbrella body of Network of African National Human Rights Institutions have by a letter dated 14th March, 2018 with reference no. SANHARI(0)ADM/040/18, addressed to me and copied to the Senate President through the Chief of Staff, expressed concern over the non-confirmation of the Executive Secretary, National Human Rights Commission by the Senate and non-appointment of members of the Governing Council by the Federal Government in adherence to the international normative standards, guiding the establishment and management of the National Human Rights Institutions. They reiterated that the consequence of non-adherence is the downgrading of the Commission, which would lead to loss of its "A" Accreditation Status as well as loss of credibility within the international human rights system. Also, similar concern has been expressed by the Human Rights Writers Association of Nigeria in their letter dated 23rd February, 2018, addressed to the President of the Senate and forwarded to me for my information and necessary action.

3.0 Observations/Findings

Flowing from the submissions made by the relevant stakeholders and subsequent interactions on the subject matter, I hereby make the following observations and findings:

1. That contrary to the allegation that the Hon. Attorney General of the Federation had directed that the President's nominee to the office of the Executive Secretary, National Human Rights Commission should resume office without senate confirmation, investigation has revealed that the allegation is untrue; Rather, the letter to the Commission in that regard was written by the Solicitor General of the Federation and Permanent Secretary (SGF/PS), Federal Ministry of Justice in error and not in accordance with the HAGF's directives in his minutes to him on the Secretary to the Government of the Federation's letter dated 19th February, 2018 to the effect that the SGF/PS should "advise and revert". Additionally and most importantly, the said SGF/PS' letter did not direct the nominee to resume office as a substantive Executive Secretary without Senate confirmation but merely gave approval for him to act, pending Senate approval in order not to leave a vacuum in the administrative structure of the Commission.
2. That it would appear that the circumstances under which the letter from the Solicitor General of the Federation Office was issued, was purely for administrative intervention in the normal course of Government business (even though, procedurally defective) was not meant to contravene any law or intended to be an affront on the Senate of the Federal Republic of Nigeria or impugn privilege of either Distinguished Senator Dino Melaye or any Distinguished member of this Distinguished Senate;
3. That the letter to the nominee, Mr. Anthony Okechukwu Ojukwu from the Solicitor General and Permanent Secretary, Federal Ministry of Justice, did not direct him to resume as the substantive Executive Secretary but in acting capacity in order to fill the vacuum created by the absence of the Ag. Executive Secretary, Oti Anukpe Ovwah, as a

result of her annual leave. However, this situation would appear to have now been overtaken by events or at best remedied with the recent resumption of Oti Anukpe Ovwah to office as the Acting Executive Secretary of the Commission upon the expiration of her leave. This fact was confirmed by Mr. Anthony Ojukwu's letter dated 14th March, 2018;

4. That the absence of a substantive Executive Secretary and members of the Governing Board of the Commission for a long period of time will not only affect the image of the country in the comity of nations but will amount to a breach of the terms of the "Paris Principles" since the Commission is expected to be an independent and authoritative actor in the protection of human rights and must be seen to function without interference from the government;
5. That a breach of any of the standards set out to be complied with, by signatories to the *paris principles* will no doubt have negative consequence, which may among other things, lead to downgrading of the Commission from status 'A' to status 'B' with the implication that it will block the Commission's access to interactions and activities at the United Nations, African Union and ECOWAS levels;
6. That the Commission having been downgraded before, due to government's interference, Nigeria should not allow itself to be downgraded for the second time as that will not only affect the status of Nigeria among the international communities for violations of international obligations but will also have its adverse effect on human rights issues, foreign direct investment as well as commerce and business environment;

7. That the Letter from the Network of African National Human Rights Institutions expressing concern over the fact that Commission has been without a substantive Executive Secretary and Governing Council since 7th December 2016 is a warning sign that if we do not act fast to address the confirmation issue of the Executive Secretary of the Commission as well as urging the President to constitute the Board as quickly as possible, Nigeria would be downgraded and well lose our 'A' status Accreditation, which will come along with some unpleasant consequences for Nigeria; and
8. That in the interest of the integrity, stability and independence of the Commission and the need to protect the rights of Nigerians, the Senate should consider the international dimension of the appointment vis-a-vis and the implications of a downgrade to consider concluding the confirmation process of the nominee for the office of the Executive Secretary of the Commission.

4.0 Recommendation

Having considered the presentations of the relevant stakeholders and in line with my observations/findings, I hereby recommend as follows;

- 1. That the Senate do disregard the THISDAY Newspaper publication of Monday 27th February, 2018, as it was done without proper investigation and is responsible for the misconception and controversy surrounding the alleged resumption of office of the nominee of Mr. President as the Executive Secretary of the Commission, without the confirmation of the Senate;*
- 2. That without prejudice to the Senate position on confirmation of nominations for appointment, the Senate may wish to urgently consider and confirm the nominee for the position of*

the Executive Secretary, National Human Rights Commission in the interest of Nigeria's integrity and image in the comity of nations; and

3. *That the Senate do urge Mr. President to immediately constitute the membership of the Governing Council of the Commission so as to avoid Nigeria being downgraded from its current "A" Accreditation Status to "B" and the unpleasant consequences related thereto.*

I SO MOVE.

5.0 Conclusion

I wish to use this opportunity thank the Senate for the confidence reposed and for opportunity to serve in this capacity. It is my hope that this report will lay to rest the controversy surrounding the alleged resumption of the nominee as the Executive Secretary of National Human Rights Commission.


Senator David Umaru

Chairman