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**Legal Issues Submitted to the Supreme Court of Maldives under Article 223 subsection (f) of the Constitution of the Republic of Maldives, by the Prosecutor General's Office, Seeking Directions on the Enforcement of the Supreme Court Order No. 2018/SC-SJ/01**

**1. Mohamed Nasheed, G. Kenereege**

- 1.1. The Supreme Court has previously ruled that Mr. Mohamed Nasheed has given up on his right to appeal by not appealing his case during the appeal period in the case against him for the arrest of the Chief Judge of Criminal Court Uz. Abdulla Mohamed, and had not even tried to appeal his case (Supreme Court Case No. 2016/SC-A/01), the State also pressed charges against four other persons in the same case. Furthermore, in a separate case, terrorism charges were laid against Mohamed Nasheed together with another individual, for the arrest of former Parliament Member for Mulaku Constituency. The Supreme Court Order mentions only Mohamed Nasheed and hence, a direction is sought from the Supreme Court, on how to ensure similar treatment to the other individual convicted in the same cases, as required under Article 17 and Article 20 of the Constitution.
- 1.2. In addition to the above, Mr Mohamed Nasheed who was serving a sentence of 13 years and has fled the country while on permitted overseas medical travel, and if Mohamed Nasheed returns to the country before your direction on the Court Order, a guidance on the manner with which to ensure due process in implementing the Court Order.

**2. Mohamed Nazim, M. Seenukarankaage**

- 2.1. The Supreme Court in its Case No. 2016/SC-L/32, upheld the ruling of the High Court Case No. 2015/HC-A/172, regarding a recovered illegal weapon at the private residence of Mr Mohamed Nazim, confirmed that the High Court had followed all legal and procedural guidelines and as per Article 16 of the Judicature Act (Law No. 22/2010), and thus pursuant to Article 42 of Supreme Court Regulation, decided to reject the appeal

from Mr Mohamed Nazim. This decision was also made by the Supreme Court, notwithstanding a request from the State in the said case, to discuss a DNA Forensic Report submitted by the Maldives Police Services. Thus, a direction is sought from the Supreme Court, considering that the charges raised against Mohamed Nazim were serious charges for importing and possession of illegal weapons, made while he was still the of Minister Defence, and in consideration of the outcomes of a complete re-trial in a case that has completed all three stages of the Court process.

**3. Imran Abdullah, Malhaar, M.Kolhufushi**

- 3.1. A direction is sought in the case of Imran Abdullah, who was convicted and sentenced to imprisonment on terrorism charges in relation to the protest held on 1 May 2015 by the Criminal Court, later confirmed by the High Court of the Maldives, whose appeal to the Supreme Court was denied based on the Supreme Court decision that the High Court Ruling on the case was correct.
- 3.2. Furthermore, various persons were charged and convicted in relation to the above case, together with Mr Imran Abdullah, and hence, *a direction is sought* from the Supreme Court on ensuring similar treatment to the other persons convicted in the same cases, as required under Article 17 and Article 20 of the Maldives Constitution.

**4. Adeeb Abdulghafoor, H.saamara**

- 4.1. Ahmed Adeeb Abdul Ghafoor has been convicted of 3 out of 16 offences charged against him so far and is carrying out an imprisonment sentence of 33 years. Looking in to the ongoing investigations which relate to very serious crimes and past convictions made against him it can be inferred that he is a dangerous criminal.
- 4.2. The convictions against him and investigations which are currently under way and charges presently filed on count of, misappropriation of State funds are serious matters relating to public and national interest. Every day delayed in the recovery of the public funds is a huge loss to the general public. In addition to this, he has been convicted on terrorism charges for conspiring to assassinate the president, his family, employees of the

President's Office and a Cabinet Minister by exploding a bomb on his speedboat. Furthermore, he has been convicted for bringing a foreign sniper to kill the president of Maldives. Furthermore, he is being tried for charges seized a large cache of weapons including firearms, grenades and improvised relating to lethal weapons explosive devices recovered from B.Hinbalhidhoo Island Resort. These allegations including the terrorism charges prove these charges are extremely serious, and Ahmed Adeeb Abdulghafoor is a threat to national and public security. Since it is contemplated that an order to release him from jail custody without rehabilitation is a threat to the people and a hindrance to ongoing investigations, a direction from the Supreme Court in the matter is sought.

- 4.3. Furthermore, the incidents and charges against Ahmed Adeeb Abdul Ghafoor relates to several other persons in similar situations, and hence, a direction is sought from the Supreme Court on ensuring similar treatment to the other individuals convicted in the same cases, as required under Article 17 and Article 20 of the Maldives Constitution.

## **5. Muhthaaz Muhsin, Raimuthuge, GA. Maamendhoo**

- 5.1. Muhthaz Muhsin is a convict sentenced for 17-years in jail for forging a court order to arrest the President of Maldives by influencing a magistrate. There have been 4 charges made upon him. He has been tried and convicted of one charge in the lower court and no verdict has been reached yet regarding the other 3 charges. The verdict issued from the lower court has been appealed in the High Court but a decision has not been reached as of now. Depending on the outcome from the High Court appeal, the case could be appealed in the Supreme Court through the established judicial processes. Thus, a direction is sought from the Supreme Court, on whether it is necessary to discontinue the due process of trials in this matter.

## **6. Qasim Ibrahim, M. Maafannu Vila**

- 6.1. The High Court has not decided on the appeal by Qasim Ibrahim in relation to the judgement affirmed by the lower court on the charge of bribery regarding the motion of

no-confidence of the Speaker of the People's Majlis. Depending on the outcome from the High Court appeal, the case could be appealed in the Supreme Court through the proper due process. Thus, a direction is sought from the Supreme Court, on whether it is necessary to discontinue the due process of trials in this matter.

6.2. Furthermore, Qasim Ibrahim is a convict in the process of carrying out his sentence of 3 years, 2 months and 12 days, who had not returned from the medical leave granted to him. Further directions are sought from Supreme Court on the due process to be followed in the event he returns to the country before your direction on the Court Order.

**7. Ahmed Faris Maumoon, Ma. Kinbigasdhoshuge**

7.1. Trials in relation to the charges of bribery and identity theft made on Ahmed Faris Maumoon are ongoing cases in the Criminal Court, and therefore, a direction is sought, on the steps to be taken with regards to the ongoing cases;

7.2. In addition, whilst the charges on which Ahmed Faris Maumoon was arrested for 15 days are bribery and conspiracy to overthrow the current administration, the Maldives Police Services had followed due process in seeking a direct request to the Criminal Court from the Prosecutor General's Office, prior to arresting him.

**8. Ga. Maamendhoo, Venus Ahmed Nihan**

8.1. The Criminal Court has passed a sentence of 17 years on terrorism charges made on Ahmed Nihan for forging an arrest warrant to arrest the President.

8.2. In addition, Ahmed Nihan is charged and under trial for attempting an illegal imprisonment, falsifying a document to make it look authentic, carrying out activities inconsistent with the official capacity of the post of a magistrate, misusing the powers of the post. Out of 5 charges against him only one has been tried and the rest are pending a verdict after the final hearing. The verdict issued from the lower court has been appealed at the High Court pending its decision. Final stage of appeal in the Supreme Court, if necessary, remains in due process. Thus, a direction is sought from the Supreme Court, on whether it is necessary to discontinue the due process of trials in this matter.

**9. Hamid Ismail, M. Shooramanzil**

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- 9.1. The Criminal Court convicted Hamid Ismail on charges of corruption, and sentenced him for 2 years, 9 months and 18 days imprisonment, and his case appealed the case to the High Court;
- 9.2. Furthermore, separate charges on money laundering were filed against Hamid Ismail in the Criminal Court. However, the Criminal Court has passed its verdict only in one case, and the Court is yet to make judgement on the second case. The conviction against him has been appealed to the High Court, and a verdict on the case is pending. He will have a further right of appeal to the Supreme Court, based on the decision of the High Court. Hence, a direction is sought from the Supreme Court, on enforcing the Supreme Court Order (No. 2018/SC-SJ/01) in a case which has not yet exhausted the judicial remedies.
10. According to Article 60 of the Constitution of Maldives, if an accused is acquitted of an offence by a Court, he cannot be tried again for the same or substantially the same offence, and if an accused is found guilty for an offence he cannot be tried or punished again for the same or substantially the same offence. To commence new investigations and new trials in such cases, as ordered by the Supreme Court Order (No. 2018/SC-SJ/01), may be a transgression of the prohibition of double jeopardy as guaranteed under Article 60 of the Constitution. Moreover, to bring to a close on-going cases in the Courts and to conduct a re-trial of these cases based on fresh investigations, would be an infringement of the rights guaranteed under Article 50 of the Constitution which requires prompt investigations, and where warranted, prompt laying of charges by the Prosecutor General's Office as quickly as possible.
11. Article 56 of the Constitution, ensures everyone the right to appeal a judgement or order in a criminal or civil matter. However, the consequence of the principle laid down in the Order of the Supreme Court, gives room for re-trial of cases which are in the appeal process and which can be appealed, and hence violates the spirit of Article 56 of the Constitution.

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12. Since the court has ordered a re-trial after re-investigation of the cases, without quashing the respective latest appellate court decision, it is unclear what the status of the said court decisions are, thus, a direction of the Supreme Court is needed to resolve this issue.
13. Furthermore the court order states that the persons referred to in it have been subjected to criminal investigations and convicted of crimes, in contravention to the criminal procedures, international treaties and conventions to which the Maldives is a party, by influencing the judiciary for political purposes. Legally, such a situation would equate to a miscarriage of justice. However, the Supreme Court order neither refers to nor declares this as a miscarriage of justice.
14. With regards to the cases referred to in the Supreme Court order, the persons in the aforementioned cases were charged based on the exact same incident, thus as per Articles 17 and 20 of the Constitution, every individual is equal before and under the law, without discrimination and thus should be treated accordingly. In addition to the aforementioned cases in the court order, it should be noted that some of the individuals have on-going criminal investigations against them, thus, the Prosecutor General's Office is concerned that their immediate release may possibly have an adverse effect on the on-going investigations.