
ORDRE DES AVOCATS
DE GENÈVE

Le Bâtonnier

Honorable Chief Justice Willy Mutunga
The Office of the Chief Justice
Supreme Court Building
City Hall Way, Nairobi
P.O. Box 30041 – 00100
Nairobi, Kenya

E-mail: chiefjustice@judiciary.go.ke

Geneva, 14 February 2017

Ref: Mr Dong Samuel Luak

Honorable Chief Justice,
Mr President of the Supreme Court,

I am writing to you on behalf of the Ordre des avocats de Genève (ODAGE), which represents more than 1,500 lawyers in Geneva. The ODAGE is member of the Swiss Federation of Lawyers, the Union Internationale des Avocats, the International Bar Association and the International Observatory for Lawyers in Danger.

The ODAGE, which places great emphasis on respect for human rights and the rule of law and is particularly concerned by the situation of Mr Dong Samuel Luak, a human rights lawyer who faces unlawful deportation from Kenya to South Sudan, where he will most likely face persecution.

According to our sources, Mr Dong Samuel Luak was, from 2002 to 2013, secretary-general of the South Sudan Law Society, a South Sudanese nongovernmental organization focused on promoting justice, human rights, and the rule of law.

He fled to neighboring Kenya in August 2013 – where he obtained the **status of refugee** – after receiving death threats following his defence of Pagan Amum, the former secretary general of South Sudan's governing party, whom the South Sudan government had accused of alleged plot and treason.

Regardless of the above, it appears that Mr Dong Samuel Luak has been suddenly arrested in Nairobi on 23 January 2017 and is being held, since then, at the Nairobi Area Police Headquarters, where has been denied access to legal counsel.

Being the subject of a deportation order, Mr Dong Samuel Luak faces a forced return to South Sudan, where he will face serious risk of arbitrary detention, torture, and other abuses.

However, Kenyan law and the 1951 Refugee Convention (to which Kenya is a party) prohibit the return of a refugee "in any manner whatsoever" to "territories where his life or freedom would be threatened" (Art. 33 of the 1951 Refugee Convention), and Kenyan authorities should ensure a refugee is protected.

Also, the ODAGE would like to draw the Kenyan authorities' attention to the 1990 UN Basic Principles on the Role of Lawyers, according to which they have an obligation to ensure that lawyers can perform all of their professional functions without intimidation, hindrance, harassment or improper interference and that they do not suffer, or be threatened with, prosecution for any action taken while carrying out their duties (Principle 16). Furthermore, according to Principle 17, "*Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.*"

The ODAGE therefore urges the Kenyan authorities respect their obligations under international and Kenyan law, to comply with the standards set forth by the Basic Principles on the Role of Lawyers, to comply with their obligations under International Human Rights Law and therefore to:

- **respect Mr Dong Samuel Luak rights by allowing him immediate access to legal counsel and United Nations refugee officials;**
- **immediately stop any deportation proceedings against him, and**
- **ensure Mr Dong Samuel Luak is protected against any present or future harassment, intimidation and/or reprisal related to the exercise of his profession and of legitimate human rights activities.**

I thank you for your attention to this very serious matter, which the ODAGE and I will continue to closely monitor.

Respectfully yours,



On behalf of

Grégoire Mangeat
Chairman

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Copy to:

- **The UNHCR Country Representative in Kenya**, P.O. Box 43801-00100 GPO, Nairobi, Kenya, (E: kenna@unhcr.org; F: 41 22 739 7281)
- **Law Society of Kenya**, Lavington, Opposite Valley Arcade, Gitanga Road, P.O. Box 72219-00200, Nairobi, Kenya (E: lsk@lsk.or.ke)
- **Consulat général de la République du Kenya**, Avenue de la Paix 1-3, 1202 Genève, Suisse (E: embassy.bern@mfa.gov.eg ; F: +41 22 731 29 05)
- **Swiss Embassy in Kenya**, Embassy of Switzerland, P.O. Box 2600, 00621 Nairobi, Kenya (E: nai.sdc@eda.admin.ch ; F: +41 58 462 18 74)
- **Special Rapporteur on the Independence of Judges and Lawyers**, Office of the United Nations High Commissioner for Human Rights, United Nations Office at Geneva, 8-14 Avenue de la Paix 1211, Geneva 10 Switzerland, (E: SRindependenceJL@ohchr.org; F: +41 22 917 9006)