**Ministry of Foreign Affairs, Regional Integration and International Trade**

**(Human Rights Division)**

**Special Rapporteur on the independence of judges and lawyers - Protection of lawyers in the free and independent exercise of the legal profession**

1. The Mauritius Bar Association, established under the Mauritius Bar Association Act 1957, is the body corporate responsible for barristers/ lawyers (private practice, in-house or State Counsels) in Mauritius. By virtue of the Section 3 of the aforementioned Act, the objects of the Association shall be –

1. the safeguard, maintenance and promotion of the interests of the Mauritius Bar;
2. the upholding of the honour, dignity, reputation and independence of the members; and
3. the furtherance of the interests of members in connection with the practice of their profession.

2. The Mauritius Bar Association may also consider and any take such measures it deems fit regarding the following issues:

1. the encouragement of the study of jurisprudence and legal education in furtherance thereof;
2. the improvement of the administration of justice in Mauritius;
3. the promotion and support of law reform;
4. the maintenance and observance of professional conduct and etiquette;
5. the furtherance of good relations between the branches of the legal profession; the Mauritius Bar and members of the public; and the Mauritius Bar and members of the legal profession in other countries;
6. the safeguard of the right of access to the Courts of Mauritius for members of the public and their representation by Counsel before such Courts and other tribunals;
7. the affiliation of the Association to any similar association or society in the United Kingdom and the delegation of representatives of the Association thereto; and
8. any action to be taken against any barrister for breach of professional conduct and etiquette and its notification to the Attorney-General.

The provisions of the aforementioned Act can be accessed on the following link: [https://attorneygeneral.govmu.org/Documents/Laws%20of%20Mauritius/A-Z%20Acts/M/MAURITIUS%20BAR%20ASSOCIATION%20ACT,%20No%2037%20of%201957.pdf](https://attorneygeneral.govmu.org/Documents/Laws%20of%20Mauritius/A-Z%20Acts/M/MAURITIUS%20BAR%20ASSOCIATION%20ACT%2C%20No%2037%20of%201957.pdf).

3. The Constitution of Mauritius which is a written document based on the Westminster model, establishes Mauritius as a sovereign democratic State and rests on two fundamental tenets which are the rule of law and the doctrine of the separation of powers between the legislative, the executive and the judiciary so that one branch of government may not trespass on the province of any other. Accordingly, the power to make laws has been vested into Parliament exclusively and the Judiciary is not entitled to encroach upon or usurp such powers.

4. Throughout the COVID-19 pandemic period, the Judiciary has efficiently and effectively taken certain measures to minimise the impact of the pandemic on the administration of justice in Mauritius. After cases of Covid-19 were detected locally in mid-March 2020, Mauritius initiated a national lockdown between 20 March 2020 to 1 June 2020.

5. During the lockdown period, a number of Curfew Orders were made by the Minister of Health and Wellness under regulation 14(1) of the *Prevention and Mitigation of Infectious Disease (Coronavirus) Regulations 2020* to prevent the spread of the coronavirus.

6. These Curfew Orders were to the effect that no person shall remain outdoors in Mauritius except for “… *the following classes of persons [who] may be outdoors for the sole purpose of leaving their place of residence to their place of work, and leaving their place of work to their place of residence –*

1. ***such judicial officers in respect of such minimum judicial services as the Chief Justice deems essential****, and such employees of the public sector, including Ministries and Government departments, public enterprises and statutory bodies, providing essential services to the public as may be designated by the Head of the public bodies concerned; and*
2. *employees of the private sector providing strictly essential minimum services.”*

7. Subsequently, the Hon Chief Justice issued a Circular (refer to ***Annex 1***), which was posted on the Supreme Court Website and copied to the Mauritius Law Society (which concerns solicitors) and the Mauritius Bar Council Association (which concerns lawyers) in English and French languages. The issued Circular informed the public that all cases scheduled before all Courts in Mauritius and Rodrigues for the following day, i.e., Friday 20th March 2020 had been postponed by order of the Hon Chief Justice and that those days on which those cases would be heard would be eventually communicated to all those concerned.

8. This exceptional measure allowed the Judiciary the opportunity to assess the situation and decide on the proper course of action that was thereafter adopted. The public as well as solicitors and lawyers were however informed that all Courts would remain open.

9. Furthermore, the Office of the Hon Chief Justice issued a series of communiqué which were copied to all stakeholders via email, social media and were also reported to the press.

10. The communiqué issued on the 26th March 2020 (refer to ***Annex 2)*** informed lawyers, solicitors and the public how District Courts, the Intermediate Court and the Industrial Court would be operating withregard to urgent civil and criminal matters as well as the handling of bail applications at the Bail & Remand Court which is a specialized Court dealing with bail applications and weekend custody.

11. Additional measures were taken to deal with matters at all level of the Supreme Court and before the Hon Judge in Chambers. The personnel of the administrative cadre of the Supreme Court as well as those in the lower Courts continued to attend duty through a Work Access Permit, issued by the office of the Commissioner of Police (refer to ***Annex 1 to 9***).

12. All sanitary precautions were taken for the officers of the judiciary to continue their obligations. However, following the incident where an auxiliary member of the Judiciary got contaminated with the Covid-19 virus, additional measures were put in place to reduce the propagation of the virus. An additional communiqué (refer to ***Annex 4***) was issued on the same date, i.e., 26th March 2020 to the effect that all Courts in Mauritius would remain closed and all Magistrates in Lower Courts would be available through communication technology devices (phone, email, video conferencing platforms) with regard to urgent matters such as conditional release of accused parties against whom criminal cases had been lodged and matters relating to domestic violence. The contact phone number of relevant staffs of the Supreme Court were also provided in a communiqué for easy access to all court (refer to ***Annex 7***).

13. A last communiqué, as per ***Annex 10***, was issued by the Office of the Hon Chief Justice announcing the measures taken in the Judiciary regarding the proper functioning of all Courts in Mauritius, in compliance with the exigencies of the Ministry of Public Service, Administrative and Institutional Reforms.

***07 December 2021***