

Monsieur le Ministre Mamadou Koné
Ministère de la Justice et des Droits de l'Homme
Abidjan
Côte d'Ivoire

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18 December 2009

OPEN LETTER

Dear Minister,

Amnesty International wrote to you on 5 November 2009 to express the organization's serious concern that an attempt is being made to defraud nearly 30,000 victims of human rights violations related to the dumping of toxic waste in Abidjan in 2006 of the compensation money they are owed under the terms of the settlement with Trafigura in the UK court action.

Specifically, Amnesty International was concerned that the National Cooperative of Victims of the Toxic Waste Cote d'Ivoire (CNVDT-CI), an organization falsely claiming to represent all of the victims in the UK action, had made an application to the Tribunal of First Instance of Abidjan to transfer the £31 million compensation fund to its account.

Amnesty International welcomed the decision of the President of the Tribunal of First Instance of Abidjan on 7 November 2009 not to transfer the money to CNVDT-CI's account. However CNVDT-CI has now appealed that decision and Amnesty International remains concerned that the money could yet be misappropriated.

As you are aware, nearly 30,000 people who had brought a claim for compensation against the company Trafigura in the UK High Court, reached an out-of-court settlement with Trafigura on 23 September 2009, in which the company agreed to pay the claimants £31 million.

The money was paid by Trafigura on 24 September 2009 into a bank account with the Societe Generale Banque Cote d'Ivoire (SGBCI), nominated by the claimants' lawyers Leigh Day & Co. Leigh Day arranged for the money to be distributed to each individual claimant using a system of pre-charged payment cards and accompanying PIN numbers.

However, on 22 October 2009 CNVDT-CI successfully applied to the Tribunal of First Instance of Abidjan to freeze the money, thereby preventing its distribution to the claimants. CNVDT-CI then made a second application to the court on 27 October 2009 to transfer the money to the organization's account.

There is no evidence that Amnesty International is aware of to substantiate CNVDT-CI's claim to represent all of the claimants in the UK settlement. As far as Amnesty International can ascertain this is a blatant attempt to perpetrate a fraud. Specifically:

- ✳ In his application to the Tribunal of First Instance, the head of CNVDT-CI stated that it was CNVDT-CI that instructed Leigh Day to commence proceedings against Trafigura and that CNVDT-CI represents the claimants in the UK court case. This statement is false. Leigh Day was instructed by each individual claimant.
- ✳ The victims are individually named in a schedule to the UK High Court Order endorsing the settlement. CNVDT-CI, which claims to represent all of the victims in the UK court case, appears nowhere in the documents of the UK High Court.

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- The head of CNVDT-CI is the representative of one group of victims from the Vridi Canal area of Abidjan. His contract with Leigh Day clearly states that he represents people from that area. Leigh Day had 28 such agreements with representatives from 35 different areas of Abidjan. Leigh Day had contracts with all of these people.
- On 30 October 2009, 32 representatives of the other groups of victims that were party to the UK court case, and to whom monies are due, filed a petition before the Ivorian courts stating that CNVDT-CI does not represent them.

Amnesty International has followed this case closely and believes there is clear evidence that Leigh Day has a specific mandate to receive and distribute the compensation funds. This has been confirmed by the UK High Court which, on 4 November 2009, granted an order reaffirming the terms of the settlement and expressing concern that the money may be paid to people other than those named in the settlement. Specifically, the UK High Court confirmed that:

- the money paid by Trafigura was solely and exclusively for the claimants named in the Schedule to the order for settlement and no other persons or entities.
- the money is held on trust by Leigh Day for distribution solely and exclusively to those claimants (subject to the sums contractually due to the claimants representatives).

The claimants in this case, who have already suffered serious human rights violations as a consequence of the toxic waste dumping, are now at risk of further violations if their compensation money is misappropriated.

Amnesty International strongly urges you to ensure that justice is done so that the claimants can receive the money that is owing to them as quickly as possible

Amnesty International will continue to pay close attention to this matter.

Yours sincerely,



Widney Brown

Senior Director, International Law and Policy