

Information Note

Guiding Information on the Removal Process of the Auditor General of Sierra Leone

Considerations

1. On Tuesday 9 July 2024, the Office of the Press Secretary of the Government of Sierra Leone provided an update on the Tribunal Report on the Suspended Auditor General and Deputy Auditor General, Mrs. Lara Taylor-Pearce and Mr. Tamba Momoh. The press release states that on Wednesday 12 June 2024, the President of the Republic received the Report from the Chairperson of the Tribunal that was set up to investigate the suspended Auditor General and Deputy Auditor General. The President of the Republic has accepted all the recommendations of the Report, among which is the removal of the suspended Auditor General and Deputy Auditor General.
2. The President of the Republic also directed the following:
 - That the Attorney General and Minister of Justice initiate the necessary procedures for the removal of the Suspended Auditor General, Mrs. Lara Taylor-Pearce, pursuant to Section 137 (7) (b) of the Constitution of Sierra Leone 1991.
 - That the Audit Service Board pursue action for the removal of the suspended Deputy Auditor General, Mr. Tamba Momoh.
3. According to Section 137 (7) of the Constitution, which is applicable to the Auditor General by virtue of Section 119 (9):

If the question of his removal from office has been referred to a tribunal appointed under subsection (5) and the tribunal has recommended to the President that he ought to be removed from office; A Judge of the Superior Court of Judicature shall be removed from office by the President, b. if his removal has been approved by a two-thirds majority in Parliament.

4. Such a procedure is unprecedented as it is the first time since the introduction of democracy in Sierra Leone that a public official is subject to this removal procedure. It is even more concerning that this procedure is applied to an individual whose professionalism and competence have been recognized and celebrated globally. Mrs. Taylor-Pearce is a renowned member of the INTOSAI community. Her leadership qualities, integrity, and professionalism are globally recognized and have led to her occupying prominent positions in the community. Mrs. Taylor-Pearce's reputation extends well beyond the INTOSAI community, and she has been the recipient of several awards in recognition of her work.
5. If this unprecedented removal process is conducted to its term, it will constitute a major setback in the establishment of an independent audit and oversight function in Sierra Leone. Until recently the Audit Services of Sierra Leone (ASSL) was considered by many, as the only independent accountability institution remaining in the country. It will unequivocally act as a deterrent for future Auditors General, or indeed heads of other oversight institutions to act independently and objectively, by fear of being subjected to what is considered by many as a politically motivated attempt to restrain the scope for accountability and transparency.
6. It could also have significant repercussions for Sierra Leone as a country, as the existence and the stability of an independent audit function is a key element of the checks and balances, and contributes to the trust that citizens, development partners, and financial institutions place in government systems.
7. As the fate of the suspended Audit General, now rests in the hands of Parliament, and ultimately with the people of Sierra Leone, the INTOSAI Development Initiative (IDI) is publishing this information note to 1) **revisit the timelines of the case**, 2) **reiterate its position on the main aspects of the procedure**, and 3) **highlight key conditions** that reinforce the legitimacy and credibility of the legislative part of the removal procedure of the Auditor General.

Timeline of the Removal Process of the Auditor General of Sierra Leone (2021-2024)

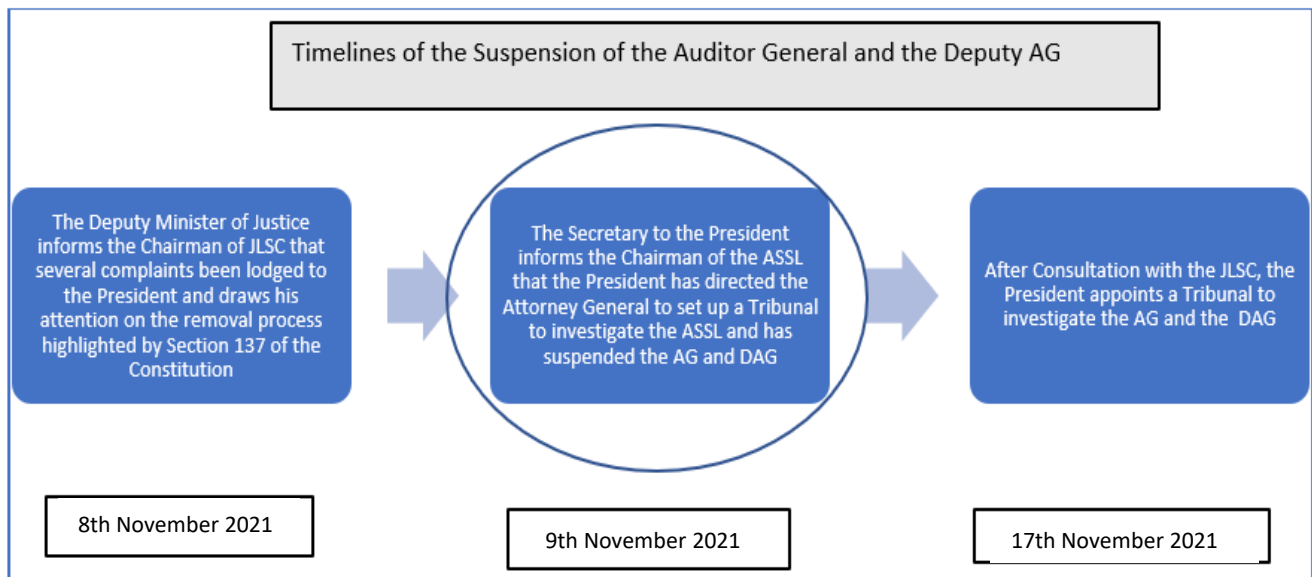
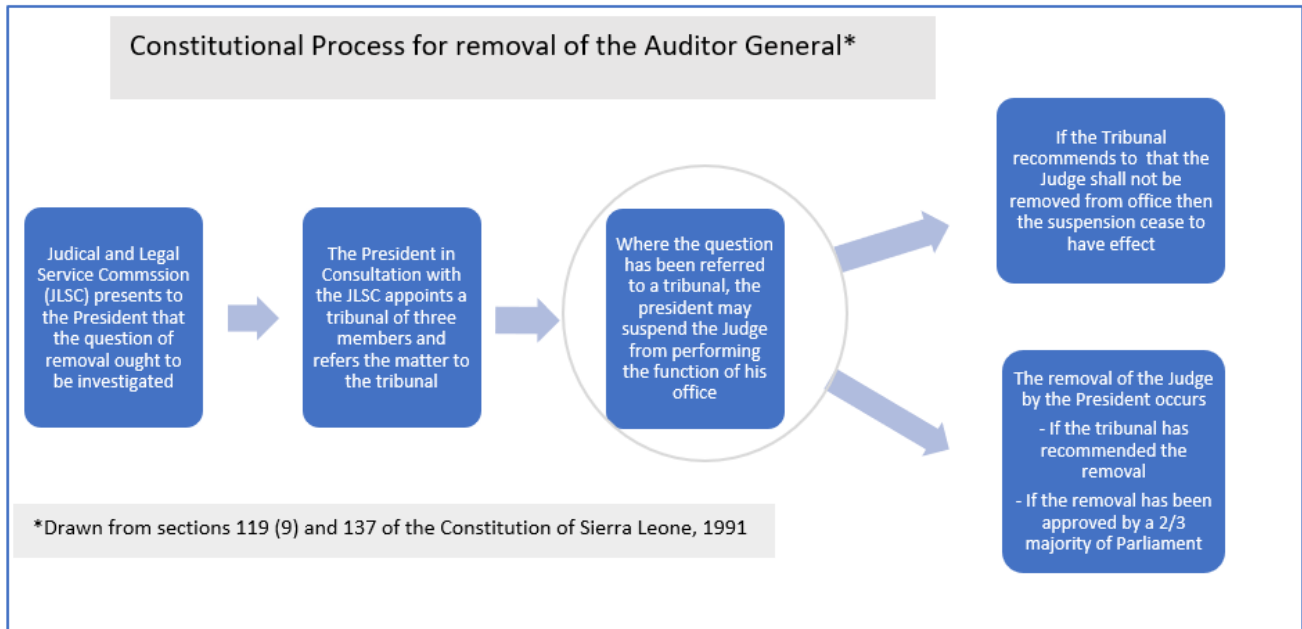


IDI's Position on Different Aspects of the Case

8. IDI has been monitoring the development of the case since its inception in 2021, and has commented publicly in two instances:
 1. at the time of indefinite suspension without disclosure of the motives in November 2021,
 2. And, during the proceedings of the Tribunal in December 2023, where IDI staff appeared as expert witnesses on the side of the Defense.

9. Regarding the suspension of the Auditor General and the Deputy Auditor General, IDI, alongside the INTOSAI General Secretariat and the AFROSAI-E Secretariat, issued a statement in November 2021 which received wide media coverage locally and internationally.
10. It is notable to underscore that the suspension occurred weeks before the publication of the Auditor General 2020 Annual Report, which included findings related to irregularities in the management of public monies allocated to the Office of the President. All parties involved in issuance of the statement unanimously expressed concern over the indefinite suspension, *without disclosure of the motives*, of the Auditor General and her Deputy. In addition, the parties called for annulment of the suspension decision and for reinstatement of the two officials.
11. Furthermore, in April 2022, IDI published an analysis on the Constitutionality of the Suspension of the Auditor General and Deputy Auditor General of Sierra Leone. This document reviewed the Constitutional provisions surrounding the removal of the Auditor General and assessed whether there had been deviations from that process in the current case.
12. The analysis pointed to significant deviations from the Constitutional process in two main areas:
 - ***Prior formalities were not completed before the suspension occurred (inter alia):*** The decision to suspend the Auditor General and the Deputy was taken before rather than after the formal appointment of the Tribunal, the designation of its members and the referral of the matter to the Tribunal by the appropriate body, the Judicial and Legal Service Commission, in lieu of the President of the Republic.
 - ***The Auditor General and the Deputy Auditor General were subjected to the same disciplinary rules (inter alia):*** The rules under Section 137 of the Constitution apply to the Judges of the Superior Court of the Judicature and are extended to the Auditor General by virtue of Section 119 (9) of the Constitution. However, they do not apply to the Deputy Auditor General, who by virtue of the Section 3 of the Audit Service Act 2014, falls under the category of personnel managed by the Audit Service Board

13. The two visuals below show how the suspension process deviated from the process highlighted in the constitution:



14. On the issue of the proceedings of the Tribunal, one can note the following:

1. One of the members of the Judicial and Legal Service Commission – *the only body mandated to recommend the suspension of the Auditor General* – resigned from the commission questioning its independence and expressing his dissatisfaction with the selection process of the members of the Tribunal.
2. Close to three years passed between the appointment of the Tribunal and the presentation of its findings to the President of the Republic, which raises fundamental questions about the intentions and the timeliness of the proceedings.
3. The report produced by the Tribunal has not been made public. In fact, it has not even been shared with the Auditor General or Deputy Auditor General. This raises major concerns regarding the transparency of this legal proceeding and does not allow stakeholders to know on which grounds the recommendation to remove the Auditor General has been made.

15. It is highly questionable if the accusations made by the government against the Auditor General and Deputy Auditor General are even of such a nature that they would constitute gross professional misconduct, as alleged, warranting their removal. And perhaps more importantly, to date, IDI and its partners, nor broader stakeholders, have been privy to any credible evidence suggesting there has been any wrongdoing at all by the Auditor General or the Deputy Auditor General.

16. One of the allegations made by the State was related to the authority to seek external third-party confirmation. During the proceedings, IDI was requested to provide interpretations over certain provisions in the auditing standards related to an alleged case of “professional misconduct” by the Auditor General and her Deputy. They were accused of not respecting the professional standards around third part confirmation.

17. IDI’s interpretation centered around two issues:

1. The type of engagement and standards applicable to the audit
2. The audit procedures applicable for third party confirmation during a compliance audit

18. Taking into consideration the terms of the engagement letter, it was determined that the audit in question was a compliance audit engagement. Given the type of the engagement (i.e., compliance audit) and the function of ASSL vested through Section 11(2)(c) under The Audit Service Act of

2014 (i.e., to ensure compliance with auditing standards and code of ethics established by the International Organization of Supreme Audit Institutions (INTOSAI)), the ISSAI 4000 – Compliance Audit Standard were identified as the appropriate reference to set the requirements for the audit. Moreover, signatures of both parties in the audit engagement letter signified confirmation of the understanding, and agreement of the parties on the terms of the audit engagement.

19. On the issue of third-party confirmation, the INTOSAI standards for compliance audit are stated as follows:

“When the auditor identifies conditions that cause the auditor to believe that a document may not be authentic or that terms in a document have been modified but not disclosed to the auditor, possible procedures to investigate further may include:

- 1. Confirming directly with the third party**
2. *Using the work of an expert to assess the document’s authenticity.*

There is no provision herewith requiring auditors to ask permission when sending confirmation. Due to the nature and sensitivity of the investigation on potential instance of fraud, seeking authorization from the audited entity will diminish the effectiveness of such procedure (i.e., to avoid evidence tampering), which justifies why seeking authorization is not reasonable in the circumstances”

20. From IDI’s perspective, if the allegations of professional misconduct pertain to not seeking the auditees approval before performing third-party confirmation during a compliance audit, then **these allegations are baseless and unfounded from a professional standard perspective.**

Key Conditions Reinforcing the Legitimacy and Credibility of the Parliamentary Process

21. As we are entering the final stage of a process of critical importance to the global community of external auditors and beyond, whose outcome will have repercussions beyond the borders of Sierra Leone, the INTOSAI Development Initiative underscores it is of the utmost importance that the Parliamentary process occurs in a transparent and timely manner.
22. Transparency of the process is essential to reinforce its legitimacy and credibility. The disclosure of the report of the Tribunal is also an essential step so that all interested stakeholders, including civil society, professional organizations, media, and development partners can forge their own opinion on the allegations, the conclusions, and the recommendations made by the Tribunal.

23. Transparency should also apply to the Parliamentary proceedings where one should expect regular communication on how Parliament will deal with this issue. Timeliness is also a critical element, as this process started almost three years ago and one would expect the process to be completed in a reasonable time period.

Conclusion

24. Given the unprecedented nature of the procedure – as it is the first time in the history of Sierra Leone that a public official is subjected to such a removal procedure – transparency of the proceedings should be made paramount. As such, the allegations against the Auditor General and the Deputy Auditor General, as well as the report of the Tribunal set to investigate those allegations, should be made public. It is a sine qua non condition for the credibility and the legitimacy of the entire process.

25. Considering there were significant deviations from the Constitutional provisions, which occurred at various stages of the process – starting from the suspension of the Auditor General and the Deputy Auditor General to the establishment of the Tribunal – it may be of merit to assess whether these significant deviations will affect the legality of the Tribunal proceedings and the validity of its conclusions.

26. As this case will have repercussions beyond the audit world and the confines of Sierra Leone, one should expect the Parliament to exercise its duty with due care, diligence, and objectivity. Similarly, one should expect civil society organizations, development partners, local and international media to acquaint themselves with the case, stay vigilant, and monitor the outcome.

27. As IDI, we stand ready to provide any assistance or explanation on the content of this information note, if necessary.

To receive further information on this case, please contact Mr. Freddy Yves Ndjemba at independent.sai@idi.no.