SOCIO-ECONOMIC RIGHTS & ACCOUNTABILITY PROJECT

SERAP

12 October 2024

His Excellency
Senator Bola Ahmed Tinubu, GCFR
President, Federal Republic of Nigeria
Aso Rock Presidential Villa
Abuja

C/O

Mr Femi Gbajabiamila
Chief of Staff to the President
Aso Rock Presidential Villa
Abuja

Your Excellency,

Re: Request to reverse the second increase in petrol prices in one month, pending the pending the hearing and determination of the suit at the Friday at the Federal High Court, Abuja challenging the legality of the first increase in petrol prices, to allow the court to render a decision on the central issues in the case, and protect the applicants' rights and interests

Socio-Economic Rights and Accountability Project (SERAP) is writing to request you to use your good offices and leadership position to direct the Nigerian National Petroleum Company Limited (NNPCL) to immediately reverse the second increase in petrol prices in one month, pending the hearing and determination of the suit at the Federal High Court, Abuja challenging the legality of the first increase in petrol prices, to allow the court to render a decision on the central issues in the case, and protect the applicants' rights and interests.

Our requests are brought in the public interest, and in keeping with the requirements of the Nigerian Constitution 1999 [as amended]; anti-corruption legislation, and the country's international obligations including under African Charter on Human and Peoples' Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention against Corruption; and the African Union Convention on Preventing and Combating Corruption to which Nigeria is a state party.

SERAP is a non-profit, nonpartisan, legal and advocacy organization devoted to promoting transparency, accountability and respect for socio-economic rights in Nigeria. SERAP received the Wole Soyinka Anti-Corruption Defender Award in 2014,

and was nominated for the UN Civil Society Award and Ford Foundation's Jubilee Transparency Award. SERAP was also nominated for the 2024 Columbia Global Freedom of Expression Prizes. SERAP is a member of the UNCAC Coalition, a global anti-corruption network of over 350 civil society organizations (CSOs) in over 100 countries, which is committed to promoting the ratification, implementation and monitoring of the UN Convention against Corruption. SERAP previously served as one of two Sub-Saharan African civil society representatives on the governing Committee of the Coalition.

According to our information, the Nigerian National Petroleum Company (NNPC) Limited recently increased the price of premium motor spirit (PMS), also known as petrol, across its retail outlets. The retail price of petrol was increased from N897 to N1,030 per litre. This is the second increase in one month, and followed the increase in September from N600 to N855 per litre, and in some instances above N900 per litre. The two increases followed a scarcity caused by the reported refusal by suppliers to import petroleum products for the NNPCL over a $6 billion debt.

According to the recently published 2020 audited report by the Auditor General of the Federation (AGF), the Nigerian National Petroleum Corporation (NNPC) failed to remit over USD$2 billion and N164 billion of oil revenues into the Federation Account. The Auditor-General fears that the money may have been diverted into private pockets.

The NNPCL reportedly failed and/or refused to remit N151,121,999,966. The NNPCL without any justification deducted the money from the oil royalties assessed for 2020 by the Department of Petroleum Resources (DPR) now Nigerian Upstream Petroleum Regulatory Commission (NUPRC). The NNPCL has failed to account for the missing public funds. The Auditor-General wants the money recovered and remitted into the Federation Account.

The NNPCL also failed to remit USD$19,774,488.15 collected as government revenue to the Federation Account. The Auditor-General wants the NNPCL to account for the money, recover and remit it into the Federation Account, and to hand over those suspected to be involved to the ICPC and the EFCC.

The Nigerian Petroleum Development Company (NPDC) Ltd also reportedly failed to account for USD$2,021,411,877.47 and N13,313,565,786.49 of royalties collected from crude oil and gas sales and gas flare. The Auditor-General wants the public funds fully recovered and remitted into the Federation Account and for those suspected to be responsible for the missing public funds to be handed over to the ICPC and the EFCC.

SERAP last month filed a lawsuit asking your government over the failure to direct the Nigerian National Petroleum Company Limited (NNPCL) to reverse the apparently unlawful increase in the pump price of petrol, and to probe the allegations of corruption and mismanagement in the NNPCL. Joined in the suit as Respondents are the Attorney General of the Federation and Minister of Justice Mr Lateef Fagbemi, SAN, and the NNPCL. The suit number FHC/ABJ/CS/1361/2024 was filed at the Federal High Court, Abuja,

SERAP is seriously concerned that increasing petrol prices would compromise the interest of the Applicant in the Federal High Court case filed against your government and the NNPCL, as the second increase in one month directly touches on the central issues the legality of the first increase, which the court is set to determine and rule upon.

Increasing petrol prices while the Federal High Court case is pending would prejudice and undermine the rights and interests of the Applicant, and the ability of the court to do justice in the case, damage public confidence in the court, prejudice the outcome of the case, as well as impede the course of justice.

The second increase in petrol prices makes a mockery of the case pending before the Federal High Court, and creates a risk that the course of justice will be seriously impeded or prejudiced in this case. It is in the public interest to keep the streams of justice clear and pure, and to maintain the authority of the court in the case.

The second increase in petrol prices while the Federal High Court case is pending constitute an interference with the right of SERAP to fairly and effectively pursue a judicial challenge to the decision by your government and NNPCL regarding the first increase in petrol prices.

Protecting the right to a judicial recourse and due administration of justice is of utmost importance, being the cornerstone of an ordered society. If not immediately reversed, the latest increase in petrol prices would seriously undermine the integrity of the Nigerian Constitution and have serious consequences for the most vulnerable and disadvantaged Nigerians and the public interest."

The only way in which SERAP can have a fair and effective access to justice in this matter is to allow the court to decide, one way or the other, on the merits of the case before it.

Allowing the Federal High Court to hear and determine is entirely consistent the provisions of Section 6 of the Nigerian Constitution which outlines the judicial powers of Nigerian courts including the Federal High Court.

SERAP notes that in your inaugural speech as president, you promised that "Nigeria will be impartially governed according to the constitution and the rule of law."

The core of the principle of judicial independence is the complete liberty of the judge to hear and decide the cases before them on the basis of facts and in accordance with the law, without any improper interference, direct or indirect.

The principle of the independence of the judiciary has also been enshrined in the Basic Principles on the Independence of the Judiciary, endorsed by the General Assembly in 1985. The Principles provide, inter alia, that it is the duty of all governmental and other institutions to respect and observe the independence of the judiciary (principle 1); that judges shall decide matters before them impartially without any restrictions or interferences, direct or indirect, from any quarter or for any

reason (principle 2); and that there shall not be any inappropriate or unwarranted interference with the judicial process (principle 4).

SERAP therefore urges you to urgently direct the NNPCL to reverse the second increase in the pump price of petrol and to allow the Federal High Court to decide on the suit brought by SERAP challenging the legality of the first increase.

We would be grateful if the recommended measures are immediately taken following the receipt and/or publication of this letter, failing which SERAP shall consider contempt proceedings and/or other appropriate legal actions to compel your government and NNPCL to comply with our request in the public interest.

Please accept the expression of our highest consideration. Thanking you in advance of your attention to the matter.

Yours sincerely,

Kolawole Oluwadare
Deputy Director

CC

Mr Lateef Fagbemi, SAN
Honourable Attorney General of the Federation and Minister of Justice
Federal Ministry of Justice
Shehu Shagari Way,
Central Area
Abuja

Mr Olanipekun Olukoyede
Chairman
Economic and Financial Crimes Commission (EFCC)
Plot 1017 & 1018 Coree Bay Crescent,
Off Adetokunbo Ademola Crescent
Wuse II, Abuja

Mr Musa Aliyu
Chairman
Independent Corrupt Practices and Other Related Offences Commission (ICPC)
Plot 802 Constitution Avenue
Central District,
Abuja

Mele Kolo Kyari
Group Chief Executive Officer
Nigerian National Petroleum Company (NNPC) Limited

NNPC Towers, Herbert Macaulay Way Central Business District
Abuja