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**EFSCRJ Gravely Concerned by Supreme Court Judgment on the Unconstitutional
Removal of the Auditor General**

The Edward Francis Small Centre for Rights and Justice expresses grave concern over the judgment delivered by the Supreme Court on 7th July 2026 regarding the unconstitutional removal of Auditor General Momodou Ceesay in 2025 and his subsequent unlawful eviction from his office at the National Audit Office by the Inspector General of Police.

While the Court rightly declared both the removal and the eviction unconstitutional, it stopped short of granting the most appropriate constitutional remedy: Reinstatement. Instead, the Court awarded Mr. Ceesay compensation, including payment of his salaries for the remainder of his tenure, gratuity, pension, and D4 million in damages against the Inspector General of Police. More troublingly, the Court imposed no sanctions on the public officials responsible for these unconstitutional acts, thereby allowing the status quo to remain.

EFSCRJ believes this judgment has serious implications for constitutional governance, the rule of law, and democratic accountability. Rather than decisively deterring executive abuse, the ruling risks weakening constitutional safeguards and emboldening future violations.

First, we firmly believe that the Supreme Court should have ordered the reinstatement of Momodou Ceesay. Such an order would have reaffirmed the supremacy of the Constitution and the independence of constitutionally protected offices. It would have sent an unmistakable message that no authority, not even the President, is above the Constitution or empowered to unlawfully remove holders of constitutionally protected offices.

By declining reinstatement, the Court has inadvertently weakened constitutional protections and exposed other independent institutions to similar executive interference. Commissioners of the Independent Electoral Commission, the National Human Rights Commission, the Ombudsman, and even judges of the Supreme Court itself now face the disturbing possibility that unconstitutional removal may carry little practical consequence beyond financial compensation.

Second, we strongly object to the fact that the financial burden arising from these unconstitutional actions will ultimately be borne by taxpayers. Gambians should not be compelled to pay millions of dalasi because public officials violated the Constitution while those same officials escape personal accountability.

Such an outcome rewards abuse of office, encourages impunity, and creates dangerous incentives for future constitutional violations. Public officers who knowingly violate the Constitution should bear personal responsibility for their misconduct rather than transferring the cost of their unlawful actions to innocent citizens.

Third, we respectfully disagree with the Court's conclusion that reinstatement was impracticable because of the perceived breakdown in the relationship between Mr. Ceesay and the Executive.

Public office is neither personal property nor a private enterprise. Those entrusted with public office are constitutionally required to act professionally, impartially, and in accordance with



the law and ethics regardless of personal relationships or disagreements. Constitutional remedies cannot be sacrificed because of personal discomfort between public officials. The supremacy of the Constitution must always prevail over political convenience or administrative expediency.

Fourth, while awarding compensation to Mr. Ceesay, the Court failed to impose any meaningful consequences on those responsible for violating the Constitution, particularly the President, the Attorney General and Minister of Justice, and the Inspector General of Police.

The role of the Supreme Court extends beyond interpreting the law. As the guardian of the Constitution, it must also establish clear constitutional standards, deter future violations, and ensure accountability for abuses of public power. Where unconstitutional conduct attracts no meaningful sanctions, recurrence becomes inevitable and impunity flourishes.

Beyond the immediate case, this judgment raises a much deeper constitutional concern that every Gambian should take seriously.

This is now the second occasion within seven years that the Supreme Court has declared actions of President Adama Barrow unconstitutional. The first was the unlawful removal of nominated National Assembly Member Ya Kumba Jaiteh in 2019. In both instances, the affected public officials exercised their constitutional right under Section 5 of the Constitution by challenging presidential actions before the Supreme Court, and in both instances the Court found the President to have acted unconstitutionally. This pattern cannot be ignored.

Under Section 61(2) of the Constitution and the presidential oath of office, the President is the foremost defender and protector of the Constitution. When the very person entrusted with safeguarding the Constitution is twice found by the highest court in the land to have violated it, the issue ceases to be about individual disputes. It becomes a matter of constitutional governance, public trust, and the sovereignty of the Gambian people.

Section 5 of the Constitution makes clear that violations of the Constitution carry serious consequences. In the case of a President, such conduct may engage impeachment mechanisms provided under Section 67. No office or title places any Gambian above the law. Allowing repeated constitutional violations by the Head of State without meaningful consequences undermines constitutional democracy, weakens the rule of law, and encourages authoritarian tendencies.

For this reason, EFSCRJ calls on Members of the National Assembly to exercise their oversight powers under Section 77(2) of the Constitution by summoning President Adama Barrow to appear before the Assembly to explain these repeated unconstitutional actions, which are unquestionably matters of urgent national importance.

We further call upon civil society organizations, political parties, professional associations, religious leaders, and all Gambian citizens to defend the Constitution by demanding full accountability whenever public officials violate it. Constitutional democracy cannot survive where breaches of the Constitution are normalized or excused.

EFSCRJ also renews its call for the resignation of the Attorney General and Minister of Justice, Dawda A Jallow, for failing in his constitutional responsibility to properly advise the



President and prevent unconstitutional actions. Likewise, we reiterate our call for the immediate resignation of Inspector General of Police Seedy Muctarr Touray for his unlawful and unconstitutional eviction of the Auditor General from his office in blatant disregard of the Constitution.

Finally, EFSCRJ respectfully reminds the Supreme Court that its judgments extend far beyond the resolution of individual disputes. Every constitutional decision shapes the legal, political, economic, and democratic future of the Republic.

As the final guardian of the Constitution, the Supreme Court bears the responsibility not only to interpret the law but also to strengthen constitutionalism, deter abuse of power, protect institutional independence, and ensure that no public official acts with impunity.

While we commend the Court for affirming that the removal and eviction of the Auditor General were unconstitutional, we believe the remedies granted fall short of what was necessary to fully vindicate the Constitution, restore institutional integrity, and deter future executive violations. The Constitution is the supreme law of the Republic. Its violation must never become a cost of doing business in public office.

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