

Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA
ETH 1/2015:

27 February 2015

Dear Mr. Azanaw Tadesse Abreha,

We have the honour to address you in our capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/6, 25/18, 26/7, 26/12, 22/8, and 25/13.

In this connection, we would like to bring to the attention of your Government information we have received concerning allegations of **the arbitrary arrest, detention, torture and cruel, inhuman or degrading treatment of Mr. Andargachew Tsege**, a British national, who was the subject of forced rendition from Yemen to Ethiopia on 23 June 2014.

According to the information received:

Mr. Tsege is a high profile political activist and human rights defender who in 2009 co-founded the opposition party 'Ginbot 7', which has been calling for democracy, free elections and civil rights in Ethiopia. In May 2005, Mr. Tsege had previously been arrested in Ethiopia based on his political activities. Whilst in

detention for 18 days, he was repeatedly and severely beaten. He was released but has since been continually persecuted for his political activities.

Mr. Tsege has been tried and convicted in absentia in Ethiopia on three separate occasions: in 2005, 2009 and in 2012. The sentences from 2009 and 2012 continue to be valid. Details of these convictions are as follows:

1. Whilst in the United Kingdom in 2005, Mr. Tsege was charged in absentia with “outrages against the constitution” and was given a life sentence that was later pardoned by the President.
2. In 2009, he was allegedly charged and tried in absentia for terrorism offences under Ethiopia’s Anti-Terrorism Proclamation (2009). He was found guilty and the Court imposed a sentence of death, which continues to be applicable.
3. In 2012, Mr. Tsege was again tried in absentia under the Anti-Terrorism Proclamation (2009). He was found guilty in June 2012 and was sentenced to life imprisonment.

On 23 June 2014, Mr. Tsege was travelling from Dubai, United Arab Emirates, to Asmara, Eritrea, on his British passport. While in transit in Sana’a, Yemen, on an internal airport bus to his connecting flight, he was arrested by Yemeni officials, acting upon an arrest order issued by the Ethiopian authorities. Following this arrest, his whereabouts remained unknown for two weeks. The Ethiopian government later confirmed that it had subsequently transferred Mr. Tsege from Yemen to Ethiopia a few hours after his arrest.

On the day of his arrest, Mr. Tsege was taken by Yemeni intelligence officers, put on a different bus and held in an office. They confiscated his passport and wallet. Later in the day, at around midnight, Ethiopian officials entered the room, handcuffed Mr. Tsege with his arms behind his back, strapped tape over his eyes, hooded him and drove him in a jeep to a nearby plane. In the plane, he remained handcuffed during the journey. At no point was Mr. Tsege formally arrested or subject to any legal process. The Ethiopian Prime Minister, Mr. Hailemariam Desalegn, confirmed that Mr. Tsege was in the custody of Ethiopian authorities. However, Mr. Tsege’s fate, exact whereabouts, as well as the criminal charges against him remain unknown.

During his first two weeks of detention he was shackled and had his hands handcuffed behind his back at all times, including while sleeping. After two weeks, the handcuffs were removed but his legs remained shackled for another two weeks.

Mr. Tsege is being held in as small cell, which has no natural light. The artificial light in the room is constantly left on, even at night. He has been held in solitary confinement 24 hours a day for the past eight months.

On 7 July 2014, Mr. Tsege's sister sought to visit him. She was denied the right to know where he was detained and not authorized to visit him.

On 8 July 2014, the state-run television channel Ethiopia TV (ETV) aired a video of Mr. Tsege being interrogated. In the video, Mr. Tsege appeared tired, haggard, and seemed to have lost a significant amount of weight. On 27 July 2014, the same television channel aired a second video of Mr. Tsege being interrogated where he again appeared tired and haggard. From a video to the other medical experts observed a noticeable deterioration in his physical condition, which they attributed to Post-Traumatic Stress Disorder.

On 11 August 2014, 50 days after Mr. Tsege's arrest, the British diplomatic mission in Ethiopia was granted access to him. The meeting was held in police headquarters in Addis Ababa. The Ambassador alone was granted access. Mr. Tsege had been hooded and transported to the meeting place. Neither he nor the Ambassador was informed of Mr. Tsege's place of detention. Ethiopian security officials were present throughout the meeting between Mr. Tsege and the Ambassador, and they were not able to speak privately.

On 19 December 2014, the British government was granted access to Mr. Tsege for a second time. He requested to meet with Mr. Tsege privately, but the Ethiopian authorities denied the request. The Ambassador was able to meet him, in the presence of Ethiopian security officials. Since the beginning of his eight month-long detention, the British Ambassador to Ethiopia has been the only outside person allowed to visit Mr. Tsege. Mr. Tsege has had no access to a lawyer or to independent medical treatment.

Reportedly, the death penalty that is imposed on Mr. Tsege is still applicable. In a public interview, the Prime Minister of Ethiopia was asked whether the death sentence would be carried out; he reportedly responded "I cannot say this now."

While we do not wish to prejudge the accuracy of this information, we wish to express grave concerns at the arbitrary arrest and rendition of Mr. Tsege from Yemen to Ethiopia. Serious concern is also expressed at the allegations that Mr. Tsege was subject to torture and cruel, inhuman or degrading treatment during his detention, and that he was held incommunicado in solitary detention for a prolonged period. Concern is further expressed that he was denied access to a lawyer of his choice, to visits by his family, and access to independent medical examination and care. Moreover, concern is expressed at

allegations that Mr. Tsege was ill-treated in custody at the time of his first arrest in 2005, and that he has since been continuously harassed and persecuted on account of his legitimate political opposition and human rights activities. Last but not least, grave concern is expressed that the death sentence pronounced against Mr. Tsege and its execution may be arbitrary.

The allegations presented above appear to constitute prima facie violations of common articles 9 of the UDHR and the ICCP (right not to be deprived arbitrarily of his liberty), which Ethiopia ratified on 11 June 1993; articles 6.1 and 6.2 of the ICCPR (protection of the right to life and against the imposition of arbitrary death penalty); article 10 of the UDHR and article 14 of the ICCPR (right to fair proceedings before an independent and impartial tribunal, right to be tried in one's presence; right to defend oneself in person or through a legal counsel of one's choice); and of articles 5 of the UDHR, and 7 and 10 of the ICCPR (right not to be tortured). In this later regard, we would like to remind your Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 2 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Ethiopia acceded on 14 March 1994. In addition, both the Human Rights Council and the Special Rapporteurs on torture have determined that "[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the importance of the alleged violations involved, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the above-mentioned person in compliance with Ethiopia's international human rights obligations under the treaties it has ratified, and other relevant international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information on the fate and precise whereabouts of Mr. Tsege.

3. Please provide information confirming the legal grounds for the arrest and detention of Mr. Tsege and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR, the ICCPR, and the CAT, as ratified by Ethiopia.
4. Please provide information on measures taken to ensure that Mr. Tsege is being protected from torture and other forms of ill treatment, that he enjoys access to legal counseling, family and adequate medical attention.
5. Please provide detailed information, and where available, the results of any investigation, judicial or other inquiries carried out in relation to the allegations that Mr. Tsege was tortured or otherwise ill-treated. If no inquiries have taken place, or if they have been inconclusive, please explain why.
6. In the event that the investigations confirm that the allegations are correct, please provide detailed information of any accountability measure taken against any persons found to be responsible for the alleged violations.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure the full protection of Mr. Tsege against any violation of his human rights and to prevent their re-occurrence; and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Azanaw Tadesse Abreha, the assurances of our highest consideration.

Dainius Puras

Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

Michel Forst

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Gabriela Knaul

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