

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Independent Expert on the situation of human rights in Somalia**

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Independent Expert on the situation of human rights in Somalia, pursuant to Human Rights Council resolutions 25/2, 24/5, 25/18, and 24/30.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **serious acts of intimidation and reprisals against the members and leaders of the Federation of Somali Trade Unions (FESTU) and the National Union of Somali Journalists (NUSOJ)** and, in particular, its Secretary-General, Mr. **Omar Faruk Osman**, and Mr. **Abdiqani Sheik Mohamed**, NUSOJ's Organizing Secretary.

According to the information received:

**Threats, acts of intimidation and reprisals**

Since 2011, the members and leaders of NUSOJ and FESTU have reportedly been the subject of threats, acts of intimidation and reprisals from both anonymous sources and from State officials, allegedly with a notable increase since 2013. Most notably, on 28 September 2013, about three hours ahead of a meeting scheduled by FESTU, a bomb was found at the entrance of the trade union office. FESTU reported the incident to the police who seemingly failed to open an investigation. On 29 December 2015, Mr. Omar Faruk Osman reportedly survived an assassination attempt. At around 2 p.m., as he was returning from the centre of Mogadishu, three armed men in a white sedan car opened fire on his vehicle parked at the gate of the NUSOJ headquarters. His bodyguards managed to counter the attack and the assailants fled. However, one of the bodyguards and

two pedestrians were seriously wounded in the attack. The police opened an investigation, but it has reportedly been inconclusive.

### **Arbitrary arrests and interrogations**

It is further alleged that FESTU and NUSOJ leaders and members have frequently been arbitrarily arrested and interrogated on their union-related activities. On 7 September 2014, Mr. Osman was allegedly summoned by the Attorney General who informed him that he and other union officials would face charges under the Penal Code for “supplying information to a foreign power” and “undermining the integrity and reputation of the government”. Ultimately, no charges were brought, but the threat of prosecution has had a chilling effect on the unions’ members. It is alleged that, earlier in 2011, armed police raided the NUSOJ’s office and arrested the union’s Organizing Secretary, Mr. Abdiqani Sheik Mohamed. He was then released and the police allegedly threatened that they would continue criminal investigation against the union.

### **Interference with the trade unions’ activities**

It appears that the authorities have also interfered with the trade unions’ activities. In November 2014, the Ministry of Information reportedly stopped a two-day conference organized by the NUSOJ to mark the International Day to End Impunity for Crimes against Journalists. On 12 February 2016, the National Intelligence and Security Agency (NISA), acting on the orders of the Ministry of Information, allegedly banned the General Assembly of NUSOJ, which was scheduled for 13 and 14 February 2016. On 23 February 2016, FESTU reportedly received a letter from the Ministry of Labour & Social Affairs asking the National Intelligence and Security Agency (NISA) to ban FESTU 3d national congress on 6 and 7 April 2016. The event could eventually take place.

### **Interference in the internal affairs of the trade unions**

State officials have allegedly interfered further with the trade unions’ democratically-elected leadership. On 24 January 2012, the Ministry of Information issued a press statement claiming that Mr. Osman had been removed from his post for “mismanagement and misappropriation of funds” and that the interim leadership of the NUSOL “brought a court case against him”. These accusations seem to be false as the Office of the Attorney General reportedly wrote a letter on 2 July 2015 which confirmed that there was no criminal complaint brought against Mr. Osman. Finally, the Ministry of Information allegedly refused to recognize Mr. Osman as the elected Secretary-General of NUSOJ. On 29 April 2015, an individual whom the Government allegedly had sought out to take over the leadership of NUSOJ, widely circulated a letter in which he claimed that Mr. Osman was facing criminal investigations. Following NUSOJ’s legal suit against the Ministry of Information and the Ministry of Labour for allegedly violating freedom of association and interfering in the union’s internal affairs by attempting to designate a State official at the leadership

of the trade union, the Supreme Court made a landmark ruling, on 4 February 2016, confirming that Mr. Osman is indeed the leader of NUSOJ.

In the evening of 27 February 2016, the Ministry of Information allegedly issued a press release in which it denied Mr. Osman's leadership as Secretary-General of both trade unions. The press release was broadcasted on the Somali National Television (SNTV), on the Government-run Radio Mogadishu and on the website of Radio Mogadishu.

### **Travel restrictions**

It is reported that the trade unionists have also faced travel restrictions. On 12 September 2014, Mr. Osman was allegedly stopped by immigration officials when he attempted to board a plane to attend the Arab Labour Conference in Cairo. He was later allowed to proceed with his travel as no arrest warrant was issued by the police.

### **International Labour Organization's recommendations**

On 28 December 2014 and 17 February 2015, FESTU and NUSOJ, supported by the International Trade Union Confederation, submitted a complaint to the International Labour Organization in relation to the abovementioned facts. On 11 November 2015, the ILO Governing Body approved several recommendations, notably urging the Somali Government to "refrain from any further interference in the unions registered in Somalia with particular reference to the NUSOJ and FESTU"<sup>1</sup>. On 23 March 2016, the ILO Governing Body reiterated its recommendations and urged the Somali Government to implement them swiftly<sup>2</sup>.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern about the aforementioned acts of intimidation and reprisals against the members and leaders of FESTU and NUSOJ, the reported absence of police investigation and prosecutions in relation to these acts, the State interference in the trade unions' activities, as well as the judicial harassment against, and travel restrictions imposed on, their members. Additional concern is expressed about the deep chilling effect of these acts on the work of trade unions in Somalia, in particular on their legitimate exercise of the rights to freedom of expression and association. Finally, we also express serious concern that the aforementioned allegations continue despite the adoption of the ILO's recommendations.

In connection to the above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by Somalia on 24 January 1990, in particular to articles 19 and 22 which guarantee the rights to freedom of opinion and expression and the right to freedom

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<sup>1</sup> Reports of the Committee on Freedom of Association, 376th Report of the Committee on Freedom of Association, 325th Session, Geneva, 29 October–12 November 2015, GB.325/INS/12, Case No. 3113.

<sup>2</sup> Reports of the Committee on Freedom of Association, 377th Report of the Committee on Freedom of Association, 326th Session, Geneva, 10–24 March 2016, GB.326/INS/12.

of association respectively. Any restrictions to these rights must comply with the provisions of the ICCPR, namely they can only be imposed on legitimate grounds, and must conform to the strict tests of necessity and proportionality.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, and 6.

We would also like to refer your Excellency's Government to Human Rights Council Resolution 24/5, in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law".

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with 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 details of the legal grounds for the alleged measures taken against the abovementioned trade unions and their members, as well as the non-observance of ILO's recommendations. In particular, please provide details on the legal grounds and justifications behind the order to stop the two-day conference organized by NUJOJ, the order of 12 February 2016 to ban the General Assembly of NUSOJ and the order of 14 February to ban FESTU national congress. Please indicate how these measures are compatible with international human rights norms and standards governing freedom of association.

3. Please provide the full details, and where available, the results, of any investigation and judicial or other inquiry undertaken in relation to these allegations, in particular against the assassination attempt against Mr Osman and against the placement of the bomb outside the offices of FESTU. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please substantiate what measures have been taken to ensure that those allegedly responsible of the aforementioned acts are held accountable for such violations by an independent and democratic body and by the courts of law, in accordance with the State's obligations to prosecute perpetrators of human rights violations.

5. Please kindly indicate what measures have been taken to ensure that trade unionists and other human rights defenders in Somalia are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment or prosecution of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and 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.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Please accept, Excellency, the assurances of our highest consideration.

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and expression

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