

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 torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE: UA
ETH 2/2015:

26 February 2015

Dear Mr. Azanaw Tadesse Abreha ,

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 torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 25/2, 24/5, 25/13, and 23/25.

In this connection, we would like to bring to the attention of your Government information we have received concerning allegations on nine bloggers and journalists charged under the Criminal Code and the 2009 Anti-Terrorism Proclamation for their legitimate activities, which included online campaigns to raise awareness about alleged political repression and translation of international news for local audiences. Zone Nine is a collective of bloggers who use an online social media platform to raise political awareness and draw attention to matters of public policy and interest. The journalists wrote for the independent newspapers, Addis Guday, Addis Standard, and Addis Zemen.

We would like to refer to the Joint Urgent Appeal addressed on 30 April 2014 (see A/HRC/27/72, case no. ETH 3/2014) to your Government regarding the arrest on 25 and 26 April 2014 and the trials of six members of the Zone Nine Bloggers: Messrs. **Befeqadu Hailu, Atenaf Berahane, Zelalem Kibret, Natnael Feleke and Abel Wabela**, and Ms. **Mahlet Fantahun**, and three freelance journalists: Messrs. **Tesfalem Waldyes and Asmamaw Giorigis**, and Ms. **Edom Kasaye**. This communication was followed by a joint press release issued on 18 September 2014. We regret that we have not received a response to this communication from your Government yet. We respectfully recall the importance

of your Government's cooperation with the UN Special Procedures, including providing detailed response to the questions and concerns expressed in our communications.

According to information received:

On 17 July 2014, the Federal First Instance Court, Arada First Bench, reportedly charged the Zone Nine bloggers and journalists with terrorism under the Criminal Code and the 2009 Anti-Terrorism Proclamation for allegedly "working with foreign human rights organizations and inciting violence through social media to create instability in the country", which carries a possible sentence of 15 years. These charges came nearly three months after the arrests and detention on 25 and 26 April 2014 of Messrs. Befeqadu Hailu, Atenaf Berahane, Zelalem Kibret, Natnael Feleke and Abel Wabella, and Ms. Mahlet Fantahun, bloggers of Zone Nine, and freelance journalists Messrs. Tesfalem Waldyes and Asmamaw Giorigis, and Ms. Edom Kasaye. It is reported that these charges were brought against them as a result of their legitimate exercise of the right to freedom of opinion and expression, as bloggers and journalists.

It is mentioned that the bloggers and journalists are being held in Maekelawi jail. It is further alleged that at least one of them was subject to ill-treatment and possibly torture by the police and prison officials, while in detention.

On 12 November 2014, the Federal First Instance Court reportedly dropped the Criminal Code charges against the Zone Nine bloggers and journalists and required that the charges under the Anti-Terrorism Proclamation be amended. However, on 28 January 2015, while the Federal First Instance Court reportedly accepted the amended charges against the defendants under the Anti-Terrorism Proclamation, these amendments were not substantive.

On 5 February 2015, the Federal First Instance Court reportedly rejected a petition from the Zone Nine bloggers to remove the presiding judge from the case due to alleged bias. The Judge has reportedly recused himself from that hearing.

On 18 February 2015, the Zone Nine bloggers and journalists reportedly plead not guilty with the new presiding judge.

We reiterate our grave concern at the detention and criminalization of the six members of Zone Nine bloggers and the three journalists, which allegedly result from their work, as bloggers and journalists, and their legitimate exercise to their right to freedom of expression and their right to freedom of association. Their detention and trial under the Anti-Terrorism Proclamation, as the charges brought against them, do not appear to comply with international, regional, and domestic human rights law and standards. We also express grave concerns on the allegations of ill-treatment and possibly torture in detention.

We would like to appeal to your Government to take all necessary measures to guarantee their right not to be deprived of liberty for the legitimate exercise to their right to freedom of opinion and expression in accordance with international, regional, and domestic human rights law.

We express concern at the targeting of journalists and bloggers under the Anti-Terrorism Proclamation, which has reportedly created a climate of self-censorship in the country. We are deeply concerned that the detention and trial to the Zone Nine bloggers and journalists occur in a context of reported recurrent practice of charging journalists under the 2009 Anti-Terrorism Proclamation. According to reliable sources, since 2010 at least 38 journalists have reportedly been charged under the Anti-Terrorism Proclamation or the Criminal Code, at least 19 journalists are reportedly imprisoned, and more than sixty journalists have reportedly fled the country fearing persecution under such legislation. Although not all of the journalists faced charges under the Anti-Terrorism Proclamation, several reliable sources report harassments, intimidations, and threats against journalists for performing their work.

In particular, we express concern at the arrest in 2012 and 2013 of the editor and managing director of the magazine Ye Muslimoch Guday charged for allegedly inciting violence; the charges brought in 2014 against Addis Guday Magazine, Lomi Magazine, Enque Magazine, Fact Magazine, Jano Magazine, Afro Times and their publishers for alleged repeated acts of incitement and dissemination of false rumors intended to cause a violent overthrow of the government; as well as the sentence against Addis Guday, Lomi Magazine, and Fact Magazine and their publishers, for allegedly inciting violence, distributing unfounded rumors, and conspiring against the government, as well as the sentence in absentia of the magazines' owners to more than three years in prison.

We would like to appeal to your Government to take all necessary measures to guarantee their right of all, including journalists, bloggers and media workers, not to be deprived of their liberty for the legitimate exercise to their right to freedom of opinion and expression, in accordance with international, regional, and domestic human rights law.

We would like to draw your Government's attention to the International Covenant on Civil and Political Rights acceded by the Federal Democratic Republic of Ethiopia on 11 June 1993, in particular article 19 and 22 establishing the right to freedom of expression, which include the freedom to seek, receive and impart information and ideas of all kinds, and the right to freedom of association. We would like to remind your Government that any restriction to this right shall be provided by law; may only be imposed for one of the grounds set out in article 19 and subparagraphs (a) and (b) of paragraph 3 and article 22; and must conform to the strict tests of necessity and proportionality. In particular, we recall that the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential and implies a free press

and other media able to comment on public issues without censorship or restraint and to inform public opinion (Human Rights Committee General Comment no.34, para.13).

We would like to remind your Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Ethiopia acceded on 14 March 1994.

We would also like to bring to your Government's attention article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, ratified by the Federal Democratic Republic of Ethiopia on 10 September 1987, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) to participate in non-governmental organizations and associations concerned with the public and political life of the country.

We would also like to refer your Government to article 9 of the African Charter for Human and Peoples' Rights acceded by the Federal Democratic Republic of Ethiopia on 15 June 1998, which enshrines the right to receive information and the right of every individual to express and disseminate his opinions within the law.

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

Finally, we take note of the following provisions of article 29 of the Constitution of the Federal Democratic Republic of Ethiopia adopted on 8 December 1994:

- article 29(1), which provides that "Everyone shall have the right to hold opinions without any interference."
- article 29(2), which provides that "Everyone shall have the right to freedom of expression without interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through other media of his choice."
- article 29(3), which provides that "Freedom of the press and mass media as well as freedom of artistic creation is guaranteed. Press freedom shall, in particular, include the rights enumerate hereunder: that censorship in any form is prohibited and the opportunity to have access to information of interest to the public."
- article 29(4), which provides that "In the interest of the free flow of information, ideas and opinions which are essential to the functioning of a

democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions.”

In view of the urgency of the matter, we would appreciate a response on the steps taken by your Government to safeguard the rights of Messrs. Befeqadu Hailu, Atenaf Berahane, Zelalem Kibret, Natnael Feleke, Abel Wabela, Tesfalem Waldyes and Asmamaw Giorigis, and Ms. Mahlet Fantahun and Edom Kasay in compliance with the aforementioned international, regional, and domestic 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 information concerning the legal grounds for the arrest and detention of Messrs. Befeqadu Hailu, Atenaf Berahane, Zelalem Kibret, Natnael Feleke, Abel Wabela, Tesfalem Waldyes and Asmamaw Giorigis, and Ms. Mahlet Fantahun and Edom Kasay and how these measures are compatible with international human rights norms and standards.
2. Please provide information on measures taken to ensure that Ethiopia’s domestic legal provisions to counter terrorism are not used to restrict legitimate activities of persons and groups that are not related to terrorism, in particularly journalists and bloggers, as referred to in the present communication.
3. Please provide information on possible investigations carried out relative to allegations of torture and ill-treatment against the bloggers and journalists in detention and on measures to ensure that those responsible are brought to justice in a prompt and impartial manner.
4. Please explain what measures have been taken to ensure that bloggers and journalists in the Federal Democratic Republic of Ethiopia can carry out their peaceful and legitimate activities and express and associate freely without fear of harassment, intimidation, or criminalization.

While waiting for your response, we urge your Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned individuals are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible for the alleged violations should be ensured. We also request that your Government adopt effective measures to prevent the recurrence of these acts.

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 Government's to clarify the issues in question.

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.

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment

Rashida Manjoo
Special Rapporteur on violence against women, its causes and
consequences