

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 3/2015

12 May 2015

Excellency,

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 Excellency's Government information we have received concerning the **deteriorating mental and physical health of Mr. Andargachew Tsege**, a British national, who was the subject of forced rendition from Yemen to Ethiopia on 23 June 2014, where, up until this date, he has been detained in an unknown place.

Mr. Tsege was the subject of a previous communication sent on 27 February 2015, case no. ETH 1/2015, to which regrettably no reply has been received.

Given this absence of reply from your Excellency's Government, the urgency of the situation, and the fact that Mr. Tsege is a British citizen, we take this opportunity to inform your Excellency's Government that a copy of this letter will be sent to the

Government of the United Kingdom together with a request for assistance under the Vienna Convention on Consular Relations.

According to the information received:

On 24 April 2015, the British Ambassador to Ethiopia was granted brief access to Mr. Tsege for a third time. The visit took place in the same location as the previous visits, separate from where Mr. Tsege is being detained. As on the two previous occasions, security staff was present throughout the visit. The Ambassador was not allowed to bring any documents to the meeting.

During the meeting, Mr. Tsege reported that he continues to be held in solitary confinement and is detained in the same room that he has been in since his abduction. He has not had access to a lawyer throughout this period. Consequently, he has been unable to appeal against his convictions and sentences. During the 10 months of his detention, he has only occasionally been allowed out into a compound for fresh air and sunshine and he had not been allowed exercise for approximately two months.

Reportedly, Mr. Tsege is physically and mentally exhausted and suffers from various health conditions. Physically, Mr. Tsege suffers from a genetic condition, which entails that his body produces excess insulin. This condition has aggravated during his detention and he also had a serious skin disorder. He has been allowed to see a nurse but not a doctor.

Moreover, Mr. Tsege's mental state has deteriorated significantly since the British Ambassador to Ethiopia's previous visit 5 months ago and he shows clear signs of a psychological breakdown, which, inter alia has expressed itself in his resignation to the fact that his in absentia death sentence (cf. previous communication) might be carried out.

While we do not wish to prejudge the accuracy of this information, we wish to express grave concerns at the allegedly arbitrary death sentence pronounced against Mr. Tsege and his potential execution. Further concerns are expressed at the deteriorating mental and physical health of Mr. Tsege. Last, we wish to reiterate our grave concern at his incommunicado and prolonged solitary detention, and the alleged denial of access to adequate medical care and lawyer.

The allegations presented above appear to constitute prima facie violations of common articles 6.1 and 6.2 (protection of the right to life and against the imposition of arbitrary death penalty) of the International Covenant on Civil and Political Rights (ICCPR), which Ethiopia ratified on 11 June 1993; and of article 7 of the ICCPR (right not to be tortured). In this context, 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 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Ethiopia acceded on 14 March 1994.

Concerning denial of access to adequate medical attention, we would like to recall Rules 22(1) and 22(2), respectively, of the Standard Minimum Rules for the Treatment of Prisoners, and remind your Excellency's Government that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

Also, we would like to remind your Excellency's Government of the right to a fair trial contained in article 14 of the ICCPR, which includes the right of appeal before a higher tribunal according to law. In this regard, we would like to recall the right to access a lawyer, provided in principle 1 of the UN Basic Principles on the Role of Lawyers.

In addition, the Human Rights Council and the Special Rapporteur on torture have determined that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and, in itself, constitute a form of such treatment.

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 and 12.

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 explain the ground for holding Mr. Tsege in incommunicado and prolonged solitary detention.

4. Please provide information on measures taken to ensure that Mr. Tsege enjoys the adequate medical and psychological attention.
5. Please provide information on measures taken to ensure that Mr. Tsege has access to a lawyer while in detention.
6. Please provide detailed information, and where available the results, of any investigation, judicial or other inquiries carried out in relation to the arrest and detention of Mr. Tsege. If no inquiries have taken place, or if they have been inconclusive, please explain why.
7. In the event that such investigations confirm that the above allegations are correct, please provide detailed information of any accountability measures 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, including the commutation of his death penalty. We urgently appeal to your Excellency's Government to prevent his execution;** 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.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Ben Emmerson
Special Rapporteur on the promotion and protection of human rights
and fundamental freedoms while countering terrorism

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