

**Mandates of the Working Group on Arbitrary Detention; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the independence of judges and lawyers**

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 24/6, and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the allegedly arbitrary detention of **Mr. Olbana Lelisa** and **Mr. Bekele Gerba**, and the alleged denial of necessary medical treatment in detention.

According to the information received:

Mr. Olbana Lelisa and Mr. Bekele Gerba are long-standing opposition politicians who campaigned in the 2010 national elections. Mr. Lelisa was an official of the Oromo Peoples' Congress ("OPC") party, whereas Mr. Gerba was deputy chairman of the Oromo Federalist Democratic Movement ("OFDM") and an English teacher at Addis Ababa University. Both men were subjected to repeated harassment by the authorities in the past, particularly during those campaigns.

On or about 23 August 2011, Mr. Gerba met with delegates of an international non-governmental organization ("NGO") working on human rights issues at Addis Ababa University. The delegates noted that they were photographed by secret service agents as they left Mr. Gerba's office after the meeting. Mr. Lelisa met with the same delegates on or about 26 August 2011. On 27 August 2011,

Mr. Lelisa and Mr. Gerba were arrested by the authorities and the international NGO delegates were expelled from the country on the same day. They were detained in Maikelawi, the Federal Police Crime Investigation and Forensic Department in Addis Ababa, without access to lawyers or family members for more than one month since their arrest. During the interrogation, Mr. Lelisa and Mr. Gerba were questioned about their contact with the international NGO delegates.

Both men were charged under article 241 of the Criminal Code for “attacking the political or territorial integrity of the State”, based on their alleged support for the Oromo Liberation Front, which is a proscribed organization in Ethiopia. Mr. Lelisa was additionally charged under article 257 of the same Code for “provocation and preparation”. After the charges were laid against them, they were transferred to the Kaliti federal prison located on the outskirts of Addis Ababa.

Their trial, which began in about May 2012, was reportedly marred by irregularities and there were allegedly serious doubts about the credibility of the prosecution witnesses and the independence of the court. The judge allegedly admitted evidence of the prosecution witnesses who committed perjury. Where the credibility of other prosecution witnesses was in doubt, the judge dismissed the claim and did not make efforts to verify their credibility. Furthermore, although Mr. Lelisa complained during the trial that he was attacked by a violent fellow prisoner that the authorities placed in his cell, the court took no action on his complaint.

In November 2012, Mr. Lelisa was sentenced to 13 years’ imprisonment and Mr. Gerba to 8 years’ imprisonment. Their sentences were reduced on appeal to 11 years and 3 years and seven months respectively. After their conviction, the two men were transferred to the Ziway federal prison. They were subsequently transferred back to the Kaliti federal prison, as their health conditions were deteriorating and the doctor at the Ziway federal prison had referred them to a hospital in Addis Ababa. However, since their return to the Kaliti federal prison, the prison authorities have allegedly refused to take them to the hospital for various reasons, such as the lack of transportation or the absence of security guards to escort them. The details of their health conditions are unclear as they have not been provided with a full medical diagnosis. The health condition of Mr. Lelisa is said to be particularly serious and potentially life-threatening.

Serious concern is expressed at the allegations that Mr. Lelisa and Mr. Gerba were arrested on the basis of the peaceful exercise of their right to freedom of expression; that they were detained incommunicado, without access to a lawyer, for more than one month upon their arrest and that they were sentenced and convicted following a trial which did not respect the international standards relating to the right to a fair trial. We express

further concern that they have been denied hospital treatment despite their health conditions.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. Lelisa and Mr. Gerba is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of their liberty, as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), which Ethiopia has acceded to on 11 June 1993. They also appear to be in contravention of the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR, and of the right to be assisted by a lawyer as set forth in the UN Basic Principles on the role of lawyers.

Furthermore, the allegations appear to be in contravention with your Excellency's Government's responsibility to respect and fulfil Mr. Lelisa's and Mr. Gerba's right to the enjoyment of the highest attainable standard of physical and mental health, including access to medical care and treatment while in detention, as enunciated in article 12 of the International Covenant on Economic, Social and Cultural Rights (accession on 11 June 1993), as well as in the United Nations Standard Minimum Rules for the Treatment of Prisoners, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and Basic Principles for the Treatment of Prisoners.

The above allegations also indicate a *prima facie* violation of the right to freedom of opinion and expression, and right to freedom of association with others as set forth in articles 19 and 22 of the ICCPR.

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

In view of the urgency of the matter, we would appreciate a response on the steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above 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 concerning the legal grounds for the arrest and detention of Mr. Lelisa and Mr. Gerba, and how these measures are compatible with the aforementioned international human rights standards.

3. Please provide the details of the judicial proceedings that led to the conviction and sentencing of Mr. Lelisa and Mr. Gerba, and how they comply with Ethiopia's international human rights obligations relating to the right to a fair trial under the ICCPR and the United Nations Basic Principles on the Role of lawyers.

4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the cases of Mr. Lelisa and Mr. Gerba. If no inquiries have taken place, or if they have been inclusive, please explain why.

5. Please provide the details of the measures taken by your Excellency's Government to ensure that Mr. Lelisa and Mr. Gerba receive medical treatment while in detention and are provided with transfer and access to a hospital.

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

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.

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

Mads Andenas  
Chair-Rapporteur of the Working Group on Arbitrary Detention

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freedom of opinion and expression

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