

**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**

REFERENCE: UA  
SOM 2/2016:

3 May 2016

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 reprisals against **Mr. Omar Faruk Osman**, Secretary-General of the Federation of Somali Trade Unions (FESTU) and of the National Union of Somali Journalists (NUSOJ), for his cooperation with the International Labour Organization.

Mr Osman was the subject of a previous communication, sent on 13 April 2016 (case no. SOM 1/2016). We regret that no reply has been received to date from your Excellency's Government.

According to the new information received:

On Saturday, 23 April 2016, Mr. Omar Faruk Osman was reportedly summoned at the Office of Attorney General (AG) and was informed that the State Attorney General (SAG), the Chief Legal Advisor to the Federal Government and the Government's Chief Law Enforcement Officer, had submitted a complaint against him, via a formal document signed by the Office of the Attorney General, dated 29 February 2016.

This complaint against Mr. Omar Faruk Osman supposedly followed a letter sent by the International Labour Organization (ILO) to the Somali Government on 22 February 2016, referring to the recommendations formulated by the Committee on Freedom of Association on 11 November 2015, and later on, on 23 March 2016. The letter was reportedly urging the Somali Government to respect their international obligations regarding the rights to freedom of association and assembly.

The letter signed by the SAG on 29 February 2016 states that the letter sent by the ILO raised concerns allegedly regarding various human rights violations committed by Somalia such as: “interference and suppression of the rights of trade unions”, “attack and attempted murder against Mr. Omar Faruk” and “injury of his guards by the security forces”, “prohibition of holding a conference”, “threats and dispersion of the trade unions’ delegates that came to attend the conference, in between other elements”.

This letter asks the National Prosecutor General that a criminal case be brought against Mr. Omar Faruk Osman, in accordance with Articles 18 and 20 of the Somali Criminal Procedure Code with a view to “punishing him for the offences that he has the habit of committing or made his business” and, in particular, that “he is a threat to the peace and stability of the country and can create confrontations among the professionals in the media”, “he harms the relations between the Government and international organizations, as he brought a baseless and fabricated case to the centers of such organizations”, “he spreads issues that would harm the reputation of the Somali Government”, “he is profiteering in the name of a union of which he is not the leader”, “he is colluding in this matter with foreigners who facilitate the criminal acts that he is involved in.”

The letter also requested that Mr. Osman be prevented from travelling, that his passport be confiscated during the time of the investigation and further that he be summoned if he happens to be out of the country and, should he fail to return following the summons, Interpol be involved in issuing an arrest warrant. Additionally, according to the information received, this case would be added to previous cases brought against him and a thorough investigation would be carried out on Mr. Omar Faruk’s activities and those assisting him.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern about the aforementioned acts of reprisals that have taken the form of judicial harassment against Mr. Omar Faruk for his cooperation with the International Labour Organization. We also express concern at the allegation that the Government is conflating trade union activities and the legitimate exercise of the rights to freedom of

expression and association, with criminal activities and activities labelled as being against national security. Concern is reiterated at the chilling effect of such measures on civil society as a whole, in particular on the work of trade unions in Somalia and 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, the letter sent by the ILO, the communication sent by the Special Procedures on 13 April 2016, as well as the recent visit carried out by the United Nations Independent Expert on Somalia, Bahame Nyanduga during which these issues were raised.

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 of association respectively. Any restrictions to these rights must comply with the strict tests of necessity and proportionality under the ICCPR.

We would further like to bring your Excellency's Government attention to article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Somalia on 24 January 1990, which recognizes the right of everyone to form trade unions and the right of trade unions to function freely.

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".

We also wish to refer to Human Rights Council resolution 22/6, which provides for the right to "unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms" (OP 13). Furthermore, Human Rights Council resolution 24/24 calls on States to ensure

adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanism and representatives in the field of human rights.

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 criminal charges brought against Mr. Omar Faruk and, by extension, to his colleagues. Please indicate how the charges and the application of articles 18 and 20 of the Somali Criminal Procedure Code against Mr. Faruk are compatible with international human rights norms and standards governing freedom of association and freedom of expression. Please provide information on measures taken to provide Mr. Faruk the guarantee of a fair and impartial judicial procedure, as guaranteed by international human rights norms and standards.
3. Please provide information about whether Mr. Omar Faruk's passport has been confiscated and if he has faced travel bans, as well as the justification and legal grounds for doing so.
4. 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 shortly 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.

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Bahame Nyanduga  
Independent Expert on the situation of human rights in Somalia