

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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the situation of human rights in Eritrea

REFERENCE:
UA ERI 1/2017

16 October 2017

Mr. Woldeyohannes,

We have the honour to address you in our capacity as 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the situation of human rights in Eritrea, pursuant to Human Rights Council resolutions 33/30, 34/18, 33/9, 31/16 and 32/24.

In this connection, we would like to bring to the attention of your Government information we have received concerning the continued detention of **Patriarch Abune Antonios** of the Eritrean Orthodox Tewhado Church in Asmara, Eritrea. Abune Antonios (Patriarch Antonios) was the subject of two previous joint urgent appeals sent on 30 May 2007 (ERI 2/2007) and 19 July 2012 (ERI 1/2012). We regret that we have yet to receive a reply from your Government on any of the urgent appeals.

Patriarch Antonios was, according to previous information received held under house arrest in January 2006 for protesting against the arrest of three Orthodox priests from the Medhane Alem Orthodox Church and for refusing to cooperate with the authorities in closing down the church. He also refused to excommunicate 3,000 members of the Medhane Alem Sunday School movement and demanded the release of imprisoned Christians who were accused of treason. As a result, he was removed as the leader of the Eritrean Orthodox Church.

According to the additional information received:

On 8 August 2016, pictures from what appeared to have been a reconciliation meeting between Patriarch Antonios and a delegation of monks, scholars and government officials were published on an Eritrean Orthodox Church website. Reportedly, a letter in which Patriarch Antonios had apologised for the

circumstances that had resulted in his removal from his position was also published on the website.

On 16 July 2017, the 90 year old Patriarch Antonios was seen in public for the first time since he was held under house arrest in January 2006 and later detained incommunicado in another location. He was seen at a Mass at St. Mary's Cathedral in Asmara surrounded by guards. He reportedly did not play any part in the church service. Rather, a statement from a reconciliation committee was read out to the congregation by a deacon. The statement was reportedly based on false charges, stating among other things, that Patriarch Antonios had exceeded his authority.

When Patriarch Antonios was seen at the Cathedral, he was reportedly not in good health condition. Furthermore, Patriarch Antonios is reportedly suffering from diabetes and high blood pressure.

After the service, he was allegedly taken to a different residence and surrounded by armed guards.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concern regarding the continued incommunicado detention of Patriarch Antonios which represents a criminalization of his legitimate exercise of the right to freedom of religion or belief and his right to freely express his opinion.

We appeal to your Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which your Government acceded to on 22 January 2002. We would like to refer your Excellency's Government to the [Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court \(A/HRC/30/37\)](#). These principles and guidelines, elaborated by the Working Group on Arbitrary Detention at the request of Member States of the Human Rights Council, provide universal guidance applicable to persons deprived of their liberty.

We are also very concerned by reports that the health condition of Patriarch Antonios is deteriorating and the reported continued lack of healthcare access. We strongly urge your Government to take all necessary measures to provide him with adequate medical treatment.

In this respect, we would like to remind your Government that the right to the highest attainable standard of mental and physical health is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, acceded by your Government on 17 April 2001. It includes an obligation of all State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. We also wish to refer your Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, para. 34, which mentions the obligation upon States to respect the rights to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services.

We would also like to draw the attention of your Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, “Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers”. In addition, Rule 25(1) provides that, “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.”

Furthermore, we appeal to your Government to ensure the right to freedom of opinion and expression, as guaranteed by article 19 of the ICCPR. Paragraph 3 of article 19 sets out the requirement that any restrictions to the right to freedom of expression must be necessary, proportionate and prescribed by law.

In addition, we recall article 18 of the UDHR and of the ICCPR, as well as article 7 (6) of the Penal Code of the State of Eritrea, which mentions that no person shall be discriminated against on account of religion. We further recall article 8 of the African Charter on Human and Peoples’ Rights, which states that the freedom of conscience, the profession and free practice or religion shall be guaranteed.

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 the event that your investigations support or suggest the above allegations concerning Patriarch Antonios’ house arrest and lack of access to adequate medical care to be correct, we strongly urge your Government to take all necessary measures to guarantee that the rights and freedoms of Patriarch Antonios are respected and that those responsible to the grave crimes perpetrated will be held to justice. We also request that your Government adopts effective measures to prevent the recurrence of such situations.

In view of the urgency of the matter, 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 international instruments.

We would like to inform your Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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 detailed information concerning the legal grounds for the decade-long detention of Patriarch Antonios and how it is compatible with international norms and standards as stated, *inter alia*, in the UDHR and the ICCPR. Please also explain how the lack of due process and fair trial is compatible with Eritrea's obligations under international human rights law.
3. Please provide information and relevant documentation regarding access of Patriarch Antonios to adequate healthcare in detention, including relevant medical examinations that may have taken place. If Patriarch Antonios has had no access to healthcare, please explain why.

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. Woldeyohannes, the assurances of our highest consideration.

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

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

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Sheila B. Keetharuth
Special Rapporteur on the situation of human rights in Eritrea