



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

**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 and the Independent Expert on the situation of human rights in Somalia**

REFERENCE:  
OL OTH 28/2017

17 November 2017

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Independent Expert on the situation of human rights in Somalia, pursuant to Human Rights Council resolutions 33/30, 34/18 and 24/30.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arrest, prosecution and conviction of journalist **Mohamed Adan Dirir**, under charges of defamation and spreading false news. We would similarly like to refer to the blocking of the website of Saylac Today, as well as four other news media in Somaliland, for having allegedly disseminated false news and critical views of the Somaliland authorities.

Mr. Dirir is a Somali journalist, editor of the online news portal Horseed Media and owner of the news website Saylac Today.

Mr. Dirir's case was the object of a letter by the Independent Expert on human rights situation in Somalia, delivered to the Somaliland Minister of Foreign Affairs by UNSOM on 3 October 2017, to which no reply has to this moment been received.

According to the information received:

On 16 September 2017, Mr. Dirir was arrested by the police of Somaliland while covering a press conference at the premises of the Ministry of Education in Hargeisa. His arrest allegedly related to an article published in May where he claimed that some female students from a private secondary school in Hargeisa had been raped by unknown men.

On 8 October, just three weeks after the arrest, the Hargeisa Regional Court sentenced Mr. Dirir to one year and six months imprisonment under the charges of Articles 254 and 328 of the Somali Penal Code (defamation and publication or circulation of false, exaggerated or tendentious news capable of disturbing public

order). Reportedly, the judgement was rendered during the first hearing of the case, and without the presence of Mr. Dirir's legal counsel.

On 16 October, Mr. Dirir was transferred by the authorities to the Mandhera prison in the Berbera district, located at about 90 km east of Hargeisa, despite the ongoing appeal process. The transfer allegedly affects Mr. Dirir's possibility of meeting with family members and his lawyer.

Reportedly, this is not the first time Mr. Dirir is targeted for reasons related to his journalistic activities. He was arrested on 24 May 2017, after having posed a question deemed personal to the Minister of Health at a press conference, and released within the next days. Similarly, it is alleged that Saylac Today, an online news media outlet owned by Mr. Dirir, was blocked by the authorities in Somaliland in July 2017 for "disseminating false news" and "propaganda against officials of the State", together with four other news websites.

We express our concern about the arrest, prosecution and conviction of Mr. Dirir, allegedly in relation to the editorial content of his publications, which represent an unlawful interference with the independence of the media. We similarly express our concern at the control and censorship of information through the blocking of the website Saylac Today and four other websites, also reportedly due to the content of its publications and on the basis of legal grounds which represent a criminalization of the right to freedom of expression in violation of international human rights law.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of the rights of every individual to liberty and security of person, the rights not to be arbitrarily deprived of the liberty and to fair proceedings as well as to freedom of opinion and expression, established in articles 9 and 19 of the Universal Declaration of Human Rights (UDHR) and 9, 14 and 19 the International Covenant on Civil and Political Rights (ICCPR). We would like to recall that any restriction to freedom of expression must meet the high threshold established under article 19(3) of the ICCPR. That is, be provided by law and be necessary and proportionate to achieve the legitimate aims listed in the provision.

Regarding the right to freedom of expression, as has been interpreted by the Human Rights Committee in its General Comment 34 (CCPR/C/GC/34), article 19 requires that authorities guarantee the right to seek, receive and impart information and ideas of all kinds regardless of frontiers, including political discourse, commentary on one's own and on public affairs, discussion of human rights, journalism, among others (paragraph 11). Article 19 also protects all forms of expression and the means of their dissemination, including all forms of audio-visual as well as electronic and internet-based modes of expression (paragraph 12). Concerning the specific issue of freedom of expression online, the Human Rights Committee also interpreted in General Comment 34 that "any restrictions on the operation of websites, blogs or any other internet-based (...)

are only permissible to the extent that they are compatible with paragraph 3” (paragraph 43).

We would like to recall that, according to the Human Rights Committee in the above mentioned General Comment 34, it is contrary to article 19 to permit general prohibitions of expressions opinions of an erroneous opinion or an incorrect interpretation of past events (paragraph 49), and that the application of the criminal law should only be countenanced in the most serious of cases, imprisonment never being an appropriate penalty for sanctioning the expression of opinions (paragraph 34).

Finally, we would like to emphasize the importance of the respect of the guarantees of due process in the course of criminal proceedings. In particular, we would like to recall that articles 10 and 11 of the UDHR and 14 of the ICCPR establish the right to adequate time and facilities for the preparation of legal defense and to communicate with counsel of one’s own choosing.

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.

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 about the specific legal basis used to detain and charge Mr. Dirir, and how the criminal proceedings pursued against him are compatible with article 19 of the UDHR and the ICCPR.
3. Please explain how the duration of Mr. Dirir’s trial is compatible with the guarantee of adequate time and facilities for the preparation of legal defense under articles 10 and 11 of the UDHR and 14 of the ICCPR. Similarly, please explain why Mr. Dirir’s lawyer was not present during the hearing when the judgement was rendered.
4. Please indicate what measures have been taken to ensure that journalists and human rights defenders in Somaliland are able to express their views and disseminate information without fear of intimidation, harassment or prosecution of any sort.

We would appreciate receiving a response within 60 days.

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 would like to inform you that after having transmitted a communication 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 communications in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the communication procedure and the regular procedure.

Finally, we would like to inform you that a copy of this letter will be simultaneously sent to the Permanent Mission of Somalia to the United Nations in Geneva.

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

Please accept 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

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