

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the
Special Rapporteur on the promotion and protection of the right to freedom of opinion and
expression**

REFERENCE:
AL GHA 1/2019

13 February 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 35/15 and 34/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killing of investigative journalist Mr. **Ahmed Hussein-Suale Divela** by unknown assailants.

Mr. Ahmed Hussein-Suale Divela was an investigative journalist, known for working with Tiger Eye Private Investigations. He is also known for his participation in the production of the documentary "Number 12", which investigated alleged corruption in African soccer.

According to the information received:

On 29 May 2018, Mr. Kennedy Agyapong, a member of the Ghanaian parliament, appeared on the privately owned television station Adom TV, disparaging Mr. Hussein-Suale for his work as an investigative journalist and making a hand sign by dragging his finger across his throat.

On 30 May 2018, Mr. Agyapong appeared in an interview on a national television channel which he owns, Net 2 TV. During the interview, Mr. Agyapong made reference to Mr. Hussein-Suale, stating "that boy is very dangerous (...) if you meet him somewhere, break his ears (...) I'm telling you, beat him, whatever happens, I'll pay". During the same interview, close up pictures of Mr. Hussein-Suale were shown, and Mr. Agyapong made reference to the city he lived in. Mr. Hussein-Suale was known for wearing hats and face coverings in public in order to protect his identity.

On the evening of 16 January 2019, while driving home in the Madina neighbourhood of Accra, Mr. Hussein-Suale was shot twice in the chest and once in the neck by two unknown assailants on a motorbike and died immediately.

We express grave concern over the killing of Mr. Hussein-Suale, especially with regards to the targeted manner in which his killing was carried out. We are further concerned that such brutal actions serve to dissuade other journalists from carrying out

their valuable work and may imperil freedom of opinion and expression in Ghana. We urge your Excellency's Government to carry out a full, independent, impartial and transparent investigation into Mr. Hussein-Suale's killing, with a view to bringing the perpetrators to justice and publishing the findings. We further express our serious concern over the statements made by Mr. Agyapong, in particular in light of his status as Member of Parliament, as they clearly amount to incitement to violence. We note that when high-level officials engage in hate speech, they put the security of affected persons or groups at risk, and they undermine not only the right to non-discrimination of affected groups, but also the faith of such groups in State institutions and, thus, the quality and level of their participation in democracy. Furthermore, such statements may disparage and stigmatise journalists in the eyes of the public and hinder their ability to carry out their work in a safe environment.

We would also like to highlight to your Excellency's Government that the above allegations are incompatible with articles 6, 9 and 19 and 20(2) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Ghana on 7 September 2000, which state that "every human being has the inherent right to life", that "everyone has the right to liberty and security of person", that "everyone shall have the right to freedom of expression", including the freedom to seek, receive and impart information, and which prohibits incitement to violence.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on measures taken by your Excellency's Government to carry out an immediate, impartial, and transparent investigation into the killing of Mr. Hussein-Suale. If no investigations have been undertaken, or if they have been inconclusive, please explain why. In the event that alleged perpetrator(s) have been identified, please provide full details of any prosecutions undertaken or in process.

3. Please provide information about whether any investigation, prosecution or other form of reaction has been initiated against Mr. Agyapong for the threats and incitement made on television against Mr. Hussein-Suale.
4. Please provide information on any measures taken to ensure that journalists in Ghana are able to carry out their work independently and without undue interference in a safe and enabling environment.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to articles 6, 9 and 19 and 20(2) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Ghana on 7 September 2000, which state that "every human being has the inherent right to life", that "everyone has the right to liberty and security of person", and that "everyone shall have the right to freedom of expression", including the freedom to seek, receive and impart information, and which prohibits incitement to violence.

With regards to security of person, we recall that, as established by the Human Rights Committee, this right concerns freedom from injury to the body and the mind, or bodily and mental integrity regardless of whether the victim is detained or non-detained (CCPR/C/GC/35, para. 3 and 9). As interpreted by the Committee, "the right to personal security also obliges States parties to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury".

We wish to remind your Excellency that States Parties have a positive obligation to exercise due diligence and ensure the protection of individuals against violations of rights, which may be committed not only by its agents, but also by private persons or entities (CCPR/C/103/D/1862/2009), that it is incumbent upon States to provide "effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats," (paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65) and that they are required to conduct a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions (paragraph 9 of the Principles).

We are concerned that the comments made by public officials may foster intolerance and hostility which, may incite violence against journalists and other individuals critical of the Government and its policies. While freedom of opinion and expression is protected under article 19 of the International Covenant on Civil and Political Rights (ICCPR), article 20(2) of the ICCPR, requires States to prohibit "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence". Article 20(2) must be read in conjunction with the conditions for restrictions to the exercise of freedom of expression set out in article 19(3) of the ICCPR.

As pointed out by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, when high-level officials engage in hate speech, they undermine not only the right to non-discrimination of affected groups, but

also the faith of such groups in State institutions and, thus, the quality and level of their participation in democracy (A/67/357, para. 67).

We would finally like to highlight that the Human Rights Council has called upon States to promote a safe and enabling environment for journalists to perform their work independently and without undue interference, including by means of (a) legislative measures; (b) awareness-raising in the judiciary, law enforcement officers and military personnel, as well as journalists and civil society, regarding international human rights and humanitarian law obligations and commitments relating to the safety of journalists; (c) the monitoring and reporting of attacks against journalists; (d) publicly condemning attacks; and (e) dedicating necessary resources to investigate and prosecute such attacks (A/67/53/Add.1).