

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 Special Rapporteur on the situation of human rights defenders

REFERENCE: UA SSD 3/2016:

21 July 2016

Excellency,

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; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 24/7, 25/2, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of **Mr. Alfred Taban, editor in Chief of *The Juba Monitor* in South Sudan**, on 16 July 2016.

Attacks against journalists in South Sudan were the subject of previous communications sent on 27 August 2015 (SSD 2/2015) and on 24 September 2015 (SSD 3/2015). We regret that no reply has been received.

According to the information received:

In October 2014, a National Security Service Bill was passed by the South Sudan National Legislative Assembly, giving the National Security Services (NSS) extensive powers of arrest, detention and seizure without adequate safeguards against abuse.

On 16 July 2016, around 4 p.m., Mr. Alfred Taban, editor-in-chief in *The Juba Monitor* was arrested by agents from the NSS and taken to an unknown location. It was later reported that Mr. Taban is being held in a national security office in Jebel market in Juba. There are no charges levied against him. Mr. Taban is in poor health and requires access to medication.

The arrest is allegedly connected to an article by Mr. Taban published in the Juba Monitor on 15 July 2016, as a response to the violent clashes in Juba on 7 July between government forces loyal to the President and forces loyal to the Vice President. In this article, Mr. Taban wrote that the peace agreement of August 2015 had been unsuccessful and argued that both leaders "have completely failed" and should not "remain in their seats". He also called for more UN peacekeepers.

The detention of Mr. Taban is the latest in a series of attacks against journalists and media, which have been on the rise since the beginning of the mid-December 2013 conflict. Several newspapers have had their productions seized, and others have been ordered to shut down temporarily or permanently. In January 2015, the print version of the *Nation Mirror* was closed down. In August 2015, the NSS closed down the English language paper *The Citizen*, the Arabic newspaper *Al Rai*, and the independent media outlet *Free Voice South Sudan*. In August 2014, in a statement given at the airport in Juba, the President threatened to kill journalists reporting “against the country”. Since then, several journalists have been killed by armed men or detained without charge or trial. In this regard, we refer to two previously sent communications on the assassination of the journalists Mr. Peter Moi and Mr. Clement Lormonana (SSD 2/2015 and SSD 3/2015).

We express serious concern about the alleged arbitrary detention of Mr. Taban which appears to be directly related to the exercise of his right to freedom of expression in the performance of his profession as a journalist. We express further concern about the detention conditions, the physical and psychological integrity of Mr. Taban and the lack of access to necessary medication. We express concern at the broader effect of the detention of Mr. Taban and similar incidents which have a deteriorating effect on civil society in general, and on the independence of the media and access to information in particular.

We would like to appeal to your Excellency’s Government to take all necessary measures to guarantee the right not to be deprived arbitrarily of their 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). We wish to remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified, inter alia, in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to by South Sudan on 30 April 2015.

We also appeal to your Excellency’s Government to take all necessary measures to guarantee to the right to freedom of opinion and expression in South Sudan, in accordance with article 19 of the UDHR. We would like to underline that this right applies to everyone, including journalists and those with views deemed critical or dissenting.

We also refer to article XI of the Declaration of Principles of Freedom of Expression in Africa, where States are obliged to take effective measures to prevent the kidnapping, intimidation of and threats to media practitioners and others exercising their right to freedom of expression, which undermine independent journalism and the free flow of information to the public.

Finally, we wish 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, 6, and 12.

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 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 Mr. Taban in accordance 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 you may have on the above-mentioned allegations.
2. Please provide information on the legal basis for the arrest and detention of Mr. Taban, and explain how this complies with international human rights standards.
3. Please provide information about measures taken to ensure Mr. Taban physical and psychological integrity while in detention, in particular whether he has been granted access to necessary medication.
4. Please provide information about measures taken to ensure the compatibility of the National Security Service Bill in line with international human rights standards.
5. Please provide information about measures taken to ensure that journalists, human rights defenders and others exercising their right to freedom of expression in South Sudan are able to carry out their work in a safe and enabling environment without fear of threats or acts of intimidation and harassment 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 would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group 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 appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

It is our intention to publicly express our concerns through the press release attached as, in our view, the information upon which the press release is based indicate a matter warranting immediate attention. The press release indicates that we have been in contact with your Excellency's Government to clarify the issues 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.

José Guevara
Vice-Chair-Rapporteur 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

Michel Forst
Special Rapporteur on the situation of human rights defenders