

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL ETH 4/2016

26 October 2016

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 26/12 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a fire that broke out at the Qilinto prison, in Addis Ababa leading to the death of at least 23 inmates, including two being allegedly shot by prison guards. At least seven other inmates sustained injuries.

According to the information received:

On 3 September 2016 in the morning, fire broke out at the Qilinto prison, the main high-security prison in Addis Ababa. It is reported that many prominent opposition leaders are held in this prison. The majority of them are leaders of the ongoing Oromo protest movement, including 22 members of the opposition Oromo Federalist Congress (OFC) charged with terrorist activities.

At around 9.10 a.m., automatic gun fire was heard, first from the main gate area and then all over the prison. Prison guards on the watch towers allegedly fired machine guns in the direction of the prison buildings. As a result of the fire and the shooting by the prison guards, several inmates died and others were injured in Qilinto prison.

Some sources state that the number of actual casualties could be more than 40 while noting that information from hospitals and the prison are difficult to access. Family members of the inmates were reportedly denied access to see their imprisoned relatives and continue to express frustration about the government's failure to provide detailed information on those who died, those who were injured as well as the whereabouts of those who survived the incident.

On 5 September 2016, two days after the incident, the Government Communications Affairs Office announced the death of 23 inmates. 21 died by suffocation and two other shot by guards, presumably while they were trying to escape. The Office further stated that seven others individuals (inmates and police officers) sustained injuries and were admitted to the hospital. The Government Communications Office has not disclosed the names of inmates who died as a result of the incident and it remains unclear whether any of the opposition leaders were affected.

Uncertainty prevailed (and still continues) as to the cause of the fire, the number of casualties, and the exact whereabouts of the surviving inmates. Despite assurances given by the authorities that they will investigate those facts, there is at the moment no clear information about the events at the Qilinto prison.

We express grave concern at the fire which broke out at Qilinto prison leading to the death of numerous inmates and the shooting of several inmates by prison guards. We call upon the authorities to carry out a thorough, prompt and impartial investigation into the circumstances surrounding the deaths of inmates in Qilinto prison, also with a view to taking all appropriate disciplinary and prosecutorial action and ensuring accountability of any person guilty of the alleged violations, as well as to compensate the families of the victims.

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.

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 therefore 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 detailed information about the circumstances of the fire and the deaths at the Qilinto prison.
3. Please provide information on any measures taken to ensure the security of all detainees in Qilinto prison, before and after the fire.
4. Please provide information about the circumstances of the use of firearms by the prison guards during the incident, in particular in which extent such measure was necessary and proportional.
5. Please provide the details, and where available the results, of any investigation carried out in relation to the above-mentioned incident. If no investigation has been conducted, is yet to take place, or has been inconclusive, please explain why.

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(s) responsible for the alleged violations.

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.

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan Ernesto Mendez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the fundamental principles applicable to this case under international law. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Ethiopia on 11 June 1993, recognizes that every human being has the right not to be arbitrarily deprived of his or her life. The Human Rights Committee has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their own security forces. The African Charter on Human and Peoples' Rights ratified by Ethiopia on 15 June 1998 also provides that every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right. Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Ethiopia ratified in 1994.

When the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. In the case of *Dermat Barbato v. Uruguay*, communication no. 84/1981 (21/10/1982), paragraph 9.2, despite uncertainty as to the exact cause of death, state authorities were held responsible for failing to take adequate measures to protect Hugo Dermat's life, as required by article 6(1) of the International Covenant on Civil and Political Rights.

In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions (principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This principle was reiterated by the Human Rights Council at its 26th Session in Resolution 26/12 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4). The Council added that this obligation includes identifying and bringing to justice those responsible; granting adequate compensation to the victim or his family; and taking steps to end impunity and the recurrence of such executions.

Law enforcement officials may only use force when it is strictly necessary and only to the extent required, for the performance of their duties. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning, and providing medical assistance as soon as possible when necessary. This is confirmed by the Code of Conduct for Law Enforcement

Officials, General Assembly resolution 34/169 of 17 December 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Principle 9 provides that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

Principle 15 of the UN Basic Principles on the Use of Force and Firearms by Law Officials allows the use of force against persons in custody or detention only when strictly necessary to maintain security and order within the institution, or in self-defence. Furthermore, Principle 16 restricts the use of firearms against persons in custody or detention, to self-defence or the defence of others against immediate threat of death or serious injury, or when strictly necessary to prevent a person in custody or detention from escaping provided such person has perpetrated a particularly serious crime involving a grave threat to life.