



Governing Body

334th Session, Geneva, 25 October–8 November 2018

GB.334/INS/10

Institutional Section

INS

TENTH ITEM ON THE AGENDA

Committee on Freedom of Association

387th Report of the Committee on Freedom of Association

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CASE No. 3113

INTERIM REPORT

**Complaint against the Government of Somalia
presented by**

- **the Federation of Somali Trade Unions (FESTU)**
- **the National Union of Somali Journalists (NUSOJ) and**
- **the International Trade Union Confederation (ITUC)**

***Allegations: The complainant organizations
allege serious threats, acts of intimidation and
reprisals against members and leaders of the
National Union of Somali Journalists (NUSOJ)
and the lack of adequate responses by the
Federal Government of Somalia***

655. The Committee last examined this case at its October 2017 meeting where it presented an interim report to the Governing Body [see 383rd Report, approved by the Governing Body at its 331st Session (October–November 2017), paras 592–608].

656. The National Union of Somali Journalists (NUSOJ) sent additional information in relation to the complaint in a communication dated 18 August 2018.

657. The Government provided information in a communication dated 11 June 2018.

658. Somalia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

659. In its previous examination of the case at its October 2017 meeting, the Committee made the following recommendations [see 383rd Report, para. 608]:

- (a) While welcoming the commitment of the Government to engage in finding a solution to this case containing allegations of a very serious nature, the Committee reiterates its previous recommendations and expects the Government to rapidly provide information on the measures taken to ensure that the FESTU and the NUSOJ can fully develop their trade union activities without hindrance and that independent judicial inquiries are promptly instituted in the event of any complaints of threats or acts of violence against trade union members and leaders, this in order to fully uncover the underlying facts and circumstances, identify those responsible, punish the guilty parties, and prevent the repetition of such acts.
- (b) The Committee requests the Government to provide its reply to the allegations that the Chief Justice, namely Dr Aidid Abdullahi Ilkahanaf, who handed down a ruling in favour of Mr Osman – and against the Government’s position – was sacked by presidential decree. It also requests the Government to inform of the current duties of Dr Aidid Abdullahi Ilkahanaf, in particular whether he remained in the judiciary.
- (c) The Committee urges the Government to provide without delay full explanations on the reasons for the arrest on 15 October 2016 of Mr Abdi Adan Guled, Vice-President of the NUSOJ.
- (d) The Committee urges the Government to provide without delay detailed information on any police investigation and judicial inquiry in relation to the assassination attempt against Mr Osman on 25 December 2015.
- (e) The Committee urges the Government to provide information on the outcome of the investigation on the assassination of Mr Abdiasis Mohamed Ali, a member of NUSOJ.
- (f) The Committee urges the Government to provide detailed observations on the accusations presented in May 2017 against Mr Omar Faruk Osman as well as information on any follow-up to this procedure.
- (g) The Committee trusts that the Government will benefit as soon as possible from the Office’s technical assistance in order to address effectively its outstanding recommendations.

B. Additional information from the complainant

660. In a communication dated 18 August 2018, the NUSOJ denounces the assassination of a journalist, member of the NUSOJ, who was shot by a police officer on 27 July 2018. According to NUSOJ, Mr Abdirisaq Qasim Iman was shot dead at Via Liberia Street in the Waberi district of Mogadishu at 4 p.m. A police officer ordered the motorcycle the journalist was riding to deviate from the street while reportedly pointing the gun at him and his camera, shooting him in the head shortly afterward, killing him at the scene. The NUSOJ affirms that the Somali police force was disinclined to provide information about the police officer who actually left the scene after the killing. The NUSOJ denounces the fact that following the identification of the police officer by the union and the family of the victim, the union was openly subject to threat from high ranked officers in the Somali police force. In this regard, the NUSOJ recalls that regrettably threats and acts of violence against its members remain and request the Committee to call for justice and to condemn impunity.

C. Information from the Government

661. In a communication dated 11 June 2018, the Government transmitted a memorandum of understanding signed on 30 May 2018 between the Ministry of Labour and Social Affairs and the Federation of Somali Trade Unions (FESTU) whereby both parties agree, inter alia, to develop an enforceable set of principles and understandings with a view to reducing the tension and conflicts between tripartite social partners in Somalia within the context of the International Labour Organization, and to facilitate dialogue and consultations between the Government and the most representative workers' organization to promote the implementation of international labour standards and cooperation between Somalia and the International Labour Organization. Among the key principles contained in the Memorandum, both parties agree that: (i) the FESTU is the most representative national trade union organization in Somalia; (ii) a national tripartite social dialogue machinery shall be established between the FESTU and the Ministry to ensure effective and fruitful social partner consultations; and (iii) until the most representative status of FESTU changes through a transparent and objective consultative process the workers delegate of the Federal Republic of Somalia to the sessions of the International Labour Conference, starting from 2018, is Mr Omar Faruk Osman Nur, Secretary-General of the FESTU or as otherwise stated by the FESTU. The Memorandum was submitted to the ILO and the Credentials Committee of the ILC and specifies that it represents the commitment of the Government towards respecting all its obligations under the ILO including resolving all outstanding issues with the FESTU, in particular, for a peaceful and harmonious industrial relations atmosphere for peace and national development. In turn, the FESTU commits to refrain from all hostilities and to support and cooperate with the Government in accordance with the principles and resolutions of the ILO and other Human Rights Bodies.

D. The Committee's conclusions

662. *The Committee recalls that it has been considering this serious case which contains allegations of a very serious nature (arrest of the NUSOJ Vice-President; assassination attempt against the NUSOJ Secretary-General; assassination of a journalist, member of NUSOJ; interference from the authorities in the setting up of a trade union) on several occasions since 2015. The Committee recalls that it had previously welcomed some positive developments concerning this case, including a communication dated 10 September 2017 whereby the Government: (i) acknowledged that the Ministry of Labour and Social Affairs sought advice from the State General Attorney over the case who then guided concerned authorities to comply with the recommendations of the Committee; (ii) acknowledged that the FESTU, led by Mr Omar Faruk Osman, is the most representative workers' organization in the country and that Mr Osman is the leader of the NUSOJ; (iii) indicated that it was seeking to resolve political differences between the FESTU and policy-makers within the Government; and (iv) requested the assistance of the ILO to facilitate a constructive dialogue and to find a solution to the long-standing dispute in a harmonious manner.*

663. *The Committee takes note of the Memorandum of Understanding dated 30 May 2018 signed by the Ministry of Labour and Social Affairs and the FESTU whereby both parties agreed, inter alia, to develop an enforceable set of principles and understandings with a view to reducing the tension and conflicts between tripartite social partners in Somalia, and to facilitate dialogue and consultations between the Government and the most representative workers' organization to promote the implementation of international labour standards and cooperation between Somalia and the International Labour Organization. The Committee observes that both parties agreed to abide by the following key principles: (i) the FESTU is the most representative national trade union organization in Somalia; (ii) a national tripartite social dialogue machinery shall be established between the FESTU and the Ministry to ensure effective and fruitful social partner consultations; and (iii) until the most representative status of FESTU changes through a transparent and objective consultative*

process, the Workers' delegate of the Federal Republic of Somalia to the sessions of the International Labour Conference, starting from 2018, is Mr Omar Faruk Osman Nur, Secretary-General of the FESTU or as otherwise stated by the FESTU. The Committee welcomes this further engagement of the Government to find a solution in line with the international labour standards to the long-standing dispute and to commit to a tripartite dialogue machinery with the FESTU. The Committee requests the Government to provide detailed information on the establishment of the national tripartite social dialogue machinery and any other steps taken to improve the climate for freedom of association in the country.

664. The Committee notes with deep concern the new allegations of murder of a journalist member of the NUSOJ, Mr Abdirisaq Qasim Iman, said to be shot dead by a police officer on 27 July 2018 at Via Liberia Street in the Waberi district of Mogadishu at 4 p.m. According to the NUSOJ, the police officer ordered the motorcycle the journalist was riding to deviate from the street while reportedly pointing the gun at him and his camera, shooting him in the head shortly afterward, killing him at the scene. The Committee is further concerned over the allegations that the Somali police force was disinclined to provide information about the police officer who killed Mr Abdirisaq Qasim Iman and that when the NUSOJ managed to identify him, the union was openly subjected to threats from high ranked officers in the Somali police force. The Committee firmly recalls that the rights of workers and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected. The killing, disappearance or serious injury of trade union leaders and trade unionists requires the institution of independent judicial inquiries in order to shed full light, at the earliest date, on the facts and the circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events. Investigations should focus not only on the individual author of the crime but also on the intellectual instigators in order for true justice to prevail and to meaningfully prevent any future violence against trade unionists. It is crucial that the responsibility in the chain of command also be duly determined when crimes are committed by military personnel or the police so that the appropriate instructions can be given at all levels and those with control held responsible in order to effectively prevent the recurrence of such acts. Finally, while it is important that all instances of violence against trade union members, whether these be murders, disappearances or threats, are properly investigated, the mere fact of initiating an investigation does not mark the end of the Government's work; rather, the Government must do all within its power to ensure that such investigations lead to the identification and punishment of the perpetrators [see **Compilation of decisions of the Committee on Freedom of Association**, sixth edition, 2018, paras 84, 94, 99 and 102].
665. The Committee emphasizes the seriousness of these allegations and urges the Government to institute without delay an independent judicial inquiry into the killing of Mr Abdirisaq Qasim Iman in order to shed full light on the circumstances in which this event occurred, to determine responsibilities and to punish the guilty parties. The Committee expects the Government to keep it informed without delay of the steps taken in this regard and the outcome of the inquiry. The Committee recalls that it had previously called on the Government to take measures to investigate urgently the assassination of another journalist and member of the NUSOJ, namely Mr Abdiasis Mohamed Ali, who was killed on 27 September 2016 by two men armed with pistols in northern Mogadishu. The Committee deplores the absence of information from the Government on the steps taken to investigate this grave crime and expects the Government to take all necessary steps without delay to ensure its full investigation and to provide information on its outcome. The Committee deeply deplores the repetition of these most violent crimes against trade unionists and urges the Government to take all necessary measures within its power to ensure the full respect for fundamental rights, in particular those related to human life and personal safety, and to

combat the culture of impunity created by an absence of investigation and prosecution of such heinous acts.

- 666.** *Furthermore, the Committee recalls its previous request for information on the allegations of the summoning of Mr Omar Faruk Osman, Secretary-General of both the FESTU and the NUSOJ, to the Attorney-General's Office in May 2017 and expects that this matter has been resolved within the context of the May 2018 Memorandum of Understanding.*
- 667.** *The Committee regrets that the Government has not provided information in relation to the other matters raised and is therefore bound to reiterate its previous recommendations and expresses the firm expectation that the Government will provide without further delay detailed information on the measures taken to ensure that the FESTU and the NUSOJ can fully develop their trade union activities without hindrance.*
- 668.** *Finally, noting the Government's intention under the May 2018 Memorandum of Understanding to pursue technical support from the ILO in promoting social dialogue and achieving decent work goals and tripartism, the Committee trusts that the Government will benefit as soon as possible from the Office's technical assistance in order to address effectively its outstanding recommendations.*

E. The Committee's recommendations

- 669.** *In light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*
- (a) Welcoming the engagement of the Government to find a solution in line with the international labour standards to all outstanding issues, the Committee requests it to provide detailed information on the establishment of the national tripartite social dialogue machinery and any other steps taken to improve the climate for freedom of association in the country.*
 - (b) The Committee emphasizes the seriousness of the new allegations of the murder of a journalist, member of the NUSOJ, and urges the Government to institute without delay an independent judicial inquiry into the killing of Mr Abdirisak Qasim Iman in order to shed full light on the circumstances in which this event occurred, to determine responsibilities and to punish the guilty parties. The Committee expects the Government to keep it informed without delay of the steps taken in this regard and outcome of the inquiry.*
 - (c) The Committee expects the Government to take all necessary steps without delay to ensure the full investigation of the assassination of Mr Abdiasis Mohamed Ali, a member of NUSOJ, and to provide information on its outcome.*
 - (d) The Committee deeply deplores the repetition of these most violent crimes against trade unionists and urges the Government to take all necessary measures within its power to ensure the full respect for fundamental rights, in particular those related to human life and personal safety, and to combat the culture of impunity created by an absence of investigation and prosecution of such heinous acts.*

- (e) *The Committee urges the Government to provide without delay full explanations on the reasons for the arrest on 15 October 2016 of Mr Abdi Adan Guled, Vice-President of the NUSOJ.*
- (f) *The Committee urges the Government to provide without delay detailed information on any police investigation and judicial inquiry in relation to the assassination attempt against Mr Omar Faruk Osman, Secretary-General of the NUSOJ, on 25 December 2015.*
- (g) *The Committee requests the Government to provide its reply to the allegations that the Chief Justice, namely Dr Aidid Abdullahi Ilkahanaf, who handed down a ruling in favour of Mr Osman – and against the Government’s position – was sacked by presidential decree. It also requests the Government to inform of the current duties of Dr Aidid Abdullahi Ilkahanaf, in particular whether he remained in the judiciary.*
- (h) *The Committee trusts that the Government will benefit as soon as possible from the Office’s technical assistance in order to address effectively its outstanding recommendations.*

Geneva, 2 November 2018

(Signed) Professor Evance Kalula
Chairperson

Points for decision:

paragraph 127	paragraph 481
paragraph 140	paragraph 511
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paragraph 227	paragraph 531
paragraph 244	paragraph 559
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paragraph 315	paragraph 598
paragraph 345	paragraph 610
paragraph 366	paragraph 628
paragraph 414	paragraph 654
paragraph 447	paragraph 669