

Gothenburg, Sweden, 28 March 2018.

Shadow Report to Initial National Report (1999-2016) from the State of Eritrea

Honourable Commissioners,

We hereby take the opportunity to deliver some comments on the Eritrean initial State Report 1999-2016, and wish to express our sincere gratitude for the chance to do so.

In the part of the Report dedicated to Freedom of Expression we would like to make the following remarks.

Item 72

In item 72 of the State Report the Government of Eritrea states: "The fundamental principle in the National Charter, Eritrea's Constitution of 1997 and the national codes and proclamations is that citizens have the right for lawful expression and opinion without interference. Citizens are both participants and beneficiaries of information and ideas and the ground is leveled without discrimination".

It must be pointed out that this Constitution has never been implemented. The internal debate about this in Eritrea was also one of the conflicting points which led up to the Government's clampdown on the free press in September 2001. A group of prominent persons within the ruling party had – among other things - pointed to the lack of progress regarding the implementation of the Constitution proposal from 1997. Most of them have been incarcerated since as have several journalists.

The non-implementation of the Constitution of 1997, including the provisions relating to individual rights, has had a profound impact on the rule of law in Eritrea. Indeed, with no parliament meeting and the court system controlled by the executive, it could be affirmed that there is no rule of law in Eritrea. Information gathered through the pervasive control system is used in absolute arbitrariness to keep the population in a state of permanent anxiety.

Item 73

In item 73 of the State Report it is written: "In this regard, public media has been strengthened and reflects the truth and reality of national development. It has cultivated progressive thinking, transformational culture and reliable information instrumental to a knowledge society. Furthermore, it helped to consolidate the re-

sponsible participation of every citizen. On the other hand regional and international issues and development are also covered on a daily basis. Hence, the contribution of Eritrea's media establishment to the freedom of expression is ascertained by its democratic nature."

This statement is simply not true. There is an official press ban in Eritrea, as this respected Commission has noted in its decision 275/03 and 428/12. Without press freedom and freedom of expression it is hard to see how media "reflects the truth and reality" and convey "reliable information" to the citizens of Eritrea. Instead the media have been transformed to an extension of an autocratic and repressive regime.

Item 74

Item 74 states "Eritrean media facilities and programmes cater for a wider public participation. They are a platform for critical reflection, constructive opinion and knowledge. Extensive discussions and opinions on government policies, development, administration, justice, values, arts, culture and sports, international affairs, etc. are promoted."

How can the media in Eritrea be a "platform for critical reflection, constructive opinion and knowledge" when they are completely controlled by the government in a one-party State?

In effect the government says so itself in item 43: "Media sensitization and discussion on radio, television, print media is strengthened and expanded through a collaboration between the Ministries of Justice and Information". This clearly indicates how the government, principally through its Ministry of Information, tightly controls both the information, the journalists and what they may and may not cover.

The brutality of the control has been clearly demonstrated after the crackdown in 2001. After that journalist from the above mentioned public media run by the government itself have been detained. One example of this is how half a dozen employees from Radio Bana were imprisoned in 2009. Though they have since been released this hardly signals that the media provide "a platform for critical reflection". Journalists diverging from the official line risk being severely punished.

There are also journalists from the State media that have chosen to go into exile, like Temesgen Debesai¹.

Item 75

Item 75 says: "To promote free Expression through cultural works, the government encourages the production and distribution of various cultural contributions. Many writers have continuously produced and circulated books, literary works (in most Eritrean languages), historical publications and documents, supplementary

¹ <http://globaljournalist.org/2017/01/project-exile-eritrean-broadcaster-waited-five-years-escape/>

readers for all levels of education, etc. Dramas and films are also produced by individuals and groups of artists in various languages.”

Why then, have book publishers like the Eritrean Red Sea Press had to leave the country? Why is there an Eritrean PEN in exile? Why was the poet and journalist Fessehaye “Joshua” Yohannes, arrested in 2001, left to die in prison?

And there are more examples, like the filmmaker Tesfit Abraha² and the artist Said Abdella³.

Item 76

Finally, in item 76 of the State Report the Government of Eritrea writes: “The emerging development of Satellite communication has also set a new realm in the culture of expression among Eritreans. There is exponential growth in television satellite dishes that have sprouted throughout the country including in rural areas and peripheries. With standard decoders that most families own, households have access to more than 600 foreign satellite TV and radio channels that broadcast their programmes 24 hours a day without any restriction.”

This is a highly limited truth. Though such media have been reported to be available to visiting journalists and tourists in the capital, Asmara, they are not widely available to Eritrea's general population in practice. In 2017, a survey of Eritreans just having left the country showed that, especially in rural areas, the State media dominate. The most listened to foreign based radio station reached 1/3 of the interviewees. And satellite TV reaches fewer than radio. The report is quoted in an article in Deutsche Welle⁴.

Internet is slow which sets a natural limitation. Though the internet growth 2000-2017 is noted at above 1000 per cent, the penetration is a mere 1,4 percent of the Eritrean population according to Internet World Stats. That is the lowest penetration on the African continent where the average is 35 per cent⁵.

In its 2015 report “The Erosion of the Rule of Law in Eritrea: Silencing Freedom of Expression” the Centre for Human Rights at the University of Pretoria wrote that the combined mobile and fixed telephone reach was around 5 per cent (see p 33).

General comments

Since the clampdown in September 2001 many journalists have been detained in Eritrea. As they have never been sentenced and are kept at undisclosed locations,

² <http://www.peneritrea.com/blog/eritrean-filmmaker-tesfit-abraha-speaks-out-about-state-repression>

³ <https://www.sbs.com.au/yourlanguage/tigrinya/ti/article/2017/07/20/once-forced-create-propaganda-their-government-eritrean-artists-are-defecting?language=ti>

⁴ <http://www.dw.com/en/impressive-reach-in-eritrea/a-41567784>

⁵ <https://www.internetworldstats.com/stats1.htm>

isolated and not allowed visits it is not even sure how many they are. Despite repeated efforts over the years to find the truth it remains unclear.

Reporters Without Borders presently (March 2018) have recorded 11 journalists in detention in Eritrea. The figure appears at the RSF site⁶.

Another Press Freedom organisation, Committee to Protect Journalists, have in their research found the number to be 15⁷.

Here it should be said that both Press Freedom organisations only record journalists imprisoned in relation to their work, not for ordinary crimes.

The fact that the number of journalists in detention is uncertain is a clear sign of the secretiveness of the government in Asmara. It is a symptom of a lack of rule of law.

Further, it is worth pointing out that the names on the above-mentioned lists above only overlap in part. In all 20 different journalists are on the two lists. Yet another sign of how difficult it is to find out even who is imprisoned in Eritrea.

As regards the detained journalists, this honourable Commission is more than aware that Eritrea is in breach of the African Charter as well as of other regional and international conventions and rules. This was clearly stated in the Commission decisions 275/03 and 428/12.

In April 2018, a year will have passed since we, as complainants in the latter case, sent letters to the Office of the President of Eritrea, to several ministries and to the Eritrean Embassy in Stockholm to ask what actions are being taken to follow the Commission's clear decisions. The letters are sent in line with rule 112 (2) of the Rules of Procedure of the Commission.

In September 2017, we sent new letters. We also reminded the Eritrean government in our statements at the 60th and 61st sessions.

Still we have heard nothing from any representative of Eritrea.

The detained journalists, among them Swedish-Eritrean citizen Dawit Isaak, who was the subject of the most recent complaint before this distinguished Commission (428/12), have never been charged with any crime. They have never been brought before a Court of law - whether for trial or for a hearing a result of repeated writs for Habeas Corpus.

In June 2016, the Foreign Minister of Eritrea Mr. Osman Saleh spoke of Dawit Isaak, his detained colleagues as well as of the Eritrean leaders who were arrested in 2001 in an interview with Radio France International. Minister Saleh said:

⁶ https://rsf.org/en/barometer?year=2018&type_id=235#list-barometre

⁷ https://cpj.org/data/imprisoned/2017/?status=Imprisoned&cc_fips%5B%5D=ER&end_year=2017&group_by=location

"All of them are alive. The government is looking for their safety. They are in good hands, in prison. They are political prisoners and the government is dealing with them."

Mr Osman Saleh said that Dawit Isaak and the others would be tried "when the government decides".

The recording with the minister can be heard at the RFI site⁸.

In an interview published by the Swedish daily Expressen in November 2017, Eritrea's Minister of Justice Ms. Fozia Hashim once again confirmed that for the Eritrean government the detention journalist Dawit Isaak is a political rather than a legal issue. She says this in the beginning of the piece. Please find a link to the filmed interview below.

Her comments are in English, though the piece is mainly in Swedish.

Here is a brief summary.

After Minister Hashim's initial statements the reporter explains that Dawit Isaak has been imprisoned for over 16 years without trial and that Sweden has done several attempts to put diplomatic pressure on Eritrea to have Dawit Isaak released. The reporter goes on to say that the Eritrean government thinks time should not be spent on individuals but on Eritrea's standing on the global scene. After approximately 50 seconds Minister Hashim develops this. The reporter comes back explains that Ms. Hashim rather wants to focus on the sanctions against Eritrea. He says that the sanctions have been upheld by the UN who thinks that Eritrea breaches the Human Rights.

After this Swedish language sequence, at 1.35, the Eritrean Minister for Information, Mr. Yemane Gebremeskel, criticises the Swedish efforts to free Mr. Isaak. The reporter goes on stating that Mr. Gebremeskel will not say outright that Dawit Isaak is used as a bargaining chip in the discussions surrounding the sanctions – sanctions that Sweden has voted to keep. According to the reporter Minister Gebremeskel there will be a trial, but the Minister does not say when and, indeed, even if Dawit Isaak is alive.

The reporter closes by saying that the official, Eritrean viewpoint is clear and simple: regardless of Dawit Isaak's dual citizenship the crime has been committed in Eritrea. Therefore, Dawit Isaak will be tried there – a trial which Dawit Isaak has been waiting for for more than 16 years, adds the reporter.

At 2.40 Minister Gebremeskel comes back explaining this.

All the Ministers' statements can be heard in English. The video report is published along with an article⁹ (in Swedish).

⁸ <http://en.rfi.fr/africa/20160621-eritrea-foreign-minister-denies-human-rights-abuses-clashes-ethiopia-disappeared-act>

⁹ <https://www.expressen.se/nyheter/jag-ska-skriva-sa-att-tangentbordet-gloder/>

These statements by Eritrean Ministers raise a series of very serious questions regarding the lawfulness of the imprisonment of the journalists in Eritrea.

In item 46 of the State Report the Eritrean government claims that the right to appear and give evidence in a court is guaranteed. As becomes abundantly clear from the statements by the Ministers above, that is false. Dawit Isaak has not been given this right in 16½ years. Nor have his colleagues.

After some statistics on crime in item 42 the government claims that innocent people are free until proven guilty. This statement too, is disproved by the statements of the Minister's quoted.

Generally, in the area of freedom of expression, it must be said that the Eritrean government systematically silences most anyone who is perceived as protesting against, questioning or expressing criticism of the government and its policies. The first and most visible sign of such repression was the purge in 2001 of the G-15 reform group – members of the ruling party itself, who have either died or are remaining in detention since. Following the crackdown, the silencing of the population went a step further as Eritreans started being punished for just about any expression of opinion: claiming the enjoyment of fundamental rights and legitimate benefits; enquiring about the fate of persons perceived as critics by the Government; discussing governmental policies; or asking any type of question. The Government consistently labels perceived critics as traitors. Those found guilty of such a "crime" are severely punished.

Overall, it should be noted that Eritrea is ranked as one of the worst countries in the world when it comes to Press Freedom and Freedom of Expression.

The country has been at the bottom of Reporters without Borders Press Freedom Index for years. The fact that North Korea was ranked lower in 2017 is a result, purely, of the fact that foreign reporters, lately, have actually been allowed to visit the country after being shut out for many years.

ARTICLE 19, Committee to Protect Journalists and Freedom House are other organisations which have documented the problems regarding Freedom of Press and Expression. The situation is extremely serious.

Still, the clearest evidence is the fact that the Eritrean government has imprisoned its own journalists without charge and has kept them in total isolation, in undisclosed location without access to legal aid or any visits by family.

The treatment of the journalists amounts to Crimes against Humanity, which is suspected by both the Swedish Prosecutor-General and the UN Commission of Inquiry on Human Rights.

(A translation of the decision by the Swedish Prosecutor has earlier been filed with this respected Commission in the case 428/12.

The report of the UN Commission may be found on the site of the UN Human Rights Council under document id A/HRC/32/47.)

We welcome the fact that the Eritrean government has engaged by delivering its first ever State Report and we do hope that the review by this Commission - so vital for the defence of Human Rights - will lead to answers and clarifications by the government. And - of course – that the government in Asmara immediately lifts the ban on independent media, releases the detained journalists and restores Freedom of Expression in Eritrea.

Yours respectfully,

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