

DECISION No. 33/1993 (ETHIOPIA)

Communication addressed to the Government of Ethiopia on 22 February 1993.

Concerning: Kassa Gebre and Yahehirad Kitaw, on the one hand, and Ethiopia, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.

2. The Working Group notes with concern that till date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days of the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.

3. (Same text as paragraph 3 of Decision No. 43/1992).

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Ethiopia. The Working Group has taken into consideration the information contained in a note verbale dated 24 February 1993, sent by the Permanent Mission of the Transitional Government of Ethiopia to the United Nations Office at Geneva, which named eight detained former officials, including Yahehirad Kitaw, whose cases had been presented to the first Bench of the High Court. The latter reportedly asked the Prosecutor's Office to present the eight former officials to the Court the following Monday and to give an explanation of their arrest. Nevertheless, the Working Group cannot consider that information as constituting a reply to its communication to the Government dated 22 February 1993. In these circumstances, the Working Group believes that it is in a position to take a decision on these cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. It was alleged in the communication from the source, a summary of which was transmitted to the Government, that: Kassa Gebre, former Minister of Construction and member of the Politburo and Central Committee of the Workers Party of Ethiopia (WPE), and Yahehirad Kitaw, a medical doctor and former Minister of Education, and an alternate member of the Central Committee of the WPE, were reportedly arrested in June 1991 in Addis Ababa and were said to be detained in Sendafa Police College, near Addis Ababa. According to the source Mr. Gebre and Mr. Kitaw have been detained without charge or trial. They were said to belong to the group of 2,000 people who had been arrested since May 1991 for having connections with the Government of former President Mengistu, and who had been accused of human rights violations, war crimes and other abuses. Although it was reported that the authorities had stated that the detained officials were held on account of war crimes or human rights abuses, saying that they would receive fair trials in accordance with

international standards, no one had reportedly yet been formally charged with any offence. It was reported that the Government's security forces had been arresting and detaining people indefinitely without charge and without the detainee having the right to challenge the detention through any judicial or administrative procedure. It was further reported that most of the former officials were arrested after obeying instructions issued in early June 1991 to report to the new authorities on account of their position under the former Government and that this might imply that they were detained on account of collective responsibility for policies or abuses by the Government, the WPE or the armed forces, rather than on account of individual responsibility for particular criminal offences. Many detainees were said to have been released after their cases were investigated by the security authorities. According to the source, the continuing detention of the others was probably based on a general assessment of their official position with the former Government. Reportedly, in August 1992 a Special Procurator's Office was established to deal with these cases as the first step towards opening judicial proceedings against detainees, and legislation was being drafted regarding the judicial proceedings themselves. The decree reportedly declared that the right of habeas corpus was suspended for six months in relation to the cases of these detainees, but no time-limit was set for charging or trying the detainees.

6. It appears from the facts as described above that Kassa Gebre and Yahehirad Kitaw have been detained for over 2 years without charge or trial, thus being deprived of their rights guaranteed by articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights and Principles 2, 10 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The non-observance of the above-mentioned articles and principles relating to the right to a fair trial is such that it confers on the deprivation of freedom an arbitrary character, justifying the following decision by the Working Group.

7. In the light of the above the Working Group decides:

The detention of Kassa Gebre and Yahehirad Kitaw is declared to be arbitrary being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights and Principles 2, 10 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

8. Consequent upon the decision of the Working Group declaring the detention of Kassa Gebre and Yahehirad Kitaw to be arbitrary, the Working Group requests the Government of Ethiopia to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 28 September 1993