

OPINION No. 12/1997 (ETHIOPIA)

Communication addressed to the Government on 2 August 1996.

Concerning: Mammo Wolde.

The Federal Democratic Republic of Ethiopia is a party to the International Covenant on Civil and Political Rights.

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended by resolution 1997/50. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communication.
2. The Working Group conveys its appreciation to the Government for having forwarded the requisite information in good time.
3. (Same text as paragraph 3 of Opinion No. 1/1997.)
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source but, to date, the latter has not provided the Working Group with its comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.
5. According to the communication Mammo Wolde, born in 1932, an olympic marathon medallist and former junior local official, has reportedly been detained since 1992 without charge or trial. It was alleged that Mammo Wolde was one of some 1,700 former officials who were accused of having participated in genocide, war crimes or crimes against humanity between 1974 and 1991 under the government of Lieutenant-Colonel Mengistu Haile-Mariam and who have not been formally charged, nor brought before a tribunal and given the opportunity to challenge their virtually indefinite detention. The source reported that the new government has undertaken the task of prosecuting the accused. It has also been reported that the Special Prosecutor's Office (SPO) planned to try detainees in three categories: First, "the policy and decision makers", then "the field commanders, both military and civilian", and finally "the actual perpetrators" of murder, torture and other crimes. Mammo Wolde's case reportedly fell within the last category as he was an official of a local urban-dweller's association (kebelle). According to information received, only persons falling within the first category have so far been charged and brought to trial. Hundreds of detainees were reportedly released by court orders in 1993, as a result of habeas corpus applications or decisions of the SPO, with respect to time limits legally imposed on such types of detentions. The source reported that in late 1993, the appeal division of the Supreme Court barred further habeas corpus applications and ruled that in light of the special circumstances and the seriousness of the crimes involved, the SPO detainees were to remain incarcerated without any specific time limit, until they were charged.

6. In its reply, the Government of the Federal Democratic Republic of Ethiopia does not contest the facts as reported by the source. According to the Government, however, the Special Prosecutor's Office, which is mandated to investigate and prosecute cases of gross and systematic human rights violations during the campaign of mass extermination, is in process of finalizing the investigations and preparing to charge the suspects under detention, including Captain Mammo Wolde. The arraignment of the aforementioned was expected to take place upon the resumption of court proceedings after the summer adjournment. The Government further pointed out that Mammo Wolde was being detained by court order in connection with his suspected involvement in the killing of 14 teenagers in Addis Ababa during the so-called "Red Terror" campaign of 1977-1978 when many innocent lives were lost. The Ethiopian Government affirmed it was conscious of its international and national commitment to fair, impartial and speedy trial. As such, every effort was being made to accelerate the process of bringing charges against all detained officials of the former regime suspected of involvement in genocide, war crimes and/or crimes against humanity.

7. The Working Group deems, as does the source itself, that even though many of the detainees may indeed have been responsible for serious human rights violations or may have personally committed serious crimes, their prolonged detention without trial is not justified.

8. The Working Group finally notes that Mammo Wolde has been detained since 1992 without charge or trial. It further notes that, to date, he has not been given the opportunity to challenge the legality of his detention. For the Working Group, this constitutes a violation of that person's right to a fair trial of such gravity that it confers on his deprivation of liberty an arbitrary character.

9. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mammo Wolde is arbitrary, as being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, and falls within category III of the applicable categories to the consideration of the cases submitted to the Working Group.

10. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation, and bring it in conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Adopted on 18 September 1997.