

DJIBOUTI

Written comments of Reporters Without Borders
prior to the adoption of a List of issues

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Introduction

RWB is an international NGO defending freedom of information. Its team of researchers, backed by correspondents in 150 countries and by 18 partner organizations, is organized by geographical area. Its missions consists mainly in continuously monitoring attacks on freedom of information worldwide, denouncing any such attacks in the media, acting to fight censorship and laws restricting freedom of information, legally and financially assisting persecuted journalists and their families, offering material assistance to war correspondents in order to enhance their safety.

This report will not undertake a comprehensive analysis of the compliance of the Djiboutian authorities with the Covenant but will focus on RWB’s area of expertise the right to freedom of information. This note aimed at developing an overview of the press freedom situation and individual cases followed directly by the organization.

RWB would like to raise its concerns about the breaches by the Djiboutian Government of its international obligations, namely articles 7, 9, 14 and 19 of the Covenant.

Despite the constitutional guarantee for freedom of expression in the article 15 of the Constitution, the legal framework is inadequate. Indeed several legal guarantees tend to be theoretical and other legal provisions¹ restrict press freedom.

The 1992 Freedom of Communication Law, far from being a protection, poses a challenge to freedom of expression, investigative journalism and media pluralism. It provides for prison sentences for media offences and imposes age and nationality limits on anyone wanting to launch a news outlet.

The creation of a National Communication Commission (article 45) with the power to issue radio and TV broadcasting licenses has been on hold since 1992.

In the list of issues, which is going to be adopted by the HCR, RWB believes that freedom of information, security of journalists and treatment of those who are prosecuted should be firmly reemphasized.

Overview of the press freedom situation

Djibouti is ranked 159 out of 179 countries listed in the 2012-2013 worldwide index (a drop of 49 places in comparison with the previous year)

There is no media freedom in Djibouti. This is one of the few African countries without any privately-owned or independent media.

President Ismaël Omar Guelleh began a third term in April 2011 after an election boycotted by part of the opposition. The NGO International Democracy, which had come to observe the election, was expelled in March 2011².

Under Ismaël Omar Guelleh's rule, the country has increasingly cut itself off from the world and suppressed criticism. Foreign journalists are turned away and the government maintains a monopoly on domestic news and information by means of state-owned media. One after another, all the opposition newspapers have been closed. *Le Renouveau*, a newsletter published by the Movement for Democratic Renewal and Development (MRD), had to close in May 2007, after months of harassment³.

Today, only four national media are permitted : *Radio Télévision Djiboutienne*, *La Nation* and *Al Qaran* (La Nation's Arabic-language version), which are controlled by the culture and communication ministry, and *Le Progrès*, a newsletter published by the ruling Popular Rally for Progress (RPP). All four take a pro-government line. Article 3 of the 1992 Freedom of Communication Law, which recalls the "right of everyone to create and use freely the media of their choice to express their thoughts" is not applied.

¹ For instance article 425 of the Criminal Code (interdiction of false news), articles 425 to 429 (defamation can be punished up to 6 months of imprisonment, one year for slandering a representative of the State)

² <http://www.democracyinternational.com/news/di-press-release-djibouti-presidential-election>

³ <http://en.rsf.org/djibouti-journalist-freed-but-opposition-18-05-2007,22016.html>

While RFI's FM transmitter has been shut down since 2005, the BBC and Voice of America can be received in Djibouti but they are rarely carrying any sensitive reporting on the country. The percentage of the population that has an Internet connection is still very small. Facebook is very popular among those that do have connection.

Internet Censorship

Djibouti's internet censorship has become a contentious issue this year. Given that there is no independent media in Djibouti, news online are the only way to read critical news. Despite the fact that the level of Internet use is still low in Djibouti, the censorship of *La Voix de Djibouti* shows that the government views freedom of information on line as a threat and try to monitor and censor it.

*La Voix de Djibouti*⁴ is a former opposition radio station that used to broadcast from Europe on the shortwave and Internet. Outside Djibouti, Internet users can visit La Voix de Djibouti's website at the following address (<http://www.lavoixeddjibouti.com/>). From inside the country, the access has been blocked without judicial approval or a consultation process.

Internet users there can nonetheless have access to it by going to RWB mirror site circumvent the government's censorship and allow the population to have some access to news and sources⁵.

In August 2012, Djibouti's authorities also blocked access to five Somali news websites – Waagacusub.com, Sunatimes.com, Galmudugnews.com, Halbeegnews.com and Qurbejoog.com. Waagacusub.com recently posted confidential documents about transfers of money between Djibouti's intelligence services and officials in Somaliland, a breakaway Somali territory that adjoins Djibouti.

This censorship breaches article 19 of the Covenant and specifically paragraph 42 of General comment n. 34 recalling that “ The penalization of a media outlet, publishers or journalists solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression” and paragraph 43 : “Any restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information dissemination system (...) are only permissible to the extent that they are compatible with paragraph 3.”

Growing number of arrests and ill treatments since February 2011

In Djibouti journalists are continuously under pressure, harassment, intimidation. Some of them are even arbitrarily detained and victims of ill-treatment. In all of these cases, the rules of criminal proceedings were constantly violated⁶.

⁴ <http://www.lavoixeddjibouti.com/>

⁵ <http://en.rsf.org/djibouti-reporters-without-borders-creates-04-04-2012,42238.html>

⁶ Among them, respect of dignity and physical integrity of the detainee (article 65-1 of the penal code), right to see a doctor (article 65-2), appointment of a lawyer at the beginning of the proceedings (article

The rights of defense are denied as the prosecuted journalists do not have access to their lawyers at the beginning of the procedure⁷ and defense lawyers reported to RWB that they work in difficult situation and under constant threats. They are risking themselves and their security to defend media workers.

The government arrested dozens of its political opponents in February 2011 following calls for protests circulating on social networks, which the authorities are struggling to control. Those detained included six people who provided reports of information to *La Voix de Djibouti*⁸.

They were arrested as a preventive measure ahead of a demonstration and were held in Gabode prison for four months without trial for “participating in an insurrectional movement”.

The use of this legal basis to arrest and prosecute journalists permits arbitrary arrest and detention. Paragraph 23 of the General Comment n°34 recalls that “ paragraph 3 may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attacks as arbitrary arrest, torture, threats to life and killing, be compatible with article 19.”

One of them, **Farah Abadid Hildid**, was tortured by intelligence officials before being transferred to the prison. The individual case of Farah **Abadid Hildid** is one of many examples of the constant surveillances, threats of retaliation and harassment a Djiboutian journalist has to endure for doing his work.

Hildid has been detained twice in 2011 and was tortured and mistreated both times. This was confirmed by medical examinations after both periods in detention. The first time he was arrested, in February 2011, he was held for more than four months in Gabode prison on a charge of “participating in an insurrectional movement”. The second time he was arrested along with another journalist from *La Voix de Djibouti*, **Houssein Robleh Dabar Hildid**, on 21 November 2011⁹, and was charged with encouraging an illegal demonstration and insulting the president. They were released four days later after being placed under the supervision of an investigating judge attached to the Supreme Court.

On 1st February 2012, **Farah Abadid Hildid** was abducted by the police and subjected to torture during the 24 hours he was held. He described his ordeal to Reporters Without Borders after his release:

“I was in Djibouti City yesterday waiting for a meeting. It was 11:30 am. Two men in a car with tinted windows stopped next to me. It was a uniformed policeman and a man in plain

65-4), previous information of the detainee (article 65-5), cases of invalidity of the police report (article 66-1).

⁷ Article 10, par 5 of the Constitution provides however : “*The right of defense including that to be attended by the lawyer of its choice, is guaranteed in all the stages of the procedure*”

⁸ <http://en.rsf.org/djibouti-six-contributors-to-opposition-11-06-2011,40445.html>

⁹ <http://en.rsf.org/djibouti-opposition-radio-reporters-24-11-2011,41458.html>

clothes. They asked me to get in. I refused but they forced me into the car. They blindfolded me so that I did not know where they were taking me. I found myself in a cell. They removed my clothes and handcuffed me, and that is how I spent the night, sleeping on the floor.

"They beat my feet very violently with pieces of rubber. They also broke my glasses. 'We've had enough of you,' they said. 'You must stop broadcasting information about us. You must stop bothering the police and the Department for Investigation and Documentation. It will be the worse for you if you continue.' At midday today, they brought me my clothes and blindfolded me again. Then they drove me to a piece of waste ground in the Gabode 4 district and left me there."

On 19th February 2012, Farah Abadid Hildid lodged a complaint about the conduct of the police agents but, to date, no investigation was opened at all.

Reporters Without Borders has decided to refer this matter to the United Nations special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on March 21, 2012¹⁰.

The journalist **Houssein Ahmed Farah**, La Voix de Djibouti correspondent, was arrested on 8 August 2012¹¹ and sent to Gabode prison on 11 August 2012. After being held for more than 72 hours at Djibouti's police headquarters, he was brought before investigating judge on 11 August 2012 and was then immediately transferred to the capital's Gabode prison. He was jailed without being charged or being able to see a lawyer or his family. Nor has been allowed any visits or medical attention although his health was poor and he needed treatment.

He was finally released on 18 November, thanks to the determination of his lawyer, Zakaria Abdillahi, who submitted a weekly release request. He was held without trial for more than three months¹² and his release is conditional. He is still under judicial control.

These individual cases brought to the attention of the HRC constitute clear violation of Djibouti's obligation under the Covenant : freedom of expression (art. 19), prohibition of torture and cruel, inhuman or degrading treatment (article 7), liberty and security of person, treatment of persons deprived of their liberty (article 9), independence of the judiciary and fair trial (article 14)

¹⁰ <http://en.rsf.org/djibouti-reporters-without-borders-asks-u-n-21-03-2012,42171.html>

¹¹ <http://en.rsf.org/djibouti-police-arrest-news-website-09-08-2012,43186.html>

¹² <http://en.rsf.org/djibouti-supreme-court-urged-to-free-31-10-2012,43625.html>