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## Public call for opening of consultations on Ethiopia under Article 96 of the Cotonou Agreement<sup>1</sup>

### Executive summary

1. The EU and AU need to request the opening of consultations under Article 96 of the Cotonou Agreement in the framework of the ACP-EU international development cooperation agreement.<sup>2</sup> Moreover, both need to invite Ethiopia of the U-ACP Partnership Agreement in the event of the failure to respect essential elements of the Agreement, namely human rights, democratic principles and the rule of law. The objective of these consultations is to find an acceptable solution for the parties in the civil war in Ethiopia through the identification and implementation of the measures to take in order to remedy the non-respect of the Agreement. The EU Commission in the Joint Statement by the High Representative/Vice-President Josep Borrell and Commissioner Janex Lenarcic have expressed their worry regarding the ethnically targeted measures, hate speech and allegations of atrocities occurring in Ethiopia. The demonization of ethnic groups is a vicious and lethal cycle from which Ethiopia must be spared.
2. It also called for immediate de-escalation and access to humanitarian aid in order to avoid a major humanitarian crisis is imminent, and an immediate de-escalation is needed. Reports of violations of human rights and international humanitarian law are emerging in various parts of Tigray national regional state and other parts of the country.

### Chronological order of the current civil and international war in Ethiopia

3. A full-fledged war is raging in the Tigray State of Ethiopia, a home to nearly 7 million people. As of the 4th of November 2020, the Ethiopian Prime Minister, Abiy Ahmed, declared war on Tigray. Neighboring Amhara State troops and the Eritrean forces have joined the Federal forces in the war against Tigray and its people. They started invading the Western Tigray on the 5th of November 2020. Following the continuous and heavy shelling of civilian residences and infrastructure, nearly 40 thousand people have already fled to provinces bordering Sudan, while the majority have been displaced internally. Civilian eyewitnesses who fled across the Sudanese border of Humera, a critical Tigraian border town (sharing an intersect with both Eritrea and Sudan), say that shelling was coming from both the Eritrean side in the north and the Amhara state in the south. This was done as a coordinated attack. Current estimates show that this war not only affected close to 90,000 Eritrean refugees who were sheltered in Tigray but also produced as high as 300,000 new IDPs and refugees.
4. The Ethiopian PM had already warned of aerial bombarding of Tigraian towns on his unfortunate statements since the declaration of war on Tigray. On the morning of the 16<sup>th</sup> of November, he bombed a school and St George's Church in the capital city of Tigray, Mekelle, killing 2 people and wounding many. The Tigray Region heavily suffers from the deliberate and indiscriminate air strikes and shelling of vital infrastructure such as the Tekeze Electric Power dam and the Welkait Sugar Factory; and facilities in major cities in Tigray as reported by the Tigray National regional state. So far, cities such Mekelle, Shire, Adigrat, Axum and Abyi-Adi have been targeted with a

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<sup>1</sup> <https://www.consilium.europa.eu/en/policies/cotonou-agreement/article-96-cotonou-agreement/>

<sup>2</sup> <https://www.consilium.europa.eu/en/policies/cotonou-agreement/article-96-cotonou-agreement/>



number of casualties. Since the start of the war, the Federal government has blocked all communication channels including ground transportation, flights, telecommunications, internet, banking services, and electric power throughout the region. Further exacerbating the humanitarian crisis, the region has been cut off from essential supplies of food, medicines, fuel and other life-sustaining commodities. Against all international condemnations and calls to cease the war and open humanitarian corridors, the Federal Government continues to chokehold the entire Tigray Region of all essential supplies, which may amount crime against humanity. The use of such levels of indiscriminate bombings of several densely populated towns is the reminiscent of tactics used during the Derg regime (1974-1991).

5. As the fighting intensified, the forces of the Federal government, Amhara region and Eritrean government have been attempting to cut off the Western part of Tigray from the main road connecting Sudan, the only international supply line to the Tigray region. Disturbing news have emerged with the involvement of the foreign forces directly engaging and operating employing sophisticated drones, siding with the Ethiopian government in attacking the Tigrayan forces, facilities and its people, from the military base in Assab port, Eritrea. To counteract these daily airstrikes, the Tigray Defense Forces were forced to fire long range missiles targeting Gondar, Bahir Dar and Asmara (Eritrean capital) Airports, places where these sorties have originated. Tigray's President, Dr Debretsion Gebremichael, had warned there would be a commensurate response.
6. Currently Federal forces and Amhara region special troops are engaged in a military offensive from the south and coordinated Ethiopian and Eritrean (16 mechanized divisions) forces have been attacking on several fronts from the North. Several towns have fallen on to the Federal government forces. The Tigray President, Dr Debretsion, in a televised address on the 18th of November described the heinous summary executions of Tigrayan, non-combatant youth in Shire, and widespread looting of not only government offices and buildings but also from ordinary households.
7. As per the latest reports confirmed by the international community, hundreds of thousands of Tigrayans in Ethiopia residing in and outside Tigray are being targeted for discrimination, attacks and persecution. As part of the ongoing ethnic cleansing, mass detention of tens of thousands of Tigrayans serving in the security, army, police and intelligence and even in peacekeeping by the United Nations and African Union is a daily occurrence. Tigrayan public servants are dismissed from public services in banking, foreign affairs, aviation and other sectors and even the African Union Commission The expropriation of Tigrayans' properties, solely for their identity, constitute a state-led ethnic cleansing. Such irresponsible and dangerous acts are signs of the first phase of pogrom against Tigrayans and grave humanitarian crisis of unparalleled proportions in Ethiopia. There has also been a distinct rise in the detention and expulsion of journalists and reporters, and researchers including from international media and think tanks such as International Crisis Group. The Abiy administration has also refused insistently to calls of mediation by pan African and other organizations, rebuked pleas for a ceasefire and all-inclusive dialogue in spite of the tremendous casualties, humanitarian crises and destruction.



Of note, the prominent leaders of the majority opposition parties are under arrest, leaving little space for real democratization.

### **The objectives of the consultations**

#### **Cessation of all forms of hostilities and calls for national dialogue**

8. The consultation should contribute to the efforts of the African Union and the Region to launch an inter-Ethiopian all-inclusive dialogue to find a peaceful resolution to the civil war raging in Ethiopia. Cessation of all forms of hostilities, access to humanitarian aid, independent and thorough investigation of all violations of human rights and humanitarian law, the release of all political prisoners and conducting a free and fair election are crucial for peace and stability of Ethiopia.
9. The consultations would help all parties in the civil war to refrain from and condemn any act of aggression against civilians and also serve as background to prepare for elections in Ethiopia in accordance with Article 8 of the Cotonou Agreement.

#### **Humanitarian law issues**

10. Ethiopia is state party (SP) to various human rights and humanitarian law instruments, and some of the jus cogens norms apply universally including in the current mix civil and international conflict. Ethiopia is now in violation of these laws when it denied aid organizations access to IDP populations, potentially violating the rights of IDPs to adequate food, water and medical supplies.<sup>3</sup> In certain circumstances, such SPs may also be guilty of war crimes, crimes against humanity or even the crime of genocide. Because aid organizations require a secure space in which to operate, State Parties (such as Ethiopia), and other parties to an armed conflict must provide such space. For instance, the MPFA recommends the creation of humanitarian corridors within which to provide humanitarian assistance in otherwise insecure areas.<sup>4</sup> According to the Kampala Convention, the duty to ensure access to IDPs by aid agencies rests on SPs and all actors with effective control of the areas where IDPs live. As per Article 3(1) (f) of the Kampala Convention, SPs are duty-bound to refrain from violating the "the humanitarian and civilian character" of the operations of humanitarian organizations related to protection and provision of assistance to IDPs.<sup>5</sup> Certain acts by parties to conflict constitute severe violations of the Kampala Convention and international law. Prohibitions of violations of peremptory norms constituting international crimes also apply to members of armed groups.

#### **Humanitarian crisis**

11. The war has displaced hundreds of thousands both within Tigray and to Sudan. Hampering access and aid to IDPs and impeding humanitarian assistance and passage of convoys of relief aid, materials and personnel destined for the need entails responsibility imposed on SPs and parties to armed conflict.<sup>6</sup>

<sup>3</sup> Cotula and Vidar, 'The Right to adequate food in emergencies', (n 905) PP. 3-5.

<sup>4</sup> AU 'Decision on the Draft Migration Policy Framework for Africa' (AU Banjul Summit, 2006), Doc. EX.CL/276 (IX) Pp 23-26.

<sup>5</sup> The Kampala Convention.

<sup>6</sup> Article 7 (5) (b) and (g) of the Kampala Convention.



12. Obstructing the provision of aid by attacking humanitarian personnel, destroying or diverting resources intended for refugees and IDPs, deliberately causing conditions leading to starvation, forcibly recruiting, kidnapping or engaging in sexual slavery and trafficking of refugees and IDPs may also constitute crimes against humanity or war crimes.<sup>7</sup> For example, the indictment of Omar Al Bashir, Mohammed Harun and Ali Kushabi in relation to the crisis in Darfur suggests that massive deliberate displacement of people may constitute genocide.<sup>8</sup>
13. In their humanitarian work, the international and regional organizations need to respect and ensure respect for “the principles of humanity, neutrality, impartiality and independence of humanitarian actors, and ensure respect for relevant international standards and codes of conduct.”<sup>9</sup> Indeed, the Sphere Standards and other codes of conduct such as that of the ICRC principles also govern the behavior of international organizations and aid agencies in their work related to IDPs. The Sphere Standards refer to the minimum standards required of non-state actors when they respond to disasters. These minimum standards include water, sanitation, food, nutrition, shelter, and health care. Access to these services ensures the right to life with dignity. These standards developed by groups of humanitarian agencies are anchored to the principles of humanity, impartiality, and the right to life with dignity, the distinction between combatants and non-combatants, as well as the principle of *non-refoulement*. It was also meant to reduce the unintended consequences of humanitarian aid in terms of the safety of those receiving aid, the impact of the protective intervention on the power balance among warring parties, the security of aid workers, and so on. Likewise, the Kampala Convention obliges non-state actors to adhere to international standards such as the Sphere Standards. Article 6(3) should be read in conjunction with Article 5 (8) of the Kampala Convention which imposes duties on the SPs to ensure these principles are upheld by all actors who come into contact with IDPs.

#### **Civil War in Oromia and other parts of Ethiopia and Human rights violations**

14. Proposal for an independent investigation by the UN and other entities on the assassination of prominent Oromo artist, Hachalu Hundeessaa, and other political assassinations of several high-profile officials including the Chief of Staff of the Ethiopian National Defense Forces General Seare Mekonnen, General Gezae Abera, President of Amhara Regional State Dr Ambachew Mekonnen, and the Engineer Simegnaw Bekele is refused by the Federal government. In recent months, the reported gruesome killings of civilians in various parts of the country is a grave sign that peace and security in Ethiopia is non-existent. Instead of initiating a thorough, comprehensive and credible investigation on the dozens of high-level targeted assassinations, the Federal Government officials gave highly choreographed public statements that are usually signs of intrigue. The Federal Government has already announced the guilty without investigation, which also has led to widespread suspicion and public rejection. The killings and evictions of ordinary citizens and the destruction of properties that have been ongoing in different parts of the Oromia Region are hall marks of silent ongoing civil war. All of these killings

<sup>7</sup> Article 7 and 8 of the Rome Statute.

<sup>8</sup> Ali Gouda (n 15) Pp. 212-213.

<sup>9</sup> Article 6 (3) of the Kampala Convention (emphasis added).



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must be given a thorough and credible investigation, after which a detailed report should be issued to both the public and international communities.

15. At a time when the transition embarked by the present government was hoped to deliver democratic elections and stability to Ethiopia, now civil war is declared, prisons are overflowing by opposition leaders, Oromo and Tigraian innocent civilians. Unprovoked killings and displacement are the new normal; the economy is in free fall; the COVID-19 pandemic is locally transmitting like fire, and the prospect of catastrophic complex humanitarian crises is looming to a large-scale crisis. Mass arrest of Tigrayans continues, their fate and that of the jailed political leaders from different parts of the country is precarious under the current volatile leadership. The extreme and unrestrained measures being taken by the Government security forces throughout Oromia needs to stop. The Federal Government of Ethiopia has plunged the country into civil war through its blatant and repeated violation of the Federal Constitution and international law. More specifically, the government has repeatedly violated the Federal Constitution, drastically infringed individual civil liberties by unjustly detaining thousands, and ignited the killings of hundreds in various parts of the country and stifled peaceful opposition through trumped up charges.
16. Instead of calling for calm and dialogue, the Federal Government has declared war on its people in Tigray, Oromia, Sidama, Somali, Wolayta. This is seen as an authoritarian crackdown on all opposition parties who hold differing electoral platforms than the Federal Government and its affiliates (the Prosperity Party). In an attempt to limit transparency and accountability, the Federal Government has now continued the old habit of shutting down the internet and local media programs including the Oromo Media Network (OMN), Dimtsi Woyane (DW), Tigray TV, etc. It has even gone as far as to arrest journalists who diverge from the government narrative. This is especially dangerous during a time where media could be used to combat the propagation of COVID-19 and ensure information sharing on the outbreak. The global society of Tigrai Scholars (GSTS) condemns the ever-increasing suppression of freedom of the press and expression. Instead of holding elections promptly to ensure the legitimate exercise of government authority, the Federal Government has indefinitely extended its term in office under the pretext of the COVID-19 outbreak. Since October 2020, the current leadership's term in office has to be unconstitutional. However, the federal has chosen to make threatening public statements and appearances, including the overuse of the military. These decisions reveal the Abiy's intent to fuel the crises in the regional states who decided to exercise their right to self-determination, self-rule, and conduct elections.
17. Before the declaration of war, threats to use force against the Tigray State have been choreographed with foreign forces, and this is active treason. This recent declaration of war is the continuation of illegal propaganda and the threat of warfare and sanctions on the Tigray people and the Tigray National Regional State for holding to its right to self-determination, regular constitutional elections, and rejecting the various policies of the current leadership. This act of terror is in addition to constant menacing and penalization of the Tigray Regional State and its people through the imprisonment of its prominent personalities, exclusion from federal government positions, and blockage of the transportation infrastructure that connect the Tigray to various parts of the country including the Addis Ababa.



18. The international community should not be deceived again and again. The international community has been put on notice about these grave developments and GSTS calls for their attention and action. The international community and the Noble Peace Committee were deceived before, and its continual complacency will drag more than 110 million Ethiopians into the devastating civil war and international war with consequences too ghastly to contemplate, including massive displacement, humanitarian crisis and genocide.

### **Proposed actions**

19. Article 96 of the Cotonou Agreement provides for consultations to begin in the 30 days following the invitation. It should be proposed that this consultation be held in Brussels as soon as possible. Proposed actions by the EU and AU is to:

1. Immediately launch consultations under Article 96 of the Cotonou Agreement.
2. Force the Federal government to seek a political solution to the current crisis, in a manner that preserves democracy, stability, and peace, and promotes truth, dialogue, justice and reconciliation among all Ethiopians;
3. Enforce cessation of hostilities including war and media war and allow and facilitate the provision of humanitarian aid services in Tigray;
4. Force federal government immediately restore telecom, internet, banking and transportation services in Tigray;
5. Stop incitement of hate and active ethnic cleansing against Tigrayans and other ethnic groups in Ethiopia, and the invasion and subjugation of the people of Tigray by armed forces, against the will of the people;
6. Intervene to uphold the responsibility to protect by ensuring respect of international human rights of the people of Ethiopia to live in peace, exercise their rights of freedom of expression, freedom of movement, self-determination and self-rule, and to respect the will of the people;
7. Force the immediate release of all political prisoners, opening access to the Internet, restoration of freedom of press and speech and announce a roadmap for election;
8. Conduct UN-AU led investigation into all killings of innocent people, the assassinations of high-profile personalities, the kidnapping of university students, and serious human rights violations, arrests and abuses perpetrated on Ethiopians from various ethnic groups in various parts of the country, and announce massive violations of human rights and humanitarian law, citizens and organizations should register those officials and individuals involved in potential crime against humanity, war crimes and incitement of hate killing and genocide.



9. Investigate all those involved in the ordering, implementing and propagating the ongoing ethnic cleansing including foreign-based and registered media, ESAT and similar media outlets that are spreading hate speech and genocidal incitements;
10. Agree on clear consequences and measures for violators of peaceful efforts:
  - a. Designation of intransigent armed groups as hostile forces;
  - b. Targeted individual sanction, regional travel bans and asset freezes;

The GSTS Leadership  
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