

In regard to the Joint Allegation Letter sent by the Special Rapporteur on situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment [G/SO 214(107-9) G/SO 214(53-24) CHN 9/2012], the Chinese government hereby provides the following reply after a careful investigation into the circumstances of those letters was carried out:

According to Article 110 of the Criminal Law of the People's Republic of China, Kim Young-Hwan, Yu Jae Gil, Kang Shin Sam, and Lee Sang Yong, members of the Network for North Korean Democracy, instructed and financed by the National Intelligence Service (NIS) of the Republic of Korea (ROK) to engage in the collection of intelligence and other illegal activities in China, were suspected of committing espionage against China. On March 29, 2012, the four suspects were arrested by the Chinese state security authorities when they were engaging in illegal activities in Dalian, Liaoning, with a charge of committing espionage and other illegal activities. The "residential surveillance" review measure was taken subsequently. On the 25th of May, with the approval of the procuratorial authorities, the Chinese state security authorities carried out the arrest for further investigation. On the 20th of July, the Chinese side, proceeding from the big landscape of China-ROK relations and at the request of NIS, ordered the four ROK citizens including Kim Young-Hwan to leave China within the prescribed time and not enter China again.

During the review and investigation process launched by the Chinese state security authorities, Kim Young-Hwan and the other three ROK citizens confessed to the illegal acts of setting up secret organizations and stash houses in China and accepting the instructions from NIS to carry out espionage activities in China.

Based on the request of OHCHR in the letter, China conducted a comprehensive and earnest investigation into the claims made by Kim concerning torture and forced confession. The claims, including giving him electric shocks and depriving him of sleep for one week, are fabricated and imputed. There was no torture and forced confession by the Chinese case-handling organs during the investigation. During his detention, he had never filed any appeal to related authorities or brought a lawsuit to the court. Therefore, there is no issue of imposing sanctions on the perpetrators or compensating the victims.

During the investigation process, the responsible Chinese agencies handled the case following the laws at any given time. The legitimate rights and interests of the suspects were protected, including their consular visiting rights; they were given humanitarian treatment; their dignity was respected; special treatments were given in terms of catering, culture, health and other aspects; many medical and physical examinations were carried out for them. These were all recorded. We wish to provide the following explanations and proofs:

I. When Kim Young-Hwan, Yu Jae Gil, Kang Shin Sam, and Lee Sang Yong were arrested

by the Chinese investigation authorities on the 29th of March 2012, they were informed of their procedural rights and obligations.

II. We reported the case to the Consulate-General of the Republic of Korea in Shenyang according to the rules and fully protected the consular visiting rights of the four suspects, including Kim Young-Hwan.

1. On the 31st of March, the investigation authorities informed Kim Young-Hwan, Yu Jae Gil, Kang Shin Sam, and Lee Sang Yong of their consular visiting rights. Except Kim Young-Hwan, who requested the consular visiting, the other three suspects all issued the written documents requesting no consular visiting.

2. On the 1st of April, the Consulate-General of the Republic of Korea in Shenyang was informed that the four ROK citizens were taken into custody according to the laws for being suspected of endangering the national security of the People's Republic of China.

3. On the 26th of April, a consular meeting was arranged between Consul Shim Jae-Cheol of the ROK Consulate General in Shenyang and Kim Young-Hwan at Dandong Detention House. During the consular meeting, Kim never mentioned torture and forced confession. In such a short distance, the consul had not found any sign of torture and forced confession.

4. On the 11th of June, Shim Jae-Cheol, Kim Chan- Won, and Lee Jae Yong from of ROK Consulate General in Shenyang had consular meetings with Kim Young-Hwan and the other three ROK citizens.

III. Physical and medical examinations were conducted for Kim Young-Hwan and the other three suspects on many occasions to ensure their rights to health. The examinations proved that there was no sign of injuries on the bodies of Kim Young-Hwan and the other three suspects.

1. On the 15th of April, the investigation authorities invited the doctors to conduct physical examinations including electrocardiogram (ECG) and blood pressure check for Kim Young-Hwan and the other three suspects at the location of residential surveillance. The physical indicators of the four suspects were all normal.

2. Kang Shin Sam and Lee Sang Yong were placed under criminal detention on the 18th of April; Kim Young-Hwan and Yu Jae Gil were placed under criminal detention on the 28th of April on the charges of endangering the national security of China. They were detained at Dandong Detention House. Before placing them under criminal detention, the physical examinations were performed for the four suspects in the hospital outside the detention house according to the detention

regulations. The medical results showed that their physical indicators were all normal and there was no sign of torture and forced confession. Kim Young-Hwan had hypertension and was sent to the First Hospital of Dandong City for medical examination. The doctor did not find any other physical abnormality on Kim Young-Hwan. After some treatment, Kim's blood pressure returned to normal and was sent back to the detention house. The filed photos taken when they were placed in detention could show that there was no sign of injuries on the bodies of the four suspects. The doctor of Dandong Detention House would make regular calls to the detention house once every 15 days. Based on their records, there was no indication of any concern.

- IV. The witnesses and their testimonies testified that China fully protected the legitimate rights and interests of Kim Young-Hwan and the other three suspects and gave them humanitarian treatment.
1. Zhang Nanhua, General Manager of Wulongbei Training Center of Dandong, testified that the investigation authorities provided the four suspects with the same catering standards as the investigation personnel when the case was handed at the center; that the suspects were given good catering treatment; and that their catering habits were respected.
 2. Dandong Detention House testified that during the detention period, medical examinations were conducted once every week for Kim Young-Hwan to check his blood pressure and prescribe the oral antihypertensive drugs. Special treatments such as additional meals were also provided for him.
 3. Before the arrest of Kim Young-Hwan and the other three suspects was approved, Dandong Procuratorate interrogated Kim Young-Hwan on the 23rd of May and informed him of his rights in accordance with the related laws and regulations. During the interrogation, the officers from the procuratorate earnestly performed their duties and informed Kim of his entitled prosecution rights and obligations. Kim had not reported any torture or forced confession by the investigation authorities.
 4. Sun Qiang, Zheng Changli, Yu Cheng'en, Jin Yong and Yu Chao, the inmates of Kim Young-Hwan, testified that Dandong Detention House provided Kim with special treatments in every aspect. No one had insulted or beaten him. Kim was slightly eccentric and had very little contact with other people.
 5. On the 19th of July, Dandong Detention House gave him a haircut. No sign of physical injuries was found and Kim was in a good spirit.
- V. The living needs of Kim Young-Hwan and the other three suspects were fully satisfied and their property rights were protected.

1. The investigation authorities bought medicine from Kim Young-Hwan on a number of occasions, bought clothes for Yu Jae Gil, and bought Kimchi, cold noodles and other foods for the four suspects. The investigation authorities also deposited cash for them at the detention house so that they can use it at their discretion during the detention.
2. On the 29th of June, the investigation authorities agreed to let Consul Shim Jae-Cheol of the ROK Consulate General in Shenyang, as a representative of the families of the four suspects, deposit cash and goods at the detention house at the deposition of the four suspects during the detention.
3. On the 20th of July, the investigation authorities returned the goods, documents, cash, and the interest of their deposits at the banks, the balance of the cash deposited by the consul of ROK Consulate General in Shenyang on behalf of their families to the four suspects before ordering them to leave China within the prescribed time.

Please refer to the attachment for the evidence presented by China concerning how China protected the prosecution right, consular visiting right, health right, property right and other rights of Kim Young-Hwan and the other three suspects and how China fulfilled their living needs and granted humanitarian treatment to them.

The Chinese Government respectfully requests that the full text of the above be recorded in the relevant UN documents.

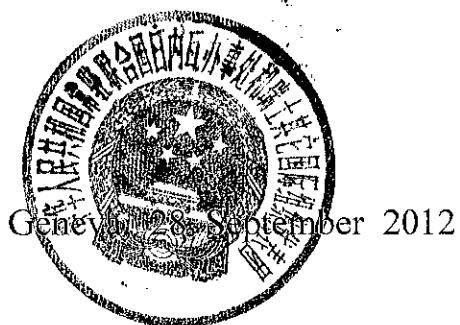
MISSION PERMANENTE DE LA RÉPUBLIQUE POPULAIRE DE CHINE
A GENÈVE

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No. GJ/40/2012

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter [AL G/SO 214(107-9) G/SO 214(53-24) CHN9/2012] dated 16 August 2012, has the honor to transmit herewith the attached reply by the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Office of the High Commissioner for Human Rights
Geneva

联合国人权理事会人权卫士特别报告员、酷刑问题特别报告员来文[G/SO 214(107-9)G/SO 214 (53-24) CHN 9/2012]收悉。

根据《中华人民共和国刑法》第 110 条，“北韩民主化网络”成员金永焕、柳在吉、姜信三、李尚龙 4 人接受韩国国情院的指导和经费，在华从事情报搜集等非法活动，涉嫌构成间谍罪。2012 年 3 月 29 日，4 人在辽宁省大连市从事非法活动时被中国安全机关以涉嫌从事间谍情报等非法活动依法抓捕，随即采取了“监视居住”的审查措施，进行审查。5 月 25 日，经检察机关批准，国家安全机关对其执行了逮捕，进行了进一步审查。7 月 20 日，中方从中韩两国关系大局出发，并应韩国国情院请求，对金永焕等 4 人做出限期离境、不准再入境处理。

在接受国家安全机关审查中，金永焕等 4 人对其在华成立秘密组织、建立秘密据点、并接受韩国情报机关指挥、从事间谍情报活动的违法事实供认不讳。

根据人权理事会来函要求，中方对金永焕指控的“刑讯逼供”问题进行了全面、认真的调查。调查结果显示，金永焕的指控包括中方对其实施电刑、一周时间内不允许睡眠等均系编造、诬陷，中方办案机关不存在任何“刑讯逼供”行为。金永焕在被中方羁押期间，也从未向相关部门提出过申诉或向法院起诉。不存在对施害人制裁及对受害人补偿的问题。

在侦办金永焕案过程中，中方办案机关始终依法办案，保障其领事探视等合法权益，给予其人道主义待遇，尊重其人格，在饮食、文化、健康等各方面予以特殊关照，还多次进行体检和医学检查，并记录在案。相关情况及证据如下：

一、2012年3月29日，侦查机关对金永焕、柳在吉、姜信三、李尚龙4人依法抓捕后，依法告知4人诉讼权利和义务。

二、严格按照规定向韩国驻沈阳总领馆进行领事通报，并充分保障金永焕等4人领事探视权益。

（一）3月31日，侦查机关分别告知金永焕、柳在吉、姜信三、李尚龙领事探视权利。除金永焕要求领事探视外，其余3人均出具不要求领事探视书面材料。

（二）4月1日，书面通知韩国驻沈阳总领馆，金永焕等4人因涉嫌危害中华人民共和国国家安全罪，被依法采取强制措施。

（三）4月26日，在丹东市看守所安排韩驻沈阳总领馆领事沈在哲对金永焕进行领事探视。此次探视，金永焕未提出刑讯逼供问题，在如此近距离接触中，韩国领事也未发现金永焕有遭刑讯的任何迹象。

（四）6月11日，在丹东市看守所安排韩国驻沈阳总领馆沈在哲、金灿源、李在庸对金永焕等4人进行领事探视。

三、多次为金永焕等4人进行体检，保障4人健康权利，体检证实金永焕等4人身体无任何伤痕。

（一）4月15日，在监视居住地侦查机关请医生专门对金永焕等4人进行心电图、血压检查，4人各项身体指标正常。

（二）姜信三、李尚龙二人，金永焕、柳在吉二人分别于4月18日和4月28日，因涉嫌危害国家安全罪被采取刑事拘留，关押于丹东市看守所。在对金永焕等人刑事拘留时，按照看守条例，在监外医院对4人进行了体检，均一切正常，没有任何受到刑讯伤害情况。金永焕因血压偏高，被送往丹

东市第一医院进行检查，医生诊断未发现金身体有任何其他异常。经治疗后，金永焕血压恢复正常，被看守所收押。根据入监时档案照片显示，也未见金永焕等人身体上有伤痕。此外，丹东市看守所监区医生每半月按例询诊一次，对金永焕等人报告没有不适症状。

四、有关证人、证言证实中方充分保障金永焕等4人合法权益，给予人道主义待遇。

（一）丹东市五龙背培训中心总经理张南华证实，侦查机关在该培训中心办案期间，给予犯罪嫌疑人与办案人员同等伙食标准，在饮食上给予犯罪嫌疑人良好待遇并尊重民族饮食习惯。

（二）丹东市看守所证明，金永焕在押期间，每周为其测血压、服用口服降压药，并提供加餐等特殊照顾。

（三）对金永焕等人批准逮捕前，按照相关法律规定，丹东市检察院于5月23日对金永焕进行提审并告知其享有权利，提审期间检察院官员认真履行职责，依法告知金永焕享有的诉讼权利和义务，金反映侦查机关未对其有刑讯逼供行为。

（四）金永焕同监室人员孙强、郑长利、于成恩、金勇、于超证明，丹东市看守所在各方面对金永焕予以特殊照顾，没有任何人有过对金永焕的侮辱、打骂行为。金永焕性格比较孤僻，与其他人接触较少。

（五）7月19日，丹东市看守所管教为金永焕理发，证实未发现金身体有伤痕，金精神状态良好。

五、充分满足金永焕等4人生活需要，保障金永焕等4人财产权利。

（一）侦查机关多次为金永焕购买药品、为柳在吉购买

衣物、为金永焕等4人购买辣白菜、冷面等食物，多次为金永焕等4人在看守所寄存现金，供4人在押期间自行支配使用。

(二)6月29日，侦查机关同意韩国驻沈阳领馆领事沈在哲代表犯罪嫌疑人家属，为金永焕4人分别寄存了钱物，供4人在押期间自行支配使用。

(三)7月20日，侦查机关在金永焕4人限期离境前，返还了4人的有关物品、文件、现金，以及银行存款利息、韩国驻沈阳领馆领事代表家属为4人寄存的现金余额。

上述关于中方依法保障金永焕4人诉讼权、领事探视权、健康权、财产权等各项权利，满足其生活需要并给予人道主义待遇的证据材料见附件。

中国政府谨请将上述内容全文载入联合国有关文件中。