



FROM THE PERMANENT REPRESENTATIVE

AUSTRALIAN PERMANENT MISSION

TO THE UN GENEVA

Mr. Christopher Peschoux
Officer-in-charge
Special Procedures Branch
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
Palais Des Nations
1211 Geneva 10
Switzerland

Dear Sir

Re: Joint Communication of 4 January 2019 from Special Procedures.

I refer to the joint communication dated 4 January 2019 from the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

The Australian Government notes the concerns expressed in the joint communication and provides the following information in response to the six points included on page six of the communication.

1. Additional comment on the above-mentioned allegations

Australia remains a committed partner of the Global Coalition to Defeat Da'esh and to supporting the Government and people of Iraq to build a stable and secure country. We recognise the institutional challenges facing the Government of Iraq following gains against Da'esh. To this end and as part of international efforts, Australia continues to provide support to enhance Iraqi governance, reconciliation and social cohesion, addressing the underlying conditions that gave rise to Da'esh.

2. Does the Government of Australia seek the extradition of its nationals who may be prosecuted on terrorism-related charges in Iraq?

The Australian Government takes decisions on extradition matters on a case-by-case basis in light of all relevant circumstances.

3. Please indicate whether the Government of Australia has officially sought information from the Iraqi authorities about the number and identities of its own nationals facing trial in Iraq on charges of terrorism, including for real or suspected membership in, or association with, ISIL? In this respect, please provide information on the number of Australian nationals that are being prosecuted on these grounds

Australian agencies enjoy close cooperation with Iraqi counterparts on such matters. As a result, the Australian Government is confident the Iraqi authorities would notify it promptly if an Australian national were to be detained in Iraq on terrorism-related charges.

The Australian Government cannot provide details about the number of Australian nationals under prosecution in Iraq on charges of terrorism on operational and national security grounds.

4. Please indicate whether consular protection was extended to any national of Australia and the steps taken to ensure full respect of their human rights. If no action was undertaken, please explain why, and how this is consistent with the international human rights obligations that Australia has under the international instruments it has ratified.

The Australian Government cannot provide details on any specific cases of Australian nationals who may be currently detained and/or awaiting trial for terrorism-related charges in other countries, including Iraq, on operational and national security grounds.

The Australian Government, upon becoming aware of the possible or actual detention of an Australian national in Iraq, would seek detailed information from the Iraqi authorities, seek consular access, and offer consular assistance to the individual concerned - regardless of the nature of the charges against the individual. It would take such action in accordance with the Government's Consular Services Charter. However, for operational and privacy reasons, at this time the Australian Government cannot confirm publicly whether specific individuals in such circumstances are being provided with consular assistance or the nature of that assistance, nor will it provide details of numbers or locations. We also note that, owing to the challenging security environment in Iraq, our ability to provide consular assistance there is extremely limited. This fact is clearly noted in the Australian Government's Travel Advice.

Should the Australian Government become aware of an Australian national facing terrorism-related charges in Iraq, it would, as a matter of policy, seek immediate assurances from the Iraqi authorities of humane treatment and protection of other rights. It would also convey to Iraqi authorities its strong and principled opposition to the death penalty. The Australian Government has made regular representations, including at senior levels, to Iraqi authorities on our expectations that any detainees (of any nationality) be treated humanely and in accordance with international obligations and affirming its long-standing opposition to the death penalty.

5. Please indicate whether the Government of Australia has provided the families of its nationals facing trial or execution, or sentenced to death for terrorism in Iraq, with any information related to their conditions of detention, trial or execution.

Personal information that is collected for the purpose of providing an individual with consular assistance is used and disclosed solely for that purpose, unless otherwise permitted by the Privacy Act 1988 (Cth) (Privacy Act). The Australian Government will only provide information to a consular client's next of kin or representative with the consular client's consent, unless authorised under an exception to the Privacy Act.

Where a consular client has provided consent for the Australian Government to discuss their situation with their next of kin or representative, the Australian Government may provide

regular updates on the client's situation, trial, and other matters, as well as facilitating the passage of messages between the client and their next of kin.

6. Please indicate what steps have been taken to address the rights and protection of Australian women and children in Iraq who are detained and/or are awaiting trial for terrorism-related charges.

On operational and national security grounds, the Australian Government cannot provide details on any specific cases of Australian nationals who may be currently detained and/or awaiting trial for terrorism-related charges in Iraq. The procedure for dealing with such cases is outlined in our responses to points 4 and 5 above.

Conclusion

I trust the above information will be of assistance to the Special Procedure mandate holders. I reiterate the Australian Government's longstanding commitment to cooperating with the United Nations and the Australian Government's strong human rights record.

Yours sincerely

A handwritten signature in black ink that reads "Sally Mansfield." The signature is written in a cursive, flowing style.

H.E. Ms Sally Mansfield
Ambassador and Permanent Representative
Australian Permanent Mission to the United Nations
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