

Permanent Mission of the Kingdom of Saudi Arabia

Geneva

Reply to allegations and questions contained in a joint communication from thematic special procedures mandate holders of the Human Rights Council concerning the following persons:

Mohammad al-Otaibi, Abdullah al-Hamid, Mohammed al-Bajadi, Abdulkareem al-Khoder, Waleed Abu al-Khair, Fowzan al-Harbi, Issa al-Hamid, Fadhel al-Manasif, Raef Badawi, Issa Nukheifi, Abdulrahman al-Hamid, Omar al-Said, Nouf Abdulaziz, Nassima al-Sadah, Samar Badawi, Eman al-Nafjan, Hatoun al-Fassi, Abdulrahman al-Sadhan, Mohannad al-Mohaimeed and Mohammed al-Rabiah.

Following an examination of the situation and having solicited information from the competent authorities, the following response may be given:

1. In response to the request to provide any information or comment on the allegations

It should be noted that clarifications and information have already been provided regarding most of the individual cases, which figured in previous communications from thematic special procedures mandate holders of the Human Rights Council and have been reiterated in this communication. It is important to draw attention to the fact that information provided in regard of any cases should be given due consideration. Moreover, the information contained in the joint communication is inaccurate, being based on unfounded and uncorroborated allegations and claims from the source. The Kingdom of Saudi Arabia has nonetheless investigated the allegations and clarified the relevant facts, in line with its policy of cooperation with international human rights mechanisms.

- In their joint communication, the thematic special procedures mandate holders reiterate their concerns regarding the Terrorist Crimes and Terrorism Financing Act and its application, which might negatively affect the enjoyment of human rights and fundamental liberties in Saudi Arabia. The joint communication also refers to communication No. OL SAU 12/2020, which raised concerns about the special centres and reform and rehabilitation institutions that were set up pursuant to the Terrorist Crimes and Terrorism Financing Act, considering them to practise prolonged administrative detention and to constitute a serious risk of lengthy deprivation of liberty and of potential arbitrary detention.

Saudi Arabia remains committed to the human rights treaties to which it is a party and its laws are continually reviewed and updated in line with developments and changes at the local and international levels.

Like other countries, Saudi Arabia has suffered greatly from the activities of terrorists, who have unjustly targeted the innocent lives of citizens and residents alike, as well as of law

enforcement officials. Even women and children have not been spared, many of whom have fallen victim to terror attacks, not to mention, of course, the material damage that has been caused. The crime of terrorism – in all its forms and manifestations – is itself a violation of human rights and fundamental liberties, one that undermines international peace and security, threatens the national integrity of States and destabilizes societies. Terrorism, then, leads to violations of human rights, including the most fundamental of those rights, the right to life. Saudi Arabia is committed to promoting and protecting human rights using an approach that is firmly rooted in the country's constitutional adherence to Islamic sharia, which mandates that human rights are to be protected and prohibits their violation, while striking a balance between the interests of the individual and the interests of society. This principle is enshrined in article 26 of the Basic Law of Governance, according to which: “The State shall protect human rights in accordance with Islamic sharia.” In that regard, in fact, Saudi Arabia has acceded to a number of international human rights treaties.

In order to support sustainable development, it is vital to prevent and to combat this form of criminal conduct and to strengthen the rule of law, and this requires all States and societies to enact more laws to promote and protect human rights. For its part, Saudi Arabia has taken effective measures to combat terrorism while protecting human rights. In fact, the Terrorist Crimes and Terrorism Financing Act defines the two offences of terrorism and financing of terrorism; it describes the procedural steps to be taken in such cases vis-à-vis arrest, detention, legal representation and provisional release, and it identifies the courts competent to examine such matters. The Act stipulates the penalties for the various offences and it includes provision for the establishment of special centres to re-educate persons detained or convicted for such crimes. It also envisages the creation of reform and rehabilitation institutions to facilitate their reintegration into society.

With regard to the concerns expressed in communication No. OL SAU 12/2020 about the special centres and reform and rehabilitation institutions that were set up pursuant to the Terrorist Crimes and Terrorism Financing Act, which it considers to practise prolonged administrative detention and to constitute a serious risk of lengthy deprivation of liberty and of potential arbitrary detention.

It is important to correct a misconception on the part of the thematic special procedures mandate holders who signed the joint communication. These centres and institutions are not places of administrative detention; they are places for the re-education, rehabilitation and societal reintegration of convicted persons, who spend the last period of their sentence there and follow special instructional programmes. The period spent in these institutions is part of inmates' original prison sentence and not an additional period.

One of the most prominent features of the Terrorist Crimes and Terrorism Financing Act is that it strikes a balance between the risks such offences present and the protection of human rights as enshrined and protected under Islamic sharia. The Act also preserves the legal rights of accused persons and it defines the scope of terror offences. In particular, it should be noted that the Act does not affect the basic rights of accused persons as set forth in the Code of Criminal Procedure. Indeed, article 93 of the Act states: “The provisions of the Code of Criminal Procedure are to be applied in all matters not covered by a specific provision in the present Act.”

- **The joint communication contains the allegation that there are 22 human rights defenders who are serving prison sentence of 10 years or more and 1 who died while in prison.**

Saudi Arabia wishes to make it clear that no one is detained for exercising their rights and freedoms. All citizens and residents, men and women, enjoy their rights and exercise their freedoms without discrimination, in accordance with national law. No group, regardless of its designation, is accorded precedence with regard to the exercise of those rights and freedoms. Any person whose rights are violated may lodge a complaint using the available legal remedies, and State institutions have a legal obligation to ensure that all individuals are treated fairly, regardless of their religion, race, gender or nationality. If any of those institutions or their representatives, or anybody else, violates a person’s rights, there are a number of mechanisms that provide effective safeguards. These include the courts and governmental and non-governmental human rights institutions.

Domestic laws prohibit any restriction of movement of individuals, detention or imprisonment save in accordance with the law. This is consistent with article 36 of the Basic Law of Governance, which guarantees the security of all citizens and residents on national territory.

Any person charged with committing serious offences entailing detention is arrested or summoned for questioning. If the investigating authority considers that there is sufficient evidence against the accused person, the case file is referred to the competent court, in accordance with article 126 of the Code of Criminal Procedure. The accused is tried in public by an impartial and independent court, and judgments are handed down only after the person has been proven guilty of the offence. The sentence handed down and the penalties imposed depend on the nature of the offence committed. Criminal proceedings instituted against persons arrested on the charge of committing serious offences entailing detention or acts criminalized under domestic law are conducted in accordance with due process. They are given a fair trial in public before an independent court in which they have the right to defend themselves. They benefit from legal counsel and can appeal against the judgments handed down against them, which are subject to judicial review by higher courts. These procedures are consistent with international human rights standards.

The circumstances surrounding the death of the individual who died while serving his prison sentence were previously clarified by Saudi Arabia in its response to joint communication No. AL SAU 8/2020, dated 2 June 2020 and addressed to a number of special procedures mandate holders including some of the signatories of the present communication. In fact, Abdullah al-Hamid received the necessary medical attention, on an equal footing with other detainees and prison inmates, and his case was continually monitored by the Human Rights Commission. He was taken ill on 16 Sha'ban A.H. 1441 (9 April A.D. 2020) and the on-duty staff brought him to the 24-hour medical centre in the correctional facility, whence he was immediately transported to hospital in an ambulance belonging to the Saudi Red Crescent Authority. A medical examination and tests conducted in the presence of one of his children showed that he had suffered a stroke. He remained in an induced coma for 14 days, during which time he received the necessary medical care, but he died of a further stroke on Thursday 30 Sha'ban A.H. 1441 (23 April A.D. 2020).

In accordance with article 5 (1) of its Statutes, the Human Rights Commission duly went to the prison to check that current human rights laws and regulations were being enforced, to verify the presence of any eventual violations of those laws constituting an infringement of human rights and to take the necessary measures. Pursuant to article 5 (7) of the Statutes, the Commission also sought to establish the cause of Mr. al-Hamid's death, to which end it examined his medical file and ascertained that he had received appropriate medical care and had taken his medication regularly. Interviews were conducted with officials of the correctional facility and with several of the persons present at the time of the incident, including inmates who lived in the same wing as Mr. al-Hamid. Statements were taken from them about the incident and it was clearly established that procedures in respect of Mr. al-Hamid's condition had been properly followed and were consistent with laws and directives in place. No failure or negligence on the part of the prison administration or those who delivered medical care was found to have occurred. The medical report stated that death had occurred naturally as the result of a stroke, and the deceased's relatives declared that they were satisfied with that conclusion.

- **The joint communication contained allegations about a group of persons.**

In regard of the accusations and information concerning these individuals, as expressed in the joint communication, the following clarifications may be provided:

1. The case of Mohammad al-Otaibi

The person in question was summoned for questioning by the Public Prosecution Service – although he was not at first placed under arrest – on charges of perpetrating offences punishable under the Cybercrime Act; endeavouring to arouse sedition, foment chaos and disrupt public order, and inciting others to do likewise; and participating in the establishment of an unlicensed

association and conducting its operations without authorization from the competent authority. The individual in question appointed a lawyer to defend him and to accompany him during the investigation. The Public Prosecution Service then referred the case file and the bill of indictment to the competent court, in accordance with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” He and his lawyer were given a copy of the indictment and of other documents they had requested, in accordance with article 71 (8) of the implementing regulations of the Code of Sharia Procedure.

He was still at liberty when he appeared at his trial. The case for the prosecution was read out to him in accordance with article 160 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” The judge informed him of his right to engage a lawyer or legal representative, pursuant to article 4 (1) of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” He chose to defend himself pending the appointment of a lawyer to plead on his behalf, and he requested a delay in order to present his response and to appoint a lawyer. His request was granted. At the next hearing he appeared in the company of his lawyer, and both he and the lawyer were given a copy of the indictment and of other documents they had requested, in accordance with article 71 (8) of the implementing regulations of the Code of Sharia Procedure. The hearings continued in his presence and that of his lawyer, and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the evidence-collection records had been examined, after the parties had confirmed that they did not wish to make any additions thereto and after the closing arguments had been made in the presence of the accused. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver

its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court was satisfied that the accused person had committed a number of criminal offences – including participation in the establishment of an association without authorization from the competent body, failure to comply with a given pledge, participation in the preparation and drafting of statements aimed at disrupting national security, divulging information relative to an investigation and offences punishable under the Cybercrime Act – and sentenced him in first instance to a term of imprisonment of 14 years. It further ruled to ban him from travelling outside the country for a period equivalent to that of his prison term, once he had completed his sentence. He was given a copy of the judgment in order that he might appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.”

Both the public prosecutor and the defendant challenged the judgment, in accordance with article 9 of the Code of Criminal Procedure, which stipulates: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code.” Each filed a memorandum of appeal, in accordance with article 192 (1) of the Code. The judge examined the challenge but upheld the original judgment. The entire case file was then referred to the Court of Appeal pursuant to article 196 of the Code of Criminal Procedure, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.” The person concerned then filed an appeal for a reconsideration of the definitive sentence handed down against him, in accordance with article 204 of the Code of Criminal Procedure. The case is currently still pending.

In the second case, he was accused of fleeing the country while the judicial proceedings in the first case were still under way and he was at liberty, committing offences punishable under the Cybercrime Act and participating in the activities of an unlicensed association. He was permitted to appoint a lawyer and his brother and wife as his representatives. The hearings continued and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the parties had confirmed that they did not wish to make any additions thereto, after the evidence and the evidence-collection records had been examined and after the closing arguments had been made in the presence of the accused and his legal representatives. He was sentenced in first instance to a term of imprisonment of 1 year.

Both the public prosecutor and the defendant challenged the first-instance judgment, and the division of the court of first instance that had considered the case upheld its original judgment. The entire case file was then referred to the Court of Appeal pursuant to article 196 of the Code of Criminal Procedure, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules apply.” Having considered the case, the Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

- **The allegation was made that, on 11 January 2021, Al-Otaibi, who suffers from high blood pressure, began a hunger strike in protest at the refusal of prison authorities to provide him with access to appropriate medication to manage his condition and to transfer him to a prison closer to his family.**

This allegation is untrue. As Saudi Arabia stated in its response to joint communication No. AL SAU 3/2021 – dated 16 February 2021 and addressed to a number of special procedures mandate holders including some of the signatories of the present communication – the individual in question did not go on hunger strike. He receives the necessary medical attention, on an equal

footing with other detainees and prison inmates; he is provided with full medical services and appropriate medication for his high blood pressure, and he makes scheduled visits to specialized clinics. The State pays for the travel expenses and lodging of relatives of inmates and detainees being held in prisons of the Presidency of State Security that are outside their area of residence.

2. The case of Mohammed al-Bajadi

He was arrested and questioned under an arrest warrant, in accordance with article 35 of the 2001 Code of Criminal Procedure, which reads: “Except in cases of flagrante delicto, no one shall be arrested or detained without an order from the competent authority. Persons who are detained shall be treated in a manner conducive to the preservation of their dignity and shall not be harmed physically or mentally. They shall be informed of the reasons for their detention and shall have the right to contact anyone whom they wish to notify them of their detention.” He was informed that the reason for his arrest was that he was accused of preparing and disseminating material liable to undermine public order, an offence punishable under article 6 (1) of the Cybercrime Act, which reads: “Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to SRI 3 million: the production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life, and the preparation, dissemination or storage of such material on or via the Internet or a computer.” He was also accused of impugning the independence of judges; participating in the establishment and activities of an unlicensed association; failing to comply with orders to desist; offering resistance to security officials; and resisting arrest by causing a collision with a police vehicle while attempting to escape.

Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 16 of the 2001 Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the investigator is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” When the accused person appeared before the court, the case for the prosecution was read out to him and he was provided with a copy of the indictment, in accordance with article 161 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” He was informed that he had the right to engage a lawyer or legal representative, pursuant to article 4 of the Code, which stipulates: “Any accused person has the right to avail himself of the

services of a legal representative or lawyer to defend him during the investigation and trial stages.” He was given sufficient time to appoint whom he wished and, in fact, he appointed three representatives to plead for him in the case. A delegate from the Human Rights Commission attended one of the trial hearings. The court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the parties had confirmed that they did not wish to make any additions thereto, after the evidence-collection records had been examined, after the closing arguments had been made in the presence of the accused and his legal representatives, and after all relevant documentation had been scrutinized. This is consistent with article 173 of the 2013 Code of Criminal Procedure, which states: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court ruled in first instance that he should serve a term of imprisonment of 8 years, half of which was suspended in accordance with article 214 (2) of the Code, which stipulates: “The court hearing the case may make provision in its judgment for suspension of a *ta’zir* prison sentence if it has reason to believe that such suspension is justifiable in the light of the convicted person’s morals, past record, age or personal circumstances, the circumstances in which the offence was committed or other considerations. However, if within three years of the date the judgment to suspend the sentence becomes definitive, the convicted party reoffends and is convicted and imprisoned under ordinary law, the court can – at the request of the public prosecutor – revoke its suspension and order that the original sentence be reinstated, without prejudice to any penalty prescribed for the new offence.” The suspension was also in line with article 21 of the 2013 Terrorism and Financing of Terrorism Act, which states: “The Specialized Criminal Court may – if it believes that the convicted person will not re-commit any of the offences envisaged in the present Act and if the person has no previous convictions in that regard – suspend up to half of the sentence. The Court must specify the grounds for its decision to suspend part of the sentence, which shall be subject to appeal. If the convicted person reoffends, the suspension shall be revoked and the original sentence reinstated without prejudice to any penalty prescribed for the new offence.” In addition, the court banned him from travelling outside the country for a period of 4 years after leaving prison. This is consistent with article 6 (2) of the Travel Documents Act. That judgment was handed down against him for perpetrating offences prejudicial to national security, impugning the independence of judges,

participating in the establishment and activities of an unlicensed association, failing to comply with orders to desist and offering resistance to security officials.

The individual in question entered a challenge to the judgment against him, under article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code.” He duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the competent division of the court, which upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.” Having served his sentence, the person in question was subsequently released.

3. The case of Abdulrahman al-Sadhan

This individual is not a former assistant to the head of the Saudi Red Crescent Society, as stated in the communication, but was a member of the administrative staff of the Society.

He was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Terrorist Crimes and Terrorism Financing Act, then detained under articles 2 and 19 of the Act. He was accused of having committed the following terrorist offences:

1. Financing terrorism by collecting, holding, providing and transferring money to a terrorist entity, an action that is criminalized and punished under article 47 of the Terrorist Crimes and Terrorism Financing Act;

2. Supporting, sympathizing with and promoting a terrorist entity (Da'esh), an action that is criminalized and punished under article 34 of the Terrorist Crimes and Terrorism Financing Act;

3. Using the Internet and electronic programmes and devices to commit offences envisaged in the Terrorist Crimes and Terrorism Financing Act, actions that are criminalized and punished under article 43 of the Terrorist Crimes and Terrorism Financing Act;

4. Perpetrating actions that are criminalized and punished under article 30 of the Terrorist Crimes and Terrorism Financing Act;

5. Perpetrating actions that are criminalized and punished under article 6 (1) of the Cybercrime Act.

Having questioned this individual, the investigating authority was of the view that there was sufficient evidence to level charges and the Public Prosecution Service referred the case file to the competent court, in accordance with article 3 (1) (b) and (c) of the Statutes of the Public Prosecution Service. According to that provision, the Service has the legal authority to conduct investigations, to institute or suspend proceedings, and to pursue cases before the courts. These competencies are also set forth in article 15 of the Code of Criminal Procedure, which stipulates: "The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court".

When he appeared at his trial, the case for the prosecution was read out to him in accordance with article 160 of the Code of Criminal Procedure, which reads: "The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond." The judges informed him of his right to respond to the charges, either orally before the court or in writing, as well as his right to avail himself of the services of a lawyer or legal representative to defend him, pursuant to article 4 (1) of the Code, which stipulates: "Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages", and pursuant to article 139 of the Code of Criminal Procedure, which stipulates: "A defendant charged with serious offences shall appear personally before the court, without prejudice to his right to seek defence counsel. If he lacks the financial means to seek the assistance of a lawyer, he may ask the court to appoint one to defend him at State expense." He requested a delay in order to present his response and he asked that a lawyer be appointed to defend him. His request was granted and the court appointed a lawyer on his behalf at State expense. His father and representatives from the Human Rights Commission attended the entire trial. The hearings continued and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and

written defence pleas, after the parties had confirmed that they did not wish to make any additions thereto, after the evidence and the evidence-collection records had been examined and after the closing arguments had been made in the presence of the accused, his legal representative, his father and the representatives from the Human Rights Commission. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court sentenced him in first instance to a term of imprisonment of 20 years, to begin from the date of his arrest. It further ruled to ban him from travelling outside the country for a period equivalent to that of his prison term, once he had completed his sentence.

Once the first instance judgment had been handed down, the individual in question was granted the right to enter a challenge by filing a memorandum of appeal within 30 days of receiving a copy of the judgment. This is consistent with article 192 (1) of the Code of Criminal Procedure, which reads: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The court must inform them of that right when it delivers its judgment.” The challenge was filed but the judges of the court of first instance upheld the original judgment. The case file was then referred to the Court of Appeal pursuant to article 196 of the Code of Criminal Procedure, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules apply.” The case is currently still pending.

- **The joint communication contains the allegation that the first hearing of the trial of Abdulrahman al-Sadhan was held in secret, that he did not have access to legal representation and that his lawyer was not given sufficient time to examine the evidence for the prosecution.**

This allegation is untrue. All the hearings of the trial of the individual in question were held in public. In fact, according to article 64 of the Code of Sharia Procedure, proceedings are to be public unless the judge, of his own volition or at the request of one of the parties, orders that they be held in camera in order to maintain order, observe public morals or protect family privacy. The same principle is enshrined in article 154 of the Code of Criminal Procedure. Under article 164 of the Code of Sharia Procedure, the sentence must be read out in public, a principle also reconfirmed in the Code of Criminal Procedure in article 181 (1), which states that the judgment – duly signed by those who issued it – must be read out in a public session even if the case was heard in camera. The parties to the case must be present as must the judges issuing the judgment, unless one of them is prevented from attending. Moreover, as stated earlier, all trial hearings were attended by his father and representatives from the Human Rights Commission. He was not denied access to legal representation. In fact, he requested that a defence lawyer be appointed on his behalf at State expense, and that request was granted, as explained earlier.

The lawyer was given the facilities and time necessary to provide legal assistance to the individual. In fact, according to article 19 of the Statutes of the Bar Association, the judiciary and the investigating authorities must give lawyers the facilities they need to carry out their duties; they must be allowed to examine the case documents and to be present during the investigation, and none of their requests may be refused without a legal justification. Additionally, the Charter of the Saudi Bar Association contains provisions to support the role of lawyers in promoting and protecting human rights.

- **The joint communication contains the allegation that Abdulrahman al-Sadhan was not allowed to have visits or calls from his family or lawyer, that he was subjected to torture and that he was held in solitary confinement.**

The allegation that this individual was held in solitary confinement is untrue. He was allowed to make calls and receive visits and he was not subjected to or threatened with torture. Domestic laws prohibit the physical or mental abuse, torture or ill-treatment of persons who have been arrested. Moreover, the interrogation of accused persons has to be conducted in a manner that does not influence their will to make statements. They must not be required to take an oath or be subjected to coercive measures. The law prohibits and penalizes torture, as will be explained below.

There are no secret detention centres in Saudi Arabia, all prisons and places of detention being unconcealed and well-known. Article 2 of the Code of Criminal Procedure stipulates that no person may be arrested, searched, detained or imprisoned except where provided for by law. In addition, persons are detained or imprisoned only in locations designated for such purposes and for the period prescribed by the competent authority, in accordance with article 37 of the Code, which

stipulates: “A person may be detained or imprisoned only in prisons or detention facilities legally designated for that purpose. The administration of a prison or detention centre shall not admit any person save pursuant to an order specifying the reasons and period for such imprisonment duly signed by the competent authority. The accused shall not remain in custody following the expiry of the period specified in that order.” All detention centres and prisons in Saudi Arabia are subject to judicial, administrative, health and social inspections in accordance with article 5 of the Prison and Detention Act. The Public Prosecution Service carries out its oversight duties in line with its own Statutes, article 3 of which grants prosecutors the authority to supervise and inspect prisons, detention centres and any other location in which criminal sentences are enforced, to receive complaints from prisoners and detainees, verify the legitimacy of their imprisonment or detention, check whether any persons are being held beyond the expiry of the specified term, take steps to secure the release of persons imprisoned or detained without legitimate reason and launch legal proceedings against the persons responsible. According to article 40 of the Code of Criminal Procedure: “Anyone who knows that a person is being imprisoned or detained unlawfully, or in a place not intended for imprisonment or detention, must notify the Public Prosecution Service. The competent official from the Service must go immediately to the place where the prisoner or detainee is located, conduct an investigation and order the person’s release if he is being unlawfully imprisoned or detained. The official shall write a report to that effect for submission to the competent authority so that it may launch legal proceedings against the persons responsible.”

4. The case of Abdullah al-Hamid

He was interrogated by the Public Prosecution Service concerning charges of perpetrating offences prejudicial to national security and offences punishable under article 6 of the Cybercrime Act. Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 16 of the 2001 Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the investigator is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” When the accused person appeared before the court, the case for the prosecution was read out to him and he was provided with a copy of the indictment, in accordance with article 161 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” He was informed that he had the right to engage a lawyer or legal representative in his

defence, pursuant to article 4 of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” He appointed five legal representatives and he remained at liberty during the course of his trial. The hearings continued and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the parties had confirmed that they did not wish to make any additions thereto, after the evidence-collection records had been examined, after the closing arguments had been made in the presence of the accused and his legal representatives, and after all relevant documentation had been scrutinized. This is consistent with article 174 of the Code of Criminal Procedure, which states: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court ruled in first instance that he should serve a prison sentence from which he had previously been amnestied as he had violated the conditions of the amnesty. He was also sentenced to a term of imprisonment of 5 years and banned from travelling outside the country for a period equivalent to that of his prison term, once he had completed his sentence. This is consistent with article 6 (2) of the Travel Documents Act. That judgment was handed down for committing offences prejudicial to national security and offences punishable under article 6 of the Cybercrime Act. Upon delivery of the judgment, he decided to enter a challenge; he was given a copy of the judgment and duly filed a memorandum of appeal, in accordance with the following articles of the Code of Criminal Procedure: Article 9: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code.” Article 193: “The accused, the public prosecutor or the civil claimant may appeal judgments in criminal cases – be they of conviction, acquittal or non-jurisdiction – and the court must inform them of that right when it delivers its judgment.” Article 194: “The time limit for filing an appeal is 30 days from the date of receipt of a copy of the judgment. After delivering its judgment the court shall set a time limit of not more than 10 days for a copy thereof to be handed over. This shall be noted in the record of the proceedings and signed by the appellant. If the latter fails to appear to receive a copy of the judgment, it shall be deposited in the case file upon the expiration of the time limit, and this shall be noted in the record by order of the judge. The date it is deposited shall constitute the beginning of the 30-day time limit for appeal of the judgment. The authority responsible for the prisoner must bring him to receive a copy of the

judgment within the prescribed time, just as it must bring him within the prescribed time to file his challenge.” Article 196: “The memorandum of appeal is to be submitted to the court that issued the judgment. The memorandum is to identify the challenged judgment, its date, the grounds on which it was based, the appellant’s petitions and the substantiating grounds for the challenge.”

The memorandum of appeal was examined by the judge of the court of first instance, who upheld the original judgment. The entire case file was then submitted to the Court of Cassation, under article 197 of the Code of Criminal Procedure, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Cassation. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the 2013 Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.” This individual then died of natural causes while serving his sentence, as explained earlier.

5. The case of Abdulkareem al-Khoder

He was interrogated by the Public Prosecution Service concerning charges of committing offences prejudicial to national security; advocating and inciting breaches of the law; fomenting chaos; disrupting law and order; participating in the establishment of an unlicensed association; and producing, storing and disseminating material liable to undermine law and order, punishable under article 6 (1) of the Cybercrime Act. Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 15 of the 2013 Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear. The case shall then proceed on the basis of the memorandum of the charges.”

He appeared before the competent court in accordance with article 135 of the Code of Criminal Procedure, which stipulates: “If a case is brought to court, the accused person shall be summoned to appear. The summons to appear shall be dispensed with if the accused person attends the hearing and is charged.” The charges were brought in accordance with article 160 of the Code, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” The case for the prosecution was read out to him, and the judge informed him of his right to engage a lawyer or legal representative, pursuant to article 4 (1) of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” He duly appointed a legal representative and, when asked to respond to the prosecution case, requested a delay in order to make his response. Having heard statements from all the parties and the submission of all oral and written defence pleas, and having examined the evidence against the accused and studied the relevant documentation, the court delivered its judgment. This is consistent with article 173 of the Code of Criminal Procedure, which states: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court ruled in first instance that he should serve a term of imprisonment of 10 years, and it banned him from travelling outside the country for a period equivalent to that of his prison term. This is consistent with article 6 (2) of the Travel Documents Act. That judgment was handed down for committing offences prejudicial to national security; advocating and inciting breaches of the law; fomenting chaos; disrupting law and order; disparaging and insulting the courts; publicly impugning the probity and independence of judges; participating in the establishment of an unlicensed association; and producing, storing and disseminating material liable to undermine law and order, punishable under article 6 (1) of the Cybercrime Act, which states: “Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to SRI 3 million: the production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life, and the preparation, dissemination or storage of such material on or via the Internet or a computer.” He was also sentenced for violating the Act regulating the legal profession.

Upon delivery of the judgment, he decided to enter a challenge under article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code.” He was given a copy of the judgment and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the judge of the court of first instance, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

6. The case of Waleed Abu al-Khair

He was interrogated by the Public Prosecution Service, in accordance with article 14 of the 2001 Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall – pursuant to its own Statutes and the implementing regulations thereof – conduct investigations and institute proceedings”, and in accordance with article 3 of the Statutes of the Public Prosecution Service, which states: “The Service shall, in accordance with its Statutes and the implementing regulations thereof, undertake the following activities: (a) Investigate offences; (b) Decide whether to institute proceedings or close the case, in accordance with the implementing regulations; (c) Conduct prosecutions before the courts, in accordance with the implementing regulations.” The charges he faced included defaming the national judiciary, challenging the impartiality of a judge and undermining justice. Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 126 of the Code of

Criminal Procedure, which reads: “If the investigator is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The court held a number of hearings then handed down its judgment in which it found him guilty of defaming the national judiciary and sentenced him to a term of imprisonment of 3 months.

He was detained on 26 Dhu al-Qa’dah A.H. 1434 for organizing assemblies prejudicial to public order. He was questioned by the Public Prosecution Service then released on 27 Dhu al-Qa’dah A.H. 1434. However, he persisted in his criminal conduct and he was again questioned by the Public Prosecution Service which, eventually, charged him with the following: producing, storing and disseminating information prejudicial to public order; defaming and insulting the judiciary; publicly impugning the probity and independence of judges; falsely accusing judges of injustice, partiality and violation of human rights; and establishing and supervising one unlicensed association and participating in the establishment of another. The case file was referred to the competent court, in accordance with article 126 of the Code of Criminal Procedure, and he appeared before that court in accordance with article 135 of the 2013 Code of Criminal Procedure, which stipulates: “If a case is brought to court, the accused person shall be summoned to appear.” He appointed a lawyer and a legal representative as per article 4 of the Code, which states: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” The charges were brought in accordance with article 160 of the Code, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” He was held in detention pursuant to an order issued by the presiding judge under article 123 of the Code, which reads: “Where accused persons are referred to court, the court may decide whether to release them if they are in detention or place them in detention if they are at liberty.” Having heard statements from all the parties and the submission of all oral and written defence pleas, and having examined the evidence against the accused and studied the relevant documentation, the court delivered its judgment. This is consistent with article 173 of the Code of Criminal Procedure, which states: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court ruled in first instance that he

was guilty of the following offences: subverting public order; making and disseminating false and unsubstantiated statements detrimental to the reputation of the country and its judicial and executive institutions; establishing, acting as head and supervising the activities of an unlicensed association; and producing, storing and disseminating material liable to undermine law and order, which is punishable under article 6 (1) of the Cybercrime Act which reads: “Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to SRI 3 million: the production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life, and the preparation, dissemination or storage of such material on or via the Internet or a computer.” Both the individual in question (with his lawyer and his legal representative) and the public prosecutor challenged the judgment, in accordance with article 9 of the Code of Criminal Procedure, which stipulates: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and in accordance with article 192 (1), which stipulates: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The entire case file was then referred to the Court of Appeal pursuant to article 196 of the Code of Criminal Procedure, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules apply.” The Court of Appeal upheld the judgment by consensus, imposing a sentence of 15 years’ imprisonment, to begin from the date of his arrest; a fine of SRI 200,000; the closure of the online accounts used to commit the offence, in accordance article 13 of the Cybercrime Act; and a ban on travelling outside the country for a period equivalent to that of the prison term, upon completion of sentence, in line with article 6 (2) of the Travel Documents Act. All stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

- **The joint communication contains the allegation that Waleed Abu al-Khair began a hunger strike on 11 December 2019 in protest against being transferred to a high security unit, that he was transferred to hospital over fears concerning his health and that he announced the end of his hunger strike on 6 February 2020 after being transferred back to his previous prison accommodation.**

As Saudi Arabia stated in its response to joint communication No. UA SAU 3/2020 – dated 25 February 2020 and addressed to a number of special procedures mandate holders including some of the signatories of the present communication – the reasons behind the hunger strike of Waleed Abu al-Khair were duly investigated and the situation was addressed by the prison administration, in line with the law and regulations. In order to make him desist, a committee of experts was formed to explain to him what the effects would be if he persisted in his hunger strike, and he eventually abandoned the strike of his own will. Moreover, during the course of his hunger strike, he was visited by a delegate of the Human Rights Commission who checked up on his condition and on the measures being taken. He was examined by a doctor in the prison medical centre on 13 Jumada I A.H. 1441 (8 January A.D. 2020) but refused to take any intravenous solutions. He was then taken to hospital, whence he returned on the same day, and his state of health was good. He was taken to hospital again on 1 Rajab A.H. 1441 (25 February A.D. 2020) for another health check-up and returned on the same day after having been examined and received the necessary treatment. His situation continues to be monitored.

7. The case of Fowzan al-Harbi

He was interrogated by the Public Prosecution Service concerning charges of attempting to prejudice security and foment chaos; inciting public opinion against State authorities; participating in the establishment of an unlicensed association with the aim of prejudicing security; producing, storing and disseminating material liable to undermine public order, which is criminalized and punishable under article 6 (1) of the Cybercrime Act; and non-compliance with a judicial ruling ordering the dissolution of an association. This is consistent with article 14 of the 2001 Code of Criminal Procedure, which reads: “The Public Prosecution Service shall – pursuant to its own Statutes and the implementing regulations thereof – conduct investigations and institute proceedings”, and with article 3 of the Statutes of the Public Prosecution Service, which states: “The Service shall, in accordance with its Statutes and the implementing regulations thereof, undertake the following activities: (a) Investigate offences; (b) Decide whether to institute proceedings or close the case, in accordance with the implementing regulations; (c) Conduct prosecutions before the courts, in accordance with the implementing regulations.” He was released on bail then, upon completion of the investigation, a bill of indictment was issued against him and

the bill and the case file were referred to the competent court, in accordance with article 16 of the 2001 Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the investigator is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The individual concerned was arrested on 23 Safar A.H. 1435 under a judicial order issued by the presiding judge in accordance with article 123 of the 2013 Code of Criminal Procedure, which states: “Where accused persons are referred to court, the court may decide whether to release them if they are in detention or place them in detention if they are at liberty.” He was released on bail on 26 Sha’ban A.H. 1435.

The court ruled in first instance that he should serve a term of imprisonment of 7 years, suspended for 6 years, to begin from the date he entered prison. This is in line with article 214 (2) of the Code of Criminal Procedure, which reads: “The court hearing the case may make provision in its judgment for suspension of a *ta’zir* prison sentence if it has reason to believe that such suspension is justifiable in the light of the convicted person’s morals, past record, age or personal circumstances, the circumstances in which the offence was committed or other considerations.”

He entered a challenge against the judgment, in accordance with article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance.” The memorandum of appeal was examined by the competent division, which upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.”

The Court of Appeal returned the case file accompanied by a number of observations. These were examined by the judge who eventually handed down a sentence of 10 years’ imprisonment, a ban on travelling outside the country for an equivalent period, in line with article 6 (2) of the Travel Documents Act, and the confiscation of the materials used to commit the offence. The case file was

again submitted to the Court of Appeal, which upheld the judgment. All stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

8. The case of Issa al-Hamid

He was interrogated by the Public Prosecution Service concerning charges of perpetrating offences punishable under the Cybercrime Act; participating in the establishment of an unlicensed association, acting as head of that association and failing to comply with a court order to dissolve it; and offences prejudicial to national security. Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear. The case shall then proceed on the basis of the memorandum of the charges.”

He appeared before the competent court in accordance with article 135 of the Code of Criminal Procedure, which stipulates: “If a case is brought to court, the accused person shall be summoned to appear. The summons to appear shall be dispensed with if the accused person attends the hearing and is charged.” The charges were brought in accordance with article 160 of the Code, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” The case for the prosecution was read out to him, and the judge informed him of his right to engage a lawyer or legal representative, pursuant to article 4 (1) of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” He duly appointed a legal representative and, when asked to respond to the prosecution case, requested a delay in order to make his response. He remained at liberty during the course of his trial. The hearings continued and the court issued its judgment only after it had heard statements from all the parties and the submission of all oral and written defence pleas, and having examined the evidence against the accused and studied the

relevant documentation. This is consistent with article 173 of the Code of Criminal Procedure, which states: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court ruled in first instance that he should serve a term of imprisonment of 9 years, and it banned him from travelling outside the country for a period equivalent to that of his prison term. This is consistent with article 6 (2) of the Travel Documents Act. Furthermore, he was required to give an undertaking not to reoffend by committing any of the offences of which he had been convicted, namely: offences punishable under the Cybercrime Act; participating in the establishment of an unlicensed association, acting as head of that association and failing to comply with a court order to dissolve it; misleading public opinion; openly impugning the integrity and piety of members of the Council of Senior Ulema; disparaging the judiciary; and offences prejudicial to national security.

Upon delivery of the judgment, he decided to enter a challenge under article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code.” He was given a copy of the judgment and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the judge of the court of first instance, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment, imposing a sentence of 11 years’ imprisonment and a ban on travelling outside the country for a period equivalent to that of his prison term. It further ruled that he should pay a fine of SRI 100,000 and give an undertaking not to reoffend. All stages of judicial review having thus been completed, the sentence became definitive

and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

9. The case of Fadhel al-Manasif

He was arrested in accordance with article 35 of the 2001 Code of Criminal Procedure, which reads: “Except in cases of flagrante delicto, no one shall be arrested or detained without an order from the competent authority.” A detention order was duly issued pursuant to article 113 of the Code, which states: “If it appears, following the interrogation of the accused or in the event of his flight, that there is sufficient evidence against him of involvement in a serious offence, or if the investigation requires him to be kept in detention to prevent flight or interference in the course of the investigation, the investigator shall issue a warrant for his detention for a period not exceeding 5 days from the date of arrest.” The detention was subsequently extended in accordance with article 114 of the Code, which stipulates: “Detention shall end after 5 days unless an investigator sees fit to extend the period of detention in which case he shall, prior to expiry of that period, refer the file to the director of the Public Prosecution Service in the relevant province ... so that he may issue an order, either to release the detainee or to extend the detention for a further period or successive periods, provided that the total does not exceed 40 days from the date of arrest. In cases requiring detention for a longer period, the matter shall be referred to the director of the Public Prosecution Service ... so that he may issue an order to extend the detention for a further period or successive periods, provided that each period does not exceed 30 days and that the total does not exceed 6 months from the date of arrest. Following that time, the accused must either be referred to the competent court or released.” He was held in solitary confinement while the investigation was underway, in accordance with article 119 of the Code, according to which: “The investigator may, in all cases and if the investigation so requires, order that an accused person be prevented from communicating with other prisoners or detainees, and from receiving visits, for a period not exceeding 60 days, without prejudice to the accused person’s right to communicate with a legal representative or lawyer.” He was interrogated then the case file was referred to the competent court, in accordance with article 16 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the investigator is of the opinion, once the investigation has been concluded, that there is

sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The court conducted his trial over a number of sessions in the presence of the accused person, his lawyer and legal representative, and of the public prosecutor. This is consistent with article 4 (1) of the 2013 Code of Criminal Procedure, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages”, and with article 65, which reads: “The accused shall have the right to seek the assistance and presence of a legal representative or lawyer during the investigation.” Some of the trial hearings were also attended by representatives from foreign embassies. Having examined the evidence and the submissions and pleas of the public prosecutor, the defendant and the defendant’s lawyer and legal representative, the judge formed the conviction that the accused person had indeed committed the following offences: involvement in riotous acts and fomenting chaos; provoking and inciting sectarian discord; prejudicing national cohesion and arousing discord among citizens; making false, unfounded and unsubstantiated accusations to the effect that the State kills, abducts and detains its citizens without legal cause, thereby misleading public opinion and tarnishing the Kingdom’s reputation; and producing, storing and publishing via the Internet information prejudicial to public order, which constitutes a punishable criminal offence under the Cybercrime Act.

The court ruled in first instance that he should serve a term of imprisonment of 14 years from the date of his arrest, of which 4 years under article 6 of the Cybercrime Act. Under the same Act, the court also ruled that he should pay a fine of SRI 100,000. Furthermore, it banned him from travelling outside the country for 14 years from the date of completion of his sentence. This is consistent with article 6 (2) of the Travel Documents Act.

He entered a challenge against the judgment, in accordance with article 9 of the 2013 Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance.” The memorandum of appeal was examined by the competent division, which upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case

shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

10. The case of Raef Badawi

He was arrested on 30 Safar A.H. 1429 (8 March A.D. 2008) under article 35 of the 2001 Code of Criminal Procedure, which states: “Except in cases of flagrante delicto, no one shall be arrested or detained without an order from the competent authority.” He was released on the same day then arrested again on 22 Rabi’ I A.H. 1429 (30 March A.D. 2008) and released the following day on bail. He was accused of having committed cyber offences that were prejudicial to public order and contrary to Islamic values and that are criminalized under article 6 (1) of the Cybercrime Act, which stipulates: “Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to SRI 3 million: the production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life, and the preparation, dissemination or storage of such material on or via the Internet or a computer.” He was further accused of having assisted others to commit the aforementioned offences, which is punishable under article 9 of the Cybercrime Act. which states: “Anyone who instigates or assists others or conspires with them to commit any of the offences defined in this Act shall be liable to the following penalties: if the offence was committed as a result of such instigation, assistance or conspiracy, the person shall be liable to the maximum penalty prescribed for that offence; if the offence was not committed, the person shall be liable to half the maximum penalty prescribed for the principal offence.”

He was interrogated by the competent authority, in accordance with article 3 of the Statutes of the Public Prosecution Service, which states: “The Service shall, in accordance with its Statutes and the implementing regulations thereof, undertake the following activities: (a) Investigate offences.” This is consistent with article 14 of the 2001 Code of Criminal Procedure, which reads: “The Public Prosecution Service shall – pursuant to its own Statutes and the implementing regulations thereof – conduct investigations and institute proceedings”, and with article 16 of the Code, according to which: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court.” Upon completion of the

interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 126 of the Code of Criminal Procedure, which stipulates: “If the investigator is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” While the case was being examined, the criminal court issued a summons for the accused to appear in person, pursuant to article 140 of the Code, which reads: “A defendant charged with serious offences shall appear personally before the court, without prejudice to his right to seek defence counsel. In cases involving other offences, he may delegate a legal representative or a lawyer to defend him. In all cases, the court may order the accused to appear in person.” However, since he failed to appear at the hearings without presenting a justification, the court ordered his arrest under article 123 of the Code, which states: “Where accused persons are referred to court, the court may decide whether to release them if they are in detention or place them in detention if they are at liberty. In the event of a judgment affirming lack of jurisdiction, the court rendering that judgment shall be competent to hear a petition for release or detention until such time as the case is referred to the competent court.” This was also consistent with article 141 of the Code, which reads: “If an accused person who has duly been summoned to appear fails to do so on the date set in the summons and fails to send a legal representative (in circumstances in which he is entitled to appoint such a representative), the judge shall hear the charges brought and the evidence for the prosecution, which shall be entered in the record of the proceedings, but no judgment shall be rendered until the accused has appeared. The judge may issue a detention order if there is no acceptable justification for the accused person’s failure to appear.” The individual in question was detained on 27 Rajab A.H. 1433 (17 June A.H. 2012). The court held a number of hearings in the presence of his legal representative and the public prosecutor during which it considered the evidence and the submissions and pleas presented by the prosecution, the defendant and his legal representative in connection with the charges against him, namely the commission of cyber offences consisting in: the production of material prejudicial to public order; violation of the sacrosanct nature of religion and its followers; calling the principles of religion into question; provoking discord and strife between communities; deriding the basic tenets of the Islamic religion; disparaging and attacking society’s sacrosanct religious symbols and firmly established principles; producing, disseminating, storing and publishing such material via the Internet; and showing disrespect for his father. In the end, the court issued a judgment sentencing him to a term of imprisonment of 5 years and a fine of SRI 1 million for producing material prejudicial to public order, religious values and public morals and for preparing, disseminating and storing such material via the Internet. Those acts constitute criminal offences under article 6 (1) of the Cybercrime Act.

The court also ordered the confiscation of the materials used to commit the offence, in accordance with article 13 of the Cybercrime Act. The court further sentenced him to a *ta'zir* prison sentence of 5 years for the other offences and ordered that he be given 1,000 lashes, to be inflicted in public over 20 sessions, separated by not less than one week. In addition, it prohibited him from participating in audio or visual social media activities and banned him from travelling outside the country for a period of 10 years after completion of his sentence, in line with article 6 (2) of the Travel Documents Act.

He entered a challenge against the judgment, in accordance with article 9 of the 2013 Code of Criminal Procedure, which reads: "Judgments in criminal cases may be contested in accordance with the provisions of the present Code", and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: "The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance." The memorandum of appeal was examined by the competent division, which upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: "The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply." The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: "Judgments shall not be enforced until they have become final." The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: "The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately."

11. The case of Mohannad al-Mohaimeed

This individual was arrested and accused of committing various offences, including embracing a terrorist ideology, incitement to kill and preparing and disseminating material liable to undermine public order, an offence punishable under article 6 (1) of the Cybercrime Act.

In accordance with the law, his case was examined by the competent court in a fair and public trial, during which he was given the possibility of defending himself, of appointing a legal representative to plead on his behalf and of challenging the judgment issued against him. The court

ruled that he should serve a term of imprisonment of 10 years and banned him from travelling outside the country for 10 years from the date of completion of his sentence. That judgment was reviewed by a court of a higher level, which upheld the original sentence.

12. The case of Issa Nukheifi

He was arrested on 19 Rabi' I A.H. 1438 (18 December A.D. 2016) under article 2 of the Code of Criminal Procedure, which states: "No person may be arrested, searched, detained or imprisoned save where provided for by the law. A person may be detained or imprisoned only in a location designated for such purposes and for the period prescribed by the competent authority. A person under arrest shall not be subjected to physical or moral harm and shall not be subjected to torture or degrading treatment." He was accused of committing acts prejudicial to national security and cyber offences punishable under article 6 (1) of the Cybercrime Act. He was brought before the Public Prosecution Service within 24 hours, in accordance with article 34 of the Code of Criminal Procedure, which reads: "A law enforcement official must immediately take the statement of the arrested person. If there appears to be sufficient evidence to charge that person, he must be referred to the investigating judge, along with the police report, within 24 hours. The investigating judge must interrogate the arrested person within 24 hours then order either his arrest or release." He was held in detention and questioned by the competent authorities, in line with article 13 of the Code, which stipulates: "The Public Prosecution Service shall – pursuant to its own Statutes and the implementing regulations thereof – conduct investigations and institute proceedings." The detention was subsequently extended in accordance with article 114 of the Code, which stipulates: "Detention shall end after 5 days unless an investigator sees fit to extend the period of detention in which case he shall, prior to expiry of that period, refer the file to the director of the Public Prosecution Service in the relevant province – or the person deputized to act for him from among the heads of the departments within his jurisdiction – so that he may issue an order, either to release the detainee or to extend the detention for a further period or successive periods, provided that the total does not exceed 40 days from the date of arrest. In cases requiring detention for a longer period, the matter shall be referred to the director of the Public Prosecution Service – or the person deputized to act for him – so that he may issue an order to extend the detention for a further period or successive periods, provided that each period does not exceed 30 days and that the total does not exceed 180 days from the date of arrest. Following that time, the accused must either be referred to the competent court or released. In exceptional cases that require detention for a longer period, the court may approve an application to extend the detention for a further period or successive periods as it sees fit, issuing a reasoned judicial ruling to that effect." Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance

with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.”

When he appeared at his trial, the case for the prosecution was read out to him in accordance with article 160 of the Code of Criminal Procedure, which states: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” The judge informed him of his right to avail himself of the services of a legal representative or lawyer to defend him, pursuant to article 4 (1) of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages”. He asked for a legal representative to be appointed and the trial went ahead, some of the hearings being attended by representatives of the European Union Delegation. The court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the evidence-collection records had been examined, after the parties had confirmed that they did not wish to make any additions thereto and after the closing arguments had been made in the presence of the accused, and after all relevant documentation had been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court was satisfied that the accused person had committed offences prejudicial to national security and offences punishable under the Cybercrime Act, and sentenced him in first instance to a term of imprisonment of 6 years and ordered the confiscation of the materials used to commit the offence. It further ruled to ban him from travelling outside the country for a period equivalent to that of his prison term, once he had completed his sentence. He was given a copy of the judgment in order that he might appeal, in accordance with article 192 (1) of the Code, which states: “The convicted

person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.”

He entered a challenge against the judgment, in accordance with article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code. The memorandum of appeal was examined by the competent judge, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

13. The case of Nouf Abdulaziz

She was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Terrorist Crimes and Terrorism Financing Act, which stipulates: “The Public Prosecution Service may issue a summons or an arrest warrant against a person suspected of committing any of the offences envisaged in the present Act.” She was accused of committing acts prejudicial to national security and cyber offences punishable under article 6 (1) of the Cybercrime Act, and she was held in detention under article 2 of the Act, according to which: “The offences envisaged in the present Act are deemed to constitute serious offences that necessitate arrest.”

Having questioned this individual, the investigating authority was of the view that there was sufficient evidence, and charges were levelled in accordance with article 126 of the Code of Criminal Procedure, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The Public

Prosecution Service thus referred the case file to the competent court and the accused person was summoned to appear before that court, in accordance with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”. This is also consistent with article 3 (b) and (c) of the Statutes of the Public Prosecution Service, according to which the Service has the legal authority to conduct investigations, to institute or suspend proceedings, and to pursue cases before the courts.

When she appeared at her trial, the case for the prosecution was read out to her in accordance with article 160 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” She asked for a lawyer to be appointed as well as for a delay in order to present her response, and her request was granted. The hearings continued in her presence as well as that of her lawyer and of representatives of the Human Rights Commission, and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the evidence-collection records had been examined, after the parties had confirmed that they did not wish to make any additions thereto and after the closing arguments had been made in the presence of the accused, her lawyer and representatives of the Human Rights Commission, and after all relevant documentation had been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court was satisfied that the accused person had committed offences punishable under the Cybercrime Act, and sentenced her in first instance to a term of imprisonment of 5 years under article 6 (1) of the Cybercrime Act. This was commuted to the period already spent in detention in connection with the case and she was released under article 214 (2) of the Code of Criminal Procedure. The court further ruled to ban her from travelling outside the country for a period of 5 years, once she had completed her sentence. She was given a copy of the judgment in order that she might appeal, in accordance with article 192 (1) of the Code, which states: “The

convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.”

She entered a challenge against the judgment, in accordance with article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the competent judge, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.” She was released on 18 Rabi’ II A.H. 1442 (3 December A.D. 2020).

The competence of a court to hear a case is determined by the rules on jurisdiction *ratione materiae* and *ratione loci* set out in domestic law.

14. The case of Nassima al-Sadah

She was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Terrorist Crimes and Terrorism Financing Act, which stipulates: “The Public Prosecution Service may issue a summons or an arrest warrant against a person suspected of committing any of the offences envisaged in the present Act.” She was accused of committing acts prejudicial to national security and cyber offences punishable under article 6 (1) of the Cybercrime

Act, and she was held in detention under article 2 of the Act, according to which: “The offences envisaged in the present Act are deemed to constitute serious offences that necessitate arrest.”

Having questioned this individual, the investigating authority was of the view that there was sufficient evidence, and charges were levelled in accordance with article 126 of the Code of Criminal Procedure, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The Public Prosecution Service thus referred the case file to the competent court and the accused person was summoned to appear before that court, in accordance with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”. This is also consistent with article 3 (b) and (c) of the Statutes of the Public Prosecution Service, according to which the Service has the legal authority to conduct investigations, to institute or suspend proceedings, and to pursue cases before the courts.

When she appeared at her trial, the case for the prosecution was read out to her in accordance with article 160 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” She asked for a delay in order to present her response, and her request was granted. At the following hearing, she presented herself with two legal representatives to act in her defence and she submitted her response to the prosecutor’s memorandum of charges. She also requested that a number of legal representatives be appointed and that she be given further time in which to submit a detailed response. That request too was granted. The hearings continued in her presence as well as that of her legal representatives and representatives of the Human Rights Commission, and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the evidence-collection records had been examined, after the parties had confirmed that they did not wish to make any additions thereto and after the closing arguments had been made in the presence of the accused, her legal representatives and representatives of the Human Rights Commission, and after all relevant documentation had been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal

representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court was satisfied that the accused person had committed offences punishable under the Cybercrime Act, and sentenced her in first instance to a term of imprisonment of 5 years under article 6 (1) of the Cybercrime Act, to begin from the date of her arrest and with 2 years suspended in accordance with article 214 (2) of the Code of Criminal Procedure. The court further ruled to ban her from travelling outside the country for a period of 5 years, once she had completed her sentence. She was given a copy of the judgment in order that she might appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.”

She entered a challenge against the judgment, in accordance with article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the competent judge, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the

necessary action to enforce the judgment immediately.” She was released on 17 Dhu al-Qa’dah A.H. 1442 (27 June A.D. 2021).

15. The case of Samar Badawi

She was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Terrorist Crimes and Terrorism Financing Act, which stipulates: “The Public Prosecution Service may issue a summons or an arrest warrant against a person suspected of committing any of the offences envisaged in the present Act.” She was accused of committing acts prejudicial to national security and cyber offences punishable under article 6 (1) of the Cybercrime Act, and she was held in detention under article 2 of the Act, according to which: “The offences envisaged in the present Act are deemed to constitute serious offences that necessitate arrest.”

Having questioned this individual, the investigating authority was of the view that there was sufficient evidence, and charges were levelled in accordance with article 126 of the Code of Criminal Procedure, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The Public Prosecution Service thus referred the case file to the competent court and the accused person was summoned to appear before that court, in accordance with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”. This is also consistent with article 3 (b) and (c) of the Statutes of the Public Prosecution Service, according to which the Service has the legal authority to conduct investigations, to institute or suspend proceedings, and to pursue cases before the courts.

When she appeared at her trial, the case for the prosecution was read out to her in accordance with article 160 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” At a subsequent hearing, she presented herself with a legal representative to act in her defence and she submitted her response to the prosecutor’s memorandum of charges. The hearings continued in her presence as well as that of her legal representative and representatives of the Human Rights Commission, and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the evidence-collection records had been examined, after the parties had confirmed that they did not wish to make any additions thereto and after the closing arguments had been made in the presence of the accused, her legal representative and representatives of the Human Rights Commission, and after all relevant documentation had

been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court was satisfied that the accused person had committed offences punishable under the Cybercrime Act, and sentenced her in first instance to a term of imprisonment of 5 years and a fine of SRI 1 million, under article 6 (1) of the Cybercrime Act, the prison term to begin from the date of her arrest and with 2 years suspended in accordance with article 214 (2) of the Code of Criminal Procedure. The court further ruled to ban her from travelling outside the country for a period of 5 years, once she had completed her sentence. She was given a copy of the judgment in order that she might appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.”

She entered a challenge against the judgment, in accordance with article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the competent judge, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under

the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.” She was released on 15 Dhu al-Qa’dah A.H. 1442 (25 June A.D. 2021).

16. The case of Eman al-Nafjan

She was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Terrorist Crimes and Terrorism Financing Act, which stipulates: “The Public Prosecution Service may issue a summons or an arrest warrant against a person suspected of committing any of the offences envisaged in the present Act.” She was accused of committing acts prejudicial to national security and cyber offences punishable under article 6 (1) of the Cybercrime Act, and she was held in detention under article 2 of the Act, according to which: “The offences envisaged in the present Act are deemed to constitute serious offences that necessitate arrest.”

Having questioned this individual, the investigating authority was of the view that there was sufficient evidence, and charges were levelled in accordance with article 126 of the Code of Criminal Procedure, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The Public Prosecution Service thus referred the case file to the competent court and the accused person was summoned to appear before that court, in accordance with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”. This is also consistent with article 3 (b) and (c) of the Statutes of the Public Prosecution Service, according to which the Service has the legal authority to conduct investigations, to institute or suspend proceedings, and to pursue cases before the courts.

When she appeared at her trial, the case for the prosecution was read out to her in accordance with article 160 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” She requested that a legal representative be appointed in her defence, and her request was granted. She also requested to be released temporarily and, at the following hearing, the judge duly ordered her temporary release, in accordance with article 123 of the Code of Criminal Procedure, which stipulates: “Where

accused persons are referred to court, the court may decide whether to release them if they are in detention or place them in detention if they are at liberty.” She was released on 21 Rajab A.H. 1440 (28 March A.D. 2019). She remained at liberty for her trial, which continued in the presence of representatives of the Human Rights Commission, and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the evidence-collection records had been examined, after the parties had confirmed that they did not wish to make any additions thereto and after the closing arguments had been made in the presence of the accused and representatives of the Human Rights Commission, and after all relevant documentation had been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court was satisfied that the accused person had committed offences punishable under the Cybercrime Act, and sentenced her in first instance to a term of imprisonment of 3 years under article 6 (1) of the Cybercrime Act, to begin from the date of her arrest and with the remaining portion of that sentence to be suspended in accordance with article 214 (2) of the Code of Criminal Procedure. The court further ruled to ban her from travelling outside the country for a period of 5 years, once she had completed her sentence. She was given a copy of the judgment in order that she might appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.”

She entered a challenge against the judgment, in accordance with article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the competent judge, who upheld the

original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

17. The case of Hatoon al-Fassi

She was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Terrorist Crimes and Terrorism Financing Act, which stipulates: “The Public Prosecution Service may issue a summons or an arrest warrant against a person suspected of committing any of the offences envisaged in the present Act.” She was accused of committing acts prejudicial to national security and cyber offences punishable under article 6 (1) of the Cybercrime Act, and she was held in detention under article 2 of the Act, according to which: “The offences envisaged in the present Act are deemed to constitute serious offences that necessitate arrest.”

Having questioned this individual, the investigating authority was of the view that there was sufficient evidence, and charges were levelled in accordance with article 126 of the Code of Criminal Procedure, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear.” The Public Prosecution Service thus referred the case file to the competent court and the accused person was summoned to appear before that court, in accordance with article 15 of the Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”. This is also consistent with article 3 (b) and (c) of the Statutes of the Public Prosecution Service, according to which the Service has the legal authority to conduct investigations, to institute or suspend proceedings, and to pursue cases before the courts.

When she appeared at her trial, the case for the prosecution was read out to her in accordance with article 160 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” She requested that a legal representative be appointed in her defence, and her request was granted. She also requested to be released temporarily and, at the following hearing, the judge duly ordered her temporary release, in accordance with article 123 of the Code of Criminal Procedure, which stipulates: “Where accused persons are referred to court, the court may decide whether to release them if they are in detention or place them in detention if they are at liberty.” She was released on 27 Sha’ban A.H. 1440 (2 May A.D. 2019). She remained at liberty for her trial, which continued in the presence of representatives of the Human Rights Commission, and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the evidence-collection records had been examined, after the parties had confirmed that they did not wish to make any additions thereto and after the closing arguments had been made in the presence of the accused and representatives of the Human Rights Commission, and after all relevant documentation had been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court was satisfied that the accused person had committed offences punishable under the Cybercrime Act, and sentenced her in first instance to a term of imprisonment of 3 years and 8 months under article 6 (1) of the Cybercrime Act, to begin from the date of her arrest and with the remaining portion of that sentence to be suspended in accordance with article 214 (2) of the Code of Criminal Procedure. The court further ruled to ban her from travelling outside the country for a period of 5 years, once she had completed her sentence. She was given a copy of the judgment in order that she might appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.”

She entered a challenge against the judgment, in accordance with article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code”, and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code. The memorandum of appeal was examined by the competent judge, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

18. The case of Abdulrahman al-Hamid

He was interrogated by the Public Prosecution Service concerning charges of perpetrating offences punishable under article 6 (1) of the Cybercrime Act, of prejudicing security and of failing to comply with a court order to dissolve an unlicensed association. Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 15 of the 2013 Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear. The case shall then proceed on the basis of the memorandum of the charges.”

He appeared before the competent court in accordance with article 135 of the Code of Criminal Procedure, which stipulates: “If a case is brought to court, the accused person shall be summoned to appear. The summons to appear shall be dispensed with if the accused person attends the hearing and is charged.” The charges were brought in accordance with article 160 of the Code,

which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” The case for the prosecution was read out to him, and the judge informed him of his right to engage a lawyer or legal representative, pursuant to article 4 (1) of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” He duly appointed a legal representative and, when asked to respond to the prosecution case, requested a delay in order to make his response. Having heard statements from all the parties and the submission of all oral and written defence pleas, and having examined the evidence against the accused and studied the relevant documentation, the court delivered its judgment. This is consistent with article 173 of the Code of Criminal Procedure, which states: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court ruled in first instance that he should serve a term of imprisonment of 9 years and pay a fine of SRI 50,000. The court further ruled to ban him from travelling outside the country for a period equivalent to that of his prison term, in accordance with article 6 (2) of the Travel Documents Act, which stipulates: “A travel ban may be issued only by court ruling or by decree of the Minister of the Interior for specific reasons relating to security and for a specified period of time. In both cases, the person barred from travelling shall be notified within a period not exceeding one week from the date of issuance of the order or decree.” The court was satisfied that the accused person was guilty of perpetrating offences punishable under article 6 (1) of the Cybercrime Act, which states: “Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to SRI 3 million: the production of material prejudicial to public order, religious values, public morals or the sacrosanct nature of private life, and the preparation, dissemination or storage of such material on or via the Internet or a computer.” He was also sentenced for prejudicing security and for failing to comply with a court order to dissolve an unlicensed association.

Upon delivery of the judgment, he decided to enter a challenge under article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code.” He was given a copy of the judgment and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The

convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the judge of the court of first instance, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

19. The case of Omar al-Said

He was interrogated by the Public Prosecution Service concerning charges of belonging to an unlicensed association; disparaging the courts, legitimate institutions and the rule of law in the country; and offences punishable under article 6 (1) of the Cybercrime Act. Upon completion of the interrogation, a bill of indictment was issued and the case file was referred to the competent court, in accordance with article 15 of the 2013 Code of Criminal Procedure, which stipulates: “The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 126 of the Code, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is sufficient evidence against the accused, the case shall be referred to the competent court and the accused shall be summoned to appear. The case shall then proceed on the basis of the memorandum of the charges.”

The case was referred to the competent court but the individual in question failed to appear at the first sitting and the court postponed its hearing of the case, pending his appearance, in accordance with article 140 of the Code, which states: “If an accused person who has duly been summoned to appear fails to do so on the date set in the summons and fails to send a legal

representative (in circumstances in which he is entitled to appoint such a representative), the judge shall hear the charges brought and the evidence for the prosecution, which shall be entered in the record of the proceedings, but no judgment shall be rendered until the accused has appeared.” He eventually appeared before the competent court in accordance with article 135 of the Code of Criminal Procedure, which stipulates: “If a case is brought to court, the accused person shall be summoned to appear. The summons to appear shall be dispensed with if the accused person attends the hearing and is charged.” The charges were then brought in accordance with article 160 of the Code, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” The case for the prosecution was read out to him, and the judge informed him of his right to engage a lawyer or legal representative, pursuant to article 4 (1) of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” When asked to respond to the prosecution case, he requested a delay in order to make his response. Having heard statements from all the parties and the submission of all oral and written defence pleas, and having examined the evidence against the accused and studied the relevant documentation, the court delivered its judgment. This is consistent with article 173 of the Code of Criminal Procedure, which states: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court ruled in first instance that he should serve a term of imprisonment of 7 years, and it banned him from travelling outside the country for a period of 10 years, in accordance with article 6 (2) of the Travel Documents Act, which stipulates: “A travel ban may be issued only by court ruling or by decree of the Minister of the Interior for specific reasons relating to security and for a specified period of time. In both cases, the person barred from travelling shall be notified within a period not exceeding one week from the date of issuance of the order or decree.” The court was satisfied that the accused person was guilty of belonging to an unlicensed association; of disparaging the courts, legitimate institutions and the rule of law in the country; and of producing, storing and disseminating material liable to undermine law and order, which is punishable under article 6 (1) of the Cybercrime Act, which reads: “Anyone who commits any of the following offences shall be liable to imprisonment for a term of up to 5 years and/or a fine of up to SRI 3 million: the production of material

prejudicial to public order, religious values, public morals or the sacrosanct nature of private life, and the preparation, dissemination or storage of such material on or via the Internet or a computer.”

Upon delivery of the judgment, he decided to enter a challenge under article 9 of the Code of Criminal Procedure, which reads: “Judgments in criminal cases may be contested in accordance with the provisions of the present Code.” He was given a copy of the judgment and duly filed a memorandum of appeal, in accordance with article 192 (1) of the Code, which states: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The courts shall inform them of that right when delivering the judgment.” The memorandum of appeal was examined by the judge of the court of first instance, who upheld the original judgment. The entire case file was then submitted to the Court of Appeal, under article 196 of the Code, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules shall apply.” The Court of Appeal upheld the judgment and, all stages of judicial review having thus been completed, the sentence became definitive and enforceable under the provisions of article 212 of the Code of Criminal Procedure, which reads: “Judgments shall not be enforced until they have become final.” The enforcement of the judgment was thus referred to the competent authority, in accordance with article 216 of the Code, which states: “The president of the court shall transmit the enforceable criminal judgment, as handed down by the court, to the administrative authority so that it can be enforced. The administrative authority shall take the necessary action to enforce the judgment immediately.”

20. The case of Mohammed al-Rabiah

He was arrested pursuant to an arrest warrant issued by the competent authority under article 5 of the Terrorist Crimes and Terrorism Financing Act, then detained under articles 2 and 19 of the Act. He was accused of having committed a number of terrorist offences envisaged under that Act.

Having questioned this individual, the investigating authority was of the view that there was sufficient evidence to level charges and the Public Prosecution Service referred the case file to the competent court, in accordance with article 3 (1) (b) and (c) of the Statutes of the Public Prosecution Service. According to that provision, the Service has the legal authority to conduct investigations, to institute or suspend proceedings, and to pursue cases before the courts. These competencies are also set forth in article 15 of the Code of Criminal Procedure, which stipulates:

“The Public Prosecution Service shall, pursuant to its own Statutes, institute and pursue criminal proceedings before the competent court”.

When he appeared at his trial, the case for the prosecution was read out to him in accordance with article 160 of the Code of Criminal Procedure, which reads: “The court shall inform the accused of the charges against him, read and explain the memorandum of the charges and provide him with a copy thereof, then call on the accused to respond.” The judges informed him of his right to respond to the charges, either orally before the court or in writing, as well as his right to avail himself of the services of a lawyer or legal representative to defend him, pursuant to article 4 (1) of the Code, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages”, and pursuant to article 139 of the Code of Criminal Procedure, which stipulates: “A defendant charged with serious offences shall appear personally before the court, without prejudice to his right to seek defence counsel. If he lacks the financial means to seek the assistance of a lawyer, he may ask the court to appoint one to defend him at State expense.” He requested a delay in order to present his response and he asked that a lawyer be appointed to defend him. His request was granted and the court appointed two lawyers on his behalf. With representatives from the Human Rights Commission attending the trial, the hearings continued and the court issued its judgment only after it had heard statements from all the parties, after the submission of all oral and written defence pleas, after the parties had confirmed that they did not wish to make any additions thereto, after the evidence and the evidence-collection records had been examined, after the closing arguments had been made in the presence of the accused, his lawyers and the representatives from the Human Rights Commission, and after all relevant documentation had been scrutinized. This is consistent with article 172 of the Code of Criminal Procedure, which states: “Any of the parties may provide the court with written information regarding the case for inclusion in the case file.” It is likewise consistent with article 173 of the Code, which reads: “The court shall first hear the prosecutor’s indictment and then the response of the defendant or his legal representative or lawyer. It shall then hear the petition of the civil party, followed by the response of the accused or his legal representative or lawyer. Each of the parties shall be entitled to comment on the statements of the other parties, the defendant being the last to address the court. ... The court shall then deliver its judgment, either of acquittal or of conviction with the imposition of a penalty, and in both instances the court shall also rule on the petition of the civil party.” The court sentenced him in first instance to a term of imprisonment of 6 years, to begin from the date of his arrest, pursuant to article 34 of the Terrorist Crimes and Terrorism Financing Act. It further ruled to ban him from travelling

outside the country for a period equivalent to that of his prison term, once he had completed his sentence.

Once the first instance judgment had been handed down, the individual in question was granted the right to enter a challenge by filing a memorandum of appeal within 30 days of receiving a copy of that judgment. This is consistent with article 192 (1) of the Code of Criminal Procedure, which reads: “The convicted person, the public prosecutor or the civil claimant may, within the legally prescribed time limit, appeal or request scrutiny of judgments rendered by courts of first instance. The court must inform them of that right when it delivers its judgment.” The challenge was filed but the judges of the court of first instance upheld their original judgment. The case file was then referred to the Court of Appeal pursuant to article 196 of the Code of Criminal Procedure, which stipulates: “The division that rendered the contested judgment shall examine the grounds on which the challenge is based without hearing submissions, unless necessary, and may amend or uphold the judgment as it sees fit. If it upholds the judgment, it shall refer the case, together with copies of all its records and documents, including the memorandum of appeal, to the Court of Appeal. If it amends the judgment, all the parties to the case shall be so informed and the normal procedural rules apply.” The case is currently still pending.

- **The joint communication contains the allegation that Mohammed al-Rabiah was arrested for his advocacy of women’s right to drive and that he was held in pretrial detention for 2 years during which time he was tortured and starved.**

This allegation is untrue. The individual in question was arrested on accusations of having committed terrorist offences, as explained above, and not for his advocacy of women’s right to drive. Moreover, his arrest was subsequent to the issuance of the High-level Order under which women are entitled to obtain driving licences.

The allegations that he was subjected to torture and starvation are likewise untrue. In fact, domestic laws prohibit the physical or mental abuse, torture or ill-treatment of persons who have been arrested. Moreover, the interrogation of accused persons has to be conducted in a manner that does not influence their will to make statements. They must not be required to take an oath or be subjected to coercive measures, as will be explained below.

- **The joint communication contains the allegation that the Specialized Criminal Court is not sufficiently independent from the Ministry of the Interior and that, as a court of exception, it is not composed of independent judges but of a panel appointed by the Ministry of the Interior.**

This allegation is untrue and unacceptable. The Specialized Criminal Court is an independent body that was established by decree of the Supreme Judicial Council which, under

article 6 of the Statutes of the Judiciary, has the authority to establish courts, determine the type and geographical extent of their jurisdiction, merge them or abolish them. The Specialized Criminal Court – the creation of which has strengthened the administration of justice – is part of the ordinary court system and follows the same judicial procedures as those applied in other criminal courts, in accordance with the Statutes of the Judiciary, the Code of Criminal Procedure and the Code of Sharia Procedure. Judges in Saudi Arabia are appointed by decree of the Supreme Judicial Council, endorsed by royal order, in accordance with article 47 of the Statutes of the Judiciary, which stipulates: “Appointment and promotion in the judiciary shall be by royal order, pursuant to a decree of the Supreme Judicial Council setting forth the formal requirements applicable in each individual case.” Judges are not appointed unless in possession of accredited diplomas, and they are subject to certain conditions and are incorporated into the judiciary in accordance with articles 31 to 42 of the above-mentioned Statutes.

2. *In response to the request to provide information about the state of health of Al-Sadhan and Al-Otaibi, and their access to medical attention and treatment*

Abdulrahman al-Sadhan receives the necessary medical attention, on an equal footing with other detainees and prison inmates. His state of health is good and he is not suffering from any illnesses.

With regard to Mohammad al-Otaibi, as Saudi Arabia stated in its response to joint communication No. AL SAU 3/2021 – dated 16 February 2021 and addressed to a number of special procedures mandate holders including some of the signatories of the present communication – he receives the necessary medical attention, on an equal footing with other detainees and prison inmates; he is provided with full medical services and appropriate medication for his high blood pressure, and he makes scheduled visits to specialized health-care clinics.

All detainees and inmates undergo a medical check-up as soon as they are admitted to prison, and they receive all the medical attention they require. Moreover, there is a rolling testing programme to ensure that they are not infected with coronavirus disease (COVID-19).

3. *In response to the request to provide information about the factual and legal basis for the arrest and detention of Mohammad al-Otaibi, Abdullah al-Hamid, Mohammed al-Bajadi, Abdulkareem al-Khoder, Waleed Abu al-Khair, Fowzan al-Harbi, Issa al-Hamid, Fadhel al-Manasif, Raef Badawi, Issa Nukheifi, Abdulrahman al-Hamid, Omar al-Said, Nouf Abdulaziz, Nassima al-Sadah, Samar Badawi, Eman al-Naffjan, Hatoon al-Fassi, Abdulrahman al-Sadhan and Mohannad al-Mohaimed; to explain how these are compatible with international human rights norms and standards, including articles 3, 9 and 10 of the Universal Declaration of*

Human Rights; and to elaborate on the observance of the fair-trial rights of these individuals, especially the right to legal assistance.

In its replies above, Saudi Arabia has explained the legal measures that were taken in the case of most of the persons whose names figure in the joint communication. For example, in its reply No. 1, it elucidated the legal procedures involved in the arrest, investigation and trial of these persons, which included their right to avail themselves of legal assistance in accordance with article 4 of the Code of Criminal Procedure, which stipulates: “Any accused person has the right to avail himself of the services of a legal representative or lawyer to defend him during the investigation and trial stages.” Moreover, according to article 19 of the Statutes of the Bar Association, the judiciary and the investigating authorities must give lawyers the facilities they need to carry out their duties, as stated above.

Domestic law guarantees all accused persons the right to have their case examined in a fair and public trial before an independent court with safeguards based on the provisions of Islamic sharia, pursuant to which judges are required to adjudicate fairly. Article 38 of the of the Basic Law of Governance enshrines the principles of the individual nature of punishment and the non-retroactive nature of laws. It states: “Penalties are personal and there can be no offence and no penalty save with reference to the provisions of sharia or statutory law. Penalties can be imposed only for actions subsequent to the enactment of a law.” For its part, article 3 of the Code of Criminal Procedure stipulates: “No one may be sentenced to a criminal penalty save for an act that is prohibited by sharia or statutory law and after being convicted in a trial conducted in accordance with due process of law.” Thus, the laws of Saudi Arabia envisage a number of procedural safeguards which regulate criminal proceedings, guarantee the rights of defendants and ensure that they are presumed innocent until found guilty under the terms of a final court judgment handed down in conformity with the legal and statutory requirements set forth in the provisions of the Code and of laws relevant to the nature of the proceedings.

In sum, the laws of Saudi Arabia envisage full guarantees for a fair trial and due process in a manner consistent with the country’s international human rights obligations and with international human rights norms and standards, including articles 3, 9 and 10 of the Universal Declaration of Human Rights.

4. In response to the request to provide information about the factual and legal basis for the new investigation against Raef Badawi.

This individual was charged with having committed a criminal offence while serving his prison sentence. He was duly questioned by the Public Prosecution Service in accordance with article 13 of the Code of Criminal Procedure, and with article 3 (1) (a) of the Statutes of the Public

Prosecution Service, according to which: “The Service shall, in accordance with its Statutes and the implementing regulations thereof, undertake the following activities: (a) Investigate offences.”

Having completed the questioning, the investigating authority was of the view that there was insufficient evidence and decided to suspend proceedings in the case, in accordance with article 124 of the Code of Criminal Procedure, which reads: “If the Public Prosecution Service is of the opinion, once the investigation has been concluded, that there is insufficient evidence or that there are no grounds for bringing a prosecution, it shall make a recommendation to the head of the division to suspend proceedings and to release any accused persons in detention, unless they are also being detained for another reason. Once the head of the division issues an order upholding that recommendation, it becomes operational, except in the case of serious offences where the order becomes operational only after being ratified by the director of the Public Prosecution Service or the person deputized to act for him.”

5. *In response to the request to provide the details and, where available, the results of any investigation and judicial or other inquiries carried out in relation to reported allegations of torture and/or cruel, inhuman or degrading treatment as well as reports of breaches of fair trial standards; and if no inquiries have taken place, or they have been inconclusive, to explain why.*

As stated in reply No. 1 above, the allegations of torture made in the joint communication are unfounded and untrue. The judicial authorities – either the courts or the Public Prosecution Service – take measures to verify any allegations of torture and, if the allegations are found to be true, they hold those responsible liable before the law. Moreover, any evidence found to have been obtained as a result of torture is considered null and void, in line with article 187 of the Code of Criminal Procedure according to which any course of action is invalid if it is contrary to Islamic sharia and to statutory law deriving therefrom. In addition to this, the party concerned can bring a case under article 16 of the Code of Criminal Procedure, which reads: “The victim or his representatives or heirs may initiate a criminal action in respect of all cases involving a private right of action and pursue such proceedings before the competent court; in such circumstances, the court must summon the public prosecutor to attend.”

In making a judgement, the judge does not rely on confessions but on factual and presumptive evidence, arrest and search reports, witness testimonies, and cross-examinations and statements heard during the trial proceedings. Measures taken by the judge in that context may comprise hearing witnesses, visiting and inspecting the scene of the offence and seeking the assistance of experts, including forensic medical examiners. The trial, in fact, serves as the final investigation and therefore necessitates safeguards and protection for the parties involved. Article 161 of the Code of Criminal Procedure provides that if at any time accused persons confess to the

charges against them, the court must hear their statements and question them on the details. It is a violation of Islamic sharia and domestic law to obtain evidence through torture and, under article 187 of the Code, any course of action is invalid if it is contrary to Islamic sharia and to statutory law deriving therefrom.

The laws of Saudi Arabia prohibit and punish torture and contain a series of guarantees and measures aimed at ensuring that no detainee or prisoner is subjected to torture, ill-treatment or other cruel, inhuman or degrading treatment. Article 2 of the Code of Criminal Procedure stipulates that no person may be arrested, searched, detained or imprisoned except where provided for by law, and that a person may be detained or imprisoned only in a location designated for such purposes and for the period prescribed by the competent authority. Moreover, arrested persons may not be subjected to physical or mental harm or to torture or ill or degrading treatment. Article 36 of the Code also requires that arrested persons be treated in a manner that preserves their dignity and that they should not be subjected to physical or mental harm. They are to be informed of the reasons for their detention and have the right to contact anyone they wish. Under article 102 of the Code, the interrogation of accused persons is to be conducted in a manner that does not influence their will to make statements. They must not be required to take an oath or be subjected to coercive measures. Nor may they be interrogated outside the premises of the investigating authority unless the investigator deems such action to be necessary.

Under article 118 of the Internal Security Forces Act, the acts and offences set forth in Royal Decree No. 43 are prohibited for officers, non-commissioned officers and personnel, and entail an investigation, a disciplinary court-martial and a criminal trial.

Article 28 of the Prison and Detention Act prohibits any kind of assault against prisoners or detainees and stipulates that disciplinary measures must be taken against military or civilian personnel who commit such acts, without prejudice to any criminal penalties to which they might also be liable. Moreover, article 2 (8) of Royal Decree No. 43 of A.H. 1377 (A.D. 1958) prohibits the use – during the course of public duties – of ill-treatment or coercion such as torture, cruelty, confiscation of assets or denial of personal liberties, including exemplary punishment, imposition of fines, imprisonment, exile, mandatory residence in a certain place and illegal entry into private dwellings. The penalty for such offences is imprisonment for up to 10 years.

Saudi Arabia remains committed to the human rights treaties to which it is a party – including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – which are deemed to constitute part of national law.

Members of the Public Prosecution Service supervise the professional conduct of law enforcement officers pursuant to article 25 of the Code of Criminal Procedure, which stipulates:

“Law enforcement officials – in the discharge of their law enforcement duties as envisaged in the present Act – are under the supervision of the Public Prosecution Service. The Service may ask the competent authority to look into cases involving persons responsible for violations or shortcomings in the discharge of their duties, and it may request that disciplinary proceedings be launched, without prejudice to the right also to bring criminal charges.”

Thus, all the actions of law enforcement officials are monitored and supervised by the Public Prosecution Service. This is to prevent any violation of the rights, safeguards and rules enshrined in law in general and in the Code of Criminal Procedure in particular, and to hold to account persons responsible for violating such provisions. Anyone may, without legal retribution, refuse to obey orders or instructions that are at variance with the law. Provisions that conflict with Islamic sharia, or with statutory laws deriving from Islamic sharia, are considered null and void, in accordance with article 187 of the Code. Law enforcement officials are given specialized training courses on the application of the law while, for its part, the Human Rights Commission organizes courses, lectures, seminars and workshops to give human rights workers (governmental and non-governmental) the technical skills necessary to enable them to carry out their duties, on the basis of international human rights standards and in the light of the provisions of Islamic sharia.

Saudi Arabia reaffirms all the necessary safeguards are in place to ensure the right to a fair trial and that all accused persons benefit from a fair and public trial before an independent court, as explained in reply No. 3 above.

6. *In response to the request to provide the information about the legal status of the cases against Hatoon al-Fassi, Eman al-Nafjan, Nassima al-Sadah, Samar Badawi and Nouf Abdulaziz.*

Sentences were handed down against all these persons and they have all since been released, as explained in reply No. 1 above.

7. *In response to the request to provide information on why charges related to terrorist acts and raising funds for terrorist organizations have been levied against the above-mentioned human rights defenders and to indicate how this complies with the obligation to pursue counter-terrorism obligations consistent with international law as set out, inter alia, in Security Council resolution 1373 (2001), Financial Action Task Force recommendation No. 8 and a strict understanding of terrorism as elucidated by international law norms including but not limited to Security Council resolution 1566 (2004) and the model definition of terrorism provided by the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.*

The charges against the persons whose names figure in the joint communication were levelled because they stood accused of committing offences punishable under domestic law. The charges had no connection to their exercise of their rights and freedoms or their status as human rights defenders. Indeed, no one is detained for exercising their rights and freedoms. All citizens and residents, men and women, enjoy their rights and exercise their freedoms without discrimination, in accordance with national law, as explained in reply No. 1 above.

Domestic law contains a clear and precise definition of terrorism that is in line with international norms and with the country's international obligations. The laws of Saudi Arabia are formulated with sufficient clarity and accuracy, and anyone can understand them and regulate their behaviour accordingly. The law contains no vaguely or broadly worded provisions. Moreover, laws are announced and published on government websites and elsewhere, and anyone may examine them, and they are subject to constant review, updating and improvement in line with changes and developments at the local and international level, as was explained earlier.

8. *In response to the request to indicate what measures have been taken to ensure that human rights defenders and lawyers in Saudi Arabia are able to carry out their peaceful and legitimate work, including in cooperation with the United Nations, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.*

As was explained in reply No. 1 and reply No. 7 above, all citizens and residents are able to enjoy their rights and exercise their freedoms without harassment or intimidation.

The job of lawyers in Saudi Arabia is to contribute to the attainment of justice and to defend the rights and freedoms that are guaranteed by law. Lawyers in the country enjoy independence, legal protection and the freedom to plead on behalf of others with no restrictions other than those envisaged in law. Lawyers may not be held accountable for statements they make in submissions before the court, in accordance with article 13 of the Act regulating the legal profession, which stipulates: "Lawyers may pursue whatever course they deem best in order to defend their clients. They shall not be held responsible for anything stated in written or oral submissions that are necessary to ensure the right to a defence." Under article 19 of the same Act, all judicial bodies and investigating authorities must provide lawyers with the facilities they need to carry out their duties and must allow them to examine the case documents and be present during the investigation. Lawyers' requests, furthermore, may not be refused without a legal justification. Additionally, the Charter of the Saudi Bar Association contains provisions to support the role of lawyers in promoting and protecting human rights.

The laws of Saudi Arabia guarantee freedom of opinion and expression for all persons unless such acts are deemed to breach or exceed the bounds of public order or the norms applicable

to society, its members or its precepts. Such a restriction is consistent with the relative international standards, including article 29 (2) of the Universal Declaration of Human Rights, which stipulates: “In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare.” It is also consistent with article 19 of the International Covenant on Civil and Political Rights according to which all persons have the right to hold opinions without interference and the right to freedom of expression, the latter being subject to certain restrictions such as are necessary for respect of the rights or reputations of others and for the protection of national security or of public order, or of public health or morals.

As regards the right of association, the Civil Society Associations and Institutions Act of 2015 includes a set of developmental and social goals designed to regulate, develop and protect non-governmental work with a view to rendering it more effective and beneficial, contributing to national development and promoting citizen participation in the management and advancement of society. Under the Act, an association may be founded by 10 persons and may obtain authorization within 60 days of submission of the application papers.

Saudi Arabia supports societies and institutions that promote and protect human rights in general, or particular aspects thereof, and it treats them as key partners in the field of human rights. Examples of this partnership include the promulgation of the Protection against Abuse Act, which was drafted by a civil society organization. A number of non-governmental associations and civil society organizations have also participated in the drafting of the Child Protection Act and the preparation of the reports of Saudi Arabia to treaty and non-treaty bodies.

One of the most prominent civil society organizations concerned with human rights is the [REDACTED] which issues reports on the human rights situation in Saudi Arabia. The reports – on the basis of complaints the [REDACTED] receives and infringements it detects – highlight shortcomings preventing the full realization of rights, analyse the causes thereof, assess any progress achieved and make recommendations. The [REDACTED] also issues press releases. Like many other associations and institutions working in human rights-related fields, it prepares studies and reports and organizes symposiums and interactive media events designed to promote and protect the rights with which it is concerned. Its freedom to engage in its activities and perform its functions in an independent and unrestricted manner is guaranteed by law.

For its part, the Human Rights Commission organizes courses, conferences, seminars and workshops to build the technical skills of (governmental and non-governmental) human rights

activists so that they can operate objectively in the area of human rights, basing their work on international human rights norms and the provisions of Islamic sharia.

With regard to freedom of religion and belief, all citizens of Saudi Arabia are Muslims and enjoy equal rights. They have the same rights and duties, and practise their religious rituals and beliefs freely and without discrimination as part of a single and harmonious national fabric. They have equal rights in all fields such as education, health, employment and access to justice. Domestic legislation and regulations do not contain provisions – or even references – that discriminate against anyone. Discrimination is, in fact, criminalized and punishable under article 8 of the Basic Law of Governance, which stipulates: “Governance in the Kingdom of Saudi Arabia is based on justice, consultation and equality under Islamic sharia.” Article 11 states: “Saudi society is based on full adherence to God’s guidance. Members of society shall cooperate with one another in charity, piety and cohesion”, while article 12 stipulates: “The consolidation of national unity is a duty, and the State shall forbid anything that may lead to disunity, schism or separation.” Under article 26: “The State shall protect human rights in accordance with Islamic sharia.” The country is committed to the human rights treaties to which it is a party, including the International Convention on the Elimination of All Forms of Racial Discrimination, which are considered to be part of domestic law.

It is clear from all the information given above that the claims and allegations contained in the joint communication are untrue. The measures taken in relation to the cases of these individuals have been explained and they are consistent with international human rights standards, including articles 3, 9, 10, 13, 18, 19 and 20 of the Universal Declaration of Human Rights.

Saudi Arabia wishes to remind the thematic special procedures mandate holders, co-signatories of the joint communication, of the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council issued under Human Rights Council resolution 5/2 of 18 June 2007. In particular, it wishes to draw attention to the fact that mandate holders should:

- (a) Give the information provided due consideration in the fulfilment of their mandates, in accordance with article 6 (a) of the Code of Conduct;
- (b) Take comprehensive account of the information Saudi Arabia has provided in relation to the case in question, in line with article 6 (b) of the Code;
- (c) Evaluate all information, particularly the allegations received from the sources, in the light of internationally recognized human rights standards relevant to the mandate of the special rapporteurs, and of international conventions to which the State concerned is a party, in accordance with article 6 (c) of the Code;

(d) Ensure that the communications submitted regarding the case are not manifestly unfounded or politically motivated, in accordance with article 9 (a) of the Code;

(e) Ensure that the person or group of persons submitting the communication are acting in good faith in accordance with principles of human rights, and free from politically motivated stands or contrary to the provisions of the Charter of the United Nations, and claiming to have direct or reliable knowledge of those violations substantiated by clear information, in accordance with article 9 (d) of the Code;

(f) Ensure that the communication is not exclusively based on reports disseminated by mass media, in accordance with article 9 (e) of the Code;

(g) Bear in mind the need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations, in accordance with article 12 (a) of the Code;

(h) In implementing their mandate, therefore, show restraint, moderation and discretion so as not to undermine the recognition of the independent nature of their mandate or the environment necessary to properly discharge the said mandate, in accordance with article 12 (b) of the Code;

(i) Give a fair, credible and not prejudicially cursory indication of the replies submitted by Saudi Arabia, in line with article 13 (a) of the Code of Conduct;

(j) Ensure that their declarations on the human rights situation in the country concerned are at all times compatible with their mandate and the integrity, independence and impartiality which their status requires, and which is likely to promote a constructive dialogue among stakeholders, as well as cooperation for the promotion and protection of human rights, in accordance with article 13 (b) of the Code.