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The Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and would like to refer to the latter's joint communication ref: **AL SAU 8/2022** dated **13 June 2022**. The Permanent Mission has the honor to attach herewith the reply of the Saudi Government on the aforementioned communication.

The Permanent Mission of the Kingdom of Saudi Arabia to the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism the assurance of its highest consecration.



**Permanent Mission of the Kingdom of Saudi Arabia
to the United Nations Office
at Geneva**

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

- Saudi Arabia cooperates with all United Nations human rights mechanisms and responds to their inquiries and requests. It complies with its international obligations under the human rights treaties that it has ratified, and its actions are consistent with its obligations under international human rights law and with relevant international norms. It examines the allegations that it receives and clarifies all relevant facts.

It should be emphasised that the information presented in the joint communication is inaccurate, being based as it is on unfounded and uncorroborated allegations and claims from the source. In the present context, the following response may be given:

The joint communication states that Youssef Al-Manasif was denied visits while being held in solitary confinement

From the date of his arrest, the individual in question was able, on a regular basis, to exercise his right to receive visits and calls from his family, as well as from his representatives and his lawyer, just like any other detainee or prison inmate.

The joint communication states that the allegations made against Youssef Al-Manasif, reportedly lack consistent evidence and that the public prosecutor, in seeking the death penalty, relied solely on statements extracted under torture

This person was arrested on the basis of evidence that he had committed terrorist offences, and the charges were levelled against him once there was sufficient evidence to do so. This emerges clearly from the records of his arrest and search and from other reports concerning his case. Of his own free will and in full possession of legal capacity, he confessed before the investigating authorities to having committed the crimes in question, then he acknowledged that confession before the courts, in a manner consistent with the provisions of article 101 (2) of the Code of Criminal Procedure. The investigating authorities levelled the charges against him under article 126 of the Code, which states: "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." His case file was thus duly referred to the competent court.

He is treated well and in a manner that preserves his dignity, and all his rights are guaranteed on an equal footing with any other detainee or prison inmate. He has not been subjected to torture or ill-treatment, or forced into making a confession.

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 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.

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 or illegal entry into private dwellings. The penalty for such offences is imprisonment for up to 10 years.

All prisons and detention facilities in the country are supervised and inspected, and steps are taken in the event of any violation. Moreover, members of the Public Prosecution Service supervise the professional conduct of law enforcement officers pursuant to article 25 of the Code of Criminal Procedure.

With a view to enhancing oversight mechanisms and safeguarding the rights of prisoners and detainees, the Human Rights Commission, pursuant to article 5 (6) and (7) of its Statutes, is authorized to visit prisons and detention centres at any time and without official permission, to receive and verify complaints of human rights abuses and to take the corresponding legal steps. The National Society for Human Rights (a civil society organization) also visits prisons and detention centres and receives complaints. Offices have been opened in prisons for the Public Prosecution Service and, in some cases, for the Human Rights Commission and the National Society for Human Rights so that they can monitor the situation of prisoners and receive their complaints on site. State

institutions have a legal obligation to ensure that all individuals are treated fairly irrespective 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 in accordance with standard procedures. These include the courts and governmental and non-governmental human rights institutions.

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.

- In the joint communication the special procedures mandate-holders express their concern about the overly broad definition of "terrorism" under the Terrorist Crimes and Terrorism Financing Act

The laws of Saudi Arabia are formulated with sufficient clarity and accuracy, and anyone can understand them and regulate their behaviour accordingly. In addition, laws are subject to constant review, updating and improvement in line with changes and developments at the local and international levels. The Terrorist Crimes and Terrorism Financing Act contains no vaguely or broadly worded provisions. In fact, all its contents are announced and published on government websites and elsewhere, where anyone may examine them. The Act includes a clear definition of terrorism, one that is in line with global norms and with the international obligations of Saudi Arabia. The Act also specifies the procedures to be followed in such cases including the procedural aspects of arrest, detention, assignment of lawyers and temporary release. It identifies the competent court, and it defines the offences and penalties. In addition, the Act envisages the establishment of specialized centres for the re-education of persons detained and convicted of terrorist offences, as well as the creation of correctional and rehabilitation centres to facilitate their reintegration into society.

In this context, attention is drawn to article 4 (3) 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, according to which "mandate-holders are to carry out their mandate while fully respecting the national legislation and regulations of the country wherein they are exercising their mission. Where an issue arises in this regard, mandate-holders shall adhere strictly to the provisions of regulation 1 (e) of the Regulations".

1. In response to the request to provide information on the legal and factual grounds for the arrest, detention and charges brought against Youssef Al-Manasif; to clarify if an arrest warrant was provided and the reason why he was held in solitary confinement for a prolonged period of time; and to clarify if he was able to effectively exercise his right to legal assistance from the moment of arrest

He was arrested on the basis of evidence that he had committed terrorist offences and, once questioned and confronted with that evidence, he confessed to having committed the crimes in question. This was the well-founded reason for which he was detained and tried under the 2013 Terrorist Crimes and Terrorism Financing Act, which has the purpose of combating terrorism and punishing perpetrators in order to maintain the peace and security of local society and of the international community. This is consistent with international standards and with the United Nations Global Counter-Terrorism Strategy. The individual in question was arrested under a warrant issued against him in accordance with article 4 of the Act and he was able to examine the warrant and learn the reasons for his arrest. He was then detained in the prison of the General Directorate of Investigation in Dammam, under article 2 of the Act. His detention was subsequently extended under article 5 of the Act. He was charged with having committed a number of terrorist offences, including the following:

- (a) Joining an armed terrorist group in order to carry out terrorist operations inside the country, with the aim of disrupting internal security;
- (b) Attempting at various times to kill security personnel by firing directly at them; also, throwing Molotov cocktails at them and their vehicles with the intention of killing or injuring them;
- (c) Carrying out surveillance and planning with a view to targeting bases belonging to the security forces; also, firing a weapon at Al-Awamiyah police station;
- (d) Blocking roads with burning tyres and throwing the tyres at security vehicles with the aim of damaging and disabling those vehicles;
- (e) Financing terrorism and terrorist actions, acts punishable under the Anti-Money Laundering Act;
- (f) Possessing and using weapons and ammunition with the intent of undermining internal security, acts punishable under articles 34 and 40 of the Arms and Ammunition Act;
- (g) Possessing Molotov cocktails and explosives with the intention of using them to commit terrorist offences inside the country, acts punishable under the Explosives Act;
- (h) Distributing narcotic substances on several occasions, [REDACTED] and concealing other distributors, acts punishable under the Drugs and Psychotropic Substances Act.

The crimes for which the Public Prosecution Service sought the death penalty were committed by this individual when he was over the age of 18.

As was explained earlier, the person in question was, on a regular basis, able to exercise his right to receive visits and make calls. It should be noted, however, that under article 6 of the Terrorist Crimes and Terrorism Financing Act of 2013, investigators have the right to prevent an accused person from communicating with others for a limited period. The accused was also able to

exercise his right to legal assistance, as per article 10 of the Act and articles 4 (1) and 65 of the Code of Criminal Procedure. He was informed of the reasons for his arrest and of his right to communicate with a person of his choice, in accordance with articles 36 (1) and 116 of the Code, and he was made aware of the charges against him, as per article 101 (1) of the Code, which stipulates: “When accused persons first appear for questioning, the investigator shall take down all their personal information and inform them of the charges against them.” After having been questioned and, of his own free will, having confessed to the crimes, and after having acknowledged that confession before the court, the Public Prosecution Service referred his casefile to the competent court; i.e., the Specialized Criminal Court. The accused was summoned to appear before that Court, in accordance with article 15 of the Code, which stipulates that “The Public Prosecution Service shall, pursuant to its Statutes, institute and pursue criminal proceedings before the competent court”, and in accordance with article 3 (b) and (c) of the Statutes of the Public Prosecution Service, which states that the Public Prosecution Service must, in accordance with its Statute and its implementing regulations, decide whether to institute proceedings or close the case, and must conduct prosecutions before judicial bodies.

When he appeared for his trial in the presence of the prosecutors, the prosecution case was read out to him and he was given a copy thereof, 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 court informed him that he had the right to appoint a lawyer, in accordance with article 4 (1) of the Code of Criminal Procedure, and that, as per 139 of the Code, if he lacked the financial means to seek the assistance of a lawyer, he could ask the court to appoint one to defend him at State expense. The accused asked that a number of defence representatives be appointed and, at a subsequent sitting, he requested the appointment of a lawyer at State expense. His request was granted. The case is currently still before the court.

2. *In response to the request to explain the steps taken to provide legal assistance to Youssef Al-Manasif and clarify if he was permitted to challenge the lawfulness of his arrest and detention before a judicial authority*

As explained above, the person in question was able to exercise his right to legal assistance; in fact, he appointed a number of representatives and requested the appointment of a lawyer at State expense. The right to challenge lawfulness of his arrest and detention is enshrined in article 115 of the Code of Criminal Procedure, which states: “When an accused person is detained, the original detention order is to be delivered to the director of the detention centre, who is to sign a copy of the order as an acknowledgement of receipt. Pretrial detainees may lodge a complaint against a

detention order or a detention-extension order. The complaint is to be submitted to the head of the investigating body to which the investigator belongs, the head of the branch or the Public Prosecutor, as appropriate, and a decision is to be taken within five days of the date of submission.” The Public Prosecution Service is, according to its own Statutes, an independent body that is part of the judiciary and no one has the right to interfere in its operation. Domestic law protects the rights of accused persons from the moment of arrest to the moment of release, and any accused person has the right to bring a case before the courts for them to decide on the legality of his detention. These provisions are consistent with articles 3, 8, 9 and 10 of the Universal Declaration of Human Rights.

3. *In response to the request to provide detailed information on the judge’s efforts to assess the conditions under which the evidence against Youssef Al-Manasif was produced; on why his request for an impartial investigation into his treatment and detention does not seem to have been acted upon (and if no investigation was carried out, to explain why, and how this is consistent with the international human rights obligations of Saudi Arabia under human rights instruments); and to explain which steps were taken by the judge in response to the allegations of torture and ill-treatment and subsequent forced confession*

The individual in question, of his own free will and in full possession of legal capacity, confessed before the investigating authorities, then he acknowledged that confession before the court when the charges were brought against him, in a manner consistent with the provisions of article 101 (2) of the Code of Criminal Procedure. When acknowledging the confession before the court he did not indicate that he had suffered coercion. The court seeks to verify all the evidence against accused parties. 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 or to statutory law deriving therefrom.

National legislation upholds the principle of the presumption of innocence, and 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.

The case of the person in question is still being examined by the court of first instance. The court investigates any claims of torture and conducts the necessary inquiries if, during the course of a trial, accused persons or their lawyers make allegations that a confession was signed under torture or coercion. The trial procedures meet the conditions laid down in sharia and statutory law and fulfil all fair trial principles, while the accused person duly benefits from the prescribed legal safeguards. This state of affairs is consistent with the obligations of Saudi Arabia under the human rights instruments to which it is a party and under the relevant international standards.

4. In response to the request to explain why Youssef Al-Manasif's family are being refrained from accessing his medical file and examination results

The individual in question enjoys the protection guaranteed to him by law. His state of health is good and he receives the medical care he requires on an equal footing with other detainees and prison inmates.

Prisoners and detainees undergo a medical examination immediately after they are admitted to a general prison and periodic medical tests thereafter, in accordance with paragraph 5 of the Medical Services Regulations. Medical care is provided to all prisoners and detainees, in accordance with article 22 of the Prison and Detention Act. All detention centres and prisons are subject to judicial, administrative, health and social inspections in accordance with article 5 of the Act, which stipulates: "Prisons and places of detention are to be subject to judicial, administrative, health and social inspection, in accordance with the provisions of the implementing regulations." They can receive visits and calls, in accordance with article 12 of the same Act. All detainees and prisoners have the right to submit complaints under article 39 of the Code of Criminal Procedure, which reads: "Prisoners and detainees have the right to submit, at any time, a written or verbal complaint to the warden of the prison or detention centre and request that it be conveyed to a member of the Public Prosecution Service. The warden must accept the complaint and forward it at once, after recording it in a special register. The prisoner or detainee must receive acknowledgement of receipt. The administration of the prison or detention centre is required to allocate a separate office for members of the Public Prosecution Service from which they can monitor the conditions of prisoners and detainees."

This is in line with relevant international standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rule 24 (1) of which states: "The provision of health care for prisoners is a State responsibility. Prisoners should enjoy

the same standards of health care that are available in the community.” It also complies with rule 56 (1), which states that “every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him.” It is likewise consistent with rule 30 and with principle 24 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which stipulates: “A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.”

The information provided shows that this individual’s conditions of detention are consistent with the Nelson Mandela Rules and with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

5. In response to the request to explain, in view of the nature of the offenses alleged and Youssef Al-Manasif’s age at the time of the events, how the death penalty, if imposed, would comply with the principles of legality, necessity, proportionality and non-discrimination and the principles set out in the United Nations safeguards guaranteeing protection of the rights of those facing the death penalty

It should first be stated that the case of the person in question is still being considered by the courts and no ruling has yet been handed down. Moreover, as stated above, he committed the crimes with which he is charged when he was over the age of 18.

Saudi Arabia wishes to reaffirm its commitment to protecting and upholding human rights through its application of the principle of legality. In fact, according to article 38 of the Basic Law of Governance, penalties are personal and there can be no offence and no penalty save on the basis of sharia or statutory provisions. No penalty can be imposed save for acts committed subsequent to the enactment of a law. Moreover, 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. Necessity and proportionality are the two basic principles legislators in Saudi Arabia use when drafting criminal legislation, in such a way that the penalty is proportional to the gravity of the offence committed and reflects the necessity to protect human rights – including the right to life, enshrined in article 3 of the Universal Declaration of Human Rights and the rights of victims of crime – and to maintain the security and stability of society.

Terrorism in all its forms and manifestations – wherever, by whomsoever and for whatever purpose committed – constitutes one of the most serious threats to international peace and security. This fact has been reaffirmed in several international treaties, instruments and resolutions, including General Assembly resolution 60/288 of 8 September 2006 concerning the United Nations Global Counter-Terrorism Strategy.

It should be noted that the death penalty is imposed only for the most serious crimes and in extremely limited circumstances. It is not handed down or carried out until judicial proceedings in courts of all levels have been completed. Domestic legislation provides guarantees of a fair trial and due process that are consistent with the country's international human rights obligations. Cases must be heard by a bench of three judges in the court of first instance. The judgment is then referred to the appeal court, even if none of the parties has filed an appeal, and is reviewed by a bench of five judges. If the appeal court upholds the death sentence, the case is referred to the Supreme Court where it is reviewed by a bench of five judges. If the Supreme Court also upholds the sentence, all stages of the proceedings have been completed and the judgment becomes final and enforceable.

Domestic law guarantees all accused persons the right to have their case examined in a fair and public trial before an independent court. In fact, the judiciary in Saudi Arabia enjoys complete independence in the exercise of its functions meaning that it operates impartially and without external influence.

The procedures employed and the safeguards made available in this case are consistent with international procedural and fair-trial standards, including the safeguards guaranteeing protection of the rights of those facing the death penalty issued pursuant to Economic and Social Council (ECOSOC) resolution 1984/50 of 25 May 1984.

6. In response to the request to provide detailed information on any measures taken or envisioned to be taken to restrict the scope of application of the death penalty in Saudi Arabia

Saudi Arabia is committed to promoting and protecting human rights using an approach that is firmly rooted in the country's constitution, 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." One of the most important of such rights is the right to life. It should be noted, once again, that the death penalty is imposed only for the most serious crimes and in extremely limited circumstances. It is not handed down or carried out until judicial proceedings in courts of all levels have been completed.

Saudi Arabia reaffirms its respect for the human rights treaties to which it is a party and its concern to abide by the obligations arising from ratification. These include the Convention on the

Rights of the Child. The country introduced reforms vis-à-vis the death penalty for juveniles, in the form of the 2018 Juveniles Act which abolishes the death penalty for *ta'zir* offences for persons who were under 18 at the time they committed their crimes. According to the Act, if an offence attracts the death penalty, the perpetrator is to be placed in a juvenile detention centre for up to 10 years. These provisions do not affect *hudud* or *qisas* offences, the penalties for which are prescribed in Islamic sharia.

A Royal Order was issued in March 2020 to stay the enforcement of definitive *ta'zir* death sentences against juveniles and to apply the penalties envisaged in the Juveniles Act for all the offences in questions, without exception. The penalties are set forth in article 15 of that Act which states that, if an offence attracts the death penalty, the perpetrator is to be placed in a juvenile detention centre for up to 10 years.

Lastly Saudi Arabia wishes to note that, in a spirit of cooperation with international human rights mechanisms, it replies to the letters, appeals and communications it receives from them and seeks to clarify the facts about the issues raised.

It has been clearly shown that the information contained in the joint communication is inaccurate and based on false allegations and assertions. It has also been shown that the action taken against the person concerned was consistent with the relevant instruments and standards of international human rights law. The action, moreover, was in line with the country's obligations, including those arising from its accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.

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) Carry out their mandate while fully respecting the national legislation and regulations of the country wherein they are exercising their mission. Where an issue arises in this regard, mandate-holders shall adhere strictly to the provisions of regulation 1 (e) of the Regulations, in accordance with article 4 (3) of the Code of Conduct;

(b) Give the information provided due consideration in the fulfilment of their mandates, in accordance with article 6 (a) of the Code of Conduct;

(c) 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;

(d) 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;

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

(f) 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;

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

(h) 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;

(i) 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;

(j) 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;

(k) 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.