

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/2, 25/18, 26/7, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest, detention and conviction of **Mr. Osama al-Najjar**, as well as his torture and ill-treatment in detention, in reprisal for his cooperation with the Special Rapporteur on the independence of judges and lawyers and his exercise of the right to freedom of opinion and expression.

Mr. Osama al-Najjar is an activist, blogger and architectural engineer from the Emirate of Ajman. He is the son of Mr. Hossain al-Najjar, one of the 94 persons tried in a case referred to as the "UAE 94", who is currently serving an 11-year prison sentence for his peaceful activities in the defence of human rights. He has actively defended his father and other persons from the UAE 94 on *Twitter* and on his blog. Mr. Al-Najjar also met with the Special Rapporteur on the independence of judges and lawyers during her official visit to the United Arab Emirates in February 2014.

Mr. Al-Najjar was the subject of a previous joint urgent appeal sent to your Excellency's Government on 16 April 2014 by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (see A/HRC/27/72, ARE 3/2014). We regret that to this date we did not receive a response from your Excellency's Government addressing the serious allegations presented in this joint urgent appeal.

According to the new information received:

On 17 March 2014, Mr. Osama al-Najjar was arrested without a warrant and was transferred to a State Security secret detention centre in the Emirate of Abu Dhabi where he was interrogated and tortured for about four days. During this time, Mr. Al-Najjar was questioned about his meeting with the Special Rapporteur on the independence of judges and lawyers. While under heavy lights and exposed to extremely cold air with his hands cuffed, Mr. Al-Najjar was asked whether he thought that the Special Rapporteur would be of any help to him, how he had met her, and how he had known about her presence in the UAE. He was also questioned about his meeting with a representative of the non-governmental organization Amnesty International.

On 21 March 2014, Mr. Al-Najjar was transferred to Al-Wathba prison in Abu Dhabi.

Following the public airing of allegations of torture, Mr. Al-Najjar was taken to the medical clinic in Al-Wathba prison to be allegedly examined for marks of torture. He presented scars on his feet from being beaten with a wire; however, the doctor did not include these details in the report.

On 23 September 2014, after more than six months of pre-trial detention, Mr. Al-Najjar's trial started before the State Security chamber of the Federal Supreme Court. Mr. Al-Najjar was not permitted to meet with his lawyer before the first hearing. In addition, only two of his family members were allowed to attend the hearing and State Security authorities selected which media representatives could be present in the courtroom. The hearing was then postponed until 14 October 2014.

On 4 October 2014, Mr. Al-Najjar was visited by his lawyer, but they were kept apart by a barrier. Mr. Al-Najjar's lawyer left his case file and his phone number

with a prison guard so that they could remain in contact. However, until 14 October 2014, Mr. Al-Najjar had not received the case file nor been permitted to call his lawyer.

On 14 October 2014, at his second hearing, Mr. Al-Najjar stated that he had not been given access to the case file or allowed to contact his lawyer while in detention. He also stated that he would need to call two witnesses to confirm his torture and ill-treatment while in detention. Both the prosecution and defence lawyers had earlier stated that there was no need for witnesses to be called. The Court postponed the hearing to 28 October 2014 when it said it would hear pleadings from both the defence and the prosecution.

After this second hearing, on 14 October 2014, Mr. Al-Najjar asked to see his lawyer about the need to call the two witnesses. A police officer told him that once he left the courtroom he would be allowed to call his lawyer. Once outside, Mr. Al-Najjar was shackled and handcuffed and brought to a car. It was only after repeatedly refusing to get into the car that his request to talk to his lawyer was granted. He was allowed to meet with his lawyer for three minutes, surrounded by a group of police officers while he remained handcuffed and shackled.

On 28 October 2014, during the third hearing, Mr. Al-Najjar's lawyers demanded that he be acquitted. The Court adjourned the hearing until 25 November 2014.

On 25 November 2014, Mr. Al-Najjar was convicted on charges including instigating hatred against the State, designing and running a website with satirical and defaming ideas and information deemed harmful to UAE institutions, and contacting foreign organisations and presenting inaccurate information. Mr. Al-Najjar was sentenced to three years in prison and fined 500,000 Emirati Dirhams (about 136,000 US Dollars). The State Security chamber of the Supreme Court also ordered that all his electronic devices be confiscated, and his website and *Twitter* account permanently closed.

The verdict was not read in the courtroom but rendered in a judge's room in the absence of Mr. Al-Najjar's lawyer but with the prosecution present. Under UAE domestic legislation, the decisions of the Federal Supreme Court are final and binding and cannot be appealed even when considering cases in first instance.

Grave concern is expressed about the alleged arbitrary arrest, detention, and conviction of Mr. Al-Najjar. Further serious concern is expressed about Mr. Al-Najjar's physical and psychological integrity, in particular as a result of the alleged torture and ill-treatment which were not duly investigated. Concern is also expressed about the lack of respect for the most basic due process and fair trial guarantees throughout his arrest, detention and trial. Finally, serious concern is expressed that Mr. Al-Najjar was

apparently arrested, detained, tortured and convicted as a reprisal for his cooperation with the United Nations, its mechanisms and representatives in the field of human rights, in particular the Special Rapporteur on the independence of judges and lawyers, as well as for his peaceful exercise of the right to freedom of opinion and expression and legitimate activities advocating for justice and human rights in the UAE.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant applicable human rights international norms and standards. The above allegations appear indeed to be in contravention of the rights not to be arbitrarily arrested or detained and to a fair and public trial guaranteeing due process as enshrined in articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 13; 14 and 16 of the Arab Charter on Human Rights, ratified by the UAE in 2008. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers.

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which UAE acceded on 19 July 2012.

With regards to the inadequate investigation, we wish to draw the attention of your Excellency's Government to articles 12 and 7 of the CAT, which require the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and to prosecute suspected perpetrators of torture.

We would like to refer to Article 19 of UDHR on the right to freedom of opinion and expression, which includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media.

Moreover, we would like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and 12.

Furthermore, we also wish to recall the provisions of Human Rights Council resolution 24/24, which, inter alia, reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, and regional mechanisms, and calls upon all States to review legislation, policies and practices that have the effect of undermining unhindered access to and communication with international bodies, and to avoid adopting any such new legislation.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Osama al-Najjar in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and comment(s) which you may have on the above mentioned allegations.
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to the allegations of torture and ill-treatment. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecutions which may have been undertaken regarding the allegations of torture and ill-treatment. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please provide information concerning the legal grounds for the arrest and detention of Mr. Al-Najjar and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the Arab Charter on Human Rights.
5. Please provide detailed information concerning the trial of Mr. Al-Najjar, including information on his access to legal representation, and explain how the trial was in line with due process and fair trial guarantees, as enshrined, inter alia, in the UDHR, the Arab Charter on Human Rights, and Basic Principles on the Role of Lawyers. Please also explain how the fact that Mr. Al-Najjar was not provided with the possibility to appeal his conviction is in line with the provisions found in international human rights norms and standards.
6. Please indicate what measures have been taken to ensure that human rights defenders in the United Arab Emirates can operate in a safe and enabling environment and interact freely with the United Nations and its human rights mechanisms without fear of harassment, stigmatization or criminalization of any kind.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
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