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HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (107-9)
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16 July 2012

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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 15/18, 16/4, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged imminent expulsion of **Mr. Ahmed Abdul Khaleq Ahmed Karim Al Baloushi** to Thailand.

Mr. Ahmed Abdul Khaleq Ahmed Karim Al Baloushi is a stateless person of Emirati origin who resides in Ajman in the United Arab Emirates. He was arrested in April 2011, reportedly in connection with comments made on an online political forum calling for democratic reform in the Gulf region. On 27 November 2011, he was found guilty of publicly insulting State officials and sentenced to two years of imprisonment. On 28 November 2011, a pardon was issued by the authorities and Mr. Abdul Khaleq was released.

Mr. Abdul Khaleq was the subject of previous communications sent to your Excellency's Government, the most recent sent on 1 June 2012 by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of expression and the Special Rapporteur on the situation of human rights defenders. Please also refer to the communication sent on 27 September 2011 (A/HRC/19/44, page 85) and 25 November 2011 (A/HRC/19/44, page 146). We regret that to date no reply to the latter communications has been transmitted by your Excellency's Government.

According to the information received:

In early 2012, Mr. Abdul Khaleq and his family applied for Comorian citizenship after being allegedly pressured by authorities to do so in order to begin 'legalising' their status in the United Arab Emirates. On 21 May 2012, Mr. Abdul Khaleq and his family reportedly received notification that their

application had been accepted. On 22 May, Mr. Abdul Khaleq was summoned to the Department of Immigration of the Ajman Emirate where he was allegedly arrested and taken to Al Shahama Police Station. No arrest warrant was reportedly shown and no reason was given to his relatives for the arrest. Two days later, he was reportedly transferred to Al Sader prison, where he currently remains, and was placed in solitary confinement for one week.

In early June 2012, Mr. Abdul Khaleq was reportedly asked by authorities to choose between five countries to be expelled to (Iran, Pakistan, Bangladesh, India and Thailand), in light of the fact that Comoros do not accept persons of 'economic citizenship'.

On 3 July 2012, the prison authorities allegedly summoned his father to Al-Wathba prison, where Mr. Abdul Khaleq is currently being detained. It is reported that they asked him to buy a ticket for his son to Thailand and to prepare a visa using a Comoros passport. On 5 July 2012, his father applied for the visa and made arrangements the ticket. These documents were subsequently issued on 8 July and reportedly given to Mr. Abdul Khaleq the next day.

According to the sources, Mr. Abdul Khaleq is to be expelled from the United Arab Emirates to Thailand on Monday 16 July 2012.

Grave concern is expressed of the alleged imminent expulsion of Mr. Abdul Khaleq to Thailand, a country to which he has reportedly never been and to which he has no personal ties, and that this action may be directly linked to his peaceful and legitimate human rights activities, in particular his criticism of the Government and his advocacy for political reform prior to his arrest in April 2011.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights.

Given our concern that the expulsion of Mr. Abdul Khaleq may be related to his criticism of the Government and his advocacy for political reform, we would like to remind your Excellency's Government of its obligation to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Additionally, we also wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16 that the following types of expression should not be subject to any restrictions: (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters;

- article 7 which states that "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance."; and

- article 12 paragraphs 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to

States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In view of the urgency of the matter, **we urge your Excellency's Government not to expel Mr. Abdul Khaleq and his family to Thailand.** Furthermore, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Abdul Khaleq and his family in compliance with the above-mentioned international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the cases accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of the legal basis of the alleged imminent expulsion of Mr. Ahmed Abdul Khaleq Ahmed Karim Al Baloushi to Thailand.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

El Hadji Malick Sow

Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue

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

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders