

Mandates of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; 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

REFERENCE: UA
ARE 5/2014:

8 October 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; 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 resolution 24/7, decision 25/116, resolutions 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 allegations of arbitrary arrest, *incommunicado* detention and enforced disappearance of two Qatari nationals, Mr. Yousef Abdu al-Ghani Ali al-Mullah (يوسف عبد الغني علي الملا) and Mr. Hamed Ali Mohamed al-Hamaadi (حمد علي محمد الحمادي) by United Arab Emirates (UAE) police.

According to the information received:

Mr. Yousef Abdu al-Ghani Ali al-Mullah, born on 1 January 1984, and Mr. Hamed Ali Mohamed al-Hamaadi, born on 5 September 1981, both of Qatari nationality and residing in Doha, were arrested by members of the police of the UAE on Friday 27 June 2014 while they were crossing the border by car from Saudi Arabia into the UAE at the Ghuwaifat point of entry.

It is alleged that the two men were on a trip to visit relatives who reside in the UAE and for tourism purposes. It is reported that both Mr. al-Mullah and Mr. al-Hamaadi had visited the UAE on numerous occasions without ever facing any problems.

Witnesses of the arrest of Mr. al-Mullah and Mr. al-Hamaadi at the Ghuwaifat border control reported that they had been arrested after revealing their Qatari citizenship to the police of the UAE. The witnesses also reported that the UAE police did not show any arrest warrant nor did they give a reason for the arrest.

Since their arrest on 27 June, the families of Mr. al-Mullah and Mr. al-Hamaadi have not heard from them nor have they been informed of their fate or whereabouts, and therefore they have been unable to hire a lawyer to defend them. The families contacted the Qatari Ministry of Foreign Affairs and the Qatari Consulate in Abu Dhabi requesting their help in finding out what happened to Mr. al-Mullah and Mr. al-Hamaadi, but, to this date, they have received no reply.

Grave concern is expressed about the physical and psychological integrity of Mr. al-Mullah and Mr. al-Hamaadi, in particular as their fate and whereabouts are reportedly unknown to date. Additional concern is expressed that they may be at high risk of torture or other ill-treatment.

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 international norms and standards that are applicable to these issues brought forth by the situation described above.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. al-Mullah and Mr. al-Hamaadi is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their 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 and articles 13 and 14 of the Arab Charter on Human Rights, ratified by the UAE in 2008.

In relation to the allegation that Mr. al-Mullah's and Mr. al-Hamaadi's fate and whereabouts are currently unknown, we would also like to draw attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, the prohibition to practice, permit or tolerate enforced disappearance (article 2), the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3), the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10) and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12).

Moreover, we would like to remind your Excellency's Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment. In this context, 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 article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the United Arab Emirates accessed on 19 July 2012.

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

We would also like to bring to the attention of your Excellency's Government that should sources submit the allegations of enforced disappearance mentioned in this communication as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

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. al-Mullah and Mr. al-Hamaadi 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 which you may have on the above mentioned allegations.
2. Please provide information on the fate or whereabouts of Mr. al-Mullah and Mr. al-Hamaadi.
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. al-Mullah and Mr. al-Hamaadi 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.
4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. al-Mullah and Mr. al-Hamaadi.

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. In particular, we urge that the fate and whereabouts of Mr. al-Mullah and Mr. al-Hamaadi be immediately clarified and their families notified.

We also take this opportunity to inform your Excellency's Government that a copy of this letter will be shared with the authorities of the State of Qatar.

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

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment