

**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**

REFERENCE: UA  
ARE 2/2016:

2 May 2016

Excellency,

We have the honour to address you in our capacity as 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 your Excellency's Government's attention information concerning the alleged arbitrary and incommunicado detention, as well as denial of due process and fair trial of a human rights defender, Mr. **Nasser bin Ghaith**.

Mr. bin Ghaith is an economist and former lecturer at the Abu Dhabi branch of the Sorbonne University of Paris. He is known for his articles published online, in which he has publicly advocated for political reforms and human rights in the United Arab Emirates.

Mr. bin Ghaith was the subject of previous communications sent on 26 April 2011 (see A/HRC/18/51, case ARE 4/2011); on 27 September 2011 (see A/HRC/19/44, case ARE 6/2011); on 25 November 2011 (see A/HRC/19/44, case ARE 8/2011); on 7 November 2012 (see A/HRC/24/21 and A/HRC/22/67, case ARE 7/2012 ); on 20 June 2013 (see A/HRC/25/74, case ARE 3/2013); and on 27 August 2015 (see A/HRC/31/79, case ARE 3/2015). We acknowledge the reply received on 26 March 2013 (regarding ARE 7/2012), however we regret that to date no reply to the other communications, in

particular with regard to the alleged arbitrary arrest and incommunicado detention of Mr. bin Ghaith since 18 August 2015, has been received from your Excellency's Government.

According to the information received:

On 18 August 2015 at 2.00 p.m., Mr. Nasser bin Ghaith, a human rights defender from the United Arab Emirates, had his house searched by 13 State Security officers and was arrested in alleged connection to his posts on the social media about the Egyptian government. The legal basis for his arrest reportedly remains unknown to date.

After his arrest, Mr. bin Ghaith was taken to a secret detention centre and his fate and whereabouts were not communicated to his family. He has been detained incommunicado since his arrest, during which he was allegedly tortured and ill-treated, including being beaten and deprived of sleep.

On 4 April 2016, nearly eight months after his arrest, Mr. bin Ghaith was brought before the State Security Chamber of the Federal Supreme Court in Abu Dhabi. The hearing was closed, except to his family members and to UAE State Media. Mr. bin Ghaith did not have access to his lawyer until the court hearing, and even then, he was not allowed to talk to him or meet him privately. Despite complaining to the court, he remains detained in an unknown location.

The next court hearing was scheduled for 2 May 2016. Judgement and decisions passed by the State Security Chamber of the Federal Supreme Court cannot be appealed before a higher instance.

Mr. bin Ghaith had previously been arrested on 10 April 2011 and detained together with four other human rights activists, for having signed an online petition calling for a democratic reform of the Federal National Council. After their conviction, Mr. bin Ghaith and the others were released in November 2011 under a presidential pardon.

Grave concern is expressed about the alleged arbitrary arrest and incommunicado detention of Mr. bin Ghaith, as well as his physical and psychological integrity, in particular as he is currently detained incommunicado in an unknown location and that puts him at high risk of torture or other ill-treatment. We reiterate our concern that these acts reportedly are in retaliation of Mr. bin Ghaith's legitimate exercise of the right to freedom of expression, and at the Government's conflation of critical expression on political affairs with threats against national security. We are also concerned about the alleged denial of guarantees of due process and fair trial, especially denied access to his lawyers.

While we do not wish to prejudice 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, 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 (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 set forth in the UN Basic Principles on the Role of Lawyers (see in particular principle 1). Principles 8 also stipulates that all arrested, detained or imprisoned persons shall be provided with adequate opportunities to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality; and that such consultations may be within sight, but not within the hearing, of law enforcement officials.

Moreover, we would like to remind your Excellency's Government that prolonged incommunicado detention in secret places can facilitate the perpetration of torture or other cruel, inhumane or degrading treatment or punishment and can in itself constitute a form of such treatment (see paragraph 27 of General Assembly resolution 68/156). 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, which the UAE accessed on 19 July 2012.

We would also like to bring the attention of your Excellency's Government to the right to freedom of expression, as set forth in article 19 of the UDHR. This right protects all forms of expression, including dissenting and critical expression on political and public affairs, whether expressed offline or online. Any limitation to the right must meet the strict criteria set forth under article 29(2) of the UDHR. We would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right to freedom of expression and opinion in the United Arab Emirates, in accordance with article 19 of the UDHR and article 32 of the Arab Charter on Human Rights.

The Human Rights Council, in paragraphs 3 and 5 of its Resolution 12/16, has expressed its concern at the violation of human rights, including extrajudicial killing, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence and censorship against those who seek to promote their rights, including writers

and human rights defenders, and has called upon States to take all necessary measures to put an end to violations of these rights and bring those responsible to justice.

We would also 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.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response to the initial steps taken by your Excellency's Government to safeguard the rights of Mr. bin Ghaith 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 detailed information on the fate and whereabouts of Mr. bin Ghaith.
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. bin Ghaith and explain how these measures are compatible with international and regional norms and standards. Please explain the legal basis for denying Mr. bin Ghaith access to a lawyer in accordance with international human rights standards.
4. Please provide detailed information concerning the legal charges against Mr. bin Ghaith in the hearings of 4 April 2016 and 2 May 2016. In particular, please provide information about the legal basis for bringing the case before the State Security Chamber of the Federal Supreme Court.
5. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. bin Ghaith while being under detention.
6. Please provide detailed information on measures taken to ensure that the right to fair trial and due process are guaranteed in the upcoming hearings, in accordance with international human rights standards.

7. Please provide information about measures taken or to be taken to ensure that the enforcement of national security legislation in the UAE is brought into compliance with international human rights standards.
8. Please indicate what measures have been taken to ensure that human rights defenders in the UAE are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment or persecution of any sort.

While awaiting your response, we urge your Excellency's Government to release Mr. bin Ghaith and take all necessary measures to guarantee that his rights and freedoms are respected, in particular the right of due process and fair trial in the upcoming hearings. Moreover, in the event that your investigations support the above allegations to be correct, we reiterate the absolute and non-derogable prohibition of torture of other forms of ill-treatment. Lastly, we urge that the whereabouts and reasons of Mr. bin Ghaith's arrest be immediately clarified and notified to his family.

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.

Sétondji Roland Adjovi  
Chair on behalf 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  
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