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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates 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; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.**

REFERENCE: UA G/SO 218/2 Health (2002-7) G/SO 214/79-9  
ISR 7/2012

19 June 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 pursuant to Human Rights Council resolutions 15/18, 15/22, and 5/1.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **Mr. Mahmoud Sarsak, Mr. Akram Rikhawi** and **Mr. Samer Al-Barq**, Palestinian prisoners who are currently engaged in hunger strikes in Ramleh prison medical centre in Israel.

According to information received:

**Mr. Mahmoud Sarsak**, 25 years of age, is currently on his 88<sup>th</sup> day of a hunger strike and is in grave danger of death. He has been detained for nearly three years without charge or trial. On 22 July 2009, he was allegedly detained by Israeli authorities at Erez checkpoint where he attempted to cross into the West Bank from Gaza Strip to participate in a football match. Mr. Sarsak is a member of the Palestinian national football team and had allegedly obtained permission from the relevant Israeli authorities to enter the West Bank via Israel.

On 23 August 2009, an order was reportedly signed by the Israeli Minister of Defense to continue Mr. Sarsak's detention under Israel's "Unlawful Combatants Law." This law allows for Palestinians from the Gaza Strip to be detained for an unlimited amount of time without being charged or brought to trial. Under this law, detainees are issued a permanent detention order based on what Israel deems as "participating either directly or indirectly in hostile acts against the State of Israel, or being a member of a force perpetrating hostile acts against the State of

Israel.” Additionally, under this law detainees are only brought before an Israeli District Court once every six months for a judicial review of their detention order.

On 19 March 2012, Mr. Sarsak allegedly began his hunger strike to protest the latest extension of his detention under the Unlawful Combatants Law. On 8 April 2012, after beginning his hunger strike, he was transferred to Ohalei Keidar prison and then to Eshel prison where he was held in solitary confinement. He was taken out of solitary confinement on 16 April 2012 due to his deteriorating health and was transferred to Ramleh prison medical center. On 6 May 2012, Mr. Sarsak made his first request to be visited by independent doctors from Physicians for Human Rights Israel (PHR-Israel). Despite his critical condition, Mr. Sarsak’s request was allegedly denied. The Israeli Prison Service has also allegedly refused to transfer Mr. Sarsak to a civilian hospital for proper treatment.

On 6 June 2012, a doctor from PHR-Israel finally visited Mr. Sarsak after allegedly approaching the Israeli District Court on this matter. The PHR-Israel doctor reported that Mr. Sarsak has experienced loss of muscle tissue and drastic weight loss. He has allegedly lost 33 percent of his body weight, going from 76 kilograms to his present weight of 51 kilograms. He also allegedly suffers from frequent incidents of fainting and loss of consciousness, in addition to lapses in memory. The PHR-Israel doctor further reported that Mr. Sarsak is in danger of pulse disruptions (arrhythmias) that are endangering his life.

Reportedly, Mr. Sarsak is at greater risk of death as he will continue his hunger strike and will refuse all forms of nutrition (including fluids, salts and minerals) if he is not guaranteed that his release is forthcoming.

Grave concerns are also expressed for **Mr. Akram Rikhawi**, from the Gaza Strip who was allegedly arrested on 7 June 2004 and sentenced to nine years of imprisonment. Mr. Rikhawi, currently on his 64th day of hunger strike, has allegedly been held in the Ramleh prison medical center since his arrest as he suffers from various chronic conditions, including diabetes and asthma. Mr. Rikhawi began his hunger strike on 12 April 2012, in protest against his request for early release not being granted despite his medical conditions. Reportedly, a prisoner is entitled to request consideration for early release when he has served at least two thirds of his sentence. On 5 June 2012, Mr. Rikhawi’s appeal for an early release on medical grounds was rejected. PHR-Israel has made numerous requests to gain access to Mr. Rikhawi but allegedly, these requests have been denied. On 6 June 2012, a doctor from PHR-Israel finally visited Mr. Rikhawi and allegedly reported that he suffers from extreme loss of muscle tissue and drastic weight loss. Mr. Rikhawi’s weight allegedly decreased from 68 kilograms to 50 kilograms and has lost 26.5 percent of his body weight. The PHR-Israel doctor further reported that a combination of inflammation of prior chronic illnesses and the complications of hunger strike requires Mr. Rikhawi to be hospitalized urgently. The doctors from the Israeli Prison Service (IPS) have allegedly threatened to force-feed and force-treat Mr. Rikhawi. As a result of these threats and the IPS’s refusal to recommend early release on the basis of his medical condition, Mr. Rikhawi grew to distrust IPS doctors and has often refused the treatment offered by IPS for his chronic illnesses.

**Mr. Samer Al-Barq**, a Palestinian prisoner, 38 years old, is also currently undergoing a hunger strike in Ramleh prison medical center. He has allegedly been held in administrative detention, without charge or trial, since 11 July 2010. Mr. Al-Barq allegedly participated in the Palestinian prisoners' mass hunger strike from 17 April to 14 May 2012. He re-launched his hunger strike on 21 May 2012, in protest against the renewal of his administrative detention order in spite of an understanding in the agreement that ended the mass hunger strike, which implied that current administrative detainees would not have their orders renewed.

Despite recommendations from PHR-Israel's independent doctor to the Israeli Prison Service (IPS) for Mr. Mahmoud Sarsak and Mr. Akram Rikhawi to be urgently transferred to a hospital, the IPS has allegedly refused these recommendations. It has also allegedly refused to go through the medical files which were provided by the PHR-Israel doctor. The IPS has allegedly stated that the medical follow-up provided by the PHR-Israel has been insufficient.

Serious concern is expressed regarding the physical and psychological integrity of the aforementioned Palestinian prisoners particularly in light of their deteriorating health. Further concern is expressed that the prolonged hunger strikes have placed these prisoners in grave and imminent risk of death.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Mahmoud Sarsak, Mr. Akram Rikhawi and Mr. Samer Al-Barq 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 9 and 14 of the International Covenant on Civil and Political Rights.

We would also appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the right to the highest attainable standard of health of Messrs. Sarsak, Rikhawi and Al-Barq. This right is reflected, *inter alia*, in the article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified by your country on 3 October 1991), which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes an obligation on the part of all State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. We also wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which holds that, "States are under the obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services..." (para.34).

We would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers". While Rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." Furthermore, we would also like to refer to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation" (Principle 9).

We would also like to recall the World Medical Assembly's Declaration of Malta on Hunger Strikes (adopted in November 1991, revised in October 2006), which emphasizes the duty of all physicians to, inter alia, act ethically (Principles 1) and respect individuals' autonomy (Principle 2). The Declaration further states that: "Forcible treatment is never acceptable. Even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment" (Guideline 13).

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. Mahmoud Sarsak, Mr. Akram Rikhawi and Mr. Samer Al-Barq in compliance with the forementioned 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 summary of the cases accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, 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 any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please provide information concerning the legal grounds for the arrest and detention of Mr. Mahmoud Sarsak, Mr. Akram Rikhawi and Mr. Samer Al-Barq and how these measures are compatible with international norms and standards as stated, *inter alia*, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

6. Please provide information on the measures taken to ensure the safety of Mr. Mahmoud Sarsak, Mr. Akram Rikhawi and Mr. Samer Al-Barq.

7. Please provide information on the measures taken to ensure the enjoyment of the right to the highest attainable standard of health by Messrs. Sarsak, Rikhawi and Al-Barq.

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 Mr. Mahmoud Sarsak, Mr. Akram Rikhawi and Mr. Samer Al-Barq 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

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