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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Working Group on Enforced or Involuntary Disappearances 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 Enforced or Involuntary Disappearances and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/16 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the situation of Mr. **Ashraf Mohammad Yousef Abdulsalam** who was arrested in Bahrain and forcibly returned to Jordan and who is allegedly at imminent risk of torture.

According to the information received:

Mr. Ashraf Mohammad Yousef Abdulsalam of Palestian origin, was born on 6 January 1984 in Iraq and issued a Jordanian passport (No. K048787). On 28 June 2010, he was arrested at the GID headquarters in Amman, Jordan and placed in incommunicado detention.

It is reported that following his arrest, Mr. Abdulsalam's family undertook numerous steps to obtain information on the reasons for his arrest and his place of detention, but it was not until three weeks later that his mother was able to visit him a first time on 22 July 2010. She was allowed to see her son for about 15 minutes, during which she noticed that he bore marks indicative of torture. Mr. Abdulsalam was allegedly released 2 months later in late September 2010, but was placed under house arrest. As soon as these restrictions were lifted, he reportedly joined his family in Bahrain, where he took up residence.

It is furthermore reported that at around 3:00 p.m. on 25 September 2012, several agents of the Bahraini State Security Forces came to Mr. Abdulsalam's home and arrested him, along with his younger brother. His passport was allegedly handed

to the Bahraini authorities later that day, but the family was not able to see Mr. Abdulsalam and they were not informed of the reason for his arrest.

On 26 September 2012, the family was allegedly told that Mr. Abdulsalam had been handed over to the Jordanian authorities, without further information being provided on his fate or whereabouts in spite of requests thereof.

Reportedly, Mr. Abdulsalam has never lived in Jordan. His relatives apparently have no idea of the reasons for the Jordanian interest in his person. However, based on the previous torture he was allegedly subjected to in the country, grave concerns about his physical and mental integrity are expressed.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Ashraf Mohammad Yousef Abdulsalam. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

With regard to the unknown whereabouts of the person mentioned above, we would like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

With regard to the allegations of torture in 2010 and the alleged actual imminent risk of torture, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw the attention of your Excellency's Government to article 2(2) of the CAT, which provides that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. In this regard, we note that paragraph 2 of Resolution 16/23 of the Human Rights Council, which "Condemns in particular any action or attempt by States or public officials to legalize, authorize or acquiesce to torture and other cruel, inhuman or degrading treatment or punishment under

any circumstances, including on grounds of national security or through judicial decisions, and urges States to ensure accountability for all such acts;”

In relation to the allegation that the fate and whereabouts of Mr. Ashraf Mohammad Yousef Abdulsalam are unknown, we would like to bring to your Excellency’s Government’s attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which sets out necessary protection by the State, including in:

- article 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);

- article 10 (right to access of competent national authorities to all places of detention; 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; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest); and

- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons).

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. Ashraf Mohammad Yousef Abdulsalam in compliance with the above 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 case accurate?
2. Has a complaint been lodged?
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 this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information about the whereabouts of Mr. Ashraf Mohammad Yousef Abdulsalam and the steps taken by your Excellency’s Government to safeguard his rights and to assure that Mr. Ashraf Mohammad Yousef will not be subjected to torture or any other form of cruel, inhuman or degrading treatment while under your Excellency’s Governments jurisdiction.

5. Please explain what measures will be taken to ensure that any statement which is established to have been made as a result of torture will not be invoked as evidence in any proceedings in accordance with article 15 of the Convention against Torture.

6. Please provide information on the fate and whereabouts of the above mentioned person. If his fate and whereabouts are unknown, please provide the details on any investigation or other inquiries which may have been carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.

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.

Olivier de Frouville
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

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