

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; 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

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Excellency,

We have the honour to address you in our capacities as Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; 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 26/22, 28/11, 25/2, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of intimidation, in the form of verbal threat and harassment, against Mr. Farhan Issa Ahmed Al-Daboubi as a response to his complaints submitted to Government authorities and the European Bank for Reconstruction and Development (EBRD) in relation to the Fourth Independent Power Plant (IPP4) Al-Manakher Power Plant located in the east of Amman, Jordan.**

Mr. Farhan Issa Ahmed Al-Daboubi is an engineer and an environmental rights defender. He is the Chairman of the East Amman Society for Environmental Protection (EASEP), a non-profit organization dedicated to restoring clean air and healthy environments through scientific research, public education, mitigation measures and legal advocacy.

According to the information received:

Background

The IPP4 Al-Manakher Power Plant is a 240 megawatt peaking power plant located near the village of Al-Manakher, approximately 14 kilometers east of Amman on a site leased from the Department of Lands and Survey of the Ministry of Finance. The IPP4 is located between IPP1 and the village of Al-Manakher and

the site boundary is about 80 to 100 meters from the nearest residence in the village and about 150 meters from the village school.

AES Levant Holding BV Jordan PSC (“AES Jordan”) was set up with the sole purpose of building and operating the IPP4 Al-Manakher Power Plant. AES Jordan is owned by AES Baltic Holdings B.V and Mitsui & Company Ltd. AES Baltic Holdings B.V is a global power company headquartered in the United States of America with operations in 27 countries and Mitsui & Company Ltd is a Japanese public company.

The European Bank for Reconstruction and Development (EBRD) is financing a loan of up to USD 100 million for an estimated total project cost of USD 360 million.

Allegations of intimidation and harassment against Mr. Al-Daboubi

Since September 2014, Mr. Al-Daboubi has submitted complaints against the IPP4 Al-Manakher Power Plant (“the IPP4 Project”), raising several concerns, in particular, on the exclusion of local affected communities – population of approximate 30,000 - during the environmental decision-making process and the negative environmental impact on the local communities caused by the IPP4 Project. Mr. Al-Daboubi reportedly submitted complaints against the IPP4 Project to several Government authorities including the Ministry of Environment (on 24 February 2015, 6 April 2015, 6 July 2015, and 27 August 2015), Amman Municipality (on 24 and 28 March 2015, 4 July 2015, and 27 October 2015), and the National Centre for Human Rights of Jordan (on 13 September 2015). Mr. Al-Daboubi has not received any official responses. Mr. Al-Daboubi also contacted the relevant business entities – AES, Mitsui and AES Jordan - through emails on several occasions from September 2014 to February 2015.

Furthermore, since May 2015, Mr. Al-Dadoubi sent several emails to EBRD to raise the environmental concerns in relation to the IPP4 Project. On 29 July 2015, Mr. Al-Daboubi met with the EBRD representatives in Jordan and was invited to send a formal complaint. On 2 August 2015, on behalf of the EASEP, Mr. Al-Daboubi submitted a letter of complaint against the IPP4 Project to the EBRD through its Project Complaint Mechanism.

On 8 September 2015 and 24 November 2015, Mr. Al-Daboubi was summoned by the police and was questioned about the complaints that he had submitted to various forums including social network sites and the media.

It is alleged that the IPP4 Project’s manager filed a complaint to the Minister of Interior against Mr. Al-Daboubi claiming that Mr. Al-Daboubi had threatened the manager. The Minister of Interior issued an arrest warrant based on that complaint. Moreover, upon Mr. Al-Daboubi’s request for information and evidence on the alleged threat, no information has been provided to him.

Mr. Al-Daboubi was detained for 24 hours on 24 November 2015 and was only released following a protest by approximately 200 local community members in front of the AES Jordan premise. In addition, as a condition of release, the police reportedly requested Mr. Al-Dadoubi to sign a document committing him not to write to any international organization regarding the IPP4 Project and AES Jordan.

Concern is expressed that the alleged intimidation against Mr. Al-Daboubi may be directly linked to his legitimate and peaceful activities in the defence of environmental rights for the local affected communities and the legitimate exercise of his rights, including the right to freedom of expression and to freedom of association. Concern is also expressed that the alleged intimidation against Mr. Al-Daboubi appears to be in retaliation for his complaints filed to EBRD and Government authorities. Further concern is expressed that the Government inspection and monitoring of the power plant projects are absent and that the right of the local communities in East Amman to participate in environmental decision-making process is not safeguarded.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on any investigations that have been carried out in relation to the alleged complaints documented by Mr. Al-Daboubi, including information, where available, on any inquiries carried out, and on their results.
3. Please provide details of the legal basis for the alleged summons by the police stations and the arrest warrant against Mr. Farhan Issa Ahmed Al-Daboubi. Please indicate how these measures comply with Jordan's international human rights obligations under international human rights treaties.
4. Please indicate what measures have been taken to ensure that human rights defenders and environmental activists are able to carry out their legitimate work in a safe and enabling environment in Jordan, including exercising their rights to freedom of opinion and expression, without fear of threats or acts of intimidation and harassment of any sort.
5. Please indicate what measures have been taken by the Government to ensure prior and meaningful consultation with local communities regarding the construction of power plants in the east of Amman and to ensure that negative

environmental and human rights impact by IPP4 and other power plants are regularly monitored.

6. Please indicate if the Government of the Jordan has provided any guidance to business enterprises operating in Jordan on their expected human rights due diligence process? Such a process allows companies to identify, prevent, mitigate and account for how they address their impacts on human rights (as per the Guiding Principles on Business and Human Rights, Principles 17-21).

7. What steps is the Government taking to ensure that victims have access to effective remedy in cases of alleged human rights abuses concerning State and privately owned enterprises in Jordan?

8. Please indicate which measures, including policies, legislation, regulations and adjudication, the Government has put in place to prevent, investigate, punish and redress human rights abuses related to the activities of business enterprises within its territory and/or jurisdiction?

We would appreciate receiving a response within 60 days.

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(s) responsible for the alleged violations.

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.

Dante Pesce

Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises

John Knox

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

David Kaye

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government attention to article 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Hashemite Kingdom of Jordan on 28 May 1975, which guarantees the rights to freedom of opinion and expression.

We would also like to refer 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, also known as the United Nations Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

We would like to bring to the attention of your Excellency's Government the following provisions of the United Nations Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights; and
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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 addition, we would like to refer to Human Rights Council resolution 22/6, which provides that domestic law should create a safe and enabling environment for the work of human rights defenders (PPs 10-13), and which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

We wish to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

Furthermore, we would like to refer to the report of the Special Rapporteur on the situation of human rights defenders which specifically makes the following recommendation for defenders working on environmental issues: "States should give full recognition to the important work carried out by defenders working on land and environmental issues in trying to find a balance between economic development and

respect of the environment, including the right to use land, natural wealth and resources, and the rights of certain groups, including indigenous peoples and minorities (A/HRC/19/55 para. 124)”.

In this context, we would also like to refer to the Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/4) in 2011. The Guiding Principles have been established as the authoritative global standard for all States and business enterprises with regard to preventing and addressing adverse business-related human rights impacts. These Guiding Principles are grounded in recognition of:

1. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
2. “The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
3. “The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

The Guiding Principles recognize the important and valuable role played by independent civil society organizations and human rights defenders. In particular, Principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The commentary to Principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.

The corporate responsibility to respect human rights covers the full range of rights listed in the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. It also includes the respect of the eight International Labour Organization core conventions also envisaged in Principle 4 of the UN Global Compact, which states that business enterprises should uphold the elimination of all forms of forced and compulsory labour. The Guiding Principles 11 to 24 and 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have caused or contributed to adverse impacts.

Finally, we would further like to refer to article 32 of the Arab Charter on Human Rights ratified by Hashemite Kingdom of Jordan on 28 October 2004, which also guarantee the rights to freedom of opinion and expression.