

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to Human Rights Council resolutions 24/7 and 25/2.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of three journalists, **Mr. Jake Hanrahan, Mr. Phillip Pendlebury and Mr. Mohammed Ismael Rasool in addition to their driver, for allegedly aiding a terrorist organization in the south-eastern Turkish province of Diyarbakir.**

Mr. Hanrahan, Mr. Pendlebury and Mr. Rasool are journalists working for the global news channel, "VICE News", based in the United States of America. Mr. Rasool is also a translator, who has worked extensively across the Middle East and also with the Associated Press and Al-Jazeera.

According to the information received:

On 27 August 2015, two British journalists, Mr. Jake Hanrahan and Mr. Philip Pendlebury, along with an Iraqi journalist, Mr. Mohammed Ismael Rasool, and their driver, were reportedly arrested in the south-eastern Turkish province of Diyarbakir while filming clashes between security forces and youth members of the outlawed Kurdistan Workers' Party (PKK). The following day, the above-mentioned individuals were allegedly held at the Diyarbakir Police General Directorate and questioned by anti-terrorism police.

On 31 August 2015, the three journalists were charged by a Turkish judge in Diyarbakir for "engaging in terrorist activity." It was not immediately clear what organization the journalists were accused of assisting.

Following their arrest, the head of news programming for “VICE News” in Europe, Mr. Kevin Sutcliffe, reportedly stated that the charges against his staff were “an attempt to intimidate and censor their coverage.” Turkish authorities have reportedly not yet disclosed any details regarding evidence supporting the charges against the above-mentioned individuals.

After being indicted, the three journalists were reportedly detained at Diyarbakir D Type Prison. The fourth man, a driver, was released without charge.

On 3 September 2015, the Foreign and Commonwealth Office of the United Kingdom released a statement reporting that the two British journalists had been transferred from prison to a Migration Department Deportation Centre in Adana. Legal counsel representing the three journalists reportedly informed the media that the two British journalists were now free to leave the country, though the charges against them have not been dropped. The third journalist, Mr. Rasool, reportedly had his appeal for release rejected by the Turkish authorities and is still being detained in prison.

While we acknowledge that two of the journalists, Mr. Hanrahan and Mr. Pendlebury have been released from prison, we nonetheless express grave concern at the indictment and arbitrary detention of all three journalists may be related to the legitimate exercise of their rights to freedom of expression, especially in relation to the activities they conduct as investigative journalists. Serious concern is also expressed regarding the welfare of Mr. Rasool, who is currently still in prison.

Such measures violate international human rights law as they are not proportionate to the activities they are designed to sanction. The reporting of sensitive issues, which are of interest to both a Turkish and international audience, is not a crime and should not form the basis of a criminal prosecution.

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 the issues brought forth by the situation described above.

We would like to refer to the articles 19 of the Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which Turkey ratified on 24 November 2006, which guarantee the right to freedom of opinion and expression. In particular, we wish to remind your Excellency’s Government that any restrictions to the exercise of the right freedom of expression, in accordance with article 19(3) ICCPR, must be provided by law and necessary and proportionate.

In paragraph 23 of its General Comment No. 34, the Human Rights Committee has recognized that, journalists and those persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-

related reports, are “frequently subjected to threats and intimidation because of their activities” and has urged States to vigorously investigate these acts.

Similarly, the Human Rights Council, in paragraphs 1 and 3 of its Resolution 27/5 on the safety of journalists, has condemned the use of arbitrary detention and harassment against journalists and has urged States to promote a safe and enabling environment in which they can perform their work independently and without undue interference.

Without expressing at this stage an opinion on the facts of the case and on whether the deprivation of liberty of Mr. Hanrahan, Mr. Pendlebury and Mr. Rasool 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 (UDHR) and articles 9 and 14 of the ICCPR.

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

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 the above-mentioned persons 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 any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and initial detention of Mr. Hanrahan and Mr. Pendlebury, as well as the on-going detention of Mr. Rasool, and explain how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please indicate what measures have been taken to ensure that journalists in Turkey are able to carry out their legitimate work in a safe and enabling environment without fear of intimidation and harassment of any sort.
4. Please indicate what measures have been, or will be, taken to ensure that the right to freedom of opinion and expression are respected in the country.

While awaiting a reply, we urge Your Excellency's Government to take all the necessary measures to withdraw all charges against the three journalists and release Mr. Rasool immediately.

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.

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

Seong-Phil Hong
Chair-Rapporteur of the Working Group on Arbitrary Detention