

**NATIONS UNIES**  
**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 promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: UA G/SO 218/2 Terrorism (2005-4) G/SO 214 (53-24)  
USA 20/2013

5 December 2013

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 promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 22/8, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the situation of **Mr. Djamel Ameziane**, born in 1967, ethnic Berber from Algeria who fled Algeria in early 1990s and unsuccessfully sought asylum in Austria and Canada before he was reportedly detained in Pakistan and transferred to Guantanamo Bay, Cuba. Mr. Ameziane is at risk of being forcibly transferred to Algeria where it is feared that he will be subjected to torture and ill-treatment. Mr. Ameziane is currently seeking resettlement in a safe third country.

According to the information received:

In the early 1990s, Mr. Ameziane left Kabylie, Algeria, where he worked as a hydraulics technician, to escape reported escalating instability and harassment against practicing Muslims. In or around 1992, Mr. Ameziane fled to Austria, where upon arrival he applied for asylum seeker. His application for asylum seeker was reportedly denied in Austria in 1995, and in Canada in 2000 where Mr. Ameziane had reportedly fled in 1995 following the refusal of his asylum seeker application in Austria. It is further reported that Mr. Ameziane had then fled to Afghanistan where he believed he could freely practise his religion. In 2001, Mr. Ameziane was reportedly captured by Pakistani authorities when trying to flee to Pakistan. It is reported that he was later handed over to United States

military operating in Afghanistan. In January 2002, Mr. Ameziane was transferred to the United States airbase in Kandahar, Afghanistan where he reportedly remained detained for more than a month before he was transferred to Guantanamo Bay in Cuba. On or about 11 February 2002, Mr. Ameziane was allegedly forced to board a plane while hooded and shackled and, while chained to the floor, travelled 15 hours. Once at Guantanamo Bay, Mr. Ameziane was reportedly chained to a bus and forbidden to speak or move, and was allegedly beaten if he swayed with the bus's movement. He was reportedly placed at the facility known as Camp X-ray for almost three months, until April 2002, in a wire mesh cage cell that reportedly measured six square feet. It is alleged that the guards would gratuitously yell obscenities and insults at him every time they walked by his cell or gave him an order, often for no reason; for example, to demand that he arrange his basic personal items in a certain order. It is also reported that Mr. Ameziane was also held in other areas of the detention facility at Guantanamo Bay, including several stints in solitary confinement of up to a month at a time. While detained, he was allegedly subjected to torture and ill-treatment, such as being punched, kicked, slammed to the ground, searched in a forceful and abusive way, threatened with dogs and with firearms. It is reported that during his time in Camps II and III, Mr. Ameziane routinely suffered religious abuse and disruptions. In addition, Mr. Ameziane was reportedly denied medical attention. He was allegedly subjected to deprivation of sleep and to other forms of mistreatment such as being sprayed with pepper spray, waterboarding, and general beating resulting in serious physical injuries. He was reportedly insulted and sometimes thrown stones at from the metal grill window of his cell when he was praying. Mr. Ameziane was allegedly bound tightly for extended periods of time, which caused his extremities to swell; on at least one occasion he was reportedly locked in an interrogation room for up to 30 hours with extremely loud music playing.

It is further reported that from March 2007 until March 2011, Mr. Ameziane had been detained in Camp VI, where he was allegedly transferred as punishment for not speaking with his interrogators. He was reportedly housed in a windowless six by twelve feet concrete and steel cell with no openings for natural light or air, where the temperature was kept extremely cold; the only exposure to the outdoors was when he was allowed to spend two hours a day in another cell with two story walls and a wire mesh ceiling. As a result, Mr. Ameziane suffered serious deterioration of his vision. The glasses he was finally reportedly given after almost a year passed for request for optometric care were the wrong prescription, which caused him a headache after each use. It is also reported that Mr. Ameziane suffered from rheumatism in his legs, a condition for which he reportedly did not receive a medical treatment. On multiple occasions, Mr. Ameziane was asked to seek interrogator's permission in order to be provided with socks to help him with the rheumatism. It is reported that on one occasion, Mr. Ameziane went into convulsions in his cell, but the guards left him writhing on the floor for hours before taking him to the medical center. It is reported that the attending doctor

inserted a serum in Mr. Ameziane's arm, and asked one of the guards to assist him inserting a syringe needle into Mr. Ameziane's vein. Reportedly, after unsuccessful attempt to insert the needle into Mr. Ameziane's forearm, the doctor and the guards laughed while he remained laid chained to the table. On 23 March 2011, Mr. Ameziane had reportedly been transferred to Camp IV, a collective section intended for good behaviour detainees. For over six years, Mr. Ameziane had reportedly effectively been denied any meaningful contact with his family.

It is reported that Mr. Ameziane has a pending habeas corpus petition filed on 24 February 2005, and request for precautionary measures dated 20 August 2008, *Ameziane v. United States*, filed with the Inter-American Commission on Human Rights (IACHR). It is reported that Mr. Ameziane's habeas corpus petition is currently stayed indefinitely in the D.C. District Court, while his IACHR petition requiring the United States to honor its *non-refoulement* obligations and cease all mistreatment is currently pending.

Concern is expressed about the physical and mental integrity of Mr. Ameziane in light of his reported planned transfer to Algeria, where it is alleged that he would be at risk of persecution, torture and ill-treatment. Grave concern is expressed at Mr. Ameziane's continuing indefinite detention without charge or trial.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Ameziane is arbitrary or not, 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 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

In this context and with respect to the allegations according to which Mr. Ameziane was subjected to torture and ill-treatment 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 like to draw your Excellency's Government's attention to paragraph 6 of General Comment 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners,

which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged”. (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

We would also 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.” Furthermore, 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.” (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.)

We would further like to draw your Excellency’s Government’s attention to article 3 of the Convention against Torture, which provides that no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, paragraph 9 of General Comment 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties “must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement”. Furthermore, paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly urges States “not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture”.

Furthermore, paragraph 6d of Human Rights Council Resolution 8/8 urges States not to expel, return (refouler), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture and; the Council recognizes in this respect that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.

We would also like to draw your Excellency’s Government’s attention to General Assembly Resolution 66/171 and Human Rights Council Resolution 19/19, whose paragraphs 1 reaffirms “that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law.” In paragraph 12 of that resolution, the Human Rights Council notes with concern measures that can undermine human rights and the rule of law, such as “the return of suspects to countries without

individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjection to torture, and limitations to effective scrutiny of counter-terrorism measures.”

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. Ameziane 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 by or on behalf of Mr. Ameziane?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Ameziane 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.
4. 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.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please provide details on whether any risk assessment of Mr. Ameziane’s return to Algeria was carried out. Please explain if other options for protection measures have been explored with the Government of Algeria to ensure the safety and well-being of the complainant in case of extradition to Algeria. If yes, please provide information on these options.
7. Please provide information on the steps taken to abolish solitary confinement as a punishment, or to restrict its use.

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. Ameziane 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.

Mads Andenas  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Ben Emmerson  
Special Rapporteur on the promotion and protection of human rights and  
fundamental freedoms while countering terrorism

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