

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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

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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; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; 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, 27/1, 22/8, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged disappearance, arbitrary detention, and fear of refoulement of [REDACTED]**, a Libyan national, to a country where he may be tortured or otherwise ill-treated.

According to information received:

On 13 November 2014, [REDACTED], a Libyan national, was last seen by an eyewitness when he was arrested in Yalova, Turkey, by Turkish authorities. [REDACTED] was then allegedly transferred to a detention center for irregular immigrants in Kocaeli province, Turkey.

Since his arrest until the time of the present communication, the fate and whereabouts of [REDACTED] remain unknown. It is alleged that [REDACTED] is at imminent risk of being extradited from Turkey to a country where he would be at risk of torture.

Without expressing an opinion on whether or not the arrest and detention of [REDACTED] is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), which Turkey has ratified on 23 September 2003. We would also like to express our concern that extradition of [REDACTED] to a country where he would be at risk of torture would be in violation of Turkey's obligations under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Turkey ratified on 25 August 1988.

In addition, these allegations appear to be in contravention with General Assembly resolution 68/178 and Human Rights Council resolution 25/7, which emphasize that States must adhere to international human rights while countering terrorism.

With regard to the allegation that [REDACTED] fate or whereabouts are currently unknown, we would like to bring to your Excellency's Government's attention the rights and obligations set out in the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, in particular articles 2, 3, 8, 10 and 12.

With regard to the alleged secret detention of [REDACTED], we would like to draw the attention of your Excellency's Government to the UN Joint study on global practices in relation to secret detention in the context of countering terrorism, in which the Special Rapporteur on the promotion and protection of human rights while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, recommended (A/HRC/13/42, para. 292 (e)) that the persons who participated in secretly detaining persons and any unlawful acts perpetrated during such detention should be prosecuted without delay and, where found guilty, appropriately sentenced. This would also include their superiors if they ordered, encouraged or consented to secret detentions. In addition, we would like to bring to your Excellency's attention paragraph 6 (c) of General Assembly resolution 68/178 which urges States to ensure that no form of deprivation of liberty places a detained person outside the protection of the law and to respect the safeguards regarding liberty, security and dignity of the person, in accordance with international law, including international human rights and humanitarian law.

Moreover, we would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly resolution 68/156, 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 dignity of the person and to ensure that secret places of detention and interrogation are abolished.

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 as soon as possible on the initial steps taken by your Excellency's Government to safeguard the rights of [REDACTED] 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 on the fate and whereabouts of [REDACTED].
3. Please provide information on the legal grounds for the arrest and continued detention of [REDACTED] and how these measures are compatible with Turkey's international obligations, in particular concerning the rights not to be arbitrarily deprived of liberty, and the right to be protected against refoulement, as enshrined in the UDHR, ICCPR and CAT.
4. Please provide the details, and where available the results, of any investigation, 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.

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 responsible of the alleged violations. We would also like to inform your Excellency's Government that a copy of this communication is shared with the Government of Libya.

We would like to bring to the attention of your Excellency's Government that should the sources submit the allegations concerning [REDACTED] as a case to the Working Group on Enforced or Involuntary Disappearances, it will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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.

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

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

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 punishment