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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 independence of judges and lawyers; the Special Rapporteur on the human rights of migrants; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 214 (3-3-16) G/SO 214 (106-10) G/SO 214 (53-24)
QAT 1/2014

24 February 2014

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 independence of judges and lawyers; Special Rapporteur on the human rights of migrants; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 17/2, 17/12, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **serious allegations of human rights violations regarding the arrest, detention, trial and conviction of Mr. Juan Pablo Iragorri Medina**, a Colombian national currently held in detention in the Central Prison in Doha.

According to the information received:

Mr. Juan Pablo Iragorri, a certified skydiver instructor, had been working since late 2005 with the Ministry of Interior of the State of Qatar as a parachute instructor. In early 2010, Mr. Iragorri was reportedly invited by the Ministry of Interior to come to the State of Qatar and work with their search and rescue unit. Mr. Iragorri does not speak, write or understand Arabic.

On 30 June 2011, at around 1:00 a.m., Mr. Iragorri was reportedly arrested at gun point by a group of police officers when he was arriving at his home in the West Bay neighborhood of Doha. The police officers were wearing civilian clothing, showed no identification and did not present any arrest or search warrant. They did not state on what grounds Mr. Iragorri was being arrested. The police officers reportedly searched Mr. Iragorri's vehicle. It is further reported that the police

officers did not find any money or drugs in the possession of Mr. Iragorri. This information was allegedly later confirmed in the police officers' statements.

It is alleged that Mr. Iragorri was then taken to a room in the Sheraton hotel in Doha where he was forced, still at gunpoint, to kneel in front of drugs while photographs were taken. Mr. Iragorri requested a lawyer on several occasions, but his requests were reportedly denied and he was not informed of his rights. Mr. Iragorri was allegedly told several times by the police officers that unless he cooperated with the police he would be executed. Mr. Iragorri was then reportedly taken to a place referred to as a former drug jail across from Al Rayyan Park where he was kept in detention.

During the first week of his detention, it is alleged that Mr. Iragorri was kept in complete isolation in a cell of one by two meters without windows, shower or toilet. He was then reportedly moved to a cell of one and a half by three meters without windows, shower or toilet, where he was still kept in isolation. The cell reportedly did not have a bed and, in addition to being dirty, it was infested with ants. It is reported that Mr. Iragorri was forced to sleep on the floor and wrap a t-shirt around his head to try to prevent ants from entering his nose, mouth and ears, a technique which did not always work.

Mr. Iragorri was allegedly kept in his cell all day long, except for four to five hours each night when the police would come to pick him up to use him as an interpreter and/or bait in police operations related to drug cases. In early August 2011, about one month after his arrest, Mr. Iragorri was reportedly moved to a normal cell at the Crime Investigation Department, but was still kept in solitary confinement.

It is further alleged that during police interrogations which followed his arrest, Mr. Iragorri was constantly threatened by one police officer, his handcuffs were kept extra tight, he was punched and pushed against the wall and was told that he would be executed if he did not cooperate. Mr. Iragorri was also reportedly placed in extremely uncomfortable kneeling positions with his hands tightly handcuffed behind his back which at times would make it extremely difficult to breathe.

Mr. Iragorri was also brought to the police operation center where the same police officer would show him his gun and tell him that if he tried anything or deviated from the investigation plan he would love to shoot him.

According to information, Mr. Iragorri was unable to contact his family for over three months after his arrest on 30 June 2011. It is further reported that his family and friends enquired with the Colombian consulates in London and Cairo about Mr. Iragorri's whereabouts. The consulates allegedly made several requests to the Qatari government but no information was provided to them. Some of Mr.

Iragorri's friends in the State of Qatar went to the police asking about Mr. Iragorri's whereabouts; they also tried to report him missing. They were reportedly told that if they continued asking about Mr. Iragorri they would be arrested and deported.

It is reported that Mr. Iragorri requested to have access to a lawyer on a daily basis from the moment of his arrest without success. In addition, Mr. Iragorri reportedly requested to be allowed to contact the Colombian Embassy, but his requests were reportedly also rejected and he was told on several occasions that there was no Colombian Embassy in the State of Qatar and that because he was assisting the police in some of their investigations he did not need a lawyer. Despite all of his requests, Mr. Iragorri's reportedly did not have access to a lawyer for about three months from the moment of his arrest.

On 1 July 2011, Mr. Iragorri was reportedly presented for the first time to a public prosecutor and requested again to have access to a lawyer, but his request was denied. It is reported that he also requested an interpreter, but was told that no interpreter was available. It is alleged that the prosecutor asked him a few questions in broken English and then dictated something in Arabic to the secretary.

On 3 July 2011, Mr. Iragorri was reportedly brought again to the office of the prosecutor where he requested to have access to a lawyer; his request was allegedly denied by the public prosecutor in person. It is further reported that a Spanish speaking interpreter was made available during the interrogation, but that when Mr. Iragorri was presented with what was said to be his statement – a text written in Arabic for which no translation was provided – later in the same day, the interpreter was not available anymore. Mr. Iragorri was reportedly forced to sign this statement.

It is alleged that Mr. Iragorri only found out about the content of this statement one year later, in July 2012, when, after having received a copy of the Arabic text through his lawyer, he obtained an English translation thereof by his own means and at his own cost.

The police and public prosecution reportedly accused Mr. Iragorri of: obtaining tourist visas for other people to facilitate the entry of drugs into the State of Qatar; receiving drugs from people bringing them into the State of Qatar; using drugs; changing his residence address in a suspicious way; using two telephone numbers to call other defendants accused of drug trafficking; and offering drugs to someone who was an informer.

The public prosecution and the police reportedly presented the Arabic statement that Mr. Iragorri was allegedly forced to sign as his confession of guilt. Some of

the replies given by Mr. Iragorri during his oral interrogation were allegedly changed from “no” to “yes” in the statement.

It is reported that after one of his hearings before a judge, Mr. Iragorri was finally allowed to contact a lawyer. The lawyer obtained Mr. Iragorri’s release on bail on 11 October 2011.

After his release on bail, it is reported that a police officer continued to follow and harass Mr. Iragorri, calling him on the phone and making death threats. Mr. Iragorri reported the harassment to one of the police officer’s superior who allegedly promised the harassment would stop, but it did not. Mr. Iragorri was reportedly not allowed to file a report about the harassment and death threats with the police department even though he tried.

Moreover, it is reported that Mr. Iragorri was not allowed to go back to work after his release from prison. It is alleged that his employer stopped paying his salary immediately upon his arrest, in violation of Qatari law. It is alleged that Mr. Iragorri was nevertheless not dismissed from his position, which meant that he was still under the sponsorship of the Ministry of Interior and, while he had no income or work, he could not look for another position as the Qatari sponsorship or kafala system does not allow so. It is reported that Mr. Iragorri tried several times to obtain a release letter which would have allowed him to look for work somewhere else, but such letter was denied. Mr. Iragorri’s Qatari resident permit also expired in August 2013, but the Ministry of Interior allegedly refused to renew it. Mr. Iragorri was left in a position where he could not leave the country as he could not obtain an exit visa, but he could not work to earn an income and he had no health insurance.

It is reported that court hearings started in April 2012, 10 months after Mr. Iragorri’s arrest, and continued over a period of 8 months. Each hearing allegedly lasted between five to ten minutes to hear prosecution witnesses before being adjourned for between four to six weeks (or more during Ramadan and the summer break).

During cross-examinations, the court allegedly constantly objected to questions to prosecution witnesses from Mr. Iragorri’s lawyer without stating any grounds for such objections. Several key witnesses reportedly did not appear before the court despite having been summoned, including the police officer who wrote the initial official reports on the case and the police officer who was in charge of the police operations in which Mr. Iragorri had to participate. No substantive and material evidence was reportedly presented to the court. The court allegedly orally acknowledged the lack of substantive evidence, but this statement was not recorded in the hearing transcripts. Police statements and oral evidence from police officers were also reportedly inconsistent and contradictory. For instance, it

is alleged that police reports and court testimonies give four different locations for the place of arrest of Mr. Iragorri. The defendant denied all the charges.

It is further alleged that hearing transcripts were not accurate, as the clerk would write down only what the judge wanted to be on record as dictated by him and not what was actually said in court. In particular, it is reported that important statements and arguments presented by the defence were not recorded in the transcripts of the hearings.

Furthermore, Mr. Iragorri was not allowed to have a Spanish interpreter during court hearings until the Colombian consulate attended court hearings with their own interpreter, even though he had repeatedly requested to have an interpreter. It is reported that occasionally an interpreter presented as English speaking would appear in court, but had little or no knowledge of English.

On 27 December 2012, Mr. Iragorri was sentenced to life in prison for drug trafficking by the court of first instance. His sentence was allegedly only based on Mr. Iragorri's confession, i.e. the Arabic written statement he was forced to sign. Mr. Iragorri was not arrested or imprisoned after the judgment was issued and he was made to understand that the execution of his sentence was stayed.

Mr. Iragorri appealed his conviction. On 25 November 2013, the court of appeal reportedly ratified the sentence given in first instance on the grounds that the accused had confessed to the charges and that he had been arrested with drugs and money proceeding from the sale of the drugs, in contradiction with statements from police officers which confirmed that when arrested Mr. Iragorri had no drugs or money in his possession.

Mr. Iragorri reportedly had to translate at his own costs all court documents from Arabic into English and Spanish to send them to the Colombian Consulate in the United Arab Emirates.

Mr. Iragorri was re-arrested on 4 February 2014 and is currently detained in Doha's Central prison.

After his release from prison in October 2011, Mr. Iragorri reportedly started suffering from anxiety, paranoia and depression and he developed a sleep disorder. He also allegedly suffers from dizzy spells and constant knee pain caused by the hours he was forced to kneel while in detention. In early 2012, he was allegedly diagnosed with post-traumatic disorder, but since he did not have an income he could not follow a proper medical treatment. From his conviction in first instance until his re-arrest on 4 February, Mr. Iragorri reportedly lived in a state of complete uncertainty as he could have been arrested at any time for the completion of his sentence and was never told why his sentence had not been

executed after the court of first instance issued its decision; this situation is reported to have caused him a lot of distress.

Finally, it is reported that after Mr. Irigorri's arrest members of the State of Qatar's armed forces and the police spread horrible rumors about what had happened to him in skydiving centres over the world, including in Europe and the USA, damaging Mr. Irigorri's reputation in the skydiving community which is very small. Mr. Irigorri allegedly also lost all of his skydiving qualifications, as he was not able to practice since his arrest; being a skydiving instructor was his only source of livelihood.

Serious concern is expressed for the physical and psychological integrity of Mr. Irigorri, in particular regarding his alleged treatment in detention. Grave concern is also expressed regarding the reported serious violations to Mr. Irigorri's due process and fair trial rights.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Irigorri 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).

In addition, we would like to recall that the right to liberty and security of person is also enshrined in the Arab Charter on Human Rights, which was ratified by the State of Qatar in 2009. In particular, article 14 of the Charter states that: "1. Every individual has the right to liberty and security of person and no one shall be arrested, searched or detained without a legal warrant. 2. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law. 3. Anyone who is arrested shall be informed at the time of arrest, in a language which he understands, of the reasons for his arrest, and shall be promptly informed of any charges against him. Anyone who is arrested has a right to contact his relatives. [...] 5. Anyone arrested or detained on a criminal charge shall be brought promptly before a Judge or other officer authorized by law to exercise judicial power, and shall be entitled to trial within a reasonable time, or to release. The release may be subject to guarantees to appear for trial. It shall not be a general rule that persons awaiting trial shall be held in custody. 6. Anyone who is deprived of his liberty by arrest or detention shall be entitled to proceedings before a court, in order that a court may decide without delay on the lawfulness of his arrest or detention, and order his release if the arrest or the detention is not lawful. 7. Anyone who is the victim of unlawful arrest or detention shall be entitled to compensation."

We would also like to refer your Excellency's Government to article 10 of the UDHR which states: "Everyone is entitled in full equality to a fair and public hearing by

an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.” Article 11 (1) of the UDHR further states that: “Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

Moreover the right to a fair trial and due process is also recognized in the Arab Charter on Human Rights. In particular, Article 13 (1) stipulates that: “Everybody has the right to a fair trial in which sufficient guarantees are ensured, conducted by a competent, independent and impartial tribunal established by law, in judging the grounds of criminal charges brought against him or in determining his rights and obligations. State Parties shall ensure financial aid to those without the necessary means to pay for legal assistance to enable them to defend their rights.”

Article 16 of the Arab Charter on Human Rights further stipulates that: “The accused shall be presumed innocent until proven guilty at a lawful trial. During the investigation and the trial, the accused shall be entitled to the following minimum guarantees: 1. To be informed promptly and in detail, in a language which he understands, of the nature and cause of the charge against him.; 2. To have adequate time and facilities for the preparation of his defense and to contact his relatives.; 3. To be tried in his presence in front of a judge, and to defend himself or through legal assistance of his own choosing or with the assistance of his lawyer, with whom he can freely and confidentially communicate.; 4. To have free legal assistance of a lawyer to defend himself if he does not have sufficient means to pay for his defense, and if the interests of justice so require. To have the free assistance of an interpreter if he cannot understand or speak the language of the court.; 5. To examine, or have examined, the witnesses against him, and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.; 6. Not to be compelled to testify against himself or to confess to guilt.; [...] 8. To have the security of his person and his private life respected in all circumstances.”

The right to be assisted by a lawyer is also set forth in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular in the following principles:

- Principle 1, which states: “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings”;

- Principle 5, which states: “Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.”;

- Principle 7, which states: “Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.”; and

- Principle 8, which states: “All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”

Regarding allegations of lack of translation and interpretation, we would also like to refer to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988. Principle 14 states that a person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands, information concerning the reason for the arrest, as well as information on and an explanation of his rights and how to avail himself of such rights, and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest.

Regarding allegations of lack of equality of arms during court hearings, we would like to refer your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, and in particular principle 6, which states: “The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”

Regarding the allegation that Mr. Iragorri's confession is a statement written in Arabic which he was forced to sign under threat and without having been provided with any translation, we would like to draw the attention of your Excellency's Government to article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which the State of Qatar acceded on 11 January 2000, which provides that, “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

We would also like to refer your Excellency's Government to the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7

September 1990, and in particular guideline 16, which states: “When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.”

We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;”

With regard to Mr. Irigorri’s status as a migrant, we would like to draw the attention of your Excellency's Government to Human Rights Council Resolution 18/21 and General Assembly Resolution 68/179, which call upon States “to respect the human rights and the inherent dignity of migrants”. In addition, for a more detailed overview of the international human rights standards governing the detention of migrants, including the obligation of States to always resort to alternatives to detention first, we would like to draw your attention to the Special Rapporteur on the human rights of migrants’ 2012 report to the Human Rights Council (A/HRC/20/24).

Regarding allegations of ill-treatment while in detention, 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.”

In this context, 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.”

Moreover, we would like to draw the attention of your Excellency's Government to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture.

We would also like to draw your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States "(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture."

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 and freedoms of Mr. Iragorri.

Moreover, it is our responsibility under the mandate 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 above summary of the case accurate?
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Iragorri, and explain how such measures were in compliance with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the Arab Charter on Human Rights.
3. Please provide detailed information on the charges laid against Mr. Iragorri and the grounds for his conviction to life in prison.
4. Please explain why Mr. Iragorri did not have access to a lawyer for about three months after his arrest.

5. Please explain why Mr. Irigorri was not provided with appropriate interpretation and translation after his arrest.

6. Please explain why Mr. Irigorri was not allowed to go back to his job after his release on bail. Please also explain why Mr. Irigorri was not released from his job from the Ministry of Interior in order to allow him to look for another job to sustain himself while judicial proceedings were going on.

7. Has a complaint been lodged by or on behalf of Mr. Irigorri regarding his alleged ill-treatment in custody?

8. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to Mr. Irigorri's alleged ill-treatment in custody. If no inquiries have taken place, or if they have been inconclusive, please explain why.

9. Please provide the full details of any prosecutions which have been undertaken regarding the alleged ill-treatment of Mr. Irigorri in custody. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

10. Please indicate whether steps have been undertaken to provide compensation to the victim for the alleged ill-treatment while in custody.

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.

Finally, we kindly request that your Excellency's Government share this letter with the Attorney General of the State of Qatar and the Chief Justice of the Supreme Court of Justice of the State of Qatar (Court of Cassation).

Please accept, Excellency, the assurances of our highest consideration.

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

Gabriela Knaul
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