

## Mandate of the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL  
NLD 3/2016:

29 November 2016

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolution 25/18.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning allegations of death threats, intimidation and harassment against human rights lawyer, Ms. **Nada Kiswanson**.

Ms. Nada Kiswanson, a human rights lawyer based in the Hague, the Netherlands. She works as Senior Legal Advocacy Officer at Al-Haq. Ms. Kiswanson is Al-Haq's permanent representative to the International Criminal Court (ICC), and in that capacity serves as the focal person between the ICC and Al-Haq and other Palestinian organisations. Ms. Kiswanson prepares and presents evidence on the Palestinian situation to the ICC's Prosecutor. She also carries out Al-Haq's advocacy work at the European Union, aimed at ensuring third-state compliance with their legal obligations and promoting Palestinian human rights through the EU institutions.

Al-Haq is a Palestinian non-governmental organisation established in 1979 and dedicated to the promotion and protection of human rights and the rule of law in the Occupied Palestinian Territory.

According to the information received:

Following a smear and harassment campaign against Al-Haq in the Occupied Palestinian Territories after September 2015, Ms. Nada Kiswanson became the subject of a sophisticated pattern of attacks from February 2016 onward. The Kiswansons family received frequent phone calls, emails and messages through other means that explicitly and indirectly threatened her life and security. In most instances, those who delivered the threats identified themselves by a single fabricated name, "XXX".

On 15 February 2016, she became the target of an email sent to Al-Haq staff, labeling her "shameless" and accusing her for earning too much. Three days later, another email was sent to Al-Haq staff from the same email address, claiming to attach Ms. Kiswanson's salary slip that turned out to contain a computer virus. On 17 February 2016, a woman claiming to represent the Dutch Ministry of Health deceitfully obtained the details of Ms. Kiswanson's home address by posing questions about the ZIKA virus and claiming it was a 'matter of life and death'. A week later, a family member of Ms. Kiswanson, residing in Sweden, received a

phone call from a man, presenting himself as “XXX” and speaking in Arabic with a heavy Israeli accent. The man said he knew that Ms. Kiswanson works with “associations” and repeated twice that she “will be eliminated from the surface of the earth” if she doesn’t stop her work. On the same day, Ms. Kiswanson’s email was accessed from an IP address believed to be from the United States.

On 1 March 2016, Ms. Kiswanson received a phone call at her home from a man, who spoke in Arabic and repeatedly said she was in danger. On 11 March 2016, she received a bouquet of flowers at the doorstep of her house with a message expressing a veiled threat. On 27 March 2016, she got a call on her mobile phone with a new prepaid sim card from a man, who again introduced himself as “XXX”. He repeated she was in danger and offered to meet her at a café very close to her home.

On 5 May 2016, another email was sent from the above-mentioned address to Al-Haq staff, accusing Ms. Kiswanson of earning too much money and claiming to attach her salary slip. On 28 May 2016, she learned that a flyer was distributed at the front doors of thousands of houses in Ms. Kiswanson’s neighbourhood. Describing Al-Haq as an organization working to strengthen the Islamic community in the Hague and helping refugees, the flyers used Al-Haq’s logo and provided the details of Ms. Kiswanson’s home address, telephone number and email address. It also urged people to drop off donations at her doorstep.

On 6 July 2016, Ms. Kiswanson received a phone call on a family member’s phone in Jordan. A man presenting himself as a friend of “XXX” confirmed his knowledge of her whereabouts and her possible plans to travel to Palestine. He also said they were ready to meet her and her family in Palestine.

On 4 August 2016, Ms. Kiswanson received a message on a new prepaid sim card over an encryption programme from the person identified as “XXX”. The message said that “XXX” was happy that Ms. Kiswanson maintained her security by using an encryption programme but she was “not safe at all and hopefully this would remain”.

The attacks against Ms. Kiswanson reportedly demonstrate a high level of coordination, technological sophistication and geographic outreach. Ms. Kiswanson has been contacted through channels in various European countries, in particular the Netherlands. The source of the threat has also managed to retrieve several prepaid numbers that should be untraceable.

Ms. Kiswanson and her family filed complaints with the Dutch police, which reportedly initiated investigation into the matter. However, the absence of a dedicated focal person for human rights defenders within the Dutch Government or the police allegedly caused frustration and desperation for Ms. Kiswanson, who did not feel she was understood by the officials with who she raised concerns about her situation. It is alleged that the lack of awareness about human rights

defenders and particular dangers they may face as a result of their work showed the insufficient level of preparedness among the Dutch officials to address intimidation and threats facing human rights defenders in the Netherlands.

Concern is expressed at the alleged repeated harassment and threats against Ms. Nada Kiswanson, as well for her and her family's physical and psychological security. The threats appear to be directly related to the exercise of Ms. Kiswanson's legitimate human rights work in the promotion and protection of human rights in the Palestine, including through her legal work before the International Criminal Court and European Union institutions.

While I do not wish to prejudge the accuracy of these allegations, I 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.

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

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. In the event that the alleged perpetrators against Ms. Nada Kiswanson are identified, please provide the full details of any investigation and prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
3. Please provide the full details of any protective measures put in place to ensure the physical and psychological security and integrity of Ms. Nada Kiswanson and her family.
4. Please indicate what measures have been taken to ensure that human rights defenders in the Netherlands are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, I 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 my highest consideration.

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, I would like to draw your attention to the following human rights standards:

The above-mentioned allegations appear to be in contravention with Articles 17, 19, and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Netherlands on 11 December 1978, which provides that no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence; and that the rights to freedom of expression and opinion and freedom of association shall be recognized.

I would also like to refer to 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 UN Declaration on Human Rights Defenders, in particular articles 1 and 2 which provide that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, I wish to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- article 6 (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, (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.

I would also like 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.