

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA SAU 7/2017

28 July 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 35/6, 27/1, 35/15, 34/18, 32/32, 33/9, 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning imminent executions of 17 individuals convicted on protest-related charges and on the basis of trials that allegedly did not meet fair trial and due process guarantees, including allegations of confessions obtained under torture. We are also bringing to your attention, allegations of human rights violations in relation to several other death penalty cases, which are at various stages of proceedings before the Specialized Criminal Court and Criminal Court in Saudi Arabia.**

A previous communication concerning allegations of, inter alia, torture and ill-treatment, including coerced extraction of confessions, lack of investigation and prosecution into such cases, and the imposition of the death penalty on this basis, was sent on 31 August 2016 (case no. SAU 5/2016). We thank your Excellency's Government for its reply dated 17 January 2017.

Several of the individuals mentioned below were the subject of previous communications:

The cases of Mr. Munir al-Adam, Mojtaba Nader Abdullah Suwaiket (sometimes written as Al-Sweikat) and Mr. Ali Mohammed al-Nimr were subjects of a previous communication sent on 31 August 2016 (case no. SAU 5/2016). We thank your Excellency's Government for its reply dated 17 January 2017.

The case of Mr. Mojtaba Nader Abdullah Suwaiket (sometimes written as Al-Sweikat) was further raised in a previous communication sent on 21 November 2016 (case no. SAU 7/2016). We thank your Excellency's Government for its reply dated 17 January 2017.

The cases of Mr. Ali Mohammed al-Nimr, Mr. Abdullah al-Zaher and Dawood al-Marhoon, were raised in three previous communications sent on 22 March 2016 (case no. SAU 2/2016), 19 October 2015 (case no. SAU 8/2015) and 21 September 2015 (case no. SAU 6/2015). We thank your Excellency's Government for its reply dated 29 December 2015 to the communication sent on 21 September 2015. We regret that to date no substantive replies to the communications of 22 March 2016 and 19 October 2015 have been received.

The case of Mr. Hussein Abu al-Kheir (sometimes written as Husain Abu al-Khair) was raised in two previous communications sent on 1 July 2016 (case no. SAU 4/2016) and on 30 September 2015 (case no. SAU 5/2015). We thank your Excellency's Government for the replies dated 24 November 2016 and 4 May 2016 respectively.

The case of Mr. Ashraf Fayyad (sometimes written as Fayadh) was raised in a previous communication sent on 30 November 2015 (case no. SAU 10/2015). We thank your Excellency's Government for the reply dated 4 March 2016.

According to the additional information received:

### *I. Recent executions*

On 12 July 2017, Mr. Yousef Musheikhas, Mr. Amjad al-Muebad, Mr. Mahdi al-Sayegh and Mr. Zaher al-Basri were executed. They had all been convicted and sentenced to death by the Specialized Criminal Court on protest-related charges. Reportedly no formal notification of their executions was received by their families, other than that they had been moved from their previous place of detention to Riyadh. These were the first executions carried out since 2 January 2017, when Saudi Arabia executed 47 individuals *en masse*, including juveniles and persons convicted by the Specialized Criminal Court of protest-related charges.

### *II. Imminent executions*

*a. Imminent executions in the “Awamiyah 24 Cell” trial*

Fourteen Saudi nationals, including at least two juvenile offenders and a man with disabilities, are reportedly scheduled to be executed imminently. They include Messrs. Hussein al-Rabee (born 17/01/1992), Abdullah Hani al-Tarif (born 09/03/1991), Mohammad Mansour al-Nasser (born 17/07/1992), Mustafa Ahmad Darwish (born in 1993), Fadel al-Labad (born 02/10/1989), Seed Mohammed al-Skafi (born 14/11/1993), Salman Amin al-Qureish (born 21/01/1994), Mojtaba Nader Abdullah Suwaiket (sometimes written as Al-Sweikat) (born 07/06/1994), Munir al-Adam (born 25/08/1992), Abdulaziz al-Sahawi (born 20/04/1994) and Ahmad Hassan al-Rabee (born 01/06/1984).

The 14 individuals were arrested separately between September 2012 and December 2013, along with 10 others, in relation to pro-democracy protests that took place in the city of al-Awamiyah in 2011. The prosecution of this group of 24 individuals became known as the “Awamiyah 24 Cell” trial.

It is reported that several of them, including Messrs. Al-Rabee, Al-Tarif, Al-Nasser, Al-Labad, Al-Sweikat and Al-Adam, were subjected to acts of torture and ill-treatment upon arrest and throughout the investigations phase to extract forced confessions. This included *falaqa* (beatings to the soles of the feet), kicking and severe beatings, including to the head and with sticks on the legs, suspension, shocks with electric wires, crushing of fingers and toes by stepping on them with boots, and sleep deprivation. They were also subjected to lengthy solitary confinement, such as the 100-day solitary confinement of Mr. Al-Tarif and the five-month solitary confinement of Mr. Al-Munir.

In several instances, they were denied access to medical care for the injuries sustained as a result of the torture, including Mr. Al-Sweikat, who suffered a broken shoulder, and Mr. Al-Adam, a person with hearing and visual impairments due to an accident as a child, who was rendered completely deaf in one ear.

The 14 individuals were charged by the General Bureau for Investigation and Prosecution (since July 2017 known as the General Prosecution Office) with one count of “joining a terrorist cell within the country that disobeyed the King and to disturb the peace”, which requested the death penalty against each of them.

A number of charges were reportedly brought against them under this count, including planning and coordinating attendance at demonstrations;

participating in anti-government gatherings; chanting anti-State slogans and inciting the public to participate in anti-State gatherings; participating in armed attacks against security forces or opening fire at security forces; attacks against the Awamiyah police station; concealing persons accused of opening fire at security forces; possession of weapons and/or the manufacture of Molotov cocktails; and criminal damage.

Other charges brought against these individuals to support the first count included crimes proscribed by the Cybercrimes Law, including using mobile phones to disseminate information about protests; saving messages on mobile phones that incite attendance at protest; downloading and transmitting information prejudicing public order and uploading photographs of protests onto social media platforms including Facebook; and being a group administrator on Facebook for a proscribed organization.

Messrs. Al-Rabee, Al-Mussallam, Dawish, Al-Sareeh and Al-Qureish were charged with participating in opening fire at security forces resulting in the death of a soldier. The charges do not relate to pre-meditated murder and do not specify which of the defendants is alleged to have caused the death of the soldier. Mr. Al-Rabee, who was a former member of the Saudi armed forces, was in addition charged with treason for participating in demonstrations, as well as chanting anti-government slogans.

Messrs. Al-Sweikat and Al-Qureish were both aged 17 at the time of commission of the alleged offences. Messrs. Al-Skafi and Al-Sarih may have been under the age of 18 at the time of commission the alleged offences; however, there is a lack of clarity in the charging document on the part of the prosecuting authorities and judgment on the dates of some of the offences.

It is reported that the co-defendants remained in pre-trial detention for periods of up to three years, before the start of their trial in September 2015 before the Specialized Criminal Court and that they were in majority denied access to legal counsel during pre-trial detention as well as during the trial phase. It is further reported that some of their lawyers were prevented from speaking in Court and given access to neither the charges brought against them nor the evidence in the case. Hearings were also held without notice and not all defendants were brought before the Court for their hearings.

While it was raised in Court that the confessions were forced and had been obtained under torture, no investigation was initiated by the judges. Instead the forced confessions were admitted as evidence and used as the basis for their convictions.

On 1 June 2016, after five hearings, the 14 co-defendants were convicted and sentenced to death by the Specialized Criminal Court. On 25 May 2017, the High Court Division of the Specialized Criminal Court confirmed all 14 death sentences, exhausting all legal avenues for appeal.

On 14 July 2017, the 14 detainees were transferred from Dammam General Directorate Prison (“al-Mabahith”), where they had been held since their arrest, to Riyadh. It is understood that the transfer followed the issuance of a Royal Decree by the King of Saudi Arabia sanctioning their executions. It is feared that they may be executed imminently.

It is unknown if the prisoners or their families have been provided with an opportunity to seek clemency or a pardon.

*b. Juveniles facing imminent execution*

Three other executions of juvenile offenders, Mr. Ali Mohammed al-Nimr, Mr. Dawood al-Marhoon and Mr. Abdullah al-Zaher, may be imminent. The three individuals are Saudi nationals. They were aged 17, 17 and 15, respectively, at the time they were accused of participating in protests, an offence for which they were sentenced to death by the Specialized Criminal Court.

*III. Confirmed death sentences on appeal*

There are currently five persons whose confirmed death sentences are being appealed before either the Specialized Criminal Court or the Criminal Court, including Mr. Albdelkareem al-Hawaj, who was a juvenile at the time of the commission of the alleged offence, and Mr. Jaber al-Marhoon.

Mr. Al-Hawaj, a Saudi national born in 1995, was arrested on 16 January 2014 by Saudi security forces dressed in civilian attire allegedly for participating in a protest when he was 16 years old. He was charged with participating in demonstrations; preparing banners with anti-state slogans; participating in incitement via social media; sympathizing with the opposition in Bahrain; setting fire to tires; throwing Molotov cocktails; and opening fire at security officers.

He was reportedly held in incommunicado detention and solitary confinement for five months, during which time he was subjected to acts of torture and ill-treatment, including beatings with sticks and electric wires, kicking with heavy shoes, shocks with electric wires, suspension by his

hands tied to the ceiling for hours and being prevented from using the bathroom for lengthy periods.

On 1 June 2016, the Specialized Criminal Court sentenced him to death. On 17 July 2017, the appellate division of the Specialized Criminal Court upheld the death sentence.

Mr. Jaber al-Marhoon was sentenced to death in November 2016. The sentence is currently under appeal. There is no information available on the charges of which he was convicted or the trial proceedings.

#### *IV. Preliminary death sentences handed down by the Specialized Criminal Court*

On 6 December 2016, the Specialized Criminal Court reportedly handed down death sentences to 15 Saudi nationals, including Mr. Abbas Hassan (born in 1973), Mr. Hussein Ali al-Humaidi (born in 1970), Mr. Hussein Qassem al-Aboud (born in 1981) and Mr. Abbas al-Abed (born in 1961).

They were among 32 men, including one Iranian and one Afghan national, arrested between February and March 2013 and charged with, inter alia, committing acts of espionage against the Kingdom of Saudi Arabia on behalf of Iran. Their trial before the Specialized Criminal Court commenced on 21 February 2016, after three years of pre-trial detention. The 15 men were reportedly denied access to legal counsel throughout their pre-trial detention and at trial.

Their death sentences were reportedly recently confirmed by the Specialized Criminal Court.

There is no information on the fate and whereabouts of the other 17 men.

#### *V. Overturned death sentences currently under appeal before the Specialized Criminal Court and the Criminal Court*

The death sentences of three individuals, Mr. Hussein Abu al-Kheir (sometimes written as Husain Abu al-Khair), Mr. Ashraf Fayyad (sometimes written as Fayadh) and Mr. Haydar al-Leif, were overturned by the Criminal Court or the Specialized Criminal Court. The decisions were however appealed against by the prosecution.

Mr. Al-Leif, a Saudi national born in 1976, was arrested on 4 May 2013 after receiving a court summon. He was charged with involvement in a

shooting incident at the Awamiyah Police Station; participating in demonstration; concealing wanted persons; chanting anti-state slogans; disrupting internal security; provoking sedition by rioting; and targeting security personnel.

During the first two months after his arrest, he was reportedly kept in solitary confinement and subjected to acts of torture and ill-treatment, including beatings, kicking and being forced to stand for hours on end. When Mr. Al-Leif refused to sign a confession written by his interrogators, they threatened to bring his wife into detention and force him to divorce her. Only this pressure led him to sign.

On 28 January 2016, the Specialized Criminal Court convicted and sentenced Mr. Al-Leif to death. In March 2017, the appellate division of the Specialized Criminal Court overturned the death sentence issued against him, a decision which is reportedly currently under appeal.

Mr. Abu al-Kheir and Mr. Fayyad cases were raised in previous communications sent by the special procedures (case nos. SAU 4/2016, SAU 10/2015 and SAU 5/2015 mentioned above).

#### *VI. Failure to return the bodies of those executed to their families*

The bodies of seven Saudi nationals that were executed between 2016 and 2017 have not been returned to their families, despite requests made to the authorities. The reason for the refusal to return the bodies to their families for burial is allegedly to hide signs of torture still visible on their remains.

These allegations relate to the remains of Sheikh Nimr Baqir al-Nimr, Mr. Ali al-Rabah, Mr. Mohammed Faisal Mohammed al-Shuyukh, Mr. Abed al-Rahim Ali al-Faraj, Mr. Mekdad Mohamed Hassan al-Nimr, Mr. Mohammed Taher Mohammed al-Nimer and Mr. Ali Mahmoud Ali Hussein Abed Allah.

While we do not wish to prejudge the accuracy of these allegations, we express our most serious concern:

- at the recent executions of the above-mentioned four men, Messrs. Yousef Musheikhas, Amjad al-Muebad, Mahdi al-Sayegh and Zaher al-Basri, which were carried out without prior notice to the families concerned; and at the allegation that they were convicted and sentenced to death on protest-related charges that might not meet the threshold of “most serious crimes” as required under international law

- at the imminent executions of the above-mentioned 14 individuals, who are part of a group of defendants known as the “*Awamiyah 24 Cell*”, and in particular the two juvenile offenders and a man with disabilities, in relation to pro-democracy protests and after trials that did not meet fair trial and due process guarantees. Of particular concern in this regard are the reported acts of torture and ill-treatment, including prolonged solitary confinement, invocation and admission of confessions obtained under torture as evidence; lack of investigation into the allegations of torture; the denial of access to medical care in detention; as well as the lengthy pre-trial detention, the denial of access to legal representation before and during the trial, the denial of the principle of equality of arms including by denying the defendants and their legal representatives access to the charges brought against them as well as supporting evidence, and the right to defend oneself in court. Meanwhile, serious concern is expressed at the allegation that these 14 men were convicted and sentenced to death on charges that do not meet the threshold of “most serious crimes” as required by international law for the implementation of their death sentences to be lawful.
- at the imminent executions of three other juvenile offenders, Messrs. Ali Mohammed al-Nimr, Dawood al-Marhoon and Abdullah al-Zaher, who were all under age of 18 at the time of the commission of the alleged crime for which they were sentenced to death. Similar grave concern is expressed at the death sentence issued against Mr. Albdelkareem al-Hawaj, who was also a juvenile at the time of the commission of the alleged crime of which he was convicted. Of particular concern are the allegations of his lengthy pre-trial detention, including incommunicado detention and solitary confinement for five months, acts of torture and ill-treatment, and that the charges for which he was convicted and sentenced to death relate to pro-democracy protests and might not meet the threshold of “most serious crimes” prescribed under international law.
- at the death sentences handed down to the above-mentioned 15 individuals on charges of committing acts of espionage against the Kingdom of Saudi Arabia on behalf of Iran, which do not meet the threshold of “most serious crimes”; as well as about fate and whereabouts of the other 17 men.
- at the allegations that the death sentences issued against Messrs. Hussein Abu al-Kheir (or Husain Abu al-Khair), Ashraf Fayyad (or Fayadh) and Haydar al-Leif, which were overturned, remain subject to appeal amidst reports of lack of fair trial and due process guarantees, including that their sentences were based on forced confessions obtained under torture.
- at the refusal by Saudi authorities to return the bodies of those that have been executed to their families for burial, despite requests made. In this regard, concern



is also expressed at the reported reason for this denial, being to hide signs of torture still visible on their remains.

It is our overarching concern that the charges for which the above-mentioned individuals were convicted and sentenced to death do not reach the threshold of “most serious crimes” as required by international law, and if implemented will constitute arbitrary executions. We equally express overarching concern at the criminalization of protests and that the charges brought under the cybercrimes law, as well as defamation charges, do not meet the threshold for lawful restrictions to the exercise of freedom of expression and assembly under international standards. We reiterate that the criminalization of expression through the application of national security provisions to target speech that is deemed dissenting or critical is incompatible with international human rights standards.

In view of the irreversibility of the punishment of the death penalty, we respectfully urge your Excellency’s Government to take all steps necessary to **halt the executions of all of the individuals mentioned above as to proceed with their executions may constitute a violation of applicable international human rights law and standards, and thus amount to arbitrary executions.** We further appeal to your Excellency’s Government to quash the death sentences against the aforementioned individuals and all others mentioned in this letter and to ensure their re-trial in compliance with international standards. Moreover, we reiterate our call to your Excellency’s Government to establish an official moratorium on the death penalty, and to consider its complete abolition.

These allegations, if confirmed, indicate a prima facie violation of the right of every individual to life and security; of the right not to be arbitrarily deprived of life; of the right to physical and psychological integrity; of the right to fair proceedings before an independent and impartial tribunal and to an effective defense; of the right to freedom of opinion and expression, and the rights to freedom of peaceful assembly and association, as guaranteed by articles 3, 10, 11, 19 and 20 of the Universal Declaration of Human Rights (UDHR) as well as articles 5, 6, 13, 14, 16 and 24 of the Arab Charter on Human Rights (ACHR), to which Saudi Arabia is a State Party since 15 April 2009.

The allegations also seem to indicate a prima facie violation of the absolute and non-derogable prohibition of torture and other cruel, inhuman and degrading treatment or punishment as set forth in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), to which Saudi Arabia acceded on 23 September 1997. The prohibition is also contained in article 15 of the Convention on the Rights of Persons with Disabilities, to which Saudi Arabia acceded on 24 June 2008, and article 37(a) of the Convention on the Rights of the Child (CRC), to which Saudi Arabia acceded on 26 January 1996. Furthermore, article 15 of the CAT prohibits the use of information obtained under torture as evidence in any proceedings. In

this context, we would also like to recall paragraph 7c of Human Rights Council Resolution 16/23.

We would like to bring to the attention of your Excellency's Government article 1 of the United Nations Safeguards Protecting the Rights of those facing the Death Penalty (UN Safeguards), which provides that countries that have not abolished the death penalty may only impose it for the *most serious crimes*, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences. It was submitted in a report by the mandate on extrajudicial, summary or arbitrary executions to the Human Rights Council that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life (A/HRC/4/20, para. 53).

Article 5 of the UN Safeguards, which provides that capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings. Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

Any judgment imposing the death sentence and execution of juvenile offenders is incompatible with the international legal obligations undertaken by your Excellency's Government under various instruments, including the CAT and the CRC, and amounts to cruel, inhuman and degrading punishment. Article 37(a) of the CRC expressly prohibits the imposition of the death penalty for offences committed by persons below 18 years of age. In its General Comment No. 10, the Committee on the Rights of the Child stated that in case there is no proof of age the child should be given the benefit of the doubt.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearances, sets out necessary protection by the State; in particular that no State shall practice, permit or tolerate enforced disappearances (article 2), that any person deprived of liberty shall be held in an officially recognized place of detention (article 10.1) and that an official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention (article 10.3). Moreover, in the paragraph 6 of the General Comment on the Right to Truth, the Working Group on Enforced or Involuntary Disappearances states that the right to know the truth about the fate and the whereabouts includes, when the disappeared person is found to be dead, the right of the family to have the remains of their loved one returned to them, and to dispose of those remains according to their own tradition, religion or culture.

Finally, we would like to draw your Excellency's Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which reminds States that it is their obligation to respect and fully

protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline as well as to take measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 measures taken to prevent arbitrary execution of the individuals referred to in this letter, which may be unlawful under international law, including because the charges for which the persons are sentenced to death do not meet the threshold of “most serious crime”; because several of them was a juvenile at the time of committing the alleged offence, meaning a child below the age of 18; or because the court proceedings in all these cases do not seem to meet or to have met the most stringent fair trial and due process guarantees.
3. Please provide specific information on measures in place, and how they are upheld in practice, to ensure that allegations of torture are duly investigated and confessions obtained under torture excluded from any trial, and to ensure that the burden of proof in these cases is placed on the prosecution and not on the victim.
4. Please provide information on the existing procedures for persons sentenced to death to seek clemency or a pardon, and provide detailed information on how they can access such procedures.
5. Please provide information on the fate and whereabouts of the 17 men, including one Iranian and one Afghan national, arrested between February and March 2013 and charged with, inter alia, committing acts of espionage against the Kingdom of Saudi Arabia on behalf of Iran. Please include detailed information on any court proceedings held on their cases.
6. Please provide detailed information on the procedures followed prior to and after an execution takes place, including the period of notice provided to family members before the execution and for the return of the body to

them. Please explain the reasons for not returning the remains of those that have been executed to their families for burial.

7. Please provide information about measures taken to revise legislation that criminalizes the legitimate exercise of the rights to freedom of expression and freedom of association and assembly into line with international human rights standards.

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 intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be informed about these matters. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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.

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Vice-Chair of the Working Group on Arbitrary Detention

Catalina Devandas-Aguilar  
Special Rapporteur on the rights of persons with disabilities

Houria Es-Slami  
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Annalisa Ciampi  
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Diego García-Sayán  
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Nils Melzer  
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