

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA ARE 7/2017

26 October 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 34/18, 34/5 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the continued detention in solitary confinement and without access to a lawyer of Mr. **Ahmed Mansoor** since 20 March 2017. Considering Mr. Mansoor's collaboration with the Human Rights Council, its Special Procedures, the Universal Periodic Review mechanism and treaty bodies, we reiterate our concern that the measures adopted against him may amount to acts of intimidation and reprisal for his cooperation with the United Nations and its mechanisms.

Mr. Ahmed Mansoor is a renowned human rights defender and blogger in the United Arab Emirates (UAE), member of the Advisory Board of the Gulf Centre for Human Rights, as well as of the Advisory Committee of Human Rights Watch's Middle East and North Africa Division. He was arrested on 20 March 2017 when security forces entered and raided his residence confiscating communication devices, and is currently facing charges of "circulating false and misleading information on the Internet with a view to spreading hatred and sectarianism".

Mr. Mansoor was the subject of five joint urgent appeals sent on 26 April 2011 (ARE 4/2011), 25 November 2011 (ARE 8/2011), 18 April 2012 (ARE 2/2012), 20 June 2013 (ARE 3/2013) and 27 March 2017 (ARE 1/2017), concerning acts of reprisals for cooperation with UN human rights mechanisms, as well as intimidation and prosecution under national security charges. We regret that your Excellency's Government did not reply to the first four letters (ARE 4/2011, ARE 8/2011, ARE 2/2012 and ARE 3/2013). Concerning ARE 1/2017, while we acknowledge the reply received on 25 April 2017, we deeply regret that it was limited to denying the allegations of the letter without further detail or verifiable information to the contrary. Moreover, we regret that the reply failed to explain which specific actions of Mr. Mansoor amounted to "circulating false and misleading information on the Internet with a view to spreading hatred and sectarianism"

and how prosecuting these conducts was necessary and proportional to achieve one of the legitimate objectives of permissible restrictions to freedom of opinion and expression under international human rights law.

According to the new information received:

Mr. Mansoor has been detained for over seven months now, under criminal accusations of “circulating false and misleading information on the Internet with a view to spreading hatred and sectarianism”. Although the Emirati authorities have claimed that he is being held in Abu Dhabi Central Prison, this has to date not been verified.

He has allegedly been placed in solitary confinement and without access to a lawyer since his arrest. Similarly, it is reported that he has only been allowed twice since his arrest to briefly meet his family, under surveillance and in a location different from that of his detention.

We reiterate our deep concern at the arrest of and the criminal proceedings held against Mr. Mansoor, for charges related to the expression through social media of critical views on the human rights situation in the UAE. We are furthermore gravely concerned about the allegations regarding his detention in an unverified location, in conditions of prolonged solitary confinement and with serious restrictions to receive visits, which may amount to cruel, inhuman or degrading treatment. Finally, we express our dismay at the allegations that Mr. Mansoor has to date had no access to a lawyer, and the severe implications this may have in the context of the procedures against him.

While we do not wish to prejudice the accuracy of these allegations, we 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 this situation.

In particular, we would like to refer your Excellency’s Government to articles 3, 5, and 9 of the Universal Declaration of Human Rights (UDHR), as well as articles 5, 8, 13, and 15 of the Arab Charter on Human Rights, ratified by the UAE in 2008. These provisions establish the rights to life, liberty and security of person, as well as the prohibition of torture or cruel, inhuman or degrading treatment, and of arbitrary detention. Similarly, articles 10 and 11 of the UDHR and article 14 of the Arab Charter determine that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, and that everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defence, including the free choice of an attorney.

Furthermore, articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, acceded to by your

Excellency's Government in 2012, establish the absolute and non-derogable prohibition of torture and other ill-treatment. We would also like to draw your attention to the reviewed Standard Minimum Rules for the Treatment of Prisoners (as amended and adopted by the UN General Assembly on 5 November 2015 and renamed the "Mandela Rules") according to which prolonged solitary confinement beyond 15 days is prohibited, as it may cause severe mental and physical pain or suffering. We would further like to remind your Excellency's Government that detention in an unknown location jeopardizes the presumption of innocence, may facilitate the perpetration of torture or other forms of cruel, inhumane and degrading treatment or punishment, and can amount in itself to ill-treatment.

Moreover, we appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with the fundamental principles set forth in article 19 of the UDHR. We emphasize that this right applies online as well as offline. We would lastly like to highlight the fundamental principles set forth in articles 1 and 2 of the UN Declaration on Human Rights Defenders, which provide for the right to promote and to strive for the protection and realization of human rights and fundamental freedoms.

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 on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons 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. Following-up on your reply of 25 April 2017, please confirm the location of Mr. Mansoor and provide any available element of proof to confirm it.
3. Following-up on your reply of 25 April 2017, please provide any available element to confirm that Mr. Mansoor has been allowed to appoint a lawyer, as stated in it. In particular, please provide the name of the lawyer and information regarding the dates in which they have been allowed to meet.
4. Please explain the reasons as well as the legal basis for keeping Mr. Mansoor in solitary confinement, and explain how this measure is compatible with articles 5 and 9 of the UDHR.

5. Please explain which specific acts of Mr. Mansoor amounted to “circulating false and misleading information on the Internet with a view to spreading hatred and sectarianism” and how the prosecution of these conducts is compatible with article 19 of the UDHR. In particular, please explain how the prosecution of Mr. Mansoor is necessary and proportional and seeks to achieve one of the legitimate objectives recognized under international human rights law for the restriction of freedom of opinion and expression.

While awaiting a reply, we urge your Excellency’s Government to take all necessary measures to ensure that the rights and freedoms of Mr. Ahmed Mansoor are fully respected, and that accountability by the responsible person(s) for these actions is ensured.

Your Excellency’s Government’s response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment