

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
UA IRQ 2/2018

10 April 2018

Excellency,

We have the honour to address you in our capacity as Chair-rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 36/6, 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of death threats and attempted killing against Mr **Faisal Al Tamimi** and Mr **Iyad Al Roumy**, two human rights defenders, in what appears to be direct retaliation for their legitimate human rights work against enforced disappearances in Iraq, while they were peacefully exercising their rights to freedom of expression and assembly.

Mr **Faisal Al Tamimi** is a 43-year-old Iraqi citizen, who owns a leather factory and works as a volunteer for the human rights organization Al Wissam Humanitarian Assembly. This organisation contributes to the documenting of cases of enforced disappearances in Iraq, and has been submitting them to the United Nations human rights mechanisms.

Mr. **Iyad Al Roumy** is a 40-year-old Iraqi citizen, a taxi driver as well as a poet and works as a volunteer for the human rights organization Al Wissam Humanitarian Assembly.

Mr. Faisal Al Tamimi, together with another member of Al Wissam Humanitarian Assembly, has been the subject of a previous communication by the Special Procedures under reference IRQ 1/2016 sent on 13 April 2016, regarding the arbitrary arrest and ill-treatment of two human rights defenders, in retaliation for their legitimate human rights work and cooperation with the United Nations in the field of human rights. We regret that so far no response has been received.

The case was also included in the United Nations Secretary-General's report to the Human Rights Council on reprisals against persons who have cooperated with the United Nations of 16 August 2016 .

According to the new information received:

On 1 February 2018, Messr. Al Tamimi and Al Roumy were walking near the Culture for All Center in Karada, after a preparation meeting in relation to an upcoming conference to be held in the city and aimed at calling on Iraq to join the International Criminal Court (ICC). Three cars stopped next to them and one of the men inside made the following threat “Iyad and Faisal, either your life or the conference”. Reportedly, the men belonged to a militia from the Popular Mobilisation Forces (PMF), a State paramilitary organization.

On 3 February 2018, both men participated as members of Al Wissam Humanitarian Assembly in the organisation of the conference. They attended the conference, during which they urged the State to join the ICC and raised the issue of enforced disappearances in Iraq.

On 5 February 2018, two days after the conference, both individuals were approached by a car near the Sheikh Maruf Square in Baghdad. One of the persons in the car opened fire on them and shot five times. Mr. Al Tamimi was injured and was brought to the Medical City Hospital in Baghdad, where he received medical treatment. They then both went to the Juafir police station to submit a complaint. However, the police officers postponed the procedure to receive the complaint, and both left the police station out of fear of being attacked again by the militias.

On 4 March 2018, both Messr. Al Roumy and Al Tamimi received threats through Facebook messages.

Other participants in the conference, including photographers have reportedly also been threatened by militias after the conference and some were arrested without being officially charged or accused by the authorities and later released.

While we do not wish to prejudge the accuracy of these allegations, we express grave concerns about the alleged attempted killing and further death threats against Messr. Al Tamimi and Al Roumy which appear to be directly related to involvement in organizing and attending a human rights conference, as part of their legitimate human rights work at the Al Wissam Humanitarian Assembly. These acts of violence appear to be instigated by armed groups sponsored by the State. The allegations that the victims seem to have been refused to file a complaint at the police station, and have been refused protection in the face of obvious threats, is a matter of further concern. Our concerns also cover the allegation that other participants have similarly been subjected to threats in relation to their participation in the conference.

In this regard, we would like to refer to the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq on 25 Jan 1971, which guarantees the rights to

life (Art.6.1), to liberty and security (Art. 9) and, the right to freedom of opinion and expression (Art. 19) and the right to freedom of association (Art. 21).

We also refer to the right to form and participate freely in organizations and associations concerned with efforts to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance as codified in article 24.7 of the Convention for the Protection of All Persons from Enforced Disappearance (CED), which Iraq acceded on 23 November 2010.

Further, the United Nations Declaration on the Protection of All Persons from Enforced Disappearances establishes that steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal (Art. 13.3) and also to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished (Art. 13.5).

Allow us to also 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, 2, 5, 6, 9, 12 and 17. We also 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.

Lastly, United Nations Human Rights Council resolution 24/5 (operative paragraph 2), in which the Council “reminds States of their obligation to respect and fully protect the rights of all individuals... associate freely... including human rights defenders ... and to take all necessary 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 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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about whether any investigation and judicial or other inquiry has been undertaken in relation to these allegations. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is compatible with Iraq's international human rights obligations under ICCPR and the CED.
3. Please explain what measures have been taken to ensure the physical and mental integrity of the above named individuals, as well as those involved in the organisation and participation of the conference.
4. Please provide information on the measures in place to ensure that organizations concerned with attempting to establish the circumstances of enforced disappearances, the fate of disappeared persons and to assist victims of enforced disappearances can carry out their work in a safe and enabling environment without fear of threats, acts of intimidation or reprisals of any kind.

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(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 our highest consideration.

Bernard Duhaime
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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