

**Mandates of the Working Group on Arbitrary Detention; 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; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL ARE 1/2018

4 May 2018

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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 situation of human rights defenders; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 36/6, 34/18, 32/32, 34/5, 31/3 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 arbitrary detention of human rights defenders **Mr. Osama Al-Najjar and Mr. Ahmed Mansoor**, along with the charges against Mr. Mansoor.

**Mr. Osama Al-Najjar** is a human rights defender, blogger and architectural engineer from the Emirate of Ajman. He is the son of Mr. Hossain Al-Najjar, one of the 94 persons tried in a case referred to as the "UAE 94", who is currently serving an 11-year prison sentence for his peaceful activities. Mr. Osama Al-Najjar has actively defended his father and other persons from the UAE 94 on *Twitter* and on his blog. He also met with the former Special Rapporteur on the independence of judges and lawyers during her official visit to the United Arab Emirates in February 2014. Mr. Osama Al-Najjar was arrested on 17 March 2014 and on 25 November 2014 was convicted on charges including "instigating hatred against the State" and "contacting foreign organisations and presenting inaccurate information".

Mr. Osama Al-Najjar has been the subject of an urgent procedure by the Working Group on Enforced or Involuntary Disappearances, on 20 March 2014. Later his case was clarified on the basis of information provided by the source on 28 April 2018. He has also been the subject of two previous joint urgent appeals sent to your Excellency's Government by special procedures mandate holders, on 16 April 2014, case no. ARE 3/2014 and on 2 April 2015, case no. ARE 2/2015. While we regret that no reply has been received in relation to the joint urgent appeal sent on 16 April 2014, we acknowledge your Excellency's Government's reply to the communication sent on 2

April 2015, dated 30 April 2015. However, we express concern that the allegations in the letter were not substantially dealt with, the reply rather being limited to contradicting these allegations and not expanding on the factual circumstances raised in the communication. We further express concern in relation to your Excellency's Government's failure to respond to allegations of reprisals against Mr. Al-Najjar for his cooperation with the United Nations and its mechanisms and representatives in the field of human rights, in particular with the Special Rapporteur on the independence of judges and lawyers.

**Mr. Ahmed Mansoor** is a human rights defender, and 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 a laureate of the Martin Ennals Award in 2015, and has made valuable contributions to the work of the UN human rights mechanisms by providing substantial collaboration. Mr. Mansoor was arrested on 20 March 2017 and has remained in detention in an unknown location since. In the weeks preceding his arrest, Mr. Mansoor had used twitter to call for the release of Mr. Osama Al-Najjar.

Mr Mansoor has been the subject of six previous joint urgent appeals sent by special procedures mandate holders on 26 April 2011, case no. ARE 4/2011; 25 November 2011, case no. ARE 8/2011; 18 April 2012, case no. ARE 2/2012; 20 June 2013, case no. ARE 3/2013; 27 March 2017, case no. ARE 1/2017 and 26 October 2017, case no. ARE 7/2017. He was also the subject of the Opinion 64/2011 of the Working Group on Arbitrary detention. The Working group found then that the detention of Mr. Mansoor was arbitrary and requested his immediate release and reparation. We regret however that your Excellency's Government only replied to one communication (ARE 1/2017). Concerning case no. 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.

According to the new information received:

*Concerning Mr. Al-Najjar*

In August 2016, Mr. Osama Al-Najjar's lawyer requested his release under article 44 of the Federal Law No. 43, on the Regulation of Punitive Facilities and article 302 of the United Arab Emirates Criminal Procedural Law, on the basis that he had served three quarters of his sentence. His release was contingent on a payment being made of 500,000 dirhams, however his family was unable to provide this amount. The Court resultantly refused the request.

In January 2017, Mr. Osama Al-Najjar was transferred from Al-Wathba Prison to Al-Rezin Prison, a maximum security prison in the centre of the desert.

On 17 March 2017, Mr. Osama Al-Najjar was scheduled for release, having served his three year sentence to completion, however the State Security Chamber of the Federal Supreme Court decided to extend his detention at the request of the Public Prosecution on the basis that he represented a “terrorist threat”.

On 1 June 2017, the Court accepted a request submitted by the Public Prosecution under article 40 of the Federal Law No. 7/2014 to order Mr. Osama Al-Najjar’s transfer to a Munasaha Centre for six months, despite the fact that he had reportedly been transferred three months prior. The law concerns those suspected of terrorism and is not subject to appeal, denying suspects the ability to challenge the legality of their detention. After his transfer in March, until June 2017, Mr. Osama Al-Najjar was detained in the Munasaha Centre without legal basis.

On 13 December 2017, the State Security Chamber of the Federal Supreme Court extended Mr. Osama Al-Najjar’s detention for another six months. To date, Mr. Al-Najjar remains in detention, over one year after finishing his sentence.

#### *Concerning Mr. Ahmed Mansoor*

On 26 February 2018, two lawyers from Dublin requested to the Ministry of Interior to gain access to Mr. Mansoor and discover his whereabouts. The Ministry of Interior referred the lawyers to the police, who are not responsible for prisons, who in turn directed them to approach Al-Wathba Prison in Abu Dhabi. Upon their arrival, they were told by prison authorities that nobody matching Mr. Mansoor’s description was being held there.

On 14 March 2018, Mr. Mansoor had his first hearing under accusations of “circulating false and misleading information on the Internet with a view to spreading hatred and sectarianism”.

Mr. Mansoor’s second hearing took place on 11 April 2018. He has allegedly still not been able to appoint a lawyer of his choice, and details of the exact charges against him remain unclear. Furthermore, he allegedly continues to be kept in solitary confinement with extremely limited contacts with outside world. When visits from his family have been granted, they have taken place at a location other than the location of his detention.

Serious concern is expressed over the continued arbitrary detention of Mr. Al-Najjar beyond the term of his sentence on the basis of broad and vague legislation created in order to tackle threats emanating from terrorism, for reasons

seemingly linked to his peaceful work as a human rights defender and his legitimate exercise of his right to freedom of expression rather than for any grounds actually stemming from state security considerations. Further concern is expressed at the lack of avenues available to appeal the legality of detention decisions made under article 40 of the Federal Law No. 7/2014, increasing the risk of his prolonged arbitrary detention.

Deep concern is expressed over the continued detention of Mr. Mansoor at an unknown location under alleged conditions of solitary confinement with extremely limited access to visitors, which may amount to cruel, inhuman or degrading treatment and enforced disappearance. Concern is also expressed over the charges against Mr. Mansoor which remain unclear, though seemingly linked to his legitimate exercise of the right to freedom of expression in the context of his work as a human rights defender, along with his alleged lack of access to legal counsel which seriously jeopardises his ability to mount an effective defence and violates fair trial guarantees.

While we do not wish to prejudge 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 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.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed factual and legal information on the grounds for Mr. Osama Al-Najjar's continued detention, over one year after having completed his sentence, and explain how his continued detention is compatible with international and regional human rights standards, especially articles 3 and 9 of the Universal Declaration of Human Rights and article 5 of the Arab Charter on Human Rights.
3. Please provide detailed information on the location of Mr. Mansoor's detention, including the authorities in whose custody he remains, along with detailed factual and legal information on the charges against him. Please further provide information on whether Mr. Mansoor has had adequate access to legal representation in order to have an effective defence for the charges levelled against him.
4. Please provide information on the conditions of Mr. Mansoor's detention, along with details on any investigation carried out regarding the

allegations concerning his continued detention in solitary confinement, including how such detention is compatible with articles 5 and 9 of the UDHR. Please also include information on whether Mr. Mansoor has had adequate access to medical care and family visits during his detention.

5. Please provide information on how the detention provisions contained in article 40 of the Federal Law No. 7/2014 are compatible with international human rights standards, especially as they pertain to arbitrary detention and due process. Please explain on what basis avenues for appeal are precluded.
6. Please indicate what measures have been taken to ensure that human rights defenders in the United Arab Emirates are able to exercise their right to freedom of expression and carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days. 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 allegation letter 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 letters in no way prejudge any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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.

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

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

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

Nyaletsossi Clément Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Fionnuala Ní Aoláin  
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to draw your Excellency's Government's attention to articles 3, 5, 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights (UDHR), which state that everyone has the right to life, liberty and security of person, that no one shall be subjected to cruel, inhuman or degrading punishment, that no one shall be subjected to arbitrary arrest or detention, that all those with criminal charges against them are entitled to a fair and public hearing by an independent and impartial tribunal, including the presumption of innocence and guarantees necessary for one's defence, that everyone has the right to freedom of opinion and expression, including the right to impart information and ideas through any media and regardless of frontiers and that everyone has the right to freedom of association. We further emphasise that the rights contained in article 19 and 20 apply online as well as offline.

We would also like to draw your Excellency's Government's attention to the human rights standards contained in the Arab Charter on Human Rights, which the UAE ratified in 2008, specifically articles 5, 8, 13, 15 and 16 which safeguard the rights to life, liberty and security of person, to be brought promptly before a judge, to not be subjected to cruel, inhuman or degrading treatment, to be treated with humanity while in detention and to be compensated in circumstances of unlawful arrest or detention. We underline also that the right to access to legal counsel is enshrined in the UN Basic Principles on the Role of Lawyers.

We would like to refer to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which establishes that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (art.7). Furthermore, article 10 (1 and 2), establishes that any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention and that accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

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 on 19 July 2012, establish the absolute and non-derogable prohibition of torture and other ill-treatment. We would like to highlight 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 may itself amount to ill-treatment, jeopardise the presumption of innocence and facilitate the perpetration of torture or other forms of cruel, inhumane and degrading treatment or punishment.

We would also like to refer to Human Rights Council resolution 24/5, in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions of 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" (OP2).

We wish to recall the provisions of Human Rights Council resolution 24/24, which, *inter alia*, reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, and regional mechanisms, and calls upon all States to review legislation, policies and practices that have the effect of undermining unhindered access to and communication with international bodies, and to avoid adopting any such new legislation.

We would like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. (OP 10).

In this regard, we would like to bring to your Excellency's Government's attention that in his report to the General Assembly on impact of counter-terrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds. (A/70/371, para 46(c)).

We further recognise the urgent need to address, and to take concrete steps to prevent and stop, the use of legislation to hinder or limit unduly the ability of human rights defenders in the exercise of their work, and urge states to do so, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law. (A/HRC/RES/34/5 pp12).

In connection with the above alleged facts and concerns we would like to refer your Excellency's Government to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

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

- Article 6(b) which provides that everyone has the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- Article 9(4) which states that everyone has the right to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms;
- Article 12(2) which underlines that the State shall take all necessary measures to ensure the protection of human rights defenders against any de facto or *de jure* discrimination, pressure or other arbitrary action which arises as a consequence of his or her legitimate exercise of the rights contained in the Declaration.