

**Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
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26 October 2018

Excellency,

We have the honour to address you in our capacities as the Working Group on Arbitrary Detention and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. **Yousef Awni Yousef Issa**, who was arrested in Amman by the General Intelligence Directorate (GID) on 25 July 2018 and has been detained without charge since.

According to the information received:

Mr. Issa is a Jordanian and American citizen born in Texas, United States of America, and resides mainly in Amman, Jordan.

In July 2018, Mr. Issa's father was accused of illegally producing and smuggling fake-brand cigarettes. On 23 July 2018, the Prime Minister of Jordan announced that the case had been referred to the State Security Court (SSC) and on 6 August 2018, the public prosecutor issued an international arrest warrant against Mr. Issa's father. However, his father had already fled the country to Lebanon. Allegedly, Mr. Issa was not involved in his father's business and had a separate and independent business activity in the field of logistics.

The case, known as the "tobacco case", is a high profile case in Jordan amidst a Government crackdown on corruption in response to the large-scale protests that spread across the country since May 2018.

On 25 July 2018 at around 1:30 a.m., members of the General Intelligence Directorate (GID) broke into the apartment of Mr. Issa's friend and arrested Mr. Issa without presenting an arrest warrant nor giving him any reasons for the arrest. They were masked and carrying weapons; some were dressed in black clothes, while others were wearing military uniforms.

After his arrest, Mr. Issa was brought to an unknown detention facility – which he later understood to be the GID's headquarters in Wadi Sir. He was held in prolonged incommunicado detention, without access to a lawyer or his family. The Jordanian authorities refused to provide any information on his fate and whereabouts to his

family and lawyers, and did not acknowledge his detention, effectively subjecting Mr. Issa to an enforced disappearance.

While held secretly and incommunicado, Mr. Issa was interrogated on a daily basis by the GID and the SSC Prosecutor. He was reportedly subjected to physical and psychological abuse that amount to torture and other cruel, inhuman or degrading treatment – including electrocution, beatings, isolation, threats, verbal abuse – in order to extract information about his father in relation to the “tobacco case”.

On 6 August 2018, at around 11:30 a.m., 20 members of the GID broke into the house of Mr Issa’s uncle, where his mother was staying after the authorities seized all of her assets and evicted her from her apartment. These measures had been taken in relation to the “tobacco case”. While holding everyone in the house at gunpoint, including several children, the GID members brought Mr. Issa inside the house, handcuffed and blindfolded. After uncovering his face, the GID members ordered Mr. Issa to tell his mother to give them all the money she had. After Mr. Issa’s mother responded that the GID had already confiscated everything she owned during a previous raid at her house, the GID officers left the house taking Mr Issa with them.

On 12 August 2018, Mr. Issa was transferred to Juweideh prison, where he is currently detained. On the same date, his family was informed of his fate and whereabouts for the first time, effectively ending the period of his enforced disappearance, which lasted 19 days. The family was subsequently informed that, prior to his transfer to Juweideh prison, Mr Issa had been secretly kept in a detention facility located in the GID’s headquarters.

On 17 August 2018, Mr Issa was allowed to call his relatives for the first time and, since then, he has been able to receive family visits once a week and make a brief telephone call once a week.

In Juweideh prison, Mr. Issa is being held in one cell with 14 other detainees who have all been arrested in the “tobacco case”. The conditions of detention are extremely poor: the 15 detainees are being held in one cell with a serious lack of hygiene, and no possibility of physical exercise, either inside the prison or in the open air. Additionally, Mr. Issa is denied access to his prescribed anti-depressant medication, which has resulted in a deterioration of his mental health.

On 30 August 2018, the International Committee of the Red Cross interviewed Mr. Issa and two other detainees held in the same cell and recorded the alleged torture and ill-treatment the detainees were subjected to by the GID.

The family also contacted the U.S. Embassy in Jordan, which sent letters to the Jordanian authorities requesting a visit to Mr. Issa in detention, but the GID denied them access.

Without prejudging the accuracy of the information made available to us, we express grave concern in connection with these allegations. Should the facts alleged be confirmed, they would constitute violations of the right to life, liberty and security of person, the rights of the defense and to a fair trial set forth in articles 3, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9, 10 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which Jordan ratified on 28 May 1975. Moreover, they would violate the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Jordan ratified in 1991. They would also contravene the Declaration on the Protection of All Persons from Enforced Disappearances, that no State shall practice, permit or tolerate enforced disappearances (Article 2) and that no circumstances whatsoever may be invoked to justify enforced disappearances (Article 7).

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 in greater details the international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandate entrusted to us by the United Nations Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following :

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the factual and legal grounds for the arrest and detention of Mr. Issa and their compatibility with the Kingdom of Jordan's international human rights obligations.
3. Please provide information on the grounds for his incommunicado detention during the period of 19 days following his arrest, period during which he appeared to have been subject to enforced disappearance.
4. Please provide information on the reasons why Mr. Issa was denied access to a legal counsel for the first 19 days following his arrest.
5. Please provide information as to the reason why Mr. Issa continues to be detained without charges, three months after his arrest, or, if he has been charged, why he has not been informed of the charges against him.
6. Please provide information regarding the allegations that Mr. Issa was tortured or otherwise ill-treated during interrogation, and subjected to inhumane conditions of detention and whether measures have been taken by the Government to investigate these allegations. If no investigation into the

allegations has been conducted, please explain why, and how this is consistent with Jordan's obligations under the Convention against Torture.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from Your Excellency's Government will be made public via OHCHR Special Procedures Communications [website](#). They will also be made available in the next report on communications that is presented three times a year to the Human Rights Council.

While awaiting the Government's reply, we urge that all necessary measures be taken to halt and investigate the alleged violations and prevent their recurrence 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.

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 prejudice any opinion the Working Group may render. The Government is required to respond separately for the allegation letter and the regular procedure.

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

Elina Steinerte

Vice-Chair of the Working Group on Arbitrary Detention

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 the above alleged facts and concerns, 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 particular, we would like to refer your Excellency's Government to the right to life, liberty and security of person, the rights of the defense and to a fair trial set forth in articles 3, 9, 10 and 11 of the Universal declaration of Human Rights and articles 9, 10 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which Jordan ratified on 28 May 1975.

With regard to the period of enforced disappearance described in the allegation, we wish to recall that enforced disappearance has been described as a "particularly heinous violation of human rights", which entails multiple human rights violations, including the rights to liberty and security and to a fair trial under articles 9 and 14 of the International Covenant on Civil and Political Rights. In addition, the Declaration on the Protection of All Persons from Enforced Disappearances establishes that no State shall practice, permit or tolerate enforced disappearances (Article 2) and 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 (Article 7). In its article 13.3, the Declaration also proclaims 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. Moreover, there is no time limit, no matter how short, for an enforced disappearance to occur and that accurate information on the detention of any person deprived of liberty and their place of detention shall be made promptly available to their family members.

Moreover, the incommunicado detention is in breach of principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) and of rules 44, 45 and 58 of the Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), and they further amount to a violation of the prohibition of torture and ill-treatment under article 7 of the ICCPR.

We would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156 (February 2014), which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished"

In addition, we would like to remind that article 9 (4) of the Covenant provides that "[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the

lawfulness of his detention and order his release if the detention is not lawful". In this respect, "[t]he right to bring proceedings applies in principle from the moment of arrest and any substantial waiting period before a detainee can bring a first challenge to detention is impermissible. In general, the detainee has the right to appear in person before the court, especially where such presence would serve the inquiry into the lawfulness of detention or where questions regarding ill-treatment of the detainee arise. The court must have the power to order the detainee brought before it, regardless of whether the detainee has asked to appear" (CCPR/C/GC/35, para. 42) . Moreover, "[t]o facilitate effective review, detainees should be afforded prompt and regular access to counsel. Detainees should be informed, in a language they understand, of their right to take proceedings for a decision on the lawfulness of their detention" (Ibid, para. 46).

We also wish to reiterate the Principles defined in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, especially Principle 2, according to which the "[a]rrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose, Principle 9, stating that "[t]he authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority" and Principle 11.1 highlights the right to be heard promptly by a judicial authority.

We also wish to highlight that article 36 (1) (b) of the 1963 Vienna Convention on Consular Relations provides that a foreign national "arrested or committed to prison or to custody pending trial or is detained in any other manner" should be informed "without delay" of his or her rights to inform consular officers about his or her detention and to have any communication addressed to them forwarded "without delay". This is in addition to the consular officers' right to be informed of detention and to maintain communication (para. 1 (b)) as well as their right to arrange for legal representation and to visit in person (para. 1 (c)). Furthermore, the Body of Principles recognizes in principle 16 (2) the importance of consular assistance for a detained or imprisoned foreign national by specifically mentioning his or her right to "communicate by appropriate means with a consular post of the diplomatic mission of the State of which he [or she] is a national". The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) also provides, in rule 62 (1), that "[p]risoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong".

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Jordan ratified in 1991.

In this context, we would like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture and other cruel, inhuman and degrading treatment or punishment (CAT), which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and **article 7 of the CAT**, which requires State parties to prosecute suspected perpetrators of torture, including the officials in charge of the place of detention where the prohibited act is found to have been committed. Further, to take note of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture," and "(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation.

Finally, we would like to recall the updated United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015) which lay out generally accepted principles and practice in the treatment of prisoners and prison management with respect to providing access to adequate health care, appropriate accommodation, including minimum cubic content of air and floor space, lighting and ventilation, requirements to be met regarding personal hygiene and exercise.