

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
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23 November 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 33/30, 36/6 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged denial of requests made by Mrs. Lee Ching-yu to visit her husband Mr. Li Ming-Che who has been detained in Chi-Shan prison, where he is serving his 5-year term since December 2017.

Mr. Li Ming-Che is a human rights defender, whose case was previously registered by the Working on enforced or Involuntary disappearances (case number 10007396), on 27 April 2017 and subsequently clarified during its 115th session on the basis of information provided by the source. The Working Group notes that the new information received raises renewed concern as to his fate and whereabouts.

According to the information received:

On 10 September 2018, Mr. Li Ming-Che was last seen at Chi-Shan Prison in Hunan Province, by his wife who visited him. His wife, has been able to visit him in Chi-Shan Prison five times in the past nine months, although some visit requests were refused or postponed unilaterally by the Chinese authorities.

A few days before Mrs. Lee Ching-yu was scheduled to visit her husband on 22 October 2018 in Chi-Shan Prison, the Taiwan's Mainland Affairs Council (MAC) received unconfirmed information that Mr. Li Ming-Che had been transferred to Yan-Cheng Prison in He-Bei Province, a prison directly managed by the Ministry of Justice, without providing further explanation nor informing his family.

On 31 October 2018, while persons associated with Mr. Li Ming-Che were trying to find out the reasons for his transfer, the MAC received information, that Mr. Li Ming-Che had been transferred back to Chi-Shan for unknown reasons.

Neither Mr. Li Ming-Che's family members nor the MAC were officially notified by the Chinese authorities of these two transfers. Furthermore, Mrs. Lee Ching-yu's requests to visit her husband in Chi-Shan on 12/13 and on 19/20 November 2018 have been denied without further explanation.

It is not clear whether Mr. Li Ming-Che remains detained in Chi-Shan Prison.

Without making any judgment as to the accuracy of the information made available to us, we are seeking clarification about the whereabouts of Li Ming-Che. His alleged un-notified and unexplained transfers as well as his continued detention appear to be in contravention to provisions of international human rights law, in particular the rights not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and Articles 9 and 14 of the International Covenant on Civil and Political Rights, which was signed by China in 1998.

Article 10 (2) of the Declaration on the Protection of All Persons from Enforced Disappearance requires 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. 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.

Articles 1 and 2 of the UN Declaration on Human Right Defenders states that everyone has the right to promote the protection and realization of human rights and that each State has a prime responsibility and duty to protect, promote and implement all 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 Mr. Li Ming-Che in compliance with China's international human rights obligations.

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 Mr. Li Ming-Che's whereabouts.
3. Please explain the reasons why he was allegedly transferred to another detention facility, and then returned to Chi-san prison, and why these transfers were not officially notified to his family. Please also include information on whether Mr. Li Ming-Che's right to family visits is being respected in practice.
4. Please explain why his wife's requests to visit him since 10 September 2018 have been denied.
5. Please provide information on any measures taken to ensure the physical and psychological integrity of Mr. Li Ming-Che.
6. Please indicate what measures have been taken to ensure that human rights defenders in China are able to carry out their peaceful and legitimate work in an enabling environment.

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 urgent 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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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

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

Michel Forst
Special Rapporteur on the situation of human rights defenders