

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA LBN 1/2019

25 January 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 33/9 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arbitrary detention, torture and ill-treatment of Mr. **Hassan Toufic Dika**.

According to the information received:

On 1 November 2018, at around 10 p.m., approximately 50 armed men from the Lebanese Information Bureau at the Internal Security Forces (ISF) raided and searched the house of Mr. Hassan Toufic Dika, allegedly without presenting an arrest warrant and firing gun shots in the air. Mr. Dika was arrested at around 3 a.m. following the raid, on the accusations of facilitating the passage of a large amount of the cannabis drug, hashish, through the port of Beirut.

Mr. Dika was held incommunicado for eight days at the ISF Information Bureau. He was allegedly subjected to heavy beating including on his intimate parts, electric shocks and forced nudity. Mr. Dika was subsequently forced into signing a confession.

On 9 November 2018, Mr. Dika was transferred to the detention place in the Palace of Justice in Baabda. It is only then that his family was informed about his whereabouts and about the charges brought against him.

On 12 November 2018 Mr. Dika was authorized to sign a power of attorney for his lawyers, and on 14 November 2018, the public prosecutor referred his case to the investigative judge. On 16 November 2018, Mr. Dika appeared before the investigative judge without being able to inform his lawyers.

On 21 November 2018, persons associated to Mr. Dika filed a lawsuit with the public prosecution office in Mount Lebanon against the ISF Information Bureau complaining about the alleged arbitrary arrest and torture of Mr. Dika. Until date, no action has been taken on the case.

On 23 November 2018, Mr. Dika's lawyers requested a forensic and psychological examination of Mr. Dika. The forensic report appears to reflect several bruises on his hands, back and legs, in addition to a long wound on his left shoulder and other wounds on his left waist resulting from the alleged ill treatment he has been subjected to. The report mentions that Mr. Dika is suffering from high blood pressure, diabetes and episodes of asthma, and from severe backache as a result of the beatings and that he is in need of an urgent MRI. The psychological report mentions severe depression and frequent crying episodes. Persons associated to Mr. Dika requested for his transfer to the hospital to get the necessary medical treatment, but the request has been rejected by the investigative judge.

On 10 December 2018, persons associated to Mr. Dika filed a second lawsuit against the arbitrary detention and ill-treatment of Mr. Dika at the hands of the ISF Information Bureau and presented it to the investigative judge. The judge did not accept the lawsuit and suggested that it be submitted to the military court as it comprises acts committed by law enforcement officers.

Mr. Dika has been held in the Baabda Justice Palace since 9 November 2018, awaiting his pre-trial hearing. He had a scheduled hearing for 23 January 2019, but the session was postponed without setting a new date. The conditions of detention in Baabda Palace are designed solely to hold detainees awaiting their trial and for a maximum of 48 hours, and thus unfit for prolonged detention. Furthermore, it is alleged that Mr. Dika is held underground in a small and overcrowded cell without access to adequate lighting or ventilation.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our grave concern regarding the alleged arbitrary detention and ill-treatment of Mr. Dika since his arrest. If confirmed, these allegations would constitute a violation of the absolute prohibition of torture as per Article 2 and 16, of the Convention against Torture to which Lebanon ratified on 5 October 2000, and a violation of Article 15 of that Convention that prohibits the use of evidence obtained under torture in proceedings. These acts would also constitute a violation of Article 7 (prohibition of torture), 9 (right to liberty and security of person), 10 (treatment in detention) and 14 (fair trial rights) of the International Covenant on Civil and Political Rights (ICCPR) to which Lebanon adhered on 3 November 1972.

We are further concerned about the physical and mental integrity of Mr. Dika whilst detained in a facility deemed unfit to hold detainees beyond 48 hours and its negative impact on reported injuries and on Mr. Dika's chronic conditions which require adequate, specialized treatment. The right to physical and mental health as reflected in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which Lebanon acceded to on 3 November 1972 includes the obligation on the State to refrain from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment CESCR 14, para. 34). In addition, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 24 to 35, further establish the State's responsibility to provide healthcare for prisoners. In particular, Rule 27 indicate that prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

Without expressing at this stage an opinion as to whether the detention of the above-mentioned person is arbitrary or not, we appeal to your Excellency's Government to take the necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and, if Mr. Dika is to remain in detention, that he be granted fair trial proceedings before an independent and impartial tribunal, in accordance Articles 9 and 14 of the ICCPR, so that he can challenge the legality and the possible arbitrariness of his deprivation of liberty.

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 person in compliance with Lebanon's international human rights obligations under the treaties the State has ratified.

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 the factual and legal grounds of the arrest and continued detention of Mr. Dika, and how these measures are consistent with the ICCPR, which Lebanon has ratified.
3. Please provide the details, and where available the results, of any additional investigation, medical examinations, and judicial or other

inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is consistent with Lebanon’s domestic and international human rights obligations under ICCPR and CAT.

4. In the event that torture or ill-treatment has occurred and the perpetrators of these alleged acts have been identified, please provide the full details of any penal, disciplinary, or administrative sanction that has been taken against them, as provided for under the CAT.
5. Please clarify why the two lawsuits brought against the alleged arbitrary detention and ill-treatment of Mr. Dika at the hands of the ISF Information Bureau were not accepted by the investigative judge.
6. Please indicate the legal grounds to reject requests to transfer Mr. Dika to a hospital to get the necessary medical treatment.
7. Please provide information about Mr. Dika’s current physical and mental integrity and the measures taken, if any, to provide him with appropriate medical treatment.

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.

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 responsible of the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information at hand is sufficiently reliable to indicate a matter warranting serious attention. We also believe that the wider public should be alerted to the potential human rights implications of these allegations. Any public expression of concern on our part will indicate that we have been in contact with your Excellency’s Government’s to clarify the issue/s in question.

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.

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

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

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