

Mandates of the Special Rapporteur on the human rights of migrants; the Special Rapporteur on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the human rights of migrants; Special Rapporteur on minority issues; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 34/21, 34/6 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. Hatim Farajallah, a Palestinian, born and residing in Saudi Arabia, and his father Mr. Majid Farajallah, who are members of the Palestinian minority and appear to be de facto stateless, as they have no access to official documents and they are unable to renew their Egyptian travel document and their residency visa in Saudi Arabia.

According to the information received:

Mr. Hatim Farajallah was born in Saudi Arabia, on 26 April 1992, son of a Palestinian father and of an Egyptian mother. Until 2012, he had a valid residency visa in Saudi Arabia through his father who was also his sponsor. Mr. Hatim Farajallah was also holder of an Egyptian travel document, due to his father's status as a Palestinian refugee.

Mr. Hatim Farajallah's Egyptian travel document expired on 6 June 2008 as did his residency visa on 26 June 2012. The expiration of his residency visa coincided with the expiration of his father's visa.

His father, Mr. Majid Farajallah, had changed his own visa from that of worker to investor-class. However, since 2012, he could not have his investor visa renewed, because he had to pay a significant amount of corporate taxes. Therefore, because of his father's visa expiration, Mr. Hatim Farajallah has also been unable to renew his expired residency visa since 2012.

In order to renew Mr. Hatim Farajallah's residence visa, the Saudi authorities have requested that he provides them with a valid passport or travel document. However, Mr. Hatim Farajallah was told by the Egyptian Embassy in Riyadh that in order to proceed with the renewal of his travel document, he would need to show proof of residency in Saudi Arabia.

In addition, the other option for Mr. Hatim Farajallah to have his visa renewed through employment has not been successful to date, because his expired visa since 2012 appears to be a deterrent for employers to hire him.

Both father and son cannot travel, do not have access to health insurance or to employment. Furthermore, they rarely leave their home for fear of being stopped and arrested by the police.

While we do not wish to prejudge the accuracy of these allegations, we wish to express serious concerns over the reported legal status of Mr. Hatim Farajallah and Mr. Majid Farajallah, who find themselves in a stateless-like situation, deprived of identification and travel documents, as well as of official residency in Saudi Arabia. We are alarmed by their precarious situation, which poses serious risks to the enjoyment of their human rights, including access to education and health care, as well as to an adequate standard of living, and which, if not resolved, would have negative legal implications for them as a result of their statelessness, including arrest and possible removal. Furthermore, we are deeply concerned at the appeared stalemate in the process of the renewal of Mr. Hatim Farajallah's residency visa, although born and raised in Saudi Arabia, as a result of the reported interrelatedness of his Egyptian travel document and the Saudi residency visa, which are both expired, thus preventing Mr. Hatim Farajallah from renewing either of them.

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 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 concerns and allegations;
2. Please provide information on the steps undertaken by your Excellency's Government's with the view to resolving the issue of residency visa for Mr. Hatim Farajallah and Mr. Majid Farajallah;
3. Please indicate any legislative and policy measures aiming at eliminating discrimination on any grounds with regard to the right to a nationality, and in particular discrimination against persons belonging to ethnic, religious, and linguistic minorities who are born in Saudi Arabia.

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.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please be informed that a letter on the same matter has also been sent to the Government of the Arab Republic of Egypt.

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

Felipe González Morales
Special Rapporteur on the human rights of migrants

Fernand de Varennes
Special Rapporteur on minority issues

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
and related intolerance

Annex
Reference to international human rights law

In connection with above alleged facts and concerns we would like to recall that the right to a nationality is recognized and protected under international law. The Universal Declaration of Human Rights recognizes a general right to a nationality under its Article 15. In addition, Article 5 (d) (iii) of the International Convention on the Elimination of all of Forms of Racial Discrimination – ratified by Saudi Arabia on 23 September 1997 – explicitly obliges State parties to guarantee the right of everyone to equality before the law, including in the enjoyment of the right to nationality, without discrimination on any prohibited grounds. In this connection, the Committee on the Elimination of Racial Discrimination has reiterated that the deprivation of citizenship on the basis of race, colour, descent or national or ethnic origin violates State parties’ obligations to ensure non-discriminatory enjoyment of the right to nationality (see e.g. General Recommendations No. 30, para. 14).

Article 7 of the Convention on the Rights of the Child – ratified by Saudi Arabia on 26 January 1996 – provides for the child’s immediate birth registration and the right for the child to acquire a nationality. Furthermore, article 9.1 of the Convention on the Elimination of All Forms of Discrimination against Women – ratified on 7 September 2000 – stipulates that “State Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband”. Article 9.2 provides for equal rights of women and men with respect to the nationality of their children.

We also would like to draw your Excellency’s Government attention to the recommendations of the Special Rapporteur on minority issues in his recent report to the General Assembly “Statelessness: A minority issue” (A/73/205), in particular his conclusions and recommendation in which he recalls that “States must not arbitrarily or discriminatorily deny or deprive minorities of citizenship”, that “States must grant nationality to all children born on their territory if the child would otherwise be stateless, regardless of the immigration status of the parents”, and notes that “State requirements for the granting of citizenship, including in relation to any preference in terms of linguistic, religious or ethnic characteristics, must be reasonable and justified in order not to constitute a form of discrimination prohibited under international law.” (para. 50 and 56)

We would like also to bring the attention of your Excellency’s Government to the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the Human Rights Council (A/HRC/38/52), which identifies and reviews contemporary racist and xenophobic ideologies, and institutionalized laws, policies and practices, which together have a racially discriminatory effect on individuals’ and groups’ access to citizenship, nationality and immigration status. We would like to draw specific attention to her recommendations and

especially to “take specific steps to end statelessness, including by putting an end to the practices and policies identified [in the report] that render persons stateless and in doing so, make them vulnerable to extreme human rights violations” (para. 67 (c)).

Finally, we draw attention to the United Nations 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities), which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1), as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. Article 4.1 establishes that “States will take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law”.