

Mandates of the the Working Group on Arbitrary Detention; and the Special Rapporteur on the human rights of migrants

REFERENCE:
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8 August 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 33/30 and 34/21.

In this regard, we would like to draw the attention of your Excellency's Government to the information we have received concerning the detention of Guillaume Pernot (aka Yannick Dacheville) who is a French citizen, in the United Arab Emirates, since 11 March 2019, related to an extradition order to France. Due to this situation, his newborn child cannot have a passport and other necessary documentation.

According to the information received:

On 11 March 2019, Mr. Pernot, who has been living in the United Arab Emirates (UAE) since 2011, was arrested in front of the Al Khaimah building, and was taken to the Dubai CID Police General headquarters. He was not shown a warrant or given any information as to why he was being arrested. He was then put in solitary confinement for two days and was deprived of food, water and was not allowed to contact his lawyer or his family.

After one month of detention, and multiple applications made to the Dubai Public Prosecution and Dubai Human Rights Department, on 9 April 2019, Mr. Pernot received a detention certificate stating that he is detained for the purpose of extradition to France in relation to Dubai Interpol case number 93/2011 pursuant to an order signed by the Abu Dhabi Ministry of Justice.

According to article 16 of the Extradition Convention between the UAE and France, the legal time limit for a detention linked to an extradition procedure is 45 days. Mr. Pernot and his legal representatives have attempted to obtain a copy of the casefile from the Dubai Public Prosecution in order to understand the situation and the reason of his continued detention despite all the legal time limit being long exceeded. However, the Dubai Public Prosecution has systematically refused Mr. Pernot to access his case file.

Furthermore, the French authorities have told the lawyer of Mr. Pernot in June 2019 that they have not been notified of Mr. Pernot's arrest

and detention by the UAE authorities. The French Consulate would have visited him on 4 July 2019 to discuss the conditions of detention and did not discuss the legality of his detention.

Since 24 June 2019, Mr. Pernot has been transferred to the Central Jail (Al Awir) where his conditions of detention have worsened. Apparently, he has no means to buy food or to have sanitary amenities; his clothing is limited; his head was shaved against his will; the lights are kept on 24 hours a day; he is in a cell of 1.5 meter x 3 meters with four other inmates and he suffers from the smoke in the cell; he is not allowed to go outside; and his family visits are limited. Furthermore, he has not been able to meet with his lawyers. Between the end of July and the beginning of August 2019, Mr. Pernot would also have been assaulted in the jail by a guard after having his underwear removed from him against his will. Mr. Pernot has asked for his transfer but it has not been granted yet.

On 17 July 2019, the wife of Mr. Pernot, who is a British citizen living in the UAE since 2016, has given birth to their son. In order to receive the newborn child's documentation and a passport, Mr. Pernot needs to be permitted to sign the various registration forms. However, the Dubai Public Prosecution, the Dubai Human Rights Department, the Interpol Office and the guards/managers at Central Jail (Al Awir) have all rejected the applications for him to sign the papers. Therefore, his son is effectively being denied the right to a nationality. This is a concern given that the law in the UAE states that babies born have 30 days to apply for their residency visa before they are liable for fines. Yet, they cannot obtain a residency visa for his son in the absence of a passport. Mr. Pernot has not been able to see his son either since he was born.

While we do not wish to prejudge the accuracy of the information received, we are raising our concern about the legal basis of the detention of Mr. Pernot, the conditions of his detention, as well as the obstacles for his new born child to be properly registered so as to enjoy his legal right to a nationality.

Should these allegations be confirmed they would contravene several fundamental principles set forth in the Universal Declaration of Human Rights, in particular articles 3, 9, 10 and 15. We thus appeal to your Government to ensure that the rights of Mr. Pernot and his newborn child are respected, that he is not arbitrarily deprived of his liberty, that he is either immediately released if no charge is retained against him or that he is tried according to fair standards or extradited and that his conditions of detentions and treatment meet the minimum required under international standards. These rights are protected in articles 10 and 11 of the Universal Declaration of Human Rights as well as in Rules 1, 12, 18, 19, 22, 23, 58, 61 and 62 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). We further appeal to your

Excellency's Government to ensure that the rights of the newborn child of Mr. Pernot are respected, such as his right to a nationality, pursuant to article 15 of the Universal Declaration on Human Rights. Finally, we also wish to remind your Excellency's Government of article 36 of the Vienna Convention on Consular Relations.

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(s) in compliance with international instruments.

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 or comments related to the aforementioned allegations;
2. Please provide information on the factual and legal basis for the arrest and his continued detention, apparently without charges, of Mr. Pernot and its compatibility with international human rights standards;
3. Please provide information about the grounds for the non-application of the extradition order;
4. Please provide information about the reasons why Mr. Pernot has not been able to meet with his lawyer;
5. Please provide information about the conditions of detention of Mr. Pernot;
6. Please provide information about his treatment in detention, and in particular about the assault he is alleged to have been subjected to. Has any investigation been conducted into this allegation? If an investigation has been carried out, please provide information about its results;
7. Please provide information about the measures taken by the penitentiary authorities to ensure that Mr. Pernot's physical and mental integrity are protected while in detention;

8. Please provide information on the measures undertaken to ensure that the rights of the newborn child of Mr. Pernot, in particular his right to a nationality, are respected;
9. Please provide information on the application of article 36 of the Vienna Convention on Consular Relations and the protections to be granted to Mr. Pernot and his newborn child.

While awaiting a reply, we urge that all necessary interim measures be taken to halt 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 responsible of the alleged violations.

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.

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.

Kindly note that a copy of this letter has been sent to the Permanent Mission of France to the United Nations Office and other international organizations in Switzerland.

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

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

Felipe González Morales
Special Rapporteur on the human rights of migrants