

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 42/22, 35/11, 40/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the ongoing detention of **Mr. Abdelrahman Chouman** (عبدالرحمن شومان) and **Mr. Ahmad Sobh** (أحمد صبح) at Al Wathba prison.

Mr. Chouman is a Lebanese national born in 1980. He has been residing in Sharjah in the United Arab Emirates since 2003 and normally works as a training officer at Dubai airport's duty-free zone for Emirates Group Security.

Mr. Sobh is a Lebanese national born in 1970. He has been living in Sharjah since 2002 and normally works as a car salesman for the Emirati Company Al Nabooda.

According to the information received:

On 15 January 2018, Mr. Chouman was arrested at 3.30 pm at the Emirates Training College by members of the State Security. He was then taken to his house where the State Security reportedly conducted a search without presenting a warrant. They confiscated his passport and his wallet.

Mr. Chouman was initially taken to a secret detention centre in Abu Dhabi run by the State Security where he was allegedly subjected to acts of torture including electric shocks, repeated beatings, teeth shattering, and psychological intimidation. He was unable to identify the interrogators. He testified that he was subjected to further abuses during the first few months of his pre-trial detention.

Similarly, on 15 January 2018, Mr. Sobh went to the headquarters of the State Security Services in Abu Dhabi after being summoned. He was arrested as soon as he entered the building, in the absence of any valid arrest warrant. On 17 January 2018, Mr. Sobh's house was searched by members of the State Security who found a small collection box containing money meant to be distributed as charity for destitute people, as well as a broken hunting rifle. The prosecution later alleged that Mr. Sobh possessed an "air rifle".

Mr. Sobh was initially interrogated in a secret detention facility in Abu Dhabi run by the State Security where he was subjected to acts of torture including electric shocks, repeated beatings and threats of additional torture.

About three months after their arrest, both Mr. Chouman and Mr. Sobh were transferred to Al Awir Central jail where they remained detained until April 2019, when they were transferred to Al Wathba prison.

Mr. Chouman and Mr. Sobh were subjected to *incommunicado* detention for the first three months of their detention and held regularly in solitary confinement during the entire pre-trial detention period. State Security Forces allowed Mr. Chouman and Mr. Sobh to speak on the phone for the first time with their family three months after their arrest, and then occasionally and always for a limited time. They were however not allowed to inform their families about their place of detention.

Mr. Chouman and Mr. Sobh's relatives were then allowed to visit them from March 2019 onward, following the beginning of court proceedings.

From the beginning of their detention on 15 January 2018 until their first actual trial hearing on 27 February 2019, Mr. Chouman and Mr. Sobh were denied access to legal counsel.

Mr. Chouman and Mr. Sobh were never presented to a judicial authority before the opening of their trial, which was planned on 13 February 2019 in front of the State Security Chamber of the Federal Supreme Court of Abu Dhabi. The hearing was postponed until 27 February 2019 because they had not had lawyers appointed. They were only informed of the charges against them during this second hearing. They were therefore unable to challenge the legality of their detention for more than a year from the time of their arrest in January 2018 until their trial in February 2019.

In addition, the documents used in the proceedings reportedly contain procedural mistakes which not only distort the calculation of the time already spent in detention but, could also cause the nullity of the proceedings if raised in Court.

Indeed, in the report of the judgment rendered by the Abu Dhabi Federal Court of Justice on 15 May 2019, it is mentioned that Mr. Chouman was arrested on 15 February 2018 when he was in fact arrested on 15 January 2018. According to the same report, Mr. Sobh was arrested on 17 January 2018, two days after his actual arrest.

The State Security Prosecutor charged Mr. Chouman and Mr. Sobh with “forming a terrorist cell”, “communicating with a foreign organization (Hezbollah) in favour of a foreign State (Iran)”, “disclosing classified defence secrets to a foreign organization (Hezbollah)”, “planning to carry out a terrorist act at Dubai airport”, and “financing a terrorist organization (Hezbollah)” on the basis of articles 155, 168 and 201 of the Penal Code and articles 19 and 27 of the Federal Law No. 7/2014 on Combating Terrorism Offences. Mr. Sobh was also charged with “possession of a firearm without a license” based on decree No. 5/2013 concerning Firearms and Ammunitions.

During the trial proceedings, neither Mr. Chouman nor Mr. Sobh were allowed direct access to their lawyers. They also requested consular assistance but their requests were reportedly ignored.

In addition, the Court did not allow the lawyers to access the prosecution file and the evidence against their clients in breach of the equality of arms principle. Under such circumstances, the lawyers were prevented from preparing their cases and representing their clients adequately.

During the trial, Mr. Chouman told the Court that he was forced under torture to sign a statement while chained and blindfolded. However, the judge dismissed the hearing without ordering any form of investigation into the allegations.

After six hearings, the Federal Supreme Court of Abu Dhabi sentenced Mr. Chouman to life imprisonment and Mr. Sobh to 10 years in prison.

Mr. Chouman and Mr. Sobh’s lawyers lodged an appeal to be examined by the State Security Chamber of the Federal Supreme Court, which is a court of first and last instance competent in matters of State Security and Terrorism. Mr. Sobh’s appellate hearing took place on 9 December 2019 and a sentencing hearing was expected on 20 January 2020. Mr. Chouman’s hearing has not been scheduled yet.

While we do not wish to prejudge the accuracy of these allegations, we express our grave concern about the allegations that Mr. Chouman and Mr. Sobh were arrested without a warrant, detained incommunicado for a long period, not brought promptly before a judicial authority or promptly informed of the charges against them, tortured and

held in prolonged solitary confinement, denied access to defense lawyers and when provided access, denied the right to properly prepare their defense, They were also denied access to their consular representatives, and had limited family visits. Given the allegations that they were tortured and held incommunicado for the first three months of their detention, we express further concern that Mr. Chouman and Mr. Sobh may be exposed to further ill-treatment in jail.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Chouman and Mr. Sobh is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, and all the rights they are entitled to under the Universal Declaration of Human Rights (UDHR), and in particular articles 9, 10 and 11.

The right to have access to a lawyer without delay and in full confidentiality is enshrined in article 11(1) of the UDHR, in principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (the "Body of Principles") and rule 61 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (see the version adopted on 17 December 2015 , the "Mandela Rules").

The Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Cuba in 1990, states in particular in Principle 1 that "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings." Principle 7 declares that "Governments shall ensure that all persons arrested or detained, with or without criminal charges, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention." Principle 16 states that "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics".

We also refer your Excellency's Government to the findings of the Special Rapporteur on the Independence of Judges and Lawyers regarding incommunicado detention following her country visit to the United Arab Emirates in 2014.¹ In addition,

¹ See Human Rights Council, *Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul*, 5 May 2015, A/HRC/29/26/Add.2, para. 51

according to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, prolonged solitary confinement exceeding 15 days may amount to torture or ill-treatment.² Moreover, prolonged incommunicado detention and solitary confinement exceeding 15 consecutive days violate applicable standards, such as rules 43 to 45, 58 and 62 of the Mandela Rules and principles 15, 16 and 19 of the Body of Principles.

Anyone who is arrested has a right to be promptly informed of the charges against them in accordance with articles 9, 10 and 11 (1) of the UDHR and principle 10 of the Body of Principles. Moreover, detainees have a right to be heard promptly by a judicial authority and to challenge the legality and legitimacy of their detention, in particular to have a judicial authority empowered to review the continuance of the detention in accordance with principle 11 of the Body of Principles.

Further, we note the findings of the Special Rapporteur on the Independence of Judges and Lawyers on the independence of the Federal Supreme Court as the highest judicial instance in the United Arab Emirates, particularly the current mechanism for appointing judges by the executive branch.³ In addition, convicted persons must be able to challenge their conviction before a higher court to meet the standard of a fair trial by “an independent and impartial tribunal” under article 10 of the UDHR⁴. These practices of the State Security Chamber of the Federal Supreme Court, taken individually, all appear to amount to violations of the provisions of the right to a fair trial protected by Articles 6, 7, 8 and 11 of the UDHR, resulting in the characterization of this court as an exceptional court that is below international standards of justice.

Finally, we would like to remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the United Arab Emirates acceded to on 19 July 2012. We recall that trying and sentencing defendants on the basis of information obtained under torture is in violation of article 15 of the CAT and of guideline 16 of the Guidelines on the Role of Prosecutors. We also recall that whenever there is reasonable grounds to believe that an act of torture has occurred, there is a positive responsibility on the part of the state to undertake an independent and impartial investigation into the allegation(s).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

² See General Assembly, *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment*, 5 August 2011, A/66/268, paras. 26, 61 and 70-78.

³ Report of the Special Rapporteur on the independence of judges and lawyers, *op. cit.*, para. 35.

⁴ *Ibid.*, para. 61

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 persons 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 and any comment you may have on the above-mentioned allegations.
2. Please explain the factual and legal grounds for the arrest and detention of Mr. Chouman and Mr. Sobh and how they are compatible with the United Arab Emirates' international human rights obligations. In particular, please provide the details of the charges against Mr. Chouman and Mr. Sobh, and the related evidence upon which they are based, and the grounds for their continued detention.
3. Please describe the measures taken to ensure the prompt and full access to lawyers of Mr. Chouman and Mr. Sobh; as well as the measures taken to ensure that their lawyers were and are able to perform their professional functions without hindrance or interference and that they were and are able to consult freely with their clients.
4. Please provide information about the precise location and conditions of detention that these two individuals were subjected to during the initial phase of their detention; in particular the State security location where they were initially held, and in which they were allegedly tortured. Is that location registered as a legal detention facility? What is the legal ground and reason for their incommunicado detention over a period of several months? What is the legal ground and reason for their subsequent detention in solitary confinement for a prolonged periods?
5. Please comment on whether Mr. Chouman and Mr. Sobh were denied the right to receive family visits for more than a year after their arrests, and, if so, please explain why.
6. Please provide the details, and where available the results, of any investigation ordered in connection with the allegations that Mr. Chouman and Mr. Sobh were tortured during their deprivation of liberty. If no inquiries have taken place, or if they have been inconclusive, please explain why.

7. Please provide information on the measures taken to ensure that Mr. Chouman and Mr. Sobh were and are being protected against any abuse of power while in detention, including torture or any other form of cruel, inhuman or degrading treatment.
8. Please provide information in details of how your Excellency's Government's counter-terrorism efforts comply with the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123, 72/180 and 73/174, in particular with international human rights law, refugee law, and humanitarian law.

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 recurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

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.

We may publicly express our concerns in the near future in this case as, in our view, the information at hand appears to be sufficiently reliable and indicates a matter warranting serious attention. We also believe that given the seriousness of these allegations, there is a public interest in the wider public to be alerted to the potential human rights implications of these allegations. We would welcome however, a prompt response to this letter. Any public expression on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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