

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
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6 November 2020

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5, 42/22, 45/3, 43/24, 43/8 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government **information received concerning the reported detention and enforced disappearance of Swedish-Iranian national Mr. Habib Chaab in Turkey, and that he may be in danger of transfer to Iran, which would put him at risk of serious human rights violations, including torture and other cruel, inhuman or degrading treatment or punishment, and being sentenced to death following an unfair trial.**

According to the information received:

Habib Chaab is a high profile member of the Ahvazi Arab minority, a political dissident and the former leader of a separatist Ahvazi Arab group (ASMLA). The Iranian authorities have accused him of being involved in an armed attack against a military parade in Ahvaz, Khuzestan province on 22 September 2018. The ASMLA has denied involvement in the attack.

Mr. Habib Chaab entered Turkey on 5 October 2020 by plane. He was in contact with persons associated with him from 5 October 2020 to 15 October 2020. He has not been heard from since the 15 October 2020. It is believed he has been arrested by the Turkish authorities. There is no information indicating that he has been presented before a court or had access to a lawyer.

On 1 November 2020, the Chair of the Parliamentary Commission on National Security of Iran stated that Mr. Habib Chaab had been returned to Iran, by the Turkish authorities through the West Azerbaijan border crossing, as part of an intelligence operation.

On 2 November 2020, the Turkish migration authorities confirmed that he had entered Turkey on a Swedish passport on 9 October 2020 and that he had not

boarded his return flight on 15 October 2020. However, they denied that he had been arrested. They indicated that there was neither a deportation order against him nor any records pointing to his detention in any of the deportation centres in Turkey. It is currently unclear whether an extradition order has been issued against him.

His current fate and whereabouts are unknown. It is believed he may be in danger of transfer to Iran, where he would be at serious risk of torture and being subjected to the death penalty following an unfair trial

Without prejudging the accuracy of the information received, we express serious concern that the fate and whereabouts of Mr. Habib Chaab are currently unknown and that he may have been arrested by the Turkish authorities and be at risk of transfer to Iran where he would be at risk of serious violations of his right to life, liberty, security, integrity and fair trial, in contravention to articles 6, 7, 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) ratified by Turkey on 23 September 2003.

In addition, his deportation or transfer would be in contravention of the fundamental international protection principle of non-refoulement, enshrined in several key human rights treaties. We would like to draw attention of your Excellency's Government in particular to article 33 of the 1951 Convention on the Status of Refugees which Turkey ratified on 30 March 1962, article 7 of the ICCPR, and article 3 of the Convention against Torture and other cruel, inhuman and degrading treatment or punishment, which Turkey ratified on 2 August 1988. The latter provides that, "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". Further, article 8 of the Declaration on the Protection of All Persons from Enforced Disappearance provides that no State shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds to believe that he or she would be in danger of enforced disappearance.

We also wish to draw the attention of your Excellency's Government to article 9 of the ICCPR, whereby everyone has the right to liberty and security of person, and no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. In addition, we recall that anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him (article 9(2)), and that, according to article 9(4), anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of detention and order his release if the detention is not lawful (A/HRC/30/37). We further highlight that the duty to respect and ensure the right to life requires States parties to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a real risk exists that their right to life under article 6 of the ICCPR would be violated and that it would be contrary to article 6 to extradite an individual from a country that abolished

the death penalty to a country in which he or she may face the death penalty. (Human Rights Committee, General Comment 36).

With regards to his alleged enforced disappearance, we further highlight that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life and that states are required to conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance and introduce prompt and effective procedures to investigate cases of disappearances thoroughly, by independent and impartial bodies (Human Rights Committee, General Comment 36). In this connection, we stress that a failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance, even if it is of a short duration. We also wish to recall that enforced disappearances violate numerous substantive and procedural provisions of the ICCPR and constitute a particularly aggravated form of arbitrary detention (Human Rights Committee, General Comment No. 35, at para. 17).

We further wish to bring to your Excellency's Government's attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the 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 and in full equality before the law (article 4).

We ask your Excellency's Government to urgently provide information on the fate and whereabouts of Mr. Habib Chaab and to ensure that he is not returned to the Islamic Republic of Iran.

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 and any comment you may have on the above-mentioned allegations.
2. Please provide information on the current fate or whereabouts of Mr. Habib Chaab.

3. If he is detained, please provide information on the legal grounds for his detention, information on whether Mr. Habib Chaab is subject to an expulsion order and details of whether any extradition proceedings are in process and if so, the extent to which Mr. Habib Chaab is able to contest them and how fair trial guarantees are or were ensured.
4. Please provide information the measures taken to ensure Mr. Habib Chaab is not returned to the Islamic Republic of Iran, where he would be at risk of serious human rights violations, including the arbitrary deprivation of life.
5. Please provide detailed information as to how comprehensive individual risk assessments are carried out by relevant Turkish authorities, both in terms of procedural safeguards and analysis of the country of return situation, so as to ensure that individuals will not be subjected to violations of their fundamental rights in transit and upon return.

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 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 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.

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 to clarify the issue/s in question.

We would also like to inform your Excellency's Government that a copy of this letter has been sent to Sweden.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Tae-Ung Baik
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Javaid Rehman
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Nils Melzer
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