

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: UA GEO 1/2022
(Please use this reference in your reply)

26 May 2022

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; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the human rights of migrants and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 44/5, 42/22, 43/4, 43/6 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the imminent risk of deportation of Mr. ██████████, a Saudi national, from Georgia to Saudi Arabia. We are concerned that should he be deported, he may be subject to arbitrary detention, unfair trial, possibly torture or cruel, inhuman or degrading treatment or punishment, and death penalty for expressing dissenting political views.**

According to the information received:

Since 2009, the Saudi national, Mr. ██████████, expressed dissenting political views toward the Saudi government in articles, media reports, and television interviews. Through his media presence, he also called on the Saudi government to guarantee political and civil rights of the Saudi population.

In 2014, in the context of a series of arrest campaigns against activists and human rights defenders, and after he expressed views critical of religious extremism in interviews on Arab satellite channels, the Wisal satellite channel launched a media attack against Mr. ██████████ calling for his arrest and the revocation of his Saudi citizenship.

In January 2018, Mr. ██████████ announced the establishment of the Saudi opposition movement Harakat al-Karama ("Movement of Dignity"), as an initiative in the defense of human rights. In this context, he criticized religious and political extremism and the war waged against Yemen alongside calling for the democratization of the Saudi governmental system. He also reportedly denounced the death penalty imposed on a senior politician and Shiite cleric who had expressed dissenting views, advocated for free elections in Saudi Arabia and was subsequently executed in 2016.

Due to these circumstances, Mr. ██████ was forced to go into exile to seek protection in foreign countries. In September 2018, as he was staying in Lebanon, he was invited to meet Saudi officials at the Saudi embassy in Beirut just days before the murder of journalist Jamal Khashoggi in the Saudi consulate in Turkey on 2 October 2018. He feared at the time that he could have met a similar fate had he complied with the invitation. On that occasion, he was threatened by personnel from the Saudi embassy, who told him that his name would be first on the list of individuals to be kidnapped from Lebanon. This precipitated his departure from Lebanon to apply for political asylum in Georgia in April 2019.

On 26 April 2019, Mr. ██████ passport expired. He refrained from renewing it, fearing for his safety and life should he enter the Saudi embassy. He informed the relevant authorities in Georgia that his passport had expired and alerted them that a visit to the Saudi embassy in Georgia to renew his passport may put his life in danger. Georgian authorities did not take any further protective measure. Following the expiration of his passport and in the absence of any other legal identification, Mr. ██████ has been facing severe restrictions on his freedom of movement and is unable to seek asylum in another country.

On 20 May 2019, Mr. ██████ was granted a temporary political asylum card before Georgian authorities would reach a final decision on his asylum status. Despite several applications, the formalization of his asylum status remained pending.

On 4 February 2022, the Supreme Court of Georgia issued an unappealable decision rejecting his asylum application. In its response to the asylum application, the Georgian Ministry of Internal Affairs confirmed that Mr. ██████ would meet the criteria for refugee status on grounds of persecution under article 1(2) of the 1951 Convention Relating to the Status of Refugees and article 15 of the 2016 Law of Georgia on International Protection. However, it explained the rejection of the asylum application by referring to a potential threat to national security posed by Mr. ██████ due to his alleged affiliation with “intelligence services of other countries” pursuant to article 69(2) b) of the Law of Georgia on International Protection. The Ministry pointed out that “his presence in Georgia is contrary to the interests of the state.” It is feared that political motives may have motivated the rejection of his asylum application.

According to the 2014 Law of Georgia on the Legal Status of Aliens and Stateless Persons, Mr. ██████ is required to leave Georgian territory within 10 to 30 days after the rejection of his asylum procedure which took place on 4 February 2022 as avenues for him to stay legally in Georgia have been exhausted. As a result, he could be subjected to deportation at any moment.

Without prejudging the accuracy of the information made available to us, we express our most urgent concern about the imminent risk of deportation of Mr. ██████ to Saudi Arabia. Should he be deported to his country of origin or otherwise

extradited to Saudi Arabian, he could be exposed to arbitrary arrest, detention, and possibly to torture and execution on the ground of his dissenting political views. The fears for his liberty, personal security, physical and mental integrity and his life are grounded on the well-established pattern of arbitrary imprisonment and unfair trial procedures, that have led to the imposition of death sentences and their executions in his country of origin, for the peaceful expression of opinion. Persons sentenced to death and executed included individuals who have expressed dissenting views critical of government policies as well as religious matters. Alleged violations of the Anti-Cyber Crime Law of 27 March 2017 (Royal Decree No. M/17) and Law of Combating Crimes of Terrorism and its Financing of 1 February 2014 (6 Royal Decree No. M/16 of 27 December 2013) may lead to the imposition of the death penalty on the defendants.

We bring to the attention of your Excellency's Government that his life could be in danger once he is handed over to Saudi Arabian authorities.

Mr. [REDACTED] asylum application appears to have been denied based on fears of national security concerns that may be unfounded. Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Georgia, recognizes that although “national security” may be a legitimate motive, such considerations should be “limited (...) to situations in which the interest of the whole nation is at stake, which would thereby exclude restrictions in the sole interest of a Government, regime, or power group” (A/71/373). In this process, the production of evidence is critical. States should “demonstrate the risk that specific expression poses to a definite interest in national security or public order, that the measure chosen complies with necessity and proportionality and is the least restrictive means to protect the interest, and that any restriction is subject to independent oversight” (A/71/373). Any restriction on expression or information that a government seeks to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate and proven national security interest (CCPR/C/GC/34).

Articles 6, 7 and 9, 10, 14, 16 and 19, read alone and in conjunction with article 2 (3) of the ICCPR guarantee the inherent right to life of every individual, the prohibition of torture, the right to liberty and security of the person, the right to a fair trial according to international human rights standards, and the right to hold and express peacefully opinions without interference. In this regard, the enjoyment of these rights is not limited to the citizens of State parties to the Convention but “must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party” (CCPR/C/21/Rev.1/Add.13 (2004), para. 10).

We underscore the absolute prohibition under international law of returning individuals to a place where they would be at risk of torture or other ill-treatment. Article 3 of the Convention against Torture (CAT), ratified by Georgia on 26 October 1994, provides that “no 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” and that “determining whether there are such grounds, the competent authorities shall take into account all relevant

considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.” To ensure respect for the absolute prohibition of refoulement, prior to any transfer, judges should make a full assessment of the risk of violations of human rights of the suspect following transfer. Transfers should never be authorized where there is a real risk of torture or ill-treatment, of the denial of the right to life, of enforced disappearance, of the denial of the right to a fair trial or of any other serious human rights violations (A/HRC/49/45/Add. 1, paragraph 59). We would also like to recall that the risk of arbitrary detention must be taken into account when considering a State’s obligations with regard to the principle of non-refoulement.

In this regard, the United Nations General Assembly recognized that diplomatic assurances, when used in connection with the transfer of a person to another State where there exist substantial grounds for believing that the person is at risk of being subjected to torture, do not relieve States of their obligations under international human rights law, international humanitarian law, and international refugee law, in particular the principle of non-refoulement (General Assembly resolutions A/RES/60/148, A/RES/61/153, A/RES/62/148, A/RES/63/166, A/RES/64/153, A/RES/65/205, A/RES/66/150, A/RES/67/161 and A/RES/68/156).

Given the serious risks of legal violations of his internationally recognized rights should he be forcibly returned to Saudi-Arabia, we recall the obligation to protect the right to life and the universal prohibition of torture imposes a duty on States to act with due diligence to prevent the deprivation of life by other States (CCPR General Comment No. 6, para. 5; CCPR/C/GC/36, paras. 7 and 22) that may result in violation of these rights States also have the obligation under international law to take preventive measures in the face of foreseeable threats.

The Human Rights Committee in its General Comment No. 36 clarifies that *the State's duty to protect applies to all persons within its jurisdiction, that is, all persons whose enjoyment of the right to life depends on its power or effective control*. The obligation not to extradite, expel or otherwise transfer in article 6 of the ICCPR is broader in scope than the principle of non-refoulement in international refugee law, as it may also require the protection of aliens not entitled to refugee status. Therefore, the principle of non-refoulement under international human rights law applies to any form of removal or transfer of persons regardless of their legal status. In addition, principle 5 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions establishes that no one shall be returned or extradited against his or her will to a country where there are substantial grounds for believing that he or she may be subjected to extra-legal, arbitrary or summary execution in that country.

The report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/41/36, para. 33) emphasizes that one's immigration status has no bearing on the responsibility of States to protect individuals against foreseeable threats to their lives, security and integrity States are duty-bound to be attentive to the vulnerability of individuals whose lives may be particularly at risk because of their activities or identity, which include journalists and prominent public figures (para. 39).

The institutional deficiencies in Saudi Arabia, in the area of prevention of arbitrary arrest, torture and the continued imposition of the death penalty on Government critics, political opponents and human and civil rights advocates, have been repeatedly highlighted by United Nations human rights monitoring mechanisms (AL SAU 13/2021; AL SAU 15/2021; AL SAU 5/2022 to cite a few examples).

We underscore that the rights to life, to integrity and not to be arbitrarily imprisoned, are not derogable under international law, and must be respected in *all circumstances*. They are norms of international customary law.

In light of the above, we respectfully recommend to your Excellency's Government to uphold the cardinal principle of non-refoulement and to refrain from deporting Mr. [REDACTED] to Saudi Arabia.

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

We are issuing this appeal in order to safeguard the rights of Mr. [REDACTED] from irreparable harm and without prejudicing any eventual legal determination.

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 detailed information on the legal and factual basis for the rejection of Mr. [REDACTED] asylum application. In this context, please explain why his case was considered to fall under article 69(2) b) of the 2016 Law of Georgia on International Protection.
3. Please indicate how the expulsion of Mr. [REDACTED] (whose persecution grounds were initially recognized by the Georgian Ministry of Internal Affairs) serves a clear national security interest. Indicate to which extent it complies with the principles of necessity and proportionality and how it is the least restrictive means of protecting that interest.
4. Please also provide detailed information on the assessment carried out by the Georgian authorities to ensure that Mr. [REDACTED] is not at risk of being subjected to torture or other cruel, inhuman or degrading treatment or punishment, arbitrary detention or other life-threatening factors if returned to his country of origin. Please indicate how this

assessment process has been following international human rights obligations of the State of Georgia, in particular the principle of non-refoulement, the ICCPR, the CAT United Nations Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions.

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 for a reply, we reiterate our strong recommendation that urgent steps be taken not to deport this person to his country of origin, which would be in contravention to the international human rights obligations of the State of Georgia under the Conventions it has ratified.

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.

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Felipe González Morales
Special Rapporteur on the human rights of migrants

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism