

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: UA SAU 7/2022  
(Please use this reference in your reply)

3 June 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 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 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government new information we have received concerning the case of Mr. Jaafar Sultan and Mr. Sadiq Majeed Thamer, two nationals of Bahrain, who reportedly face death penalty, after having been reportedly arbitrarily arrested and following an unfair trial marred by torture allegations. Their case was brought to the attention of your Excellency's Government in an urgent appeal dated 26 January 2022<sup>1</sup>. Please note that a copy of the present letter will be sent to Bahrain.

According to the information received:

Mr. Jaafar Sultan and Mr. Sadek Thamer were arrested on 8 May 2015 while entering Saudi Arabia from Bahrain as they were reportedly found in possession of eleven bags of RDX explosive, fifty detonating capsules and a six meters detonating wire. They were brought to the General Investigation Prison in Dammam.

They were charged with participating in the establishment of a terrorist cell; receiving training in foreign camps with the aim of destabilizing the security of Saudi Arabia and Bahrain; smuggling explosive materials attempting against the security of Saudi Arabia and communicating with terrorists inside the Kingdom; participating in demonstrations taking place in Bahrain; non-disclosing information on explosive materials stored in Bahrain; misleading investigations of Saudi authorities; and possessing three memory cards containing security and intelligence material, particularly on assembling and using bombs and explosive materials.

It is alleged that Mr. Sultan and Mr. Thamer were held incommunicado for several months, tortured during the detention and forced to sign confessions. It is also submitted that they did not have access to a lawyer until after the trial began, and that their lawyers did not have access to all documents and

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<sup>1</sup> See UA SAU 1/2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26985>; and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36856>

information of the case.

On 7 October 2021, Mr. Sultan and Mr. Thamer were sentenced to death before the Saudi Specialized Criminal Court, based on article 1 paragraph 3 and article 32 of the Law on Combating Crimes of Terrorism and its Financing and article 4 and 15 of the Law of Explosives and Fireworks. The death sentence was upheld by the Court of Appeal on 11 January 2022 and, according to the new information received, ratified by the Supreme Court on 7 April 2022. It is therefore submitted that Mr. Sultan and Mr. Thamer may be executed at any moment.

While we do not wish to prejudge the accuracy of the above-mentioned allegations and having taken note of the reply of your Excellency's Government to our previous urgent appeal, we nevertheless wish to respectfully reiterate the concerns we already expressed, warning - in particular - against the risk that, in light of Articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), as well as Articles 2, 15 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Saudi Arabia in 1997, the enforcement of the death penalty against Mr. Sultan and Mr. Thamer could constitute an arbitrary execution.

We further reiterate to your Excellency's Government our concern on the Law on Combating Terrorist Crimes and its Financing, which includes a broad range of severe and non-human rights compliant punishments (UA SAU 1/2022). We recall that in her 2018 report on her visit to Saudi Arabia, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed concern about the counter-terrorism legislative framework, including fair trial provisions, and drew the Government's attention to problems of systematic torture in the country (A/HRC/40/52/Add.2, paras. 14-17, 20-21 and 31-41). We recall that the right to a fair trial is one of the fundamental guarantees of human rights and the rule of law. It comprises several interrelated attributes and is often linked to the enjoyment of other rights, such as the right to life and the prohibition of torture (OL SAU 12/2020). While noting the Government's detailed response to UA SAU 1/2022 on the number of safeguards and measures aimed at ensuring that no detainee or prisoner is subjected to torture or any other cruel, inhuman or degrading treatment, we note with concern that the Government does not indicate in its response whether an investigation has been carried out with regard to the allegations of torture and ill-treatment in the specific cases of Mr Jaafar Sultan and Mr Sadek Thamer. In this regard, we respectfully remind the Government that any allegation of torture must be followed by an impartial and thorough investigation by an independent body.

Accordingly, we respectfully call again on your Excellency's Government **to halt any possible step towards the execution of Mr. Sultan and Mr. Thamer; to annul the death sentence imposed on them; to investigate fully the allegations of torture or other cruel, inhuman or degrading treatment or punishment that they may have suffered and to ensure that they are re-tried in conformity with international law and standards.**

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

We also wish to respectfully reiterate our call on your Excellency's Government **to consider establishing an official moratorium on all executions as a first step towards fully abolishing the death penalty in the country** and express our readiness to support the relevant authorities in any effort in this regard.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 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 provide information on whether the Government of Saudi Arabia envisages to annul the death sentence imposed on Mr. Sultan and Mr. Thamer; and to subsequently retry them in conformity with international law and standards, including conducting an effective investigation into the allegations of torture or other cruel, inhuman or degrading treatment or punishment that they have reportedly been subjected to.

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 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.

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

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