

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL ISR 15/2022  
(Please use this reference in your reply)

10 August 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 43/16, 42/22, 1993/2A and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government updated information we have received concerning the alleged ill-treatment and arbitrary detention of Mr. **Salah Hammouri**. This incident is the latest in a broader series of events related to the misuse of national administrative and criminal law proceedings against the human rights defender, which is notable and deeply concerning in its persecutory nature.

Mr. Hammouri is a French-Palestinian lawyer and human rights defender with dual citizenship, who works with Addameer Prisoner Support and Human Rights Association in the Occupied Palestinian Territories since 2014<sup>1</sup>. Before then, he was part of a student movement that advocated for the victims of human rights violations in the occupied Palestinian territories, and a field researcher. Mr. Hammouri was born in Jerusalem and has lived there his entire life since 1985.

We have previously raised our human rights concerns with your Excellency's Government about the alleged arbitrary detention of and intention to withdraw Mr. Hammouri's permanent residency in Jerusalem in communication AL ISR 8/2020. We continue to stress our collective objection to actions which render persons without legal status in an occupied territory a practice which is inconsistent with both the Fourth Geneva Convention's requirement to maintain protection for protected persons without distinction, and with the human rights obligations of your Excellency's government under the International Covenant on Civil and Political Rights (article 2).

We also raised concerns after the official notification of the revocation of his permanent residency status in Jerusalem, in communication AL ISR 10/2021. The decision was based on withheld "secret information" citing broad and vague allegations of "terrorist activities." It is deeply concerning that the vague and abusive language of 'terrorism' is being used as a chimera to seek to dislodge the well-established treaty and customary law obligations your Excellence's government under both international humanitarian law and international human rights law (A/75/337). We also expressed our human rights concerns with your Excellency's Government in

<sup>1</sup> UN human rights experts condemned the designation of Addameer and five other Palestinian human rights and civil society organisations as terrorist organisations. <https://www.ohchr.org/en/press-releases/2021/10/un-experts-condemn-israels-designation-palestinian-human-rights-defenders?LangID=E&NewsID=27702>

communication AL ISR 10/2021 over the designation of Addameer and five other Palestinian civil society organisations as “terrorist organisations, as well as in communication AL ISR 11/2021 over the planting of the Pegasus spyware on mobile phones belonging to human rights defenders and employees of Addameer and the other five organisations. Finally, we expressed concern with your Excellency’s Government in OL ISR 6/2022 that the present legal and regulatory framework for designating terrorist organizations lacks precision and may result in the unlawful infringement of fundamental rights, including fair trial rights and freedom of expression, as protected under international conventions to which your Excellency’s Government is a party. We regret that no reply has been received to any of these communications.

We would like to remind you Excellency’s Government that, in its opinion No. 34/2018, the Working Group on Arbitrary Detention concluded that the arrest and detention of Mr. Hammouri amounted to arbitrary detention. Your Excellency’s Government was urged to release Mr. Hammouri immediately in accordance with international law and start an investigation in relation to his detention and ill-treatment during the time he spent in prison.

According to new information received:

On 7 March 2022, between 04:00 and 05:00 am, Israeli special unit forces from the *Al-Musta’rabeen* Unit broke into Mr. Hammouri’s home in northern Jerusalem, searched his apartment, and confiscated his mobile phones and laptop. Mr. Hammouri was tightly bound at the wrist with plastic zip-tie, forced to kneel facing a wall outside his home until he was transferred to a military jeep and taken to the Ofer military base in Beitounia, Ramallah. He was later moved to the al-Mascobiyya interrogation centre in Jerusalem.

On 9 March 2022, Mr. Hammouri appeared in the Ofer military court via videoconference, and the judge extended his detention for 48 hours pending an administrative detention order.

On 10 March 2022, the Israeli military commander issued a three-month administrative detention order against Mr. Hammouri based on “secret information.” Mr. Hammouri was not charged or tried.

On 13 March 2022, Mr. Hammouri was transferred to Ofer prison. He was due to be released on 6 June 2022.

On 6 June 2022, Mr. Hammouri’s legal counsel was informed hours before his expected release time that a three-month detention renewal order had been issued on 2 June 2022, without any court appearance or access to his file by his legal counsel.

On 9 June 2022, the Ofer military court confirmed the three-month detention renewal order, due to end on 5 September 2022.

Mr. Hammouri’s administrative detention is based on “secret information,” and is still subject to indefinite renewals. Along with 600 other Palestinian administrative detainees, Mr. Hammouri is boycotting the practice of administrative detention and has refused to participate in military proceedings

related to his detention, and has urged his legal counsel to do the same.

On 14 July 2022, Mr. Hammouri has written an open letter to the President of France, Emmanuel Macron, calling on France to take action to end his detention and Israel's persecution against him. Since then, Mr. Hammouri has been classified as a high-risk, dangerous prisoner ("Sagav") and transferred to a high-security, isolation cell in Hadarim prison as a punishment. During the transfer from Ofer prison to Hadarim prison, Mr. Hammouri was allegedly subject to inhumane and degrading treatment, including having his hands and feet cuffed and both cuffs connected together, which made it extremely difficult for him to move. He was transported in a van called "Bosta", in which he was made sit on narrow metal seats in an angled position for five and a half hours, which caused excruciating pain. The temperature of the cell inside Bosta was kept extremely cold and Mr. Hammouri was repeatedly searched in a degrading manner at every stop during the transfer. At an overnight stop in Al Ramleh prison, he was placed in a metal cage upon arrival and eventually allocated a very dirty and humid cell without ventilation to sleep in. He endured another one-hour journey in Bosta to arrive at Hadarim prison the next morning. This series of actions which constitute an escalation of ill-treatment appears to be in direct response to the public and international concern, and a form of reprisal directed at Mr. Hammouri based on his internationally protected human rights activities.

In addition to his ongoing administrative detention, Mr. Hammouri is at imminent risk of forced deportation from Jerusalem. Israel's Minister of Interior revoked Mr. Hammouri's permanent residency on 18 October 2021 pursuant to Amendment No. 30 to the Entry into Israel Law of 1952, based on his alleged "breach of allegiance to the State of Israel", which is defined as a terrorist act under Counter Terrorism Law, and unsubstantiated allegations of "terrorist activities" and/or affiliation with "terrorist entities". The residency revocation is currently being appealed.

While we do not wish to prejudge the accuracy of the allegations, we express our grave concern about the renewal of administrative detention of Mr. Hammouri, held without trial or charge, and based on "secret information," without access to his legal counsel. In this regard, allow us to highlight that the UN Human Rights Committee has most recently expressed deep concern about "...the continuing practice of administrative detention of Palestinians, including children, without charge or trial and without the guarantee of fundamental legal safeguards, as in the case of human rights defender Salah Hammou[r]i", and urged Israel to "...immediately put an end to the widespread practice of arbitrary arrest and detention, including administrative detention, of Palestinians". (CCPR/C/ISR/CO/5, paras 34-35). We concur and endorse this view. In its opinion No. 34/2018 finding that Mr. Hammouri's previous administrative detention was arbitrary, the Working Group on Arbitrary Detention also expressed views consistent with that of the Human Rights Committee, stating that "...any administrative detention presents severe risks of arbitrary deprivation of liberty and would normally amount to arbitrary detention" (A/HRC/WGAD/2018/34).

We are also extremely alarmed by reports that Mr. Hammouri has been subject to ill-treatment as a punishment for writing to the French President in the exercise of his freedom of expression. The allegations appear to indicate *prima facie* violations of

not only Mr. Hammouri's rights not to be subjected to cruel, inhuman or degrading treatment or punishment, and to be treated with humanity while deprived of liberty, but also his right to freedom of expression. Such action would also constitute a reprisal against Mr. Hammouri for engaging in any action to defend his legitimate human rights.

We also express serious concern over the revocation of Mr. Hammouri's permanent residency in Jerusalem on the basis of his alleged breach of allegiance to Israel. In our views, this amounts to misuse of counter-terrorism legislation in violation of international human rights norms, including the freedom to choose one's residence and the right to enter his/her own country, as well as international humanitarian law which prohibits forcible transfers and deportations of protected persons from occupied territory, and forced allegiance of the inhabitants of occupied territory to the occupying power. We underscore that such a forcible transfer or deportation from East Jerusalem, which is considered occupied Palestinian territory by international law and consensus, would appear to constitute a war crime under article 8 of the Rome Statute of the International Criminal Court. We echo the Human Rights Committee's concern and recommendation on Israel to "...refrain from using this provision to control the demographic composition in the State party or to silence human rights defenders advocating for the rights of Palestinians" (CCPR/C/ISR/CO/5, para. 19). We recall that, under article 7 (1) (h) of the Rome Statute of the International Criminal Court, persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other internationally prohibited grounds, amounts to a crime against humanity, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

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

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details on investigations conducted into Mr. Hammouri's case and their outcome as well as the grounds for his continuous detention and explain whether and how his right to legal counsel is respected.
3. Please indicate a timeframe for communicating to Mr. Hammouri evidence on which the charges against him are based, fault of which will entail the obligation to release him.

4. Please indicate what evidence and information has been used against Mr. Hammouri in determining to revoke his permanent residency. Please also explain how the application of Amendment No. 30 to the Entry into Israel Law of 1952 is compatible with international law in the current context.
5. Please indicate what measures have been taken to ensure that human rights defenders in the Occupied Palestinian Territory are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. 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(s) responsible for the alleged violations. We urge your Excellency's Government to immediately release Mr. Hammouri, should it fail to produce satisfactory evidence justifying his continued detention.

We may publicly express our concerns in the near future in this case as, in our view, the information at hand is sufficiently reliable, indicates a matter warranting prompt attention, and raises serious human rights concerns which we believe the wider public should be informed of. Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

We would like to inform your Excellency's Government that after having transmitted an allegation letter 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 letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

Please note that a copy of this letter is being transmitted to the State of Palestine for their information.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

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

Francesca Albanese  
Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

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

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to articles 7, 9, 10, 14, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which guarantee that no one should be subjected to torture, cruel, inhuman or degrading treatment or punishment, everyone has the right to liberty and security of person, to a trial within a reasonable time, to challenge the legality of the detention before the courts, to be released subject to guarantees to appear for trial, to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing, and that everyone shall be granted these rights free of discrimination. Articles 19 and 21 guarantee that everyone has the right to freedom of opinion and expression and to freedom of peaceful assembly, respectively. In addition, we recall that the arrest or detention as punishment for the legitimate exercise of the rights to freedom of opinion, expression, assembly, and association is arbitrary (CCPR/C/GC/35, para 17).

We would also like to highlight that article 14 of the Covenant requires that anyone facing criminal charges shall be granted adequate time and facilities for the preparation of his defence, to communicate with counsel of his own choosing, to be tried without undue delay and not to be compelled to testify against himself or to confess guilt.

We would also like to refer to Human Rights Council resolution 31/32, which calls upon all States to combat impunity by investigating and pursuing accountability for all attacks and threats by State and non-State actors against any individual, group or organ of society that is defending human rights, including against family members, associates and legal representatives, and by condemning publically all cases of violence, discrimination, intimidation and reprisals against them.

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We also wish to refer to articles 5(a), 6(c), 9 and 12, which state that everyone has the right, individually and in association with others, to meet or assemble peacefully for the purpose of promoting and protecting human rights; to study, discuss, form or hold opinions on the observance of all human rights and fundamental freedoms and to draw public attention to these matters; to benefit from an effective remedy and be protected in the event of the violation of these rights; and to participate in peaceful activities against violations of human rights and fundamental freedoms.

In reference to the revocation of Mr. Hammouri's permanent residency, we wish to draw the attention of your Excellency's Government to article 12 of the ICCPR, which guarantees the right to liberty of movement and freedom to choose his

residence, as well as the right not to be arbitrarily deprived of the right to enter his own country. Under international humanitarian law, Israel, as the occupying power, is furthermore prohibited from forcibly transferring or deporting protected persons from occupied territory, pursuant to article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. Such forcible transfers and deportations amount to war crimes under article 8 of the Rome Statute of the International Criminal Court. In addition, having regard to the fact that Mr. Hammouri's permanent residency was revoked due to his alleged breach of allegiance to Israel, we recall Regulation 45 of the Hague Regulations respecting the laws and customs of war on land, which forbids the occupying power from compelling "the inhabitants of occupied territory to swear allegiance to the hostile Power". Furthermore, under article 7 (1) (h) of the Rome Statute of the International Criminal Court, persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other internationally prohibited grounds, amounts to a crime against humanity, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. "Persecution" is defined as "the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity".