

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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(Please use this reference in your reply)

9 June 2023

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the human rights of migrants; Special Rapporteur on freedom of religion or belief and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 51/8, 52/20, 49/5 and 52/7.

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 refoulement of members of the Ahmadi Religion of Peace and Light religious minority to their countries of origin, where they may suffer serious human rights violations due to their religious affiliation.

According to the information received:

On 24 May 2023, a group of 104 members of the Ahmadi Religion of Peace and Light presented themselves at the Türkiye side of the Kapikule Turkish-Bulgarian border. The group included 27 women and 22 children.

The group was mainly composed of individuals who had moved to Türkiye from different Muslim-majority countries over the last 6 months, thanks to the support received by other members of the congregation living in that country.

Most of these individuals fled their country of origin due to religious persecution or the fear of such persecution. Since the inception of the Ahmadi Religion of Peace and Light in 1999, its members have been subject to systematic forms of persecution in a number of Muslim-majority countries because of the tenets of their beliefs diverge from traditional beliefs of Islam. These encompass inter alia the acceptance of practices such as consuming alcohol, the recognition of choice of women to wear headscarves, the questioning of specific prayer rituals including the five daily prayers, and holding the belief that the month of Ramadan falls in December every year. They also challenge the traditional location of the Kaaba asserting it is in the modern-day city of Petra in Jordan rather than Mecca.

Members of that religious group have been labelled as heretics and infidels in different countries and are subject to threats, beatings and other forms of violence, judicial prosecution, illegal detentions, torture, hate speech and vigilante violence. These violations have increased since the release of their religion's book "The Goal of the Wise" in December 2022.

Some members of the group who presented themselves at the Turkish-Bulgarian border had been judicially harassed due to their religious affiliation or served sentences in their country of origin due to the application of blasphemy provisions. For instance, one of the individuals of the group, Mr. Redouane Foufa was charged in his country of origin with crimes of “denigrating Islam” and “participation in an unauthorized group” and spent time in jail due to these accusations.

On 24 May 2023, the group decided to gather at the official Kapikule border-crossing to lodge a written request of asylum to the Bulgarian Border Police as they felt unsafe in Türkiye and a possible target of religious intolerance. Once the group approached the border, they were denied access to the Bulgarian Police by Turkish border authorities, who forcibly blocked them and subjected some of them to beatings, including women and children. Some of them were beaten with batons. Turkish Border Police also fired gunshots in the air and threatened the individuals with firearms. This resulted in at least 30 members of the group being injured, including 9 women.

The events of violence were captured on camera and appeared on live TV as the religious organisation supporting the group was broadcasting on its satellite channel.

Subsequently, Turkish authorities took into custody the 104 members of the religious minority, including women and children, and transferred them to the police station in Edirne.

During the time spent at the police station, the group was left without food and forced to sleep on the floor. Turkish police systematically woke up the members of the group at least once every hour including during the night, to prevent them from sleeping. While in custody, several of them, including women and children, were also beaten by police agents. For instance, Mr. Hasan Oyandi, was beaten in the police station by several agents. He was denied access to a lawyer and extensively interrogated by the police without the presence of an attorney. He was also denied access to medical facilities to document the injuries resulting from the beating received, which included visible and extensive bruises on his legs.

After three days in the police station, 101 individuals were transferred to a migration center, while the three Turkish citizens that were part of the group were released.

On 26th of May, a deportation order for the 101 individuals was issued by the General Directorate of Migration Management of the Turkish Ministry of Internal Affairs. The individuals had five days to file an appeal against the order, after which the deportation can be made effective.

Without prejudging the accuracy of the information received, we wish to express our serious concern about the risk of refoulement of the above mentioned

members of the Ahmadi Religion of Peace and Light religious minority.

These individuals allegedly fled their homes due to fear of religious persecution perpetrated by national authorities and non-State actors in their countries of origin in the context of broader violations of freedom of thought, conscience and religion enshrined in art. 18 of the ICCPR.

We have reasonable grounds to believe that the forcible return of these individuals would expose their personal safety, liberty, integrity and life in danger and expose them to the serious risk of religious or belief motivated violence, arbitrary arrest, detention, torture and unfair fair trial, in contravention with articles 6,7,9,14, and 18 of the ICCPR ratified by Türkiye on 23 September 2003. The information received about the patterns of violations against this religious minority in different parts of the world suggests that its members face serious risk to be subject to discrimination and intolerance and be prosecuted in their country of origin for crimes related to offences to religious sentiments or contempt to State's religion, including the risk of facing capital punishment in contravention of international human rights law.

In this regard, we urge authorities to assess and evaluate, on an individual basis, the human rights implications that the deportation of these individuals may have on their lives, security, personal integrity and liberty, in compliance with the principle of non-refoulement under human rights and refugee law. The failure to undertake such consideration in and on itself constitutes a violation of international law.

States should ensure that all border governance measures taken at international borders are in accordance with the principle of non-refoulement and the prohibition of arbitrary and collective expulsions. The principle of non-refoulement is codified in article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which Türkiye is a party since August 1988, which provides that no State shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds to believe that he would be in danger of being subjected to torture, ill-treatment or other irreparable harm. As an inherent element of the prohibition of torture and other forms of ill-treatment, the prohibition of refoulement under international human rights law is also more expansive than the protections afforded under refugee law insofar as it applies to any form of removal or transfer of persons, regardless of their status or grounds for seeking protection, and is characterised by its absolute nature without any exception. Heightened consideration must also be given to children in the context of return, whereby actions of the State must be taken in accordance with the best interests of the child and States must also consider the particular needs and vulnerabilities of each child, which may give rise to irreparable harm in the country of return.

We are also concerned over allegations of unnecessary use force by Turkish police and authorities against individuals, including women and children, who were seemingly acting peacefully when arrested or injured by the police. Thus, we are concerned that international standards related to the use of force by law-enforcement officials, and particularly the fundamental principles of legality, precaution, necessity, non-discrimination, proportionality, and accountability, may have been violated. We

are also concerned at allegations of acts of torture or cruel, inhuman or degrading treatment against some of these individuals while in police custody.

While awaiting a reply, we urge that all necessary interim measures be taken to protect the right to life and personal security as well as the right to freedom of thought, conscience and religion of these members of the Ahmadi Religion of Peace and Light in compliance with articles 6 and 9 and 18 of the ICCPR. We also call your Excellency's Government to uphold the cardinal principle of international human rights, humanitarian and refugee law of non-refoulement and refrain from deporting these individuals to their country of origin, where they may be subject to serious human rights violations because of their religious beliefs and as members of a religious minority.

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 information on the factual and legal grounds for the arrest of the abovementioned members of a religious minority.
2. Please provide any information about the legal grounds for the deportation of these persons, and how this complies with international human rights and refugee laws.
3. Please provide information as to whether an assessment of the particular circumstances and protection needs of each individual has been, or is being carried out by authorities, to ensure that these persons are not at risk of serious violations of their rights to life, to personal security, to liberty, to integrity, due to their religious affiliation in their country of origin, should they be forcibly returned?
4. Please provide information about how this assessment process is conducted and whether it is consistent with international human rights obligations of your Excellency's Government.
5. Have these persons/families consented to to return to their country of origin ? If not, please explain why?
6. Please provide information about the current procedure opened to these persons/families to appeal against the deportation order?

7. Have the allegations of use of unnecessary force of these persons/families during their arrest at the border, and allegations of ill treatment while these individuals were under police custody, been investigated; and if they have, what has been their conclusions?
8. Please indicate measures taken or to be taken by your Excellency's Government to protect the human rights of migrants at international borders and within the national territory, and particularly to ensure the full respect of the principle of non-refoulement. Please include information on the measures taken by your Excellency's Government to protect the human rights of migrant children.

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.

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 note that a copy of this letter will be simultaneously transmitted to the Bulgarian authorities.

Matthew Gillett
Vice-Chair of the Working Group on Arbitrary Detention

Felipe González Morales
Special Rapporteur on the human rights of migrants

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment