

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances

Ref.: UA OTH 2/2024
(Please use this reference in your reply)

31 January 2024

Dear Mr. al-Sharief,

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 Working Group on Enforced or Involuntary Disappearances, pursuant to Human Rights Council resolutions 53/4, 51/8 and 54/14.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring your attention to information we have received concerning the **execution of Mr. Al Mahdi Ibrahim Abdulhamid AL BARGHATHI**, a former Minister of Defence in the Government of National Accord, and **acts tantamount to enforced disappearance with serious risk for their lives of Mr. Abdulaziz Alhasouni Mohammed IMBARAK, Mr. Ali Mohamed Ali BUKHATWA, Mr. Fathi Fouzi Alhasouni MOHAMMED, Mr. Mohammed Faraj Milad AL BARAKI, Mr. Serag Soliman Saleh SOLIMAN, Mr. Younus Salim Younus ABDULAZIZ and Mr. Sanid Sulayman Salih SULAYMA**, after being detained allegedly by groups reportedly affiliated to the Libyan National Army's General Command.

According to the information received:

Mr. Al Mahdi Ibrahim Abdulhamid Al Barghathi, a Libyan National Army (LNA) officer who served as the Minister of Defence in the Tripoli-based

Libyan National Army

Government of National Accord (GNA) led by Mr. Fayez Al Sarraj, **was executed after he was detained along with his companions on 6 October 2023** in the Al-Salmani Al-Sharqi neighbourhood in Benghazi by members of the “Tariq bin Ziyad Brigade” led by Khalifa Haftar’s son Saddam Haftar, of the Internal Security Agency/Eastern Branch and of Awliyaa al-Dam (Abu Zgaya Group), all reportedly affiliated to the LNA General Command led by Khalifa Haftar.

On the same occasion, seven other Libyan nationals accompanying Mr. Al Barghathi were also reportedly detained by the same militia group: Mr. Abdulaziz Alhasouni Mohammed Imbarak, Mr. Ali Mohamed Ali Bukhatwa, Mr. Fathi Fouzi Alhasouni Mohammed, Mr. Mohammed Faraj Milad Al Baraki, Mr. Serag Soliman Saleh Soliman, Mr. Younus Salim Younus Abdulaziz and Mr. Sanid Sulayman Salih Sulayma. **They were reportedly subject to acts tantamount to enforced disappearance and their fate and whereabouts have been unknown since then. There is a credible risk that they might have or could be executed at any time.**

Context of the capture, execution and acts tantamount to enforced disappearances

Prior to his appointment as Minister of Defence in 2016, Mr. Al Barghathi, was the commander of the 204th Tank Battalion in Benghazi and an influential member of the Al Awaqir tribe. In 2019, Mr. Al Barghathi openly opposed General Khalifa Haftar's war on Tripoli. Since then, he has reportedly been targeted by General Haftar and accused of supporting terrorism.

After he left the GNA, several Libyan tribes from the Eastern Province tried to persuade him to return to Benghazi with guarantees approved by Khalifa Haftar. After more than a year of discussions, he agreed to this request and returned to Benghazi on 6 October 2023.

Upon his arrival to the city, on the said date, Mr. Al Barghathi visited his mother's house located in Salmani Al-Sharqi, a popular residential neighbourhood. At around 5.30 p.m., several militias affiliated with the Tariq bin Ziyad Brigade reportedly raided the house, captured Mr. Al Barghathi and several other Libyan nationals including his aforementioned companions. In this episode, many civilians including women and children were reportedly targeted by the militias. The militias reportedly took Mr. Al Barghathi and his companions to an unknown destination.

Regarding these seven Libyan nationals deprived of their liberty on that occasion, Mr. Imbarak, Mr. Mohammed, Mr. Al Baraki, Mr. Soliman and Mr. Sulayma belong to the Libyan Army, while Mr. Bukhatwa and Mr. Abdulaziz are students.

Extrajudicial execution of the former minister and high risk of execution of his companions

Following the alleged capture of Mr. Al Barghathi and his companions, persons associated with them filed complaints the Office of the Attorney General, to no avail.

People associated with Mr. Al Barghathi reportedly had access to a video taken from one of militiamen's mobile phone which reportedly showed Mr. Al Barghathi, being captured and driven away healthy and unharmed amid machine gun fire into the air.

Yet, recently, the General Prosecutor of Tripoli confirmed Mr. Al Barghathi's death. Although he stated that Mr. Al Barghathi was buried, he did not disclose the location of his grave or provide any further explanation.

With respect to the alleged identity of those responsible for the death of Mr. Al Barghathi and the enforced disappearances of his seven companions, credible reports indicate that they were carried out by members of the Tariq bin Ziyad Brigade.

There is a high risk that the seven Libyan nationals captured alongside Mr. Al Barghathi suffered or may suffer the same fate and be executed. Their fate and whereabouts remain to be unknown.

While we do not wish to prejudge the accuracy of the aforementioned allegations, we express concern for the extrajudicial execution of Mr. Al Barghathi, the reported acts tantamount to enforced disappearances of Mr. Imbarak, Mr. Mohammed, Mr. Al Baraki, Mr. Soliman, Mr. Sulayma, Mr. Bukhatwa and Mr. Abdulaziz and the alleged lack of adequate measures to search for them and to ensure that prompt, effective and exhaustive investigations are carried out.

If the above allegations prove to be true, they may constitute a violation of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the 1992 Declaration on the Protection of all Persons from Enforced Disappearance and other rules of international law. We recall that the right to life and the prohibition of enforced disappearances are supreme *jus cogens* norms, applicable to all persons at all times and that cannot be derogated under any circumstance.

Further, we wish to highlight that authorities have an obligation under international human rights law to prevent violations of the right to life and other fundamental human rights. When violations of human rights take place, the relevant authorities have the obligation to investigate such violations promptly, effectively and exhaustively and to provide an effective remedy to the victims. Further, where there is sufficient evidence, persons responsible for the commission of the offence or ordering of the offence must be prosecuted.

We highlight the importance of conducting an effective, exhaustive, independent, impartial and transparent investigation into cases of potentially unlawful killings, in this case the killing of Mr. Al Barghathi, in accordance with the relevant international standards, including the [*Revised United Nations Manual on the Effective*](#)

Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol). In this respect, there is also an obligation to clarify the circumstances of Mr. Al Barghathi's death and locate, respect and return his remains to his family in accordance with the *Guiding principles for the search for disappeared persons* of the UN Committee on Enforced Disappearances (CED/C/7- principles 1 and 7.3). In addition, there is an obligation to identify the fate and whereabouts of the seven persons that remain disappeared, in accordance with the referred Guiding principles.

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 to safeguard the rights of the above-mentioned persons in compliance with international instruments and in particular to search for the seven disappeared men, establish their fate and whereabouts, and undertake all necessary measures to prevent any irreparable damage to their life and personal integrity. We further urge the relevant authorities to take the appropriate measures so that prompt, effective, exhaustive, impartial and transparent investigations into these cases and hold those responsible accountable.

We are issuing this appeal in order to safeguard the rights of the above-mentioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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 regarding the current fate and whereabouts of Mr. Al Barghathi, Mr. Imbarak, Mr. Mohammed, Mr. Al Baraki, Mr. Soliman, Mr. Sulayma Mr. Bukhatwa and Mr. Abdulaziz. If these details are still unknown, please indicate which efforts have been undertaken to determine their fate and whereabouts. If any of these individuals are detained, please provide the legal and factual basis for each detained individual's arrest and detention.
3. Please provide precise information on any investigation, judicial or otherwise, carried out into Mr. Al Barghathi's alleged killing or enforced disappearance, as well as into the acts tantamount of enforced disappearance of the other seven persons captured, in order to identify perpetrators and to bring them to justice. If no such investigations have been initiated, please explain the reason.
4. Please provide information regarding whether these investigations and efforts have been carried out in compliance with the *Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Executions (Minnesota Protocol)* and the *Guiding principles for the search for disappeared persons* of the UN

Committee on Enforced Disappearances.

5. Please inform of measures taken to provide reparations to families of victims, and policies in place to ensure nonrecurrence, in reference to the above incidents of violence. If no such action has been taken, please explain why.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and personal integrity of Mr. Imbarak, Mr. Mohammed, Mr. Al Baraki, Mr. Soliman, Mr. Sulayma, Mr. Bukhatwa and Mr. Abdulaziz, 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 may publicly express our concerns in the near future on this case, which in our view merits prompt attention, as the lives of Mr. Imbarak, Mr. Mohammed, Mr. Al Baraki, Mr. Soliman, Mr. Sulayma, Mr. Bukhatwa and Mr. Abdulaziz are at great risk. Any public expression of concern from our part would indicate that we have been in contact with the LNA to clarify the issues in question.

We would like to inform you that having transmitted a communication, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The recipient is required to respond separately to this letter and the regular procedure.

We further wish to inform you that having transmitted a communication, the Working Group on Enforced or Involuntary Disappearances may also document the acts tantamount to enforced disappearance in these cases through its humanitarian procedure.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from you 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.

Finally, we stress that this letter does not in any way imply the expression of any opinion concerning the legal status of any country, territory, city or area, or of its authorities and is without prejudice to the United Nations position on these matters. Please note that a copy of this letter has been sent to the Government of National Accord of Libya.

Please accept, Mr. al-Sharief, the assurances of our highest consideration.

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

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

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances