

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Ref.: UA QAT 1/2024
(Please use this reference in your reply)

7 March 2024

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 51/8, 51/21 and 50/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged denial of the enjoyment of the human rights of Mr. Manuel Guerrero Aviña, including his human rights to liberty and security of person, and freedom from arbitrary arrest and detention; freedom from torture and other cruel, inhuman, or degrading treatment or punishment; the right to the enjoyment of the highest attainable standard of physical and mental health; and the right to freedom from discrimination based on any status, including sexual orientation.**

According to the information we have received:

Mr. Manuel Guerrero Aviña is a 45-year-old dual citizen of Mexico and the United Kingdom of Great Britain and Northern Ireland, who has lived for seven years in the State of Qatar, as an employee of Qatar Airways.

Mr. Guerrero Aviña is living with HIV, and is dependent on anti-retroviral (ARV) medicines to maintain his good health and protect himself from lifethreatening diseases to which he is susceptible as an immunocompromised person. In particular, he relies on Isentress (Raltegravir) 600 mg, at the rate of two tablets daily; and Truvada (emtricitabine and tenofovir disoproxil) at the rate of one tablet daily.

On 4 February 2024, police authorities in Doha allegedly entrapped Mr. Guerrero Aviña through the social media application Grindr. Police created a fake profile on the application, under the false name "Gio", and invited Mr. Guerrero Aviña to meet with the invented persona in the fake profile, as well as one other individual, at the home of Mr. Guerrero Aviña, in Tower 3 of Abraj Bay in the city of Doha. At approximately 8:00 p.m. on 4 February, Mr. Guerrero Aviña received a message indicating that "Gio" had arrived. It is reported that when Mr. Guerrero Aviña then went to his building lobby, the police posing as "Gio" immediately arrested and handcuffed Mr. Guerrero Aviña. Upon his arrest, Mr. Guerrero Aviña was forced to return to his apartment, where police reportedly entered without a warrant and made Mr. Guerrero Aviña wait for the arrival of a third foreign-national person whom police also allegedly planned to entrap in the meeting. When the third

person rang the doorbell, he was also reportedly immediately arrested. While detaining Mr. Guerrero Aviña in his apartment, police allegedly planted 0.25 gram of the narcotic crystal methamphetamine, in order to incriminate Mr. Guerrero Aviña. The police also reportedly confiscated Mr. Guerrero Aviña's antiretroviral (ARV) medications and cleaning products.

From 4 February 2024 to present, Mr. Guerrero Aviña has been allegedly detained at the General Directorate of Drug Enforcement Qatar, where he has reportedly been subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment, based on a discriminatory motive due to his sexual orientation and his health status. Mr. Guerrero Aviña was reportedly threatened with physical beatings and sexual abuse if he did not admit to having had sexual relations with individuals of the same sex. He was forced to keep his head bowed and not make eye contact with the officers threatening to physically or sexually assault him. Mr. Guerrero Aviña also reportedly heard the sounds of police beating other detainees, including with a whip, in order to punish them for their sexual orientations.

While being forced to listen to other detainees being tortured, Mr. Guerrero Aviña was shouted at and threatened by the police, who allegedly insulted and humiliated him based on his sexual orientation. Mr. Guerrero Aviña reported learning during his detention that numerous police officers in the detention facility had used the Grindr application to identify individuals for similar discriminatory ill-treatment and arbitrary detention based on their sexual orientation. At the threat of physical beatings if he did not do as instructed, the police reportedly forced Mr. Guerrero Aviña to sign documents in Arabic, which he did not understand. Police also reportedly forced Mr. Guerrero Aviña to unlock his phone and identify contacts from his phone who were lesbian, gay, bisexual, trans or gender-diverse (LGBT). Additionally, the police forced him to review photographs of people and identify any individuals he knew to be LGBT. Authorities reportedly have not provided Mr. Guerrero Aviña with a lawyer or an interpreter since he was detained on 4 February 2024, and have not explained to him in a language that he can understand the reasons for his detention.

Since 4 February 2024, Mr. Guerrero Aviña has been reportedly detained without receiving his ARV medicines, a matter that puts his long-term health and life at serious risk. Although Mr. Guerrero Aviña indicated his HIV status to the police, authorities have so far failed to provide him with his ARV medication, exacerbating the other health risks he has faced during detention. Mr. Guerrero Aviña was reportedly isolated in a solitary confinement cell due to his HIV status, where he spent periods of more than 15 hours on several days without being provided with food or water. He was reportedly forced to beg for sustenance after enduring those long periods without any food or water each day. Mr. Guerrero Aviña was also not provided with blankets and had no access to a shower. Police have allegedly further threatened Mr. Guerrero Aviña by indicating that he would not survive once the prison population became aware of his health condition, meaning that other detainees would endanger his life if the police revealed his health status to them. As a result of the alleged torture or other ill-treatment he has experienced, Mr. Guerrero Aviña has suffered from severe trauma, anxiety attacks, loss of consciousness, insomnia, and attacks of sweating, tachycardia and panic. During his

detention, Mr. Guerrero Aviña has reportedly not received medical care or psychological support for these conditions. Authorities have also not allowed Mr. Guerrero Aviña to make telephone calls; nor did the authorities ever notify the governments of Mexico and the United Kingdom of his detention. After his family and friends located Mr. Guerrero Aviña and notified the embassies, one embassy reportedly requested and obtained access to him after 10 days of trying, and has likewise expressed concern with regard to his lack of access to ARV medicines.

In light of the above information provided to the Special Procedures mandate holders, we convey our deep concerns about the reportedly discriminatory motives of the alleged arrest, detention, and ill-treatment of Mr. Guerrero Aviña. In addition, we are concerned that the ongoing detention of Mr. Guerrero Aviña, where he is allegedly at risk of torture and other ill-treatment, could result in irreparable harm to the complainant. The risk of torture and other ill-treatment are compounded by the reported denial of access lifesaving ARV medications, on which Mr. Guerrero Aviña relies to treat his health condition.

While we do not wish to prejudge the accuracy of these allegations, the information alleged if established would be in contravention of the rights of every individual to liberty and security of person, the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment, the right to human treatment while in detention, the enjoyment of the highest attainable standard of physical and mental health, and equality under the law, without discrimination, as laid down *inter alia* in articles 1, 2, 3, 5, 7, 9, and 25 of the Universal Declaration of Human Rights (UDHR); articles 2, 7, 9, 10, and 26 of the International Covenant on Civil and Political Rights (ICCPR), and articles 2.2 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to both of which your Excellency's Government acceded on 21 May 2018; as well as in multiple articles of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Qatar acceded on 11 January 2000. We remind that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is an absolute peremptory norm from which no derogation is permitted. Central to the observance of all of the aforementioned human rights is the cross-cutting obligation of the State to realize all human rights without discrimination on any status, as recognized in articles 1 and 2 of the UDHR, article 2.1 of the ICCPR, article 2.2 of the ICESCR, and article 1 of the CAT.

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.

We are issuing this appeal in order to safeguard the rights of the abovementioned individual from irreparable harm and without prejudicing any eventual 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 on the factual and legal basis for Mr. Guerrero Aviña's arrest and detention and how these acts are compatible with Qatar's obligations under international human rights law as stated.
3. Please provide any additional information and/or comment(s) you may have on the above-mentioned case and the facts provided, including all relevant judicial orders and evidence presented to justify the detention, treatment, any underlying criminal charge, and the prescribed timelines for the subsequent legal and judicial processes.
4. Please provide information on measures and safeguards in force or efforts taken or planned to be taken to prevent torture or other ill-treatment pursuant to articles 2 and 16 of the CAT.
5. Please explain what measures have been taken to investigate and remedy the allegations of threats of torture and other ill-treatment – among any other unlawful activities by authorities, which may have undermined the integrity of any criminal investigations and judicial proceedings – and whether those actions include an order to release Mr. Guerrero Aviña based on any such unlawful acts or procedural irregularities, or the further investigation and disciplining of any authorities determined to have violated his human rights.
6. Please explain what urgent measures authorities are adopting to ensure Mr. Guerrero Aviña's enjoyment of his human right to the highest attainable standard of physical and mental health as he continues to be detained, including to provide access to antiretroviral (ARV) medicine.
7. Please provide information on what measures have been taken to ensure that Mr. Guerrero Aviña has access to consular assistance.
8. Please provide information on the measures that have been taken to ensure to prevent that LGBT persons and/or persons with HIV status are being discriminated against.

While awaiting a reply, we urge that all necessary interim measures be taken to halt any 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 appreciate receiving a response as soon as is possible, in light of the gravity and urgency of the alleged violations, and the risks faced by Mr. Guerrero Aviña as he remains at risk of torture and other ill-treatment and without access to his lifesaving ARV medicine. After 60 days, 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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether or not the deprivation of liberty was arbitrary. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to this urgent appeal and the regular procedure.

Please note that a copy of this communication will be sent to the Permanent Mission to the United Nations of Mexico and the Permanent Mission to the United Nations of the United Kingdom of Great Britain and Northern Ireland, in light of the reported information pertaining to access to consular assistance.

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

Matthew Gillett

Vice-Chair on Communications of the Working Group on Arbitrary Detention

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Graeme Reid

Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity