

Mandates of the Special Rapporteur on the independence of judges and lawyers and the Working Group on Enforced or Involuntary Disappearances

Ref.: AL CHN 3/2025

(Please use this reference in your reply)

18 February 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers and Working Group on Enforced or Involuntary Disappearances, pursuant to Human Rights Council resolutions 53/12 and 54/14.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arbitrary arrest and detention, enforced disappearance and sentencing of Mr. Ekpar Asat. After eight years, there is no information regarding Mr. Asat's trial, a situation further aggravated by the alleged lack of independence of judges and lawyers in the Xinjiang region.**

Concerns regarding Mr. Ekpar Asat were previously raised in [opinion No. 88/2022](#) adopted by the Working Group on Arbitrary Detention. On 29 June 2022, the Working Group transmitted the allegations from the source to your Excellency Government under its regular communications procedure. The Working Group found that Mr. Asat's deprivation of liberty constituted arbitrary detention and requested that your Excellency's Government, by 29 August 2022, provided comprehensive information on Mr. Asat's present circumstances, substantiated the legal grounds for his continued detention, and demonstrated its alignment with international human rights obligations. We regret that to date your Excellency's Government has not provided any response to opinion No. 88/2022.

Furthermore, concerns regarding the human rights situation in the Xinjiang Uyghur Autonomous Region were assessed by the Office of the High Commissioner for Human Rights in a report issued in 2022 and the criminal justice system was in particular raised by the High Commissioner for Human Rights during the [press briefing](#) on 27 August 2024.

Moreover, concerns regarding the independence of lawyers in China were previously raised in a communication dated 14 February 2024 ([AL CHN 1/2024](#)) by the Special Rapporteur on the independence of judges and lawyers. The Special Rapporteur raised the issue that the amendments made to the Administrative Measures for the Practice of Law by Lawyers and the Measures on the Administration of Law Firms, which entered into force between 2016 and 2018, are not in line with international standards related to the right to a fair trial and its guarantees, and may in their application, limit the functions of lawyers in China by restricting both their work and their freedoms. We regret that to date your Excellency's Government has not provided any response to AL CHN 1/2024. While awaiting a reply we demand your Excellency's Government to take all the necessary measures to align the two administrative regulations with relevant international standards.

Mr. **Ekpar Asat** is a businessman who founded a popular social media platform featuring news, history, literature, columns, entertainment, music and legal updates. He belongs to the Uyghur minority and is of Muslim faith.

According to the information received:

Arbitrary arrest and detention, enforced disappearance, and sentencing of Mr. Asat

On 7 April 2016, Mr. Asat was arrested in the city of Urumqi. Assumably Mr. Asat was arbitrarily arrested by officials from the Public Security Bureau in the Xinjiang Uyghur Autonomous Region. The information suggests that the arrest was in retribution for his participation in the U.S. State Department's International Visitor Leadership Program, his entrepreneur activities related to social media, and of being of Uyghur ethnicity.

Mr. Asat's family has never been provided with an arrest warrant, a decision by a public authority or any other legal documents concerning to his arrest, despite requests for such documentation. To date, the reasons and the legal basis for the arrest of Mr. Asat remain unknown.

The whereabouts of Mr. Asat were unknown between the date of his arrest and in January 2019, when he was transferred to Aksu Prefecture Prison in Xinjiang. Accordingly, he was subjected to enforced disappearance for about three years. The information suggests that, prior to his transfer, he was held in various educational and vocational camps or detention centers and currently he is held in Aksu prison camp. To date, no information has been provided regarding the authority responsible for ordering Mr. Asat's detention.

The authorities have asserted that Mr. Asat was sentenced to a 15-year term on charges of inciting ethnic hatred and ethnic discrimination. However, no evidence has been presented to confirm that a trial ever took place, nor, if this happened, that legal counsel was afforded to Mr. Asat during the proceedings.

Reportedly, Mr. Asat received his first visit since his arrest in May 2024, i.e. eight years after his detention. The information suggests that the visit was closely monitored by three officials and Mr. Asat was unrecognizable during the meeting, with visible signs of physical and emotional distress evident on his face. His physical appearance showed a lack of proper treatment. The family was not permitted to touch him and was separated by a glass window.

In November, December 2024 and January 2025, Mr. Asat was granted permission to participate in a video call from the prison facility with his family. However, his family was required to take the call from the Urumqi police station. During the call, officials reportedly compelled Mr. Asat to communicate with his family in Chinese, despite Chinese is not their native language. The information suggest that the same Chinese language requirement has been applied to two-minute phone calls.

Independence of lawyers in Xinjiang region

In 2012, the Chinese Government introduced a requirement for lawyers to pledge allegiance to the Chinese Communist Party as a condition for obtaining or renewing their licenses. This requirement is embedded in the Code of Conduct for the legal profession. Article 3 specifies that "Lawyers shall support the leadership of the Chinese Communist Party and the socialist rule of law as fundamental requirements for practice." Article 6 further states that "Lawyers shall not use their professional identity or firm name to promote individual cases, criticize the socialist system, engage in activities that threaten national security, or use their status to encourage parties to collude or fabricate evidence, thereby interfering with judicial processes."

Independence of judges in Xinjiang region

In 2017, the Xinjiang Government issued directives encouraging the public to report individuals perceived as "two-faced". Since these directives came into effect, Xinjiang courts have reportedly sentenced officials to imprisonment on the grounds of being "two-faced" and lacking loyalty to the Chinese Communist Party.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concerns regarding the lack of information surrounding the arrest, detention and sentencing of Mr. Ekpar Asat, and his enforced disappearance between April 2016 and January 2019. In addition to the concerns previously raised by the Working Group on Arbitrary Detention in opinion No. 88/2022 and by the Office of the High Commissioner for Human Rights in its 2022 report, we are gravely concerned by what appears to be a lack of procedural safeguards and fair trial guarantees aggravated by the lack of independence of judges and lawyers in Xinjiang region.

We are particularly alarmed by the limited information available on the arrest, detention and sentencing of Mr. Asat. We are equally concerned at the enforced disappearance he was subjected to between April 2016 and January 2019. Furthermore, we express grave concern that Mr. Asat appears to have been detained due to his Uyghur ethnicity and his international experience, including his participation in the International Visitor Leadership Program. Furthermore, we express serious concern that, after more than eight years, Mr. Asat's family has still not been informed of the reasons for his arrest or granted access to the chargesheet and trial judgment. Mr. Asat had effectively been subjected to incommunicado detention and enforced disappearance for eight years. We reiterate that, under international law, the concealment of the fate or whereabouts of the person deprived of his or her liberty or the failure to acknowledge a deprivation of liberty constitute enforced disappearance, regardless of the duration of the said deprivation of liberty or concealment, and put the person at serious risk, outside of the protection of the law. When detainees are placed in custody, the State assumes responsibility for their lives and their physical and psychological integrity. This heightened duty of care requires States to take the necessary measures to protect their lives and wellbeing.

Moreover, given the aforementioned lack of information regarding Mr. Asat's detention and trial, as well as a system that restricts the independence of judges and lawyers, we express concern over reported violations of fair trial and due process standards, including the right to defence and legal representation. Mr. Asat has reportedly been sentenced to a 15-year prison term. However, no evidence has been provided to confirm that the trial actually took place and met fair trial and due process standards, as required under article 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights.

We are also concerned regarding the conditions of Mr. Asat's detention since the information suggests the deterioration of his physical and mental health. There is no mechanism in place to monitor or receive information on his physical and mental health, as he has limited contact with his family and his lawyer and cannot send or receive correspondence.

Finally, we express concerns that Mr. Asat's case is not isolated but rather exemplifies the broader pattern of repression targeting individuals of Uyghur ethnicity with international experiences as assessed by the Office of the High Commissioner for Human Rights in 2022.

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 information on the current conditions of detention of Mr. Asat and whether these conditions are consistent with the Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), as well as on his state of health and ability to receive medical services.
3. Please provide information on the legal grounds for Mr. Asat's arrest, detention, and 15-year sentence, specify the dates of Mr. Asat's trial and the chargesheet on which his sentence was based. Please provide information about the steps taken to provide Mr. Asat with defense counsel and details about the time and resources given to him to prepare for his defense in advance of trial.
4. Please indicate the reason(s) for the lack of information concerning the arrest, detention, and sentencing of Mr. Asat. Additionally, explain the denial of relevant documentation to Mr. Asat's family, including the arrest warrant, any public authority decisions, or other legal documents related to his arrest. Please indicate the measures taken to remedy this, and to provide full, transparent and timely information to Mr. Asat's family and legal representatives, including on his conditions of detention

and any document or decision related to his judicial proceedings.

5. Please explain how your Excellency's Government justifies the detention of individuals without trial or incommunicado for extended periods of time and without notifying or allowing access to their families, counsel or any other person of their choice.
6. Please provide detailed information on the measures which have been taken to ensure full and impartial, effective, thorough and independent investigations, especially on Mr. Asat's reported enforced disappearance between April 2016 and January 2019. If measures have not been taken, please explain how this is compatible with the international human rights obligations of China.
7. Please explain how articles 3 and 6 of the Code of Conduct governing the Chinese legal profession ensure the independence of lawyers in defending their clients, in line with human rights standards set out in principle 16 of the Basic Principles on the Role of Lawyers.
8. Please provide information on the follow-up your Excellency's Government has undertaken regarding the recommendations of the OHCHR 2022 report, and, in particular to recommendations pertaining to undertaking a full review of legal provisions in relation to national security, counterterrorism and minority rights as well as to clarify the whereabouts of individuals whose families have been seeking information about and to release all those arbitrarily detained.¹

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.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to the life and personal integrity of Mr. Asat, to halt the alleged violations and to 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.

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Gabriella Citroni
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

¹ See OHCHR report 2022, §151 (i)-(ii)-(iii) <https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf>

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 the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998. While China has yet to ratify the ICCPR, as a signatory to the ICCPR, China has an obligation to refrain from any acts which would defeat the object and purpose of the Covenant prior to its entry into force (article 18 of the 1969 Vienna Convention on the Law of Treaties). Much of the content of the UDHR, including its provisions concerning the right to a fair trial, has passed into binding customary law.

We would like to refer to articles 6, 7, 9, 10, 14, 16, 19, and 22 of the ICCPR, read alone or in conjunction with article 2.3, which guarantee the right to life; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; the right to liberty and security of person; the right to be recognized as a person before the law; the right 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; the right to be treated with humanity and with respect for the inherent dignity of the human person; the right to an effective remedy, the right to freedom of opinion and expression; and the right to freedom of association.

The right to a fair trial is protected in both instruments mentioned above. Article 10 of the Universal Declaration on Human Rights guarantees everyone the "right to a fair and public hearing by an independent and impartial tribunal", while article 14 of the ICCPR stipulates that: "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law". Access to counsel is an integral part of a fair trial. The Human Rights Committee has stated that "the availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way". The Committee has further indicated that "lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter".

With regard to article 9 of the UDHR, we would also like to remind your Excellency's Government that it is both a norm of customary international law and peremptory norm of international law. In this regard, the use of prolonged incommunicado detention, including in unknown or unofficial detention settings that routinely deny access of detainees to their families or legal representatives of their choice could constitute one of the worst forms of arbitrary detention. The reported consistent failure to present detainees promptly before an impartial judge inherently violates the international standards relating to the right to liberty and security of the person and to arbitrary detention.

Furthermore, we wish to refer to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, specifically principle 11, which states that “a person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority” and that “a detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law”, and principle 15 which states that “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days”.

The Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba on 27 August to 7 September 1990 establish in principle 1 that all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings. Principle 8 states that all arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Finally, principle 16 calls governments to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

China has expressed on several occasions its support for the international community’s efforts to eliminate and prevent enforced disappearances, including at the UN Human Rights Council. Nevertheless, the Working Group on Enforced or Involuntary Disappearances has observed the high number of reports of individual detained in China who have been placed under investigation (see A/HRC/WGEID/107/1, para. 24, A/HRC/WGEID/108/1, para. 28, A/HRC/WGEID/111/1, para. 30, and A/HRC/WGEID/112/1, para. 26) but whose exact whereabouts remain unknown. The Working Group has observed that the placing of individuals under incommunicado detention for investigation for prolonged periods without disclosing their whereabouts amount to secret detention and is a form of enforced disappearance ([A/HRC/36/39](#), para. 71 and [A/HRC/19/58/rev.1](#) pages 36-37).

The prohibition of enforced disappearances and the corresponding obligation to investigate them have attained the status of *jus cogens*. In this regard, we wish to recall that the [United Nations Declaration on the Protection of All Persons from Enforced Disappearances](#) establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness (article 4), no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6). Furthermore, no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7), and the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances (article 9).

Moreover, articles 9 to 12 of the Declaration further spell out the rights of detained persons to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty. Access by competent national authorities to all places of detention must be ensured and any deprivation of liberty be held in officially recognized places of detention. Detainees have the right to be released also in a manner permitting verification of whether their human rights have been fully ensured. Article 13 further stipulates that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority.

In its [General Comment](#) on the right to recognition as a person before the law in the context of enforced disappearance, the Working Group noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms.

Finally, attacks against individuals for exercising their right to freedom of expression, including through arbitrary detention, torture, inhuman or degrading treatment or punishment, and enforced disappearance is incompatible with human rights norms and standards. Additionally, as per the jurisprudence of the Working Group on Arbitrary Detention, any detention due to the peaceful exercise of rights is arbitrary, and enforced disappearances constitute a particularly aggravated form of arbitrary detention. We would like to further remind your Excellency's Government that the right to challenge the lawfulness of detention before a court is a self-standing human right and a peremptory norm of international law, which applies to all forms of arbitrary deprivation of liberty.