

PETITION TO:

UNITED NATIONS WORKING GROUP ON ARBITRARY DETENTION Chair-

Rapporteur: Mr. José Guevara (Mexico) Vice-Chairperson: Ms. Leigh Toomey (Australia) Vice-

Chairperson: Ms. Elina Steinerte (Latvia)

Mr. Seong-Phil Hong (Republic of Korea)

Mr. Sètonджи Adjovi (Benin)

HUMAN RIGHTS COUNCIL UNITED NATIONS GENERAL ASSEMBLY In the Matter

of

MOHAMAD AL SAOLUM

Citizen of Syrian Arab Republic

V

The Republic of Turkey

URGENT APPEAL REQUEST

Submitted by

International Penal Legal Senior Advisor & Asia Director of Prisoners Defenders

International

MODEL QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY
ARREST OR DETENTION

I. IDENTITY

1. Family name: ALSALOUM

2. First name: MOHAMAD

3. Sex: (Male)

4. Birth date or age (at the time of detention): 01 – 05 - 1979

5. Nationality/Nationalities: SYRIAN

6. (a) Identity document (if any): ID Card

(b) Issued by: ISTANBUL

(c) On (date): 2019

(d)No.:99636365300

7. Profession and/or activity (if believed to be relevant to the arrest/detention): WRITER
AND JOURNALIST

8. Address of usual residence: HASEKI SULTAN MAH KIZILELMA CAD. NO:5/A
FINDIKZADE FATIH/ ISTANBUL

II. Arrest

1. Date of arrest: 05 April 2022

2. Place of arrest (as detailed as possible): The applicant was arrested at the Immigration Administration Center in Beyazıt, based on an appointment to update my information that the applicant submitted two months ago, and it was on April 5, 2022. The applicant was suddenly stopped, handcuffs were placed in his hands by two police officers, and the applicant was taken to Haseki Hospital, and then to Police station next to the Immigration Department, and there they wrote a report without a translator or a lawyer, and they promised the applicant By releasing him within five minutes in the event of signing the statement, and the applicant thought that because he is a journalist and a writer, perhaps a routine procedure, then they put the applicant in a cold cell, then after two hours the applicant was transferred to another the police station in Fatih to photograph him, then to Police station in Tekke Bazaar, and the next day they transferred him as a group to the police station in handcuffs. The applicant was trying to reassure that he will be able

to be given his passport. However, the applicant was transferred to a removal center in Adana, and a 16-year-old Syrian child was handcuffed with him on a journey that lasted 18 hours. The applicant were among 34 Syrians, and most of them were accused of the lack of the ID Card, and some of them were even without charge. The next day, and it was a day off, the police officers promised to the applicant that if he signed the so-called voluntary return form, he would have a ban of entering Turkey for two years, and if the applicant refused to sign, he would be banned for five years.

The director of the removal center to talk to the applicant and he was forced to sign voluntarily return form and the applicant refused to sign and told them that he is a writer and a journalist, but the police officers denied their knowledge of that, and the applicant presented to the police officers his press ID in the secretariats and presented it with his ID Card to the Immigration Department.

The applicant was forced to sign the voluntary return form for two days the applicant was prevented from using his phone and contacting his lawyers, and the next day they deported 14 Syrian youth They were afraid of the batons, and they signed by force, and whoever resisted, they forced them to sign while he was handcuffed from behind.

The detention of the applicant continued until April 28, and the Syrian Writers Association had distributed a statement published by Syrian and international websites to demand his release. During the process of forced arrest, enforced disappearance, and attempted forced deportation, they exercised all psychological pressures to surrender, and the applicant made it clear to them that if they want to execute him then execute him in Turkey.

The lawyer filed an administrative court case, but the applicant was not granted back his ID Card to him, and a criminal court case was filed against the applicant.

3. Forces who carried out the arrest or are believed to have carried it out: Turkish Police from Immigration Management Center

4. Did they show a warrant or other decision by a public authority? NO

5. Authority who issued the warrant or decision: The police forces

6. Relevant legislation applied (if known): N/A

III. Detention

1. Date of detention: 05-04-2022

2. Duration of detention (if not known, probable duration): 24 day

3. Forces holding the detainee under custody: Turkish Police

4. Places of detention (indicate any transfer and present place of detention): The applicant was arrested at the **Immigration Administration Center in Beyazıt**, based on an appointment to update my information that he submitted two months ago, and it was on April 5, 2022. The applicant was suddenly stopped, handcuffs were placed in his hands by two police officers, and the applicant was taken to Haseki Hospital, and then to **the police station, next to the Immigration Department**, and there they wrote a report without a translator or a lawyer, and they promised him that he will be releasing me within five minutes in the event of signing the statement. The applicant was transferred to the removal center, in **Adana city**

5. Authorities that ordered the detention: the Immigration Administration Center in Beyazıt.

6. Reasons for the detention imputed by the authorities: The lack of valid ID Card

7. Relevant legislation applied (if known): N/A

LEGAL ANALYSIS

DEPRIVATION OF LIBERTY UNDER CATEGORY-I

A detention violates Category I when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty. The Working Group has found detentions arbitrary under Category I when some of the following violations are present: (1) when the government has held an individual incommunicado for a period of time; (2) when the government has arrested an individual without

judicial authorization for such deprivation of liberty; (3) when vague laws are used to prosecute individuals; and (4) when laws are used to target government critics¹

Article 9(2) International Covenant on Civil and Political Rights states that Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

Muhammad was arrested on 5 April 2022 and he was not informed properly about the reason of his arrest and he was not informed about the charges against him either. Hence, his right under Article 9(2) was violated.

DEPRIVATION OF LIBERTY UNDER CATEGORY-III

A deprivation of liberty is arbitrary under Category III where “the total or partial non- observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.”² The minimum international standards of due process applicable in this case are established by the ICCPR, the UDHR, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (the “Body of Principles”), and the UN Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”)³

Article 14(3)(g) International Covenant on Civil and Political Rights states that In the determination of any criminal charge against him, everyone shall be entitled to the following

¹ See, e.g., Bettar v. Morocco, Working Grp. on Arbitrary Detention, Commc’n No. 3/2013, paras. 30-314 (April 30, 2013); 61 Individuals v. United Arab Emirates, Working Grp. on Arbitrary Detention, Commc’n No. 60/2013, para. 22 (November 22, 2013)

² Human Rights Council, Methods of Work of the Working Group on Arbitrary Detention, U.N. Doc. A/HRC/30/69, para. 8(c) (August 4, 2015), <https://studylib.net/doc/6805883/methods-of-work-of-the-working-group-on-arbitrary-detention>

³ Id. at paras. 7(a), (b).

minimum guarantees, in full equality: Not to be compelled to testify against himself or to confess guilty⁴

In the case of Mohamad, he was forced to sign the documents including voluntary return form that are proving that he committed a crime despite that he could not understand what is written in those papers. Therefore, his rights under Article 14(3)(g) International Covenant on Civil and Political Rights.

Article 14(3)(a) of International Covenant on Civil and Political Rights: The right of all persons charged with a criminal offence to be informed promptly and in detail in a language which they understand of the nature and cause of criminal charges brought against them, enshrined in paragraph 3 (a), is the first of the minimum guarantees in criminal proceedings of article 14. This guarantee applies to all cases of criminal charges, including those of persons not in detention, but not to criminal investigations preceding the laying of charges⁵ The right to be informed of the charge “promptly” requires that information be given as soon as the person concerned is formally charged with a criminal offence under domestic law,⁶ or the individual is publicly named as such. The specific requirements of subparagraph 3 (a) may be met by stating the charge either orally - if later confirmed in writing - or in writing, provided that the information indicates both the law and the alleged general facts on which the charge is based. In the case of trials in absentia, article 14, paragraph 3 (a) requires that, notwithstanding the absence of the accused, all due steps have been taken to inform accused persons of the charges and to notify them of the proceedings.

Article 14(3)(b) of International Covenant on Civil and Political Rights: 3 (b) provides that accused persons must have adequate time and facilities for the preparation of their defense and to communicate with counsel of their own choosing. This provision is an important element of the guarantee of a fair trial and an application of the principle of equality of arms⁷

⁴ Article 14(3)(g) ICCPR

⁵ Communication No. 1056/2002, Khachatrian v. Armenia, para. 6.4.

⁶ Communications No. 1128/2002, Márques de Morais v. Angola, para. 5.4 and 253/1987, Kelly v. Jamaica, para. 5.8

⁷ Communications No. 282/1988, Smith v. Jamaica , para. 10.4; Nos. 226/1987 and 256/1987, Sawyers, Mclean and Mclean v. Jamaica, para. 13.6.

When Mohammed was arrested, his mobile phone was taken from him and even though he wanted to communicate with his lawyer, he was not allowed to communicate, and this request had been rejected without a valid reason.

Turkey Violated Mohamad's Right to be Visited by Family and to Communicate with the Outside World

Principle 19 of the Body of Principles provides that “detained or imprisoned persons shall have the right to be visited by and to correspond with, in particular, members of his family . . . subject to reasonable conditions and restrictions as specified by law or lawful regulations.” Similarly, this right is protected by the Mandela Rules, notably Rule 43 stating that “[d]isciplinary sanctions or restrictive measures shall not include the prohibition of family contact,” Rule 58 stating that “[p]risoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals,” and Rule 106 stating that “[s]pecial attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.”

DEPRIVATION OF LIBERTY UNDER CATEGORY-V

Arrest of Mohammad falls under category V, since it constitutes discrimination on the basis of political or other opinion. He was arrested and detained based on his nationality and because of political reasons. Hence his arrest is discriminatory under category-V

IN CONCLUSION

As international counsel to Mohamad, the UN Working Group on Arbitrary Detention is kindly requested to find that the arrest and detention of Mohamad is a violation of international law and the case of Mohamad must be remedied. All rights of Mohamad must be granted back.

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