

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)

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HUMAN RIGHTS COUNCIL UNITED NATIONS GENERAL ASSEMBLY

In the Matter of
ANAS AL MUSTAFA
Citizen of Syrian Arab Republic

V
The Republic of Turkey

URGENT APPEAL REQUEST

I. IDENTITY

1. Family Name: Al Mustafa

2. First Name: Anas

3. Sex: Male

4. Age at the Time of Detention:

5. Nationality: Syria

a. Identity document (if any): Unknown

b. Issued by:

c. On (date):

d. No.:

6. Profession and/or activity (if believed to be relevant to the arrest/detention): Human Rights Activist

7. Address of usual residence: Unknown

II. ARREST

1. Date of arrest: 15 May 2020

2. Place of arrest (as detailed as possible): After a few days the Turkish special forces, 12 riot men with two vans at 2 am showed up at home. He was on the phone with me. I told him not to answer not to move he hid behind the refrigerator and stayed in contact with me until 11 in the morning. In the morning at 11 the troops gave up. The house of Anas, where he has been renting for more than 5 years, is owned by a Turk and the rent has always been paid by him regularly as even the bills could not make too much noise if he did not open the door. As soon as the police left at 11.15, I sent him a car in the back and he threw himself out the window and ran away. From that moment on, he lives in hiding with the help of all of us friends and mine as a lawyer.

3. Forces who carried out the arrest or are believed to have carried it out: Turkish Police forces

4. Did they show a warrant or other decision by a public authority? Unknown

5. Authority who issued the warrant or decision: Unknown

6. Relevant legislation applied (if known):

THE GROUNDS FOR THE REQUEST OF AN URGENT APPEAL

Mr. Anas Al Mustafa, is a Syrian refugee who fled to the Republic of Turkey following the domestic war was erupted in Syria. When he arrived in Turkey, he was after a short period of time, Anas Al Mustafa was detained for seven days and he was forced to sign a document which he could not understand. Mustafa was threatened if he does not sign the document. When he rejected to sign the documents, he was forcibly taken to the Syrian-Turkish Border and was deported to Syria. Mustafa, managed to escape again back to Turkey after 30 days of non-stop walking, now he is wanted and lives in hiding away from his wife and children who lives in Konya which is a city in Turkey.

THE BACKGROUND INFORMATION ABOUT ANAS AL MUSTAFA

1- Anas is well known both in Syria, both in Turkey and in Europe for his painstakingly built solidarity activities in these years of tragic war in Syria. His city and home were destroyed and his entire family fled via Turkey. Many of his family members went to Germany, where they now work and have settled in.

2- Anas, on the other hand, also known as the "refugee angel", met many widows and orphans of his friends in Turkey who did not make it, who died in the fields under bombs. Anas Al Mustafa has thus decided to remain alone in Konya and create a non-profit association to raise funds by becoming a kind of putative father of more than 800 people who reside there. Widowed mothers were forced to be prostitutes to find the money to feed their children and obviously particularly difficult jobs. Others went hungry without medicine and food.

3- In all these years Anas has raised the funds and personally brought the food to the homes of these people, led the children and paid for medical visits, many very serious Leukemia, others with neurological problems, etc.

4- All this is tried and tracked with the international organizations that have gone to see him to verify. Anas was simply extraordinary. He also got his driving license in Turkey did a Turkish and an English course as before Turkish law and then opened a bank account in Turkey (very difficult to obtain) but perhaps this was the real problem because the economies he managed they started to be more and more important and one day, for no reason whatsoever, they went to his house declaring that he was pro Assad and was taken to prison where they interrupted him for days with other people he did not know.

5- Then they forcibly forced him to sign a sheet written in Turkish of which he has neither a copy nor understood the contents and immediately loaded it into a van without a license plate and delivered to the rebels in Syria after the border. Li thought of asking the ransom for his life from the non-profit association he created (now it is a practice between the Turkish police and the rebels they agree to find the money to finance the armaments of the rebels on the Turkish-Syrian border).

6- He understood how he understood that they were going to kill him and managed to escape. He lived for three months hidden under bridges, trees and ditches, always remaining in contact with me at least 10 times a day with telephone appointments via telegram.

7- Then he escaped, managed to cross the border and returned to Konya after 7 days of walking in the woods and fields, always being in constant contact with me by telephone. When he arrived in Konia he resumed his association activity, supplying the 800 people he had left with food. And he asked the UNCHR to help him understand what had happened since he did nothing, and never spoke pro Hassad.

8- In the meantime I have cultivated the appeal and supplemented with a lot of evidence but it was rejected because there is no proof that all the remedies have been tried. Obvious was taken illegally (by mercenaries in police ranks) handed over to troops for ransom.

9- After a few days the Turkish special forces, 12 riot men with two vans at 2 am showed up at home. He was on the phone with me. I told him not to answer not to move he hid behind the refrigerator and stayed in contact with me until 11 in the morning.

10- I give without speaking. In the morning at 11 the troops gave up. The house of Anas, where he has been renting for more than 5 years, is owned by a Turk and the rent has always been paid by him regularly as even the bills could not make too much noise if he did not open the door.

11- As soon as the police left at 11.15, I sent him a car in the back and he threw himself out the window and ran away. From that moment on, he lives in hiding with the help of all of us friends and mine as a lawyer.

12- I am forwarding the interview made by RAI last February. We have to find a humanitarian cordon to get him out, he has a lot to tell, he was vaccinated at both doses by showing up at the hospital when they sent him the request by e-mail. The absurdity is that he is registered and present but persecuted. They are looking for him at his old home where he left all his possessions.

13- In fact, today he is stateless because the policemen tore off his documents before taking him to Syria, so he now only has photocopies. Currently, after numerous searches that I have done in Turkey, after having him sign this document in Turkish he is classified with the Codeice G82 which means that he is among those who publicly declare the abuses of the Turkish state (very different from the code C78 terrorism and V87 threat safety).

14- The problem therefore is propaganda and someone who knew that Anas had raised a lot of money for the refugees in Turkey thought of reporting the false, because Anas had never spoken ill of Turkey and the Turks, where he has many friends. obviously today the situation is very different, he is scared and worried about his life.

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 critics.¹

Article 9(2) International Covenant on Civil and Political Rights states that 2. 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.²

When Anas Al Mustafa was arrested and stayed for seven days in prison, despite the fact that he asked for many times the officials to inform him about the charges, no explanation was made to him. Hence, her right under Article 9(2) was violated.

DEPRIVATION OF LIBERTY UNDER CATEGORY-II

Anas Al Mustafa fled to The Republic of Turkey in order to seek asylum. When he filed a petition for international protection, he was arrested and deported to Syria. This is clearly violation of international human right violation. This is because, According to Article 14 of the UDHR³, everyone has the right to seek and to enjoy asylum. The declaration is regarded as a milestone in international human rights law.

Mustafa was arrested and deported to Syria while he is exercising his right to seek asylum. And the government deported to him to Syria based on the national security reasons without satisfying how Mustafa as a refugee in Turkey poses a national security threat.

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 Article 9 ICCPR

³ Article 14 UDHR

Therefore, the right to seek asylum under Article 14 UDHR was violated.

Further, The government of Turkey, by deporting him to Syria violated one of the main principle of international human rights law principle namely The principle of non-refoulement forms an essential protection under international human rights, refugee, humanitarian and customary law.

It prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violations. Under international human rights law the prohibition of refoulement is explicitly included in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). In regional instruments the principle is explicitly found in the Inter-American Convention on the Prevention of Torture, the American Convention on Human Rights, and the Charter of Fundamental Rights of the European Union. International human rights bodies, regional human rights courts, as well as national courts have guided that this principle is an implicit guarantee flowing from the obligations to respect, protect and fulfil human rights. Human rights treaty bodies regularly receive individual petitions concerning non-refoulement, including the Committee Against Torture, the Human Rights Committee, the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child.

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.”⁴

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”)⁵

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 minimum guarantees, in full equality: Not to be compelled to testify against himself or to confess guilt.⁶In the case of Anas Al Mustafa, he was forced to sign the documents 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.

DEPRIVATION OF LIBERTY UNDER CATEGORY-V

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

IN CONCLUSION

As international human rights lawyer of Anas Al Mustafa, I kindly ask for the UN Working Group on Arbitrary Detention to urge the government of Turkey to grant Anas Al Mustafa to stay in the Republic of Turkey and to grant international protection and to find violation of international law.

THE COUNSEL

⁴ 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-detenti...>

⁵ Id. at paras. 7(a), (b).

⁶ Article 14(3)(g) ICCPR

I was retained by Anas Al Mustafa as his international counsel before the UN Working Group on Arbitrary Detention.