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Human Rights Council
Working Group on Arbitrary Detention

**Opinions adopted by the Working Group on Arbitrary
Detention at its seventy-sixth session,
22-26 August 2016**

Opinion No. 39/2016 concerning Adam al Natour (Jordan)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 1/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013.

2. In accordance with its methods of work (A/HRC/30/69), on 22 June the Working Group transmitted a communication to the Government of Jordan concerning Adam al Natour. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established 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 (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation or disability or other status, that aims towards or can result in ignoring the equality of human rights (category V).

Submissions

Communication from the source

4. Adam al Natour (آدم الناطور) is a Polish and Jordanian national. He was born in 1995 and normally resides in Düsseldorf, Germany. He holds a Polish passport. Prior to his arrest, he was a student. On 27 June 2015, Mr. Al Natour moved to Amman, Jordan, to study Arabic. Reportedly, he was arrested and severely tortured and sentenced on the basis of Jordanian Anti-terrorism Law. Currently, he is detained in Muwaqqar prison II and his appeal before Jordan's Cassation Court is pending.

5. According to the information received, on 12 August 2015, Mr. Al Natour was helping his father in his garage, located in Al Bayader, Amman, when 15 members of the General Intelligence Directorate (GID), 14 in civilian, one in military uniform, arrived with three cars and arrested him. Since Mr. Al Natour did not speak nor understood Arabic, his father, while translating for him, asked the GID's officers for the reason for his arrest. Members of the GID, however, did not provide any official reason for the arrest nor did they provide an arrest warrant issued by the judicial authority. Mr. Al Natour was consequently brought to the premises of the GID in Amman's Jandawil district in Wadi Al-Seer area.

6. On 13 August 2015, Mr. Al Natour's father went to the premises of the GID to visit his son. However, he was prevented from having any contact with his son and was only allowed to meet with a GID official who informally informed him that his son was held because of his "Jihadi thoughts".

7. For three weeks after his arrest, Mr. Al Natour's father was not allowed to visit his son. The first visit was held in the presence of a GID officer. Reportedly, during that meeting, Mr. Al Natour informed his father about having been beaten and subjected to electric shocks during the first days of his detention. His father claims having found his son at that time in very poor physical and psychological conditions.

8. At the end of September 2015, Mr. Al Natour was brought before the General Prosecutor of the State Security Court, who was wearing a military uniform. Allegedly, the General Prosecutor forced Mr. Al Natour to sign a document. The source claims that Mr. Al Natour did not know its content since it was written in Arabic and he was not provided with a translation. Allegedly, he was promised to be released the day following the signature of that document.

9. On 28 September 2015, Mr. Al Natour was transferred to Muwaqqar Prison II, where he was placed in an isolated cell and allowed to get sunlight and go outside his cell for half an hour per week.

10. On the same day, Mr. Al Natour was allowed to appoint his lawyer. At the end of October 2015, he was indicted on the basis of Jordan Anti-Terrorism Law No. 55 of 2006. In the middle of November, he was permitted to meet his lawyer for the first time, one week prior to his first hearing before the State Security Court. During the first three hearings held before this court, Mr. Al Natour was not provided with a certified court interpreter. The source claims that he was thus unable to understand what was said and written by the Prosecution.

11. On 15 February 2016, Mr. Al Natour was sentenced by the State Security Court to four years of imprisonment and hard labour according to article 3.3 and article 7.3 of Jordan Anti-Terrorism Law for "joining an armed group and a terrorist organisation". The conviction was based on a signed confession, allegedly extracted under duress, and the alleged fact that he had travelled to Syria through Turkey, which Mr. Al Natour denied. In fact, neither his Jordanian nor Polish passports show either Turkish or Syrian visa.

12. On 14 March 2016, Mr. Al Natour's lawyer appealed his case to the Court of Cassation. The source also informs that, on 10 April 2016, the defence lawyer submitted a complaint to the Jordanian National Centre for Human Rights. Allegedly, there has been no reply from the National Centre for Human Rights.

13. In the light of the aforementioned information, the source claims that Mr Al Natour's deprivation of liberty was not in compliance with the due process standards and, therefore, constitutes an arbitrary deprivation of liberty under category III of the classifications of cases as defined by the Working Group.

14. The source argues that this case meets the requirements of category III, because Mr. Al Natour was arrested without an arrest warrant issued by a judicial authority. He was not informed about the charges against him for more than a month and a half. Mr. Al Natour was not brought before a judicial authority until the court hearing began at the end of November 2015.

15. The source asserts that the arbitrary nature of Mr. Al Natour's detention can be determined based on the violations of the basic minimal rules of treatment of prisoners and minimum international standards of due process, including the right to prepare a defence, the right to a public hearing by an independent and impartial tribunal, as well as the right to be free from torture or other cruel, inhuman or degrading treatment or punishment. The detention facility was not subject to any regular independent scrutiny or oversight from the outside and was not listed as an official detention facility in the country.

16. With regard to the violation of the fair trial standards, the source claims that Mr. Al Natour was not allowed to communicate with his lawyer until mid-November 2015, i.e. four months after his arrest. It argues that this amounts to a violation of his rights to legal assistance and to prepare his defence.

17. Also, despite the fact that Mr. Al Natour does not speak and understand Arabic, all legal proceedings were carried out in this language. Mr. Al Natour was not provided with a translation of the charges or of the prosecution file or the assistance of an interpreter until the fourth hearing of his trial. The source argues that this constituted a violation of his right to an interpreter.

18. The source claims that Mr. Al Natour was not tried by a competent, independent and impartial tribunal, because the State Security Court, which is designated by the State Security Law No. 17 of 1959 to prosecute cases of terrorism, does not meet international human rights standards criteria. In this regard, the source affirms that the court itself cannot be seen as impartial and independent, because its judges are appointed and can be removed by the Prime Minister. It is composed of two military judges and one civilian one. Also, the General Prosecutor of the State Security Court has the rank of a military officer and is under the same administrative authority as the GID intelligence officers, i.e. the Ministry of Defence.

19. Finally, the source claims that Mr. Al Natour was subjected to *incommunicado* detention twice, firstly, during the first three weeks of detention at the premises of the GID and secondly, during his hunger strike while in Muwaqqar prison II.

20. The source argues that after Mr. Al Natour was transferred to Muwaqqar prison II, he was allowed to receive visits of his father for only an hour, once a week, during the

period from 2 October 2015 to 4 March 2016. On 4 March 2016, those conditions of detention changed dramatically after Mr. Al Natour began his five-week long hunger strike, which was carried out with some co-detainees protesting against their sentences. Allegedly, during that time, Mr. Al Natour was kept in a strict solitary confinement regime, while being prevented from any contact with the other prisoners. Also, he was left incommunicado as he was not allowed any access to the outside world and to receive medical visits.

21. The source further claims that, from 21 to 25 March 2016, Mr. Al Natour was subjected to severe beatings and other forms of torture by the prison guards forcing him to end his hunger strike.

22. On 20 May 2016, the aforementioned restrictions were lifted and Mr. Al Natour could see his father. Also, he was allowed to see a doctor appointed by the authorities for examination. However, neither he nor his family were provided with the result of that examination. Allegedly, he was not allowed to see his father or a doctor for such a long time so that most marks of tortures on his body would disappear. Nevertheless, Mr. Al Natour's father noticed that he was suffering from difficulties in breathing and had lost his hearing on his left ear.

Response from the Government

23. On 22 June 2016, the Working Group addressed a communication to the Government of Jordan requesting detailed information about the current situation of Mr. Adam Al Natour. The Working Group also requested the Government to clarify the factual and legal provisions justifying his detention and the details regarding the conformity of his trial with international law, in particular the norms of international human rights law which Jordan has ratified.

24. The Working Group regrets that it did not receive a response from the Government to this communication. The Government did not request an extension of the time limit for its reply, as provided for in the Working Group's methods of work.

Discussion

25. In the absence of a response from the Government, the Working Group has decided to render this Opinion in conformity with paragraph 15 of its methods of work.

26. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a *prima facie* case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. In this case, the Government has chosen not to challenge the *prima facie* credible allegations made by the source.

27. The Working Group has noted with concern the source's allegations about the lack of independence and impartiality by the State Security Court. In this regard, the Working Group¹ concurs with the Human Rights Committee's repeated recommendation that Jordan abolish special courts such as the State Security Court.²

¹ In its 2007 annual report (A/HRC/7/4, para. 59), the Working Group stated: "However, another issue of concern for the Working Group remains the continuing tendency towards deprivation of liberty by States abusing states of emergency or derogation, invoking special powers specific to states of emergency without formal declaration, having recourse to military, special or emergency courts, not observing the principle of proportionality between the severity of the measures taken and the situation