Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on minority issues

Ref.: OL OTH 71/2023
(Please use this reference in your reply)

23 June 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 49/10, 51/8, 52/9 and 52/5.

In this connection, we would like to offer the following comments concerning the normative and practical frameworks of the Arab Interior Ministers' Council (AIMC) of the League of Arab States (LAS), according to which red notices are circulated based on extradition requests issued by Member States, in accordance with the regional measures to combat crime and counter terrorism, and in application of the Riyadh Arab Agreement for Judicial Cooperation, and the Arab Convention for the Supression of Terrorism. These red notices do not appear to comply with the obligations of Member States under international law, in particular with principles of non-refoulement, non-discrimination, due diligence and fair trial and may implicate the duty to protect the rights to freedom of opinion and expression.

Special Procedures mandate holders have previously brought to the attention of Member States individual cases, regarding the arrest and detention pending extradition, based on red notices circulated by the AIMC.[1] In this regard, we would like to refer to States' obligations to exercice necessary due diligence, notably by excluding criminalisation of individuals for political purposes or for the mere exercise of their fundamental rights, such as the freedom of opinion, expression and assembly, and to undertake an individual risk assessment, aiming to ascertain that individuals requested for extradition are not at risk of being subjected to serious human rights violations, including torture and other forms of cruel, inhuman or degarding treatment or punishment (*non-refoulement*), or unfair trials.

Background

The Arab Interior Ministers' Council (AIMC – the Council) was established in 1982, by the League of Arab States, with the purpose of developping and strengthening cooperation and coordination amongst Arab States in the field of internal security and prevention of crime.

The Council has a General Secretariat based in Tunis, acting as the technical and administrative body. Under the supervision of the Secretary General of the AIMC, five specialized offices has been established as follows: The Arab Office for Security Support Services Affairs (based in Baghdad); the Arab Bureau for Drugs and

[1] MAR 1/2023 and ARE 3/2022

Crime Affairs (based in Amman); the Arab Bureau for Civil Protection and Environmental Affairs (based in Rabat); the Arab Bureau for Security Awareness and Media (based in Cairo), and the Arab Office for Combating Extremism and Terrorism (based in Riyadh), each working to achieve cooperation and coordination amongst Member States in the security area under its purview.

The legislative framework on extradition in the framework of combating crime and countering terrorism:

In the framework of judicial cooepration between Arab States, in the field of internal security and combating crime and terrorism, two specialised intruments were introduced, namely the Riyadh Arab Agreement for Judicial Cooperation (1983) and the Arab Convention for the Suppression of Terrorism (1998). These instruments were intended to, *inter alia*, facilitate the extradition of persons accused or convicted of having committed crimes, either felonies or misdemeanors, in another Arab State, or causing damages therein, and regulate this procedure.

In this connection, the Riyadh Arab Agreement for Judicial Cooperation (hereafter: the Riyadh agreement or the agreement) was adopted in April 1983, by the Council of Arab Ministers of Justice, through decision no. 1 of 1983, replacing the three existant 1952 agreements pertaining to judicial cooperation. The Riyad Agreement provides *inter alia* for the legal framework on extradition amongst States Parties. According to article 38 of the Riyadh agreement, States Parties are bound to extradite persons accused or convicted of having committed a crime to any other State party based on conditions elaborated in articles 39 to 57 of the agreement. In this regard, any offense punishable with deprivation of liberty for at least one year or more is deemed extraditable, whether this offense is punishable in the other State (requested) or not, and whether the person has been convicted in presence or in absentia (article 40). In cases where offenses are punishable with less than one year imprisonment, the sentence could be served in the terroritory of the State party where the person is present, subject to the consent of the convicted person and the State Party requesting the extradition (article 55). Despite the exception for "crimes of a political nature" from the obligation to extradite, article 41 (1, 2 and 3) provides for a number of instances where crimes are not considered to be political and therefore deemed extraditable, including "(1) Assault on kings and presidents of the contracting parties or their wives or their ascendants ordescendants; and (2) Assault on heirs apparent or vice-presidents of the contracting parties." In the Experts' view there is the lack of precision in defining what constitutes an "assault" on political leadership, in conjunction with a number of Member States' national security and counterterrorism legal frameworks, which appear to consider activities such as the expression of political dissent, independent media reporting, or human rights activism to be criminal offenses, these extridatable crimes may implicate activities protected under international law, notably the rights to political participation and to freedom of opinion and expression.

Furthermore, the Riyadh agreement allows for the arrest and detention, for 30 days renewable once, for a maximum period of 60 days, of persons requested for extradition. During this time, the requesting State is allowed to provide detailed information about the wanted person and the charges against him/her (article 42). The 60 days elapsed, the person should be released, without preclusion of possible re-arrest and extradition, upon the submission of a complete extradition request (article 44).

The procedures for extradition requests contained in the Riyadh agreement, should be undertaken in coordination with the Arab Organisation for Social Defense Against Crime (the Arab Criminal Police Bureau – the Bureau), through the liaison offices (article 57).

Similar extradition procedures were established, in the context of the Arab Convention for the Supression of Terrorism (hereafter: the Convention), adopted by the AIMC and the Council of Arab Ministers of Justice in April 1998. According to the Convention, which is, we understand, considered a key component of the Arab Counterterrorism strategy, States parties should undertake to extradite persons suspected or convicted of terrorism offenses involving a custodial sentence of one year or more, except for offenses of political nature. Similarly to the Riyadh agreement, the Convention does not provide a definition of what is considered a political offense, while excluding a list of conducts, such as attacks on heads of States, their families, members of Government, diplomats, etc. (article 2 (b),(c),(d),(e)), destruction of public property, as well as any offense falling within the scope of the definition of terrorism pursuant to article 1 of the Convention, from offenses considered political in nature. These exceptions in conjunction with the broad definition of terrorism set out in the Convention would allow, in the Experts' view for extradition on political grounds.

In 2004, the Council adopted an amendment to the Convention criminalizing the incitement, promotion or praising of terrorist offences and the printing, publication or possession of editions, prints or recordings of any kind if they are intended for distribution or to be shared with others and contain promotion or praising of such offences. Furthermore, in 2008, the Council approved a further amendment to criminalize the publication, printing or preparation of editions, publications or recordings of any kind for distribution or access to others with a view to encouraging the commission of terrorist crimes.

Institutional measures to track and apprehend criminals and the "Arab blacklist"

According to the information made available to the Special Procedures mandate holders, in the framework of measures undertaken by Arab States in the field of internal security and in implementation of the regional strategy to counter-terrorism, measures to faciliate the tracking and apprehension of wanted individuals have been introduced, and subsequently a list of criteria was prepared by the Legal Committee for Criminal Prosecution of the AIMC, and approved by the General Secretariat, in October 2015. Based on these criteria, a database of wanted persons in Member States was compiled, including for terrorism related offenses, and search warrants were issued by the Department of Criminal Prosecution and Data of the AIMC, through national communication divisions at the Ministries of Interior of Member States. In 2016, 1121 search warrants had been issued against persons wanted on criminal charges, among which 80 were for terrrorism offenses.

In the context of countering terrorism, the AIMC announced at its 37th session, which took place in March 2020, the issuance of the Arab blacklist of perpetrators, organisers and financiers of terrorist acts, and the listing of a number of entities on the terrorism lists by the Legal Committee for Criminal Prosecution, based on agreed criteria. The mechanism for listing individuals and entities as terrorist, in addition to

the adopted criteria appear, in the Experts' view, to be unclear.

Reportedly, the legal Committee of the AIMC, consisting of representatives of some Member States, was established to review requests to issue arrest warrants and assess their conformity with the approved standards and mechanisms, as well as to consider objections to arrest warrants issued by countries, wanted persons or their legal agents. In addition, the General Secretariat's Department of Criminal Prosecution and Data undertakes procedures in the field of prosecuting terrorism related offenses, including: activating cooperation between Arab countries in the field of research and investigation procedures, and arresting fleeing terrorist offenders; coordination between Arab countries in the field of exchanging information on terrorism issues; receiving and circulating search requests and stopping the search for people who are fugitives, accused or convicted of terrorism related offenses; periodically revising the blacklist of the organisers, perpetrators and financiers of terrorist acts and circulating it to Member States; feeding the Secretaritat's database with information and making it available to Member States to benefit from it in cooperation with the rest of the Arab countries to address this phenomenon.

Applicable International and Human Rights Law Standards

With reference to the above-mentioned procedures of circulation of red notices by the AIMC based on arrest and search warrants, issued by Member States of the League of Arab State, which appear to lack precision for the underlying legal offences and criminalize acts which are protected by international human rights law standards, we would like to refer to the Member States' obligations under international human rights law. In particular, we refer to articles 3, 5, 7, 9, and 19 of the Universal Declaration of Human Rights (UDHR), which guarantee the rights to liberty and security of a person, freedom from torture and other cruel, inhuman or degrading treatment or punishment, equality and non-discrimination before the law, freedom from arbitrary detention, freedom of opinion and expression. These rights, and the right to a fair trial, are also enshrined in articles 7, 9, 14, and 19 of the International Covenant on Civil and Political Rights ("ICCPR"), as well as in articles 8, 11, 14 and 16 of the Arab Charter on Human Rights (ACHR). We note that the issuance of such a notice has a distinct and clear consequence for the human rights of persons and then subject to the legal practice of transfer between Arab states.

1. *Exception of extradition for political crimes and the right to freedom of opinion and expression*

The normative framework on extraditions outlined in the Riyadh Arab Agreement on Judicial Cooperation and the Arab Convention for the Suppression of Terrorism appears to infringe on fundamental human rights and freedoms. While both treaties establish an exception for carrying out extraditions "if the crime for which the extradition is requested is considered by the laws of the requested party as a crime of a political nature" (article 41(a) Riyadh agreement and article 6(a) of the Arab Convention), attacks against heads of States, their families and the Government are not deemed political and are explicitly excluded from such a consideration (article 41.1 and 41.2 of the agreement and article 2 (b),(c),(d),(e) of the Convention). In addition, the treaties merely describe acts that are not considered to be of political nature and lack any definition of the offenses of political nature exempted from the extradition obligation. Regarding the exclusion of attacks against political leaders from the extradition refusal conditions for political offenses, we note the extremely

broad language used, which could be distinctively applied to criminalise the mere exercise of legitimate and peaceful activities protected by the freedom of expression, including expressing political dissent.

In this regard, we reference the right to freedom of opinion and expression guaranteed under article 19 of the ICCPR and recall that restrictions can only be imposed in compliance with the requirements set out in article 19 (3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. As the Human Rights Committee observed in General Comment No. 27 (CCPR/C/GC/27), restrictive measures must "be appropriate to achieve their protective function" and "be the least intrusive instrument amongst those which might achieve the desired result" (paragraph 14), while "the principle of proportionality has to be respected not only in the law that frames the restrictions but also by the administrative and judicial authorities in applying the law" (paragraph 15).

In addition, restrictions justified on grounds of national security or counterterrorism, must have the genuine purpose and have the demonstrable effect of protecting a legitimate national security interest (general comment No. 34, CCPR/C/GC/34). In applying restrictions, States have the burden of proof to demonstrate that any such restrictions are compatible with the ICCPR provisions.

The right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, discussion of human rights, and journalism (paragraph 11), and all forms of expression and means of their dissemination are protected, including electronic and internet-based modes of expression (paragraph 12). Furthermore, restrictions of the right to freedom of opinion and expression that a government seeks to justify on grounds of national security and counter-terrorism should adhere to the principle of proportionality and necessity, be designed and implemented in a way that respects the universality of human rights and the principle of non-discrimination, and should never be used to prosecute human rights defenders.

The Human Rights Committee has held that Article 19 includes a broad protection of political dissent and that any restriction on the basis of Article 19 (3) should not impede political debate.[2] Furthermore, the Human Rights Committee held that *"the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties, albeit public figures may also benefit from the provisions of the Covenant and all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition."*[3]

We note that the provisions on attacks against heads of States, their families and the Government cover crimes that can be qualified as `criminal defamation`. Experience shows that criminal defamation laws are often used against journalists, political opponents, human rights defenders and others who are critical of government officials and policies. In a report to the Human Rights Council on "Disinformation and freedom of opinion and expression", the Special Rapporteur Freedom of expression affirmed that *"Criminal law should be used only in very exceptional and*

[2] GC 34, para 28.
[3] GC 34, para 38.

most egregious circumstances of incitement to violence, hatred or discrimination. Criminal libel laws are a legacy of the colonial past and have no place in modern democratic societies. They should be repealed."[4] Similarly, in a report to the Human Rights Council on "Reinforcing media freedom and the safety of journalists in the digital age", the Special Rapporteur affirmed that *"States should repeal criminal defamation and seditious libel laws and laws criminalizing the criticism of State institutions and officials. Criminalization of speech (other than in the most egregious cases of incitement to violence and hatred) is disproportionate, gags journalism and damages democratic discourse and public participation."*[5]

2. *The principles of non-refoulement and non-discrimination*

Based on the individual cases treated by the Special Procedures mandate holders, we noticed that in considering the extradition requests, under the Riyadh Agreement framework, States do not appear to exercise due diligence in assessing the political nature of the charges brought against individuals, and no individual risk assessment appears to be either envisaged or undertaken. It is also worth noting that the normative framework on extradition is silent on the risk assessment requirement and the risks pertaining to *refoulement*.

In this regard, the provisions providing for exceptions to extradition do not refer to the international absolute and non-derogable principles of non-discrimination and non-refoulement, both are considered norms of *jus cogens* applicable to all States, at all times, with no exception or limitation, regardless of their treaty obligations. In order to uphold the principle of non-refoulement, States are required to conduct an individual risk assessment to ascertain the risks the person may be facing if extradited to the requesting State, in particular the risk of being subjected to torture and other forms of ill-treatment, as well as being prosecuted without due respect of the fundamental guarantees of fair trial. States should further ensure that the request for extradition has not been made for the purpose of prosecuting or punishing a person on grounds of race, religion, nationality, ethnic origin, political opinions, sex or status.

In this regard, we recall article 3 of the Convention against torture and other cruel, inhuman or degarding treatment or punishment, which provides that, "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture"; and that, "[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights". The Committee against Torture General Comment N. 4 on the implementation of article 3, states in its paragraph 13 that "Each case should be examined individually, impartially and independently by the State party through competent administrative and/or judicial authorities, in conformity with essential procedural safeguards, notably the guarantee of a prompt and transparent process, a review of the deportation decision and a suspensive effect of the appeal. In each case, the person concerned should be informed of the intended deportation in a timely manner…". This individual risk assessment should be conducted in due consideration of the situations indicated as representing a risk of torture, in paragraph 29 of the General Comment, including "(d) Whether the person has been judged in the State of origin or would be judged in the State to which the person is

[4] A/HRC/47/25, para. 89.
[5] A/HRC/50/29, para 111.

being deported in a judicial system that does not guarantee the right to a fair trial."

Furthemore, on the conditions for refusal of extradition, we refer to the General No. 4 (2017), of the Committee Against Torture, on the implementation of article 3 of the Convention in the context of article 22, requested States, in paragraph 49 (f) to asses "Whether the complainant has engaged in political or other activities within or outside the State concerned that would appear to make the complainant vulnerable to the risk of being subjected to torture were the complainant to be expelled, returned or extradited to the State in question" to comply with the obligation against refoulement. Furthermore, the United Nations Model Treaty on Extradition[6], which distinguishes five categories of exceptions, relating to: (1) the nature of the offences; (2) the personal status or situation of the offender; (3) the protection of the individual against the possibility of an unfair trial or inhuman or degrading punishment in the requesting State; (4) the priority of the jurisdiction of the requested State in cases where the offence also constitutes a breach of the law of the requested State; and (5) the maintenance of reciprocity in extradition relations. The treaty elaborates, in its article 3, on the mandatory grounds for refusing to grant extradition, including: " (a) If the offence for which extradition is requested is regarded by the requested State as an offence of a political nature. Reference to an offence of a political nature shall not include any offence in respect of which the Parties have assumed an obligation, pursuant to any multilateral convention, to take prosecutorial action where they do not extradite, or any other offence that the Parties have agreed is not an offence of a political character for the purposes of extradition; (b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons; (f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, article 14; (g) If the judgment of the requesting State has been rendered in absentia, the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence".

We further draw your attention to paragraph 16 of the resolution A/RES/65/205 of the UN General Assembly, which "…recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement." The Human Rights Committee further indicated that "the State party should exercise the utmost care in evaluating diplomatic assurances and should refrain from relying on such assurances where it is not in a position to effectively monitor the treatment of such persons after their return and take appropriate action when assurances are not fulfilled." (CCPR/C/TJK/CO/2 (2013), para. 12).

We emphasise that the international principles of non-discrimination and non-refoulement are absolute and non-derogable and have reached the status of *jus cogens*. They are therefore applicable on all States at all times, without any possible restriction, regardless of their treaty obligations.

[6] UN Model Treaty on Extradition, adopted by UNGA Resolution 45/116 (14 December 1990) A/RES/45/116, subsequently amended by General Assembly Resolution 52/88.

3. *The definition of terrorism under the Arab Convention*

The Arab Convention excludes any conduct falling under the scope of the definition of terrorism, in article 1, from the offenses perceived to be of political nature. In this respect, we note the broad language used, defining terrorism as "any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardise a national resource", can be subject to wide interpretation. We highlight that terms such as "violence", "threat", "seeking to cause damage to the environment or to public or private installations"; and "seeking to jeopardise a national resource", could involve a range of activities such as political participation and the activities protected under international human rights law by the freedom of expression, and the freedom of peaceful assembly and association

In this respect, we bring to your attention the "principal of legal certainty" under article 15(1) of the ICCPR, which requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and what would be the legal consequences of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has called on States to ensure that their counterterrorism and national security legislation, is sufficiently precise in order to comply with the principle of legal certainty, so as to prevent the possibility that it may be used to target civil society actors on political or other unjustified grounds, and to restrict a range of activities protected by the freedoms of opinion, expression, association, and political participation. We recall the Human Rights Committee General Comment No. 27 (CCPR/C/GC/27), indicating that restrictive measures must "be appropriate to achieve their protective function" and "be the least intrusive instrument amongst those which might achieve the desired result" (paragraph 14), while "the principle of proportionality has to be respected not only in the law that frames the restrictions but also by the administrative and judicial authorities in applying the law" (paragraph 15).

We also bring to your attention the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (E/CN.4/2006/98, para. 37) providing a model definition of terrorist acts including the following cumulative characteristics:

a) Acts, including against civilians, committed with the intention of causing death or serious bodily injury, or the taking of hostages;

b) Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, also committed for the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; and

c) Such acts constituting offences within the scope of and as defined in the international conventions and protocols relating to terrorism.

4. *Arrest and detention pending extradition requests and asssociated safeguards*

The Riyadh agreement allows for the arrest and detention, for a maximum period of 60 days, of persons requested for extradition. In view of the individual cases already addressed by the Special Procedures mandate holders, we highlight that this provision could permit the arbitrary deprivation of liberty for the purpose of extradition, and may deprive wanted persons from their fundamental safeguards, in particular their right to contest the legality of their detention, the right to have regular and confidential contact with a lawyer of their choosing, and when needed, ex officio legal representation, as well as to be informed of the charges against them, and be brought promptly before a judicial authority, among other legal and procedural guarantees providing protection against the risk of torture and ill-treatment and ensuring the right to fair trial. We emphasise that detention in the context of extradition, such as pretrial detention, should be justified in due consideration of the principle of necessity, judicial examination, and possible alternarives, and therefore should not be routinetly imposed (Human Rights Committee, General Comment No. 35 on article 9 of the ICCPR, para. 38). In addition, when detention is necessary it should be applied in due respect of safeguards against arbitrariness and abuse, and of the rule of law.

In this regard, we would like to bring to your attention the legal and procedural safeguards against torture and ill-treatment including the right to legal counsel and to contact one's family from the outset of arrest provided in the UN Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment (Body of Principles). Furthermore, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment reiterated, "The risk of torture and ill-treatment is greatest in the first hours of custody and during incommunicado detention. Therefore, preventive safeguards must be implemented immediately after arrest, including the notification of a third party, access to a lawyer and a physician and the furnishing of the detainee with information on their rights, available remedies and the reasons for arrest." (A/73/207). We further emphasise that among the core elements of a fair trial is the right to legal assistance, which undergirds "the right to a fair and public hearing by a competent, independent and impartial tribunal, as established by law under articles 3 and 9 of the UDHR.

Although the right to a fair trial is not listed as a non-derogable right under article 4(2) of the ICCPR, the Human Rights Committee has considered the right to a fair trial as one which may not be subject to derogation where this would circumvent the protection of non-derogable rights. Even in situations when derogation from article 14 is permissible, the principles of legality and the rule of law require that the fundamental requirements of fair trial must be respected.

Finally, we respectfully remind you of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123, 72/180 and 73/174. All these resolutions require that States must ensure that any measures taken

to combat terrorism and violent extremism comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law contained therein.

In this context, we recommend the AIMC to ensure the compliance of arrest warrants circulated by its mechanisms with the principles of non-discrimination and non-refoulement as well as other obligations enshrined in binding international and regional human rights instruments. Furthermore, we recommend the AIMC to create an independent, accessible, and transparent legal mechanism, allowing wanted individuals to access their criminal file and request the review or removal of an arrest warrant.

We note that international best practice encourages regional institutions to regularly review their counter-terrorism strategies to ensure that they remain consistent with international law. In this context, we would be pleased to offer technical assistance on any of the issues raised in this communication.

As it is our responsibility, under the mandate 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 comments you may have on this analysis.

2. Please provide detailed information on, and where possible share a copy of, the AIMC's list of criteria for listing and removing entities and individuals from the terrorism lists.

3. Please provide information on how the principles of non-discrimination and non-refoulement are being integrated in the assessment of requests submitted by Member States to list individuals and/or issue red notices against them.

4. Please provide information on how the definition of terrorism in the Arab Convention on the Suppression of Terrorism, is narrowly construed to guarantee that measures taken pursuant to it do not unduly interfere with human rights while complying with the principle of legality. Also, please explain if any measures have been undertaken, or are foreseen, in order to bring the terrorism defintion into compliance with international standards.

5. Please explain what is considered to be attacks/assaults against political leaders, pursuant to article article 41 of the Riyadh agreement and article 2 (b),(c),(d),(e) of the Arab Convention, and explain how this interpretation protects the exercise of fundamental rights, notably the freedom of expression and opinion in accordance with Article 19 ICCPR.

6. Please explain how the "red notices" mechanism of the AIMC ensures the access of wanted person, including for terrorism charges, to legal and procedural safeguards, when detained pending extradition. In particular, how are fair trial and due process guarantees, including the

right to access to a lawyer, the right to contest the legality of detention, the right to be promptly brought before a judicial authority, among others, are being protected and upheld.

7. Please explain what risk asessment is required from Member States requesting the extradition of an individual, to ascertain that persons are not being accused or convicted for offenses of political nature and are not at risk of being tortured or subjected to an unfair trial, if extradited.

8. Please provide detailed information on the review and oversight system, within the AIMC, allowing wanted persons to access their criminal file and submit a request to review or remove an arrest warrant issued against them.

9. Please provide information on the role of the Department of Criminal Prosecution and Data of the AIMC in issuing red notices and in coordinating with the Ministries of Interior of Arab States to update and review the lists of wanted individuals.

10. Please provide detailed information on the composition of the Legal Committee for Criminal Prosecution, as well as its role and the applicable criteria in compiling the so-called "Arab blacklist" of individuals and entities, under the AIMC's counterterrorism policy.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Matthew Gillett
Vice-Chair of the Working Group on Arbitrary Detention

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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