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COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

CASE No. BAH/03 - MATAR EBRAHIM MATAR) BAHRAIN
CASE No. BAH/04 - JAWAD FAIROOZ GHULOOM)

Decision adopted by the Committee at its 140th session
(Geneva, 14 - 18 January 2013)

The Committee,

Referring to the outline of the case concerning Mr. Matar Ebrahim Matar and Mr. Jawad Fairouz Ghuloom, and to the resolution adopted by the Governing Council at its 191st session (October 2012),

Taking into account the letter from the Speaker of the Council of Representatives dated 9 January 2013 and the extensive information provided by the Bahraini delegation, led by Mr. Jamal Fakhro, First Deputy Speaker of the Shura Council, at the hearing held on 15 January 2013,

Recalling that Mr. Matar and Mr. Fairouz, who both belong to the Al-Wefaq party, were elected in 2010 and supported the call for political and social reform in Bahrain, that they and the other 16 Al-Wefaq parliamentarians tendered their resignations on 27 February 2011 in protest at the government's response to the demonstrations that started in the capital on 14 February 2011, and that their resignations were accepted by the Council of Representatives on 29 March 2011,

Also recalling that the source affirms the following: both men were arbitrarily arrested on 2 May 2011 by security forces and taken to different detention centres, where they were ill-treated and denied access to family and legal counsel; their families reportedly only found out what had happened to them when trial proceedings started against them on 12 June 2011 before a special military court, the Court of National Action; at the court hearing, the accused were informed that they were charged with spreading false information, instigating hatred against the authorities and participating in and organizing unauthorized and unlawful meetings; both men denied the charges; they were released from detention on 7 August 2011; Mr. Matar was subsequently acquitted on 20 February 2012,

Considering the following information on file: two charges remained pending against Mr. Fairouz, namely participation in a gathering aimed at disrupting public security and calling for and organizing marches without properly notifying the authorities; on 7 November 2012, Mr. Fairouz was sentenced on these charges to a 15-month prison sentence or, alternatively, the payment of a fine of 300 Bahraini dinars to forestall execution of the prison sentence; Mr. Fairouz appealed the

sentence; according to the source, on 15 January 2013, the High Court confirmed the sentence on appeal following a single appeal hearing; at the hearing, Mr. Fairouz's lawyer was apparently asked to explain where Mr. Fairouz was; when he answered that Mr. Fairouz was out of the country, the judge stated that the verdict would be announced at the end of the day,

Recalling that an independent commission (Bahrain Independent Commission of Inquiry) appointed and entrusted by the King of Bahrain with investigating alleged human rights abuses during and following the 2011 protests in the country, officially presented its report on 23 November 2011 and concluded the following:

- "The text and application of Articles 165, 168, 169, 179 and 180 of the Bahrain Penal Code raises questions about their conformity with international human rights law and the Constitution of Bahrain"; "the Government of Bahrain used these articles to punish those in the opposition and to deter political opposition";
- "In a substantial number of the arrests carried out by law enforcement agencies warrants were not presented to arrested individuals and arrested individuals were not informed of the reasons for their arrest";
- "In many cases, government security forces resorted to the use of unnecessary and excessive force, and in a manner that sought to terrorize individuals"; "many detainees were subjected to torture and other forms of physical and psychological abuse while in custody, which indicated patterns of behaviour by certain government agencies and that the extent of this physical and psychological mistreatment is evidence of a deliberate practice"; "the techniques used to mistreat detainees fall within the meaning of torture as defined in the United Nations Convention against Torture, to which Bahrain is a State Party"; "the lack of accountability of officials within the security system in Bahrain has led to a culture of impunity, whereby security officials have little reason to avoid mistreating prisoners or to take action to prevent mistreatment by other officials",

Recalling that, by letters of 27 September 2011, copies of which have been provided to the Committee, Mr. Matar and Mr. Fairouz submitted a five-page detailed complaint about their alleged arbitrary arrest and ill-treatment in detention to the King of Bahrain, the President of the Supreme Judicial Council, the Supreme Commander of the Bahrain Defence Force, the Minister of Social Development and Human Rights, the Minister of the Interior, the Minister of Justice, the Public Prosecutor, the Head of Military Justice, the Chairman and members of the Bahrain Independent Commission of Inquiry, and the National Foundation for Human Rights; *recalling also* that Mr. Matar's testimony to the Bahrain Independent Commission of Inquiry regarding his ill-treatment is included in its final report, under "Annex B: Summary of Torture Allegations", as one of sixty examples,

Considering that the complaints of both men are pending in court and that, according to the Bahraini authorities, no evidence has emerged thus far to sustain the allegations of ill-treatment,

Considering that the Speaker of the Council of Representatives has repeatedly questioned, most recently in his letter of 9 January 2013, as did the Bahraini delegation at the hearing, the Committee's competence to examine the case of Mr. Matar and Mr. Fairouz because they were no longer members of

parliament when they were arrested and that there was no reason to believe that there had been a violation of their human rights as parliamentarians,

Considering that, as stated by the Speaker of the Council of Representatives and the Bahraini delegation, the authorities have undertaken significant legislative and institutional reforms to follow up on the report of the Bahrain Independent Commission of Inquiry, for example modifying relevant articles of the Penal Code with a view to strengthening freedom of expression, creating an Ombudsman within the Ministry of the Interior and a Special Investigations Unit within the Public Prosecutor's Office and providing a legal foundation to ensure compensation for victims of abuse; *considering also* that, according to the Speaker's letter of 9 January 2013, three police and security officers have thus far been sentenced to seven-year prison terms for ill-treating demonstrators and another 12 cases against law enforcement officers are pending in the courts,

Considering the following information on file: on 7 November 2012, Mr. Fairouz, who was visiting the United Kingdom that day, was stripped of his nationality by an administrative decision, along with 30 others; it appears that the revocation is based on clause C of Article 10 of the Citizenship Law, which permits the revocation of nationality when a holder of Bahraini citizenship undermines State security; Mr. Fairouz, who states that he has always been committed to the peaceful expression of views, rejection of violence and promotion of political reform to create a genuine constitutional monarchy, is now, as a result, stateless; according to the source, some of those who are in Bahrain and had their citizenship revoked have apparently tried to challenge the decision, which they consider unconstitutional, but have been denied the possibility of having their lawyers defend their case; the Bahraini delegation affirms that those who had their nationality revoked can effectively appeal that decision with full respect for due process, including the rights of defence, but that the persons concerned chose not to do so; when asked about the possible motives for the revocation of Mr. Fairouz's nationality, the Bahraini delegation appeared to imply that Mr. Fairouz was associated with calls made in some quarters to consider Bahrain as the fourteenth province of the Islamic Republic of Iran,

Considering that the Universal Declaration of Human Rights stipulates that no one shall be arbitrarily deprived of nationality, that the 1961 Convention on the Reduction of Statelessness, to which Bahrain is not a party, enshrines the basic principle that no one should be deprived of nationality if such deprivation results in statelessness but allows States to make an exception to this principle with regard to acts inconsistent with a duty of loyalty, either in violation of an express prohibition to render service to another State, or by personal conduct seriously prejudicial to the vital interests of the State, and that a State party to the 1961 Convention can only deprive an individual of nationality on this ground if it specifies its retention of that right at the time of signature, ratification or accession and if it does so in accordance with the law and accompanied by full procedural guarantees, such as the right to a fair hearing,

1. *Thanks* the Speaker of the Council of Representatives and the members of the Bahraini delegation for their cooperation and the information they provided;

2. *Stresses* its long-standing jurisprudence with respect to legal proceedings brought against former members of parliament, according to which it is competent to examine such situations if they concern allegations which refer to events that allegedly occurred when the individual subject to the legal proceedings was a member of parliament or if the allegations are directly related to his/her previous work as a parliamentarian;
3. *Reaffirms* that it considers it is competent to examine the case at hand precisely because the accusations giving rise to the arrest, detention and prosecution of Mr. Matar and Mr. Fairouz refer to events that occurred, if only in part, during a period when both men were still members of parliament;
4. *Is keen to receive* a copy of the first-instance and appeal judgment against Mr. Fairouz so as to understand how the court reached its conclusions;
5. *Appreciates* the extensive efforts made by the authorities to enhance Bahrain's legal and institutional framework to address complaints of ill-treatment against its citizens; *is concerned*, however, that, despite these efforts and the testimony provided by both Mr. Fairouz and Mr. Matar regarding their ill-treatment in detention, the authorities have been unable to complete the investigation more than one-and-a-half years after the alleged ill-treatment took place; *urges* the authorities, bearing in mind the extremely serious conclusions of the Bahrain Independent Commission of Inquiry regarding the use of torture and other forms of physical and psychological abuse of detainees during and after the protests, to ensure that the investigation will swiftly shed full light on the allegations;
6. *Notes with deep concern* that Mr. Fairouz has been stripped of his nationality; *stresses* that, under international law, the revocation of nationality is an extremely serious measure, all the more so if it leads to statelessness, and can only take place with full respect for due process; *considers*, however, that it can only examine this new development if there is a direct link between the revocation, on the basis of its long-standing jurisprudence referred to above, and Mr. Fairouz's previous exercise of his parliamentary mandate; *wishes*, therefore, to receive a copy of the decision to revoke his nationality, in particular so as to know the motives and facts underpinning it;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities and to the source;
8. *Decides* to continue examining this case.