



31 October 2017

Office of the High Commissioner for Human Rights
United Nations Office at Geneva
8-14, avenue de la Paix
1211 Geneva 10

Re: Input to the report of High Commissioner on civil society space in multilateral institutions

We write to bring our input to the upcoming report of the United Nations High Commissioner for Human Rights on civil society space in multilateral institutions. In particular, we wish to express our concerns over the process of application for special consultative status with the Economic and Social Council and provide as an example the case of the Alkarama Foundation.

Who is Alkarama?

The Alkarama Foundation was established in 2004 to act as a bridge between victims of the most serious human rights violations in the Middle East and North Africa region and the UN human rights mechanisms. Since its creation, we have submitted thousands of cases of victims of human rights violations from all Arab countries to the UN mechanisms and have worked in close collaboration with the Office of the United Nations High Commissioner for Human Rights, which considers us to be a reliable and credible source. We have also been very active in our engagement with the Treaty Bodies, to which we have submitted 52 reports, as well as with the Human Rights Council, to which we have submitted 40 reports in the framework of the Universal Periodic Review. As a result, since 2004, we have established ourselves as a trusted channel for all victims of human rights violations as well as for civil society in the region to refer their cases to the UN human rights mechanisms.

Denial of ECOSOC status

Following our application for the ECOSOC consultative status, filed in May 2015, the Committee on Non-Governmental Organizations decided by consensus to recommend that the Alkarama Foundation be granted special consultative status at its Resumed Session in May 2017.¹

However, on 26 July 2017, during the Coordination and Management Meeting of the Economic and Social Council, the United Arab Emirates (UAE) introduced draft resolution E/2017/L.35 demanding that our foundation be denied special consultative status, claiming that Alkarama had "clear connections to terrorism". The resolution was adopted by the ECOSOC,² overturning the positive recommendation of the NGO Committee.

¹ United Nations Social and Economic Council, *Report of the Committee on Non-Governmental Organizations on its 2017 resumed session, New York, 22-31 May and 12 June 2017*, 23 June 2017 (E/2017/32 (Part II)), draft decision I, p. 7/55.

² See meeting coverage: Economic and Social Council 2017 Session, 51st Meeting (AM), *Economic and Social Council Denies Consultative Status to Non-governmental Group with Alleged Terrorism Ties, Fills Vacancies in Subsidiary Bodies*, 26 July 2017, <https://www.un.org/press/en/2017/ecosoc6867.doc.htm>

This resolution was introduced after a thorough and lengthy vetting process by the NGO Committee, during which we responded to seven requests for additional information, and provided all required supporting documents. We believe, therefore, that the resolution was not only arbitrary, but also political in nature and constituted a reprisal for our engagement with the UN protection mechanisms.

Indeed, we contend that the decision of the Economic and Social Council is arbitrary as we were never provided with any opportunity to respond to the wrongful allegations made by the UAE. At no point were we informed about the resolution nor of the means available to us to challenge the claims made by the UAE. To this day, we have never been officially notified of the decision not to grant us the ECOSOC status nor informed about the procedures available to us to challenge this decision. On 9 October 2017, we issued a letter to all 54 member states of the Economic and Social Council addressing these concerns (see annex) and have received no response.

Furthermore, we contend that the UAE resolution constitutes a form of reprisals against our work and engagement with the UN human rights mechanisms. In particular, we believe the filing in November 2015 of a complaint against the UAE before the Human Rights Council under Resolution 5/1 to be directly related to the resolution introduced to deny us the ECOSOC status.

It is our opinion that the adoption of such a resolution introduced by the UAE, a country that has been featured in all five of the most recent reports on reprisals by the UN Secretary General (2013-2017),³ sets a dangerous precedent.

It is also contrary to article 71 of the United Nations Charter, under which the Economic and Social Council must support civil society participation within the UN system. By denying Alkarama the consultative status, the UAE have tried to shut down a trusted channel between victims from the MENA region and the UN human rights mechanisms. As such, this decision goes against the values that must be upheld by all members and organs of the United Nations.

We recall that under resolution 1996/31 on "consultative relationship between the United Nations and non-governmental organizations", consultative status should be granted to organisations whose aims are in "conformity with the spirit, purposes and principles of the Charter of the United Nations", and which "undertake to support the work of the United Nations and to promote knowledge of its principles and activities". We consider that Alkarama fully fulfils this criteria, considering the very core of its work is to provide information to the UN human rights mechanisms on violations occurring in the Middle East and North Africa region.

Conclusion

In its 2016 report (A/HRC/32/20), the High Commissioner recommended to international organisations to, among others, "expand the transparency [...] of public meetings". We believe that it is not only the transparency of meetings that must be improved, but also that of decision-making processes, which, as our case demonstrates, remain opaque.

It also constitutes a direct obstacle to a free, non-discriminatory participation of civil society respectful of international standards related to freedom of expression and association.

(accessed on 17 October 2017). The statement of the United Arab Emirates is available here: https://www.un.int/uae/statements_speeches/uae-statement-application-ngo-fondation-alkarama-consultative-status-ecosoc (accessed on 17 October 2017). The webcast is also available here: <http://webtv.un.org/watch/51st-meeting-coordination-and-management-meeting-economic-and-social-council-2017-session/5522090616001/> (accessed on 17 October 2017).

³ See Reports by the UN Secretary General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights No. A/HRC/24/29 (2013), A/HRC/27/38 (2014), A/HRC/30/29 (2015), A/HRC/33/19 (2016) and A/HRC/36/31 (2017).

The danger is that States such as the UAE label legitimate and peaceful activities as “terrorist” and now seek to hinder a much needed input by civil society to the UN mechanisms under the same pretext.

Enclosed:

1. Letter to ECOSOC members.



9 October 2017

To all members of the United Nations Economic and Social Council

Re: Denial of ECOSOC status to the Alkarama Foundation

Your Excellency,

We are writing concerning the decision of the Economic and Social Council not to grant special consultative status to our Foundation following a resolution introduced by the United Arab Emirates (E/2017/L.35). This decision was adopted during the Coordination and Management Meeting of the Economic and Social Council on 26 July 2017 and goes against the positive recommendation of the Committee on Non-Governmental Organisations taken in May 2017. To this day, we have not been officially notified of the decision nor informed about the procedures available to us to seek redress.

Alkarama firmly believes that this resolution has been adopted based on false information provided by the UAE. In the spirit of openness, we wish to clarify the arguments raised by the UAE in relation to our alleged "clear connection to terrorism". We also argue that the denial of ECOSOC status constitutes a form of reprisals against our engagement with the UN human rights mechanisms. States which label legitimate and peaceful activities as "terrorist" are now seeking to hinder a much needed input by civil society to the UN human rights mechanisms under the same pretext. We believe that our submission of communications to the UN Special Procedures as well as the filing of a complaint before the Human Rights Council on the UAE triggered this unjustified act of reprisal.

Alkarama's work

We recall that Alkarama is a Swiss Foundation¹, registered in 2007 to provide *pro bono* legal assistance to victims of the most serious human rights violations – notably extrajudicial execution, enforced disappearance, torture, and arbitrary detention – by using international human rights mechanisms and working very closely with the Office of the United Nations High Commissioner for Human Rights. Since Alkarama's establishment, we have submitted thousands of communications to the Special Procedures on behalf of victims of human rights violations.

In this regard, during the 36th session of the Human Rights Council held in September 2017, the Special Procedures published their communications report, covering the period from 1 March to 31 May 2017. Out of the 29 communications sent to governments of the Middle East

¹ As a Swiss foundation, our organisation is under the scrutiny of the Federal Supervisory Board for Foundations of the Swiss Federal Department of Home Affairs (FDHA).

and North Africa (MENA) region, Alkarama had documented nine of the corresponding cases.² Another example of our strong collaboration with the UN mechanisms is the fact that between its 75th and 78th session (April 2016 – April 2017), the Working Group on Arbitrary Detention adopted 17 Opinions on cases filed by Alkarama (out of 38 Opinions issued on countries in the MENA region).³

In addition, we have used our expertise to prepare in-depth reports for submission to the UN Treaty Bodies. So far we have submitted three reports to the recently established Committee on Enforced Disappearances, 18 to the Human Rights Committee, and 31 to the Committee against Torture.⁴ We have also attended numerous meetings with the Committee's experts, including to brief them on our key concerns ahead of countries' reviews. Furthermore, we have initiated two confidential inquiries on Lebanon and Egypt under article 20 of the UN Convention against Torture, for which the Committee issued its conclusions in 2014 and 2017, respectively, thus confirming that the information provided by Alkarama was well founded.⁵ Finally, we have submitted 40 reports in the framework of the Universal Periodic Review, and regularly appear as a reference in the summaries of stakeholders' information prepared by the OHCHR.

Response to the allegations raised

During the ECOSOC Coordination and Management meeting, the UAE stated that they had designated Alkarama as a terrorist organisation. This refers to a list published by the Emirates News Agency in November 2014 of 83 designated terrorist organisations, among which the "Alkarama organisation" was listed.⁶ We did not receive any notification of such a designation, so we sought clarification by writing to the UAE Permanent Mission in Geneva. However, we never received a response. The publication of this list sparked considerable outrage, considering it included well-known organisations based in the US, the UK and Norway.⁷ We also wish to recall that UAE Federal Law No. 7 of 2014 on combating terrorist crimes defines terrorism in an overly broad and vague manner. "Opposing the country"⁸ constitutes a terrorist act and is being used to prosecute acts of peaceful dissent or human rights advocacy.

² Qatar, JUA QAT 2/2017 on Mr Mohammad al-Otaibi ; Egypt JUA EGY 5/2017 on Dr. Ahmed Shawky Abdelsattar Mohamed Amasha; United Arab Emirates, JAL ARE 3/2017 on Dr Naser Bin Ghaith; JUA LBN 1/2017 on Mr Zeyad Al Dolae; Djibouti, JUA DJI 1/2017 on 19 members of the opposition; Algeria, JAL DZA 2/2017 on Mr Rafik Belamrania; Oman, JUA OMN 1/2017 on Mr Yousuf Al Haj; United Arab Emirates JUA ARE 1/2017 on Mr Ahmed Mansoor; Qatar JUA QAT 1/2017 on Mr Mohammad Jaber Salem Meshab.

³ Opinions No. 7/2016, 13/2016, 26/2016, 27/2016, 39/2016, 42/2016, 54/2016, 60/2016, 3/2017, 10/2017, 11/2017, 17/2017, 20/2017, 21/2017, 21/2017, 33/2017, 36/2017.

⁴ All these reports are available on our website (<https://www.alkarama.org>) as well as relevant pages of the OHCHR.

⁵ Summary account of the results of the proceedings of the inquiry on Egypt, A/72/44, paras 58-71, 23 June 2017 and Summary account of the result of the proceedings concerning the inquiry on Lebanon, A/69/44, paras. 100-115 and Annex XIII, 2 October 2014, available here: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Inquiries.aspx.

⁶ WAM Emirates News Agency, *UAE Cabinet approves list of designated terrorist organisations, groups*, 15 November 2014, <http://wam.ae/en/details/1395272478814> (accessed on 4 October 2017).

⁷ Human Rights Watch, *UAE: Terrorism Law Threatens Lives, Liberty – Proselytism One of Many New Capital Offenses*, 3 December 2014, <https://www.hrw.org/news/2014/12/03/uae-terrorism-law-threatens-lives-liberty> (accessed on 4 October 2017).

⁸ Article 1 defines a "terrorist outcome" as follows: "Inciting fear among a group of people, killing them, or causing them serious physical injury, or inflicting substantial damage to property or the environment, or disrupting security of the international community, or opposing the country, or influencing the public authorities of the country or another country or international organisation while discharging its duties, or receiving a privilege from the country or another country or an international organisation."

Additionally, the UAE explained that the United Nations Sanctions Committee had designated one of our founders, Abdulrahman Al Nuaimi, as a financier and facilitator of terrorism. This designation followed his listing by the U.S. Department of Treasury in December 2013.⁹ We wish to point out that the U.S. Treasury has never submitted any evidence to support these allegations. Mr Al Nuaimi denied all charges and officially notified the American authorities as well as the UN Sanctions Committee of his willingness to fully cooperate in order to prove his innocence.

Furthermore, in its statement before the ECOSOC, the UAE wrongly claimed that "Alkarama had not attempted to distance itself from Al Nuaimi". Indeed, since his resignation from Alkarama's Board of Trustees in July 2014¹⁰ in order to not cause any prejudice to Alkarama, Mr Al Nuaimi has no longer been a member of the organisation. Since then, and contrary to the claims made by the UAE and Algeria, Mr Al Nuaimi has not held any official position at Alkarama nor has he been involved in its work.

In addition, in a spirit of transparency, Alkarama contacted the U.S. Treasury Department, which, in January 2015, officially confirmed in a letter that "Alkarama has never been sanctioned, and that Mr Nuaimi's designation concerned him in a personal capacity.

We also reject claims made by the UAE that we have not been forthright in our application to the NGO Committee and that the latter "may not have been able to consider closely the serious issues that affect Alkarama". Indeed, and as you know, the NGO Committee carries out a thorough and lengthy vetting process before recommending organisations for ECOSOC status. We provided several supporting documents, including the statutes of our foundation as well as our financial statements, and thoroughly responded to seven requests for additional information over the course of four sessions of the Committee. If, however, some elements remained unclear to the NGO Committee, we always stood ready and willing to respond to further questions.

Moreover, the UAE referred to our previous withdrawal of an application for the ECOSOC status in May 2014. We recall that in February 2017 the NGO Committee already requested clarification from our part on this point, to which we responded in good faith and in a transparent manner.¹¹

The denial of ECOSOC status constitutes a form of reprisals

⁹ U.S. Department of the Treasury, Treasury Designates Al-Qa'ida Supporters in Qatar and Yemen, 18 December 2013, <https://www.treasury.gov/press-center/press-releases/Pages/jl2249.aspx> (accessed on 4 October 2017).

¹⁰ The decision of the Swiss Official Gazette of Commerce No. 1641359 is available here: <https://www.shab.ch/shabforms/servlet/Search?EID=7&DOCID=1641359> (accessed on 4 October 2017).

¹¹ We explained that we had felt that questions put to us by the Committee were politicised. In particular, in January 2013, the NGO Committee asked why we were not dealing with human rights violations committed by non-state actors in Syria, citing a case in which two Russian citizens and an Italian engineer were kidnapped by armed groups. We explained that we only dealt with cases of violations committed by states since the UN mechanisms we work with cannot communicate directly with non-state actors. Despite this response, the NGO Committee reproached us for ignoring its "concerns over serious violations of human rights committed by armed opposition groups in the Syrian Arab Republic to Russian citizens in this country", which is false since we had provided a timely and complete answer to their question.

We strongly refute all the above allegations, which are unfortunately not new to us. In fact, they have been used systematically by several Arab governments to spread rumors about Alkarama being a terrorist organisation in an attempt to discredit and undermine our work and cooperation with the UN human rights mechanisms.

These attempts to undermine our credibility can be illustrated with the September 2017 publication of the results of the proceedings of an inquiry on Egypt by the UN Committee against Torture, which was initiated by Alkarama.¹² While the UN experts concluded that “the information submitted was reliable and contained well-founded indications that torture was being systematically practiced in the territory of Egypt”,¹³ the authorities denied the “admissibility and reliability of the information submitted by Alkarama”, claiming they were “based on hearsay and lacked supporting evidence”.¹⁴

In a similar vein, we are convinced that the resolution presented by the UAE and adopted by the ECOSOC constitutes yet another form of reprisals against our work and engagement with the UN mechanisms. Indeed, in addition to the numerous cases of human rights violations we brought to the attention of the Special Procedures over the past several years regarding the UAE, and faced with the latter’s refusal to implement the UN experts’ recommendations, in November 2015 we filed a complaint before the Human Rights Council (under Resolution 5/1) to address consistent patterns of gross human rights violations in the country. We believe this to be directly related to the resolution introduced to deny us the ECOSOC status.

While the UAE affirmed during the Coordination and Management meeting that “civil society participation is an important aspect of the United Nations”, we recall that the UAE has been featured in all five of the most recent reprisals reports by the UN Secretary General.¹⁵

Indeed, the country is known for systematically silencing all dissenting voices whom they accuse, *inter alia*, of “terrorism”, “spreading false information” or “tarnishing the image of the State”. The most recent case illustrating this systematic practice of reprisals against peaceful human rights advocacy is that of renowned activist and 2015 Martin Ennals Award Laureate Ahmed Mansoor. He was arrested in March 2017 in retaliation for his engagement with the UN mechanisms and falsely accused of “circulating false and misleading information on the Internet with a view to spreading hatred and sectarianism.” He is currently detained despite a public statement of several Special Procedures mandate holders calling for his immediate release.¹⁶

Your excellency, members of the Economic and Social Council must support civil society participation within the UN system, as per article 71 of the United Nations Charter. We believe the denial of the ECOSOC status to the Alkarama Foundation constitutes a means of shutting down a trusted channel between individuals from the MENA region and the UN human rights mechanisms, whose role is to protect human rights universally.

¹² Summary account of the results of the proceedings of the inquiry on Egypt, A/72/44, paras 58-71.

¹³ *Ibid.*, para. 60.

¹⁴ *Ibid.*, paras 62 and 71.

¹⁵ See Reports by the UN Secretary General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights No. A/HRC/24/29 (2013), A/HRC/27/38 (2014), A/HRC/30/29 (2015), A/HRC/33/19 (2016) and A/HRC/36/31 (2017).

¹⁶ OHCHR, *UN rights experts urge UAE: "Immediately release Human Rights Defender Ahmed Mansoor"*, 28 March 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21449&LangID=E> (accessed on 4 October 2017).

We deeply regret the adoption of resolution E/2017/L.35 by the ECOSOC, one of the six main organs of the United Nations, considering the core of Alkarama's work is to provide information to the UN human rights mechanisms on violations occurring in the MENA region. Attempting to shut down such as source of information goes against the values – namely strengthening civil society partnership and participation – that must be upheld by all members of the United Nations.

We hope to be provided with a means of redress as to be able to fully realise our mission, which is to provide legal assistance to victims of human rights violations using the UN human rights mechanisms, by being granted the ECOSOC status.

Yours respectfully,

Mourad Dhina
Executive Director
Alkarama Foundation

