

# URGENT ACTION

## CIRCUS PERFORMER HELD IN ADMINISTRATIVE DETENTION

**The High Court of Israel accepted to review the case of Mohammad Faisal Abu Sakha but, in a 5 December hearing, his lawyer decided to withdraw the petition after the judges indicated that they believed there was enough “evidence” in a secret file to justify his detention. His current period of administrative detention will end on 12 December.**

Palestinian circus performer **Mohammad Faisal Abu Sakha**, 24, from Jenin in the Occupied West Bank, has been held by the Israeli authorities without charge or trial for nearly a year. Israeli forces arrested him on 14 December 2015, at Za'atara checkpoint. He was issued with a six-month administrative detention order on 25 December and then was issued with another six-month order on 13 June 2016.

After a previous appeal to a military court was unsuccessful, his legal team decided to petition Israel's High Court to review the case. The court accepted the petition, and a hearing was held on 5 December at the Supreme Court, sitting as the High Court of Justice in Jerusalem. However, Mohammad Faisal Abu Sakha's lawyer decided to withdraw the petition after the judges were given the chance to review a file of secret “evidence” provided by the Israel Security Agency (ISA). Mohammad Faisal Abu Sakha and his lawyer are unable to review this evidence, and are therefore unable to prepare a defence. This violates a central tenet of fair trials. The judges indicated to Mohammad Faisal Abu Sakha's lawyer that they considered that the material contained within the file was enough to justify the ISA's contention that Mohammad Faisal Abu Sakha posed a “threat to the security of the state of Israel”, despite there being no new material in the file since December 2015. When it became clear that the court would not oppose the ISA, the lawyer decided not to continue with the hearing.

Mohammad Faisal Abu Sakha remains held in Ketziot prison in the Negev/Naqab region of southern Israel and his current period of administrative detention ends on 12 December. A military court will decide whether to extend the detention, or release him. Amnesty International fears that the Israeli authorities – as they have done in many other such cases – are using administrative detention as a method of punishing Mohammad Faisal Abu Sakha without prosecuting him, which would amount to arbitrary detention.

### **Please write immediately in Hebrew, English or your own language:**

- Calling on the Israeli authorities to release Mohammad Faisal Abu Sakha and all other administrative detainees or charge them with a recognizable criminal offence and try them fairly and promptly;
- Calling on them to end the practice of administrative detention.

### **PLEASE SEND APPEALS BEFORE 18 JANUARY 2017 TO:**

#### Military Judge Advocate General

Brigadier General Sharon Afek

Hakiryia, Tel Aviv, Israel

Fax: +972 3 569 4526

Email: Mag@idf.gov.il

#### **Salutation:**

**Dear Judge Advocate General**

#### Commander of the IDF – West Bank

Major-General Roni Numa

GOC Central Command

Military Post 01149, Battalion 877

Israel Defense Forces, Israel

Fax: +972 2 530 5741, +972 2 530 5724

#### **Salutation:**

**Dear Major-General Roni Numa**

#### Minister of Public Security

Gilad Erdan

Kiryat Hamemshala

PO Box 18182

Jerusalem 91181, Israel

Fax: +972 2 584 7872

Email: gerdan@knesset.gov.il

**Salutation: Dear Minister**

**Also send copies to diplomatic representatives accredited to your country.** HIS EXCELLENCY Deputy Ambassador Eitan Na'eh, Embassy of Israel, 2 Palace Green Kensington W8 4QB, 020 7957 9500

**Please check with your section office if sending appeals after the above date.** This is the fourth update of UA 12/16. Further information: <https://www.amnesty.org/en/documents/MDE15/4255/2016/en/>

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### ADDITIONAL INFORMATION

Mohammad Faisal Abu Sakha, a Palestinian circus performer aged 24, was detained by Israeli soldiers on 14 December 2015, on his way to work at the Palestinian Circus School in Birzeit, next to Ramallah in the occupied West Bank. Israeli soldiers detained him at the Za'atara checkpoint, close to the West Bank city of Nablus, and took him to the nearby Hawara military detention centre. Later his parents were informed by the International Committee of the Red Cross (ICRC) that he had been moved to Megiddo prison, in northern Israel. The Israeli military handed him a six-month administrative detention order on 25 December 2015. A military judge reviewed and upheld the order on 5 January 2016, at the Ofer military court in the West Bank, near Ramallah. On 21 March a military judge heard an appeal against the six-month order but dismissed it on 31 March. During the hearing the military prosecution maintained that Mohammad Faisal Abu Sakha is a security threat alleging that he carried out illegal activities with the Popular Front for the Liberation of Palestine (PFLP, a left-wing political party with an armed wing which is banned by Israel), but failed to provide information about these activities. Mohammad Faisal Abu Sakha denies the accusation but he and his lawyers are in the impossible position of trying to challenge the detention without having access to the necessary information for his defence. In mid-March he was moved to Ketziot prison in the Negev/Naqab region of southern Israel, where he is still held.

Mohammad Faisal Abu Sakha began studying at the Palestinian Circus School in 2007, becoming one of its performers in 2011. He also trains children in circus acts and specializes in working with children with learning difficulties, who make up 30 of the more than 300 students at the school. The Palestinian Circus School, which is funded by various charities and other bodies, including the European Commission, maintains that there is absolutely no basis to claims that Mohammad Faisal Abu Sakha is a security threat, that his only crime is "making children happy" and that his life is dedicated to the circus. The school's mission is to train Palestinian children and youth in circus arts and thereby "strengthen the social, creative and physical potential of the Palestinians, seeking to engage and empower them to become constructive actors in society".

Administrative detention – ostensibly introduced as an exceptional measure to detain people who pose an extreme and imminent danger to security – is used by Israel as an alternative to using the criminal justice system to arrest, charge and prosecute people suspected of criminal offences, or to detain people who should not have been arrested at all. Orders can be renewed indefinitely and Amnesty International believes that some Palestinians held in administrative detention by Israel are prisoners of conscience, held solely for the peaceful exercise of their right to freedom of expression and association. The Israeli authorities increased their use of administrative detention dramatically since October 2015: 692 Palestinians were in administrative detention by the end of April 2016 – the last month for which reliable Israeli Prison Service Statistics are available – including 13 children.

Israeli courts – including the high court – have failed, over many years, to provide effective legal recourse to the thousands of Palestinian administrative detainees held without charge or trial on the basis of secret "evidence" withheld from them and their lawyers. To Amnesty International's knowledge, the High Court has only ever annulled an administrative detention order in one case (in 1990), despite the fact that the practice violates the detainee's right to a fair trial and can constitute arbitrary detention. Amnesty International also considers that Israel's use of administrative detention itself may amount to cruel, inhuman and degrading treatment, given the detainee's inability to know why they are being detained or when they will be released.

Further information on UA: 12/16 Index: MDE 15/5283/2016 Issue Date: 7 December 2016