

**UN CONDEMNS JAPAN'S ARBITRARY DETENTION AND VIOLATION OF THE
RIGHT TO A FAIR TRIAL AND SEIZES THE SPECIAL RAPPORTEUR ON TORTURE
IN THE CASE OF CARLOS GHOSN**

- **The UN official report describes M. Ghosn's detention "arbitrary" and the trial against him "contrary to the laws and international treaties guaranteeing a fair trial".**
- **UN experts call on Japan to abolish the system of "hostage justice"**
- **All proceedings against Ghosn based on the Japanese case or based on cooperation with the Japanese judicial authorities are illegal and liable to be declared null and void**

Geneva, November 23rd, 2020 - The Working Group on Arbitrary Detention, a thematic special procedures body sitting at the Office of the UN High Commissioner for Human Rights and overseen by the United Nations Human Rights Council, has issued an official Opinion on the conditions under which Carlos Ghosn was arrested, detained and interrogated. This authority, composed of independent experts and magistrates, responsible for ensuring respect for fundamental rights, was seized by lawyers François Zimeray and Jessica Finelle in March 2019. **After an in-depth and contradictory analysis, it concluded M. Ghosn's detention was "arbitrary" and declared the trial against him "contrary to the laws and international treaties guaranteeing a fair trial".**

Furthermore, the UN experts call on Japan to abolish the system of "hostage justice" (a practice designed to obtain forced confessions - and amounting to psychological torture), to compensate Carlos Ghosn and to conduct an impartial investigation into the conditions under which the prosecution was conducted. While the Opinion does not rule on the merits of the case, it describes, over 17 pages, the circumstances of an arrest that was staged to humiliate, the conditions of unjustified repeated detention, the denial of the rights of defense and multiple violations of International treaties and laws on Human Rights.

In light of these conclusion, lawyers François Zimeray and Jessica Finelle, declared: ***"We welcome a courageous decision that represents a decisive turning point. The Office of the High Commissioner for Human Rights, an independent and respected authority, undeniably establishes what we had denounced from the moment of M. Ghosn's arrest: an arbitrary detention, a denial of his right to impartial justice, and unfair and degrading treatments. The consequences of this Opinion on the ongoing proceedings will be considerable, as all proceedings based on the Japanese case or based on cooperation with the Japanese judicial authorities are illegal and liable to be declared null and void."***

Excerpts from Opinion 2020/59

(full copy available here: [United Nations Human Rights office of the High Commissioner](#))

*“The deprivation of liberty of Carlos Ghosn from 19 November 2018 to 5 March 2019 and from 4 to 25 April 2019, being in contravention of articles 9, 10 and 11(1) of the Universal Declaration of Human Rights and articles 9, 10(1) and 14 of the International Covenant on Civil and Political Rights, **was arbitrary** (...).”*

*“The Working Group on Arbitrary Detention «considers that these **violations of the right to fair trial were of such gravity** as to give Mr. Ghosn’s detention an arbitrary character ... “ (§82)*

*“The Working Group concludes that **the process of arresting and detaining M Ghosn four times was fundamentally unfair...**” (§72)*

*“The Working Group considers that the failure to provide Mr Ghosn with access to his lawyers from the outset (...) **violated his right to adequate time and facilities for the preparation of his defence** (...) under article 14.3 b of the International Covenant on civil and political rights.” (78)*

*“Mr Ghosn was detained in circumstances in which **he was effectively forced to provide statements relating to the allegations against him**. This violated his right to the presumption of innocence under article 14(2) of the International Covenant on Civil and political rights.” (§76)*

*“The Working Group requests the Government of Japan to take the steps necessary to **remedy the situation of Mr. Ghosn without delay** and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.”*

*“The Working Group considers that, taking into account all the circumstances of the case, **the appropriate remedy would be to accord Mr. Ghosn an enforceable right to compensation and other reparations, in accordance with international law.**”*

*“The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary detention of Mr. Ghosn, and to take **appropriate measures against those responsible for the violation of his rights.**”*

*“In accordance with paragraph 33(a) of its methods of work, the Working Group refers the present case to: (i) the Special Rapporteur on the independence of judges and lawyers, and (ii) **the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, for appropriate action.**”*

UNITED NATIONS – HUMAN RIGHTS

About the United Nations Working Group on Arbitrary Detention

Created in 1991 under the leadership of Frenchman Louis Joinet, founder of the Magistrates' Union, this body of the UN High Commissioner for Human Rights is based in Geneva. It brings together independent and renowned experts entrusted with the task of investigating cases of arbitrary detention in violation of international standards. Guardian of the Mandela Rules (universal standards for the treatment of prisoners), this body is now a recognised authority in assessing the arbitrary nature of a detention. As the former High Commissioner for Human Rights Zeid al Hussein noted in 2016, the working group "has adopted historic decisions, which on many occasions have led to the release of the detainee. "Its opinions, issued following impartial and independent investigations, have also helped to raise awareness of the conditions of detention in many countries such as Iran, Bhutan, Qatar, Saudi Arabia and China. The Working Group on Arbitrary Detention is regarded by many observers as "the most important human rights achievement in recent history" (NY Times, 11 March 1991). *"since its establishment in 1991, the United Nations Working Group on Arbitrary Detention has been a candle in the darkness(...). It has issued more than 1,000 legal opinions regarding the detentions of more than 5,000 people"*

About François Zimeray

François Zimeray is a member of the Paris Bar and of the International Criminal Court. He was French Ambassador in charge of Human Rights, then French Ambassador to Denmark. He first practised for more than 20 years in a major French law firm and was also a member of the Legal Committee of the European Parliament. In September 2018, he joined forces with Jessica Finelle, a lawyer since 2009 specialising in international criminal law, to create the law firm Zimeray&Finelle, specialising in human rights, criminal law and corporate criminal law.

At the same time, he established a partnership with a team of lawyers committed to the defence of fundamental rights at the London law firm Doughty Street Chambers.

François Zimeray is the author of "J'ai vu partout le même visage", published by Plon in 2016.

About Jessica Finelle

Jessica Finelle, a lawyer at the Paris Bar and the International Criminal Court, partner at Zimeray & Finelle, is a specialist in French and international criminal law. She is involved in numerous cases where human rights are at stake. Recently, Jessica Finelle was granted recognition by the United Nations of the arbitrary nature of the detention of General Mokoko, the main opponent of the Congolese President Denis Sassou-Nguesso. The UN Working Group on Arbitrary Detention had called on the latter to immediately release the general and to compensate him for the damage he suffered.

Media Contacts:

Leslie Jung-Isenwater: ljung@image7.uk.com / +44 (0)7818 641 803

Franck Pasquier: fpasquier@image7.fr / +33 (0)6 73 62 57 99