

**ASSESSMENT OF DOCUMENTS  
AND THEIR COMPLIANCE WITH  
THE LEGAL FRAMEWORK  
UNDER THE QATARI LEGAL  
SYSTEM**

## Table of contents

<b>Section I:</b> Documents submitted for the opinion and overview of the judicial system .....	
1) Documents submitted to .....	
2) The legislation adopted.....	
3) The Qatari legal system .....	
<b>Section II:</b> Evaluation of arrest procedures and pre-trial detention orders issued by the public prosecutor .....	
1) Arrest warrant issued by the public prosecutor on 2 January 2020.....	
2) Decisions of the Public Prosecutor's Office of 10 February 2020 and 13 February 2020 .....	
<b>Section III:</b> Assessment of the minutes of pre-trial detention hearings issued by the judge renewals .....	10
1) Rules governing the renewal of detention .....	10
2) Need to certify the presence of a lawyer for accused.....	11
<b>Section IV:</b> Assessment of the review report on.....	22
1) Key comments on the review of .....	22
<b>Section V:</b> Qatar Criminal Court judgment no. 653 for the year 2023, hearing of 31/05/2023 .....	23
2) Part Two: Detailed Opinion on Qatar Criminal Court Judgment No. 653 for the year 2023, delivered on 31 May 2020.....	24
<b>Section VI:</b> Summary of the opinion .....	26

## Section I: Documents submitted for the opinion and overview of the Qatari judicial system

### 1) Documents submitted for assessment

1. Fifteen documents have been received as part of the criminal file of Tayeb Benabderrahmane, accused in a case of espionage against the State of Qatar. These documents mainly concern the legality of the procedures followed and their compliance with Qatari law, as well as potential human rights violations.

Date	Transmitter	Content of the document	Comments
2 January 2020	Public Prosecutor's Office	Arrest order issued by the public prosecutor's office	
13 January 2020	Department of State Security	Notification of implementation of the arrest order signed by the Head of the State Security Department, Abdullah Bin Mohammed Al-Khelaifi	
10 February 2020	Public Prosecutor's Office	Decision of the Public Prosecutor's Office, Department of State Security and Counter-Terrorism	
13 February 2020	Public Prosecutor's Office	Decision of the Public Prosecutor's Office, Department of State Security and Counter-Terrorism	
16 February 2020	Renewal judge	Notice of renewal of pre-trial detention	
16 March 2020	Renewal judge	Notice of renewal of pre-trial detention	
15 April 2020	Renewal judge	Notice of renewal of pre-trial detention	
28 April 2020	Renewal judge	Notice of renewal of pre-trial detention	
17 May 2020	Renewal judge	Notice of renewal of pre-trial detention	
25 June 2020	Renewal judge	Notice of renewal of pre-trial detention	
28 June 2020	Department of State Security	Letter signed by the Head of the State Security Department (Abdullah Al-Khelaifi) addressed to the Public Prosecutor's Office stating that Tayeb's family had handed over the items requested and requesting release on bail with a travel ban	
6 December 2020	Public Prosecutor's Office	Arrest and interrogation order issued by the Public Prosecutor's Office to question BENABDERRAHMANE about the sums of money found in his possession	
31 May 2023	Qatari Criminal Court	Qatari Criminal Court Judgment No. 653/2023 Criminal/First Instance Criminal Court	

2. These documents cover the different stages of Tayeb Benabderrahmane's case, from the arrest to the decisions of the Public Prosecutor's Office, through the sessions for renewing pre-trial detention, to the final judgment and the application for release on bail. Each stage will be analysed for legality and compliance with the Qatari legal framework and to identify any human rights violations in order to ensure justice and the protection of Tayeb Benabderrahmane's rights.
3. It should be noted that these documents represent only part of the entire criminal file.

## 2) Legislation adopted :

The Permanent Constitution of the State of Qatar of 2005, hereinafter referred to as "the Qatari Constitution".

Law No. 23 of 2004 promulgating the Code of Criminal Procedure, hereinafter referred to as "the Qatari Code of Criminal Procedure".

Law No. 11 of 2004 promulgating the Penal Code, hereinafter referred to as "the Qatari Penal Code".

Law No. 5 of 2003 establishing the State Security Agency, hereinafter referred to as the "Qatari State Security Agency Law".

Law No. 10 of 2002 on the Public Prosecutor's Office as amended by Law No. 9 of 2023 promulgating the Law on the Public Prosecutor's Office, hereinafter referred to as the "Qatari Public Prosecutor's Office Law".

The Code of Civil and Commercial Procedure promulgated by Law No. 13 of 1990 and its subsequent amendments, hereinafter referred to as "the Qatari Code of Civil and Commercial Procedure".

The Judiciary Law promulgated by Law No. 10 of 2003 and its subsequent amendments, hereinafter referred to as "the Qatari Judiciary Law".

## 3) The Qatari legal system :

4. In the Qatari criminal justice system, crimes relating to state security and espionage are dealt with by special procedures involving three main bodies:

*First body: the State Security Agency*

5. The State Security Agency gathers information and investigates crimes that threaten state security.
6. It has the power to detain the suspect for up to 30 days.

*Second body: the Public Prosecutor's Office*

7. After the initial detention period, the public prosecutor takes over the investigation of the case.
8. The public prosecutor may issue provisional detention orders for a maximum of eight days in order to continue the investigations.

*Third body: a judge of the Court of First Instance*

9. After the first period of pre-trial detention, a judge of the court of first instance has the power to extend pre-trial detention.
10. The judge may extend the detention for successive periods, provided that the total duration of the investigation and detention does not exceed six months.

## Section II: Evaluation of arrest procedures and pre-trial detention orders issued by the public prosecutor's office

### 1) Arrest warrant issued by the public prosecutor on 2 January 2020.

#### a) Content of the arrest warrant issued on 2 January 2020

11. The warrant states that on Thursday, January 2, 2020 at 10:00 am at the Public Prosecutor's Office building, after reviewing the search and investigation report attached to the letter from the State Security Agency No. J ADAM S/S/678/22 dated January 2, 2019, requesting authorization to arrest the individual under surveillance, Tayeb Benabderrahmane, of French nationality, identity card no. 28125000419, to search his home located in Al Qatifayah, zone no. 66, street no. 7, number Kahramaa 1062712, the vehicle he uses, and his place of work at Bin Samikh Real Estate Investment.
12. It is also mentioned that the Public Prosecutor's Office, having confidence in the aforementioned search and investigation report, authorises the Head of the State Security Agency or one of the legally competent judicial police officers of the State Security Agency or any person assisting him, to arrest Tayeb Benabderrahmane, of French nationality, identity card no. 28125000419, to search him and his home located at Al Qatifayah, zone no. 66, street no. 7, number Kahramaa 1062712, the vehicle he uses, and his place of work at Bin Samikh Real Estate Investment, in order to seize any document, paper, apparatus or other object relating to the commission of the offence mentioned in the warrant or revealing that offence, as well as any illegal object discovered during the search.
13. The warrant may be executed at night if necessary, and is valid for thirty days from the date of issue. A record of the proceedings and the results obtained must be drawn up and presented to the public prosecutor in due course.
14. The arrest warrant includes the following information and instructions:

Date and time: Thursday 2 January 2020, 10.00 am.

Issuing authority: Ministère public, Division de la sécurité de l'Etat et de la lutte contre le terrorisme.

Accused: Tayeb Benabderrahmane, a French national.

to be searched: His home, the vehicle he uses and his place of work at Bin Samikh Real Estate Investment.

Warrant Reason: Based on the State Security Agency search and investigation report dated 2 January 2019. conferred by the mandate :

- a. Arrest Tayeb Benabderrahmane.
- b. Search specific premises to seize documents, papers or equipment relating to the offence.
- c. Seize any other illegal material discovered during the search.
- d. Carry out the mandate at night if necessary.

Valid for thirty days from the date of issue.

Follow-up procedures: Draw up minutes of the procedures and results obtained for submission to the public prosecutor.

#### b) Legal standards for arrest warrants under the Qatari Code of Criminal Procedure

15. Article 104/1 of the Qatari Code of Criminal Procedure stipulates: "The member of the public prosecutor's office may, depending on the circumstances, issue a warrant to appear on a specific date, or a warrant for arrest and detention". Paragraph 2 of the same article specifies the information required in the arrest warrant (104/2): "Each warrant must contain the name of the accused, his title, profession, place of residence, the charge against him, the date of the order, the name and signature of the member of the public prosecutor's office and the official stamp of the public prosecutor's office to which he belongs. The arrest and detention warrant must order the agents of the public authorities to arrest the accused and bring him immediately before the member of the public prosecutor's office if he refuses to appear voluntarily". Paragraph 3 of the same article (104/3) requires a copy of the warrant to be given to the accused: "The orders shall be notified to the accused by the officers of the public authority, and a copy shall be given to him".
16. Looking at Article 104, it is clear that the arrest warrant must include the following information:
  - 1) The defendant's name and title.
  - 2) The defendant's profession.
  - 3) The accused's place of residence.

- 4) The charge against the accused: the charge or charges must be clearly and precisely detailed, including the legal text on which they are based.
- 5) The date the mandate was issued.
- 6) The name and signature of the member of the public prosecutor's office and the official stamp of the public prosecutor's office.
- 7) Instructions to law enforcement officers: the warrant must contain clear instructions to law enforcement officers (such as the police) to arrest the accused and conduct proceedings.
- 8) Delivery of the copy: a copy of the warrant must be given to the accused, ensuring that he or she is informed of the charge against him or her and of the legal proceedings brought against him or her.

*c) Analysis of the compliance of the arrest warrant with the Qatari Code of Criminal Procedure*

17. In applying the aforementioned article to the case of (Tayeb Benabderrahmane), it is alleged that he did not receive a copy of the arrest warrant, which constitutes a violation of Article 104 of the Qatari Code of Criminal Procedure.
18. Examination of the arrest warrant reveals that it does not specify the charge against (Tayeb Benabderrahmane).
19. Summary of violations of the arrest warrant :
  - No copy of the warrant was given to the accused (Tayeb Benabderrahmane).
  - The warrant does not mention the legal text or the charge brought against the accused.
  - The warrant was written in Arabic, although it states that Tayeb Benabderrahmane is of French nationality; it should therefore have been accompanied by a French translation so that he could understand the content of the warrant.
  - The warrant states that it was issued on the basis of the State Security Agency's research and investigation report dated 2 January 2019, but the Public Prosecutor's Office did not specify the charge based on this report or mention its content. This issue will be detailed later when the judgements against Tayeb Benabderrahmane are examined.

<b>Violations of the arrest warrant issued by the public prosecutor on 2 January 2020</b>		
<b>Element</b>	<b>Object</b>	<b>Has been respected</b>
Charge against the accused	Guarantee that the accused is informed of the charge against him or her	No
Delivery of a copy of the warrant to the defendant	Guarantee that the accused is informed of the charge against them and of the legal proceedings brought against them	No
No translation of the mandate	The warrant was drawn up in Arabic, even though Tayeb Benabderrahmane is of French nationality; a French translation should have been provided so that he could understand the content of the warrant.	No

*d) Violation of the arrest warrant issued by the public prosecutor on 2 January 2020 concerning the right to information about the charges as a human right*

20. The absence of any mention of the charge and the applicable legal text in the arrest warrant, as well as the fact that Tayeb Benabderrahmane did not receive a copy of the warrant (article 104 of the Qatari Code of Criminal Procedure), in addition to the absence of a translation of the warrant, constitute a violation of the individual's right to be informed immediately of the reasons for his arrest or detention, in accordance with article 9 (2) of the International Covenant on Civil and Political Rights: "Everyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. "
21. Evidence of violation of the right to information in accordance with Article 9 (2) of the International Covenant on Civil and Political Rights :
  - Failure to mention the charge in the arrest warrant: the arrest warrant did not specify the charge on which it was based.
  - Failure to provide Tayeb Benabderrahmane with a copy of the arrest warrant: he did not receive an official copy of the arrest warrant.
  - Lack of translation of the arrest warrant: the warrant has not been translated into a language that the accused understands.
  - Violation of the individual's right to know immediately the reason for his arrest or detention: in breach of Article 9 (2) of the International Covenant on Civil and Political Rights.

- Violation of Article 104 of the Qatari Code of Criminal Procedure: failure to comply with legal requirements concerning the issuance and notification of arrest warrants.

1) Notification to the officer in charge of executing the arrest warrant issued by the Public Prosecutor's Office on 13 January 2020, signed by the Head of the State Security Agency

*a) Contents of the notification to the officer responsible for executing the arrest warrant issued by the Public Prosecutor's Office on 13 January 2020, signed by the Head of the State Security Agency*

22. The warrant issued by the Qatari State Security Agency, signed by the head of the State Security Agency (Mr Abdullah bin Mohammed al-Khelaifi), mentions the following:

Arrest of Tayeb Benabderrahmane, a French national.

Interrogation of Tayeb Benabderrahmane, a French citizen, begins.

Submission to the public prosecutor's office as soon as interrogation procedures have been completed.

*b) Assessment of the notification to the officer responsible for executing the arrest warrant issued by the public prosecutor on 13 January 2020*

**i. Infringement of Article 104 of the Qatari Code of Criminal Procedure by notifying the officer responsible for executing the arrest warrant**

23. Article 104 of the Qatari Code of Criminal Procedure requires the executor of the arrest warrant to give a copy of the warrant to the accused. Tayeb Benabderrahmane stated that he did not receive any official documents at the time of his arrest and that he obtained these documents later via a confidential source in 2024.

**ii. Failure to notify the officer responsible for executing the arrest warrant issued on 13 January 2020 and the arrest warrant issued by the public prosecutor on 2 January 2020**

24. The arrest warrant issued by the Public Prosecutor's Office on 2 January 2020 required a record of the proceedings and their outcome to be drawn up and submitted to the Public Prosecutor's Office. However, examination of the notification reveals that it refers only to the execution of the arrest warrant without including any reference to a record of the proceedings among the annexes to the notification, in breach of article 31 of the Qatari Code of Criminal Procedure.

**iii. Violation of Article 7 of the Qatari State Security Agency Act**

25. Article 7 of the Qatari State Security Agency Law stipulates: "By way of derogation from the provisions of the Code of Criminal Procedure, the period of detention of a person suspected of having committed an act falling within the jurisdiction of the Agency is a maximum of thirty days before being presented to the Public Prosecutor. The head of the agency may, if necessary, order a ban on leaving the country for a period not exceeding thirty days, renewable for a similar period or periods by order of the public prosecutor, for a total period of up to six months."

26. This article states that the only exception to the Code of Criminal Procedure concerns the duration of the accused's detention, which may be extended from 24 hours to 30 days, with the possibility of an extension of up to six months by order of the public prosecutor, renewable for similar periods. This article has been severely criticised by international human rights organisations.

27. It is clear from the text that the only exception permitted relates to the length of time the accused has been detained, and not to the items seized. Consequently, the objects seized must be sent with the notification of arrest and the record of the arrest proceedings. This confirms that the State Security Agency violated the provisions of Article 31 of the Code of Criminal Procedure by not sending the seized items with the notification of arrest.

**2) Decisions of the Public Prosecutor's Office of 10 February 2020 and 13 February 2020**

28. After Mr Benabderrahmane was detained by the State Security Agency on 13 January 2020, he was presented to the public prosecutor, as the documents show, on 10 February 2020. The document contained the following information:

- Mr Benabderrahmane was detained for four days and rearrested on Thursday 13 February 2020 to consider extending his detention.
- Extraction of the contents of the devices seized by the State Security Agency specialist to determine whether they contain elements useful to the investigation and the discovery of the truth, with a detailed report to be submitted in due course.
- Mr Benabderrahmane placed on the travel ban list.

29. The decision of 13 February 2020 contained the following information:

Mr Benabderrahmane's detention extended for a further four days and brought before the court on the legal date to consider the extension of his detention.  
Speeding up the implementation of previous decisions.

A. *Analysis of the compliance of the Public Prosecutor's decisions of 10 February 2020 and 13 February 2020 with the Qatari Code of Criminal Procedure*

2) The pre-trial detention regime under the Qatari Code of Criminal Procedure

30. The authority to order pre-trial detention is shared between the public prosecutor and the judges of the court of first instance. Pre-trial detention of a defendant cannot be ordered without a decision by one of these two bodies, otherwise it is considered illegal.

31. It is important to note that the State Security Agency has exceptional powers. If the State Security Agency is the competent body, it can detain an accused person for up to 30 days before presenting him or her to the public prosecutor. Article 7 of the Qatari State Security Agency Law states: "By way of derogation from the provisions of the Code of Criminal Procedure, the period of detention of a person suspected of having committed an act falling within the jurisdiction of the Agency shall be a maximum of 30 days before being presented to the Public Prosecutor. The head of the agency may, if necessary, order a ban on leaving the country for a period not exceeding thirty days, renewable for a similar period or periods by order of the public prosecutor, for a total period of up to six months.

3) The authority of the public prosecutor in matters of pre-trial detention under the Qatari Code of Criminal Procedure

32. Article 110/1 of the Qatari Code of Criminal Procedure states: "If, after questioning the accused, or in the event of his absconding, there is sufficient evidence to establish his guilt, and the offence is a felony or misdemeanour punishable by a prison sentence of more than six months, the member of the Public Prosecution Service may issue a warrant for his provisional detention.

33. The duration of pre-trial detention is governed by article 117 of the Qatari Code of Criminal Procedure, which states: "The pre-trial detention warrant issued by the public prosecutor, after questioning the accused, is for a period of four days, renewable for a similar period. The term is eight days, renewable for a similar period, for the crimes referred to in Chapters I and II of Title III of Book II of the Penal Code, when they are detrimental to national economy.

34. According to Article 117 of the Qatari Code of Criminal Procedure:

Initial remand: the public prosecutor may issue a remand order for a period of four days.

Extension of pre-trial detention: this period may be extended by a further four days.

Total duration: 4 days (initial) + 4 days (extension) = 8 days.

4) Information required in a pre-trial detention order

35. Articles 104 and 112 of the Qatari Code of Criminal Procedure govern provisional detention warrants issued by the public prosecutor. Article 112 stipulates: "The remand warrant must, in addition to the information mentioned in paragraph 2 of article 104 of this law, include the article of law applicable to the fact and instruct the person in charge of the place of detention to accept the accused and place him in detention. The provisions of the last sentence of section 104 and of subsection 2 of section 106 of this Act shall apply to provisional detention orders." Paragraph 2 of Article 104 states: "Each warrant must contain the name of the accused, his title, profession, place of residence, the charge against him, the date of the order, the name and signature of the member of the public prosecutor's office and the official stamp of the public prosecutor's office to which he belongs. The arrest and detention warrant must order the agents of the public authorities to arrest the accused and present him immediately to the member of the public prosecutor's office if he refuses to appear voluntarily.

36. It follows from the preceding paragraphs that a warrant for provisional detention issued in accordance with Article 112 must include :

Basic information under article 104/2: name of the accused, title, profession, place of residence, charge brought against him/her, date of the order, name and signature of the member of the public prosecutor's office, official stamp of the public prosecutor's office.

Article of the law applicable to the offence.

Instructions to the person in charge of the place of detention.

Notification of the warrant to the accused and delivery of a copy by the agents of the public authority.

Compliance with the time limits and procedures for extending pre-trial detention in accordance with article 106, paragraph 2.



B. *Legal breaches in the decisions of the Public Prosecutor's Office of 10 February 2020 and 13 February 2020*

37. The Public Prosecution's decisions of 10 and 13 February 2020 contain violations of certain conditions of Articles 104, 106 and 112 of the Qatari Code of Criminal Procedure. The decisions fail to mention the charge and the applicable article of law and do not provide evidence that Tayeb Benabderrahmane received a copy of the decisions.

<b>Legal breaches in the decisions of the Public Prosecutor's Office of 10 February 2020 and 13 February 2020</b>		
<b>Element</b>	<b>Object</b>	<b>Respected</b>
<b>Charge against the accused</b>	Ensure that the accused is informed of the charge against him/her	No
<b>Reference to the applicable section of the law</b>	Ensure that the accused is informed of the charge against him/her	No
<b>Delivery of a copy of the decision to the defendant</b>	Ensuring that the accused is informed of the charge against them and of the legal proceedings brought against them	No

## Section III: Assessment of the minutes of pre-trial detention hearings issued by the renewal judge

38. This section assesses remand renewal hearings on the following dates: 16 February 2020, 16 March 2020, 15 April 2020, 28 April 2020, 17 May 2020, and 25 June 2020.

### 1) Rules governing the renewal of pre-trial detention

#### *a) Renewal of pre-trial detention by a judge of the Court of First Instance*

39. In accordance with article 117/2 of the Qatari Code of Criminal Procedure, 'if the interests of the investigation require that the accused be kept in pre-trial detention after the expiry of the period referred to in the preceding paragraph, the public prosecutor must refer the matter to one of the judges of the competent court of first instance to issue a decision, after examining the documents and hearing the statements of the public prosecutor and the accused, to extend the detention for a period not exceeding thirty days, renewable for one or more similar periods, or to order the release of the accused with or without bail. In any event, the total period of pre-trial detention must not exceed six months, unless the accused has been notified of his transfer to the competent criminal court before the expiry of that period. If the charge is a felony, pre-trial detention may be extended beyond six months only after obtaining, before the expiry of that period, an order from the competent criminal court extending the detention for a period not exceeding forty-five days, renewable for one or more similar periods, failing which the accused must be released. An accused person held in pre-trial detention must be released if he has spent in pre-trial detention a period equal to half the maximum sentence for the offence for which he is being held in pre-trial detention.

40. We deduce from this that the authority to detain the accused provisionally is shared between the public prosecutor and a judge of the court of first instance. The accused may only be provisionally detained by decision of one or the other, otherwise the detention is considered illegal.

41. The preceding article makes the following points:

- **Competent judge:** Under article 117 of the Qatari Code of Criminal Procedure, the judge competent to renew pre-trial detention is a judge of the Court of First Instance. The lack of jurisdiction on the grounds of subject matter is a matter of public policy and cannot be waived.
- **Authority of the judge of the court of first instance:** After the expiry of the initial period (8 days) and after examining the justifications for the pre-trial detention, the judge has the power to extend the detention for a period not exceeding thirty days, renewable, or to order the release of the accused.
- **Maximum length of pre-trial detention:** Six months, renewable in the case of crimes by decision of the competent criminal court.

#### *b) Information on the minutes of hearings to renew pre-trial detention*

42. We will examine the legal basis for determining the information and safeguards to be included in the minutes of hearings, and then determine the information required for pre-trial detention hearings.

43. If we consult the Encyclopaedia of Judicial Procedures published on the website of the Supreme Council of the Qatari Judiciary, we find that they have dedicated a web page entitled "Judges' legal tools for managing hearings in Qatari legislation".

44. In examining the legislative articles governing the minutes of hearings, we found that they vary between the Code of Criminal Procedure and the Code of Civil and Commercial Procedure. This raises the question of whether it is possible to use the provisions of the Code of Civil Procedure governing hearings before civil courts.

45. It has been established that the Code of Civil and Commercial Procedure is considered to be a general law in relation to the Code of Criminal Procedure, and should be consulted to fill gaps in the latter or to help implement the rules set out in it.

46. The purpose of this principle is to clarify that, when consulting the judge's legal tools for managing the hearing in Qatari legislation, it appears that they are a collection of legislative articles drawn from the Qatari Code of Civil and Commercial Procedure and the Qatari Code of Criminal Procedure. It should therefore be noted that the legal provisions of the Qatari Code of Civil and Commercial Procedure are binding on the Qatari criminal court, and have been applied by the Qatari Court of Cassation in numerous cases, having ruled that the Code of Civil and Commercial Procedure is considered a general law in relation to the Code of Criminal Procedure,

and that it should be consulted to fill gaps in the latter or to help implement the rules set out in it.

*c) Human rights guarantees to be included in the minutes of the hearing*

47. In this section, we will explain all the procedures and information to be included in the minutes of the hearing:

**Necessity of certifying the presence of the interpreter in the minutes of the pre-trial detention renewal hearing**

1. Article 68 of the Code of Civil and Commercial Procedure stipulates that "the language of the courts shall be Arabic. However, the court may hear the statements of parties or witnesses who do not know this language through the intermediary of an interpreter, who shall take an oath before performing his or her duties, to translate faithfully and honestly."
2. Having examined the documents and heard the statements of the prosecution and the accused, we wonder how the judge will hear Mr Benabderrahmane, who is of French nationality, without appointing an interpreter and recording this in the minutes. All the minutes of the hearings do not mention the presence of an interpreter.

**2) Need to certify the presence of a lawyer for the accused**

48. Article 65 of the Qatari Code of Criminal Procedure states: "The accused, his lawyer, the victim and the civil plaintiff have the right to be present at all investigative proceedings, and the member of the public prosecutor's office must inform them of the date and place where the investigative proceedings will take place. The member of the Public Prosecutor's Office may proceed with the investigation in their absence, if he deems it necessary or urgent to reveal the truth. As soon as this necessity or urgency is lifted, he must allow them to consult the investigation."

Article 101 of the same code states: "Except in cases of flagrante delicto and in cases of urgency due to fear of loss of evidence, the member of the public prosecutor's office may only question the accused or confront him with other accused or witnesses after having summoned his lawyer, if he has one. The accused must declare the name of his lawyer in the investigation report or at the office of the public prosecutor where the investigation is underway, or to the person in charge of the place of detention. His lawyer may also make this declaration on his behalf.

Article 102 of the same code states: "The accused's lawyer must be able to consult the investigation at least one day before the questioning or confrontation, unless the member of the public prosecutor's office decides otherwise. In any event, the accused may not be separated from his lawyer who is present with him during the investigation.

Article 194 of the same code stipulates: "The court may only question the accused if he agrees after consulting his lawyer, if he has one".

Article 221 of the same code stipulates: "Every person accused of a crime must have a lawyer to defend him. If the accused does not appoint a lawyer, the court must appoint one for him or her".

49. Analysis of the above legal provisions

**1. Right to attend investigation proceedings (article 65 of the Qatari Code of Criminal Procedure)**

- The accused, his lawyer, the victim and the civil plaintiff have the right to attend all investigation proceedings.
- The member of the public prosecutor's office must inform them of the date and place of the investigation.
- The member of the public prosecutor's office may conduct the investigation in their absence if necessary or urgent.
- They must be authorised to consult the investigation as soon as the necessity or urgency is removed.

**2. Summoning counsel in criminal cases (article 101 of the Qatari Code of Criminal Procedure)**

- The member of the public prosecutor's office may only question the accused or confront him with other accused or witnesses after having summoned his lawyer, except in cases of flagrante delicto or in an emergency.
- The accused must record the name of his lawyer in the investigation report or with the public prosecutor or the person in charge of the place of detention.
- The accused's lawyer may make this statement on behalf of the accused.

**3. Right to consult the investigation (article 102 of the Qatari Code of Criminal Procedure)**

- The accused's lawyer must have access to the investigation at least one day before the questioning or confrontation.

- The member of the public prosecutor's office may prohibit consultation if he or she deems it necessary.
- The accused may not be separated from his lawyer during the investigation.
- 4. Examination of the accused in the presence of the lawyer (article 194 of the Qatari Code of Criminal Procedure)**
- The court may only question the accused if he agrees after consulting his lawyer.
- 5. Appointment of a lawyer for the accused in criminal cases (article 221 of the Qatari Code of Criminal Procedure)**
- Everyone accused of a crime must have a lawyer to defend them.
- If the accused does not appoint a lawyer, the court must appoint one.
- 6. Appointment of a lawyer for legal aid (Article 62 of the Qatari Lawyers Act No. 23 of 2006)**
- The court or the public prosecutor may, at the investigation stage, appoint a lawyer to provide legal assistance.
- The appointment is made in accordance with the provisions of the previous article.

*d) Procedures to be recorded in the minutes of the hearing*

50. Article 196 of the Qatari Code of Criminal Procedure stipulates: "Minutes must be drawn up for all court proceedings, and each page must be signed by the presiding judge and the court clerk. These minutes must contain the name of the court, the place of the hearing, the date of the hearing, whether it is public or secret, the names of the judges, the member of the public prosecutor's office present at the hearing and the court clerk, the names of the defendants and their lawyers, the names and testimonies of the witnesses and the statements of the parties. It must also mention the documents presented, all the procedures carried out, the requests made during the examination of the case, the decisions rendered on preliminary and incidental questions, and the operative part of the judgements rendered, as well as all the other procedures carried out during the hearing.

Article 311 of the Qatari Code of Civil and Commercial Procedure states: "Questions and answers must be recorded in detail and with precision in the minutes of the hearing. After being read to the witness, they must be signed by the presiding judge, the court clerk and the witness. If the witness refuses to answer or sign, this must be noted in the minutes, together with the reason for his refusal, and the court will draw the appropriate conclusions."

51. Proceedings to be recorded in accordance with Article 196 of the Qatari Code of Criminal Procedure and Article 311 of the Qatari Code of Civil Procedure

- Drafting the minutes of the hearing:** Preparation of official minutes documenting all the procedures of the hearing (including the presence of a lawyer and an interpreter).
- Signing the minutes:** Each page of the minutes must be signed by the chairman of the hearing and the clerk to guarantee the authenticity of the document.
- Recording of questions and answers:** Questions asked and answers given must be recorded in detail and accurately in the minutes of the hearing.
- Reading questions and answers:** Questions and answers must be read to the witness to ensure the accuracy of the recording.
- Signing the minutes:** After the questions and answers have been read out, the minutes must be signed by the chairman of the hearing, the clerk and the witness to ensure the accuracy of the recording.
- Handling refusal:** If the witness refuses to answer or sign, this refusal and the reason for it must be recorded in the minutes.

*e) Information to be included in the minutes of the hearing*

52. With regard to the legal form of the minutes of the hearing, the minutes of the hearing must include the following information:

- **Court name:** Enter the name of the court where the hearing is being held.
- **Audience location:** Indicate the geographical location of the audience.
- **Date of hearing:** Document the date of the hearing.

- Type of hearing:** Specify whether the hearing is public or secret.
- Names of judges:** Document the names of the judges present at the hearing.
- Member of the public prosecutor's office:** Document the name of the member of the public prosecutor's office present at the hearing.
- Clerk's name:** Enter the name of the court clerk.
- Names of defendants and their lawyers:** Record the names of defendants and their lawyers.
- Names of witnesses:** Document the names of witnesses present at the hearing.
- Witness testimony and statements by the parties:** Document the testimony and statements made.
- Documents presented:** Mention all documents and evidence presented during the hearing.
- Procedures carried out :** Document all procedures carried out during the hearing.
- Requests made:** Record all requests made during the examination of the case.
- Judgments handed down:** Document the operative part of judgments handed down by the court.
- Other procedures:** Record any other procedures carried out during the hearing (in particular the presence of an interpreter for Tayeb Benabderrahmane, who speaks French).

*f) Procedures in the event of the accused being unable to attend the hearing (removal of the judge in the event of the accused being unable to attend the hearing)*

53. Article 49 of the Qatari Code of Civil Procedure stipulates: "The court may order the personal appearance of the parties before it on a date it fixes. If the party whose appearance is required has an excuse preventing him from appearing, the court or one of its delegated judges may go to his place to hear his statements on a date fixed for that purpose. The clerk of the hearing must inform the other party of this date, and minutes of the parties' statements must be drawn up and signed by the judge, the clerk and the parties."
54. In accordance with Article 49 of the Qatari Code of Civil Procedure, the court may go to the location of the accused if he is unable to attend the hearing due to a valid excuse. This authority is discretionary for the judge, but it is not absolute, particularly when it comes to detaining a person and restricting their freedom. It is therefore preferable for the judge to travel to the place where the accused is being held in order to hear his or her statements and guarantee his or her legal rights.

**1) Assessment of the minutes of the hearing of 16/02/2020 (Renewal of pre-trial detention)**

*a) Information from the minutes of the hearing of 16/02/2020*

55. The minutes indicate that the accused was taken from detention. During his interrogation, he denied the charge and asked to be released, while the public prosecutor asked for his detention to be extended. The court decided to extend the defendant's detention for thirty days. The formal information in the minutes of the hearing is summarised in the table below:

<b>Minutes of the hearing of 16/02/2020 (Renewal of provisional detention)</b>		
<b>Minutes of the hearing of 16/02/2020 (Renewal of provisional detention)</b>	<b>Mention in the minutes</b>	<b>Comments</b>
<b>Name of court</b>	Criminal Court	
<b>Case number</b>	1 / 2020	
<b>Room</b>	Renewal of pre-trial detention	
<b>Plaintiff / Appellant / Appellant</b>	Public Prosecutor's Office	
<b>Defendant / Respondent / Intimée</b>	Tayeb Benabderrahmane	
<b>Date of hearing</b>	16 - 2 - 2020	

<b>Judges</b>	1. Mohamed Ghanem Al-Kubaisi 2. Ali Saleh Al-Sharqi 3. Jassem bin Abdullah Al-Fadala	The composition of the court is contrary to article 117/2 of the Qatari Code of Criminal Procedure
<b>Representative of the Public Prosecutor</b>	Ahmed Al-Zaman	
<b>Clerk</b>	Ahmed Fawzi	
<b>Presence of the accused</b>	The accused denied the charge and asked to be released.	
<b>Content of the minutes</b>	The accused was taken from detention. During questioning, he denied the charge and asked to be released, while the public prosecutor asked for his detention to be extended.	
<b>Decision</b>	The court decided to extend the defendant's detention for 30 days, with a renewal on the legal date.	
<b>Signature</b>	Signature attributed to the judge and clerk	
<b>Stamp</b>	Criminal court stamp (16)	

b) *Legal opinion on the minutes of the hearing to renew provisional detention dated 16/02/2020*

56. From the minutes, it appears that the court was composed of three judges, that there was no interpreter present and that no lawyer was present to represent the accused.

### 1) **Composition of the court contrary to article 117/2 of the Qatari Code of Criminal Procedure**

57. Examination of the composition of the court indicated in the minutes of the hearing of 16 February 2020 reveals that it is contrary to Article 117/2 of the Qatari Code of Criminal Procedure. According to this article, once the public prosecutor's authority to renew pre-trial detention has expired, it is necessary for the public prosecutor to submit the matter to a judge of the competent court of first instance for a decision. This means that the composition of the court must be a single judge and not three judges.

### 2) **Absence of an interpreter in the minutes of the hearing on the renewal of pre-trial detention**

58. On reading the minutes of the hearing of 16/02/2020, it appears that no lawyer was present to represent Tayeb Benabderrahmane, in violation of the provisions of articles 65, 101, 102 and 221 of the Qatari Code of Criminal Procedure.

### 3) **No lawyer for the accused**

59. On reading the minutes of the hearing of 16/02/2020, it appears that no lawyer was present to represent Tayeb Benabderrahmane, in violation of the provisions of articles 65, 101, 102 and 221 of the Qatari Code of Criminal Procedure.

### 2) **Evaluation of the Minutes of the Hearing of 16/03/2020 (Renewal of Provisional Detention)**

a) *Information from the Minutes of the Hearing of 16/03/2020*

60. The minutes indicate that the accused was taken from detention, the public prosecutor requested that his detention be extended, and the court decided to extend the accused's detention for a period of one month. The formal information contained in the minutes is presented in the following table:

<b>Minutes of the hearing of 16/03/2020 (Renewal of provisional detention)</b>		
<b>Minutes of the Hearing of 16/03/2020 (Renewal of Provisional Detention)</b>	<b>Mention in the minutes</b>	<b>Remarks</b>
<b>Court name</b>	Criminal Court	
<b>Case number</b>	1 / 2020	
<b>Room</b>	Renewal of pre-trial detention	
<b>Applicant / Appellant / Petitioner</b>	Not mentioned	
<b>Defendant / Respondent / Defendant in cassation</b>	Tayeb Benabderrahmane	
<b>Date of hearing</b>	16 - 3 - 2020	To the naked eye, there is a difference in writing style between the day and the month, and the year.
<b>Judge</b>	Ghanem Nasser Al-Humaidi	
<b>Representative of the Public Prosecutor's Office</b>	Khaled Al-Ali	
<b>Clerk</b>	Mohamed	
<b>Presence of the accused</b>	The accused is present	Failure to mention the accused's statements, in violation of Article 196 of the Qatari Code of Criminal Procedure and Article 311 of the Qatari Code of Civil Procedure
<b>Content (Substance) of the minutes</b>	The accused was taken from custody and the public prosecutor asked for his detention to be extended.	
<b>Decision</b>	The court decided to extend the defendant's detention for one month, with renewal on the legal date.	
<b>Signature</b>	Signature attributed to the judge and clerk	
<b>Stamp</b>	No stamp	

*b) Legal Opinion on the Minutes of the Provisional Detention Renewal Hearing of 16/03/2020*

61. On examining the minutes of the hearing of 16 March 2020, it was noted that they did not mention the place where the court was held or the chamber that renewed the pre-trial detention sessions, contrary to the requirement of article 196 of the Qatar Code of Criminal Procedure, which imposes the need to specify the place of the hearing.

*C. 1. Absence of a stamp on the minutes*

62. On examining the minutes of the hearing on 16 March 2020, it appears that they do not contain the statements of the accused, merely mentioning that the accused was brought from detention. Article 196 of Qatar's Code of Criminal Procedure stipulates that the accused's statements must be recorded in the minutes.

*D. 2. Lack of proof of Tayeb Benabderrahmane's statements in the Minutes of 16/03/2020*

63. Having consulted the minutes of the hearing of 16 March 2020, we note that they specify neither the place where the court was held nor the chamber that renewed the pre-trial detention sessions. However, article 196 of the Qatari Code of Criminal Procedure requires the location of the hearing to be specified.

*E. 3. Absence of a translator in the Procès-Verbal of renewal of provisional detention*

I. The minutes of the hearing on 16 March 2020 state that, after examining the documents and hearing the statements of the public prosecutor and the accused, the judge was able to understand Mr Benabderrahmane's statements. However, Mr Benabderrahmane's French nationality raises the question of how the judge was able to understand his statements without the presence of a translator, which should have been

mentioned in the minutes, especially as all the minutes contain no evidence of the presence of a translator.

*F. 4. No lawyer for the accused*

II. Examination of the minutes of the hearing of 16 March 2020 revealed that there was no lawyer present with Mr Tayeb Benabderrahmane, in violation of the objectives of articles 65, 101, 102 and 221 of the Qatari Code of Criminal Procedure.

**3) Assessment of the Minutes of the hearing of 15/04/2020 (Renewal of pre-trial detention)**

*a) Information from the Minutes of the Hearing of 15/04/2020*

64. The minutes of the hearing indicate that the defendant's detention was extended by 14 days. The information contained in the minutes is summarised in the following table:

<b>Minutes of the hearing of 15/04/2020 (Renewal of provisional detention)</b>		
<b>Minutes of the Hearing of 15/04/2020 (Renewal of Provisional Detention)</b>	<b>Mention in the minutes</b>	<b>Remarks</b>
<b>Court name</b>	Criminal Court	
<b>Case number</b>	1 / 2020	
<b>Room</b>	Renewal of pre-trial detention	
<b>Applicant / Appellant / Petitioner</b>	Tayeb Benabderrahmane	This box is reserved for the public prosecutor or the defendant in the event of an appeal against the decision to remand the prisoner in custody.
<b>Defendant / Respondent / Defendant in cassation</b>	Not mentioned	
<b>Date of hearing</b>	15 - 4 - 2020	
<b>Judge</b>	Ghanem Rashid Al-Khayarin	
<b>Representative of the Public Prosecutor's Office</b>	Mohamed Sultan Al-Khalidi	
<b>Clerk</b>	Tariq Shahin	
<b>Presence of the accused</b>	The accused was not present	
<b>Content (Substance) of the minutes</b>	Due to the suspension of the hearings as a precaution against coronavirus disease, the accused was not present and visual communication with him was impossible. The representative of the public prosecutor requested that the defendant's detention be extended.	
<b>Decision</b>	The court decided to postpone the review of the 14-day detention, with renewal on the legal date.	
<b>Signature</b>	Signature attributed to the judge and clerk	
<b>Stamp</b>	Court of First Instance, Misdemeanours Division (10)	The question arises as to whether this is a hearing for misdemeanours or a renewal of detention.

*b) Legal Opinion on the Minutes of the Provisional Detention Renewal Hearing of 15/04/2020*

65. After examining the minutes of the hearing, it was noted that no lawyer was present to represent the applicant. Mr Tayeb Benabderrahmane, which contravenes the objective of the provisions of articles 65, 101, 102 and 221 of the Qatari Code of Criminal Procedure. Examination of the minutes of the hearing dated 15/04/2020 revealed that



confusion as to the nature of this hearing: was it a hearing to renew pre-trial detention or an appeal against a pre-trial detention decision? It is therefore necessary to remove this ambiguity and clarify the nature of the hearing.

**1) Determining the hearing on 15 April 2020: is it a hearing to renew pre-trial detention or a hearing to appeal a pre-trial detention decision?**

G. Indicators in favour of a pre-trial detention renewal hearing	H. Indicators in favour of an appeal hearing against a decision to renew pre-trial detention
I. Mention at the top of the minutes, on the right: <i>The name of the court is indicated as follows "Torts Court".</i>	J. Wording of the court's decision: <i>The court's decision states that the review of the pre-trial detention order will be postponed, which suggests that it is probably an appeal against a detention decision.</i>
K. Mention at the top of the minutes, on the left: <i>The pre-trial detention renewal chamber is specified.</i>	L. Stamp at the end of the minutes: <i>The stamp is attributed to the Misdemeanours Appeal Chamber of the Court of First Instance (Misdemeanours Appeal Chamber [10]), which indicates that it is an appeal against a decision to renew pre-trial detention. This stamp differs from all stamps used for pre-trial detention renewal hearings.</i>

**2) Legal consequences of determining the nature of the hearing on 15 April 2020**

66. Determining the nature of the hearing has a number of legal consequences under Qatar's Code of Criminal Procedure. *Right of appeal (Article 157)*

67. Article 157 gives the Public Prosecutor's Office the right to appeal against a judge's decision to release an accused person from pre-trial detention in criminal cases and misdemeanours. Execution of the release decision is suspended until the appeal period expires, thus allowing the public prosecutor to review the decision before the accused is released. The article also grants the accused or his representative the right to appeal against the decision to remand him in custody, thereby strengthening the rights of the defence.

*Procedure for lodging an appeal (Article 158)*

68. Article 158 sets out the procedure for lodging an appeal. The appeal must be presented by a report to the registry of the competent appeal court and submitted to the latter. The appeal must be lodged within twenty-four hours of the decision, thereby ensuring that appeals relating to pre-trial detention are dealt with swiftly.

69. Determining the date of the Appeal Hearing (Article 159)

70. In accordance with Article 159, the date of the hearing must be set within three days of the submission of the report, thus ensuring a rapid review of requests for appeal and avoiding an unjustified extension of pre-trial detention.

71. *Examination of Appeals (Article 160)*

72. Article 160 stipulates that the Appeals Tribunal shall hear appeals against decisions on detention and release in a non-public session, in the presence of the public prosecutor and the accused. The tribunal may hold these hearings outside the days set for its regular sessions and outside the seat of the tribunal if necessary. This provision offers flexibility in setting the dates and locations of hearings, adapted to the requirements of justice.

73. If the appeal is not decided within three days of the date set for its consideration, the release order must be executed immediately.

74. The provisions of the Code of Criminal Procedure relating to appeals against decisions to remand prisoners in custody are essential safeguards for the delivery of justice and the protection of individual rights. They ensure that the right of appeal is available to the prosecution and the accused, and set out rapid procedures for considering appeals, thereby strengthening confidence in the judicial system and preventing arbitrary detentions.

**3) Assessment of the Minutes of the Hearing of 28/04/2020 (Renewal of Provisional Detention)**

a) *Information from the Minutes of the Hearing of 28/04/2020*

75. The minutes indicate that the defendant was taken from detention, the public prosecutor requested that his detention be extended, and the court decided to extend the defendant's detention for a period of one month. The formal information contained in the minutes is presented in the following table:

<b>Minutes of the hearing of 28/04/2020 (Renewal of pre-trial detention)</b>		
<b>Minutes of the Hearing of 28/04/2020 (Renewal of Provisional Detention)</b>	<b>Mention in the minutes</b>	<b>Remarks</b>
<b>Court name</b>	Criminal Court	
<b>Case number</b>	1 / 2020	Correction of case number
<b>Room</b>	Renewal of pre-trial detention	
<b>Applicant / Appellant / Petitioner</b>	Public Prosecutor's Office	
<b>Defendant / Respondent / Defendant in cassation</b>	Tayeb Benabderrahmane	
<b>Date of hearing</b>	28 - 4 - 2020	Correction of the hearing date between 28 and 29 April
<b>Judge</b>	Dr. Hamad Saleh Al-Nabit	Same judge who handed down the death <del>penalty</del> (Tayeb Benabderrahmane) on 31/5/2023
<b>Representative of the Public Prosecutor's Office</b>	Saleh Abdullah Al-Warad	
<b>Clerk</b>	Hossam Mohamed Atif	
<b>Presence of the accused</b>	The accused was not present	
<b>Content (Substance) of the minutes</b>	Due to the suspension of the hearings as a precaution against coronavirus disease, the accused was not present and visual communication with him was impossible. The representative of the public prosecutor requested that the defendant's detention be extended.	
<b>Decision</b>	The court decided to extend the defendant's detention for one month, with renewal on the legal date.	
<b>Signature</b>	Signature attributed to the judge and clerk	
<b>Stamp</b>	Court of First Instance, Misdemeanours Division (22)	

*b) Legal Opinion on the Minutes of the Temporary Detention Renewal Hearing of 28/04/2020*

76. Examination of the minutes of the hearing dated 28/04/2020 revealed the presence of erasures and corrections in the document, as well as the absence of the accused at the hearing.
1. Non-validation of Corrections to the Date of the Minutes and the Case Number
77. The minutes of the hearing of 28 April 2020 show a correction of the case number from (14 / 2020) to (1 / 2020), without validation of this correction. Similarly, the date of the hearing was corrected from 29 to 28 April. This information is essential and must be accurate.
78. In accordance with article 87/3 of the Code of Criminal Procedure, the information and testimony of witnesses must be recorded without erasures or unapproved additions, and any corrections or erasures must be approved by the member of the public prosecutor's office, the court clerk and the witness if it concerns his or her testimony.
79. Looking at Qatari legislation on criminal procedure and civil and commercial procedure, although there are no specific regulations for this type of procedure, it is imperative that the public prosecutor validates any corrections in the minutes of the hearing. This is common practice in most legislations and laws, and the renewal judge must comply with it even in the absence of a specific legal text, according to article 87/3.

80. This means that all information, witness testimony and hearing procedures must be recorded clearly and without erasures or unapproved additions. The aim is to guarantee the integrity of the record and avoid any manipulation, thereby ensuring the accuracy and veracity of the information recorded. Any corrections or erasures must be properly documented and approved. No corrections or deletions should be accepted without proper validation.

2. Absence of Counsel for the Accused

81. Examination of the minutes of the hearing revealed that the accused, Tayeb Benabderrahmane, did not have a lawyer present to represent him, in breach of articles 65, 101, 102 and 221 of the Qatari Code of Criminal Procedure. These articles guarantee the right of the accused to be represented by a lawyer, which is particularly important during hearings for the renewal of pre-trial detention.

4) **Assessment of the Minutes of the Hearing of 17/05/2020 (Renewal of Provisional Detention)**

a) *Information from the Minutes of the Hearing of 17/05/2020*

82. The minutes indicate that the accused was taken from detention, the public prosecutor requested that his detention be extended, and the court decided to extend the accused's detention for a period of thirty days. The formal information contained in the minutes is presented in the following table:

<b>Minutes of the hearing of 17/05/2020 (Renewal of provisional detention)</b>		
<b>Minutes of the Hearing of 17/05/2020 (Renewal of Provisional Detention)</b>	<b>Mention in the minutes</b>	<b>Remarks</b>
<b>Court name</b>	Criminal Court	
<b>Case number</b>	1 / 2020	
<b>Room</b>	Renewal of pre-trial detention	
<b>Applicant / Appellant / Petitioner</b>	Not mentioned	
<b>Defendant / Respondent / Defendant in cassation</b>	Tayeb Benabderrahmane	
<b>Date of hearing</b>	17 - 5 - 2020	
<b>Judge</b>	Ghanem Thamer Nasser Al-Humaidi	
<b>Representative of the Public Prosecutor's Office</b>	Mohamed Mohamed ...	
<b>Clerk</b>	Al-Husseini Mohamed Ahmed	
<b>Presence of the accused</b>	The accused was not present, but visual communication was established with him.	
<b>Content (Substance) of the minutes</b>	Due to the suspension of the hearings as a precaution against coronavirus disease, the accused was not physically present, but visual communication was established with him, where he requested his release. The representative of the Public Prosecutor's Office requested that the defendant's detention be extended.	
<b>Decision</b>	The court decided to extend the defendant's detention for thirty days, with renewal on the legal date.	
<b>Signature</b>	Signature attributed to the judge and clerk	
<b>Stamp</b>	Court of First Instance, Misdemeanours Division (22)	

b) *Legal Opinion on the Minutes of the Provisional Detention Renewal Hearing of 17/05/2020*

83. No lawyer or translator for the accused

5) **Assessment of the Minutes of the Hearing of 25/06/2020 (Renewal of Provisional Detention)**

a) *Information from the Minutes of the Hearing of 25/06/2020*

<b>Minutes of the hearing of 25/06/2020 (Renewal of pre-trial detention)</b>		
<b>Minutes of the Hearing of 25/06/2020 (Renewal of Provisional Detention)</b>	<b>Mention in the minutes</b>	<b>Remarks</b>
<b>Name of Court</b>	Criminal Court	
<b>Case number</b>	1 / 2020	
<b>Room</b>	Vacuum	
<b>Applicant / Appellant / Petitioner</b>	Not mentioned	
<b>Defendant / Respondent / Defendant in cassation</b>	Tayeb Benabderrahmane	
<b>Date of hearing</b>	25 - 6 - 2020	Correction of the month of June with a corrector
<b>Judge</b>	Ali Abdullah Al-Jasiman	
<b>Representative of the Public Prosecutor's Office</b>	Safar Al-Hamr	
<b>Clerk</b>	Nouf Al-Juaidi	
<b>Presence of the accused</b>	Communication established with the accused by modern technological means	
<b>Content (Substance) of the minutes</b>	Communication with the accused since his detention by modern technological means. The accused was seen and heard, and requested his release under any guarantees deemed appropriate by the court. The representative of the public prosecutor requested that the defendant's detention be extended.	
<b>Decision</b>	The court decided to extend the defendant's detention for one week, with renewal on the legal date. A note specifies that the accused will be brought before the court on 1/7/2020.	Correction of the decision from ten days to one week
<b>Signature</b>	Signature attributed to the judge and clerk	
<b>Stamp</b>	Court of First Instance, Misdemeanours Division (22)	

b) *Legal Opinion on the Minutes of the Provisional Detention Renewal Hearing of 25/06/2020*

1. The correction of the date of the minutes and the court decision was not validated.
2. There was no lawyer for the accused.
3. There was no translator.

## Section IV: Assessment of the seizure review report

84. The document includes an examination of seized items, including several telephones, a desktop computer, laptops, several external hard drives, memory cards, USB sticks, SIM cards and CDs.

### 1) Key comments on the seizure review report

#### a) *No Report Writing Date*

85. Article 17/8 of Law No. 16 of 2017 on the organisation of expertise work stipulates that "the expert registered on the roll must undertake to mention his name, registration number and the name of the office for which he works on all his printed matter, correspondence, certificates and reports that he signs".

86. On examining the report on the examination of the seizures, it appears that the signatory of the report, Captain Ahmed Abdel Aziz, did not mention the date on which the report was written, nor his registration number or the body to which he reports. On consulting the publications of the Qatar Ministry of Justice, entitled "The Guide to Forensic Work", the model for carrying out the expert's work (pages 66 and 67) emphasises the need to mention all the information, in particular the date and time of the start of the mission, which the officer in charge of the examination did not do.

#### b) *Inadequacy of the Technical Review*

### 1 No mention of brand or serial number on certain appliances :

87. For example :

Page5: the Samsung phone without the serial number.

Page5: the iPhone 5 phone with no mention of the serial number.

Page5: Microsoft desktop computer with no mention of the serial number.

Page6: the HP laptop without the serial number.

Page6: the Lenovo laptop with no mention of the serial number.

Page6: the ASUS laptop with no mention of the serial number.

Page 7: the hard drive verbatim without mentioning the serial number or storage capacity.

### 2. Lack of Details on the Expert's Method of Identifying Certain Appliances:

Page5: the iPhone 5 phone is shown as belonging to Mr Nasser al-Khelaïfi, with no explanation of how the device was identified.

Page6: the ASUS laptop contains a copy of an iPhone 5 belonging to Mr Nasser al-Khelaïfi and some conversations, with no explanation of the link between the devices.

### 3. Lack of explanation of data extraction procedures :

88. The report lacks details of the tools and techniques used to extract and examine data from the various devices.

## Section V: Qatar Criminal Court judgment no. 653 for the year 2023, hearing on 31/05/2023

a) Main sections of the judgment and their content

Section	Section details	Remarks
<b>Judgement information</b>	Judgment of the Criminal Court of Qatar n° 653 of the year 2023, Hearing of 31/05/2023	Tayeb was released on 1/7/2020
<b>Indictment</b>	<b>Defendants:</b> 1. Tayeb Benabderrahmane 2. Hicham Karmosy 3. Zohair Boudmag <b>Period:</b> from 2017 to 2020 <b>Location:</b> Department of State Security Services <b>Charges:</b> - First: They participated in a criminal conspiracy to commit the crime referred to in point two, and took steps to ensure that they would not deviate from their plan; they agreed and united their wills to commit it. - Second: They solicited and spied for a foreign state, which harmed the economic and political position of the State of Qatar, as stated in the documents, and the Public Prosecution requested their punishment in accordance with articles 107 and 128 of the Penal Code.	
<b>Material element of the crime</b>	1. To provide information aimed at withdrawing the 2022 World Cup from the State of Qatar. 2. Providing a document dated 1 May 2016 from the Qatar Investment Authority, classified as "Secret", entitled "Draft Rules of Procedure of the Board of Directors and Staff Regulations of the Authority", a document entitled "Draft Decision of the Board of Directors of the Qatar Investment Authority for the year 2016 regarding the Rules of Procedure of the Board", and a document entitled "Staff Regulations of the Qatar Investment Authority". 3. The first defendant passed on this information to the intelligence services of the foreign state, and the espionage with the other defendants harmed the economic and political position of the State of Qatar. 4. Arrest and search warrants were issued by the Public Prosecutor's Office on 2 January 2020. The first defendant was arrested on 13 January 2020.	The information is not specified, only the Qatar Investment Authority document dated 1 May 2016 is mentioned.
<b>Proof of conviction</b>	<b>1. Testimony in public prosecutions</b> <b>Witness T (1):</b> - Received information indicating that the first defendant was in contact with a military officer of the rank of major, the office manager of one of the personalities mentioned in the documents. - Confirmed that the first defendant, assisted by the second and third defendants, possessed information aimed at withdrawing the 2022 World Cup from Qatar, and that the first defendant had sent the major a document dated 1 May 2016 from the Qatar Investment Authority, classified as "Secret", entitled "Draft Rules of Procedure of the Board of Directors and Staff Regulations of the Authority", a document entitled "Draft Decision of the Board of Directors of the Qatar Investment Authority for the year 2016 regarding the Rules of Procedure of the Board", and a document entitled "Staff Regulations of the Qatar Investment Authority". - <b>Witness B (1):</b> - stated that he had recorded the statements of the first defendant, and had testified to the events mentioned on pages 5 to 11 of the	<b>Notes:</b> - The T (1) appears to be an officer of the State security services. - Witness B (1) appears to be the Public Prosecutor's investigating officer. - Witness T (2) could be the expert who drafted the seizure examination report (examination officer). - At the detention renewal hearings, Tayeb denied the charges against him, but the judgment makes no mention of this denial.

	judgment. - <b>Witness T (1):</b> - After examining the equipment, discovered ... and testified to the facts mentioned in the pages of the judgment (from the end of page 11 to page 13). <b>2. Confessions of the first defendant (Tayeb Benabderrahmane):</b> - The judgment convicted Tayeb Benabderrahmane on the basis of his confession, as specified (from the end of page 13 to page 20).	
<b>Description of the judgment</b>	Looking at pages 26 and 28 of the judgment, it is described as having been handed down in the presence of the parties in accordance with article 108 of the Code of Criminal Procedure.	This description is contrary to the aforementioned article.
<b>Operative part of the judgment</b>	The court ruled in the presence of the parties and unanimously: - First: Sentenced Tayeb Benabderrahmane, Hicham Karmoussi and Zohair Boudmagh to death by firing squad. - Secondly: Forfeits the equipment, documents and sums of money seized.	

## 2) Part Two: Detailed Opinion on Qatar Criminal Court Judgment No. 653 for the year 2023, delivered on 31 May 2020

### 1) Error in the description of the judgement as "Presential by Representation".

89. On examining pages 26 and 28 of the judgment, it appears that the court described the judgment as "presential by representation" in accordance with article 180 of the Qatari Code of Criminal Procedure.
90. This description is incorrect. Article 180 states: "If the accused, duly summoned in accordance with the law, does not appear on the day indicated in the summons and does not send a lawyer on his behalf in cases where this is permitted, the court shall rule in his absence after examining the documents, unless the summons was delivered in person to the accused and the court considers that there is no valid reason for his absence; in this case, the judgment shall be deemed to have been given in the presence of the accused."
91. Applying Article 180, we find the following:  
The characteristic feature of a judgment considered to be "presential" is the delivery of the summons in person to the accused.  
If the summons is not delivered in person, the judgment is rendered by default.
92. Applying these principles to Mr Benabderrahmane's case: no summons was delivered in person to Mr Benabderrahmane, which makes the description of the judgment as "presential" incorrect and contrary to the law.

### 2) Inconsistency in the description of the facts as specified in the judgment concerning time and place

93. The judgment states that the crime was committed between 2017 and 2020 in the State Security Services Department. However, Mr Benabderrahmane only entered Qatar at the end of 2018, in October. The term "State Security Services Department" refers to the geographical territory of the State of Qatar. This raises the question of how the crime could have started in 2017 in Qatar when Mr Benabderrahmane was not present there until late 2018.

### 3) Contradiction between the dates of the Judgment and those of the Arrest Warrant

94. The judgment states that the offence was committed from 2017 to 2020 in the State Security Services Department. The arrest warrant dated 2 January 2020 states that it was issued on Thursday, 2 January 2020 at 10:00 a.m. at the Public Prosecutor's Office, after examining the search and investigation report attached to the State Security Services Department's letter no. 22/678/ج(س/س/أدم) dated 2 January 2019.

### 4) Incomplete testimony from witness T (1) concerning the date of receipt of information

95. On reading the testimony, it appears that T (1) is an officer in the State security services. However, his testimony does not specify the date on which he received the information or the date on which the offence was committed.

### 5) Testimony of B (1) - Public Prosecutor's Investigations Editor

96. From the context of the judgment, B (1) appears to be the assistant public prosecutor or the drafter. The court presented him as the person who had recorded Mr Tayeb Benabderrahmane's statements.

### 6) Testimony of T (2) - Examination officer

97. His testimony begins with: "It appeared after examination," and then went on to read the contents of the examination report. We have already discussed the legal opinion on the examination report.



7) *Failure to take into account Tayeb Benabderrahmane's denial at the Detention Renewal Hearings (Hearing of 16/02/2020)*

98. On examining the judgment, it is clear that the conviction is based on Mr Tayeb Benabderrahmane's confession in the prosecution's investigations. However, the judgement does not take into account the fact that Mr Benabderrahmane denied the charges at the detention renewal hearing on 16/02/2020. Here are some rulings by the Qatar Court of Cassation concerning the nullity of confessions:

8) *Invalidity of a confession made under duress or torture*

99. The nullity of the confession due to coercion and torture can be invoked at any stage of the trial, and the absence of any mention in the investigation report does not mean that the coercion did not take place. In this regard, the Qatar Court of Cassation ruled: "The fact that the third appellant did not disclose duress at any stage of the investigation, as the judgment stated, does not necessarily negate the existence of duress in any form, material or moral. Furthermore, the accused's exercise of his legitimate right to defend himself before the court must in no way be considered belated, since the trial is the appropriate moment when the law guarantees every accused the right to present any request for investigation and any defence, and obliges the court to examine and instruct them as long as they reveal the truth and guide towards the right decision. Consequently, since the judgment under appeal based its conviction on the confessions of the third appellant, it is, in addition to its erroneous reasoning, vitiated by an insufficient statement of reasons, which renders it voidable and necessitates its remittal for reconsideration as regards the third appellant as well as the first and second appellants due to the connectedness of the grounds of appeal concerning them."

9) *Invalidity of the Accused's Confession before the State Security Agency over Repeated Periods during Detention*

100. The Qatar Court of Cassation also ruled: "The nullity of the arrest or detention by the police for a period exceeding the legal time limit is one of the essential defences that the judgment must examine and respond to satisfactorily as long as it was based, in part, on evidence drawn from it or resulting from it. Consequently, given that the accused maintained in his defence at all stages of the trial that his arrest and detention by the police took place on 27/03/2007 and that he was not brought before the public prosecutor until 03/06/2007, and that the judgment under appeal addressed this defence and rejected it on the basis of Law no. 17 of 2002 on the protection of society, Article 2 of which provides for a derogation from the provisions of the Code of Criminal Procedure, allowing the accused to be remanded in custody for crimes relating to State security for a period not exceeding six months, whereas Article 7 of Law no. 5 of 2003 establishing the State Security Agency, which is applicable to the case in point, provides that: "By way of derogation from the provisions of the Code of Criminal Procedure, the period of detention of a person accused of committing an act falling within the jurisdiction of the Agency shall not exceed thirty days before being presented to the Public Prosecutor," this law, being subsequent to the previous one, repeals it with regard to the period of detention - being applicable to events occurring after its entry into force, which is the case here - and applying its provisions to the facts of the case, it is clear from the documents and the grounds of the judgment that this defence is well-founded. By relying, in part, on the defendant's confessions to the State Security Agency at repeated times during his detention, this evidence is invalidated and cannot be used. Consequently, the judgment under appeal is vitiated by a defect that requires it to be set aside and the case remitted for reconsideration - as far as this appellant is concerned - without it being necessary to consider the other grounds of appeal, because evidence in criminal cases is interdependent and complements each other so as to form the conviction of the judge, so that if any of it is quashed or set aside, it becomes impossible to determine what impact that quashed evidence would have had on the final opinion of the court if it had realised that that evidence did not exist.

101. In accordance with the previous judgement, the confession of the accused at successive intervals during the period of detention is considered null and void.

*The Court must examine the validity of the confession*

102. The case law of the Qatar Court of Cassation stipulates that a confession used as evidence in a case must be voluntary and of free will, and that it is inadmissible to rely on a confession - even if it is true - if it is the result of coercion, however serious. The principle is that if the court chooses to rely on the confession as evidence, it must examine the link between that confession and the alleged duress and discount the impact of that duress on the confession in a reasonable manner.

8) *Nullity of Mr Benabderrahmane's confession in breach of the Qatari Code of Criminal Procedure*

103. At the end of the third page of the judgment and at the beginning of the fourth page, it is stated that the judgment is based primarily on Mr Benabderrahmane's confession. The confessions on which the judgement relies to convict Mr Benabderrahmane are contrary to the guarantees of a fair trial and are all the result of flawed procedures due to the absence of a translator or a lawyer present with the accused.

## Section VI: Summary of the opinion

### Arrest warrant issued by the Public Prosecutor's Office on 2 January 2020

- Failure to mention the charge in the arrest warrant:** Failure to specify the charge on which the arrest warrant was issued.
- Failure to provide the detainee with a copy of the arrest warrant:** No official copy of the arrest warrant was provided to the detainee.
- Lack of translation of the arrest warrant:** No translation of the arrest warrant was provided in a language understood by the detainee.
- Violation of the individual's right to be informed immediately of the reasons for his arrest or detention:** Infringement of Article 9(2) of the International Covenant on Civil and Political Rights.
- Violation of Article 104 of the Qatari Code of Criminal Procedure:** Failure to comply with legal requirements regarding the issuance and notification of arrest warrants.

### Notification to the police officer to execute the arrest warrant issued by the Public Prosecutor on 13 January 2020

- Violation of Article 104 of the Qatari Code of Criminal Procedure
- .Violation of the notification to the police officer to execute the arrest warrant issued on 13 January 2020, the warrant issued by the Public Prosecutor's Office on 2 January 2020.
- .Violation of Article 7 of the State of Qatar Security Agency Act :

### Decisions of the Public Prosecutor's Office of 10 February 2020 and 13 February 2020

Legal infringements contained in the decisions of the Public Prosecutor's Office of 10 February 2020 and 13 February 2020.		
Element	Objective	Is he satisfied?
Charge against the accused	Ensuring that the accused is informed of the charge against him or her	No
Text of the applicable law	Ensuring that the accused is informed of the charge against him or her	No
Delivery of a copy of the decision to the defendant	Ensuring that the accused is informed of the charge against him/her and of the legal measures taken against him/her	No

### Minutes of the hearing of 16/02/2020 (renewal of pre-trial detention)

- Composition of the court contrary to article 117/2 of the Qatari Code of Criminal Procedure
- Absence of a translator during the minutes of the pre-trial detention renewal hearing
- Absence of a lawyer for the defendant

### Minutes of the hearing of 16/03/2020 (renewal of pre-trial detention)

- No stamp on the minutes of the hearing
- No mention of Tayeb Benabderrahmane's statements in the minutes of the hearing of 16/03/2020
- Absence of a translator during the minutes of the pre-trial detention renewal hearing
- Absence of a lawyer for the defendant

### Minutes of the hearing of 15/04/2020 (renewal of pre-trial detention)

- After consulting the minutes of the hearing, it was noted that Tayeb Benabderrahmane did not have a lawyer, in violation of the objectives of articles 65, 101, 102 and 221 of the Qatari Code of Criminal Procedure. On examining the minutes of the hearing dated 15/04/2020, an ambiguity remains as to whether this was a hearing for the renewal of pre-trial detention or an appeal against a pre-trial detention order. This ambiguity must be removed and the nature of the hearing clarified.

### Minutes of the hearing of 28/04/2020 (renewal of pre-trial detention)

- Non-validation of the correction to the date of the minutes of the hearing and the case number
- Absence of a lawyer for the accused.

### **Minutes of the hearing of 17/05/2020 (renewal of provisional detention)**

After consulting the minutes of the hearing, the absence of a lawyer and a translator for the defendant was noted.

### **Assessment of the minutes of the hearing of 25/06/2020 (renewal of pre-trial detention)**

Non-validation of the correction relating to the date of the minutes of the hearing and the court's decision  
Absence of a lawyer for the defendant  
No translator

### **Report on the examination of exhibits**

- a) No date for writing the report
- b) Gaps in the technical examination
  1. No mention of brand or serial number on certain appliances
  2. Lack of details on how the expert identified certain appliances
  3. Lack of clarification of the procedures used to extract data

### **Judgment of the Qatari Criminal Court n°653 of the year 2023, hearing of 31/05/2023**

- 1) Error in the description of the "Presence by proxy" judgment
- 2) Inconsistency in the perception of the facts as presented in the judgment as to the determination of time and place.
- 3) Contradiction between the dates of the judgment and the arrest warrant
- 4) Testimony of T(1) incomplete: no details of when the information was received: after reading the testimony, it is clear that he was an officer of the State Security Agency, but the testimony does not specify when the information was received or when the crime was committed.
- 5) Testimony of B(1), editor of the public prosecutor's investigations: from the context of the judgment, it can be deduced that B(1) is an assistant to the public prosecutor or a court clerk, and was presented by the court as the person who recorded Tayeb Benabderrahmane's statements.
- 6) Testimony of T(2), officer in charge of the examination: he began his testimony with "After examination", and went on to read the contents of the examination report. We have already expressed our legal opinion on the examination report.
- 7) The judgement did not address Tayeb Benabderrahmane's denial of the prosecution's case during the hearings to renew his pre-trial detention (hearing of 16/02/2020).
- 8) Invalidity of Mr Benabderrahmane's confession, in violation of the Qatari Code of Criminal Procedure.