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London, 8 September 2020

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**For the attention of The Rt. Hon. Dominic Raab MP, Secretary of State for  
Foreign, Commonwealth & Development Affairs**

Dear Secretary of State,

**Request to designate Mr. Mohammed BIN SALMAN, Crown Prince of the  
Kingdom of Saudi Arabia, under Regulation 5, Global Human Rights  
Sanctions Regulations 2020, as an “involved person” in the unlawful killing of  
Mr. Jamal KHASHOGGI**

The Open Society Justice Initiative welcomes the UK’s Global Human Rights Sanctions Regulations 2020. The Secretary of State should be commended on this important milestone for human rights accountability, and on his commitment to the “long struggle against impunity for the very worst human rights violations”.<sup>1</sup>

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<sup>1</sup> The Rt. Hon. Dominic Raab MP, Statement to Parliament, HC Deb, 6 July 2020, Vol. 678, Col. 664 available at: <https://hansard.parliament.uk/commons/2020-07-06/debates/24B78A01-061C-48A8-AA92-8E53C17516E3/GlobalHumanRightsSanctionsRegime>.

The first designations under the Global Human Rights Sanctions Regulations, announced on 6 July 2020, underline the Secretary of State's commitment to "defend[ing] media freedoms, protect[ing] freedom of religion and [...] hold[ing] to account the perpetrators of the worst human rights abuses".<sup>2</sup> We welcome, in this context, the inclusion of 20 Saudi nationals for their role in the brutal murder of Saudi journalist, Mr. Jamal Khashoggi.<sup>3</sup>

However, it is unclear why the Crown Prince of Saudi Arabia, Mr. Mohammed Bin Salman, has not also been designated, given the existence of reasonable grounds to suspect that he is an "involved person" in the unlawful killing of Mr. Khashoggi, pursuant to the designation criteria set out at regulation 6 of the Global Human Rights Sanctions Regulations.

The credibility and efficacy of the new sanctions regime depends on the UK designating those in positions of responsibility, including at the highest levels, involved in serious human rights violations, rather than simply sanctioning lower ranking individuals who were acting on orders.

The Secretary of State has, laudably, sought to "make[...] it crystal clear [to] those who abuse their power to inflict unimaginable suffering that we won't look the other way, that you cannot set foot in this country, and that we will seize your blood-drenched ill-gotten gains if you try".

With respect, the failure to designate Mr. Bin Salman sends the opposite message: that those in positions of real power remain above the law.

We ask the Secretary of State to make good his commitment, in line with the statutory purpose of the Regulations, by designating Mr. Bin Salman as an "involved person" in the unlawful killing of Saudi journalist Mr. Jamal Khashoggi, under Regulation 5 of the Global Human Rights Sanctions Regulations 2020.

Please find attached to this letter, written submissions from the Open Society Justice Initiative which identify the activity that amounts to a gross human rights violation covered by the Regulations, provide detail about the person to be designated, Mr. Bin Salman, outline the reasonable grounds to suspect Mr. Bin Salman of being an "involved person" in the activity, and explain why Mr. Bin Salman must be designated.

It is, of course, open to Mr. Bin Salman, once designated, to produce evidence demonstrating that he was not involved in the killing of Mr. Khashoggi or its cover-up. However, the publicly available information, including reporting of the United States' Central Intelligence Agency's assessment, the statements of US Members of Congress after they were briefed by CIA Director Gina Haspel, and the conclusions of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, make it clear that unless and until that time, designation of Mr. Bin Salman is the appropriate course of action.

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<sup>2</sup> *Ibid.*

<sup>3</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, paras. 26 - 45.

Should the Secretary of State decide not to designate Mr. Bin Salman we request notice of, and a comprehensive explanation supporting, that decision.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Sadler-Forster". The signature is written in a cursive style with a prominent vertical stroke at the beginning.

Jana Sadler-Forster, Legal Officer

James A. Goldson, Executive Director

Open Society Justice Initiative

**WRITTEN SUBMISSIONS OF THE  
OPEN SOCIETY JUSTICE INITIATIVE**

**Request for the designation of Mr. Mohammed BIN SALMAN, Crown Prince of the Kingdom of Saudi Arabia, as an “involved person” in the unlawful killing of Mr. Jamal KHASHOGGI, under the Global Human Rights Sanctions Regulations 2020**

1. Mr. Jamal Khashoggi was a Washington Post columnist and an outspoken critic of the Crown Prince of Saudi Arabia, Mr. Mohammed Bin Salman (“Mr. Bin Salman”), and the Saudi government.
2. On 2 October 2018, he walked into the Saudi consulate in Istanbul to collect a document that he needed for his upcoming marriage. Once inside, he was brutally murdered by a team of Saudi agents.
3. His killing is one in a long line of attacks against critics of the Saudi Royal Court and of Mr. Bin Salman.
4. The information currently available, including reporting of the United States’ Central Intelligence Agency’s (“CIA”) assessment, public statements of US Members of Congress privy to that assessment, and the conclusions of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions (“UN Special Rapporteur”), suggests that there are reasonable grounds to suspect that Mr. Bin Salman is an “involved person” in the unlawful killing of Mr. Khashoggi, pursuant to the designation criteria set out at Regulation 6 of the Global Human Rights Sanctions Regulations 2020 (“the Regulations”).
5. While the Secretary of State has designated 20 Saudi nationals for their role in the murder, Mr. Bin Salman has not been included.<sup>1</sup> Given the available evidence, it is unclear why such a designation has not yet been made. Absent a persuasive explanation, the failure to designate Mr. Bin Salman, while designating 20 lower ranking officials, risks fundamentally undermining the purposes of the Regulations.
6. The following submission (I) sets out the applicable legal framework, (II) identifies the activity that amounts to a gross human rights violation covered by the Global Human Rights Sanctions Regulations 2020, (III) provides details about the person to be designated, Mr. Mohammed Bin Salman, (IV) outlines the reasonable grounds to suspect that Mr. Bin Salman is an “involved person” within the meaning of the Regulations, (V) sets out why the designation is appropriate under the Regulations, and (VI) suggests why, in all the circumstances, Mr. Bin Salman should be designated for the purpose of an asset freeze and travel ban.<sup>2</sup>
7. The submission is based on publicly available material, including the Annex to the Report of the UN Special Rapporteur on the unlawful death of Mr. Jamal Khashoggi published on 19 June 2019,<sup>3</sup> information reported about the CIA assessment of the killing, public statements of

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<sup>1</sup> UK Sanctions List, Foreign, Commonwealth and Development Office, 6 July 2020, paras. 26-45.

<sup>2</sup> ‘Global Human Rights Sanctions: Information Note for NGOs and Civil Society’, Foreign, Commonwealth & Development Office, 6 July 2020, Part 5.

<sup>3</sup> ‘Annex to the Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions: Investigation into the unlawful death of Mr. Jamal Khashoggi’, A/HRC/41/CRP.1, 19 June 2019 (hereafter “Annex to the Report of the UN

US Members of Congress privy to that assessment, and reporting from reputable media outlets. All sources of information are cited in the text below.

8. In assessing all relevant considerations under the Regulations, the Secretary of State must also take into account any additional evidence relating to Mr. Bin Salman’s involvement in the killing, to which the UK Government has had access, including, for example, the audio recordings of the killing.<sup>4</sup>
9. The Open Society Justice Initiative is part of the Open Society Foundation London, a not for profit organisation based in the UK.<sup>5</sup> It uses litigation and other forms of legal advocacy to empower people, defend the rule of law, and advance human rights. It pursues accountability for international crimes, national security abuses and corruption, and promotes equality, criminal justice reform, economic justice, access to information and a vibrant civic space.

## I. Legal framework

10. The purposes of the Regulations, enacted under the Sanctions and Anti-Money Laundering Act 2018 (“Sanctions Act”), are set out in Regulation 4. They are to “deter, and provide accountability for”<sup>6</sup> activities (including omissions)<sup>7</sup> carried out by any person which “if carried out by or on behalf of a State within the territory of that State, would amount to a serious violation” of the following human rights:<sup>8</sup>
  - i) the right to life,
  - ii) the right not be subjected to torture or cruel, inhuman or degrading treatment or punishment, or
  - iii) the right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labourwhether or not the activity is carried out by or on behalf of a State.
11. Under Regulation 5, the Secretary of State may designate a person for the purpose of imposing an asset-freeze or an immigration restriction.<sup>9</sup>
12. The Secretary of State may not designate a person under Regulation 5 unless the Secretary of State:<sup>10</sup>

*“(a) has reasonable grounds to suspect<sup>11</sup> that that person is an involved person,  
and*

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Special Rapporteur”) available at:

[https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A\\_HRC\\_41\\_CRP.1.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_CRP.1.docx).

<sup>4</sup> President Erdogan has stated that the audio recordings have been given to the UK, as well as to the US, Germany and France. See footage of Erdogan speech in ‘CIA concludes Saudi Crown Prince ordered Jamal Khashoggi’s assassination’, Shane Harris et al., *The Washington Post*, 16 November 2018, available at:

[https://www.washingtonpost.com/world/national-security/cia-concludes-saudi-crown-prince-ordered-jamal-khashoggis-assassination/2018/11/16/98c89fe6-e9b2-11e8-a939-9469f1166f9d\\_story.html?utm\\_term=.b940c2f30d5b](https://www.washingtonpost.com/world/national-security/cia-concludes-saudi-crown-prince-ordered-jamal-khashoggis-assassination/2018/11/16/98c89fe6-e9b2-11e8-a939-9469f1166f9d_story.html?utm_term=.b940c2f30d5b).

<sup>5</sup> The Open Society Justice Initiative is a global programme, which also operates in other international offices of the Open Society Foundations, including in New York, Berlin and Abuja.

<sup>6</sup> Global Human Rights Sanctions Regulations 2020, Regulation 4(1).

<sup>7</sup> Global Human Rights Sanctions Regulations 2020, Regulation 4(4).

<sup>8</sup> Global Human Rights Sanctions Regulations 2020, Regulation 4(2).

<sup>9</sup> Global Human Rights Sanctions Regulations 2020, Regulation 5(1).

<sup>10</sup> Global Human Rights Sanctions Regulations 2020, Regulation 6(1).

<sup>11</sup> The test of “reasonable grounds to suspect” is a low one, and was deliberately proposed by the UK Government to “allow [...] flexibility to advance UK foreign policy”. The Government specifically rejected the higher standard of “reasonable grounds to believe”. See, for example, ‘Public consultation on the United Kingdom’s future legal framework for imposing and implementing sanctions: Government response’, Cm 9490, August 2017, para. 3.7, available at:

*(b) considers that the designation of that person is appropriate, having regard to—*

*(i) the purposes stated in regulation 4, and*

*(ii) the likely significant effects of the designation on that person (as they appear to the Secretary of State to be on the basis of the information that the Secretary of State has).”*

13. An “involved person” means a person who:

*“(a) is or has been involved in an activity falling within regulation 4(2),*

*(b) is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,*

*(c) is acting on behalf of or at the direction of a person who is or has been so involved, or*

*(d) is a member of, or associated with, a person who is or has been so involved.”*

14. And a person is “involved in an activity falling within regulation 4(2)” if—

*“(a) the person is responsible for or engages in such an activity;*

*(b) the person facilitates, incites, promotes or provides support for such an activity;*

*(c) the person conceals evidence of such an activity;*

*(d) the person provides financial services, or makes available funds, economic resources, goods or technology, knowing or having reasonable cause to suspect that those financial services, funds, economic resources, goods or technology will or may contribute to such an activity;*

*(e) the person provides financial services, or makes available funds, economic resources, goods or technology to a person mentioned in sub-paragraph (a);*

*(f) the person profits financially or obtains any other benefit from an activity falling within regulation 4(2);*

*(g) the person is responsible for the investigation or prosecution of such an activity and intentionally or recklessly fails to fulfil that responsibility; or*

*(h) the person contravenes, or assists with the contravention of, any provision of Part 3 of these Regulations.”*

15. In deciding whether a person should be considered for designation, the UK Government has committed to have regard to “all relevant considerations”, and has set out the following (non-exhaustive) factors as “likely to be relevant”:<sup>12</sup> the Government’s human rights priorities; the nature of the victim (“HMG is likely to give particular attention to activities that are carried out in relation to individuals who seek to obtain, exercise, defend or promote human rights, such as journalists, civil society activists, human rights defenders and whistle-blowers”); the seriousness of the conduct; international profile and collective action; non-state actors; the

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/635101/consultation-uk-future-legal-framework-sanctions-government-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/635101/consultation-uk-future-legal-framework-sanctions-government-response.pdf).

<sup>12</sup> ‘Policy paper. Global Human Rights Sanctions: consideration of designations’, 6 July 2020, Foreign, Commonwealth & Development Office, available at: <https://www.gov.uk/government/publications/global-human-rights-sanctions-factors-in-designating-people-involved-in-human-rights-violations/global-human-rights-sanctions-consideration-of-targets>.

status and connections of the involved person; and the effectiveness of other measures – including law enforcement.<sup>13</sup>

## **II. Activity amounting to a serious human rights violation**

16. In the light of the designation of 20 Saudi nationals by the UK in connection with Mr. Khashoggi's killing and the subsequent concealment of evidence of the execution, it is clear that the Secretary of State has determined that the mistreatment of Mr. Khashoggi in the Saudi consulate in Istanbul on 2 October 2018 amounts to a serious human rights violation under Regulation 4(2) of the Regulations.<sup>14</sup>
17. For completeness, we set out in the Annex to these submissions a summary of evidence relating to Mr. Khashoggi's killing. The events leading up to and including his death plainly amount to a serious violation of Mr. Khashoggi's right to life and likely also his right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment.

## **III. Details of the person to be designated: Mr. Mohammed BIN SALMAN**

18. Mr. Mohammad Bin Salman Bin Abdulaziz Al Saud, also known as Mohammed Bin Salman or "MBS", is the son of Mr. Salman Bin Abdulaziz Al Saud, the current King of Saudi Arabia. Mr. Bin Salman is currently the Crown Prince of the Saudi Arabia Kingdom, Deputy Prime Minister, and Defence Minister of Saudi Arabia.
19. After King Salman Bin Abdulaziz acceded to the throne in 2015, he appointed his son, Mr. Bin Salman, as the head of the newly established Council of Economic and Development Affairs. In January 2015, Mr. Bin Salman was also appointed Defence Minister of the Kingdom of Saudi Arabia.<sup>15</sup>
20. A few months later, in April 2015, Mr. Bin Salman was appointed Deputy Crown Prince and Second Deputy Prime Minister.
21. In April 2016, Mr. Bin Salman launched "Vision 2030", Saudi Arabia's ambitious reform plan designed to reduce the country's dependence on oil.<sup>16</sup>
22. In June 2017, Mr. Bin Salman was appointed Crown Prince of Saudi Arabia and Deputy Prime Minister by his father, making him next in line to the throne and de facto day-to-day ruler of the country.<sup>17</sup>
23. As a 2019 Human Rights Watch report notes, with Mr. Bin Salman's rise to power, "the Saudi authorities moved to sideline anyone in Saudi Arabia who could stand in the way of his political ascension".<sup>18</sup> In 2017, around the time of his promotion to the position of Crown Prince, Saudi authorities reorganised the prosecution service and security apparatus, removing

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<sup>13</sup> *Ibid.*

<sup>14</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, paras. 26-45.

<sup>15</sup> 'Saudi Prince Mohammad bin Salman named defense minister', *Al Arabiya*, 23 January 2015, available at: <https://english.alarabiya.net/en/News/middle-east/2015/01/23/Saudi-Prince-Mohammad-bin-Salman-appointed-defense-minister-head-of-Royal-Court.html>.

<sup>16</sup> 'The High Cost of Change: Repression Under Saudi Crown Prince Tarnishes Reforms', Human Rights Watch, 4 November 2019, pp.1, 19, (hereafter "Human Rights Watch Report"), available at: <https://www.hrw.org/report/2019/11/04/high-cost-change/repression-under-saudi-crown-prince-tarnishes-reforms>.

<sup>17</sup> Human Rights Watch Report, p.1.

<sup>18</sup> Human Rights Watch Report, pp.1-2.

them from the jurisdiction of the Ministry of Interior and placing them directly under the King's and the Crown Prince's oversight.<sup>19</sup>

24. Once the security apparatus was under the control of the Royal Court, Saudi authorities launched a series of arrests of critics and potential critics of Saudi government policies (see also, paragraphs 13-23 of the Annex to this submission).<sup>20</sup> According to reports, many of the detainees have been tortured and mistreated.<sup>21</sup>

25. The centralization of power in the hands of the King and the Crown Prince continued in November 2017, when they:

*“removed control of the Saudi National Guard, an independent military force, from the late King Abdullah’s son Mutaib and jailed him for alleged corruption, effectively bringing all branches of the Saudi armed forces under royal court control”.*<sup>22</sup>

26. A so-called “corruption” crackdown was launched in November 2017, when Mr. Bin Salman set up an “anticorruption” commission, with himself at its head. In total, nearly 400 people, including members of the royal family, ministers, senior officials and wealthy businessmen, were arrested and imprisoned at the Ritz-Carlton Hotel in Riyadh in order to pay the money allegedly owed to the Saudi Arabia Kingdom. International observers saw in these events the opportunity for Mr. Bin Salman, under the guise of the fight against corruption, to assert his control by permanently removing potential rivals.<sup>23</sup>

27. Since Mr. Bin Salman’s appointment as Crown Prince, he has chaired both of the Saudi Council of Ministers’ subcommittees, which puts him in charge of both economic affairs, as well as political and security affairs.<sup>24</sup>

#### **IV. The Reasonable Grounds to Suspect Mr. Bin Salman of being an “involved person” in Mr. Khashoggi’s killing**

28. Based on the information below, there are reasonable grounds to suspect that Mr. Bin Salman was an “involved person” in the mistreatment of Mr. Khashoggi in the Saudi consulate in Istanbul on 2 October 2018, within the meaning of Regulation 6.

##### **i. CIA and UN Special Rapporteur assessments**

29. The conclusions of the CIA and UN Special Rapporteur are, alone, sufficient to suggest that Mr. Bin Salman is an involved person for the purposes of the Regulations.

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<sup>19</sup> ‘Essam Koshak Case Will Test Saudi Arabia’s ‘Reformed’ Prosecution Service’, Adam Coogle, Human Rights Watch, 18 July 2017, available at: <https://www.hrw.org/news/2017/07/18/essam-koshak-case-will-test-saudi-arabias-reformed-prosecution-service>; Human Rights Watch Report, p.15.

<sup>20</sup> Human Rights Watch Report, pp.2, 23-26.

<sup>21</sup> Human Rights Watch Report, pp.36-39; See, for example: ‘Saudis Said to Use Coercion and Abuse to Seize Billions’, Ben Hubbard, David D. Kirkpatrick, Kate Kelly and Mark Mazzetti, *The New York Times*, 11 March 2018, available at: <https://www.nytimes.com/2018/03/11/world/middleeast/saudi-arabia-corruption-mohammed-bin-salman.html>; ‘Saudi Arabia: Women’s rights campaigner Loujain al-Hathloul due in court’, Amnesty International, 9 March 2020, available at: <https://www.amnesty.org/en/latest/news/2020/03/saudi-arabia-womens-rights-campaigner-loujain-alhathloul-due-in-court/>.

<sup>22</sup> Human Rights Watch Report, pp.12, 17.

<sup>23</sup> ‘Saudis Said to Use Coercion and Abuse to Seize Billions’, Ben Hubbard, David D. Kirkpatrick, Kate Kelly and Mark Mazzetti, op. cit., fn 21.

<sup>24</sup> Human Rights Watch Report, p.18.



## CIA assessment

30. On 16 November 2018, The Washington Post reported that the CIA had “concluded that Saudi Crown Prince Mohammed bin Salman ordered the assassination of journalist Jamal Khashoggi in Istanbul.”<sup>25</sup>
31. On 1 December 2019, the Wall Street Journal reported that excerpts of the CIA assessment, to which it had access, “state that the CIA has “medium-to-high confidence” that Prince Mohammed “personally targeted” Khashoggi and “probably ordered his death.””<sup>26</sup>
32. The CIA assessment reportedly relies on multiple sources of intelligence.<sup>27</sup> According to the Wall Street Journal, the CIA notes that it ““lack[s] direct reporting of the Crown Prince issuing a kill order”” but that its “judgment on Prince Mohammed’s likely culpability [...] is based on the crown prince’s personal focus on Mr. Khashoggi, his tight control over the Saudi operatives sent to Istanbul to kill him, “and his authorizing some of the same operators to violently target other opponents.””<sup>28</sup>
33. President Trump has stated that the CIA “did not come to a conclusion” about the Crown Prince’s involvement in the murder, adding that “[t]hey have feelings certain ways, but they didn’t – I have the report.”<sup>29</sup>
34. However, US Senators have rigorously disputed the President’s characterization of the CIA’s report.<sup>30</sup> When asked if the President was lying about the CIA’s conclusion, Senator Jack Reed said, “Yes. The CIA concluded that the crown prince of Saudi Arabia was directly involved in the assassination of Khashoggi.”<sup>31</sup>
35. A State Department official, who had seen the CIA’s assessment on Mr. Khashoggi’s killing, reportedly told ABC News that it was “blindingly obvious” that Mr. Bin Salman had ordered the killing and that there was “overwhelming consensus that the [Saudi] leadership is involved – no one is debating it within the government.”<sup>32</sup> On 20 November 2018, former CIA Director John Brennan called for Congress to declassify the CIA report, tweeting: “Since Mr. Trump excels in dishonesty, it is now up to members of Congress to obtain & declassify the CIA findings on Jamal Khashoggi’s death. No one in Saudi Arabia – most especially the Crown Prince – should escape accountability for such a heinous act.”<sup>33</sup>

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<sup>25</sup> ‘CIA concludes Saudi crown prince ordered Jamal Khashoggi’s assassination’, Shane Harris et al., op. cit. fn 4.

<sup>26</sup> ‘CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi’, Warren P. Strobel, *Wall Street Journal*, 1 December 2018, available at: <https://www.wsj.com/articles/cia-intercepts-underpin-assessment-saudi-crown-prince-targeted-khashoggi-1543640460>.

<sup>27</sup> ‘CIA concludes Saudi crown prince ordered Jamal Khashoggi’s assassination’, Shane Harris et al., op. cit. fn 4.

<sup>28</sup> ‘CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi’, Warren P. Strobel, op. cit. fn 26 (quoting excerpts from the report).

<sup>29</sup> ‘Senate Dem on Armed Services panel: Trump lying about CIA report on Khashoggi’, Kate Sullivan and Zachary Cohen, *CNN*, 23 November 2018, available at: <https://www.cnn.com/2018/11/23/politics/senate-dem-armed-services-cia-khashoggi/index.html>.

<sup>30</sup> ‘Rebuking Trump, senators back effort to suspend U.S. support for Saudi-led war in Yemen’, Karoun Dimirjian et al., *The Washington Post*, 28 November 2018, available at: [https://www.washingtonpost.com/powerpost/pompeo-mattis-to-brief-senate-on-saudi-arabia-khashoggi-and-yemen/2018/11/27/ee4e36c0-f28a-11e8-bc79-68604ed88993\\_story.html?utm\\_term=.4dde49d6aeeb](https://www.washingtonpost.com/powerpost/pompeo-mattis-to-brief-senate-on-saudi-arabia-khashoggi-and-yemen/2018/11/27/ee4e36c0-f28a-11e8-bc79-68604ed88993_story.html?utm_term=.4dde49d6aeeb).

<sup>31</sup> ‘Senate Dem on Armed Services panel: Trump lying about CIA report on Khashoggi’, Kate Sullivan and Zachary Cohen, op. cit., fn 29.

<sup>32</sup> “‘Blindingly obvious’ that Saudi crown prince ordered Khashoggi murder: Source’, Tara Palmeri, *ABC News*, 20 November 2018, available at: <https://abcnews.go.com/Politics/blindingly-obvious-saudi-crown-prince-ordered-khashoggi-murder/story?id=59305430>.

<sup>33</sup> John O. Brennan (@JohnBrennan), Twitter, 20 November 2018, 6:31pm, available at: <https://twitter.com/JohnBrennan/status/1064949331868954629>.

36. In an editorial in the *Wall Street Journal* on 4 December 2018, Senator Lindsey Graham said: “Given the evidence U.S. intelligence has gathered on Khashoggi’s killing, denying the crown prince’s involvement amounts to willful blindness.”<sup>34</sup>
37. On the same day, after CIA Director Gina Haspel briefed senators in a closed session on the Khashoggi killing, Senator Graham told reporters, “I think [Crown Prince Mohammad bin Salman is] complicit in the murder of Mr. Khashoggi to the highest level possible.”<sup>35</sup> In reference to then Defense Secretary Mattis’s insistence that American officials had seen “no smoking gun” to indicate Crown Prince Mohammad Bin Salman was to blame for Mr. Khashoggi’s killing, Senator Graham said, “There is not a smoking gun, there’s a smoking saw... You have to be willfully blind [not to see it].”<sup>36</sup>
38. Similarly, Senate Foreign Relations Committee Chairman Bob Corker told reporters: “I have zero question in my mind that the crown prince directed the murder and was kept apprised of the situation all the way through. [...] If he was in front of a jury, he would have a unanimous verdict in about 30 minutes – a guilty verdict.”<sup>37</sup>
39. On 13 December 2018, a bipartisan group of senators unanimously approved a resolution holding Crown Prince Mohammad Bin Salman responsible for the murder of Jamal Khashoggi.<sup>38</sup>
40. In December 2019, the United States Congress enacted the National Defense Authorization Act for Fiscal Year 2020 (“NDAA”), including provisions requiring the Director of National Intelligence to provide to Congress reports on the killing of Jamal Khashoggi.<sup>39</sup> Section 5714 of the NDAA required the Director to submit to Congress a report, in unclassified form (but which could include a classified annex), on the death of Jamal Khashoggi, that included “identification of those who carried out, participated in, ordered, or were otherwise complicit in or responsible for the death of Jamal Khashoggi.”<sup>40</sup> To date, an unclassified report has not been produced, however, the classified annex provided to Congress reportedly “made clear what CIA Director Gina Haspel and other officials have briefed to lawmakers in classified sessions — that [Saudi Crown Prince] Mohammed [bin Salman] played a direct role in Khashoggi’s killing.”<sup>41</sup>

#### **UN Special Rapporteur’s assessment**

41. After conducting an extensive investigation, which involved travel to Turkey and other countries, and analysing information from multiple sources including written forensic and police reports, flight details, CCTV recordings, audio recordings, and interviews of officials,

<sup>34</sup> ‘Congress Gets Tough on the Saudis’, Lindsey Graham, Editorial, *Wall Street Journal*, 4 December 2018, available at: <https://www.wsj.com/articles/congress-gets-tough-on-the-saudis-1543880186>.

<sup>35</sup> ‘Saudi Prince ‘Complicit’ in Khashoggi’s Murder, Senators Say After C.I.A. Briefing’, Eric Schmitt & Nicholas Fandos, *The New York Times*, 4 December 2018, available at: <https://www.nytimes.com/2018/12/04/us/politics/cia-senate-khashoggi-.html>.

<sup>36</sup> *Ibid.*

<sup>37</sup> ‘Senators Conclude the Saudi Crown Prince Ordered Journalist’s Killing’, Kristina Peterson & Nancy A. Youssef, *The Wall Street Journal*, 4 December 2018, available at: <https://www.wsj.com/articles/bolton-calls-khashoggi-death-a-heinous-crime-1543942052>.

<sup>38</sup> ‘Senate rebukes Trump, condemns Saudi crown prince for Khashoggi murder’, Clare Foran et al., *CNN* 13 December 2018, <https://www.cnn.com/2018/12/13/politics/corker-saudi-crown-prince-khashoggi/index.html>.

<sup>39</sup> Section 1790, National Defense Authorization Act for Fiscal Year 2020 (NDAA) (P.L 116-92), §§ 1277, 5714.

<sup>40</sup> NDAA, §§ 1277, 5714.

<sup>41</sup> ‘Lawmakers want the DNI to make public the intelligence community’s assessment of who’s responsible for killing Jamal Khashoggi’, Ellen Nakashima, *The Washington Post*, 3 March 2020, available at: [https://www.washingtonpost.com/national-security/lawmakers-want-the-dni-to-make-public-the-intelligence-communitys-assessment-of-whos-responsible-for-killing-jamal-khashoggi/2020/03/03/aafa70ee-5d07-11ea-9055-5fa12981bbbf\\_story.html](https://www.washingtonpost.com/national-security/lawmakers-want-the-dni-to-make-public-the-intelligence-communitys-assessment-of-whos-responsible-for-killing-jamal-khashoggi/2020/03/03/aafa70ee-5d07-11ea-9055-5fa12981bbbf_story.html).

witnesses and experts,<sup>42</sup> the UN Special Rapporteur determined that “there is credible evidence, warranting further investigation” of the Crown Prince’s individual liability.<sup>43</sup> She stated explicitly that this conclusion should lead to sanctions being imposed against Mr. Bin Salman:

*“[...] in view of the credible evidence into the responsibilities of the Crown Prince for [Mr. Khashoggi’s] murder, such sanctions ought [...] to include the Crown Prince and his personal assets abroad, until and unless evidence is provided and corroborated that he carries no responsibilities for this execution.”<sup>44</sup>*

42. Following the trial of suspects in Saudi Arabia, she expressed concern that “those who ordered the executions not only walk free but have barely been touched by the investigation and the trial”.<sup>45</sup>

## **ii. Information relating to Mr. Bin Salman’s role**

43. As set out below, other publicly available information, including about Mr. Bin Salman’s control of the Saudi state, his campaign against dissidents, his personal focus on Mr. Khashoggi and the known features of the killing, also provides reasonable grounds to suspect that he is an “involved person” in relation to Mr. Khashoggi’s mistreatment in the Consulate on 2 October 2018.

### **Mr. Bin Salman’s power within the Saudi state**

44. As set out at paragraph 11 ff above, since Mr. Salman Bin Abdulaziz Al Saud’s accession to throne, Mr. Bin Salman has steadily consolidated his power. By 2018, he had effective control over the security services, as well as effective political and economic control in the country.
45. According to the UN Special Rapporteur:

*“Academic research on Saudi Arabia tends to suggest that the level of control exerted by the Crown Prince over the management of the country’s political, security and economic affairs is extremely high. The Crown Prince is less subject to the constraints that historically distributed power amongst the Royal Family and the Court.”<sup>46</sup>*

46. According to a US official familiar with the CIA’s conclusions, cited by The Washington Post, “The accepted position is that there is no way this happened without him being aware or involved”.<sup>47</sup>

### **Saudi campaign against dissidents**

47. In September 2017, three months after Mr. Bin Salman became Crown Prince, a series of waves of arrests of critics of Saudi government policies started. These included the September 2017 arrests of prominent clerics, public intellectuals, academics and human rights activists, the November 2017 arrests of businesspeople and royal family members accused of corruption, and the arrests of women’s rights activists beginning in May 2018.<sup>48</sup>

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<sup>42</sup> Annex to the Report of the UN Special Rapporteur, para. 35.

<sup>43</sup> Annex to the Report of the UN Special Rapporteur, para. 442.

<sup>44</sup> Annex to the Report of the UN Special Rapporteur, para. 441.

<sup>45</sup> ‘Khashoggi murder: Saudi sentences anything but justice, says expert’, Office of the High Commissioner for Human Rights, 26 December 2019, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25453&LangID=E>.

<sup>46</sup> See Annex to the Report of the UN Special Rapporteur, para. 255.

<sup>47</sup> ‘CIA concludes Saudi crown prince ordered Jamal Khashoggi’s assassination’, Shane Harris et al., op. cit. fn 4.

<sup>48</sup> Human Rights Watch Report, pp.2, 23-26, 40-55.

48. The UN Special Rapporteur stated in her investigation report,
- “In the years preceding the execution of Mr. Khashoggi, United Nations Special Procedures and international human rights organisations reported a large number of arbitrary detentions of journalists and human rights defenders, but also Princes, businessmen and one Head of State”.*
49. She explains that “the operation against Mr. Khashoggi has to be understood in relation to this organized and coordinated crack-down”, and continues:
- “The Crown Prince played an essential role in permitting this campaign against dissidents and political opponents to occur, as the forces of the State could not be used in this manner without his agreement or acquiescence”.*<sup>49</sup>
50. A number of media reports citing US intelligence sources also indicate that the campaign against Saudi dissidents was authorised by Mr. Bin Salman. In 2019, the New York Times reported that the Crown Prince authorised a secret campaign against Saudi dissidents before Mr. Khashoggi’s killing, empowering his advisor, Mr. Saud Al Qahtani, to oversee a team dubbed the “Rapid Intervention Group” or the “Tiger Squad”.<sup>50</sup> The formation of this team corresponds roughly with the start of the campaign of arrests in September 2017. According to reports, the team conducted at least a dozen operations prior to the targeting of Mr. Khashoggi in October 2018.<sup>51</sup>
51. According to the Wall Street Journal, the CIA assessment stated that since 2015 Mr. Bin Salman “has ordered Qahtani and CSMARC [Center for Studies and Media Affairs at the Royal Court] to target his opponents domestically and abroad, sometimes violently”. The CIA also reportedly concluded that Mr. Al Qahtani “explicitly requested the Crown Prince’s permission when he pursued other sensitive operations in 2015, which reflects the Crown Prince’s command and control expectations.”<sup>52</sup>
52. In mid-August 2017, just before the arrests began, Mr. Saud Al Qahtani is reported to have tweeted:
- “Do you think that I make things up with guidance? I am a trustworthy employee who carries out the orders of my masters the king and crown prince.”*<sup>53</sup>
53. There are also credible reports of the use of cyber attacks by the Saudi state against dissidents. There are credible reports, in particular, that a young Saudi activist based in Canada, Omar Abdulaziz, who was in regular contact with Mr. Khashoggi at the time of Mr. Khashoggi’s death, had his mobile phone infected with spyware. Citizen Lab, a Canadian academic research lab, attributed the infiltration to a Pegasus operator linked to Saudi Arabia.<sup>54</sup> According to Citizen Lab, the spyware gave the Saudi-linked operator access to Mr. Abdulaziz’s phone contacts, photos, text messages, online chat logs, emails, and other

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<sup>49</sup> Annex to the Report of the UN Special Rapporteur, 2019, para.257(b), (c).

<sup>50</sup> ‘It Wasn’t Just Khashoggi: A Saudi Prince’s Brutal Drive to Crush Dissent’, Mark Mazzetti and Ben Hubbard, *The New York Times*, 17 March 2019, available at: <https://www.nytimes.com/2019/03/17/world/middleeast/khashoggi-crown-prince-saudi.html>.

<sup>51</sup> ‘It Wasn’t Just Khashoggi: A Saudi Prince’s Brutal Drive to Crush Dissent’, Mark Mazzetti and Ben Hubbard, op. cit., fn 50; Human Rights Watch Report, p.22.

<sup>52</sup> ‘CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi’, Warren P. Strobel, op. cit. fn 26.

<sup>53</sup> Human Rights Watch Report, p.22.

<sup>54</sup> ‘The Kingdom came to Canada: How Saudi-linked digital espionage reached Canadian soil’, Citizen Lab, 1 October 2020, available at: <https://citizenlab.ca/2018/10/the-kingdom-came-to-canada-how-saudi-linked-digital-espionage-reached-canadian-soil/>.

personal files and the ability to use the phone's microphone and camera to secretly view and eavesdrop on Mr. Abdulaziz.<sup>55</sup>

54. Concerningly, there are reports that attacks against critics of Mr. Bin Salman have continued since Mr. Khashoggi's death. In a recent case filed by a former Saudi intelligence officer, Saad al-Jabri, it is alleged that the "Tiger Squad" was dispatched, just two weeks after Mr. Khashoggi's murder, to kill Mr. al-Jabri.<sup>56</sup>

#### **Mr. Bin Salman's focus on Mr. Khashoggi**

55. For many years, Mr. Khashoggi was close to the Saudi administration and to the Saudi Royal Court.<sup>57</sup> For most of his career, he was not considered to be a dissident. However, he gradually felt compelled to speak out about the repression in Saudi Arabia. He was banned from writing, appearing on television and attending conferences in 2016.<sup>58</sup>

56. After leaving Saudi Arabia and his family, and going into exile in the US in 2017, he was reportedly contacted on a number of occasions by Saudi officials, including by Mr. Saud Al Qahtani.<sup>59</sup>

57. These officials reportedly tried to convince Mr. Khashoggi to return to Saudi Arabia by offering him protection and a high-level job in the government. Mr. Khashoggi was sceptical of the offers and remained in the US.<sup>60</sup>

58. According to the Wall Street Journal, the CIA report explained that in August 2017 Mr. Bin Salman had told associates that if his efforts to persuade Mr. Khashoggi to return to Saudi Arabia were not successful, "we could possibly lure him outside Saudi Arabia and make arrangements". According to the Wall Street Journal, the CIA noted that this "seems to foreshadow the Saudi operation launched against Khashoggi".<sup>61</sup>

59. In February 2019, The New York Times reported, based on information from current and former American and foreign officials with direct knowledge of intelligence reports, that the US National Security Agency intercepted, in September 2017, a conversation between the Crown Prince and a close aide, Mr. Turki Aldakhil, in which the Crown Prince said that:

*"if Mr. Khashoggi could not be enticed back to Saudi Arabia, then he should be returned by force. If neither of those methods worked, the crown prince said, then he would go after Mr. Khashoggi "with a bullet"."*<sup>62</sup>

60. When the young dissident Mr. Abdulaziz's phone was hacked using Pegasus spyware in 2018, it contained messages from Mr. Khashoggi, including one which read:

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<sup>55</sup> Annex to the Report of the UN Special Rapporteur, 2019, para. 68.

<sup>56</sup> *Dr Saad Aljabri v. Mohammed Bin Salman Bin Abdulaziz al Saud and others*, Case 1:20-cv-02146, available at: <https://www.courtlistener.com/recap/gov.uscourts.dcd.220747/gov.uscourts.dcd.220747.1.0.pdf>.

<sup>57</sup> Annex to the Report of the UN Special Rapporteur, para. 62.

<sup>58</sup> Annex to the Report of the UN Special Rapporteur, para. 64.

<sup>59</sup> 'The Khashoggi killing had roots in a cutthroat Saudi family feud', David Ignatius, *The Washington Post*, 27 November 2018, available at: [https://www.washingtonpost.com/opinions/global-opinions/the-khashoggi-killing-had-roots-in-a-cutthroat-saudi-family-feud/2018/11/27/6d79880c-f17b-11e8-bc79-68604ed88993\\_story.html?utm\\_term=.a1644b42a86e](https://www.washingtonpost.com/opinions/global-opinions/the-khashoggi-killing-had-roots-in-a-cutthroat-saudi-family-feud/2018/11/27/6d79880c-f17b-11e8-bc79-68604ed88993_story.html?utm_term=.a1644b42a86e).

<sup>60</sup> Annex to the Report of the UN Special Rapporteur, para. 67 and 257(a); See also 'Crown prince sought to lure Khashoggi back to Saudi Arabia and detain him, U.S. intercepts show', Shane Harris, *The Washington Post*, 10 October 2018, available at: [https://www.washingtonpost.com/world/national-security/crown-prince-sought-to-lure-khashoggi-back-to-saudi-arabia-and-detain-him-us-intercepts-show/2018/10/10/57bd7948-cc9a-11e8-920f-dd52e1ae4570\\_story.html?utm\\_term=.9d4d7f98b226](https://www.washingtonpost.com/world/national-security/crown-prince-sought-to-lure-khashoggi-back-to-saudi-arabia-and-detain-him-us-intercepts-show/2018/10/10/57bd7948-cc9a-11e8-920f-dd52e1ae4570_story.html?utm_term=.9d4d7f98b226).

<sup>61</sup> 'CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi', Warren P. Strobel, op. cit. fn 26.

<sup>62</sup> 'Year Before Killing, Saudi Prince Told Aide He Would Use 'a Bullet' on Jamal Khashoggi', Mark Mazzetti, *The New York Times*, 7 February 2019, available at: <https://www.nytimes.com/2019/02/07/us/politics/khashoggi-mohammed-bin-salman.html>.

*“Arrests are unjustified and do not serve [MBS] (logic says), but tyranny has no logic, but he loves force, oppression and needs to show them off. He is like a beast ‘pac man’ - the more victims he eats, the more he wants. I will not be surprised that the oppression will reach even those who are cheering him, then others and others and so on. God knows.”*<sup>63</sup>

61. Mr. Abdulaziz and Mr. Khashoggi also messaged about their plan to develop an online “army”, called “the bees”. Their idea was to engage young Saudis to push back against the Saudi state’s electronic army, known as “the flies”.<sup>64</sup> They hoped to use Mr. Khashoggi’s profile, and Mr. Abdulaziz’s 340,000 young Twitter followers. In the months before he was killed, Mr. Khashoggi transferred money to Mr. Abdulaziz to fund “the bees”. In early August 2018, however, Mr. Abdulaziz warned Mr. Khashoggi that the Saudi Government knew about their plan. Mr. Khashoggi responded: “God help us”.<sup>65</sup>

#### **Links between Mr. Bin Salman, Mr. Saud Al Qahtani and the “15-man team” sent to Istanbul**

62. Many of those involved in the killing of Mr. Khashoggi and the cover-up of his death, worked for or had direct connections with Mr. Bin Salman.<sup>66</sup>
63. According to the Wall Street Journal, the CIA assessment confirmed that the Saudi team sent to kill Mr. Khashoggi in Istanbul was assembled from the Crown Prince’s top security units in the Royal Guard and from an organisation run by Mr. Al Qahtani called the Center for Studies and Media Affairs at the Royal Court (CSMARC), which functioned as the Saudi Royal Court’s media department.<sup>67</sup>
64. According to the Wall Street Journal, the CIA assessment concluded that five employees of CSMARC were involved in the Khashoggi operation, and that all five were also involved in events at the Riyadh Ritz-Carlton in 2017.<sup>68</sup>
65. The UK’s Sanctions List also notes that the following five individuals, designated on the basis of their involvement in the murder (whether by being actually present at the killing or in the Consulate at the time or in concealing evidence or, in the case of Mr Saud Abdullah Al Qahtani, planning and directing the killing) worked directly with Mr. Bin Salman, either as advisor, security official or in another role in his office.
- Mr. Saud Abdullah Al Qahtani was advisor to the Crown Prince in the Royal Court.<sup>69</sup> According to paragraph 44 of the Sanctions List: “He was involved in the unlawful killing of Jamal Khashoggi in Istanbul on 2 October 2018. He was a senior official who planned and directed the killing using a 15 man team.”

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<sup>63</sup> ‘Jamal Khashoggi’s private WhatsApp messages may offer new clues to killing’, Nina doe Santos and Michael Kaplan, *CNN*, 4 December 2018, available at: <https://www.cnn.com/2018/12/02/middleeast/jamal-khashoggi-whatsapp-messages-intl/index.html>.

<sup>64</sup> ‘Saudi electronic army floods Twitter with insults and mistruths after Khashoggi’s disappearance’, Louisa Loveluck and Ghalia al-Alwani, *The Washington Post*, 20 October 2018, available at: [https://www.washingtonpost.com/world/saudi-electronic-army-floods-twitter-with-insults-and-mistruths-after-khashoggis-disappearance/2018/10/19/98044874-d311-11e8-a4db-184311d27129\\_story.html](https://www.washingtonpost.com/world/saudi-electronic-army-floods-twitter-with-insults-and-mistruths-after-khashoggis-disappearance/2018/10/19/98044874-d311-11e8-a4db-184311d27129_story.html).

<sup>65</sup> *Ibid.*

<sup>66</sup> As set out above, under Regulation 6(2) an “involved person” includes a person who “is or has been involved in an activity falling within regulation 4(2)” (Regulation 6(2)(a)) or who “is a member of, or associated with, a person who is or has been so involved” (Regulation 6(2)(d)).

<sup>67</sup> ‘CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi’, Warren P. Strobel, op. cit. fn 26.

<sup>68</sup> ‘CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi’, Warren P. Strobel, op. cit. fn 26.

<sup>69</sup> UK Sanctions List, Foreign, Commonwealth and Development Office, 6 July 2020, para 44.

- Mr. Mansour Othman M. Abahussain held the position of Major General and worked in the office of the Crown Prince.<sup>70</sup> According to paragraph 28 of the Sanctions List: “He was involved in the unlawful killing of Jamal Khashoggi in Istanbul on 2 October 2018, as part of the 15 man team sent to Turkey by Saudi authorities. In particular he was involved in the concealment of evidence at the Saudi Consul’s residence following the killing.”
  - Mr. Abdulaziz Mohammed Al Hawsawi was a security official for the Crown Prince.<sup>71</sup> According to paragraph 30 of the Sanctions List: “He was involved in the unlawful killing of Jamal Khashoggi in Istanbul on 2 October 2018, as part of the 15 man team sent to Turkey by Saudi authorities. He was involved in the concealment of evidence at the Saudi Consul General’s residence following the killing.”
  - Mr. Saif Saad Q. Al Qahtani was a training officer in the Saudi Air Force who worked in the Office of the Crown Prince in Saudi Arabia.<sup>72</sup> According to paragraph 38 of the Sanctions List, “He was in the Consulate during the unlawful killing of Jamal Khashoggi in Istanbul on 2 October 2018 and played an active part of the 15 man team sent to Turkey by Saudi authorities, including through the concealment of evidence relating to the killing”.
  - Mr. Naif Hassan S. Alarifi held the position of First Lieutenant, External Intelligence, and worked in the Office of the Crown Prince in Saudi Arabia.<sup>73</sup> According to paragraph 29 of the Sanctions List: “He was involved in the unlawful killing of Jamal Khashoggi in Istanbul on 2 October 2018, as part of the 15 man team sent to Turkey by Saudi authorities. In particular he was involved in the concealment of evidence at the Saudi Consul General’s residence following the killing.”
66. Mr. Bin Salman’s connection with Mr. Saud Al Qahtani appears to have been particularly strong. As set out above (paragraphs 50ff), according to reports, Mr. Bin Salman had trusted Mr. Saud Al Qahtani with the task of targeting opponents of the Saudi state, and by the time that Mr. Khashoggi was targeted they had already carried a number of other operations. While Mr. Al Qahtani was removed from his role as advisor following the murder of Mr. Khashoggi, according to the UN Special Rapporteur, subsequent reports, including official statements from Western Governments, have suggested that he is still in place, performing his advisory functions.<sup>74</sup>
67. Mr. Bin Salman’s connection with Mr. Mutreb is also notable. Mr. Mutreb was an intelligence officer who worked with the Crown Prince’s advisor, Mr. Saud Al Qahtani.<sup>75</sup> He was also a former security officer in the royal guard who had previously accompanied the Crown Prince on several international trips.<sup>76</sup>

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<sup>70</sup> UK Sanctions List, Foreign, Commonwealth and Development Office, 6 July 2020, paras. 28.

<sup>71</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 30.

<sup>72</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 38

<sup>73</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 29.

<sup>74</sup> Annex to the Report of the UN Special Rapporteur, para. 415.

<sup>75</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 42.

<sup>76</sup> Annex to the Report of the UN Special Rapporteur, p.18; ‘Aide to Saudi Crown Prince, Suspect in Khashoggi Case, Is Shown Walking Into Consulate’, Rick Gladstone, *The New York Times*, 18 October 2018, available at: <https://www.nytimes.com/2018/10/18/world/middleeast/jamal-khashoggi-mohammed-bin-salman-turkey-saudi-arabia.html>.

68. According to The Wall Street Journal, the CIA concluded “We assess it is highly unlikely this team of operators [...] carried out the operation without Muhammed bin Salman’s authorization.”

#### **Communications with Mr. Saud Al Qahtani and the 15-man team at the time of the killing**

69. The Wall Street Journal has reported that, according to the CIA, Mr. Bin Salman sent at least 11 messages to Mr. Saud Al Qahtani, in the hours before and after Mr. Khashoggi’s death.<sup>77</sup>
70. According to Reuters, which was in contact with two intelligence sources, Mr. Saud Al Qahtani ran the killing of Mr. Khashoggi over Skype.<sup>78</sup>
71. Further, according to the New York Times, Mr. Mutreb, who is believed to have been the head of the operations team on the ground,<sup>79</sup> was recorded shortly after the killing saying “tell your boss” and words to the effect of “the mission has been carried out” or “the deed is done”. According to the New York Times, Mr. Mutreb is believed by American intelligence agencies to have been communicating with Mr. Saud Al Qahtani, whose “boss” was Mr. Bin Salman.<sup>80</sup>
72. According to The Times, Turkish sources have also claimed that Mr. Mutreb made four telephone calls, in the hours after Mr. Khashoggi was killed, to the mobile phone of Mr. Bader Al-Asaker, who manages the office in Riyadh of Mr. Bin Salman.<sup>81</sup>

#### **Contact between Mr. Bin Salman’s brother, Khalid Bin Salman, and Mr. Khashoggi**

73. According to The Washington Post, the CIA’s assessment also refers to a telephone call between Mr. Bin Salman’s brother, Khalid Bin Salman, and Mr. Khashoggi, shortly before Mr. Khashoggi’s death. According to The Washington Post’s sources, Khalid Bin Salman told Mr. Khashoggi that he should go to the Saudi Consulate in Istanbul to retrieve the documents and gave him assurances that it would be safe to do so.<sup>82</sup> According to these sources, it is not clear if Khalid Bin Salman knew that Mr. Khashoggi would be killed, but he made the call at his brother’s direction.<sup>83</sup>

#### **State coordination, financing and resources**

74. According to the UN Special Rapporteur, there is credible evidence to suggest that the murder was premeditated.<sup>84</sup> The UK appears to have reached the same conclusion, referring to Mr. Saud Al Qahtani as having “planned and directed” the killing.<sup>85</sup> Evidence indicating pre-meditation includes:<sup>86</sup>
- i) That the team included a forensic medic, Dr. Tubaigy. As stated by the UN Special Rapporteur, “There is little plausible explanation for his role, other than the role he filled – dismembering and disposing of the body”.<sup>87</sup> As such the decision to send him from Saudi

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<sup>77</sup> ‘CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi’, Warren P. Strobel, op. cit. fn 26.

<sup>78</sup> ‘How the man behind Khashoggi murder ran the killing via Skype’, *Reuters*, 22 October 2018, available at: <https://www.reuters.com/article/us-saudi-khashoggi-adviser-insight/how-the-man-behind-khashoggi-murder-ran-the-killing-via-skype-idUSKCN1MW2HA>.

<sup>79</sup> Annex to the Report of the UN Special Rapporteur, para. 167, 254(c).

<sup>80</sup> ‘Intercepts Solidify CIA Assessment that Saudi Prince Ordered Khashoggi Killing’, Julian E. Barnes and Eric Schmitt, *The New York Times*, 2 December 2018, available at: <https://www.nytimes.com/2018/12/02/us/politics/crown-prince-mohammed-qahtani-intercepts.html>.

<sup>81</sup> ‘Saudi Hit Squad Leader Called Crown Prince’s Office’ After Khashoggi Death’, Hannah Lucinda Smith, *The Times*, 23 October 2018, available at: <https://www.thetimes.co.uk/article/hit-squad-leadercalled-office-of-crown-prince-fpkgspbs0/>.

<sup>82</sup> ‘Intercepts Solidify CIA Assessment that Saudi Prince Ordered Khashoggi’s assassination’, Shane Harris et al., op. cit. fn 4.

<sup>83</sup> ‘CIA concludes Saudi crown prince ordered Jamal Khashoggi’s assassination’, Shane Harris et al., op. cit. fn 4.

<sup>84</sup> Annex to the Report of the UN Special Rapporteur, para. 235.

<sup>85</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 44.

<sup>86</sup> Annex to the Report of the UN Special Rapporteur, para. 202.

<sup>87</sup> Annex to the Report of the UN Special Rapporteur, para. 202.



Arabia as part of the team suggests that the murder was planned;

- ii) That Dr. Tubaigy discussed dissecting a body in the Consulate at 13:02 on 2 October 2018, thirteen minutes before Mr. Khashoggi arrived. This strongly suggests that he knew in advance that Mr. Khashoggi was going to be killed;
  - iii) That someone, reportedly Mr. Mutreb, asked whether the “sacrificial animal” had arrived. According to the UN Special Rapporteur, given the context, this could only be meant to refer to Mr. Khashoggi.<sup>88</sup>
  - iv) That the team also included a look-alike, Mr. Almadani. Again, according to the UN Special Rapporteur, a look-alike is more likely to be used to cover a forced disappearance or a killing, than a kidnapping. He would not have been needed had the intention been that Mr. Khashoggi would be returned to Saudi Arabia.<sup>89</sup>
75. The mission to Istanbul appears to have also required significant resources. By way of example, state security agency officials arranged for all travel including the private jets and accommodation;<sup>90</sup> nine of the team members who undertook the operation in Istanbul flew into Turkey on a private jet with diplomatic clearance, previously used by the Saudi government;<sup>91</sup> and two members of the team used diplomatic passports.<sup>92</sup>
76. The UN Special Rapporteur’s report concludes that:

*“Evidence points to the 15-person mission to execute Mr. Khashoggi requiring significant government coordination, resources and finances. While the Saudi government claims that these resources were put in place by Ahmed Asiri, every expert consulted finds it inconceivable that an operation of this scale could be implemented without the Crown Prince being aware, at a minimum, that some sort of mission of a criminal nature, directed at Mr. Khashoggi, was being launched.”<sup>93</sup>*

#### **Concealment of evidence and failure to investigate**

77. The UN Special Rapporteur “found credible evidence pointing to the crime scenes having been thoroughly, even forensically, cleaned. These indicate that the Saudi investigation was not conducted in good faith, and that it may amount to obstructing justice.”<sup>94</sup> The UK has also based its decision to sanction certain of the Saudi nationals for their involvement in the “concealment of evidence” following Mr. Khashoggi’s death.<sup>95</sup> Additional details about the clean-up operation and failure to investigate are set out in the Annex of this submission, at paragraphs 51-62.
78. There are reasonable grounds to suspect that Mr. Bin Salman was aware that evidence was being destroyed or concealed by those working for the Saudi state. As noted by the UN Special Rapporteur:

*“By October 5, three days after Mr. Khashoggi’s murder but before it was publicly confirmed, the Crown Prince demonstrated that he was closely following the matter. He*

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<sup>88</sup> Annex to the Report of the UN Special Rapporteur, para. 206.

<sup>89</sup> Annex to the Report of the UN Special Rapporteur, para. 204.

<sup>90</sup> Annex to the Report of the UN Special Rapporteur, para. 219(h).

<sup>91</sup> ‘Killing Jamal Khashoggi: How a Brutal Saudi Hit Job Unfolded’ (Video), *New York Times - Visual Investigations*, 16 November 2018, timestamp: 02:02-02:05, available at: <https://www.youtube.com/watch?v=uJ44spUo8Uk>.

<sup>92</sup> Annex to the Report of the UN Special Rapporteur, para. 219(f) and (g).

<sup>93</sup> Annex to the Report of the UN Special Rapporteur, para. 257(d).

<sup>94</sup> Annex to the Report of the UN Special Rapporteur, para. 8.

<sup>95</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, paras. 28, 29, 30, 31, 33, 35, 36, 37, 38, 41.

*spoke about Mr. Khashoggi's disappearance in a television interview and said that Turkish authorities were welcome to search the Consulate. Thereafter, Saudi officials proceeded to take multiple steps apparently designed to destroy evidence, while simultaneously denying Mr. Khashoggi's death, until the government was forced to acknowledge the murder. This destruction of evidence could not have taken place without the Crown Prince's awareness."*<sup>96</sup>

79. Further, there are reasonable grounds to suspect that Mr. Bin Salman failed to ensure that the murder was investigated or prosecuted. According to the UN Special Rapporteur, Saudi Arabia has claimed that during the period shortly after Mr. Khashoggi's death, when it was denying that he had been killed, it was in fact investigating the death. However, it has not produced such evidence.<sup>97</sup>
80. The fact that the Saudi prosecution service was removed from the Ministry of Interior and placed under the direct control of the Royal Court suggests that a fully impartial prosecution in Saudi Arabia was highly unlikely.<sup>98</sup> The Saudi trial concluded in December 2019, with the sentencing of five people to death and three to imprisonment. In September 2020, the Saudi court overturned the death sentences, issuing prison sentences for the eight defendants of between seven and 20 years.<sup>99</sup> None of the senior individuals suspected of involvement in the crime were convicted (see Annex, paragraphs 73-79).
81. The UN Special Rapporteur has described the Saudi investigation and prosecution as "grossly inadequate, failing to meet even minimal international standards."<sup>100</sup>

#### **Mr. Bin Salman's own admission of responsibility**

82. While Mr. Bin Salman continues to deny that he ordered the killing or that he had prior knowledge of it, he has publicly accepted responsibility for the murder: "I take full responsibility as a leader in Saudi Arabia, especially since it was committed by individuals working for the Saudi government."<sup>101</sup>

#### **Summary of Mr. Bin Salman's involvement**

83. In summary, there are reasonable grounds to suspect that Mr. Bin Salman is an "involved person" in the killing of Mr. Khashoggi in a number of the ways identified in the Regulations. In particular, there are reasonable grounds to suspect that Mr. Bin Salman "is or has been involved in an activity falling within regulation 4(2)", namely a serious violation of the right to life or right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (Regulation 6(2)(a)). In particular, there are reasonable grounds to suspect that Mr. Bin Salman:
  - i) is responsible for the killing of Mr. Khashoggi (Regulation 6(3)(a)). See in particular the evidence of: Mr. Bin Salman's position of power within the Saudi state (paras. 44-46 of

<sup>96</sup> Annex to the Report of the UN Special Rapporteur, 2019, para. 259.

<sup>97</sup> Annex to the Report of the UN Special Rapporteur, 2019, para. 259.

<sup>98</sup> Human Rights Watch Report, p.15.

<sup>99</sup> 'Jamal Khashoggi murder: Saudi court commutes death sentences', *BBC*, 7 September 2020, available at: <https://www.bbc.co.uk/news/world-europe-54061597>.

<sup>100</sup> 'The Khashoggi verdict is exactly what impunity looks like. It must be denounced', Agnes Callamard, *The Washington Post*, available at: [https://www.washingtonpost.com/opinions/the-khashoggi-verdict-is-exactly-what-impunity-looks-like-it-must-be-denounced/2019/12/23/60b5226c-25cc-11ea-ad73-2fd294520e97\\_story.html](https://www.washingtonpost.com/opinions/the-khashoggi-verdict-is-exactly-what-impunity-looks-like-it-must-be-denounced/2019/12/23/60b5226c-25cc-11ea-ad73-2fd294520e97_story.html).

<sup>101</sup> Mr. Bin Salman interview with *CBS News*, 29 September 2020, available at (with English translation): <https://www.cbsnews.com/news/mohammad-bin-salman-denies-ordering-khashoggi-murder-but-says-he-takes-responsibility-for-it-60-minutes-2019-09-29/>; see also Mr. Bin Salman interview with *Frontline Journalism Fund*, 'Exclusive: Mohammed bin Salman Speaks About His Role in Khashoggi's Murder For the First Time', *PBS*, available at: <https://www.pbs.org/wgbh/frontline/article/mohammed-bin-salman-speaks-about-role-khashoggis-murder-first-time/>.

this submission); Mr. Bin Salman’s particular focus on Mr. Khashoggi including evidence of his desire to suppress him (paras. 55-61); the context of a broader campaign against Saudi dissidents led by Mr. Bin Salman’s advisor Saud Al Qatani (paras. 47-54); the role of Saud Al Qatani in the murder (who had previously indicated that he acted only on Mr. Bin Salman’s orders) (paras. 65-66 and 52); the role of others who worked directly with Mr. Bin Salman in the murder (para. 65); the evidence suggesting that the murder was premeditated, and required state coordination and resources (paras. 74-76); the strong likelihood that Mr. Bin Salman would have known that evidence of the murder was being concealed (paras. 77-78); the fact that Mr. Bin Salman has not ensured that a proper investigation or prosecution has taken place despite the prosecution service being under the control of the Saudi Royal Court (paras. 79-81) and; the fact that Mr. Bin Salman has ultimately accepted responsibility for the crime (para. 82); and/or

- ii) facilitated, incited, promoted or provided support for the killing (Regulation 6(3)(b)). See in particular the factors pointing strongly to this attack forming part of a campaign against dissidents, which Mr. Bin Salman at the very least, supported (paras. 47-54 of this submission); the evidence suggesting that the murder was premeditated, and required state coordination and resources (paras. 74-76); and the role of individuals with close ties to Mr. Bin Salman in the murder (paras. 62-68); and/or
  - iii) concealed evidence of the killing (Regulation 6(3)(c)). See in particular, the indications that Mr. Bin Salman was closely following the events shortly after the murder from Saudi Arabia, and in all likelihood was aware of the destruction or concealment of evidence of the murder by Saudi officials in Istanbul (paras. 77-78); and/or
  - iv) made available funds or economic resources, having reasonable cause to suspect that those resources may contribute to such activity, or to a person responsible for or who engages in such activity, within the meaning of Regulation 6(3)(d) and/or (e). See in particular the evidence pointing to state coordination and resources used in the murder (paras. 74-76), and the expert opinion suggesting that Mr. Bin Salman must have been aware of an operation of this type and complexity (para. 76); and/or
  - v) benefitted from the killing (Regulation 6(3)(f)). The ‘benefit’ to Mr. Bin Salman was the silencing of this particular critic and the chilling effect of this message on other critics. See in particular the evidence relating to the campaign against Saudi dissidents, which Mr. Bin Salman appears to have encouraged (or at least permitted) and which accompanied his consolidation of power (paras. 47-54); and Mr. Bin Salman’s particular focus on Mr. Khashoggi including evidence of his desire to suppress him (paras. 55-61); and/or
  - vi) failed to investigate or prosecute the killing (Regulation 6(3)(g)). Whilst a ‘trial’ of sorts was conducted in Saudi Arabia, it bore none of the hallmarks of the rule of law or the genuine pursuit of justice. See in particular the evidence that Mr. Bin Salman had brought the Saudi prosecution under control of the Royal Court, the evidence of the flawed prosecution including the lack of transparency and the evidence that none of those who, according to credible reports, bear the primary responsibility for the murder, were convicted in Saudi Arabia (paras. 23, 74-81).
84. In addition, there are reasonable grounds to suspect that, in any event, Mr. Bin Salman is an “involved person” by virtue of being “associated with” a person who has been involved in an activity falling within Regulation 4(2). Based on the information set out above, in particular the connection between Mr. Bin Salman and Mr. Saud Al Qatani, who according to reports is still performing an advisory role (para. 66), and the connections between Mr. Bin Salman and

members of the 15-man team at the time of the murder (paras. 62-72), there appear to be reasonable grounds to suspect that Mr. Bin Salman is associated with one or more of the 20 individuals designated by the UK as “involved persons” in the UK Sanctions List.

## V. Appropriateness of designation

85. The designation of Mr. Bin Salman is appropriate having regard to the purposes of the Global Human Rights Sanctions Regulations, and the likely significant effects of the designation on him (Regulation 6(1)(b)(i) and (ii)).

### Purposes of the regulations

86. The purposes of the Regulation are to deter and provide accountability for activities that amount to serious violations of inter alia an individual’s right to life and right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment.<sup>102</sup>
87. In explaining the reasons for pursuing these purposes, the Secretary of State has forcefully stated:
- “[...] human rights are the universal concern of all States. Human rights form an integral part of the rules-based international system, which the UK seeks to promote and defend by encouraging fulfilment by States of their international human rights obligations, increasing pressure on repressive and authoritarian States, and holding States to account for human rights violations. Protection and promotion of human rights is in the UK national interest [...] Successfully deterring human rights violations and abuses can help create fairer and more just societies, which support the long-term global conditions most conducive to security economic growth and the safety of all.”<sup>103</sup>*
88. Designating Mr. Bin Salman would provide crucial accountability for the murder of Mr. Khashoggi – the first form of accountability against Mr. Bin Salman imposed by a state to date.
89. It would also have a strong deterrent effect, sending a clear message to others in positions of responsibility that they cannot continue to commit human rights violations with impunity.
90. The failure to designate, conversely, sends a message that those in ultimate positions of power – and who bear command responsibility for the actions of lower ranking officials – can continue to commit violations. The decision to include 20 Saudi nationals in the UK Sanctions List, but to omit Mr. Bin Salman, despite there being reasonable grounds to suspect that he is an “involved person”, fundamentally undermines the purpose of the Regulations.
91. The singular brutality of this crime sent shockwaves around the world. Failing to designate Mr. Bin Salman, despite there being reasonable grounds to suspect that he is an involved person, will reinforce the fears of journalists and others who seek to exercise their right to freedom of expression,<sup>104</sup> and sends a profoundly concerning message about the UK’s willingness to tolerate such violence in order to appease political allies.

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<sup>102</sup> Global Human Rights Sanctions Regulations, Regulation 4(1).

<sup>103</sup> Report under Section 2(4) of the Sanctions and Anti-Money Laundering Act 2018, para. 5, available at: [http://www.legislation.gov.uk/uksi/2020/680/pdfs/uksiod\\_20200680\\_en.pdf](http://www.legislation.gov.uk/uksi/2020/680/pdfs/uksiod_20200680_en.pdf).

<sup>104</sup> “Saudi Arabia Wants to Stop My Work.” Activists Are Facing New Threats For Continuing Jamal Khashoggi’s Efforts’, Josh Meyer, *Time*, 16 May 2019, available at: <https://time.com/5590171/new-threats-saudi-arabia-jamal-khashoggi/>.

## **Likely significant effects of the designation on Mr. Bin Salman**

92. It is unclear from the Regulations and Explanatory Memorandum whether consideration of the “likely significant effects of the designation on that person” (Regulation 6(b)(ii)) is intended to require consideration of the negative impacts of the designation on the person (e.g. to ensure that the designation is appropriate bearing in mind issues of hardship as a result of an asset freeze), or to assess whether the designation would have a sufficient impact on the person to align with the purposes of the Regulations.
93. If the former, based on publicly available information about Mr. Bin Salman’s assets worldwide, it is clear that imposition of an asset freeze by the UK would not cause Mr. Bin Salman any tangible hardship. Mr. Bin Salman has, of course, the legal right to challenge any such designation<sup>105</sup> and would have the opportunity to produce any evidence establishing that he was not involved in the killing of Mr. Khashoggi or subsequent concealment of evidence.
94. If the latter, the designation of Mr. Bin Salman for the purpose of an asset freeze and entry ban would plainly have a significant impact on him. Mr. Bin Salman has an international profile and by virtue of his official positions in Saudi Arabia (including as Deputy Prime Minister and Defence Minister), he travels frequently on state business. He is also known to have very significant assets. A restriction on his entry into the UK would be a matter of significant political embarrassment – particularly given Mr. Bin Salman’s investment in developing his international standing –<sup>106</sup> as well as imposing substantial practical challenges.
95. The Open Society Justice Initiative does not have information on Mr. Bin Salman’s current assets in the UK, however, based on open source material it seems likely that, on investigation, Mr. Bin Salman may be found to have significant financial interests here. A restriction on his ability to deal with such funds is likely to, again, impose significant practical challenges, as well as to be a source of significant embarrassment.

## **VI. Why Mr. Bin Salman must be designated**

96. As set out at paragraph 15 above, in deciding whether a person should be considered for designation, the UK Government has committed to have regard to “all relevant considerations”, and has set out the factors that it considers to be “likely to be relevant”.<sup>107</sup> The following section addresses those factors relevant to Mr. Bin Salman’s designation.

### **The UK Government’s human rights priorities**

97. The UK’s human rights priority themes currently include media freedom, torture prevention and the protection of human rights defenders.<sup>108</sup>
98. Similarly, the FCO’s most recent *Human Rights and Democracy* report, published in July 2020, includes Saudi Arabia as a “human rights priority country”, expressing concern that, inter alia:

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<sup>105</sup> Sanctions and Anti-Money Laundering Act 2018, section 23.

<sup>106</sup> See for example, ‘MBS: The Rise of a Saudi Prince’, *The New York Times*, quoting from Ben Hubbard, *MBS: The Rise to Power of Mohammed bin Salman*, 21 March 2020, available at: <https://www.nytimes.com/2020/03/21/world/middleeast/mohammed-bin-salman-saudi-arabia.html>.

<sup>107</sup> ‘Policy paper. Global Human Rights Sanctions: consideration of designations’, 6 July 2020, Foreign, Commonwealth & Development Office, op. cit., fn 12.

<sup>108</sup> ‘Policy paper. Global Human Rights Sanctions: consideration of designations’, 6 July 2020, Foreign, Commonwealth & Development Office, op. cit., fn 12; ‘Human Rights and Democracy: the 2019 Foreign and Commonwealth Office report’, 16 July 2010, Command Paper number 273, p.55, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/902494/FCO1414\\_FCO\\_AHRR\\_2019\\_-\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902494/FCO1414_FCO_AHRR_2019_-_accessible.pdf).

*“Freedom of expression and of the press remained highly restricted. Saudi Arabia was ranked 172nd out of 180 in the World Press Freedom Index, down from 169th in 2018. There were further arrests throughout the year of writers and academics. Despite some releases, many arrested in the political clampdown since September 2017 remained in detention. UK ministers raised concerns in this regard with the Saudi authorities on a number of occasions.”*

99. The report also underlines the work of the FCO around Mr. Khashoggi’s death and emphasises that “full accountability” for those responsible remains a priority:

*“The trial sessions of those accused of killing Jamal Khashoggi concluded in December. British diplomats attended as part of a group of international observers. The UK repeatedly called for a transparent, credible judicial process, full accountability for all those found responsible, and steps to ensure that this type of incident could never happen again. Following the trial, Foreign Secretary Dominic Raab issued a statement reiterating the importance of justice, accountability, and ensuring that such an atrocity could not be repeated.”*

100. It is difficult to conceive of a designation that would support these priorities more fully than designation of Mr. Bin Salman in relation to the murder of Mr. Khashoggi. The failure to designate Mr. Bin Salman in relation to the murder fundamentally undermines the UK’s commitment to these priorities.

#### **The nature of the victim**

101. Mr. Khashoggi was a journalist who sought to exercise and promote freedom of expression and freedom of the media. According to the FCO’s policy paper on considerations for designations for global human rights sanctions:

*“HMG is likely to give particular attention to activities that are carried out in relation to individuals who seek to obtain, exercise, defend or promote human rights, such as journalists, civil society activists, human rights defenders and whistle-blowers”.*<sup>109</sup>

#### **The seriousness of the conduct**

102. The brutal murder and dismemberment of Mr. Khashoggi inside a consulate building in Turkey breached numerous human rights standards, as well as constituting a violation of the Vienna Convention on Consular Relations and of the prohibition against the extra-territorial use of force in time of peace (customary law and UN Charter). The UN Special Rapporteur maintains that the killing was inconsistent with a core tenet of the United Nations, the protection of freedom of expression: “As such, it can be credibly argued that [Saudi Arabia] used force extra-territorially in a manner “inconsistent with the Purposes of the United Nations.”<sup>110</sup>
103. As the UN Special Rapporteur has also highlighted, the killing of Mr. Khashoggi may also constitute, to this day, an enforced disappearance, under article 17 of the UN Convention on the Protection of All Persons from Enforced Disappearances, as Saudi Arabia has still not disclosed the location of his body.<sup>111</sup>
104. The brazen flouting of international law and the complete lack of accountability for anyone who is believed to have had the ultimate responsibility for ordering the crime is having a

<sup>109</sup> ‘Policy paper. Global Human Rights Sanctions: consideration of designations’, 6 July 2020, Foreign, Commonwealth & Development Office, op. cit., fn 12.

<sup>110</sup> Annex to the Report of the UN Special Rapporteur, paras. 1-3.

<sup>111</sup> Annex to the Report of the UN Special Rapporteur, paras. 3, 296.

serious and enduring international impact.<sup>112</sup> Moreover, publicly available evidence suggests that the killing of Mr. Khashoggi is part of a pattern of targeting dissents and clamping down on those who criticise Mr. Bin Salman and the Saudi State, which is continuing (see paragraph 54 above).

### **International profile and collective action**

105. According to the FCO's policy paper on considerations for designations for global human rights sanctions,

*"HMG is likely to give particular consideration to cases where international partners have adopted, or propose to adopt, sanctions and where action by the UK is likely to increase the effect of the designation in addressing the issue in question".*<sup>113</sup>

106. UK's international partners, such as the US,<sup>114</sup> have adopted sanctions in relation to the killing of Mr. Khashoggi, and have taken other measures, including bans on arms exports – see for example Finland,<sup>115</sup> Germany,<sup>116</sup> and Norway.<sup>117</sup>
107. Notably, at the end of October 2018, the European Parliament adopted the Resolution on the Killing of Journalist Jamal Khashoggi in the Saudi Consulate in Istanbul, in which it called on the European Members States and Vice President of the European Commission to impose targeted sanctions, including visa bans and asset freezes against Saudi individuals, as well as human rights sanctions against the Kingdom of Saudi Arabia, and insisted that "any such sanctions should target not only the perpetrators but also the masterminds and inciters of this crime".<sup>118</sup>
108. The UK's designation of Mr. Bin Salman would signal a new phase in accountability for Mr. Khashoggi's death and is likely to encourage other states to adopt similar measures.

### **The status and connections of the involved person**

109. The FCO's policy paper underlines the UK's commitment to targeting those whose designation "would have most impact in providing accountability for the violation":<sup>119</sup>

*"in circumstances where there are a range of persons who could be considered for designation by virtue of their involvement in a human rights violation or abuse, HMG is likely to consider which designation(s) would have most impact in providing accountability for the violation or abuse in question. This may involve considering, for example, the position of the person in the hierarchy of an organisation, and whether the*

<sup>112</sup> Annex to the Report of the UN Special Rapporteur, para. 21.

<sup>113</sup> 'Policy paper. Global Human Rights Sanctions: consideration of designations', 6 July 2020, Foreign, Commonwealth & Development Office, op. cit., fn 12.

<sup>114</sup> 'Press release: Treasury Sanctions 17 Individuals for Their Roles in the Killing of Jamal Khashoggi', US Department of the Treasury, 15 November 2018; 'Specially Designated Nationals List Update', US Department of the Treasury, 15 November 2018, available at: <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20181115> and 'Alphabetical Listing of Specially Designated Nationals and Blocked Persons', US Department of the Treasury, available at: <https://www.treasury.gov/ofac/downloads/sdnlist.txt>.

<sup>115</sup> 'Finland halts granting of permits to export arms to Saudi Arabia and UAE', *Helsinki Times*, 23 November 2018, available at: <https://www.helsinkitimes.fi/finland/finland-news/politics/15976-finland-halts-granting-of-permits-to-export-arms-to-saudi-arabia-and-uae.html>.

<sup>116</sup> 'Germany halts arms exports to Saudi Arabia after Khashoggi's death', *Financial Times*, available at: <https://www.ft.com/content/6be62fa2-d5d0-11e8-ab8e-6be0dcf18713>.

<sup>117</sup> 'Norway suspends future arms exports to Saudi Arabia', *Middle East Eye and agencies*, 10 November 2018, available at: <https://www.middleeasteye.net/news/norway-suspends-future-arms-exports-saudi-arabia>.

<sup>118</sup> European Parliament Resolution of 25 October 2018 on the killing of journalist Jamal Khashoggi in the Saudi consulate in Istanbul, 2018/2885(RSP), para.4, available at: [https://www.europarl.europa.eu/doceo/document/TA-8-2018-0434\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2018-0434_EN.html).

<sup>119</sup> 'Policy paper. Global Human Rights Sanctions: consideration of designations', 6 July 2020, Foreign, Commonwealth & Development Office, op. cit., fn 12.

*person has particular links to the UK, including whether such persons would be particularly affected by travel or financial restrictions under the Regulations.”*

110. In relation to Mr. Khashoggi’s murder, while the UK’s decision to designate 20 Saudis involved in the killing is commendable, it has not designated any individual who could be said to bear overall responsibility for the violations. Given Mr. Bin Salman’s position, his designation would plainly have the most impact in providing accountability for the killing of Mr. Khashoggi.
111. Indeed, by sanctioning 20 other Saudi nationals, and not sanctioning Mr. Bin Salman, the impression is created that the UK will use its new sanctions regime discriminately, targeting those of lower rank, but ensuring that certain individuals will always remain above the law.
112. Given Mr. Bin Salman’s position within the Kingdom of Saudi Arabia, and his international commitments, he would, inevitably, be significantly affected by restrictions on his ability to enter the UK.
113. As set out above, it seems likely that, on investigation, Mr. Bin Salman may be found to have significant financial interests in the UK. The Foreign Secretary has made it clear that:

*“Protecting the integrity of the UK financial system is a fundamental interest of the UK. It is, furthermore, in the interests of UK public policy that persons who have been involved in serious human rights violations or abuses should not be permitted entry to the UK, nor should the financial capital of such persons or financial capital that might have been accrued from such activities be held or invested in the UK.”<sup>120</sup>*

114. Should the UK Government have evidence suggesting that Mr. Bin Salman has financial interests in the UK, that should be a factor in the consideration of Mr. Bin Salman’s designation.

#### **The effectiveness of other measures, including law enforcement**

115. The Saudi authorities have been unable and/or unwilling to hold to account those who bear the real responsibility for the killing of Mr. Khashoggi. See, paragraph 73ff of the Annex to this submission. In particular, neither Mr. Bin Salman nor Mr. Saud Al Qahtani were charged for their role in the killing.

#### **Political and economic considerations**

116. We note that the Secretary of State has not identified political and/or economic factors in the list of relevant considerations. Given the purposes of the Regulations, and the Secretary of State’s emphasis on the importance of holding to account those who are actually responsible for human rights abuses – including through looking at the position of the alleged perpetrator in the hierarchy of an organisation – that omission is plainly appropriate. Any suggestion that political or economic factors have the ability to trump other considerations under the Regulations would be firmly resisted. It would fundamentally undermine the purpose of the Regulations were the Secretary of State to decide that individuals in the highest positions of power in a state, and who bore the ultimate responsibility for an act, were entitled to impunity because imposing sanctions might have repercussions for the political or economic relationship between that state and the UK.
117. We note that other states that have introduced similar Magnitsky sanctions have not shied away from designating high level individuals, including heads of state. In November 2017,

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<sup>120</sup> Report under Section 2(4) of the Sanctions and Anti-Money Laundering Act 2018, para.15, available at: [http://www.legislation.gov.uk/uksi/2020/680/pdfs/uksiod\\_20200680\\_en.pdf](http://www.legislation.gov.uk/uksi/2020/680/pdfs/uksiod_20200680_en.pdf).



Canada imposed Magnitsky sanctions on 19 individuals in Venezuela, including President Nicolas Maduro and Vice-President Tareck El-Aissami<sup>121</sup> and, in January 2020, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctioned, under the US Global Magnitsky Human Rights Accountability Act, the then First Vice President of South Sudan Taban Deng Gai (Deng) for his role in serious human rights abuses.<sup>122</sup>

## VII. Conclusion

118. For the reasons set out above, there is a clear and unambiguous case for the designation of Mr. Bin Salman under Regulation 5 of the Global Human Rights Sanctions Regulations 2020, for the purpose of imposing an asset freeze and restriction on his entry into the UK.
119. We therefore ask the Secretary of State to designate Mr. Bin Salman as an "involved person" in the unlawful killing of Saudi journalist Mr. Jamal Khashoggi, under Regulation 5 of the Global Human Rights Sanctions Regulations 2020.
120. Given the compelling information set out above, and the fact that the designation meets each of the statutory tests, as well the UK's stated human rights priorities, should the Secretary of State decide not to designate Mr. Bin Salman, it is incumbent on him to explain why. As such, if a decision is made not to designate Mr. Bin Salman, we request notice of that decision and the reasons for it.
121. It is, of course, open to Mr. Bin Salman, once designated, to produce evidence demonstrating that he bears no responsibility for the killing of Mr. Khashoggi and concealment of evidence.<sup>123</sup> However, the information publicly available, including reporting of the CIA's assessment, public statements of US Members of Congress privy to that assessment, and the conclusions of the UN Special Rapporteur make it clear that unless and until that time, designation of Mr. Bin Salman is the appropriate course of action.<sup>124</sup>
122. The absence of Mr. Bin Salman from the UK Sanctions List calls into question the credibility of the new sanctions regime, and the UK's commitment to deterring and seeking meaningful accountability for the worst human rights violations.

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<sup>121</sup> 'Justice for Victims of Corrupt Foreign Officials - Case 2', Government of Canada, November 2017, available at: [https://www.canada.ca/en/global-affairs/news/2017/11/case\\_2.html](https://www.canada.ca/en/global-affairs/news/2017/11/case_2.html); see 'Consolidated Canadian Autonomous Sanctions List', Government of Canada, available at: [https://www.international.gc.ca/world-monde/international\\_relations-relations\\_internationales/sanctions/consolidated-consolide.aspx?lang=eng](https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/consolidated-consolide.aspx?lang=eng).

<sup>122</sup> 'Treasury Sanctions First Vice President of South Sudan Taban Deng Gai', 8 January 2020, available at: <https://www.state.gov/treasury-sanctions-first-vice-president-of-south-sudan-taban-deng-gai/>; 'Changes to the Specially Designated Nationals and Blocked Persons List since January 1, 2020', US Department of the Treasury, Office of Foreign Assets Control, p.2, available at: <https://www.treasury.gov/ofac/downloads/sdnnew20.pdf>.

<sup>123</sup> Sanctions and Anti-Money Laundering Act 2018, section 23.

<sup>124</sup> Annex to the Report of the UN Special Rapporteur, para. 498.

## ANNEX

### Summary of Relevant Facts

This Annex provides additional detail about Mr. Jamal Khashoggi and his relationship with the Saudi authorities, the broader pattern of Saudi attacks on dissidents, the timeline of Mr. Khashoggi's murder, the alleged Saudi cover-up of the murder, the Turkish investigation of the killing, and the Saudi and Turkish trials.

#### **i. Mr. Khashoggi and his relationship with the Saudi authorities**

1. Mr. Jamal Khashoggi was a Saudi journalist who, for much of his career was close to the Saudi administration and to the Saudi Royal Court.<sup>125</sup> His grandfather was reportedly the personal physician of King Ibn Saud, the founder of the Kingdom of Saudi Arabia, and his uncle a wealthy arms dealer.<sup>126</sup>
2. He had an intimate knowledge of the Saudi system and was, at one stage, an advisor to Prince Faisal Al-Turki, the former director of intelligence.<sup>127</sup>
3. However, his politics evolved over time and he eventually reached a point where he believed that he needed to speak out about the repression in Saudi Arabia.<sup>128</sup>
4. In 2016, Saudi authorities banned Mr. Khashoggi from writing, appearing on television, and attending conferences.<sup>129</sup>
5. In 2017, he left Saudi Arabia and his family there, and went into exile in the United States. He began writing for The Washington Post, criticising the absence of press freedom in Saudi Arabia.<sup>130</sup> In doing so, he lost his wife, who was forced to divorce him, and his children.<sup>131</sup>
6. After his move to the US, Mr. Khashoggi reportedly received phone calls from Saudi officials, including Mr. Saud Al Qahtani,<sup>132</sup> a close adviser to Crown Prince Mohammed Bin Salman, known for managing Saudi Arabia's image online as well as attacking dissidents and anyone else questioning the Crown Prince's policies.
7. According to The Washington Post, in one call, in September 2017, Mr. Saud Al Qahtani said that the Crown Prince had been "very happy" to see Mr. Khashoggi posting a message praising the Kingdom after the government announced it was lifting a driving ban on women. Reportedly, Mr. Khashoggi told Mr. Saud Al Qahtani that he would praise the government when there were "positive developments. When there are bad things, I will speak up."<sup>133</sup>

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<sup>125</sup> Annex to the Report of the UN Special Rapporteur, para. 62.

<sup>126</sup> 'Qui a tué Jamal Khashoggi ? Un mois après, le mystère reste entier', *Radio France Internationale (RFI)*, 6 November 2018, available at: <https://www.rfi.fr/fr/moyen-orient/20181106-tue-jamal-khashoggi-mois-apres-le-mystere-reste-entier>.

<sup>127</sup> *Ibid.*

<sup>128</sup> Annex to the Report of the UN Special Rapporteur, para. 63.

<sup>129</sup> Annex to the Report of the UN Special Rapporteur, para. 64.

<sup>130</sup> Annex to the Report of the UN Special Rapporteur, para. 72. 'Where is Jamal Khashoggi?', Editorial Board, *The Washington Post*, 4 October 2018, available at: [https://www.washingtonpost.com/opinions/where-is-jamal-khashoggi/2018/10/04/2681e000-c7f7-11e8-9b1c-a90f1daae309\\_story.html](https://www.washingtonpost.com/opinions/where-is-jamal-khashoggi/2018/10/04/2681e000-c7f7-11e8-9b1c-a90f1daae309_story.html).

<sup>131</sup> Annex to the Report of the UN Special Rapporteur, paras. 64, 65, 380.

<sup>132</sup> 'The Khashoggi killing had roots in a cutthroat Saudi family feud', David Ignatius, op. cit., fn 59.

<sup>133</sup> 'Crown prince sought to lure Khashoggi back to Saudi Arabia and detain him, U.S. intercepts show', Shane Harris, op. cit., fn 60; See also 'How the man behind Khashoggi murder ran the killing via Skype', *Reuters*, op. cit., fn 78.

8. Senior Saudi officials, close to the Crown Prince, including Mr. Saud Al Qahtani, tried to convince Mr. Khashoggi to return to Saudi Arabia by offering him protection and a high-level job in the government, but he was sceptical of the offers.<sup>134</sup>
9. According to a US Central Intelligence Agency (CIA) report cited by The Wall Street Journal, in August 2017, the Crown Prince had told associates that if his efforts to persuade Mr. Khashoggi to return to Saudi Arabia were not successful, “we could possibly lure him outside Saudi Arabia and make arrangements”. The CIA report stated about this communication that it “seems to foreshadow the Saudi operation launched against Khashoggi”.<sup>135</sup>
10. The UN Special Rapporteur noted in her investigation report that Mr. Khashoggi knew he was at risk:

*“In the months leading up to his death, Mr. Khashoggi spoke often of his anxiety about the ongoing consequences of his speaking out and of their possible escalation, citing examples of intimidation against abuse of others by Saudi authorities, both within Saudi Arabia and beyond (citing, for example, the scholars arrested in the Kingdom and the dissidents pressured into talking favorably of the Kingdom under threat of imprisonment if they did not).”*<sup>136</sup>

11. In October 2018, a Canadian academic research lab, Citizen Lab, reported that the cellphone of Saudi political activist Omar Abdulaziz had been infected with Pegasus spyware,<sup>137</sup> which is produced and sold by NSO Group. Citizen Lab attributed the infiltration to a Pegasus operator linked to Saudi Arabia. At the time his phone was infected, Mr. Abdulaziz was in frequent contact with Mr. Khashoggi. The two discussed human rights issues in Saudi Arabia.<sup>138</sup> For example, in some messages to Mr. Abdulaziz, Mr. Khashoggi criticized the policies of the Crown Prince Mohammed Bin Salman:

*“Arrests are unjustified and do not serve [MBS] (logic says), but tyranny has no logic, but he loves force, oppression and needs to show them off. He is like a beast ‘pac man’ - the more victims he eats, the more he wants. I will not be surprised that the oppression will reach even those who are cheering him, then others and others and so on. God knows.”*<sup>139</sup>

12. According to some, one possible reason for the murder of Mr. Khashoggi is that at the time of his death he was working with Mr. Omar Abdulaziz on a project called “the bees”, which sought to galvanise young Saudi activists to form an online “army” which could fight back against the online trolls supported by Mr. Bin Salman, known as the “flies”.<sup>140</sup>

<sup>134</sup> Annex to the Report of the UN Special Rapporteur, paras. 67 and 257(a); See also ‘Crown prince sought to lure Khashoggi back to Saudi Arabia and detain him, U.S. intercepts show’, Shane Harris, op.cit, fn 60.

<sup>135</sup> ‘CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi’, Warren P. Strobel, op. cit. fn 26. It is unclear whether the comments “we could possibly lure him outside Saudi Arabia and make arrangements” is a direct quotation from Mr. Bin Salman or from someone else describing his remarks.

<sup>136</sup> Annex to the Report of the UN Special Rapporteur, para. 66.

<sup>137</sup> ‘The Kingdom Came to Canada. How Saudi-Linked Digital Espionage Reached Canadian Soil’, Citizen Lab, 1 October 2018, available at: <https://citizenlab.ca/2018/10/the-kingdom-came-to-canada-how-saudi-linked-digital-espionage-reached-canadian-soil/>.

<sup>138</sup> Annex to the Report of the UN Special Rapporteur, paras. 68-69.

<sup>139</sup> Annex to the Report of the UN Special Rapporteur, paras. 69. In-brackets additions are from the quote cited in the UN Special Rapporteur’s report.

<sup>140</sup> ‘Khashoggi murder one step closer to resolution with striking new findings’, Şeyma Nazli Gurbuz, *Daily Sabah*, 29 December 2018, available at: <https://www.dailysabah.com/politics/2018/12/29/khashoggi-murder-one-step-closer-to-resolution-with-striking-new-findings>.

**ii. Saudi campaign against dissidents**

13. There is strong evidence to suggest that Mr. Khashoggi's killing is part of a larger campaign of Saudi attacks, coordinated at the highest levels, against critics of Mr. Bin Salman and the Saudi royal family, in order to silence them.<sup>141</sup>
14. The UN Special Rapporteur emphasises in her report that in the years before Mr. Khashoggi's execution, "United Nations Special Procedures and international human rights organisations reported a large number of arbitrary detentions of journalists and human rights defenders, but also Princes, businessmen and one Head of State".<sup>142</sup>
15. In September 2017, three months after the promotion of Mr. Bin Salman to the position of Crown Prince, a series of arrests of critics of Saudi government policies started. These included the September 2017 arrests of prominent clerics, public intellectuals, academics and human rights activists, the November 2017 arrests of businesspeople and royal family members accused of corruption, and the arrests of women's rights activists beginning in May 2018.<sup>143</sup>
16. According to The Washington Post, in the spring of 2017, a team of Saudi intelligence operatives, under the control of the Saudi Royal Court, began organising kidnappings of dissidents at home and abroad.<sup>144</sup> Mr. Turki Al-Aheikh, a close adviser to Mr. Bin Salman, reportedly helped oversee the interrogation sites,<sup>145</sup> and some members of this team operated in tandem with the Center for Studies and Media Affairs at the Royal Court, which was headed by Mr. Saud Al Qahtani, Mr. Bin Salman's adviser. The team has been described as the "Rapid Intervention Group" or the "Tiger Squad".
17. According to The Wall Street Journal, the CIA has confirmed that since 2015 Mr. Bin Salman "has ordered Qahtani and CSMARC [Center for Studies and Media Affairs at Saudi Royal Court] to target his opponents domestically and abroad, sometimes violently". The CIA report also noted that five employees of the Center for Studies and Media Affairs were involved in the Khashoggi operation, and all five were also involved in the abusive treatment of prominent Saudis detained at Riyadh's Ritz-Carlton hotel in the fall of 2017 as part of the Saudi government's "anti-corruption" campaign.<sup>146</sup> According to American officials who have read classified intelligence about the Saudi campaign, members of the team that killed Mr. Khashoggi were involved in at least a dozen operations, which included forced repatriations, starting in 2017.<sup>147</sup>
18. The campaign against dissidents reportedly includes cyber spying and online harassment. There is evidence that Mr. Saud Al Qahtani, who served as the director of the Saudi Federation for Cyber Security and Programming until his dismissal in 2018, has openly used Twitter to harass and target dissidents. For example, on 17 October 2017, Mr. Saud Al Qahtani started the hashtag #The\_Black\_List in which he encouraged Saudis to suggest online critics to target. He tweeted: "They will be sorted. They will be followed up on from now".<sup>148</sup>

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<sup>141</sup> See, for example, Annex to the Report of the UN Special Rapporteur, para. 378.

<sup>142</sup> Annex to the Report of the UN Special Rapporteur, para. 257(b).

<sup>143</sup> Human Rights Watch Report, pp.2, 23-26, 40-55.

<sup>144</sup> 'The Khashoggi killing had roots in a cutthroat Saudi family feud', David Ignatius, op. cit., fn 59.

<sup>145</sup> 'The Khashoggi killing had roots in a cutthroat Saudi family feud', David Ignatius, op. cit., fn 59.

<sup>146</sup> 'CIA Intercepts Underpin Assessment Saudi Crown Prince Targeted Khashoggi', Warren P. Strobel, op. cit. fn 26. OSJI additions in brackets.

<sup>147</sup> 'It Wasn't Just Khashoggi: A Saudi Prince's Brutal Drive to Crush Dissent', Mark Mazzetti and Ben Hubbard, op. cit., fn 51.

<sup>148</sup> Tweet from Saud al-Qahtani (@saudq1978), 17 August 2017, available at:

19. According to credible reports, Saudi Arabia has deployed commercially available surveillance technologies to hack into the online accounts of government critics and dissidents.<sup>149</sup> In addition to the targeting of Mr. Omar Abdulaziz, referred to above (Annex, paragraph 11), who has filed a lawsuit against NSO group,<sup>150</sup> other Saudis in the diaspora have alleged that the Saudi government targeted them with cyberattacks in recent years. The alleged victims include a researcher for Amnesty International, UK-based Saudi human rights activist Yahya Assiri, and UK-based Saudi dissident Ghanem al-Masarir Al Dosari.<sup>151</sup>
20. In spite of the international outcry following the death of Mr. Khashoggi, it appears that the campaign is continuing.
21. In April 2019, Saudi Arabia reportedly carried out a new round of arrests, targeting 13 writers and activists.<sup>152</sup>
22. In August 2020, a former top Saudi intelligence officer, Dr. Saad Aljabri, filed a lawsuit against Mr. Bin Salman and other Saudi nationals, alleging that Mr. Bin Salman has “personally orchestrated an attempted extrajudicial killing of Dr. Saad, an attempt that remains ongoing to this day” and has carried out “multiple extrajudicial killings and attempted extrajudicial killings of those who could undermine his support in the United States, including of Jamal Khashoggi and Dr. Saad”.<sup>153</sup>
23. As the UN Special Rapporteur concluded in her report, “the operation against Mr. Khashoggi has to be understood in relation to this organized and coordinated crack-down, one that included repeated unlawful acts of torture and physical harm”.<sup>154</sup>

### iii. Events leading up to the murder

24. At the end of 2018, Mr. Khashoggi decided to move to Turkey to live with his new fiancée, Ms. Hatice Cengiz. On 28 September 2018, Mr. Khashoggi went to the Saudi Consulate in Istanbul in order to obtain documents necessary for his marriage with Ms. Cengiz. The consular officials told him to return on 2 October 2018 to obtain the marriage document.<sup>155</sup>
25. According to the investigation report of the UN Special Rapporteur, who has had access to recordings of telephone calls, barely a few hours after Mr. Khashoggi’s visit, the Consulate had relayed the information to Riyadh that Mr. Khashoggi would come back to the Consulate on 2 October.<sup>156</sup>

<https://twitter.com/bellingcat/status/1144263147416670209/photo/1> (accessed 2 August 2020); Annex to the Report of the UN Special Rapporteur, para. 253.

<sup>149</sup> Human Rights Watch Report, p.33.

<sup>150</sup> “‘Saudi Arabia Wants to Stop My Work.’ Activists Are Facing New Threats For Continuing Jamal Khashoggi’s Efforts”, Josh Meyer, op. cit. fn 104.

<sup>151</sup> ‘Amnesty International Among Targets of NSO-powered Campaign’, Amnesty International, 1 October 2018, available at:

<https://www.amnesty.org/en/latest/research/2018/08/amnesty-international-among-targets-of-nso-powered-campaign/>; ‘Saudi Arabia accused of hacking London-based dissident’, Stephanie Kirchgassner and Nick Hopkins, *The Guardian*, 28 May 2019, available at: <https://www.theguardian.com/world/2019/may/28/saudi-arabia-accused-of-hacking-london-based-dissident-ghanem-almasarir#:~:text=Saudi%20Arabia%20has%20been%20accused.and%20seen%20by%20the%20Guardian>; ‘Exclusive: Saudi Dissidents Hit With Stealth iPhone Spyware Before Khashoggi’s Murder’, Thomas Brewster, *Forbes*, 21 November 2018, available at: <https://www.forbes.com/sites/thomasbrewster/2018/11/21/exclusive-saudi-dissidents-hit-with-stealth-iphone-spyware-before-khashoggis-murder/#7709a1ed2e8b>.

<sup>152</sup> Human Rights Watch Report, pp.55-56.

<sup>153</sup> *Dr Saad Aljabri v. Mohammed Bin Salman Bin Abdulaziz al Saud and others*, op. cit. fn 56, paras. 9 and 36.

<sup>154</sup> Annex to the Report of the UN Special Rapporteur, para. 257(b).

<sup>155</sup> Annex to the Report of the UN Special Rapporteur, para. 77.

<sup>156</sup> Annex to the Report of the UN Special Rapporteur, para. 78.

26. At 2:22pm on 28 September 2018, a security attaché stationed at the Consulate spoke to Mr. Maher Abdulaziz Mutreb, an intelligence officer who worked with Mr Saud al Qatani, and a former security officer in the royal guard who had previously accompanied the Crown Prince on several international trips.<sup>157</sup> The UK has designated Mr. Mutreb for being “directly involved in carrying out the unlawful killing of Jamal Khashoggi at the Saudi Consulate in Istanbul on 2 October 2018, as part of the 15 man team sent to Turkey by Saudi authorities”.<sup>158</sup>
27. During the conversation with the security attaché at the Saudi Consulate, Mr. Mutreb said he had informed “the communications office”, which, according to the UN Special Rapporteur, may refer to the department directed by Mr. Saud Al Qahtani.<sup>159</sup> During another phone conversation Mr. Mutreb asked the security attaché if Mr Khashoggi would be returning, and the security attaché reportedly responded, “Yes, we were all shocked. We just spoke. I said how are you? There isn’t anything official but it’s known that he is one of the people sought”.<sup>160</sup>
28. In the evening of 28 September 2018, Saudi Arabia’s Consul General in Istanbul, Mr. Mohammed Alotaibi, spoke to an individual who said “the head of state security called me and they have an assignment. [...] He said that they need a person from your protocol for a special and a top secret mission”.<sup>161</sup> Later that evening, the Consul General spoke to a member of the Consular staff about “an urgent training in Riyadh” that would take place the next day on an issue that was “top secret”.<sup>162</sup>
29. Two security attachés from the Istanbul Consulate departed for Riyadh on 29 September 2018 and returned to Istanbul on 1 October. On their way back, they were accompanied by three Saudi men who were eventually identified as members of the 15-man team accused of the killing of Mr. Khashoggi:<sup>163</sup>
  - Mr. Naif Hasan Alarifi - according to the UK Sanctions List, he held the position of First Lieutenant, External Intelligence, and worked in the Office of the Crown Prince in Saudi Arabia;<sup>164</sup>
  - Mr. Mohammed Saad Al Zahrani - according to UK Sanctions List, he held the position of Intelligence Officer in Saudi Arabia;<sup>165</sup>
  - Mr. Mansour Othman Abahussain - according to the UK Sanctions List, he held the position of Major General and worked in the Office of the Crown Prince.<sup>166</sup>
30. On 1 October 2018, in a conversation including at least one Saudi official from the Consulate, one man said that:

<sup>157</sup> Annex to the Report of the UN Special Rapporteur, p.18; ‘Aide to Saudi Crown Prince, Suspect in Khashoggi Case, Is Shown Walking Into Consulate’, Rick Gladstone, *New York Times*, 18 October 2018, available at: <https://www.nytimes.com/2018/10/18/world/middleeast/jamal-khashoggi-mohammed-bin-salman-turkey-saudi-arabia.html>.

<sup>158</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 42.

<sup>159</sup> Annex to the Report of the UN Special Rapporteur, fn.24, p.15.

<sup>160</sup> Annex to the Report of the UN Special Rapporteur, para. 78.

<sup>161</sup> Annex to the Report of the UN Special Rapporteur, para. 79.

<sup>162</sup> Annex to the Report of the UN Special Rapporteur, para. 80.

<sup>163</sup> Annex to the Report of the UN Special Rapporteur, para. 79-82.

<sup>164</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 29.

<sup>165</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 41.

<sup>166</sup> UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 28.

*“A commission is coming from Saudi Arabia tomorrow; they have something to do in the Consulate. [...] Their work inside will take two or three days [...] The name of the man who will come is Mr. Maha, and the commission is a Saudi commission”.*<sup>167</sup>

31. The next day, on 2 October, nine additional Saudi officials arrived in Istanbul on a private plane (HZ-SK2) operated by Sky Prime Aviation, a jet charter company based in Riyadh:<sup>168</sup>
- Mr. Fahad Shabib al Balawi (member of the Royal Guard);<sup>169</sup>
  - Mr. Thaar Ghaleb Alharbi (Lieutenant, promoted for his courage during an attack on the Crown Prince’s Palace);<sup>170</sup>
  - Mr. Mustafa Mohammed Al Madani (Brigadier General, Intelligence Officer employed at the Royal Palace);<sup>171</sup>
  - Mr. Badr Lafi Al Otaibi (Major, External Intelligence; Possibly knew Mr. Khashoggi from the time when Mr. Khashoggi advised the Head of External Intelligence);<sup>172</sup>
  - Mr. Turki Musharraf Al Shehri (Intelligence Officer);<sup>173</sup>
  - Mr. Waleed Abdullah Alshehri (Royal Guard and Major, promoted to the rank of major by the Crown Prince);<sup>174</sup>
  - Mr. Saif Saad Alqahtani (Worked as a training specialist in the Saudi Air Force and worked the Office of the Crown Prince);<sup>175</sup>
  - Mr. Maher Abdulaziz Mutreb (Intelligence Officer, in possession of diplomatic passport; worked in the Saudi Embassy in London; Intelligence Officer; worked with Mr. Saud Al Qahtani, the Crown Prince’s advisor);<sup>176</sup>
  - Dr. Salah Mohammed Tubaigy (Forensic doctor with the Ministry of Interior of Saudi Arabia; Professor in the Department of Criminal Evidence at Naif Arab University).<sup>177</sup>
32. According to official documentation, the flight plan for plane HZ-SK2 was filed at 7:30pm UTC. However, at 8:19pm UTC, the flight was cancelled and refiled at 8:23pm UTC with a

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<sup>167</sup> Annex to the Report of the UN Special Rapporteur, para. 85.

<sup>168</sup> Annex to the Report of the UN Special Rapporteur, para. 86.

<sup>169</sup> Mr. Al Balawi was sanctioned by the UK Government for his involvement in the unlawful killing of Mr. Khashoggi. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 26.

<sup>170</sup> Annex to the Report of the UN Special Rapporteur, p.19. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 27.

<sup>171</sup> Mr. Al Madani was sanctioned by the UK government for his involvement in the unlawful killing of Mr. Khashoggi, including through concealment of evidence. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 31.

<sup>172</sup> Mr. Al Otaibi was sanctioned by the UK government for his involvement in the unlawful killing of Mr. Khashoggi. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 40.

<sup>173</sup> Mr. Al Shehri was sanctioned by the UK Government for his involvement in the unlawful killing of Mr. Khashoggi. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 34.

<sup>174</sup> Annex to the Report of the UN Special Rapporteur, p.18; Mr. Al Shehri was sanctioned by the UK government for his direct involvement in the unlawful killing of Mr. Khashoggi. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 32.

<sup>175</sup> Mr. Saif Saad Al Qahtani was sanctioned by the UK government for his involvement in the unlawful killing of Mr. Khashoggi, including through concealment of evidence. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 38.

<sup>176</sup> Annex to the Report of the UN Special Rapporteur, p.18. Mr. Mutreb was sanctioned by the UK government for his direct involvement in the unlawful killing of Mr. Khashoggi. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 42.

<sup>177</sup> Mr. Tubaigy was sanctioned by the UK government for his involvement in the unlawful killing of Mr. Khashoggi, including his direct role in the concealment of evidence. UK Sanctions List, Foreign, Commonwealth & Development Office, 6 July 2020, para. 33.

diplomatic clearance.<sup>178</sup> According to a New York Times report, that plane was often used by the Saudi government.<sup>179</sup>

33. The UN Special Rapporteur noted in her investigation report that, according to witness testimonies obtained by the Chief Public Prosecutor in Istanbul, non-Saudi staff at the Consulate were ordered by the Consul General to either not report to work on 2 October or to leave the Consulate at noon. Others were told to remain in their offices and not to leave the Consulate because of a planned arrival of an investigator or a diplomatic meeting. Similarly, the staff at the Consul General's Residence were told not to enter or to leave the Residence because an engineer was supposedly expected to make repairs.<sup>180</sup>

#### **iv. The murder of Mr. Khashoggi**

34. According to the UN Special Rapporteur, on 2 October 2018, Mr. Khashoggi called the Consulate to explain that he would be going there. Someone from the Consulate called him back and told him to arrive at 1pm. A few hours earlier, between 10 and 11am, the 15 Saudi officials split into two groups. Five went to the Consul General's Residence, while the remaining ten went to the Consulate.<sup>181</sup>
35. At 1:02pm, 11 minutes before Mr. Khashoggi arrived, Mr. Mutreb and Dr. Tubaigy had a conversation inside the Consulate.
36. In this conversation, the recording of which has been listened to by the UN Special Rapporteur, Mr. Mutreb asked whether it will "be possible to put the trunk in a bag?" Dr. Tubaigy replied "No. Too heavy".<sup>182</sup> The doctor expressed hope that it would "be easy. Joints will be separated. It is not a problem. The body is heavy. First time I cut on the ground. If we take plastic bags and cut it into pieces, it will be finished. We will wrap each of them".<sup>183</sup> Dr. Tubaigy also expressed concerns: "My direct manager is not aware of what I am doing. There is nobody to protect me." At the end of the conversation, Mr. Mutreb asked whether "the sacrificial animal" had arrived. At 1:13pm, a voice said "he has arrived".<sup>184</sup>
37. At 1:15pm, Mr. Khashoggi entered the Consulate by himself, after leaving his phones with Ms. Cengiz, who remained outside.<sup>185</sup> Once inside the Consulate, Mr. Khashoggi was invited to the office of the Consul General. Their conversation first focused on whether Mr. Khashoggi would come back to Saudi Arabia. Mr. Khashoggi responded that he wanted to return in the future. He was told that there was an order from Interpol for him to be sent back to Saudi Arabia.<sup>186</sup>
38. Mr. Khashoggi replied that there was not a case against him and that his fiancée was waiting for him outside. Mr. Mutreb ordered Mr. Khashoggi to write a message to his son, which he refused to do. Mr. Khashoggi was then told:

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<sup>178</sup> Annex to the Report of the UN Special Rapporteur, para. 85.

<sup>179</sup> 'Killing Jamal Khashoggi: How a Brutal Saudi Hit Job Unfolded' (Video), *New York Times - Visual Investigations* timestamp: 02:02-02:05, op. cit., fn 91.

<sup>180</sup> Annex to the Report of the UN Special Rapporteur, para. 88.

<sup>181</sup> Annex to the Report of the UN Special Rapporteur, para. 89-90. See Table B on p.19 of the Annex to the Report of the UN Special Rapporteur's report for details regarding which individuals went to the Consul General's Residence and which went to the Consulate.

<sup>182</sup> Annex to the Report of the UN Special Rapporteur, para. 91.

<sup>183</sup> Annex to the Report of the UN Special Rapporteur, para. 91.

<sup>184</sup> Annex to the Report of the UN Special Rapporteur, para. 91.

<sup>185</sup> Annex to the Report of the UN Special Rapporteur, para. 92.

<sup>186</sup> Annex to the Report of the UN Special Rapporteur, para. 94.



*“Type it, Mr. Jamal. Hurry up. Help us so that we can help you because at the end we will take you back to Saudi Arabia and if you don’t help us you know what will happen at the end; let this issue find a good end.”*<sup>187</sup>

39. At 1:33pm, according to the report of the UN Special Rapporteur, Mr. Khashoggi’s said “there is a towel here. Are you going to give me drugs?” Someone replied to him: “We will anesthetize you”.<sup>188</sup>
40. According to the Turkish newspaper Daily Sabah, which published additional parts of the transcripts of the Consulate recordings, after Dr. Tubaigy told Mr. Khashoggi that he will be “put to sleep”, Mr. Khashoggi warned: “Do not keep my mouth closed”, “I have asthma. Do not do it, you will suffocate me”.<sup>189</sup> Reportedly, Mr. Khashoggi’s last words were “I’m suffocating ... Take this bag off my head, I’m claustrophobic”.<sup>190</sup>
41. The report of the UN Special Rapporteur noted that noises of a struggle were heard on the Consulate recordings, during which the following sentences were said: “Did he sleep?” “He raises his head.” “Keep pushing.” “Push here; don’t remove your hand; push it”.<sup>191</sup>
42. The sounds of struggle lasted approximately seven minutes; sounds that intelligence experts have interpreted as asphyxiation using a bag.<sup>192</sup> According to the UN Special Rapporteur, sounds of movement and heavy panting could be heard in the remainder of the recordings, and the sound of plastic sheets could also be heard. Turkish Intelligence concluded that these came after Mr. Khashoggi’s death while the Saudi officials were dismembering his body. The Turkish Intelligence assessment identified the sound of a saw at 1:39pm.<sup>193</sup>
43. According to The Times, Turkish sources also claimed that Mr. Mutreb, the head of the operation team, made four telephone calls, in the hours after Mr. Khashoggi was killed, to the mobile phone of Mr. Bader Al-Asaker, who manages the office in Riyadh of Mr. Bin Salman.<sup>194</sup>
44. According to a source interviewed by Reuters, Mr. Saud Al Qahtani oversaw the operation via Skype:

*“According to one high-ranking Arab source with access to intelligence and links to members of Saudi Arabia’s royal court, Qahtani was beamed into a room of the Saudi consulate via Skype. He began to hurl insults at Khashoggi over the phone. According to the Arab and Turkish sources, Khashoggi answered Qahtani’s insults with his own [...] A Turkish intelligence source relayed that at one point Qahtani told his men to dispose of Khashoggi. “Bring me the head of the dog”, the Turkish intelligence source says Qahtani instructed. It is not clear if Qahtani watched the entire proceedings, which the high-ranking Arab source described as a ‘bungled and botched operation’.”*<sup>195</sup>

<sup>187</sup> Annex to the Report of the UN Special Rapporteur, para. 94.

<sup>188</sup> Annex to the Report of the UN Special Rapporteur, para. 94.

<sup>189</sup> ‘Saudi hit squad’s gruesome conversations during Khashoggi’s murder revealed’, Abdurrahman Şimşek, Nazif Karaman, *Daily Sabah*, 9 September 2019, available at: <https://www.dailysabah.com/investigations/2019/09/09/saudi-hit-squads-gruesome-conversations-during-khashoggis-murder-revealed>.

<sup>190</sup> ‘Canada, Germany confirm receiving recordings on Khashoggi’s murder’, *Daily Sabah with agencies*, 12 November 2018, available at: <https://www.dailysabah.com/investigations/2018/11/12/canada-germany-confirm-receiving-recordings-on-khashoggis-murder>.

<sup>191</sup> Annex to the Report of the UN Special Rapporteur, para. 95.

<sup>192</sup> Annex to the Report of the UN Special Rapporteur, para. 206.

<sup>193</sup> Annex to the Report of the UN Special Rapporteur, para. 96.

<sup>194</sup> ‘Saudi Hit Squad Leader Called Crown Prince’s Office’ After Khashoggi Death’, Hannah Lucinda Smith, *The Times*, 23 October 2018, available at: <https://www.thetimes.co.uk/article/hit-squad-leadercalled-office-of-crown-prince-fpkgspbs0/>.

<sup>195</sup> ‘How the man behind Khashoggi murder ran the killing via Skype’, *Reuters*, op. cit., fn 78.

**v. The disappearance of Mr. Khashoggi**

45. According to the Special Rapporteur, at 3pm, a consular van and another vehicle left the Consulate's garage. The two vehicles arrived at the Consular General's Residence at 3:02pm. CCTV cameras recorded three men entering the Residence with what seemed like plastic trash bags, and at least one rolling suitcase.<sup>196</sup>
46. At 3:53pm, CCTV cameras recorded Mr. Almadani, accompanied by Mr. Saif Saad Al Qahtani, leaving the Consulate. Mr. Almadani wore what appeared to be Mr. Khashoggi's clothes, whilst Mr. Saif Saad Al Qahtani was carrying a white plastic bag with him. The two men travelled by taxi to the Sultanahmet District. At 4:13pm, they entered the Blue Mosque where Mr. Almadani changed clothes, after which they took a taxi to the Levent Metro Station. Somewhere near the metro station they threw away the plastic bag into a garbage bin.<sup>197</sup>
47. That afternoon, Turkish authorities were alerted of Mr. Khashoggi's disappearance, when Ms. Cengiz did not see him leave the Consulate.<sup>198</sup> That evening, the Turkish authorities opened an investigation into the disappearance of Mr. Khashoggi.<sup>199</sup>

**vi. The departure of the Saudi team**

48. According to the UN Special Rapporteur, on 2 October 2018, a Sky Prime Aviation private plane – the same private company which chartered nine people of the Saudi team on the morning of the same day – with the identification number HZ-SK1, departed Riyadh at 1:30pm (Istanbul time) and arrived in Istanbul at 5:15pm. Mr. Mutreb and five others (Mr. Alotaibi, Mr. W. Alshehri, Mr. T. Alshehri, Mr. Albalawi and Mr. Alharbi) boarded this plane, which departed Istanbul at 6:30pm and flew to Cairo. The plane then flew to Riyadh on 3 October.<sup>200</sup>
49. The same day, 2 October, Dr. Tubaigy, Mr. Alhawsawi and Mr. Alotaibi arrived at the Ataturk Airport at 7:40pm. Mr. Alzahrani, Mr. Abuhussain, Mr. Alarifi and Mr. Albostani arrived at the airport at 8:24pm. The seven Saudi officials left on a Sky Prime Aviation plane, with the identification number HZ-SK2, to Dubai. HZ-SK2 flew to Riyadh on 3 October.<sup>201</sup>
50. Mr. Almadani and Mr. Saif Saud Alqahtani flew to Riyadh from Istanbul at 01:25 on a Turkish Airlines flight TK144.<sup>202</sup>

**vii. The “clean-up”**

51. According to the UN Special Rapporteur, Turkish Intelligence concluded that on 3 October, the day after Mr. Khashoggi's murder, Consulate staff were prevented from going to the second floor of the Consulate. Around 11am, the inner part of the Consulate was cleaned. The Consul General did not leave the residence the whole day.<sup>203</sup>

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<sup>196</sup> Annex to the Report of the UN Special Rapporteur, para. 97.

<sup>197</sup> Annex to the Report of the UN Special Rapporteur, para. 98.

<sup>198</sup> Annex to the Report of the UN Special Rapporteur, paras. 99-101, 108.

<sup>199</sup> Annex to the Report of the UN Special Rapporteur, para. 108.

<sup>200</sup> Annex to the Report of the UN Special Rapporteur, paras. 103, 104.

<sup>201</sup> Annex to the Report of the UN Special Rapporteur, para. 105.

<sup>202</sup> Annex to the Report of the UN Special Rapporteur, para. 106.

<sup>203</sup> Annex to the Report of the UN Special Rapporteur, para. 109.

52. On 4 October, Saudi consular staff burned papers in a barrel in the backyard of the Consulate.<sup>204</sup> On the morning of 5 October, consular staff drove the mission vehicle, allegedly used to transport Mr. Khashoggi's remains, to a carwash.<sup>205</sup>
53. During the following days, other Saudis were sent to Istanbul, the majority of whom were members of the Saudi secret police, the Mabahith:
- On 6 October, 10 members of the Mabahith landed in Istanbul and went to the Consulate;<sup>206</sup>
  - On 10 October, two additional Mabahith representatives landed in Turkey. Turkish Intelligence determined that they worked in the Genetics Test Department and the Criminal Evidence Department;<sup>207</sup>
  - On 11 October, five additional Saudi officials arrived in Istanbul. According to Turkish Intelligence, one was a toxicology expert and three of them were members of the Mabahith "Technical Team".<sup>208</sup>
54. The UN Special Rapporteur describes that on 12 October, the three men allegedly belonging to the Mabahith "Technical Team" entered the Saudi Consulate at 2:45pm, remained there all day and night, and left the building on 13 October at 8:00am. The team returned to the Consulate at 9pm that day, as well as on 14 October where they remained from 11pm until 4am the next morning. Turkish Intelligence have alleged that the team conducted a clean-up of the crime scene.<sup>209</sup>
55. According to the UN Special Rapporteur, on 15 October, at 07:30, a commercial cleaning crew arrived at the Saudi Consulate. The same day, the 10th Criminal Court granted a search warrant to the Chief Public Prosecutor in Istanbul for the Saudi Consulate, the Consul General's Residence, and consular vehicles.<sup>210</sup>
56. The UN Special Rapporteur noted in her investigation report that Turkish investigators found limited reaction to Luminol and other tests, which indicates either that precautions had been taken at the time of the crime to protect against the loss of blood and other fluids in the room, and/or that the crime scenes were the objects of a thorough and "professional" cleaning immediately after the killing and thereafter.<sup>211</sup>
57. According to Al Jazeera, sources at the Turkish Attorney General's office reported that traces of acid were discovered in the Saudi consul's residence, which, if correct, would suggest that Mr Khashoggi's body may have been at least partially dissolved.<sup>212</sup>
58. To this day, the location of Mr. Khashoggi's remains is unknown.<sup>213</sup>
59. Furthermore, according to the UN Special Rapporteur, Turkish investigators found evidence of "possibly [sic] changes in pieces of carpets in the briefing room of the Consulate".<sup>214</sup>

<sup>204</sup> Annex to the Report of the UN Special Rapporteur, para. 113.

<sup>205</sup> Annex to the Report of the UN Special Rapporteur, para. 115.

<sup>206</sup> Annex to the Report of the UN Special Rapporteur, para. 119.

<sup>207</sup> Annex to the Report of the UN Special Rapporteur, para. 125.

<sup>208</sup> Annex to the Report of the UN Special Rapporteur, para. 126.

<sup>209</sup> Annex to the Report of the UN Special Rapporteur, paras. 130, 132.

<sup>210</sup> Annex to the Report of the UN Special Rapporteur, para. 134.

<sup>211</sup> Annex to the Report of the UN Special Rapporteur, paras. 289-290.

<sup>212</sup> 'Traces of acid, chemicals found at Saudi consul general's home', *Al Jazeera*, 8 November 2018, available at: <https://www.aljazeera.com/news/2018/11/traces-acid-chemicals-saudi-consul-general-home-181108112832933.html>.

<sup>213</sup> Annex to the Report of the UN Special Rapporteur, para. 296.

<sup>214</sup> Annex to the Report of the UN Special Rapporteur, paras. 289-290.

60. Finally, in the opening of the trial in Turkey of 20 Saudi nationals suspected for their involvement in the killing of Mr. Khashoggi, one witness who gave evidence, Mr. Zeki Demir, a Turkish citizen who worked as a handyman at the Saudi Consulate, said that he was called to the Consul General's Residence on 2 October and was asked to light an oven used for barbecues. "There were five to six people there", he said. "There was an air of panic... It was as if they wanted me to leave as soon as possible." Mr. Demir said that a few days later, when he returned to the Residence, he noticed that the marble around the oven had been bleached.<sup>215</sup>

**viii. Lack of effective Saudi investigation**

61. The UN Special Rapporteur concluded that Saudi Arabia
- "violated its procedural obligation to investigate Mr. Khashoggi's death, on multiple grounds, such as effectiveness, transparency and international cooperation."*<sup>216</sup>
62. She also concluded that the "evidence of professional, thorough, if not forensic cleaning of the crime scenes" contributed to the prevention of an effective and thorough Turkish investigation, amounting to obstruction.<sup>217</sup> Further:
- The Saudi-Turkish negotiations towards a joint investigation of the crime scenes were protracted, and were hampered by lack of trust;<sup>218</sup>
  - During the time of the negotiations, 17 Saudi officials were present at the crime scenes and their activity ultimately resulted in the clean-up of the crime scenes;<sup>219</sup>
  - The investigation of crime scenes was "sharply limited in time" and scope, preventing an effective and thorough Turkish investigation;<sup>220</sup>
  - Saudi officials prevented Turkish investigators from draining a well in the Consulate residence, which is not protected by the Vienna Convention on Consular Relations;<sup>221</sup>
  - The Saudi investigators and Chief Prosecutor failed to protect the crime scenes for the Turkish investigation and did not share their findings with the Turkish team, including forensic and scientific evidence collected during the 10 days they were present in the Consulate and residence.<sup>222</sup>

**ix. The Turkish investigation**

63. On 15 October, the Turkish Chief Public Prosecutor in Istanbul was granted a warrant from a Turkish court to search the Saudi Consul General's Residence and consular vehicles within four days.<sup>223</sup>
64. According to Turkish Intelligence, on the same day, 15 October, Turkish and Saudi officials held a meeting on the search of the Consulate. At 8:18pm, Turkish investigators went into the

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<sup>215</sup> 'Jamal Khashoggi murder: Turkey puts 20 Saudis on trial in absentia', *BBC*, 3 July 2020, available at: <https://www.bbc.co.uk/news/world-europe-53276121>.

<sup>216</sup> Annex to the Report of the UN Special Rapporteur, para. 298.

<sup>217</sup> Annex to the Report of the UN Special Rapporteur, para. 293.

<sup>218</sup> Annex to the Report of the UN Special Rapporteur, paras. 280, 281, 304.

<sup>219</sup> Annex to the Report of the UN Special Rapporteur, paras. 283, 287, 304.

<sup>220</sup> Annex to the Report of the UN Special Rapporteur, paras. 293, 303.

<sup>221</sup> Annex to the Report of the UN Special Rapporteur, paras. 305, 141.

<sup>222</sup> Annex to the Report of the UN Special Rapporteur, paras. 297, 316.

<sup>223</sup> Annex to the Report of the UN Special Rapporteur, para. 134.

Consulate, accompanied by Saudi officials, and collected two samples of all evidence – one for themselves and one for the Saudi team.<sup>224</sup>

65. The UN Special Rapporteur reported that:

*“Turkish investigators did not detect DNA or blood in the Consul General’s Office. In the neighboring briefing room, the investigators found several areas that reacted to UV light and luminol liquid tests. On a carpet near the briefing table, investigators found “a path in which drops follow each other within certain distances and generates an irregular curved line.” Not much else has been found. A Turkish Investigator recalled, “We collected luminal reactions. What was strange in our opinion was that the reactions of the luminal were not very clear. Do you understand what I mean? Even in a normal room, we would expect more reactions.”<sup>225</sup>*

66. On 16 October, Turkish investigators requested entry to the Consul General’s Residence but Saudi authorities refused.<sup>226</sup> Nevertheless, at 4:40pm, Turkish investigators entered the Consul General’s Residence to conduct a search of the premises and consular vehicles, and collected more samples. They discovered a well on the property, but the Saudi officials refused to give permission to investigate it.<sup>227</sup> The next day, the Turkish Ministry of Foreign Affairs contacted its Saudi counterpart with a request to examine the well in the residence, but, allegedly, never received a response.<sup>228</sup>

67. On 17 October, Turkish investigators examined 15-16 consular vehicles.<sup>229</sup> On 18 October, at 05:30am, they finished the search of Consul General’s Residence and consular vehicles.<sup>230</sup> One investigator stated that the Saudi officials present during the search of the consular vehicles were showing resistance at all times.<sup>231</sup>

#### **x. Saudi Arabia’s changing accounts**

68. The Saudi authorities initially claimed that Mr. Khashoggi had left the Consulate:

- On 3 October, in a statement to the Associated Press, Saudi Arabia claimed that Mr. Khashoggi had left the Consulate. The spokesperson to President Erdogan contradicted the Saudi statement later that evening.<sup>232</sup>
- In an interview with Bloomberg, on 5 October, Mr. Bin Salman insisted that Mr. Khashoggi had left the Consulate.<sup>233</sup>

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<sup>224</sup> Annex to the Report of the UN Special Rapporteur, paras. 136, 137.

<sup>225</sup> Annex to the Report of the UN Special Rapporteur, para. 138.

<sup>226</sup> Annex to the Report of the UN Special Rapporteur, para. 139.

<sup>227</sup> Annex to the Report of the UN Special Rapporteur, para. 141.

<sup>228</sup> Annex to the Report of the UN Special Rapporteur, para. 141.

<sup>229</sup> Annex to the Report of the UN Special Rapporteur, para. 143.

<sup>230</sup> Annex to the Report of the UN Special Rapporteur, para. 144.

<sup>231</sup> Annex to the Report of the UN Special Rapporteur, para. 143.

<sup>232</sup> Annex to the Report of the UN Special Rapporteur, para. 110. See: ‘Prominent Saudi journalist goes missing during visit to consulate in Turkey’, *Los Angeles Times*, 3 October 2018, available at: <https://www.latimes.com/world/la-fg-saudi-journalist-20181003-story.html>.

<sup>233</sup> ‘Saudi Crown Prince Discusses Trump, Aramco, Arrests: Transcript’, Stephanie Flanders, Vivian Nereim, Donna Abu-Nasr, Nayla Razzouk, Alaa Shahine and Riad Hamade, *Bloomberg*, 5 October 2018, available at: <https://www.bloomberg.com/news/articles/2018-10-05/saudi-crown-prince-discusses-trump-aramco-arrests-transcript>.

- On 7 October, the Saudi Press Agency published a statement from an unnamed Saudi official who had dismissed reports from Reuters that Mr. Khashoggi had been killed in the Consulate.<sup>234</sup>
  - On 8 October, in a message to a journalist, Prince Khalid Bin Salman, the Crown Prince's brother, then Saudi Ambassador to the United States, denied that Mr. Khashoggi went missing in the Consulate. He also denied all allegations of the Saudi government's involvement in Mr. Khashoggi's disappearance:
 

*"I assure you that the reports that suggest that Jamal Khashoggi went missing in the Consulate in Istanbul or that the Kingdom's authorities have detained him or killed him are absolutely false, and baseless."*<sup>235</sup>
  - On 11 October, Al Arabiya, a Saudi-owned, pan-Arab media company, issued a media report that the fifteen Saudi suspects were tourists falsely accused of killing Mr. Khashoggi. Two other Al Arabiya publications from 8 and 10 October labelled Mr. Khashoggi's disappearance as "fake news".<sup>236</sup>
  - On 12 October, the Saudi Press Agency published the official statement of the Minister of the Interior, Prince Abdulaziz Ben Saud Ben Naif Ben Abdulaziz, who denied the killing of Mr. Khashoggi.<sup>237</sup>
  - On 15 October, United States President Donald Trump tweeted that he had spoken to the King of Saudi Arabia who had denied knowledge of "whatever happened to Mr. Khashoggi".<sup>238</sup>
69. On 19 October, Saudi Arabia's Chief Prosecutor finally admitted that Mr. Khashoggi had been killed in the Consulate. He said that Mr. Khashoggi died in a fistfight with "people who met him" in the Consulate.<sup>239</sup>
70. On 20 October 2018, Saudi Arabia's Ministry of Foreign Affairs admitted that Mr. Khashoggi had been killed inside the Consulate:
- "The results of the preliminary investigations also revealed that the discussions that took place with the citizen Jamal Khashoggi during his presence in the consulate of the Kingdom in Istanbul by the suspects did not go as required and developed in a negative way led to a fight and a quarrel between some of them and the citizen Jamal*

<sup>234</sup> Annex to the Report of the UN Special Rapporteur, para. 120; 'Official at Saudi consulate in Istanbul dismisses [sic] report that Saudi citizen Jamal Kashoggi was killed in consulate in Istanbul', Saudi Press Agency, 7 October 2018, available at: <https://www.spa.gov.sa/viewfullstory.php?lang=en&newsid=1823102>.

<sup>235</sup> Annex to the Report of the UN Special Rapporteur, para. 121. See: 'What we know about what happened to Jamal Khashoggi', Dave Lawler, *Axios*, 17 October 2018, available at: <https://www.axios.com/trump-wants-audio-from-khashoggi-interrogation-ca7b0cc5-ad18-4fcb-8cad-c4c29ec2af34.html>.

<sup>236</sup> Annex to the Report of the UN Special Rapporteur, para. 127; '*Jamal Khashoggi mystery: Deleted tweets, unnamed 'sources' and fake funeral*', *Al Arabiya*, 8 October 2018, available at: <https://english.alarabiya.net/en/News/world/2018/10/08/Jamal-Khashoggi-mystery-Deleted-tweets-unnamed-sources-and-fake-funeral.html>.

<sup>237</sup> Annex to the Report of the UN Special Rapporteur, para. 129. See: 'Interior Minister Confirms KSA's Condemnation of Some Media's False Accusations Against Kingdom Against Background of Disappearance of Citizen Jamal Khashoggi', Saudi Press Agency, 12 October 2018, available at: <https://www.spa.gov.sa/1827596>.

<sup>238</sup> See President Trump's official Twitter: [https://twitter.com/realDonaldTrump/status/1051814214212485120?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Cwterm%5E1051814214212485120%7Ctwgr%5E&ref\\_url=https%3A%2F%2Fwww.npr.org%2F2018%2F10%2F15%2F657522089%2Frogue-killers-may-have-murdered-saudi-journalist-trump-suggests](https://twitter.com/realDonaldTrump/status/1051814214212485120?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Cwterm%5E1051814214212485120%7Ctwgr%5E&ref_url=https%3A%2F%2Fwww.npr.org%2F2018%2F10%2F15%2F657522089%2Frogue-killers-may-have-murdered-saudi-journalist-trump-suggests).

<sup>239</sup> Annex to the Report of the UN Special Rapporteur, para. 146. See: 'Saudis now say Khashoggi killed in consulate, after claiming he left alive', *Middle East Eye and agencies*, 20 October 2018, available at: <https://www.middleeasteye.net/news/saudis-now-say-khashoggi-killed-consulate-after-claiming-he-left-alive>.

*Khashoggi, yet the brawl aggravated to lead to his death and their attempt to conceal and cover what happened.”*<sup>240</sup>

71. The next day, on 21 October 2018, in an interview with Fox News, Saudi Foreign Minister Adel Al Jubeir called Mr. Khashoggi’s killing a “rogue operation”:

*“Even the senior leadership for the intelligence services was not aware of this. This was a rogue operation. This was an operation where individuals ended up exceeding the authorities and responsibilities they had. They made a mistake when they killed Khashoggi in the consulate and they tried to cover up for it.”*<sup>241</sup>

72. On 25 October 2018, the attorney general of Saudi Arabia acknowledged that there were indications that killing of Mr. Khashoggi was premeditated by the suspects.<sup>242</sup>

#### **xi. The trial of the suspects in Saudi Arabia**

73. On 15 November 2018, the Saudi Deputy Public Prosecutor and Spokesperson announced that the Saudi authorities had detained 21 individuals in relation to Mr. Khashoggi’s killing and indicted 11, with five of them facing death penalty.<sup>243</sup>

74. The trial of the eleven suspects in Saudi Arabia started on 3 January 2019, behind closed doors. The Saudi government invited representatives of the permanent members of the UN Security Council and Turkey to attend some of the court hearings based on an agreement of non-disclosure.<sup>244</sup> The lack of transparency of the trial has been criticised by the UN Special Rapporteur.<sup>245</sup>

75. The Special Rapporteur was informed by various governments’ sources that the eleven individuals on trial in Saudi Arabia were:<sup>246</sup>

- Mr. Faad/Fahad Shabib Albalawi
- Mr. Turki Muserref Alshehri
- Mr. Waleed Abdullah Alshehri
- Mr. Maher/Mahed Abdulaziz Mutreb
- Dr. Salah Mohammed Tubaigy
- Mr. Mansour Othman Abuhussain
- Mr. Mohammed Saad Alzahrani
- Mr. Mustafa Mohammed Almadani
- Mr. Saif Saad Al Qahtani
- Mr. Muflih Shaya Almuslih
- Mr. Ahmad Mohammed Asiri

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<sup>240</sup> Annex to the Report of the UN Special Rapporteur, para. 148. See: ‘Saudi Arabia’s full statement on the death of journalist Jamal Khashoggi’, Hamdi Alkshali, *CNN*, 20 October 2018, available at: <https://edition.cnn.com/2018/10/19/middleeast/saudi-arabia-khashoggi-statement/index.html>.

<sup>241</sup> Annex to the Report of the UN Special Rapporteur, para. 151.

<sup>242</sup> ‘Saudi Arabia Now Admits Khashoggi Killing was ‘Premeditated’’, Saphora Smith, *NBC News*, 25 October 2018, available at: <https://www.nbcnews.com/news/world/saudi-arabia-now-admits-khashoggikilling-was-premeditated-n924286>.

<sup>243</sup> Annex to the Report of the UN Special Rapporteur, para. 169.

<sup>244</sup> Annex to the Report of the UN Special Rapporteur, para. 182; ‘Khashoggi case: UN expert calls for public trials of accused killers in Saudi Arabia’, Office of the United Nations High Commissioner for Human Rights, 28 March 2019, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24421&LangID=E>.

<sup>245</sup> ‘Khashoggi case: UN expert calls for public trials of accused killers in Saudi Arabia’, Office of the United Nations High Commissioner for Human Rights, op. cit., fn 244.

<sup>246</sup> Annex to the Report of the UN Special Rapporteur, para. 183.

76. The trial was held in “strict secrecy” and the Saudi authorities did not publicly name the 11 men who stood trial for Mr. Khashoggi’s killing, nor the eight who were convicted.<sup>247</sup>
77. Mr. Saud Al Qahtani was not charged, due to “insufficient evidence”, according to Saudi public prosecution.<sup>248</sup> According to excerpts from the notes of Turkish diplomats who observed the trial, Mr. Saud Al Qahtani was never questioned in relation to the murder.<sup>249</sup>
78. Following the trial the Saudi prosecution announced that five of the suspects had been sentenced to death and three others sentenced to jail. The charges against Mr. Asiri and two others were dismissed by the Saudi court.<sup>250</sup>
79. On 7 September 2020, the Saudi court overturned the death sentences, issuing prison sentences for the eight defendants of between seven and 20 years.<sup>251</sup>

## xii. The trial of suspects in Turkey

80. 20 individuals have been indicted in relation to Mr. Khashoggi’s death in Turkey. The trial opened on 3 July 2020.<sup>252</sup> The individuals indicted are:<sup>253</sup>
  - Mr. Ahmad Mohammed Asiri
  - Mr. Saud Al Qahtani\*<sup>254</sup>
  - Mr. Mansour Othman Abuhussain
  - Mr. Maher/Mahed Abdulaziz Mutreb
  - Dr. Salah Mohammed Tubaigy
  - Mr. Mustafa Mohammed Almadani
  - Mr. Saif Saad Al Qahtani
  - Mr. Thaar Ghaleb Alharbi\*
  - Mr Badr Lafi Alotaibi\*
  - Mr. Turki Muserref Alshehri
  - Mr. Faad/Fahad Shabib Albalawi
  - Mr. Waleed Abdullah Alshehri
  - Mr. Mohammed Saad Alzahrani
  - Mr. Naif Hassan Alarifi\*
  - Mr. Abdulaziz Mohammed Alhawsawi\*
  - Mr. Khalid Aedh Alotaibi\*
  - Mr. Meshal Saad Albostani\*
  - Mr. Muflih Shaya Almuslih
  - Mr. Ahmed Abdullah Almuzaini\*
  - Mr. Saad Muid Alqarni\*

<sup>247</sup> ‘Khashoggi’s Son Says Family Pardons His Father’s Killers’, Ben Hubbard, *The New York Times*, 22 May 2020, available at: <https://www.nytimes.com/2020/05/22/world/middleeast/jamal-khashoggi-family-pardon.html>.

<sup>248</sup> ‘Jamal Khashoggi: Saudis sentence five to death for journalist’s murder’, *BBC*, 23 December 2019, available here: <https://www.bbc.co.uk/news/world-middle-east-50890633>

<sup>249</sup> ‘Khashoggi’s Son Says Family Pardons His Father’s Killers’, Ben Hubbard, op. cit., fn 247.

<sup>250</sup> ‘Saudi Arabia sentences five to death over Khashoggi murder, U.N. official decries “mockery”’, Marwa Rashad and Mark Hosenball, *Reuters*, 23 December 2019, available at: <https://uk.reuters.com/article/uk-saudi-khashoggi/saudi-arabia-sentences-five-to-death-over-khashoggi-murder-u-n-official-decries-mockery-idUKKBN1YR0SW>.

<sup>251</sup> ‘Jamal Khashoggi murder: Saudi court commutes death sentences’, *BBC*, 7 September 2020, available at: <https://www.bbc.co.uk/news/world-europe-54061597>.

<sup>252</sup> ‘Trial of 20 Saudis in Jamal Khashoggi Killing Opens in Turkey’, Carlotta Gall, *The New York Times*, 3 July 2020, available at: <https://www.nytimes.com/2020/07/03/world/europe/turkey-jamal-khashoggi-trial.html#:~:text=ISTANBUL%20%E2%80%94%20Turkey%20opened%20a%20trial,for%20justice%20in%20his%20killing>.

<sup>253</sup> Turkish Indictment, Criminal Case Number: 2020/13811, Indictment Number: 2020/3274.

<sup>254</sup> Individuals marked with an asterisk are those who do not appear to have been charged during the proceedings in Saudi Arabia.



81. All of the individuals in the above list have been designated by the UK, apart from Mr. Saad Muid Alqarni. An additional individual appears in the UK sanctions list, Mr. Mohammad Al Otaibi.
82. The Turkish authorities did not include Mr. Bin Salman in the indictment.