

TIME RECEIVED
June 20, 2016 4:29:22 PM GMT+02:00

REMOTE CSID
7330203

DURATION
123

PAGES
5

STATUS
Received

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*Mission Permanente
de la République Islamique d'Iran
auprès des Nations Unies
et des autres Organisations Internationales à Genève*

In the name of God, the Compassionate, the Merciful

N°2050/9079

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the communication number UA IRN 1/2016 dated 22 January 2016, has the honor to submit herewith the reply of I.R. Iran with regard to Ms. Bahareh Hedayat case.

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, the assurances of its highest consideration.



Office of the United Nations High Commissioner
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In the Name of God

Response to the claims about Ms. Bahareh Hedayat

Like most other countries of the world where any social activity such as establishing parties, associations and societies requires observing the legal regulations of the country, in the Islamic Republic of Iran, too, the "Law on the Activities of Parties and Associations" is the ruling legal structure of the country. Thus, all groups and parties after acquiring the required permission from Article 10 Commission (established based on article 10 of the said law) are entitled to embark on their activities and enjoy legal protection as long as their activities are in conformity with the Law. According to the Note of Article 6 of the "Law on the Activities of Parties" and its corresponding executive regulations, which stipulated legal conditions for holding gatherings and demonstrations, holding any sort of gathering is subject to obtaining permission from the relevant authorities. Based on official statistics, tens of gatherings and guild protests take place in Iran per annum; and such demonstrations and legal protests are not considered as acts against national security. On the other hand, it is obvious that lawful prevention of establishing groups or gatherings which are against national security is defensible in any legal system and conforms to international standards. Furthermore, in Iranian domestic laws, freedom of speech and expression of criticisms by journalists, individuals and users of cyberspace are acknowledged, so long as they avoid insult, humiliation, degradation, defamation and violation of public and private rights of other individuals.

Ms. Hedayat was first arrested on June 12, 2006 while attending an illegal gathering which led to public disorder at a busy square in the capital, Tehran. In judicial proceedings which occurred in the presence of her lawyer, in spite of her illegal activity i.e. attending an illegal gathering with the intent to commit a crime against national security, Ms. Hedayat received a light punishment, the implementation of which was suspended for 5 years, and thus she was released. Her lack of obedience of the law and her refusal to refer to legal institutions to observe lawful social activities was repeated time and again. However, the government's policy of tolerance in dealing with social wrongdoings led to treat her with kindness,

despite her activities against the law, and her punishment was limited to short-term detentions and legal warnings. In the Islamic Republic of Iran, according to Article 34 of the Code of Criminal Procedure law, there is no possibility of illegal detention and every police officer is required to file and bring the matter to the judge in the first 24 hours.

In 2009, following the riots which happened after the presidential election, and due to her illegal and destructive activities in those events, Mr. Hedayat was arrested by the judiciary, and after completion of the file, her charges were investigated. Subsequently, the Tehran court found her guilty according to verdict No. 113 dated May 2, 2010 on charges of illegal gathering and colluding, insulting the late Imam Khomeini and the President. Therefore, she was sentenced to two years in prison based on Article 514 of the Islamic Penal Code, and to six months based on Article 609 of the mentioned law and to five years in prison including previous detention days based on Article 612 of the same law. The issued verdict was re-considered by branch 54 of the Tehran Appellate Court, after objection by the convicted person and her lawyer (Mr. Seyed Mehdi Hojjati). The appellate court confirmed the verdict and rejected the appeal according to verdict No. 360 dated July 14, 2010 based on paragraph (a) of Article 257 of Procedure Code. Thus, it is evident that her activities were outside the scope of peaceful and lawful activities and her role to intensify the mentioned riots was taken into consideration by both courts.

It is also considered that her crimes were investigated by observing the principles of due process (including hearing her as well as her lawyer after holding investigation sessions and scrutinizing evidence and documents of the file) and the verdict was issued by the court after commission of the crime has been proved. In addition, essentially in the Islamic Republic of Iran, judges rely on current laws related to the crime in order to issue verdicts and observe legal duties in complying with the Criminal Procedure Code for fair trial with regard to international standards; and skepticisms about extrajudicial sentences and punishments are refuted. Also, in the judiciary, the impact of implementation of laws, referred to in the verdicts, are constantly examined, so that, if required, they would be amended or completed within the legal regulations. Therefore, the structure of judicial system in Iran is in such a way that guarantees fair trial.

In response to claims related to non-application of Article 134, it should be noted that following to the request made by the Tehran Prosecutor Office to apply the provisions contained in Articles 10 and 134 of the Islamic Penal Code which allow for using facilities of the new Islamic Penal Code (issued on 2013) which allows for the application of the most severe punishment for those who have been convicted to several discretionary punishments, on August 9, 2015, branch 28 of the Tehran Court after considering the request, declared its affirmative decision and instead of adding punishments for her, thus considered only five years imprisonment which is the most severe punishment, resulting in reduction of two and half years of her appointed sentence. According to note 4 of Article 134 of the Islamic Penal Code issued on 2013 (stating: The provisions regarding multiplicity of offenses shall not be applied to ta'zir offenses of the seventh and eighth degree. Such punishments shall be added together as well as to ta'zir punishments of the first to sixth grade") the 6 months of imprisonment which was the subject of article 609 of the mentioned law has been maintained and reinstated.

The reason behind extending her imprisonment is that Ms. Hedayat, as stated previously, was sentenced to two years of imprisonment in 2006 because of committing crime against national security through organizing illegal public gatherings (on June 11, 2006) without obtaining the legal permission. This verdict was suspended for 5 years.

According to Article 54 of Islamic Penal Code (ratified in 2013): "When the convict commits any of the intentional offenses punishable by *hadd*, *qisas*, *diya*, or *ta'zir* of up to the seventh degree during the period from issuance of the warrant to the end of the period of suspension, after the recent judgment becomes final, the court shall cancel the writ of suspension and issue an order of execution of the suspended conviction and also inform the court that had issued the warrant of suspension. While issuing the warrant of suspension, the court shall explicitly declare to the convict that if s/he commits any of the abovementioned offenses during the suspension period, in addition to the punishment of the recent offense, the suspended punishment, too, will be executed on him/her."

In August 17, 2015 the court decided to cancel the suspension of her two years sentence which was an original verdict on August 20, 2007 and the verdict was forwarded to the unit of executing department. As observed, the court has decided to cancel the suspended punishment based on Article 54 which is a legal action and thus the claims stipulated in the communication which disregard Article 54 are incorrect and invalid. Contrary to the claim mentioned in paragraph 9 of the communication, it shall be noted that the decision for canceling the suspension is made during the extra time (and not during the hearing session), therefore inviting the defendant or her lawyer has no justification.

The claims regarding lack of exercising the right of prisoners or not receiving proper medical assistance are incorrect as well. Health and medical care are fully provided based on the prison regulations and her health conditions to this date are reported as normal and other claims in this part are denied. Furthermore, the claim about hunger strike is incorrect, and based on received information; she has once only threatened to engage in hunger strike on July 27, 2015.

Regarding medical treatment for her illnesses, in addition to the cases mentioned in the communication, she has been sent to hospital on November 26, 2015 for dental treatments and to an orthopedic clinic on November 30, 2015. She has been sent to the Taleqani hospital for a surgery visit on January 16, 2016. She also had gallstone, right kidney stone and left ovarian cyst for which the doctor had announced the need for surgery and in order to send her to hospital on January 17, 2016 the required measures were taken and the consent of the judicial authority was obtained. However, the aforesaid person refused to be sent to hospital. Moreover, on January 27 and 28, 2016, the order for sonography was issued, but the aforesaid person refused to be sent to hospital. It seems that she has a direct role in not receiving medical treatments on time and the main concern is her lack of cooperation with the jail authorities and its medical personnel.

Regarding her enjoyment of furloughs, Ms. Hedayat has been on furloughs 21 times during her term of imprisonment which altogether amount to 176 days and has even been absent for 23 days. Until the beginning of the

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current year, she had met her family at least 90 times. She had been sent on a furlough on July 22, 2014 and returned on August 2, 2014 after 4 days of absence. On December 24, 2014 she was sent on a furlough again and returned on December 30, 2014 after one day of absence. Therefore, there is no reality in the claims stating that there have been restrictions for her in visits and furloughs.

It is again emphasized that considering the titles of the charges and the crimes discussed, the judicial proceedings about the file of the aforesaid person has been carried out according to due process and standards of fair trial, and she has even received a reduction in her sentence and has been treated with compassion with the application of article 134, and given that she has frequently violated the legal criteria during her activities and as it was said, according to the court, some of her acts were not related to a healthy and legal social activity .

With the detailed explanations that have been provided, the hearing of the case of Ms. Hedayat has been fair and compatible with the internal laws and the international obligations of the Government. As it was stated earlier, cancelling the suspension of her previous sentence has also been done according to the law. For this reason, executing her prison punishment is lawful and non-arbitrary and it is necessary that this communication be clarified.