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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*

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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 5/2017 dated 31 January 2017 and the press release dated 2 February 2017, has the honour to submit, herewith, the reply of I.R. Iran with regard to Mr. Hamid Ahmadi's 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.



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## **Hamid Ahmadi**

### **Preamble:**

It was expected that the issuers of the statement, in accordance with the rules of procedure of special duty-holders of the Human Rights Council (Resolution 2/5), should have adopted their measures on the basis of neutrality and avoiding any bias, and instead of relying on unreliable information, at least in alleged issues should have paid attention to the earlier responses of the country regarding the alleged issues of other Special Rapporteurs of at least contacted the country on the alleged issues and so the issues would be evaluated and commented from different perspectives so that false information would be avoided. Unfortunately, before communicating with the Islamic Republic of Iran on alleged issues, statement has been adopted. It should be noted that regarding Mr. Ahmadi, as it will be explained in the followings, legal procedures have been considered accurately and in sufficient time in several stages and in accordance with the viewpoints of the coroner, psychologists, social workers and witnesses and the decisive and effective role of the sentenced in the crimes has been established in several courts with multiple judges. But so far, according to the Compromise Commission mechanism the verdict has not been executed. Different stages of proceedings and stopping the execution for a long time in the hope of reconciliation, indicates that before the issued declaration, judicial system considers all necessary precautions to fulfill justice and issuing statement by relevant experts is hasty and unjustified. On issues related to the implementation of the death penalty for offenders under 18 years of age, it should be noted that the Islamic Republic of Iran, due to Islamic and human considerations, shows many flexibilities regarding offenders under 18 years of age, including the need to examine their cases in Special Courts and the use of alternative, minimum and light punishments. Only about murder, adult offenders under 18 years old are tried in provincial criminal court in the presence of three judges. Based on Islamic law and Sharia punishment for murder is retaliation in kind (qisas). The government's duty is only to investigate and prove the intentionality of murder and the sentence is possible only at the request of legal guardians. According to existing practice, even after the finalization and approval of court rules, the Supreme Court, extensive efforts will be made by the

Reconciliation Commission to gain the consent of the victim's legal guardians and change qisas to Diyya (financial compensation). In recent years a considerable number have been escaped from the death penalty. Iran's principled policy in this regard is to encourage compromise even by providing cash assistance to pay Diyya (financial compensation) and this is the prevailing trend and the main way to deal with this category of offenders. Among the judiciary branch measures is to create a new task force "preventing the punishment of deprivation of life". The Working Group is under the Executive Committee of the Rights of Children and Adolescents in Tehran province judiciary, which is now extended to all provinces of the country. The purpose of this group is to create peace and non-execution.

Even during the proceedings this group tries to establish reconciliation and gain the consent of the victim's legal guardians. Members of the Task Force include: a national body representative of children's rights, a psychologist from the Correction and Rehabilitation, a social worker from the Correction and Rehabilitation Center, director of Correction and Rehabilitation Center, a lawyer active in children and adolescents affairs, secretary of the Executive Committee of protecting the rights of children and adolescents and the person in charge financial support. Other members of the committee, including artists, members of NGOs, professionals on children's affairs and donors are invited as guest of honor children. Pursuant to Articles 88 and 89 of the Islamic Penal Code, for criminal penalties (under execution) who took offense at the age of 9 to 15 years old, the court has anticipated one of the five leniency decisions provided for in Article 88 and practically punishments have become a security and corrective measures and in Article 89 of the criminal penalties for persons between 15 to 18 years (under execution) have changed to a less severe punishment such as keeping in a juvenile institution or in jail or pay a fine. Even under article 91 of the law "in crimes punishable by "had" or "qisas", if mature people under eighteen years of age do not understand the nature and sanctity of the crime they committed or if there are doubts on maturity of their intellect, they will be sentenced to various punishments predicted in this chapter". These measures are new developments in the judicial system of Iran to comply with the maximum compassion and fulfillment of justice for offenders less than 18 years, which also considers higher interests and special requirements in various sectors and customs of different ethnic groups. Given the above mentioned information and during several legal procedures in which the

case has been carefully considered, claims relating to nonauthentic confession of the charged, lack of access to a lawyer and a fair trial or arbitrary and non-compliance of its issuance is baseless based on the following information. Although issuing the statement of the Rapporteurs is baseless and false, in order to clarify and demonstrate a desire for collaboration, information will be announced as follows. It is hoped that respected experts will seriously consider these concerns in the future.

### **The case of Mr. Hamid Ahmadi:**

Mr. Hamid Ahmadi, son of Hussein, accused of murdering Soleyman Banoreh, gave intentional wounding with a knife to the victim's chest that according to the coroner's report lead to rupture of the heart of the deceased. He was persecuted by Siahkal Court and arrested on 16/12/86. The stories is that the victim and two of his friends quarreled with Hamid Ahmadi and Ali Akbar Shabrang and Hamid Ahmadi used knife against Soleyman Banoreh in the fight, but because of overcrowding and the presence of people they could not continue to struggle and decided to settle down in Siahkal pool. Subsequently, they fought in that place and Hamid Ahmadi used a knife to struck a blow to the left side of the chest of the deceased and then attacked the friends of the deceased with at the knife, then Bahram Nikzad (friend of the deceased) hit him with a stick that as the result Ahmadi dropped the knife, at this moment, Akbar Shabrang ( Ahmadi's friend) hit the knife into the abdomen of the deceased and fled, the injured died in the hospital due to severe injuries. Forensic Medicine confirmed two hits with a sharp object but announced the fatal blow to the chest and rupture of the heart was the fatal blow. Witnesses and informants of the incident said Hamid Ahmadi was the one who hit the deceased's chest. The case was considered in the court and after the completion of the case the indictment was sent to the criminal court in Gilan province. (Ali Reza Rashidi was the lawyer of the accused and Sadroldin Hatami was the lawyer of the next of kin) the court after legal due process, sentenced Hamid Ahmadi to Qisas, which was appealed and referred to the Branch 27 of the Supreme Court. This branch, in terms of the cited of the testimony of witnesses and lack of establishing the witnesses justice, and the quality of the legal requirements with the majority of votes, considered the hearing as deficient and

nullify the verdict and restore the case to the same branch to be retried. The Court despite denial of the initial confessions of the accused before a special magistrate and witnesses and informants' statements and other evidence, sentenced Hamid Ahmadi to Qisas once and the decision subsequently upheld by Branch 27 of the Supreme Court. Then in two stages retrial requested that the requests were rejected by the verdicts No. 255-30/2/1393 and No. 2048-29/11/1393. The aforesaid, and his attorney requested for retrial for the third time and this time branch 35 of the Supreme Court in verdict No. 205-4/3/1394 approved the request and referred the case to a parallel for retrial. The Parallel branch also contemplated in the statements of the defendant and the defense attorney as well as obtaining the views of the counselor and social worker in Correction and Rehabilitation Center to see whether the accused understand the sanctity of the crime he committed or not? After legal formalities, according to verdict No. 163-8 / 9/1394, based on Article 480 of the Criminal Procedure Code, the rejection retrial ordered. At this stage, at the insistence of the victim's family for revenge killer, the issue has been referred to the Compromise Commission to explore the possibility of compromise, the efforts are continued and the execution of the verdict has been stopped.