



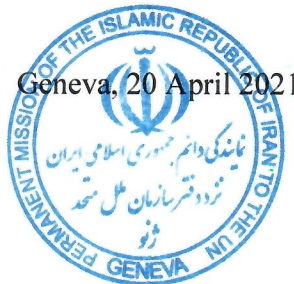
*Mission Permanente
de la République Islamique d'Iran
auprès des Nations Unies
et des autres Organisations Internationales à Genève*

In the Name of God, the Compassionate, the Merciful

Ref. 2050/755373.

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 latter's Communication No. UA IRN 2/2021, dated 18 January 2021, and pursuant to the former's Note Verbal No. 2050/730095, dated 15 March 2021, has the honor to transmit, herewith, the comments of the Judiciary of the Islamic Republic of Iran regarding Ms. Nazanin Zaghari, Mr. Kamran Ghaderi, Mr. Morad Tahbaz and Mr. Masoud Mosaheb.

The Permanent Mission of the Islamic Republic of Iran 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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CH-1211 Geneva 10
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In the Name of God, the Most Compassionate, the Most Merciful

Comment

By

The High Council for Human Rights

Of

The Islamic Republic of Iran

Regarding Ms. Nazanin Zaghari, Mr. Kamran Ghaderi,

Mr. Morad Tahbaz, and Mr. Masoud Mosaheb

As per the announcement received by the Judiciary, the latest judicial status of **Nazanin Zaghari, Kamran Ghaderi, Morad Tahbaz, Masoud Mosaheb** are provided as hereunder:

1. **Mrs. Nazanin Zaghari** who had been sentenced to 5 years of incarceration on charges of membership in and collaboration with projects hostile to the Islamic Republic of Iran was released under half-release provision (ankle tag) on 20 March 2020. Later, she was released on 7 March 2021 upon serving her full term. However, there is another pending charge sheet against her in Tehran's Courts.
2. **Mr. Kamran Ghaderi** has been sentenced to 10 years of incarceration on the charge of collaboration with the hostile state of the USA. His term started on 2 May 2015 and is scheduled to come to an end by 4 May 2025.

3. **Mr. Morad Tahbaz** has been sentenced to 10 years of incarceration on the charge of collaboration with the hostile state of the USA. His term started on 10 January 2018 and is scheduled to come to an end on 18 November 2027.
4. **Mr. Masoud Mosaheb** has been sentenced to 10 years of incarceration on the charge of collaboration with states hostile to the Islamic Republic of Iran. His term started on 31 January 2019 and is scheduled to come to an end on 8 December 2028. Furthermore, judicial proceedings have been in process for the charge of acquisition of ill-gotten gains for 420,000 USD.

The abovenamed persons' physical health status and access to medical and treatment services are provided as hereunder:

As a rule, the aforementioned persons have had unconditional access to the infirmary and prison doctor irrespective of the title and nature of one's conviction as is the case with any convict. It should be noted that if the prison specialized facilities and means are found wanting for treating the inmates, Article 13 of Prisons and Educational and Security Measures Act (passed in 2010) prescribes dispatching the abovenamed to treatment and medical facilities outside the prison round the clock, which is also the case for other inmates.

Medical dispatch clearance has been issued on 17 occasions for Masoud Mosaheb, on 32 occasions for Kamran Ghaderi, on 11 occasions for Morad Tahbaz and on 109 occasions for Nazanin Zaghari. However, in some cases, as the records of which are available in their files, the convicts decided to withdraw from dispatches to external medical centres on their own accords. Upon the COVID-19 outbreak, health standards and protocols have been strictly put in place on a regular basis all across Iranian prisons. In case of detection of suspicious cases, the inmates run tests and are quarantined in dedicated places. Even when inmates return from

furloughs or are sent back after visiting external medical centers, they are quarantined to be visited by the infirmary physician on safety and health grounds.

The allegations of torturing the aforementioned for extraction of confessions are absolutely devoid of any truth and purely fabricated out of hostility of a number of so-called human rights organizations as also hostile broadcasting channels. Not only torture practices have been strictly prohibited in instructions and protocols, but also there have been consistent oversight and inspection undertakings on the behaviours of agents and enforcers.

As per Article 38 of the Constitution of the Islamic Republic of Iran “All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law”.

Article 578 of the Islamic Penal Code provides that “Any civil servant or judicial or non-judicial agent who corporally mistreats and abuses an accused person in order to force him to confess, in addition to *qisas* and *diya*, shall be sentenced to six months to three years’ imprisonment; and if it is done under someone’s order, only the person who has issued the order shall be sentenced to the aforementioned imprisonment; and if the accused person dies as a result of the abuses, the principal to the murder shall be sentenced to the punishment provided for a murderer, and the person who has issued the order shall be sentenced to the punishment provided for the person who has ordered a murder”.

Furthermore, Articles 1 and 9 of Honouring Legitimate Rights and Safeguarding Citizenship Rights Act passed in 2004 prohibits any abuse of the

charged persons. According to Article 1, “discovering and prosecuting crimes and conducting investigations and issuing bails and temporary detention orders must be done in accordance with the law and with a specific and transparent judicial order and exercising any personal tastes, abuse of power or committing any violence or unnecessary, unwarranted detentions are to be avoided”. As per Article 9, “Any torture of the accused for the purpose of obtaining a confession or forcing them to do other things is prohibited. The statements obtained hereby will not have any legal and religious admissibility or credence and thus are excluded”.

With regards to furloughs, Note 4 of Article 520 of Code of Criminal Procedure passed in 2014 “in crimes whose punishments may not be suspended, the convicts may submit their requests for furloughs to relevant judicial authorities once one third of their term has elapsed. Officials shall decide on granting such requests after examining the cases and having obtained the views of experts. As far as the aforementioned are concerned, those meeting the legal requirements have enjoyed this provision on numerous occasions whereas others have not passed the necessary portion of their terms or their applications are being considered.

Another leniency provision implemented in Iran legal system for convict is technologically-supervised release (open prison) of convicts provided that specific legal criteria are met. The case in point here is Nazanin Zaghari.

Concerning the laws of the Islamic Republic of Iran on inmates who can't sustain incarceration, have physical conditions or incarceration may aggravate their conditions or delay their treatment courses, the sole certified authority for the Judiciary is the Medical Examiner. After performing thorough medical examinations, this authority found Masoud Mosaheb fit for sustaining incarceration provided that all pharmaceutical and health criteria are met. The Prisons Oversight

Bureau addressed the warden on several occasions, requiring the prison's management and the infirmary to fully observe all medical and pharmacological conditions. The same is true of Morad Tahbaz and Kamran Ghaderi who are healthy and fit and consistently overseen by the infirmary. Nazanin Zaghari was released after serving her full term. However, there is another pending charge sheet against her in Tehran's Courts.

With regards to the Right to Access to Counsel of Choice, it is pointed out that according to Note to Article 48 of the Code of Criminal Procedure passed in 2014, "In cases of crimes against internal or external security, and in cases involving organized crime, where Article 302 of this code is applicable, during the investigation phase, the parties to the dispute are to select their attorneys from a list approved by the head of the judiciary. The names of the approved attorneys will be announced by the Chief of the Judiciary". Moreover, Article 346 of the said Code reads, "In all criminal matters, the parties may nominate their own lawyer or lawyers. In case of multiple lawyers, the presence of one of them is enough to form a court and trial". Note to this Article: In non-criminal cases subject to the jurisdiction of Criminal Court One, each party may nominate a maximum of two lawyers to the court. Additionally, Article 347 of the said Code provides that, "The accused can apply to the court until the end of the first hearing to be assigned a lawyer. If the applicant is found to be incompetent in terms of financial means, the court shall appoint a lawyer for the accused from among the lawyers of the jurisdiction and if it is not possible from the nearest jurisdiction. If the lawyer requests a fee, the court will determine the amount in proportion to the actions taken. However, the fees paid must not exceed the pre-defined sums. The fees shall be covered by the funds of the judiciary". Note to this Article: If the court deems the presence and defences of a

lawyer necessary for a victim without financial means, it shall act in accordance with the provisions of this Article”.

Thus, the accused individuals may – during the investigation phase – select their attorneys from a list approved by the Chief of the Judiciary and there are no restrictions whatsoever placed on choosing the attorney of choice. Even if the court finds the accused lacking the financial means, it will proceed to appoint a legal defender. The aforementioned have not been excluded from this process and have enjoyed all the prescribed rights.

According to health protocols and due to the COVID-19 outbreak, all visits take place in form of inter-booth meetings while ensuring all health and medical instructions are followed. The convict may contact their families via phone at any time and face no restrictions in this regard.