



*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. 2050/1220436

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. AI IRN 2/2022 dated 11 March 2022 concerning **Kamal Sharifi** and **Hamzeh Darvish**, has the honor to transmit, herewith, the comment of the High Council for Human Rights of the Islamic Republic of Iran in that regard.

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 considerations.

Geneva, 20 June 2022



Office of the United Nations
High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10
Email: registry@ohchr.org



Islamic Republic of Iran

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

Concerning Kamal Sharifi and Hamzeh Darwish

(Joint Communication AL IRN 2.2022, dated 11 March 2022)

1. Kamal Sharifi

- The aforementioned was sentenced to prison on charges of active membership in DPIK, a disbanded terrorist group. He was arrested while infiltrating the country within an armed squad where his team clashed with Government officials, including military and law enforcement personnel. As someone who boasted 17 years of membership in the terrorist organization, he was collaborating and following the DPIK's plans to sabotage and cause further destruction with other affiliated miscreants after crossing the border by entering the city of Saqqez. The officers identified their team, and when confronted in their hiding place, they started shooting at them. He was arrested during the clashes, and several pistol grips, firearm magazines, large quantities of ammunition and significant quantities of leaflets, the constitution of the disbanded DPIK, and other texts related to the terrorist group were seized from his hideout. According to the available records, he has entered the country several times and participated in at least four documented armed clashes in the western regions, which led to several accounts of the martyrdom of law enforcement personnel and the destruction of public properties.

- The court sentenced Mr. Sharifi to 30 years of prison in exile after a due legal process, including hearing the defense of the accused and his defense lawyer (Mr. ██████████) and reexamining the case in the court of appeals with professional scrutiny and expertise, which approved the preliminary verdict. Furthermore, in 2021, the prosecutor of Minab city once again requested a retrial from the Supreme Court, but this request was rejected after the court's branch examined the case due to incompatibility with the requirements outlined in the relevant law. The claims made that the case was heard immediately and briefly (5 minutes) or that he was not allowed to speak to a lawyer during the hearing are entirely false and fabricated.

- Mr. Sharifi is currently in prison and has a healthy physical and mental condition. He can enjoy all the facilities and services available to all prisoners, and no prohibitions or restrictions have been imposed on him. According to his written statements, the fabricated news and rumors about him that the terrorist group spread in cyberspace became the basis for correspondence with the special procedures, such as not receiving medical treatment in prison except for giving painkillers, being prevented from visiting family, being prohibited from speaking in the mother tongue during the visit, being kept in a crowded prison with violent prisoners and the like are all predicated on false premises and is not valid.

2. Hamzeh Darvish

- He has been apprehended due to actions such as communication with and membership in the ISIS terrorist group, carrying out propaganda in favor of the ISIS, possession of illegal weapons and tear gas, an illegal departure from the country, dabbling in propaganda activities against the country (writing slogans and raising the ISIS flag), moving to ISIS's military base in Syria and collaborating with members of the group and based on solid and irrefutable pieces of evidence. After his arrest in 2017 in Tehran, he was tried accordingly.

- The aforementioned was arrested with a judicial order and permission in compliance with all the civil rules and rights. When Mr. Darvish stood before the judicial authority, he had the right to a lawyer and the right to remain silent in

addition to all due provisions stipulated in Articles 199, 195, 190, and 194 of the Criminal Code of Procedure, such as briefing on the alleged crime.

- There is no evidence of torture for obtaining forced confessions, and according to the forensic medical certificate, no traces of torture were observed during the detention.

- The trial leading to the issuance of a sentence of 15 years' imprisonment has proceeded fairly and free from any outside pressure or non-judicial intervention in accordance with all relevant rules and regulations. The appealability of preliminary rulings and decisions, the trial of the accused with multiple judges, access to a lawyer and the principle of innocence, which are part of the international standard of proceedings, have been fully observed in the case.

- Regarding the right of access to a lawyer of choice, it should be noted that according to note of the Article 48 of the Code of Criminal Procedure which was adopted in 2013: "concerning crimes against internal or international security as well as organized crimes that are subject to punishments stipulated within the Article 302 of this law, the lawyer in the preliminary stage of the case is selected among attorneys who are approved for eligibility by the head of the Judiciary". Furthermore, according to Article 346 of the aforementioned law, the parties can introduce their lawyer or lawyers in all criminal matters. Additionally, Article 347 of the above-mentioned law specifies that before the conclusion of the first hearing session, the accused can apply to the court for an appointed lawyer. If the accused cannot pay the lawyer because of destitution, the fee will be paid from the credit of the Judiciary, which in turn will choose an attorney from the jurisdiction's lawyers. In this case, Mr. Darvish had enjoyed legal as well as advisory services of a formal legal firm approved by the Judiciary during the preliminary investigation. During the trial, there were no legal restrictions on choosing a lawyer for the defendant. Subsequently, Dr. [REDACTED], who served as the defendant's lawyer, defended his client and submitted several statements of defense to the court; the documents are enclosed in the case.

- In regards to the physical health status and access of the accused to medical care and health services, Mr. Darvish has enjoyed easy and fast access to the health clinic and prison doctors, much like other convicts. It should also be noted that in case of insufficient facilities and specialized equipment in prison for treatment, in accordance with the application of Article 103 of the Regulations of the Prisons Organization approved in 2010, on the grounds of health-related issues, it is possible to send a prisoner to medical centers outside the prison at any given time. As is a case in point for Mr. Darvish, he has benefited from this possibility on various occasions. Due to his medical problems, his departure to medical centers outside the prison has been documented 21 times thus far. Moreover, a cardiologist constantly monitors him in conjunction with monthly check-ups. According to the diagnostic tests, there is no indication of infectious disease. All things considered, the prisoner in question is currently in perfect physical and mental health.

- So far, Mr. Darvish has been the beneficiary of numerous legal assistance and favorable conditions, such as more than 11 face-to-face and glass cabin meetings with family members as well as several meetings with judicial officials, namely the Chief Justice of the province, Prosecutor of the provincial capital, Deputy Chief Justice and other judicial officials. In this regard, his requests such as financial aid, transferring to other wards, purchase of TV, and the like have been granted accordingly. It should also be mentioned that he has benefited from prisoner's leave from November 2nd 2021, until November 15th 2021. Therefore, the claim of rejection regarding his prison furlough request is invalid.

- Mr. Darvish went on a series of hunger strikes in protest of his transfer to Lakan Prison in Rasht. In accordance with Note 3 of Article 513 of the Criminal Procedure Code adopted in 2013, the transfer was considered a lawful assignment, as he had to serve sentences along with fellow convicts. He has resigned from his strike after being advised by aid workers.