

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (3-3-16) Iran (2011-16) G/SO 214 (53-24)
IRN 16/2011

2 November 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 17/2, 16/4, 16/9 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the arrest and detention of **Mr Hadi Afarideh, Mr Naser Saffarian, Mr Mohsen Shahrnazar, Mr Mojtaba Mir Tahmasb, Ms. Katayoun Shahabi**, and the sentencing of **Ms Marzieh Vafamehr and Mr Jafar Panahi**.

According to the information received:

On 17 September 2011, Mr Hadi Afarideh, Mr Naser Saffarian, Mr Mohsen Shahrnazar, Mr Mojtaba Mir Tahmasb, and Ms Katayoun Shahabi, all who work in the film industry, were arrested by security forces and taken to Evin Prison where they were reportedly interrogated. Three of them have been temporarily released on bail after several days of detention while filmmaker Mr Mojtaba Mir Tahmasb and film distributor Ms Katayoun Shahabi remain in prison.

Mr Mojtaba Mir Tahmasb and Ms Katayoun Shahabi were reportedly allowed to make brief telephone calls to family members confirming their arrest. It is alleged

that they have been under tremendous pressure by the authorities to make confessions on camera and in writing, accepting their links to western powers. Their family members were also reportedly under pressure not to speak about their arrest.

The arrest of aforesaid individual appears to have been linked to a documentary broadcasted by BBC Persian about the life of the , Ayatollah Ali Khamenie. On 19 September 2011, Iranian media reported the arrest of five men and a woman for allegedly providing BBC Persian with information, films and secret reports to paint a black picture of the Islamic republic of Iran and Iranians. On 25 September 2011, the Minister of Intelligence of the Islamic republic of Iran was quoted by Iranian state television that more people accused of links to BBC Persian had been summoned for questioning.

Ms Marzieh Vafamehr, a prominent actress arrested in June 2011, was reportedly released on 24 October 2011, after spending over three months in Gharchak Prison in Varamin, south east of Tehran. She was reportedly released after an appeal court overturned the original sentence of 90 lashes and also reduced the imprisonment of one year to three months. According to information received, on 10 October 2011, Ms Vafamehr was allegedly sentenced to one year in prison and 90 lashes for her role in a film produced in Australia. She was facing charges of “participation in production of a vulgar film,” and “anti-Sharia conduct,” such as pretending to drink alcohol and shaving her head and without wearing hijab in a film.

Furthermore, the appeal court reportedly upheld the six-year imprisonment and a ban on writing scripts and making films for twenty years on internationally acclaimed film maker Jafar Panahi. In December 2010, the lower court sentenced Mr Panahi to six years imprisonment, coupled with a 20 year ban from involvement in film-making, travelling abroad and giving interviews to domestic and international media. Mr Panahi was arrested in March 2010 and subsequently charged with collusion and propaganda against the system.

Concern is expressed regarding the physical and psychological safety and integrity of Mr Mojtaba Mir Tahmasb and Ms Katayoun Shahabi and that their arrest may be linked to the peaceful exercise of their profession as filmmakers and freedom of expression.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency’s attention to the right to the physical and mental integrity of the above-mentioned persons.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr Mojtaba Mir Tahmasb and Ms Katayoun Shahabi is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair

proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

With regard to the allegation that Mr Mojtaba Mir Tahmasb and Ms Katayoun Shahabi were pressured to make a confession, we wish to stress that evidence against suspects obtained through recourse to unlawful methods should not be used to justify a decision to prosecute in accordance with principle 16 of the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

We would like to draw the attention of your Excellency's Government to paragraph 8 of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture;"

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of this case accurate?

2. Please provide the full details of any legal basis for the charges brought against Mr Mojtaba Mir Tahmasb and Ms Katayoun Shahabi. Please explain how their detention is compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
3. Please provide full details on any measures taken to guarantee the physical and psychological integrity of Mr Mojtaba Mir Tahmasb and Ms Katayoun Shahabi.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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