

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

REFERENCE: UA
IRN 13/2015:

12 August 2015

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 promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; 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 Human Rights Council resolutions 24/7, 25/2, 25/18, 28/21, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation below.

According to the information received:

Mr. **Jason Rezaian**, a double national from the Islamic Republic of Iran and the United States of America; born in Marin County, California; aged 39; married to Yeganeh Salehi; addressed at Shahrak Gharb, Tehran, is a well-known and respected journalist. Mr. Rezaian has been reporter for Bloomberg; *The New York Times*; *GlobalPost* and *Le Monde* and was appointed *Washington Post's* correspondent in Tehran in 2012. Mr. Rezaian was the subject of two urgent appeals sent on 4 June 2015 (IRN 6/2015) and on 6 August 2014 (IRN 16/2014). We regret that as of today, no reply has been received from your Excellency's Government.

Mr. Rezaian has been deprived of his liberty for a full year. He is being held at Evin Prison in Tehran. For five months he was placed in solitary confinement and subjected full-day interrogation sessions that caused significant physical and psychological strain.

Mr. Rezaian and his wife were arrested on 22 July 2014 at his home, by agents of the Iranian Revolutionary Guard Corps. The agents broke down their front door; ransacked their home and took them to custody without informing them of the legal basis for their arrest. The agents confiscated their personal belongings, including their computers, books, notes and passports. Ms. Salehi was released on bail after approximately 60 days in prison and remains subject to prosecution.

Mr. Rezaian was charged on 7 December 2014. He was denied legal representation during this initial hearing. The Revolutionary Court has failed to publicly disclose the charges against him, which reportedly include espionage; collaborating with hostile governments and conducting propaganda against the establishment. His trial started on 26 May 2015, closed to the public and even Mr. Rezaian's close relatives. According to the source, not one of Mr. Rezaian's articles contains any evidence of criminal activity or any propaganda. Mr. Rezaian has been allowed very limited interaction with his counsel, which has always occurred in the presence of Iranian officials. He has had no opportunity to present witnesses or evidence in his defense; nor has he had any opportunity to examine and challenge witnesses and evidence against him.

The source further reports that Mr. Rezaian has also been deprived of due process and denied his rights to legal counsel of his choosing as well as to consular visitation. Nearly five months of detention passed before Rezaian was charged with any crime, and to this day, the Government has failed to publicly disclose the charges against him. He was allowed only one brief meeting with his counsel before trial and was not allowed to adequately prepare his defense. He has not had a genuine opportunity to present his case, or even to challenge any purported evidence or witnesses against him.

The source recalls that pursuant to Article 242 of the Criminal Code of Procedure for Public and Revolutionary Courts, the detention of an accused shall not exceed the minimum duration of the legal punishment for the alleged crime, and detention shall not exceed one year for any crime. His detention would violate both principles of Iranian law, as it exceeds both one year and the minimum legal punishment for the crimes alleged.

In addition, it was reported that Mr. Rezaian has suffered unlawful treatment during his year-long incarceration. He has been consistently denied adequate medication for his high blood pressure and for painful eye and urinary tract infections.

The source concludes that Mr. Rezaian has been arrested and held in detention for having exercised his right to freedom of opinion and expression. His detention appears to have occurred as a direct result of his association with new sources, which included some individuals working for, or having connections to, the U.S. and Iranian Governments. Thus, his detention would also be contrary to his right to the freedom of association. Mr. Rezaian has also been arrested for having exercised his right to freedom of participation in public affairs.

Mr. Rezaian was not informed of the reasons for his arrest or the charges against him for approximately five months following his arrest. He was arrested, detained and interrogated for months on end without any access to legal counsel. Nine months after his arrest, when he was finally allowed to have a lawyer, he was prohibited from retaining the particular counsel of his choosing. Since 20 April 2015, he has only been allowed only two brief meetings with his lawyer outside the court and the meetings were not confidential. Mr. Rezaian has been denied any meaningful opportunity to prepare his defense. His rights to trial without undue delay and to fair and public hearing before a competent, independent and impartial tribunal would also have been violated.

The conditions at Evin Prison have resulted in Rezaian's dramatic weight loss, respiratory problems, and chronic infections of the eye and urinary tract. He has been deprived of his prescribed blood pressure medication and of proper nutrition and healthcare. He has been isolated and cut off from most human contact, even with his mother, his brother, his legal counsel, and others. Mr. Rezaian's psychological well-being and physical health have severely declined.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. Rezaian is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), the right to freedom of opinion and expression as set forth in article 19 of the ICCPR, as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR.

We would further like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and 12.

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an international norm of *jus cogens*, and as codified, inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156.

Moreover, we would like to call the attention of your Excellency's Government to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the General Assembly, in which he observes that the use of prolonged solitary confinement, defined as any period of solitary confinement in excess of 15 days, may never constitute a legitimate instrument of the State and is running afoul the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment [and that] (A/66/268).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 Mr. Rezaian in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please indicate any remedial action taken vis à vis the victim or his/her family.
4. Please provide information concerning the legal grounds for the arrest and detention of Mr. Rezaian and how these measures are 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.
5. Please provide any details regarding the measures put in place to guarantee the physical and psychological integrity of Mr. Rezaian while in detention.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Seong-Phil Hong
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed
Special Rapporteur on the situation of human rights in the Islamic
Republic of Iran

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment