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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on
the situation of human rights in the Islamic Republic of Iran**

REFERENCE: UA G/SO 214 (3-3-16) Iran (2011-16)
IRN 5/2012

27 March 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 17/2 and 16/9.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the conviction and sentencing of Mr. **Abdolfattah Soltani** and Ms. **Narges Mohammadi** in relation to the discharge of their professional functions as lawyers.

Mr. Abdolfattah Soltani is a human rights lawyer in the Islamic Republic of Iran and co-founder of the Centre for Human Rights Defenders, and Ms. Narges Mohammadi is a former spokesperson and member of the Centre for Human Rights Defenders.

A communication on similar cases which addressed a pattern of alleged interference in the discharge of the professional functions of lawyers was sent on 19 November 2010. The case of Mr. Soltani has been the subject of several urgent appeals and letters of allegation dated 4 August 2005, 14 December 2005, 31 March 2006, 8 August 2006, 11 August 2006, 10 July 2009, 16 July 2009, 15 November 2010, and 27 September 2011. We thank your Excellency's Government for responses to those allegations provided on 22 August 2005, 3 April 2006, 8 September 2006, 7 February 2008, 6 May 2010, and 7 October 2010.

According to the new information received:

On 10 September 2011, Mr. Abdolfattah Soltani was arrested and charged with spreading propaganda against the system, setting up an illegal opposition group,

and gathering and colluding with intent to harm national security. He also faced charges of accepting illegal earnings related to his acceptance of the Nuremberg International Human Rights Award in 2009.

Three months later, on 12 December 2011 Soltani was allegedly allowed to see his file for the first time, three hours per day. Several procedural irregularities have been reported in his case, including illegal extension of imprisonment after the period of pre-trial detention had expired, and the lack of access to his records and legal material.

On 4 March 2012, Mr. Soltani was barred from practicing law for 20 years and sentenced to 18 years in prison consisting of:

- Ten years of imprisonment for founding the Centre for Human Rights Defenders,
- Five years of imprisonment for gathering and colluding with the intent to harm national security,
- Two years of imprisonment for accepting an illegal award; and
- One year for spreading propaganda against the system.

Mr. Soltani may be transferred from Tehran's Evin Prison to a prison in Borazjan, city far from Tehran, which will make it difficult for his family to visit him, allegedly to prevent him from continuing providing legal advice to other prisoners

On 4 March 2012, Ms. Nages Mohammadi was sentenced to six years in prison by an appellate court. In the first instance, branch 26 of Tehran's revolutionary court had sentenced Ms. Mohammadi to 11 years' imprisonment on charges related to propaganda against the State, assembly and collusion against the State, and membership in the Centre for Human Rights Defenders.

In this context, without prejudging the accuracy of the information made available to us, we would like to bring to the attention of your Excellency's Government our main concerns about the conviction and sentencing of Mr. Soltani and Ms. Mohammadi allegedly in relation to the discharge of their professional functions as lawyers. Concern is further expressed that this occurs in a context of continuing targeting of lawyers in the Islamic Republic of Iran.

We would like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990. In particular principle 16 stipulates that Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or

be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

We would also like to draw your Excellency's Government's attention to the articles 19 and 21 of the ICCPR in connection with article 23 of the Basic Principles on the Role of Lawyers, which recognise the rights of lawyers to freedom of expression, association and assembly, including the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights.

With regard to the allegation that Mr. Soltani was only allowed to have access to his file three months following his arrest, we wish to stress that charges made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing in accordance with principle 27 of the aforementioned instrument. Pursuant to article 14(3)(b) of the ICCPR, such right includes the right to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing. According the Human Rights Committee General Comment No. 32, "adequate facilities" must include access to documents and all materials that the prosecution plans to offer in court against the accused (CCPR/C/GC/32, para. 33). Moreover, the requirement of "adequate time" is an important element of the guarantee of a fair trial and an application of the principle of equality of arms (CCPR/C/GC/32, para. 32).

We urge your Excellency's Government to take all necessary measures to guarantee that Mr. Soltani's and Ms. Mohammadi's rights and freedoms are respected and that they receive a fair trial at all stages of the proceedings against them. In the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible for the alleged violations should be ensured and Mr. Soltani should be released from custody. We also request that your Excellency's Government, adopt all necessary measures to safeguard the independence of lawyers and to ensure that lawyers are able to discharge their professional functions without direct or indirect interference, intimidation or hindrance.

In accordance with our mandates given to us by the Human Rights Council that we provide advisory services or technical assistance when they are requested by the state concerned, we stand ready to provide your Excellency's Government with support and assistance concerning the recommendations outlined in this communication and remain at your disposal with regard to any related question or request that your Excellency's Government would wish to seek.

We would like to appreciate a response on the steps taken by your Excellency's Government to safeguard the rights of human rights lawyers 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 summary accurate?
2. Please provide details on the legal grounds for the arrest, conviction and subsequent sentencing of Mr. Soltani and Ms. Mohammadi, and please explain how this is compatible with international standards as set forth in the ICCPR and the Basic Principles on the Role of Lawyers.
3. We would appreciate information from your Excellency's Government on the measures taken to address the alleged pattern of interference in the discharge of professional functions of lawyers.

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.

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Gabriela Knaul
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