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HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; 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.

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SPECIAL PROCEDURES OF THE
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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; 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 15/18, 14/11, 17/2, 19/12, 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 detention of Mr. **Saeed Abedinigalangashi** on allegations of "actions against the national security of Iran" in Evin prison, Islamic Republic of Iran.

According to the information received:

In 2000, Mr. Saeed Abedinigalangashi, a 32-year old Iranian native who was born Muslim, converted to Christianity. He was later ordained Pastor for his work promoting "house churches" in Iran.

In 2004, Mr. Abedinigalangashi married Ms. Naghmeh Shariat Panahi, a native of Iran and naturalized US citizen, who had also converted to Christianity. The couple has two children.

Mr. Abedinigalangashi was active in the leadership of a network of "house churches" (meetings of Iranian converts from Islam to Christianity; they are not allegedly allowed to meet in church buildings, therefore they meet in small groups in people's houses) and organizing religious training conferences addressed to the leaders of new "house churches" in Iran.

In November 2005, he received a summons to appear before court. He was reportedly accused verbally of converting to Christianity, starting underground house churches, converting and baptizing other Muslim converts, and conducting conferences and leadership training. Mr. Abedinigalangashi allegedly endured an interrogation session over his church activities at the time. In December 2005, the couple left Iran and moved to the United States of America. However, Mr. Abedinigalangashi frequently traveled back to Iran for family visits.

On 28 July 2009, Mr. Abedinigalangashi was detained at Tehran Airport as he was departing Iran. He was allegedly informed that he could continue his Christian activities outside of Iran, but could not have any involvement with the “house churches” inside Iran. The detention was purportedly a follow-up on the 2005 court case. In September 2009, he was released on bail after agreeing to cease his involvement with the ‘house churches’, and has since purportedly continued to honour that agreement.

In March 2010, Mr. Abedinigalangashi obtained US citizenship due to his marriage to Ms. Panahi.

On 28 July 2012, he was arrested at the Iran-Turkey border before catching a flight back to the United States of America. He was detained by the Revolutionary Guard for interrogation for the first 24 hours, but then told to return to his parents' house and wait for a summons. On 26 September 2012, Revolutionary Guard soldiers raided the house of Mr. Abedinigalangashi's parents, arrested him and confiscated many of his belongings.

Mr. Abedinigalangashi's whereabouts were initially unknown, but the family was able to determine that he was being held in Evin prison. He reportedly remained in solitary confinement for approximately four weeks before he was moved to section 3, ward 209. On 15 December 2012, the family was able to post bail documents in the amount of 500 million Toman (approx. 300,000 Euros), but Mr. Abedinigalangashi was still not released.

On 17 December 2012, his lawyer was refused access to Mr. Abedinigalangashi and his file. The lawyer was reportedly informed by the judge that Mr. Abedinigalangashi was detained on national security related charges and was not being charged for his Christian activities. On 7 January 2013, the lawyer was informed that his case had been referred to the Revolutionary Court Branch 26, in Tehran, under Judge Abbas Pir-Abbassi, but was denied access to Mr. Abedinigalangashi's file or information about the charges brought against him. On 14 January 2013, Mr. Abedinigalangashi's lawyer was informed that the trial would start on 21 January 2013 and was allowed to access his file. According to the file, Mr. Abedinigalangashi was charged for committing “actions against the national security of Iran”. The accusation was dated back to the year 2000 (the year when he converted to Christianity). According to the lawyer, the file showed

that the basis for the charge was primarily Mr. Abedinigalangashi's past leadership in the "house church" movement.

In a letter dated 10 January 2013, Mr. Abedinigalangashi writes that he was held for three months in a constantly lighted room, and provided a brief glimpse of the sky only once per week. He also informed that he was suffering intense pains after being subjected to beatings and interrogations. According to the information, Mr. Abedinigalangashi was beaten by Iranian government officials on several occasions.

Concern is expressed that Mr. Abedinigalangashi's detention and trial may be related to his religious beliefs and the religious activities that he has carried out since his conversion to Christianity in 2000. Concern is also expressed about the integrity and safety of Mr. Abedinigalangashi while held in detention.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Abedinigalangashi is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his 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 (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We would also like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief of Mr. Abedinigalangashi in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the UDHR and the ICCPR that your Excellency's Government ratified on 24 June 1975.

The Human Rights Committee's General Comment 22, paragraph 5, provides that "[T]he Committee observes that the freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief."

In addition, we would like to refer to General Assembly resolution 63/181, in which the Assembly urged States to step up their efforts to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights.

We would also like to recall that the General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end “(b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights; [...] (g) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas”.

Furthermore, we should like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the case of the person named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR, and the ICCPR.

With regard to the alleged beating of Mr. Abedinigalangashi while in detention, we would like to draw the attention of your Excellency’s Government to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

With regard to the alleged use of solitary confinement during the initial phase of the detention we would also like to draw your Excellency’s Government’s attention to paragraph 6 of General Comment 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged” (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

Regarding Mr. Abedinigalangashi lack of access to a lawyer, we would like to refer your Excellency’s Government to article 14(3) of the International Covenant on Civil and Political Rights, which states: “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed,

if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.”

The right to be assisted by a lawyer is also set forth in the Basic Principles on the Role of Lawyers, 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, in particular in principle 1, which states: “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings”; principle 5, which states: “Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.”; and principle 7, which states: “ Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.”

Moreover, principle 8 of the Basic principles states that: “All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”; and principle 21 states that: “It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.”

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. Abedinigalangashi 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:

1. Are the facts alleged in the summary of the cases accurate?
2. Have complaints been lodged by or on behalf of Mr. Abedinigalangashi?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Abedinigalangashi 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.

4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

5. Please indicate what measures have been taken by your Excellency's Government to ensure that freedom of religion or belief and freedom of expression are protected in the Islamic Republic of Iran.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Abedinigalangashi 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.

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

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Chair-Rapporteur of the Working Group on Arbitrary Detention

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Special Rapporteur on freedom of religion or belief

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