

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 24/7, 33/9 and 28/21.

In this connection, we would like to bring to your Excellency's attention information we have received concerning the request submitted by Iran to the Lebanese authorities to arrest and extradite Mr. **Omid Abdolali Safari** to the Islamic Republic of Iran to serve a prison sentence of three years.

According to information received:

Mr. Omid Abdolali Safari, an Iranian national, escaped to Lebanon in December 2008 because he feared arrest for peaceful political activities. He subsequently submitted his refugee status application in February 2010 to UNHCR, due to his fear of persecution on the grounds of his political activism and affiliation with individuals and groups in Iran who are known as Reformist. Mr. Safari was granted refugee status by UNHCR in October 2010 (UNHCR number: 245-10C00175).

In December 2010, Mr. Safari reportedly received a phone call asking him to present himself to the police station. When he requested UNHCR to inquire about his situation with the Lebanese authorities, Omar Abdolali Safari was informed that the Lebanese authorities had received a request from Iran to arrest and extradite Mr. Omar Abdolali Safari to Iran in order to serve an imprisonment sentence of three years on the charge of "forging a university degree" (criminalized under Article 527 of the Islamic Penal Code). The extradition request mentions that the offence Mr. Safari reportedly committed took place in Iran on 9 December 2009 although he was already living in Lebanon at that time. While Mr. Safari was organising student gatherings and creating an association for Iranians living in Lebanon in 2009 and 2010, he was subjected to in absentia criminal proceedings in Iran.

In June 2011, Mr. Safari was selected to be resettled to the Netherlands. However,

in July 2011, when the Dutch embassy decided to grant him a visa, UNHCR informed that a travel ban against him had been issued by the Lebanese Ministry of Justice, reportedly as a result of the extradition request submitted by the Iranian authorities in December 2010. In December 2014, when Mr. Safari discovered that his daughter had cancer (optic nerve glioma), the Dutch embassy issued travel documents (*laissez passer*) for the family to seek specialized treatment in the Netherlands but once again UNHCR informed him he could not leave the country because of the travel ban.

According to information received, UNHCR and the Dutch Embassy have repeatedly raised the case of Omid Abdolali Safari with the Lebanese authorities, urging them to allow Mr. Safari and his family to leave Lebanon and resettle in the Netherlands. These appeals have been, however, rejected by the Lebanese authorities who have apparently insisted on complying with the extradition request made by Iran.

We express grave concern that the extradition request would represent a breach of the principle of non-refoulement. We express equal concern that if extradited, Mr. Safari would be facing national security-related charges such as “spreading propaganda against the system” and “spreading lies and disturbing the public opinion”, in connection with his political activities and would be tried, without any guarantees of a fair trial. We are also seriously concerned about the severe health condition of Mr. Safari’s daughter and the possibility of irreversible damages to her health shouldn’t she be allowed to receive the complex and specialized medical treatment she requires outside Lebanon.

Without making any judgement as to the accuracy of the information made available to us, the above allegations appear to be in contravention with international law, in particular the rights to freedom of opinion, expression and peaceful assembly as well as the right not to be deprived arbitrarily of 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, 14, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Lebanon on 3 November 1972 .

In addition, regarding the access to specialized medical care needed by Mr. Safari’s daughter, allegations above appear to be in contravention of article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded by Lebanon on 3 November 1972. Article 12 of the ICESCR guarantess the right of everyone to the enjoyment of the highest attainable standard of physical health, which includes an obligation of States to respect, protect and fulfil the realisation of this right. Violations of the obligation to respect are those State actions, policies or laws that contravene the standards set out in article 12 of the Covenant and are likely to result in bodily harm, unnecessary morbidity and preventable mortality. (General Comment 14. E/C.12/200/4, paras. 34-37 and 50).

The above mentioned allegations also appear to contravene Article 34 of the Lebanese criminal code which stipulates that extradition shall not be granted either if it is requested in connection with a political offence or if it seems to serve a political aim.

Finally, we would like also to remind the Government of Your Excellency's obligation under international human rights standards to prevent anyone living on its territory from being subjected to human rights violations. The only way of doing so in the case of Mr. Safari and his daughter would be to refrain from extraditing him to Iran and to cancel his travel ban in order for the entire family to resettle to the Netherlands and for Mr. Safari's daughter to urgently receive specialized health care.

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. Omid Abdolali Safari in compliance with international instruments.

As it is our responsibility, under our mandate 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 information concerning the legal grounds for the travel ban imposed on Mr. Safari and the status of his extradition request and explain how his travel ban and possible extradition is compatible with the principles and norms contained in articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, and 12 of the International Covenant of Economic, Social and Cultural Rights.
3. Please indicate the measures adopted to ensure that human rights defenders and political opponents are not extradited to countries where they risk being subjected to human rights violations.

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 investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

Considering that Mr. Safari is allegedly at risk of arbitrary detention if extradited to the Islamic Republic of Iran, we would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government concerned, the Working Group on Arbitrary detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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.

José Guevara

First Vice-Chair on behalf of the Working Group on Arbitrary Detention

Dainius Pūras

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Asma Jahangir

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