

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 24/7, 27/1, 25/2, 33/9, 25/13 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. **Ali Moezzi**, who was reportedly ending a two-year prison sentence in hall 12 of ward 4 of the high security Gohardasht prison of Karaj in western Teheran. On 4 January 2017, he was reportedly taken to an unknown location. His whereabouts remain unknown since then.

According to the information received:

Mr. Moezzi, a 63 year old engineer, was arrested in November 2008 in connection with his activities as a supporter of the People's Mojahedin Organization of Iran (PMOI), and imprisoned for two years for visiting his two daughters at the PMOI base Camp Ashraf in Iraq.

During his imprisonment, he developed a bladder tumor, in addition to kidney and prostate ailments. Mr. Moezzi was released in November 2010 and underwent a surgical operation on his tumor. However, in June 2011, while he was still receiving medical treatment, he was re-arrested for attending a memorial ceremony for a PMOI member who reportedly died in prison after having been sentenced to four years' imprisonment under charges of advocacy for the PMOI.

Mr. Moezzi was due to be released by June 2015, but another case was opened against him. In December 2015, while he was still in prison, Mr. Moezzi was

reportedly forced through beatings and ill-treatment to appear before branch 28 of the Revolutionary Court and was sentenced to another year in prison under charges of “propaganda against the regime”. Mr. Moezzi was reportedly deprived of the right to counsel. During his detention, Mr. Moezzi was reportedly denied necessary treatment for his cancer disease including requests to transfer him to a hospital, was placed in solitary confinement multiple times, and subjected to ill treatment, most notably through death threats.

Mr. Moezzi, whose health condition was reportedly deteriorating and who was in urgent need of medical treatment, was supposed to be released soon as he had reached the end of his prison sentence. However, on the morning of 5 January 2017, Mr. Moezzi was taken to an unknown place by the intelligence service after a meeting with his family in the prison. During this meeting, Mr. Moezzi reportedly informed his relatives that he had been called to go to the prison medical centre, but that he had refused as he had not requested it himself and felt this call was suspicious.

No news has been received on the whereabouts of Mr. Moezzi since 5 January 2017 and attempts by his family to receive information from the prison authorities have proved unsuccessful since then.

Grave concerns are expressed about the physical and psychological integrity of Mr. Moezzi and about the fact that his fate and whereabouts are currently unknown, a situation which places him at great risk of torture and other ill-treatment, in particular in light of previous threats and ill-treatment he was reportedly subjected to. We furthermore express grave concern that his disappearance may be directly related to his activities in support of the People’s Mojahedin Organization of Iran (PMOI) and to his legitimate exercise of his right to freedom of opinion and expression. Further, serious concerns are expressed about Mr. Moezzi’s health condition, and the reported lack of access to adequate healthcare, including timely medical attention in prison or transfer to a hospital for specialized care. We express further concern at the repeated arrests and convictions of Mr. Moezzi and that the charges upon which he has been convicted are incompatible with international human rights law, and that his imprisonment is therefore unlawful.

In relation to the allegation that the fate and whereabouts of Mr. Moezzi are currently unknown, we would like to draw attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, the prohibition to practice, permit or tolerate enforced disappearance (article 2), the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3), the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family,

counsel or other persons with a legitimate interest (article 10), and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12). We wish also to recall that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7).

Moreover, we would like to remind your Excellency's Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment. In this context, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment, 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.

We would also like to refer to 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 14 of the ICCPR. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers.

With respect to access to adequate healthcare in detention, we would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Iran on 24 June 1975, which establishes that States have an obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment 14, para.34). In addition, the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly Resolution 45/111, establish that prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (principle 9).

We moreover appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of expression as guaranteed by article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975. Any restriction to this right must meet the threshold established by article 19(3), that is, to be necessary, proportionate and prescribed by law. In this regard, we reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions that are not consistent with article 19(3), including on political activities and expression of opinion and dissent. Legal provisions that criminalize the mere expression of opinion in support of a political party or organization are incompatible with the standard of article 19 of the ICCPR.

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. Ali Moezzi in compliance with international instruments.

We would also like to bring to the attention of your Excellency's Government that should sources submit the allegation of enforced disappearance mentioned in this communication as a case to the Working Group on Enforced or Involuntary Disappearances, it will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, 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.

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 information you may have on the whereabouts of Mr. Ali Moezzi, including, if applicable, details of his place of detention as well as the grounds for his detention.
2. Please provide any additional information and any comment you may have on the above mentioned allegations.
3. Please provide information concerning the legal grounds for the charges and sentence of and explain how the charges and sentence of the aforementioned person is compatible with Iran's obligations under articles 9, 14 and 19 of the ICCPR.
4. Please provide detailed information about the judicial procedure against Mr. Moezzi. In particular, please provide information about the justification for sentencing him and explain how this is compatible with international human rights norms and standards.
5. Please explain the justification for hearing his case before the Revolutionary Court, as opposed to ordinary courts, and explain how this is compatible with international human rights norms, in particular the right to due process and

fair trial. Please also provide information about the justification and legal basis for denying Mr. Moazzi's right to access to counsel, and explain how this is compatible with Iran's obligations under international law.

6. Please provide information about the health status of Mr. Moezzi and the access to timely and adequate healthcare while in detention, including the justification and legal basis for the alleged denial of requests to transfer him to a hospital
7. Please provide information on any measures taken to bring Iran's criminal legislation into line with international human rights law, in particular with article 19 of the ICCPR.

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.

Your Excellency's Government's response to the present communication will be reflected in the mission report it will present at the next session of the Human Rights Council for its consideration.

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

José Antonio Guevara Bermúdez
Vice-Chair of the Working Group on Arbitrary Detention

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