

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE:
UA IRN 8/2017

17 March 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 33/30 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Ms. **Nazanin Zaghari-Ratcliffe**.

Ms. Zaghari-Ratcliffe was the subject of three previous communications sent by Special Procedures dated 1 July 2016 (case no. IRN 20/2016), 6 October 2016 (case no. IRN 26/2016) and 27 January 2017 (case no. IRN 4/2017). She was also the subject of the Working Group's Opinion No. 28/2016 (Islamic Republic of Iran), adopted on 23 August 2016. The Working Group found that the deprivation of liberty of Ms. Ratcliffe was arbitrary, in contravention of articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 9, 10 and 14 of the International Covenant on Civil and Political Rights (ICCPR), and falls within categories I, III and V of the categories applied by the Working Group. The Working Group requested the Government to take the necessary steps to remedy the situation of Ms. Ratcliffe without delay and bring it into conformity with the standards and principles in the UDHR and ICCPR. The Working Group considered that, taking into account all the circumstances of the case, especially the risk of harm to Ms. Ratcliffe's health and physical integrity and to the well-being of her child, the adequate remedy would be to release Ms. Ratcliffe immediately, and accord her enforceable right to compensation in accordance with article 9(5) of the ICCPR.

According to new information received:

For the past two months, Ms. Nazanin Zaghari-Ratcliffe has been suffering from severe neck, arm, and back pain and has extremely limited movement in her arms. She has also been suffering increasingly from severe insomnia at night.

On 4 February, she was seen by a doctor in Evin prison's clinic, who referred her to a neurology specialist. However, the Office of the Prosecutor reportedly refused to authorize her visit to the specialist until 19 February, when she was finally taken to a hospital outside prison. There, the neurologist indicated that she needed immediate admission for tests and treatment, without which there was a risk of permanent damage to her right arm and hand. Despite this, she was returned to prison the same day.

The following day, she reportedly made an internal application to the Prosecutor's Office to be hospitalized. Ms. Zaghari-Ratcliffe's family has been to the Prosecutor's Office several times since then, most recently on 11 March when they were told her situation was under consideration.

On 5 March, Ms. Zaghari-Ratcliffe was reportedly taken to the hospital for an MRI scan, where the same specialist reiterated that she needed to be hospitalised for her shoulder and her arm. However, til today, she has still not been granted access to a specialist.

Serious concern is expressed about the physical and psychological integrity of Ms. Zaghari-Ratcliffe. In this connection, we are particularly concerned that, despite the doctors' advice indicating that she should be urgently hospitalized, the prison authorities have still not given their authorization.

While we do not wish to prejudge the accuracy of these allegations, 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 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, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9), and draw the attention of the Government to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the "Mandela Rules") and in particular Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

We would also like to take this opportunity to refer your Excellency's Government to article 502 of the Iranian Criminal Code, which states that "[i]f a prisoner is suffering from physical or mental illness and his imprisonment would make his illness worse or delay his recovery, the judge can postpone the sentence being served until the prisoner regains his health after consultation with his physician."

Finally, we would like to reiterate the call of the Working Group on Arbitrary Detention (Opinion 28/2016) to release Ms. Ratcliffe immediately, and accord her an enforceable right to compensation in accordance with article 9(5) of the ICCPR. In view

of the urgency of the matter in light of the risk of harm to Ms. Ratcliffe's health and physical integrity, we call upon Your Excellency's Government as a matter of urgency to proceed with the immediate release of Ms. Ratcliffe.

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

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 the details of the legal basis for Ms. Ratcliffe's continued imprisonment;
3. Please provide information of any measures taken to ensure the physical and psychological integrity of Ms. Ratcliffe.

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 report the Working Group will present at the next session of the Human Rights Council for its consideration.

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

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
Vice-Chair-Rapporteur of the Working Group on Arbitrary Detention

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

