

Mandates of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

REFERENCE:
UA IRN 19/2017

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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 promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 33/30, 34/18 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged violations of the right to freedom of expression, including the imprisonment of journalists, ahead of the upcoming presidential elections.

On 5 April, 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 in the field of cultural rights; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran already brought to your attention the arrest and detention of eight journalists, members of political factions, social activists and film producers. We regret not having received any response from Your Excellency's Government to this communication (IRN 10/2017).

According to new information received:

On 12 April 2017, Mr. Mahmud Alavi, Minister of Intelligence, reportedly criticized the above-mentioned arrests which include the arrests of Ms. Hengameh Shahidi and Ms. Tahereh Riahi, and indicated that those arrested committed no crime. However, a week later, the judicial system's spokesman, Mr. Golamhossien Mohsseni Ejehi reportedly responded that: "Some of them committed actions against national security and others have been accused of publishing immoral articles and images". To date, none of the above-mentioned persons have been released.

The case of Ms. Hengameh Shahidi

On 9 March 2017, Ms. Hengameh Shahidi, editor of the blog “Painveste”, was arrested without a warrant at her home in the city of Mashhad. Her arrest was reportedly ordered by the Special Prosecutor for offences related to media and culture, under the authority of the Prosecutor General of Tehran. The officials initially took her to a detention facility in Mashhad before transferring her to Section 209 of Evin prison which is under the control of the Ministry of Intelligence. She has been detained in solitary confinement since then. The authorities have not informed Ms. Shahidi of the charges against her and have refused to allow her any contact with her lawyer. She is reportedly accused of an unspecified “security” crime.

Ms. Shahidi went on a hunger strike the day of her arrest. Since then, her health condition has seriously deteriorated. She has a pre-existing heart condition, for which she was previously hospitalized, and needs ongoing medical care, including medication. At the beginning of April 2017, she stopped taking her medication and is also refusing intravenous fluids.

The case of Ms. Tahereh Riahi

Ms. Tahereh Riahi, social affairs editor of Borna News Agency, was arrested by agents of the Intelligence Ministry on 27 December 2016 and accused of “propaganda against the State.” When she was first taken into custody, the authorities allegedly said that she would be released within two or three days. However, to date, she remains detained in solitary confinement in Section 209 of Evin prison and is denied the right to visits. Five months after her arrest, no formal charges have been brought against her and no trial date has been set. Ms. Riahi is reported to be in very poor physical and psychological health.

Censorship imposed on social media

Since the official start of the presidential campaign on 28 April 2017, the social media application Instagram’s live video feature (Instagram Live) reportedly used in Iran by more than 15 millions persons has been blocked. The announcement that the application would no longer be accessible was reportedly made on 23 April 2017 by the Prosecutor-General, Mr. Mohammad Jafar Montazeri, who explained that “the intelligence agencies could not monitor it”. Over the past months, Instagram was used to circulate information in real time about the candidates and their campaigns.

Serious concern is expressed about the arrest and detention of Ms. Shahidi and Ms. Riahi, and the absence of a legal basis for these measures. Further serious concern is expressed at the conditions of their detention, in particular their physical and

psychological integrity. We express additional concern at the blocking of Instagram Live, which represents an unlawful restriction of the right to freedom of expression.

While we do not wish to prejudge the accuracy of information made available to us, the above allegations appear to be in contravention with international law, in particular the right of every individual not be deprived arbitrarily of his or her liberty and to fair proceedings before an independent and impartial tribunal, including the right to access legal counsel, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975.

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR. Any restriction to freedom of expression must meet the threshold established by article 19(3), that is, be provided by law, and necessary and proportionate for the protection of the "rights or reputations of others"; "national security or public order (ordre public); or of public health or morals".

Finally, with respect to the situation of Ms. Hengameh Shahidi, we would also like to recall that the best way to try to end a hunger strike is to address the underlying human rights violations that are the basis of the protest. Authorities have a duty to look for solutions to extreme situations created by a hunger strike, including through good faith dialogue about the grievances, and always respecting the wishes of those who use this form of protest.

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 the above-mentioned persons in compliance with international instruments.

As 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, 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 arrest and detention of the aforementioned persons and explain how this is compatible with articles 9, 14 and 19 of the ICCPR;

3. Please provide information relative to the measures taken by your Excellency's Government to ensure the physical and psychological well-being of the aforementioned persons while in detention;
4. Please provide information about the legal basis for the blocking of Instagram Live and explain how this measure complies with the criteria for lawful restrictions of the right to freedom of expression under article 19(3) 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 the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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 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.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

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