

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 35/15, 33/9, and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the conviction and sentencing to death of **Ramin Hossein Panahi** amidst serious concerns related to due process and adherence to fair trial guarantees, and the sentencing to imprisonment of his family members **Afshin Hossein Panahi**, **Ahmad Hossein Panahi**, and **Zobeyr Hossein Panahi**.

According to the information received:

Ramin Hossein Panahi was arrested on 23 June 2017, and was held in solitary confinement until 9 January 2018. Following his arrest, no information was provided to his family about his fate or whereabouts for a period of four months.

During this period, officials repeatedly tortured him including through beating him with cables, kicking and punching him in the stomach and hitting his head against the wall. They also deliberately denied him adequate medical care for the injuries he sustained from being shot at the time of his arrest.

Following his arrest it is understood that his family members, Afshin Hossein Panahi, Ahmad Hossein Panahi, and Zobeyr Hossein Panahi were arrested by the Revolutionary Guards after having sought further information on his whereabouts, and were subsequently sentenced to eight and a half years, five and six years in prison respectively. They were all convicted of national security charges connected to their alleged involvement with Komala, a Kurdish opposition group.

His trial, which took place before the Revolutionary Court on 16 January 2018 lasted less than an hour. Despite marks of torture on his body the court did not order an investigation. It is understood he was subsequently convicted and sentenced to

death for “taking up arms against the state” (*baqi*) based on his alleged membership of Komala, but no specific evidence was presented linking him to acts involving intentional killing. Between his arrest and trial, he was only allowed one meeting with his lawyer, which took place in the presence of intelligence officials. The judicial authorities also refused to disclose to either him or his lawyer the details of the evidence brought against him before the hearing.

He started a hunger strike on 27 January 2018, after he learned that he had been sentenced to death in connection with his alleged membership of Komala. On 31 January 2018, an intelligence official visited him in prison and said that his death sentence would be commuted to imprisonment if he agreed to make televised “confessions” denouncing Kurdish opposition groups as “terrorists”. When he refused, the intelligence official apparently said that he would pay with his life. He was then transferred to solitary confinement where he now remains. There are fears about his health as he suffers from persistent headaches and a kidney infection.

Without making any judgment as to the accuracy of the information made available to us, we express grave concern at the death sentence handed down to Mr. Ramin Hossein Panahi, particularly given that it was imposed following judicial proceedings that do not appear to have fulfilled the most stringent guarantees of fair trial and due process, which are required under international human rights law: he was detained incommunicado for a period of over six months, during which he was reportedly tortured to extract confessions of guilt; he was not afforded access to his lawyer throughout that period of investigation and interrogation; there was insufficient time and information provided to him and his lawyer to prepare his defence; he was unable to meet with his lawyer confidentially during the single meeting that was afforded to him; the short duration of the trial; and the use by the court of information obtained under torture as evidence, or part of the evidence, to convict him. Further concerns include that the Court did not produce evidence substantiating the charges, and that the details of the evidence brought against him were not disclosed to him or his lawyer before his hearing. Additional concerns include allegations that his family was not informed about his fate or whereabouts following his arrest and for a prolonged period; and that three family members appear to have been convicted, in separate summary trials, to long prison terms, in what appear to be reprisals against his unwillingness to cooperate with his interrogators. Last but not least, Mr. Panahi appears to have been deliberately denied adequate medical care for the shooting injuries he sustained at the time of his arrest, and during his interrogation.

In view of the irreversibility of the punishment of the death penalty, we call upon your Excellency’s Government **to halt the execution of Mr. Panahi**, which on the facts available to us would seem to constitute a violation of applicable international human rights standards, and thus an arbitrary execution. We further urge you to ensure that **Mr. Panahi’s death sentence is annulled and that he is re-tried in compliance with international law and standards, as provided for under international human rights law, including the**

International Covenant on Civil and Political Rights (ICCPR) ratified by the Islamic Republic of Iran in 1975.

These allegations appear indeed to be in contravention with articles 6 (right to life), 7 (prohibition of torture), 9 (liberty and security of person; right to be informed upon arrest of any charge; right to be brought promptly before a judge to determine the legality of the detention; right to be promptly tried or released); 10 (humane treatment while detained); 14 (fair trial rights) and 26 (right to equality and non-discrimination before the law) of the ICCPR.

Article 6(2) of the ICCPR provides that countries which have not abolished the death penalty may only impose it for the most serious crimes. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of intentional killing. The United Nations Safeguards Protecting the Rights of those Facing the Death Penalty (ECOSOC resolution 1984/50) provides that capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings (safeguard 5), and that “capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts” (safeguard 4). Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

Under international human rights law, the prohibition of torture and other cruel, inhumane or degrading treatment or punishment as an international is absolute and non-derogatory. This prohibition has become a universally-accepted, peremptory norm of international customary law, which binds all states. This has been repeatedly underscored in numerous United Nations resolutions, including Human Rights Council Resolution 25/13 and in paragraph 1 of General Assembly Resolution 68/156.

Rule 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, provides that in no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment such as indefinite solitary confinement (confinement of prisoners for 22 hours or more a day without meaningful human contact) or prolonged solitary confinement (solitary confinement for a time period in excess of 15 consecutive days.)

Last, we also draw your Excellency’s Government’s attention to article 12 of the International Covenant on Economic, Social and Cultural Rights, which the Islamic Republic of Iran acceded on 24 June 1975. It provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health which includes the obligation of the State 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. In this regard, the United Nations Standard Minimum Rules for the Treatment of Prisoners, or the Nelson Mandela Rules (rules 22–26; 52; 62; and 71, para. 2), further establish that it is the responsibility of States to provide healthcare for prisoners. Inter alia, all prisons shall ensure prompt access to medical attention in urgent cases and prisoners who require specialized treatment shall be transferred to specialized institutions or civil hospitals (Rule 27).

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 person(s) 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 factual and legal grounds for the arrest and detention of Mr. Panahi and explain how they are compatible with articles 9, 14 and 19 of ICCPR.
3. Please provide information concerning the legal grounds for the arrest, detention and sentencing of Messrs. Afshin Hossein Panahi, Ahmad Hossein Panahi, and Zobeyr Hossein Panahi and explain how they are compatible with articles 9, 14 and 19 of ICCPR.
4. Please provide information on the investigation conducted, if any, into the allegation that Mr. Panahi was subject to torture and other ill-treatment, and its outcome. If no investigation has taken place, please explain why. Please explain how this is compatible with the universal prohibition of torture as a norm of international customary law.
5. Please provide detailed information on each stage of the judicial proceedings against Mr. Panahi and his sentencing to death, including any relevant appeals procedure and access to legal counsel, and indicate how they comply with fair trial and due process guarantees as enshrined in the ICCPR, ratified by the Islamic Republic of Iran.

6. Please provide detailed information on the measures taken to ensure Mr. Panahi's physical and mental integrity and his access to adequate medical care for the injuries he sustained from being shot at the time of his arrest and from the treatment suffered while in detention. Please provide information about Mr. Panahi's current health status, including details on his reported kidney condition and persistent headaches.

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 are considering to publicly express our concerns in the near future as, in our view, the information at hand is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the concerns expressed and their human rights implication. Any public expression of concern on our part 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.

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

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Special Rapporteur on extrajudicial, summary or arbitrary executions

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

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Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
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