

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on minority issues; and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL TUR 5/2021

15 March 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on minority issues; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 43/4, 44/5, 43/16, 43/24, 43/8 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the risk of deportation of journalist Mr. **Mohammad Mosaed** from Turkey to his home country, Iran, where he may suffer human rights abuses. With regards to Mr. **Davoud Mehradjam** and Mr. **Masoud Akhtarani Tehrani**, registered as refugees in Turkey since 2017, we also raise our concerns regarding intimidation and threats against them made by alleged intelligence agents from their home country in retaliation for their journalistic activities in Turkey.

Mr. Mohammad Mosaed is a human rights defender and an award-winning journalist reporting on corruption, public protests, and the Iranian government's response to the COVID-19 pandemic. Mr. Davoud Mehradjam, is a member of the Gonabadi Sufi minority, a human rights defender and a journalist. Mr. Masoud Akhtarani Tehrani is an attorney, human rights defender and a journalist.

According to the information received:

Mr. Mohammad Mosaed

On 17 August 2020, Mr. Mosaed was charged with "colluding against national security" and "spreading propaganda against the system" by Iranian authorities on the basis of his critical journalistic reporting concerning actions of the Iranian authorities, including posts on social media on the authorities' actions in the context of COVID-19. On 25 August 2020, Branch 26 of Tehran's Revolutionary Court sentenced Mr. Mosaed to four years and nine months' imprisonment, a two-year ban on journalistic activities, and a two-year ban on using any communications devices. He fled Iran in January 2021 after being summoned by authorities to begin serving his jail sentence.

Mr. Mosaed was detained by Turkish border police on 17 January 2021 after crossing into Turkey from Iran at the eastern border city of Van. Turkish police took him to Ozalp Devlet Hastanesi hospital for medical treatment. It is reported that Turkish authorities in Van have received Mosaed's application for international protection.

While police initially indicated that they would hand Mr. Mosaed over to Iranian border control, the authorities reportedly later amended their position, highlighting that deporting Mr. Mosaed was “off the table”. After his treatment at Ozalp Devlet Hastanesi hospital, Mr. Mosaed was transferred to a migration centre where he was held for 14 days pursuant to COVID-19 regulations in Turkey. Out of fear for his safety in Turkey, he is currently in an undisclosed location in the country.

Mr Davoud Mehradjam

Mr. Mehradjam was arrested by Iranian authorities, when security agents attempted to arrest the Gonabadi Sufi spiritual leader, and sentenced in February 2017. The event produced clashes between the authorities and protesters belonging to the Gonabadi Sufi minority. Prior to his arrest, Mr. Mehradjam had reportedly been in charge of administering the Gonabadi Sufis' website in Iran. After his release from prison, Mr. Mehradjam fled Iran with his family to Turkey, where he sought asylum.

While in Turkey, he resumed his activities as a journalist, reporting in particular on the treatment by Iranian authorities of Gonabadi Sufi minority in the country. Mr. Mehradjam has reportedly received threats while in Turkey from members of the Islamic Revolutionary Guard Corps, FergheNews and other Iranian agencies. In messages received on social media platforms, State agents identified Mr. Mehradjam's location in Turkey and affirmed their ability to reach him at any time. Reportedly, Turkish authorities have been made aware of the threats made against Mr. Mehradjam.

Mr. Masoud Akhtarani Tehrani

Mr. Masoud Akhtarani Tehrani was arrested and sentenced to five years' imprisonment for the crimes of endangering national security and the disruption of peace through propaganda. The basis for his sentencing was reportedly his work for the Tehran Legal Journal, Talieh Edalat magazine (a monthly magazine on social justice issues), and Erfan News, covering human rights and social issues in Iran. He was later released on bail, and due to increased pressure from the security forces, he fled to Turkey in 2016. He was registered as a refugee in 2017.

Upon his arrival in Turkey in 2016, he started his activities as a journalist working with AmadNews and its late founder. After the well publicized death sentence and execution of the founder of AmadNews by Iran in December 2020, security forces of the Islamic Revolutionary Guard Corps (IRGC) have reportedly informed Mr. Akhtarani Tehrani that he would be next in line. Individuals that are allegedly affiliated with the Islamic Revolutionary Guards Corps have reportedly been spotted outside the domicile of Mr. Akhtarani Tehrani, and he has received numerous threats from members of the IRGC on social media platforms. Based on their collected intelligence information, Turkish authorities reportedly informed Mr. Akhtarani Tehrani of the threats to his life.

Without prejudice to the accuracy of the information received, we express serious concerns regarding the threats faced by the three journalists and human rights defenders for their journalistic and human rights related activities. In this regard, we recall the obligation to ensure the right to life of everyone within their jurisdiction including by offering adequate protection.

In this regard, we express grave concern at the alleged threats made by foreign intelligence services against Mr. Davoud Mehradjam and Mr. Masoud Akhtarani Tehrani in Turkey. In this regard, we remind Your Excellency's Government of the obligation to take appropriate measures to protect individuals against reasonably foreseeable threats by third parties, including foreign States.

As to the situation of Mr. Mosaed, we are pleased that Turkish authorities have reported that deporting Mr. Mosaed to his home country is "off the table". In this regard, we recall that given the allegations received, such a deportation could serve to enforce a series of human rights violations, including the criminal prosecution of Mr. Mosaed contrary to his right to freedom of expression and the right to a fair trial, consequently leading to his arbitrary deprivation of liberty in detention conditions which might constitute torture, inhuman or degrading treatment or punishment. In this regard, we urge the authorities to give appropriate consideration to the human rights implications that a deportation might have, in compliance with the principle of non-refoulement under human rights and refugee law. We remind you that the failure to undertake such a consideration in and of itself constitutes a violation of procedural obligations under international law.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on measures taken to ensure the safety of Mr. Mehradjam and Mr. Akhtarani, including to ensure they are not involuntarily returned to the Islamic Republic of Iran.
3. Please provide information on the measures taken to ensure the safety of Mr. Mosaed, and to ensure that Mr. Mosaed will not be deported to a country where he may face human rights abuses.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

Please note that a letter expressing similar concerns is also sent to the Government of the Islamic Republic of Iran.

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Fernand de Varennes
Special Rapporteur on minority issues

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In light of the abovementioned allegations and concerns, we refer to the International Covenant on Civil and Political Rights (ICCPR), which Turkey ratified on 23 September 2003.

General legal obligations to respect and ensure

The ICCPR article 2(1) provides that “[e]ach State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” The obligations to respect and ensure have been further elaborated in the practice of the Human Rights Committee:

In General Comment no. 31 (2004), the Committee highlighted the horizontal application of the Covenant, when it affirmed that “the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities” (see para. 8).

In its General Comment no. 36 (2018), the Committee further highlighted that the positive obligation to ensure entails that “States parties must take appropriate measures to protect individuals against deprivation of life by other States, international organizations and foreign corporations operating within their territory or in other areas subject to their jurisdiction” (see para. 22) This entails “a due diligence obligation to undertake reasonable positive measures, which do not impose on them disproportionate burdens, in response to reasonably foreseeable threats to life originating from private persons and entities, whose conduct is not attributable to the State” (id. para. 21).

Particular situations of vulnerability will influence the due diligence obligations under the Covenant. As highlighted by the Committee “[t]he duty to protect the right to life requires States parties to take special measures of protection towards persons in situation of vulnerability whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. These include human rights defenders [and] journalists. They may also include asylum seekers [and] refugees ... States parties must respond urgently and effectively in order to protect individuals who find themselves under a specific threat, by adopting special measures such as the assignment of around-the-clock police protection, the issuance of protection and restraining orders against potential aggressors and, in exceptional cases, and only with the free and informed consent of the threatened individual, protective custody.” (id. para. 23)

We would further like to refer to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on the Investigation of, accountability for and prevention of intentional State killings of human rights defenders, journalists and prominent dissidents (A/HRC/41/36, paragraph 38), which observes that the

jurisprudence on the implementation of the due diligence principle and its operationalization by police forces point to consideration of several elements including;

- a) Whether there are credible threats that are objectively verifiable; in other words, whether they are supported by reference to a range of sources of information;
- (b) Whether the perpetrators have the intention to implement their threats, whether they are in a position, including physical proximity, and have the capabilities to carry out the threats;
- (c) Whether the risk is immediate, meaning continuing and soon;
- (d) Whether the identity of the victim places the victim in specific situations of vulnerability or risk;
- (e) Whether there are patterns of violence against groups of individuals by virtue of their identities.

The report calls on states to review and, if needed, strengthen policies and procedures to ensure that security agencies and other relevant actors are meeting their due diligence obligation to protect the right to life of those who may be targeted by States and non-State actors for their peaceful expression and activities, both online and offline (para 89 (h)).

The principle of non-refoulement in international law

The principle of non-refoulement is codified in article 33 (1) of the 1951 Convention Relating to the Status of Refugees, which provides that “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.” The provision is applicable to refugees and those who have not yet had their refugee status formally declared, such as asylum seekers.

Similar obligations apply generally under international human rights law, either through specific codification or through interpretation of the relevant human rights treaty. The principle is incorporated in Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Turkey on 2 August 1988, and, in the practice of the Human Rights Committee, has been interpreted to apply under the ICCPR. Thus, the Committee has affirmed that the principle of non-refoulement applies with respect to the right to life and the prohibition of torture, inhuman or degrading treatment or punishment, see e.g. General Comments nos. 20 (1994) no. 36 (2018), paras. 9 and 30 respectively. In its General Comment no. 31 (2004) the Committee did not exclude that the prohibition would apply beyond the scope of articles 6 and 7 of the Covenant, when it expressed that Article 2 (1) “entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed” (para. 12, italics added).

The right to freedom of opinion and expression

Article 19 of the Covenant protects the right to receive and impart information and ideas of all kinds, regardless of frontiers. In General Comment no. 34 (2011) the Human Rights Committee highlighted that States should “put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression”. It further highlighted that journalists frequently are subjected to threats, intimidation and attacks because of their activities, stating that such attacks must be “vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, ... be in receipt of appropriate forms of redress.” (id.)

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Protection of the rights of persons belonging to minorities:

We would like to bring to your Excellency’s Government’s attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination and in full equality before the law (article 4).