

**Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL IRN 11/2021

18 March 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Working Group on Arbitrary Detention and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/24, 42/22 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government new information we have received on the situation of **Nazanin Zaghari-Ratcliffe**. While welcoming her release at the end of her sentence on 7 March 2021, we are concerned about reports she has been summoned to court and faces the possibility of a new conviction and sentence in the coming days.

The situation of Ms. Nazanin Zaghari-Ratcliffe has been raised in five previous Special Procedures communications dated 28 June 2019 (IRN 7/2019), 17 March 2017 (IRN 8/2017), 27 January 2017 (IRN 4/2017), 6 October 2016 (IRN 26/2016), 1 July 2016 (IRN 20/2016) and 18 January 2021 (IRN 2/2021), as well as in two Special Procedures press releases dated 20 October 2017 and 10 July 2019. We thank you for your replies to communications IRN 20/2016, IRN 26/2016 and IRN 7/2019, however we regret that no replies were received to communications IRN 8/2017 and IRN 4/2017. We also regret that the replies received did not engage substantively on the issues raised regarding the lack of evidence to substantiate the allegations against Ms. Zaghari-Ratcliffe, as well as violations of fair trial rights, which led to her conviction and imprisonment. The Working Group on Arbitrary Detention in its Opinion No. 28/2016 found that Ms. Zaghari-Ratcliffe's detention is arbitrary and called for her immediate release (see *A/HRC/WGAD/2016/28*). Her situation has also been consistently raised in the biannual reports of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, including in his latest report to the Human Rights Council in March 2021 (*A/HRC/46/50*, paragraph 13).

According to the new information received:

On 7 March 2021, Ms. Nazanin Zaghari-Ratcliffe was officially released from detention at the end of her five-year prison sentence. She had already been granted temporary release from prison on 17 March 2020 pursuant to the authorities' COVID-19 measures. During her temporary release, she was required to wear an electronic ankle tag and had her movements restricted to within only 300 metres of her residence. At the end of her prison sentence, the electronic tag was removed and the 300 metre restriction was also lifted.

However, Ms. Zaghari-Ratcliffe was not allowed to leave the Islamic Republic of Iran due to a new court case brought against her by the authorities.

Shortly after her release, Ms. Zaghari-Ratcliffe was informed she would need to return to court on 14 March 2021 in relation to a second case against her initiated in October 2017, which had not resulted in a conviction or sentence. She attended Branch 15 of the Revolutionary Court in Tehran on 14 March, where a second hearing commenced on charges of “propaganda against the system”. It is understood the new set of charges concern the same facts and alleged conduct for which she was convicted in 2016. The first hearing had taken place and was adjourned on 2 November 2020.

The second hearing on 14 March lasted around 20 minutes. While during this time Ms. Zaghari-Ratcliffe’s lawyer presented a defence and she also read a statement in her own defence, Ms. Zaghari-Ratcliffe was not allowed to see her case file in relation to the new charges. Her lawyer was reportedly allowed to view the case file, but he was not allowed to retain copies of the documents. Ms. Zaghari-Ratcliffe was informed that there would be a decision on these new charges within seven working days from the date of the hearing.

Without prejudging the accuracy of the received information, and while welcoming the release of Nazanin Zaghari-Ratcliffe at the end of her sentence, we express serious concern that Ms. Zaghari-Ratcliffe is facing the possibility of a new conviction and sentence, which may result in her return to prison. We are concerned that, while being allowed to read a statement during the hearing on 14 March, there were serious infringements on her right to prepare and present a defence, constituting a clear violation of the right to fair trial. We are also concerned that the factual basis and alleged conduct upon which her new charges have arisen is the same as for her first conviction, raising the prospect that any possible subsequent conviction based on the same facts would amount to double jeopardy and a violation of the Islamic Republic of Iran’s obligations under international human rights law. We reiterate our concerns that her original arrest, trial and convictions fall short of international human rights law, including through the use of overbroad and vague charges; the lack of evidence to substantiate the charges; and other deficiencies in the protection of the right to a fair trial and due process. We note that the Working Group on Arbitrary Detention, in its Opinion No. 28/2016 (Islamic Republic of Iran), has already recognized that the original conviction of Ms. Zaghari-Ratcliffe and surrounding circumstances amount to arbitrary detention and required her immediate release, an Opinion with which the Government of the Islamic Republic of Iran did not comply. We also remain deeply concerned that Ms. Zaghari-Ratcliffe’s detention has caused harm to her physical and psychiatric health.

The above-mentioned allegations, if confirmed, would be in violation of articles 7, 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), as well as of article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Islamic Republic of Iran on 24 June 1975.

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 any comment you may have on the above-mentioned allegations.
2. Please provide information about the legal basis for the new charges against Ms. Zaghari-Ratcliffe, including a specification of the charges and the evidence used to substantiate them. In particular, please specify how the new charges are different from her original charges, and why Ms. Zaghari-Ratcliffe is being prosecuted on the basis of the same evidence that she has previously been convicted for.
3. Please provide information on measures taken to provide Ms. Zaghari-Ratcliffe with guarantees of due process and fair trial, including with regard to the type of incriminating evidence presented before the courts, as well as the effective access to legal counsel of their choosing as established under international human rights law. In particular, please provide information about the basis for denying Ms. Zaghari-Ratcliffe the right to prepare and present a defence by accessing the case file.
4. Please provide details about measures taken to ensure Ms. Zaghari-Ratcliffe's access to physical and mental health while she was in detention.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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.

We may 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.

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

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

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

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

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the right not to be arbitrarily deprived of liberty and the right to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the ICCPR. More specifically, article 9 stipulates that no one shall be subjected to arbitrary arrest or detention thus making it absolutely prohibited. We also recall that article 14 of the ICCPR, provides *inter alia* for the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, provision of adequate time and facilities for the preparation of the defence, and the right of accused persons to communicate with counsel of their own choosing. We also refer to General Comment No. 32 (2007) by the Human Rights Committee (CCPR/C/GC/32), and the UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37).

Moreover, Article 7 of the ICCPR provides that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The absolute and non-derogable prohibition of torture and other ill-treatment is recognized as an international norm of *jus cogens*. In this regard, we would like to draw your Excellency's Government attention to paragraph 1 of General Assembly Resolution 68/156, which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment”. We would further like to recall paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture.”

We would like to further refer your Excellency's Government to article 12 of the International 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 (Committee on Economic, Social and Cultural Rights, CESCR General Comment 14, Para. 34). We would also like to specifically highlight article 12(2)(c), which obliges States to take the steps necessary for “the prevention, treatment and control of epidemic, endemic, occupational and other diseases” (see also CESCR General Comment 14, Para. 16). 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).

We also draw your attention to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 17 December 2015 and renamed the “Mandela Rules”), in particular to Rule 24 that establishes that the provision of health care for prisoners is a State responsibility and that the state should ensure continuity of medical treatment for chronic conditions; Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases, as well as Rule 58 which establishes that prisoners shall be allowed to communicate with their family and friends at regular intervals.