

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran**

Ref.: AL IRN 6/2022  
(Please use this reference in your reply)

3 May 2022

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 42/22, 44/8 and 46/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the Revolution Court's sentencing of students **Ali Younesi** and **Amir Hossein Moradi** to sixteen years in prison on the basis of national security legislation and for spreading "propaganda against the system", in violation of their rights to due process and fair trial.

Mr. Ali Younesi, 21 years old, and Mr. Amir Hossein Moradi, 22 years old, are elite students at Sharif Industrial University. Mr. Younesi won the gold medal in the International Astronomy Olympiad in 2018; while Mr. Moradi is an award-winning physics student.

Concerns at the arrest, ill-treatment of Mr. Ali Younesi was raised in a communication by special procedures on 5 August 2020 (ref. no IRN 19/2020). We thank your Excellency's Government for the responses of 29 October 2020 and 25 November 2020. We note that that the response states that Mr. Younesi was moved out of ward 209 of Evin Prison. However, information subsequently received confirms that he remained in ward 209. Concerns at the arrest, ill-treatment and use of solitary confinement of Mr. Ali Younesi and Amir Hossein Moradi have also been raised in the reports of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, including most recently in his report to the 49th session of the Human Rights Council (ref. no A/HRC/49/75, para.16). We remain concerned in view of their continued detention since that time and at their recent sentencing.

According to the information received:

Mr. Ali Younesi and Mr. Amir Hossein Moradi were arrested in April 2020, and has since then been held in ward 209 of Evin Prison since then which is under the control of Ministry of Intelligence. They were held in prolonged solitary confinement for 60 days and subjected to beatings by Intelligence Ministry agents for the purpose of extracting confessions, which reportedly left them with injuries for which they were not provided medical care. During the first 13 months of their detention, their were denied access to a lawyer.

The two students were subjected to harsh prison conditions in ward 209 of Evin Prison, despite their lawyers' request that the students be moved out of ward 209 in order to have more space and ability to move within the prison. Since 2021, the students have had access to two phone calls per week, each for

two minutes. They have also been granted access to receiving parental visits every other week. While lawyers were granted access to visit them only after 13 months, their access to visit them in prison is subject to lengthy approval processes.

In May 2020, the spokesperson of the Judiciary accused Mr. Younesi and Mr. Moradi of collaboration with “counter-revolutionary groups”, using a term commonly used in reference to “the People’s Mujahedin Organization of Iran”.

On 3 July 2021, during a hearing at Branch 29 of the Revolution Court in Tehran they were accused of “corruption on earth”, which carries the death penalty, “gathering and colluding to commit crimes against national security” and “spreading propaganda against the system”. On 8 December 2021, state media affiliated with intelligence bodies and the Islamic Revolutionary Guards Corps published a video of the reportedly forced confessions of Mr. Younesi and Mr. Moradi.

On 26 April 2022, a Revolution Court in Tehran sentenced students, Ali Younesi and Amir Hossein Moradi to a total of 16 years imprisonment: ten years imprisonment for “destruction aimed at disruption of national security”, five years imprisonment for “assembly and collusion against national security” and one year imprisonment on the charge of “propaganda against the state”, of which they would need to serve a minimum of 10 years. The two students have appealed the verdict. Prior to the conviction, the presiding judge had previously held that the Intelligence authorities had not provided sufficient documentation to support the charges.

According to a statement by spokesperson of the Judiciary after the sentencing, the alleged acts for which they were sentenced consisted of sabotage of public facilities, attempts to cooperate with opposition groups and spreading propaganda against the system. It has been reported that for one of the sabotage incidents for which Mr. Younesi and Mr. Moradi have been convicted, other individuals have previously been convicted and have been serving their prison sentences.

Without prejudging the accuracy of the received information, we express our serious concern at the convictions and lengthy prison sentences against Mr. Ali Younesi and Mr. Amir Hossein Moradi on the basis of unsubstantiated charges and overbroad national security legislation following the alleged flawed judicial processes and violations of due process and fair trial standards, as guaranteed under articles 9, 10 and 14 of the International Covenant on Political and Civil Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975. We underline that all individuals, regardless of the severity of the charges brought against them, have a right to due process and fair trial. In this regard, we note with concern the continued use of Revolution Courts and the general closed processes before this type of court, and the reported influence of intelligence agencies over these courts, which fall short of the standards for due process and fair trial.

In its General Comment 32 (2007) on article 14, the Human Rights Committee stressed that the right to equality before the courts and tribunals and to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard

the rule of law. (CCPR/C/GC/32, para. 2). The guarantees of fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights (CCPR/C/GC/32, para. 6). We further reiterate that the charge of “propaganda against the system” and “cooperation with opposition groups” are incompatible with international human rights law. Moreover, we are deeply concerned by the allegations of prolonged solitary confinement and ill-treatment of Mr. Younesi and Mr. Moradi, for the purpose of extracting confessions and the release of videos of their forced confessions. Special Procedures mandate holders have for many years conveyed concerns over the use of forced confessions as basis for court decisions in the Islamic Republic of Iran as well as the broadcasting of forced confessions prior to trials, in contravention of fair trials standards including the presumption of innocence.

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 detailed information about the legal and factual basis for the conviction and sentencing of Mr. Younesi and Mr. Moradi, and explain the compatibility of the charges and convictions with international human rights law.
3. Please provide detailed information about the evidence used to convict Mr. Younesi and Mr. Moradi.
4. Please provide detailed information about whether any investigation or inquiry has been conducted into the allegations of the ill-treatment of Mr. Younesi and Mr. Moradi as well as the allegations of forced confessions. If no such investigations have taken place and no one has been held accountable, please explain why.
5. Please provide detailed information on the legislative and other measures adopted by the Islamic Republic of Iran to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, in particular in the case of Mr. Younesi and Mr. Moradi.
6. Please provide information on the policies and procedure in place in the Islamic Republic of Iran to ensure the independence of court decisions from undue influence, including by intelligence agencies.

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.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Mumba Malila  
Vice-Chair of the Working Group on Arbitrary Detention

Diego García-Sayán  
Special Rapporteur on the independence of judges and lawyers

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

## **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 International Covenant on Civil and Political Rights (ICCPR or "the Covenant"), ratified by the Islamic Republic of Iran on 24 June 1975.

We would like to refer to article 9 of the ICCPR enshrining the right to liberty and security of person and establishing in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law as well as the right to legal assistance from the moment of detention. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation. Furthermore, in its General Comment No 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of peaceful assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention. It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary. Furthermore, article 14 upholds the right to a fair trial and equality of all persons before the courts and tribunals, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, as well as the right to legal assistance.

We would furthermore like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture or to cruel, inhuman or degrading treatment or punishment, as stipulated in article 7 of the ICCPR, and set forth in article 5 of the Universal Declaration of Human Rights (UDHR).

We would also like to refer your Excellency's Government to article 10 of the ICCPR, which guarantees the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. In this connection, we draw your attention to paragraph 3 of the General Comment 21 of the Human Rights Committee, which states that article 10 (1) of the ICCPR imposes on States parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty, and complements for them the ban on torture or other cruel, inhuman or degrading treatment or punishment contained in article 7 of the ICCPR. Thus, not only may persons deprived of their liberty not be subjected to treatment that is contrary to article 7, including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons.

We would also like to make reference to article 14 (1) of the ICCPR, which sets out a general guarantee of equality before courts and tribunals and the right of

every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. In addition, article 14 of the ICCPR provides a set of contain procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing.

In its General Comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14 (3) (b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. She should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34).

We also recall article 19 of the ICCPR, which guarantees that everyone shall have the right to hold opinions without interference, and the right to freedom of expression; which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one’s choice. Legitimate restrictions to freedom of expression may be implemented in accordance with the requirements of Article 19 (3) of the Covenant.

Restrictions must meet the standards of legality, meaning that they are publicly provided by a law which meets standards of clarity and precision, and are interpreted by independent judicial authorities; necessity and proportionality, meaning that they are the least intrusive measure necessary to achieve the legitimate interest at hand, and do not imperil the essence of the right; and legitimacy, meaning that they must be in pursuit of an enumerated legitimate interest, namely the protection of rights or reputations of others, national security or public order, or public health or morals. Although article 19(3) recognizes “national security” as a legitimate aim, national security considerations should be “limited in application to situations in which the interest of the whole nation is at stake, which would thereby exclude restrictions in the sole interest of a Government, regime, or power group”. States should “demonstrate the risk that specific expression poses to a definite interest in national security or public order, that the measure chosen complies with necessity and proportionality and is the least restrictive means to protect the interest, and that any restriction is subject to independent oversight” (A/71/373). In this context, we underscore that the Human Rights Committee has found that “It is not compatible with Article 19 (3), for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information.” (CCPR/C/GC/34 para. 30).