

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Ref.: UA IRN 9/2022
(Please use this reference in your reply)

12 May 2022

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 42/22, 44/5 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 imminent execution of Swedish-Iranian national, Mr. **Ahmadreza Djalali** as reported by Iranian judicial officials, in what appears to be a means of extortion to impact the outcome of a court case in Sweden against an Iranian official. We further bring to the attention of your Excellency's Government information received concerning the health condition of detained human rights defender **Farhad Meysami**, who initiated hunger strike in protest of the imminent execution of Mr. Djalali.

The situation of Mr. Ahmadreza Djalali has been raised in five previous communications by Special Procedures mandate holders, dated 16 June 2020 (IRN 13/2020), 2 February 2017 (IRN 7/2017), 13 November 2017 (IRN 30/2017), 28 June 2019 (IRN 7/2019), 8 August 2019 (IRN 12/2019) and 2 April 2020 (IRN 6/2020). While we are grateful for the responses of your Excellency's Government to IRN 13/2020, IRN 7/2017 and IRN 7/2019, we regret that to date we have not received responses to the other communications concerning Mr. Djalali. He has also been the subject of several press releases by Special Procedures mandate holders, with the most recent press release published on 25 November 2020.

Mr. Djalali was also the subject of Opinion No. 92/2017 (Islamic Republic of Iran), adopted on 24 November 2017 by the Working Group on Arbitrary Detention. The Working Group established that the deprivation of liberty of Mr. Djalali was arbitrary and in contravention of articles 3, 5, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and of articles 7, 9, 10 and 14 of the International Covenant on Civil and Political Rights, and that it fell within categories I and III of the categories applied by the Working Group. The Working Group requested the Government to take the necessary steps to remedy the situation of Mr. Djalali without delay, and to bring it into conformity with the standards and principles in the UDHR and ICCPR. The Working Group considered that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Djalali. To date, the Opinion No. 92/2017 has not been implemented.

Concerns at the arrest and imprisonment of human rights defender, Farhad Meysami, have been raised by Special Procedures mandate holders in communications sent to your Excellency's Government on 3 October 2018 (IRN 12/2018) and 6 May 2021 (IRN 12/2021). We regret that to date no response has been received to these communications.

According to the new information received:

Mr. Djalali was sentenced to death in October 2017 on the charges of "corruption on earth" by Branch 15 of the Revolution Court in Tehran. On 9 December 2018, his lawyers learned that Branch 1 of the Supreme Court had upheld his death sentence without granting them an opportunity to file a defence. The Supreme Court rejected at least three requests for a judicial review of Mr. Djalali's case. For concerns raised about the arrest, charges, detention, trial and prison conditions of Mr. Djalali we refer to our previous communications referenced above.

On 4 May 2022, several state media outlets in Iran published identical articles referring to informed sources which had announced that Mr. Djalali's death sentence would be carried out at the very latest by the end of the month of Ordibehesht (21 May 2022). The news articles were published shortly after prosecution authorities in Sweden sought a sentence of life imprisonment for a former Iranian prison official, tried under universal jurisdiction in Sweden for his involvement in enforced disappearances and summary executions of political dissidents in Iran in 1988. The outcome of the trial in Sweden is expected on 14 July 2022.

According to the Prosecutor's Office, the authorities are awaiting a deal with Belgium and Sweden for a prisoner swap.

Prior to the latest development regarding Mr. Djalali's imminent execution, on 24 November 2020, Mr. Djalali was informed that his execution would be carried out shortly. On 2 December 2020, his execution was stopped after global outcry. From late November 2020 to April 2021, it is reported that Ministry of Intelligence agents ill-treated and tortured Mr. Djalali while he was in incommunicado detention in prolonged solitary confinement in section 209 of Evin prison, which is under the control of the Ministry of Intelligence, including by keeping a bright light on his cell 24 hours a day, and forcing him to sleep on the floor on a thin blanket for over five months.

Following the news about the imminent execution of Mr. Djalali, on 6 May 2022, imprisoned human rights defender, Mr. Farhad Meysami began a hunger strike in Rajaei-Shahr Prison. In an open letter of 6 May, Mr. Meysami stated that said he would refuse to eat food until the execution order was canceled. Mr. Meysami stated in the letter that his hunger strike is in protest to "the unfair conviction and sentencing of Mr. Jalali for political reasons" and for the "repeated threats of execution of Mr. Jalali, the effects of which on his body and soul are worse than any torture". Mr. Meysami has served almost four years of a five-year sentence for his peaceful opposition to compulsory hijab

laws. During this time he has not been granted furlough. It is reported that Mr. Meysami's health condition is deteriorating, and that he is only taking enough water to swallow his required daily medication.

Without prejudging the accuracy of the received information, we express our alarm at the announcement by Iranian officials to proceed with the execution of Mr. Djalali by 21 May 2022. We are particularly concerned that the Iranian authorities condition the execution of Mr. Djalali with the outcome of the court case in Sweden against an Iranian official, and as such use the execution of Mr. Djalali as a means of extortion. It is a clear violation of international law to proceed with the execution of Mr. Djalali as an attempt to influencing the outcome of a court case against a third person. We reiterate our concerns at the arrest, trial, conviction and prison conditions of Mr. Djalali, and their incompatibility with international human rights standards. We remind your Excellency's Government that if his death sentence is carried out in the present circumstances, it would constitute an arbitrary execution and a violation of the right to life.

We furthermore raise our concerns at the health condition of Mr. Meysami, and reiterate our concerns that his imprisonment rests on basis and following processes incompatible with international human rights law.

We would like to remind your Excellency's Government of its obligations under international human rights law. Article 6(2) of the International Covenant on Civil and Political Rights, ratified by the Islamic Republic of Iran on 24 June 1975, states that the death penalty may be imposed only for the most serious crimes. In General Comment No. 36 (para. 35), the Human Rights Committee has noted that the term "most serious crimes" must be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing, a finding also reflected in paragraph 1 of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty (Safeguards), approved by the Economic and Social Council on 25 May 1984 (resolution 1984/50). Similarly, it was submitted in a report by the mandate on extrajudicial, summary or arbitrary executions to the Human Rights Council that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life (A/HRC/4/20, para. 53).

Article 7 of the ICCPR prohibits torture and other cruel, inhuman or degrading treatment or punishment. Paragraph 7c of Human Rights Council Resolution 16/23 urges States "To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment." In addition, we would like to recall to your Excellency's Government that, under article 14(3)(g) of the Covenant, everyone is entitled to not be compelled to testify against himself or to confess guilt. The circumstances surrounding the imposition or execution of the death penalty can also constitute cruel, inhuman or degrading treatment or punishment or even torture. Physical or mental

torture or other cruel, inhuman or degrading treatment or punishment, particularly the so-called death row syndrome, may inflict pain and suffering on convicts and their relatives which may well amount to torture or other cruel, inhuman or degrading treatment or punishment (see Report of the Special Rapporteur on Torture, A/67/279, para. 75).

With regard to the alleged violations of safeguards against arbitrary detention and due process and of fair trial guarantees, including the imposed limitations in the access of legal assistance and representation, and the allegations of delays in the judicial proceedings, we would like to recall article 9 and 14 of the ICCPR. Article 9 prohibits arbitrary deprivation of liberty while article 14 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.

In this context, we would like to further recall that paragraphs 4 to 8 of the above Safeguards provide 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, that it may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which provides all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages. The Human Rights Committee has found that “violation of the fair trial guarantees provided for in article 14 of the Covenant in proceedings resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and in violation of article 6 of the Covenant” (CCPR/C/GC/36, para. 41).

In the case of Mr. Djalali, we reiterate the finding of the Working Group on Arbitrary Detention in Opinion No. 92/2017 (Islamic Republic of Iran), adopted on 24 November 2017, that the deprivation of liberty of Mr. Djalali is arbitrary and that the appropriate remedy would be to release him.

We wish to remind your Excellency’s Government that under international law, foreign nationals are entitled to communicate with consular or diplomatic authorities of their states of origin, when they are arrested or committed to prison or custody pending trial or detained in any other manner. In this regard, we would like to refer your Excellency’s Government to article 36 of the 1963 Vienna Convention on Consular Relations, ratified on 3 February 1965, which provides that the receiving state shall without delay inform the consulate of the arrested/detained individual and provide them with an opportunity to communicate with and arrange legal representation for the detainee. The United Nations General Assembly in resolutions 62/156, 63/184 and 64/166 as well as the Human Rights Council in resolution 9/5 have reaffirmed emphatically, *inter alia*, “the duty of States to ensure full respect and observance of the Vienna Convention on Consular Relations”.

In view of the urgency of the matter, the irreversibility of the punishment of the death penalty and the ongoing development of an emerging customary law standard prohibiting the death penalty as a form of cruel, inhuman, or

degrading punishment,¹ we respectfully urge the relevant authorities of your Excellency's Government to ensure that Mr. Djalali is not executed, to annul his death sentence and to ensure that he is retried in accordance with the international human rights norms that are binding on Iran. His execution, on the facts available to us, would constitute a flagrant violation of applicable international human rights standards and would thus be an arbitrary execution. We urge the relevant authorities to consider granting clemency and commuting the sentence and to immediately transfer Mr. Djalali to Sweden without, in return, enforcing a related prisoner exchange agreement with this country.

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.

We are issuing this appeal in order to safeguard the rights of abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

Finally, we would like to inform your Excellency's Government that a copy of this communication will be shared with the Government of Sweden.

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 the observations of your Excellency's Government 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 how conditioning the execution of Mr. Djalali on the outcome of a court case in Sweden or other forms of prisoner swap is compatible with international human rights law.
3. Please provide detailed information on the extent to which the execution of the death penalty in the case of Mr. Djalali in light of the alleged irregularities in his trial as well as reported ill-treatment and torture while held in incomunicado detention and prolonged solitary confinement, is consistent with international human rights law, including the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty.
4. Please provide information on the status of the implementation of the Opinion No. 92/2017 (Islamic Republic of Iran), adopted on

¹ Report of the former Special Rapporteur on Torture, A/67/279.

24 November 2017 by the Working Group on Arbitrary Detention.

5. Please provide information on any efforts envisaged to remove the death penalty in Iran for offenses that do not meet the threshold for most serious crimes, which is reached only when the convicted offense involves intentional killing, and to reduce the scope of application of the death penalty in general with a view to its ultimate abolition. Please also provide details on how many individuals are currently held on death row for charges that do not relate to intentional killings.
6. Please provide information about measures taken to ensure the health of Mr. Meysami while in prison.

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 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.

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.

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

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

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

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