

**Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to food and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

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(Please use this reference in your reply)

20 December 2022

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; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to food and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 49/24, 51/8, 45/3, 49/13 and 51/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of **Mr. Olivier Vandecasteele**, a 41-year-old Belgium humanitarian worker and his subsequent ill-treatment and current critical health condition. Mr. Vandecasteele has worked since 2008 as humanitarian worker for the Non-Governmental Organisation Médecins du Monde in different countries and from 2020 to 2021 as the Country Director of Afghan Displacement Relief International in Iran.

According to the information received:

Mr. Vandecasteele was arrested on 24 February 2022 in Tehran by Iranian security agents and incarcerated in Evin prison before being moved to an unknown detention place. At the time of his arrest, Mr. Vandecasteele was in Tehran to recover his furniture and terminate his apartment rental contract after living there more than 6 years.

On 24 February 2022, Mr. Olivier Vandecasteele was arrested by seven men in plain-clothes who allegedly failed to show an arrest warrant and explain him the reasons for his arrest. Iranian authorities also failed to inform him of the charges being pressed against him. Mr. Vandecasteele was subjected to multiple interrogations but was never brought before a judge until November 2022. His right of access to a lawyer was denied, and he was not allowed to communicate regularly with his family. He could only call his family twice and had intermittent access via visits to Belgian consular services (not more than 4 consular visits). On the rare occasions consular services were allowed to access him, Mr. Vandecasteele was transported blindfolded to Evin prison where these visits took place.

Since the first days of his detention, Mr. Vandecasteele was kept in solitary confinement in Evin prison. In August 2022, he was reportedly moved to a

location, which is unknown to him or persons associated to him and since then has remained in solitary confinement in a windowless room located in the basement of the detention centre with no furniture. Given the poor quality of food provided to him, Mr. Vandecasteele lost 15 kilos and reportedly suffers from serious health problems, including an infection, the loss of nails, back pains and teeth issues that requires special attention and medication.

On four occasions, Mr. Vandecasteele reportedly met with the Chief of Iran's High Council for Human Rights, Mr. Kazem Gharibabadi. After some of these visits, Mr. Vandecasteele was provided with fruits and vegetables and got access to some medicines.

On Monday 28 November 2022, the Belgian consular services were able to talk to him. The encounter revealed that his situation has further deteriorated since September 2022. Mr. Vandecasteele reportedly informed the consular services that he had appeared before a court without the knowledge of the local Belgian authorities nor his Iranian lawyers. His court-appointed lawyer did not speak during his trial. Mr. Vandecasteele also informed the consul that he had been convicted of all charges brought against him, however due to the prison surveillance during the visit, he could not communicate freely to relay the details of the charges.

In November 2022, Mr. Vandecasteele went on a hunger strike for more than two weeks and now only eats bread and water in the morning.

On 14 December, Mr. Vandecasteele's family was informed that he had been sentenced to 28 years of imprisonment. The charges for which he was tried remain however unknown.

Without prejudging the accuracy of the above information, we express grave concern at the continuous solitary confinement in an unknown location of Mr. Vandecasteele, as well as his deteriorating medical condition. We are also concerned at the lack of information regarding the reason and legal basis for his arrest, the legal reason for his detention in solitary confinement, and his lack of access to a lawyer, including during his court hearing as well as the lack of information about the reasons for sentencing him to 28 years of imprisonment.

The reported allegations would be in contravention of the rights of every individual to life, health, physical integrity, the absolute prohibition of torture and other cruel, inhuman or degrading treatments or punishment, and of arbitrary deprivation of liberty, and the right to equal recognition before the law, as laid down, inter alia, in articles 3, 5, 6, 9 and 14 of the Universal Declaration of Human Rights (UDHR), as well as articles 6, 7, 9, 20, 16, 17, 19, 24, 24 and 26, read alone and in conjunction with article 2(3) of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government on 24 June 1975.

We would like to remind your Excellency's Government that article 9 of the ICCPR guarantees the right not to be subjected to arbitrary arrest or detention, and that the prohibition of arbitrary detention is absolute.

We remind that the right to life, the right not to be subjected to torture and the prohibition of enforced disappearance are *jus cogens* norms, also enshrined in international customary law, from which no derogation is permitted, regardless of contexts of internal political instability or any other public emergency (Human Rights Committee, General Comment No. 36, paragraph 2). The Islamic Republic of Iran, as a State party to the ICCPR, is required to undertake all necessary measures to prevent arbitrary deprivation of life by law enforcement officials. The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriate regular monitoring of their health. A heightened duty to protect the right to life also applies to individuals quartered in liberty-restricting State-run facilities, (Human Rights Committee, General Comment No. 36).

We would like also to draw your Excellency's Government's attention to the absolute and non-derogable prohibition of enforced disappearances (articles 2 and 7) which has attained the status of *jus cogens*. We further draw your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate enforced disappearances. The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. We further recall that the Declaration sets out the necessary guarantees to be offered by the State. In particular, articles 9, 10, 11 and 12 relate to the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons. Moreover, article 7 of the Declaration provides that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Furthermore, we would like to refer to principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which uphold, *inter alia*, the right of the detainee to communicate with the outside world, and in particular his family or counsel, as well as, in case that the detainee is a foreign national, his or her right to communicate by appropriate means with a consular post or the diplomatic mission of the State of his or her nationality.

With regards to aforementioned allegations of prolonged solitary confinement and isolation, we would like to refer to the report by the former Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement (above 15 days) in itself runs afoul of the absolute prohibition of torture and ill-treatment and that for people with mental disabilities, solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, even if not used indefinitely or for a prolonged period of time.

Rule 43 of the Mandela Rules prohibits prolonged or indefinite solitary confinement and defines prolonged solitary confinement as solitary confinement for a time period in excess of 15 consecutive days in Rule 44. The Mandela Rules further specify that solitary confinement may be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review in Rule 45. Further, Rule 45.2, explicitly prohibit the imposition of isolation for punishment and prohibit the imposition of isolation “in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures.”

In addition, we would like to refer your Excellency’s Government to articles 12 and 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 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 No. 14, para. 34). 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).

Additionally, we would like to refer to the Mandela Rules, adopted unanimously by the UN General Assembly (A/RES/70/175), which recognize the responsibility of States to provide health care for prisoners, free of charge without discrimination (rule 24), paying special attention to those with special healthcare needs or with health issues that hamper their rehabilitation (rule 25) and indicate that prisoners requiring specialized treatment shall be transferred to specialized institutions or to civil hospitals (rule 27).

Moreover, we wish to refer to the report of the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in which he makes reference to the fact that “[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life” and that [v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty”.<sup>1</sup> He also stresses that “for the right to health to be enjoyed in detention centres, health-care facilities, goods and services must be available, accessible, acceptable and of good quality”.<sup>2</sup> In addition, the Special Rapporteur urges States to “[f]ully abide by, and implement, the Nelson Mandela Rules, in particular as regards the provision of health care in prisons”.<sup>3</sup>

We also wish to bring to your Excellency’s Government attention General Comment No. 14 adopted by CESCR, which interprets the right to health as “an

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<sup>1</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/38/36, para. 18.

<sup>2</sup> *Ibid.* para. 34.

<sup>3</sup> *Ibid.* para. 98 (a).

inclusive with extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food [and] nutrition” among others (CESCR, General Comment No. 14, para. 11).

We would like to raise our concerns about the reports regarding Mr. Vandecasteele arrest, lack of due process and imprisonment in solitary confinement, which are incompatible with international human rights law. As the health of Mr. Vandecastelle is deteriorating, we express grave concerns regarding the lack of measures to ensure his access to adequate food and medical care.

Under these circumstances, we respectfully call on your Excellency’s Government to immediately end the solitary confinement of Mr. Vandecasteele; to take all the necessary measures to prevent any irreparable damage to his life and personal integrity; to properly inform him and his family of the reasons for his continuous detention, including the outcome of his trial and the reasons for sentencing him to 28 years of prison; to provide him with access to adequate medical attention and adequate food and to immediately inform his family about his current whereabouts and medical status.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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

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 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 detailed information on the place of deprivation of liberty of Mr. Vandecastelle and the authority responsible for the place of deprivation of liberty.
3. Please provide detailed information on the state of health of Mr. Vandecastelle and on the measures taken to ensure that he has adequate access to medical care, adequate food and treatment as needed and that his right to life is fully protected and the measures taken to avoid any irreparable damage to his life and personal integrity

4. Please provide information on the factual and legal grounds for the arrest detention of Mr. Vandecastelle in solitary confinement and how these measures are compatible with international norms and standards as stated.
5. Please provide information on court proceedings against Mr. Vandecastelle and the reason why he was reportedly not assisted by a lawyer of his choice and sentenced to 28 years of imprisonment.
6. Please provide detailed information, and, where available, the results, of any investigation, and judicial or other inquiries carried out in relation to what appears to be the arbitrary arrest, incommunicado detention, and enforced disappearance, torture and ill-treatment of Mr. Vandecastelle. If no investigation has been initiated, please explain why and how this is compatible with the international human rights obligations of Iran.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and personal integrity of Mr. Vandecastelle; 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 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.

We would like to bring to the attention of your Excellency's Government that should sources submit the allegations concerning Mr. Vandecastelle for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, the case will be examined by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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.

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