

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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(Please use this reference in your reply)

31 March 2023

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 45/3, 51/8, 44/5, 43/4, 49/24 and 43/20.

We would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary detention, enforced disappearance since July 2022, and risk of torture, ill-treatment and execution of Messrs. **Pejman Fatehi, Vafa Azarbar, Mohammad (Hazhir) Faramarzi and Mohsen Mazloun** who are members of the Kurdish minority.

According to the information received:

On 20 July 2022, Messrs. Pejman Fatehi, Vafa Azarbar, Mohammad (Hazhir) Faramarzi and Mohsen Mazloun were arrested near Urumieh, West Azerbaijan province by Ministry of Intelligence agents.

On 23 July 2022, Iranian State media announced the arrest of four unnamed individuals accused of being "spies" for Israel and planning "terrorist" acts inside Iran. According to the allegations, the families of these men suspect that the announcements referred to their members based on the timing and their known affiliation to Komala, a banned Kurdish opposition group. Families inquired about their fate or whereabouts at detention centres and courts in Urumieh, Mahabad, Sanandaj, Esfahan and Tehran, but authorities refused to provide them any information, and on multiple occasions, agents of the Ministry of Intelligence warned them to no longer enquire about them, "since it is pointless, and they face execution".

On 27 July 2022, Komala issued a statement "vehemently denying the false and baseless accusations" against its members and stated that the four men were arbitrarily arrested in West Azerbaijan province while they were engaged in organizational and political activities and detained.

On 12 October and 5 December 2022, Iranian State TV reportedly aired a propaganda video showing the four men “confessing” to planning to bomb an industrial estate near the city of Esfahan, under the instructions of Israel’s intelligence agency, the Mossad. In the video, the authorities claimed that Messrs. Pejman Fatehi, Vafa Azarbar Mohammad (Hazhir) Faramarzi and Mohsen Mazloun were arrested near Esfahan and had planned to bomb a “strategically important industrial estate”. The men reportedly appeared to have been forced to confesses, and were allegedly visibly “weak, tired and tortured”.

The Iranian authorities continued to deny persistently the families of Messrs. Pejman Fatehi, Vafa Azarbar, Mohammad (Hazhir) Faramarzi and Mohsen Mazloun any information about their fate and whereabouts; on multiple occasions, officials denied any knowledge of the four men, even after the videos of their forced “confessions” were broadcasted.

Moreover, their families continue to face reprisals for continuing to plea for information about their loved ones. In January 2023, a video-recorded appeal by the mothers of Messrs. Pejman Fatehi, Mohammad (Hazhir) Faramarzi and Mohsen Mazloun, to the authorities to grant them access to their sons began circulating online. Agents of the Ministry of Intelligence summoned family members for interrogations and threatened them with imprisonment for making any further enquiries about the fate and whereabouts of the four men. Their lawyer has also attempted to gather information on their case on multiple occasions by sending letters to Tehran’s Evin Prison and the Ministry of Interior and enquiring in courts, but the authorities have ignored these requests.

While we do not wish to prejudge the accuracy of the above information, we express our grave concern at the alleged arbitrary arrest and subsequent enforced disappearance and possible ill-treatment of Messrs. Pejman Fatehi, Vafa Azarbar, Mohammad (Hazhir) Faramarzi and Mohsen Mazloun. We are very concerned by the broadcasting on State sponsored media of a recorded video where the detainees appear to provide a forced confession, and which may be relied upon to pronounce death penalty convictions. Based on the detainees’ weakened appearance, concern is further expressed at their physical and psychological wellbeing and their conditions of detention. We are also alarmed that neither the families nor their lawyers have been granted access for a visit, even after the State released statement and video that shows that they are in the custody of State authorities. As members of a minority who are known for their political affiliation, we further raise our concern against any discriminatory ill-treatment as a consequence of the aforementioned allegations.

Should they be confirmed, these allegations would contravene article 6 (right to life), article 7 (prohibition of torture and other cruel, inhuman or degrading treatment or punishment), article 9 (right to liberty and security of person), article 10(1) (right to be humane treatment during deprivation of liberty), article 14 (right to a fair and public trial), article 16 (recognition as a person before the law), article 17 (protection against interference with privacy, family, honour and reputation), article 19 (right to freedom of opinion and expression) and article 27

(protection of minorities) and a where the aforementioned rights are violated, article 2(3) guarantees the rights to an effective remedy, of the International Covenant on Civil and Political Rights (ICCPR), which Iran ratified on 24 June 1975.

The authorities' denial of the deprivation of liberty of the four men and the failure to disclose their fate and whereabouts in the face of the acute suffering of their relatives would also amount to a violation of article 7, read alone and in conjunction of article 2(3), of the ICCPR with regard to the families of the four disappeared persons. The allegations would also constitute violations of articles 1 to 6, 9, 12, 13, 14, 17 to 19 of the Declaration on the Protection of all Persons from Enforced Disappearance. The Declaration establishes that no State shall practice, permit or tolerate enforced disappearances.

Moreover articles 9-13 of the Declaration spell out 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 ensure that all involved in the investigation are protected against ill-treatment, intimidation or reprisal.

We are gravely concerned that the individuals have allegedly been arrested on the basis of their political affiliations and acts of expression. In that regard we wish to remind your Excellency's Government that the freedom of expression includes inter alia political discourse and commentary on one's own and on public affairs, and that any restriction under article 19 paragraph 3 ICCPR should not impede political debate.

The lack of information about these individuals' fate and whereabouts since their detention places these men outside the protection of the law and increases their exposure to torture or ill-treatment. Their enforced disappearance also heightens their risk to extrajudicial killings. In this regard, we remind your Excellency's Government 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 any other public emergency as reflected inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156 and Human Rights Committee, general comment no. 36, paragraph 2. The Human Rights Committee, general comment no. 20, paragraph 12, underscores that the law must prohibit the admissibility in judicial proceedings of statements or confessions obtained through torture or other prohibited treatment. The Declaration on the Protection of All Persons from being Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment of 1975, article 12, and subsequent General Assembly resolutions, including the latest in 2022, resolution 77/209, paragraph 6, reconfirm that statements obtained by torture or other ill-treatment shall not be used in evidence in any such proceeding.

Concerning the allegation of the incommunicado nature of their arbitrary detention, we are seriously concerned that the authorities consistently fail to promptly inform the families about the fate and whereabouts of the detainees, and their physical and psychological integrity. We wish to recall that the failure to acknowledge a deprivation of liberty by State agents or the refusal to acknowledge detention are constitutive elements of an enforced disappearance, regardless of the duration of the deprivation of liberty or concealment concerned. We would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly resolution 68/156 (February 2014), which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished." We also wish to refer your Excellency's Government to the statement of the Human Rights Committee in its general comment no. 35, whereby enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention (CCPR/C/GC/35, para. 17).

Furthermore, the enforced disappearance of these individuals, also expose them to the risk of being tried and sentenced to the death penalty. We remind your Excellency's Government to the Human Rights Committee, general comment 36, which provides that, "extreme forms of arbitrary detention that are themselves life threatening, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life" (CCPR/C/GC/36, para 57) and that's "States parties must take adequate measures to prevent the enforced disappearance of individuals, and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance" (CCPR/C/GC/36, para 58). Moreover, we urge your Excellency's Government of its obligation to search for the four men and disclose their fate and where abouts as per the 2019 Guiding Principles for the Search for Disappeared Persons.

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 person(s) 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.

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 about whereabouts of Messrs. Pejman Fatehi, Vafa Azarbar, Mohammad (Hazhir) Faramarzi and Mohsen Mazloun and the steps taken to inform their families, representatives and counsels accordingly, in particular with regard to the place of deprivation of liberty where they are being held.
3. Please provide information on the factual and legal grounds for their arrest and detention and how they are compatible with the obligations of your Excellency's Government under international human rights norms and standards, particularly with articles 7, 9, 14 and 16 of the ICCPR.
4. Please provide information about the formal charges brought against them by the relevant authorities and if there are any ongoing legal proceedings, what steps are being taken to ensure their due process rights, including the rights to presumption of innocence, to defense and to challenge the lawfulness of the deprivation of liberty.
5. Please provide specific details on any measures taken to ensure that forced confessions and any criminal evidence otherwise obtained under duress or in the course of intimidating secret interrogations are effectively identified and declared inadmissible in judicial proceedings.
6. Please provide information on any measures taken by the authorities to effectively remove any undue restrictions to the free communication of the detainees with their families, legal representatives and persons with a legitimate interest, whether in person, writing or over the phone. Please also provide information on steps taken to protect the families against any ill-treatment, intimidation or reprisal while exercising their right to inquire and lodge complaints in the search of their loved ones.
7. Please provide detailed information about the state of health and current detention conditions of Messrs. Pejman Fatehi, Vafa Azarbar, Mohammad (Hazhir) Faramarzi and Mohsen Mazloun and the measures taken to provide them with medical assistance. In particular, we would welcome information on the measures taken to individually assess the protection needs of each detainee, and in particular as regards their state of health, access to essential medicines, medical treatment and other basic services, and any other measures to prevent serious and irreparable damage to their life and personal integrity and that they have access to special health care, medications and other relevant medical treatment.
8. Please provide detailed information on the measures taken, or foreseen, to ensure full and impartial investigations, independent medical examinations, and judicial or other inquiries in relation to the

allegations of arbitrary arrest and enforced disappearance, torture and other cruel, inhuman or degrading treatment or punishment. If measures have been undertaken, please make available the results of investigations. If no such measure has been taken, please explain how this is compatible with the international human rights obligations of Iran.

9. Please inform on how your Excellency's Government ensures the right to a prompt and effective judicial remedy as a means of determining the fate and whereabouts of persons subjected to enforced disappearance.

While awaiting a reply, we urge that all necessary measures be taken to prevent any irreparable harm to the life or the personal integrity of Messrs. Pejman Fatehi, Vafa Azarbar, Mohammad (Hakhir) Faramarzi and Mohsen Mazloun; to halt any violation of their internationally recognized rights under the ICCPR, to prevent their re-occurrence, and, in the event that investigations confirm the allegations, to ensure the accountability of any person(s) responsible for the alleged violations.

Should sources submit allegations concerning Messrs. Pejman Fatehi, Vafa Azarbar, Mohammad (Hakhir) Faramarzi and Mohsen Mazloun for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, the cases 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 would furthermore 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 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.

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

Aua Baldé

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