

**Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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.: UA IRN 7/2023  
(Please use this reference in your reply)

16 May 2023

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 51/8, 45/3, 52/9, 44/8 and 49/24.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. Jamshid Sharmahd, aged 68, a German-Iranian software engineer and journalist based in the United States who was kidnapped, forcibly disappeared and detained by the Iranian authorities in Dubai in July 2020 and is now at risk of execution after being sentenced to death for "corruption on earth" (efsad-e fel-arz) following an unfair trial. Throughout his time in detention, Mr. Jamshid Sharmahd has not had access to a lawyer of his choice. Also, the Iranian authorities have denied consular access to Mr. Sharmahd, despite his German nationality.

We thank your Excellency's Government for your response on 17 April 2023 on the case of Mr. Jamshid Sharmahd and the reasons behind his arrest and detention. However, concerns remain on Mr. Jamshid Sharmahd's arbitrary detention and deteriorating health conditions.

According to the information received:

In its opinion no. 27/2022, the Working Group on Arbitrary Detention found in relation to the Islamic Republic of Iran, that the deprivation of liberty of Mr. Sharmahd was arbitrary, being in contravention of articles 3, 6, 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 9, 14, 16, 19 of the International Covenant on Civil and Political Rights is arbitrary and falling within categories I, II and III of the Working Group.

*Summary of the case of Mr. Jamshid Sharmahd*

According to the information received, in 2006, Mr. Jamshid Sharmahd created a news website called Tondar, which is a monarchist group of Iranian exiles. He was reportedly kidnapped in July 2020 by the Iranian authorities while transiting to India via Dubai during a business trip. For several weeks

after having been abducted and deprived of his liberty, his fate and whereabouts were unknown to his family. The deprivation of liberty, including in the form of abduction, of a person by State authorities, followed by the failure to acknowledge that such deprivation of liberty took place or the concealment of the fate or whereabouts of such person amounts to an enforced disappearance.

On 1 August 2020, the Ministry of Intelligence announced in a statement that its secret agents, referred to as the “unknown soldiers of Imam Zaman” had arrested Mr. Jamshid Sharmahd following a “complex operation” without providing further details.

Reportedly, following his abduction, agents of the Ministry of Intelligence told Mr. Jamshid Sharmahd that he was held in Tehran’s Evin prison, but by late 2020 he told his family over the phone that he was no longer there. He was not permitted to say more about his location. During a 23 March 2021 phone call, Mr. Jamshid Sharmahd said he had lost nearly 20kg and that only two of his teeth remained intact without being able to elaborate further, adding that he was only able to eat by using his gums to try to chew food.

Mr. Jamshid Sharmahd is at risk of execution after Branch 15 of the Revolutionary Court of Tehran sentenced him to death for “spreading corruption on earth” following a trial, which concluded on 10 January 2023. In addition, on 21 February 2023, the judiciary’s website reported his conviction, writing that “he had intended to carry out 23 terror acts and was successful in carrying out five”, in apparent reference to a 2008 bombing in Shiraz, Fars province. Mr. Jamshid Sharmahd has repeatedly denied these accusations. His conviction was upheld by the Supreme Court of Iran on 26 April 2023.

Reportedly, the Iranian authorities have denied Mr. Jamshid Sharmahd his rights to an independent lawyer of his own choosing, to an adequate defence, to be protected from torture and other ill-treatment to the presumption of innocence and to be tried by a competent and impartial tribunal. In this context it is worth mentioning that the authorities aired his forced “confessions” in a propaganda video accusing him of “terrorism” before his trial began, and State media repeatedly re-broadcasted it during the trial and following the verdict. His Government-appointed lawyer told his family days before the verdict was announced that he believed the death sentence would be carried out unless they sought a prisoner swap through “diplomatic” activities.

It is also reported that Mr. Jamshid Sharmahd has since late September 2021 only been permitted three brief phone calls to his family. During these calls, he revealed that he was being tortured and otherwise ill-treated, including by being held in prolonged solitary confinement since his abduction and forcible transfer by Iranian officials in July 2020. He also said he is denied all contact with other prisoners and is forced to sleep on the floor in a small room, where he is unable to distinguish between day and night. Reportedly, the authorities are also denying him adequate healthcare, including dental care, and are routinely delaying his access to medications required for his Parkinson’s

disease, resulting in severe body aches and difficulty breathing. During his last phone call to his family on 14 February 2023, he said his health has severely deteriorated, and he found it difficult to maintain his balance while standing up.

Throughout his time in detention, the Iranian authorities have denied consular access to Mr. Jamshid Sharmahd, despite his German nationality.

Without prejudging the accuracy of the above-mentioned allegations, we express our concern that the kidnapping and enforced disappearance of Mr. Jamshid Sharmahd may have been carried out solely on the basis of the peaceful exercise of his right to freedom of expression as a journalist and freedom of peaceful assembly.

The reported allegations – if they are verified - would be in contravention of the rights of every individual to life, physical integrity, the right to recognition as a person before the law, the absolute prohibition of torture and other cruel, inhuman or degrading treatments or punishment, enforced disappearance and of arbitrary deprivation of liberty, 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, 16, 17, 19, 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 recall 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, such as mental health facilities (Human Rights Committee, general comment no. 36).

According to the Human Rights Committee, the ICCPR requires States parties to ensure that individuals have accessible and effective remedies to vindicate their rights as provided under the ICCPR and that there is a general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies (see CCPR/C/21/Rev.1/Add.13, para. 15). Where investigations find human rights violations, States parties must ensure that those responsible are brought to justice. Importantly, investigations should explore, *inter alia*, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates. They must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Also, under international law, States have a duty to investigate acts of enforced disappearance, torture and other cruel, inhuman or degrading treatment or punishment via prompt, independent, transparent and impartial investigations wherever there is a 'reasonable

ground' to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed even in the absence of a formal complaint.

We would like to further 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 refer to 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). We wish to also recall that rule 46 stresses that health-care personnel shall "pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff" and that "[h]ealth-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons."

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". 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". 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".

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 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 also 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 also recall that the arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including the right to freedom of expression and opinion (art. 19), the right of peaceful assembly (art. 20), and the right to freedom of association (art. 21) is arbitrary (see CCPR/C/GC/35, para. 17 and the jurisprudence of the Working Group on Arbitrary Detention). In addition, as reiterated by the Working Group on Arbitrary Detention, a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination, including discrimination based on gender or political or other opinion.

We would like to remind your Excellency’s Government that restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. The Human rights Committee held in CCPR/C/GC/34 that an attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19.

We 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. We are further drawing your Excellency’s Government’s attention to the absolute and non-derogable prohibition of enforced disappearances. We further recall that the Declaration sets out the necessary guarantees to be offered by the State, in particular, its articles 3, 7 and 9 to 13.

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.

**Under these circumstances, we respectfully call on your Excellency’s Government to immediately provide access to adequate medical attention to Mr. Jamshad Sharmahd and to allow an independent lawyer to visit him.**

**In addition, we request to halt the execution of Mr. Jamshad Sharmahd and call to establish a formal moratorium on implementation of the death penalty in compliance with international standards.**

**Also, we request the competent authorities to immediately initiate impartial investigations into the above-mentioned allegations, which amount to enforced disappearance and torture or cruel, inhuman or degrading treatment or punishment, prosecute those responsible and provide redress and compensation to the victim.**

**Lastly, we call on your Excellency's Government to adopt all necessary measures to prevent any irreparable harm to the life and personal integrity of persons deprived of their liberty.**

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 Mr. Sharmahd 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 information on the factual and legal basis for Mr. Jamshad Sharmahd's abduction, enforced disappearance, forced transfer and detention and how these acts are compatible with Iran's obligations under international law as stated.
3. Please provide detailed information on elements relating to the state of health of Mr. Jamshad Sharmahd and the measures taken to provide him with medical assistance.
4. Please provide information on any measures taken by the Iranian authorities to effectively remove any undue restrictions to the free communication of Mr. Sharmahd with his family, legal representatives, and persons with a legitimate interest, whether in person, writing or over the phone.
5. Please also provide information as to what measures have been taken to ensure that the rights of Mr. Sharmahd to due process and a fair trial have been respected, and how such measures comply with the obligations of your Excellency's Government under international human rights law.
6. Please provide detailed information on the measures which have been taken, or which are foreseen, to ensure full and impartial, effective, thorough and independent 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 the investigations. If no such measure has been taken, please explain how this is compatible with the international human rights obligations of Iran.
7. 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 interim measures be taken to halt the execution and to prevent any irreparable harm to the right to life and personal integrity of Mr. Sharmahd 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.

We would appreciate receiving a response within 60 days. Past 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.

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