

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 TUR 4/2023
(Please use this reference in your reply)

15 June 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; 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 52/4, 44/5 and 49/24.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the imminent risk of refoulement of a human rights defender to his country of origin.

Mr. ██████████ is a human rights defender and podcaster. He peacefully participated in the protest movement which began in Iran following the death of Mahsa Amini in September 2022 and has actively supported religious minorities faced with discrimination in Iran's Kermanshah Province, including working to ensure their access to legal assistance. In 2017, he volunteered in the same province to support reconstruction efforts following the earthquake that hit the region. As a podcaster, he has been vocal about violations of human rights in Iran, particularly violations of the rights of women.

According to the information received:

In October 2022, Mr. ██████████ was arbitrarily arrested in retaliation for his human rights activities. He was detained incommunicado for a month and subjected to acts of torture, including his fake execution.

While in detention, he was requested to plead guilty of the charges of "war with God", "spreading false information", "cursing to God and prophet", and "insulting the Supreme Leader", to which he refused. These charges normally carry the death sentence. He was subsequently seated on a chair and told by law enforcement officers that they would show him how he would feel at the time of his own execution.

He was charged with "disturbing public opinion", "advertising and collusion against the regime and public security" and "degrading and defaming the prophet", all in connection with his human rights work, however, he was released on condition of providing a written statement swearing to refrain from speaking out against the regime and committing to cooperate with the government, including through the production of propaganda content.

Following his release, Mr. ██████ fled Iran in December 2022 and has been legally residing in Turkey. Upon the recent expiration of his 90 day visa, he was arrested by the Gendarmerie General Command and taken to the Çankiri Geri Detention Centre, before being transferred to the Agri Removal Centre, Agri Province.

Without prejudging the accuracy of the information received, we wish to express our serious concern about the risk of refoulement of Mr. ██████. If deported, Mr. ██████ would be at high risk of serious human rights violations, including arbitrary detention, torture and execution.

We have reasonable grounds to believe that the forcible return of Mr. ██████ would expose his personal safety, liberty, integrity and life in danger and expose him to the serious risk of arbitrary arrest, detention, torture and unfair trial, in contravention with articles 6, 7, 9, and 14 of the ICCPR ratified by Turkey on 23 September 2003.

In this regard, we urge authorities to assess and evaluate, on an individual basis, the human rights implications that the deportation of this individual may have on his life, security, personal integrity and liberty, in compliance with the principle of non-refoulement under human rights and refugee law. The failure to undertake such consideration in and on itself constitutes a violation of international law.

States should ensure that all border governance measures taken at international borders are in accordance with the principle of non-refoulement and the prohibition of arbitrary and collective expulsions. The principle of non-refoulement is codified in article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which Türkiye is a party since August 1988, which provides that no State shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of being subjected to torture, ill-treatment or other irreparable harm. As an inherent element of the prohibition of torture and other forms of ill-treatment, the prohibition of refoulement under international human rights law is also more expansive than the protections afforded under refugee law insofar as it applies to any form of removal or transfer of persons, regardless of their status or grounds for seeking protection, and is characterised by its absolute nature without any exception.

While awaiting a reply, we urge that all necessary interim measures be taken to protect the right to life and personal security as well as the right to freedom of opinion and expression of Mr. ██████ in compliance with articles 6 and 9 and 19 of the ICCPR. We also call your Excellency’s Government to uphold the cardinal principle of international human rights, humanitarian and refugee law of non-refoulement and refrain from deporting these individuals to their country of origin, where they may be subject to serious human rights violations because of their religious beliefs and as members of a religious minority.

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.

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 information on the factual and legal grounds for the deportation order of Mr. [REDACTED]
2. Please provide any information about the legal grounds for the impending deportation of Mr. [REDACTED] and how this complies with international human rights and refugee law.
3. Please provide information as to whether an assessment of the particular circumstances and protection needs of the individual has been, or is being carried out by authorities, to ensure that Mr. [REDACTED] is not at risk of serious violations of his rights to life, to personal security, to liberty, and to integrity, in his country of origin, should he be forcibly returned?
4. Please provide information about how this assessment process is conducted and whether it is consistent with international human rights obligations of your Excellency's Government.
5. Please provide information about the current procedure available to Mr. [REDACTED] to appeal against the deportation order?
6. Please indicate measures taken or to be taken by your Excellency's Government to protect the human rights of migrants at international borders and within the national territory, and particularly to ensure the full respect of the principle of non-refoulement.

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 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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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