

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 minority issues

Ref.: UA IRN 3/2024
(Please use this reference in your reply)

24 January 2024

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 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 minority issues, pursuant to Human Rights Council resolutions 51/8, 54/14, 53/4, 52/9, 49/24 and 52/5.

We would like to bring to the attention of your Excellency's Government information we have received concerning four Kurdish men, Mr. **Pejman Fatehi**, Mr. **Vafa Azarbar**, Mr. **Mohammad (Hazhir) Faramarzi**, and Mr. **Mohsen Mazloun**, who are at a grave risk of executions in secret in Iran, without prior notice to their families and lawyers as the authorities have been subjecting them to enforced disappearance since July 2022.

Concerns on Mr. **Fatehi**, Mr. **Azarbar**, Mr. **Faramarzi** and Mr. **Mazloun** were raised by Special Procedures in a previous communication on 31 March 2023 (reference UA IRN 5/2023). In this regard, we thank your Excellency's Government for your response on 20 July 2023 that provide information about the case of the four men. However, we remain concerned about the situation of the Kurdish men, given their death sentences were upheld by the Supreme Court on 2 January 2024 and sent to the Office for Implementation of Sentences in Tehran. We appeal to your Excellency's Government to respond to the letter and the concern raised in this communication.

According to the new information received:

On 20 July 2022, Mr. Pejman Fatehi, Mr. Vafa Azarbar, Mr. Mohammad (Hazhir) Faramarzi and Mr. Mohsen Mazloun were arrested near Urumieh, West Azerbaijan province by Ministry of Intelligence agents as stated in the previous communication, IRN 5/2023.

Reportedly, the convictions and death sentences against the four individuals follow serious violations of fair trial rights, including access to a lawyer of their choice. The four men were sentenced to death by Branch 26 of the Islamic Revolutionary Court in Tehran on charges of "spying for Israel". The death sentence was upheld by Branch 9 of the Supreme Court on 2 January 2024, however, their chosen lawyer was only informed about this on 6 January 2024.

The men have been forcibly disappeared since their arrest on 20 July 2022 without any access to their families or chosen lawyer and their forced “confessions” have previously been aired on TV. In this regard, on 6 January 2024, their independent lawyer stated on social media that he was merely their lawyer “on paper”, however, have never been allowed any access to his clients.

On 14 January 2024, their families gathered outside Evin Prison in Tehran, where they suspect their loved ones are held, to protest their death sentences and demand visitation. It is reported that the Ministry of Intelligence summoned the family members of the four men and threatened them with death, torture and imprisonment if they continued to protest and enquire about their loved ones.

While we do not wish to prejudge the accuracy of the above information, we express our grave concern at the alleged imminent risk of execution of Mr. Fatehi, Mr. Azarbar, Mr. Faramarzi and Mr. Mazloum. Moreover, we are seriously concerned at information which indicates that the judicial proceedings in relation to these cases did not fulfil the requirements for due process and fair trial under international human rights law, rendering such sentences unfair. We are also alarmed that neither the families nor their lawyers have been granted access for a visit, even after the State released a statement and a video that shows that they are in the custody of State authorities.

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) of the International Covenant on Civil and Political Rights (ICCPR), which Iran ratified on 24 June 1975. Article 2(3) ICCPR guarantees the right to an effective remedy.

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 with 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 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 with other members of the Kurdish minority 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. 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. 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. (GC34 paragraph 23)

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 alleged 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).

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).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

Under these circumstances, we appeal to your Excellency's Government to immediately halt the imminent execution of the four men, to re-open their proceedings and permit international observers, and to establish a formal moratorium on implementation of the death penalty in compliance with international standards. We also call on your Excellency's Government to allow the four men to see their lawyer and families.

We also call on your Excellency's Government to take immediate measures to advise investigative authorities of the prohibition on extracting information or confessions using torture or other ill-treatment including coercion or intimidation.

Lastly, we also reiterate the long-standing call on the Government of the Islamic Republic of Iran to adopt all necessary measures to prevent any irreparable harm to the life and personal integrity of all persons deprived of their liberty.

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 Mr. Fatehi, Mr. Azarbar, Mr. Faramarzi and Mr. Mazloum 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 basis for the four men's arrest and detention and how this is compatible with Iran's obligations under international law.
4. Please provide detailed information on elements relating to the state of health of the four men and the measures taken to provide him with medical assistance.
5. Please also provide information as to what measures have been taken to ensure that the rights of the four men to due process and a fair trial have been respected, including all legal, procedural and practical safeguards against forced or coerced confessions, and how such measures comply with the obligations of your Excellency's Government under international human rights law.
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 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. Mr. Fatehi, Mr. Azarbar, Mr. Faramarzi and Mr. 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. Mr. Fatehi, Mr. Azarbar, Mr. Faramarzi and Mr. 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 urgent appeal 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.

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