



## **Islamic Republic of Iran**

**In the Name of God, the Most Compassionate, the Most Merciful**

**Comment**

**By**

**The High Council for Human Rights**

**Of the Islamic Republic of Iran**

**Concerning Arash Ganji, Keyvan Bajan, Baktash Abtin, and Reza Khandan  
(Communication WGAD/2022/IRN/CASE/1, dated 16 February 2022)**

1. The legal basis for the arrest and conviction of Arash Ganji, Keyvan Bajan, Baktash Abtin, and Reza Khandan is predicated upon Articles 499, 500, and 610 of the Islamic Penal Code. Therefore, the claim that they have been deprived of their liberty without a sufficient legal basis in domestic as well as international law is entirely unfounded.
2. The aforementioned individuals have been convicted of crimes punishable under the Islamic Penal Code. Mr. Arash Ganji was arrested and eventually convicted on charges of membership, cooperation, and organizational ties with the PKK terrorist group. He participated in illegal gatherings and espoused the thoughts and methods of the PKK terrorist group. Likewise, Mr. Keyvan Bajan, Mr. Baktash Abtin, and Mr. Reza Khandan have supported the notorious MEK terrorist group and voiced their support for terrorist bombers, convicts, and violent street riots. They also organized illegal rallies under the pretext of protecting the rights of workers, women, and other alibis. Based on the preceding, they were arrested and convicted after the due process of law. Therefore, the claim that their detention and conviction were for exercising the fundamental rights and freedoms enshrined in international human rights law does not apply to their actions.
3. The legal proceedings for the aforementioned included all necessities such as hearing their defenses and the submission of verbal as well as written defense statements of

their lawyers (Mr. Arash Ganji, represented by Mr. Nasser Zarafshani and Mr. Keyvan Bajan, Mr. Baktash Abtin, and Mr. Reza Khandan represented by Mr. Nasser Zarafshani and Ms. Razieh Zaidi). The verdict was reviewed again in the Court of Appeals in the presence of different judges. Therefore, the claim that the aforementioned were deprived of the right to a fair trial in accordance with international human rights law is also false and contrary to documented facts.

4. In Iran, no one is prosecuted simply for having a belief or belonging to a particular class, group, religion, or ethnicity. Concordantly, no transgression is disregarded simply because the person in question belongs to a particular group. Therefore, the descriptions mentioned in the correspondence of the working group regarding the aforementioned, such as being a poet, writer, filmmaker, or any other title, will be neither a reason for persecution nor an excuse to avoid the application of the law.

Based on the foregoing, the detention and conviction of the aforementioned individuals do not fall within any of the categories mentioned by the Working Group on Arbitrary Detentions.

**Regarding other allegations made in the correspondence, it should be noted that:**

1. Although Mr. Arash Ganji has been sentenced to two terms of 5 years' imprisonment and one sentence of 1-year imprisonment, only one sentence of 5 years' imprisonment will apply to his case according to Article 134 of the Islamic Penal Code. In the case of Keyvan Bajan, Baktash Abtin, and Reza Khandan, they were sentenced to 1 and 5 years on different accounts. However, on appeal, Mr. Bajan's sentence has been reduced to 3 years and six months in prison. Considering the application of the mentioned article, Mr. Khandan was sentenced to 5 years and Mr. Bajan to 3.5 years. Based on the preceding, the description that was given in correspondence referred to the exertion of cumulative sentences (11 years and 6 years), and stated that these individuals had been convicted "following the procedure of determining the maximum punishment for writers", which is counterfactual and not indicative of facts.

2. The allegation of torture during the investigations to obtain a confession from any of the above-mentioned individuals is entirely false and is based on fabrications. It should be noted that in the law as well as in practice, there are instructions and mechanisms in

place that not only forbid such actions but special oversight methods are carried out continuously to better monitor relevant officers of the law. According to Article 38 of the Constitution of the Islamic Republic of Iran, "any torture to obtain a confession or information is prohibited. Forcing a person to testify, confess or take an oath is not permitted, and such testimony, confession, and oath have no value or validity. The transgressors of this principle will be punished according to the law." Per Article 578 of the Islamic Penal Code adopted in 2013, "Any Government employee or judicial or non-judicial official who physically harasses the accused in order to force them to confess, in addition to retribution or payment of Diya, depending on the case, will be sentenced to imprisonment from six months to three years. Furthermore, if a higher ranking official has given the order in this regard, only the commanding officer will be sentenced to the said imprisonment. Additionally, if the accused dies due to harassment, the director, as well as the perpetrator, will be charged with murder and will face punishment according to the law". Articles 1 and 9 of the Law on Respecting Legitimate Liberties and Protection of Citizenship Rights approved in 2004 prohibit any harassment of the accused. Based on Article 1 of the aforementioned law, the detection and prosecution of crimes, the implementation of investigations, as well as the issuance of temporary security and detention orders shall be based on the observance of relevant laws. Therefore, judicial orders are issued clearly and transparently to avoid exercising personal interests, abuse of power, violence, or unnecessary detentions. Article 9 of the said law underlines the irrelevance of any confession obtained by forcing the accused, which is neither valid legally nor under the Sharia.

3. In relation to the allegations concerning the passing of Mr. Abtin, it should be noted that: he enjoyed 31 face-to-face and glass cabin visits with his wife and lawyer brother. The aforementioned also took 17 days on furlough during his detention. At the beginning of his arrival, his health profile was compiled by the doctors inside the prison who examined him. His medical records mentioned lung disease (severe sleep apnea), herpes zoster infection, and a case of urology disease, which the relevant specialists had begun the treatment process. In addition to quick and easy access to the medical services of the detention center, he was sent to clinics outside the prison on several occasions. According to the documents, Mr. Abtin was referred to Andarzagh Medical

Center at 13:30 on Sunday, December 5<sup>th</sup> 2021, due to acute sinusitis and colds. He was visited by a doctor and treated accordingly. A PCR test was taken, the result of which was negative. He was advised to return to the clinic after 3 days. Subsequently, at 21:20 on Monday, December 6<sup>th</sup>, he went to the health center and was examined and treated. According to the documents attached to the medical file: "The general health condition is good. He announces that he has been suffering from fever and shortness of breath for some time (according to himself and his companion). The result of the rapid COVID test (taken the other day) was negative. He has erythema at the bottom of the throat and is diagnosed to be clear in the examination of the lungs. Vital signs satO<sub>2</sub> = 48 T = 38.2 BP = 170/90 Unfortunately, he is not allowing the treatment to proceed. He refuses to take serum and medication. The guard officer and the deputy were informed." At 22:52 on December 5<sup>th</sup>, he went to Taleghani Hospital and was admitted there. Treatment measures during the stay in Taleghani Hospital included serum therapy, oxygen therapy, antibiotic therapy, routine tests, respiratory physiotherapy, dexamethasone, and Remdesivir injections. The hospital record describes the patient's registered condition during hospitalization: "The patient's fever went away; coughs decreased; inflammatory markers decreased." On December 12<sup>th</sup>, the detention center's general director ordered the health and treatment department director to visit the prisoner in Taleghani Hospital. Mr. Abtin requests medical leave to continue his treatment in a private hospital, and if his request is not granted, he asks for his wife to be with him as a companion in the hospital. His request is granted, and he is sent on medical leave for seven days. The patient, despite the strict advice of the medical staff of Taleghani Hospital to stay and continue the treatment process, Mr. Abtin refused to stay in that hospital. With the full knowledge of the patient and his companions, he granted personal consent while fully conscious and had an oxygen level of 93, and with stable hemodynamic condition, he left the Taleghani Hospital. Unfortunately, Mr. Abtin passed away on January 9<sup>th</sup>, 2022 (26 days after discharge from Taleghani Hospital and extension of medical leave) in Sasan Private Hospital. Therefore, the allegation that he died in prison due to a lack of medical treatment is based on false premises and is contradictory to documented facts.

4. Regarding the state of physical health and access of convicts to medical and health services, it should be noted that the aforementioned individuals have been sent to

medical centers outside the prison when necessary and at the discretion of the medical doctors stationed in prison. All of them, like other convicts and detainees, regardless of the category and title of their charge, have quick and easy access to the prison's medical facilities and doctors 24 hours a day. It is worth mentioning that in case of insufficient facilities and specialized equipment in prison for the treatment of inmates, it is possible to send them out at any time, which is in line with the provisions of Article 127 of the Executive Regulations of the Prisons' Organization approved in 2021. Much like others, the aforementioned individuals have benefited from these facilities many times, and in this regard, they have been under the constant supervision of a doctor and have benefited from being sent to specialized and subspecialty clinics. After the coronavirus outbreak in all prisons of the Islamic Republic of Iran, hygienic standards and protocols are strictly observed. Diagnostic tests are the suspected ones in quarantined zones. Even now, after the clients are back, they are sent to hospitals outside the penitentiary and quarantined in the specialized area in order to be examined by medical doctors to ensure the health of all who reside in the prisons.

5. Regarding prisoners' furlough, it should be noted that based on Note 4 of Article 520 of the Code of Criminal Procedure adopted in 2013: "in crimes for which the punishment cannot be fully suspended, after one-third of the sentence is passed; prisoners can submit their applications for leave to the judicial authorities". After the necessary investigations and inquiries, furlough should be granted in accordance with the legal regulations. The above-mentioned individuals, who met the legal requirements, have used this provision repeatedly. Otherwise, they may not have served their sentences for the required period, or their application is under consideration.

6. Regarding the right of access to a lawyer of the choices, it should be noted that according to note of the Article 48 of the Code of Criminal Procedure which was adopted in 2013: "concerning crimes against internal or international security as well as organized crimes that are subject to punishments stipulated within the Article 302 of this law, in the preliminary investigation stage, the litigants choose their lawyer from the elected attorneys. Therefore, during the preliminary investigation stage, the aforementioned individuals had the legal services and advice of the official lawyers of

the judiciary, and throughout the court hearing session, there were no legal restrictions on the choice of a lawyer for the litigants.