

Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/23/47/Add.5 para 52

Full recommendation

The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its reply. He notes with concern that the charges brought against Mr. Aref Hamediyani (Aref Hamidian) are drug-related and, therefore, do not constitute most serious crimes under international human rights law standards regarding the death penalty. As a consequence, the Special Rapporteur urges the Government to commute without delay the death sentence against Mr. Aref Hamediyani (Aref Hamidian). He would also appreciate to receive additional information from the Government on the progress of the judicial proceedings in this case, and the conformity of each of their stages to international human rights law standards regarding fair trial and due process guarantees.

Assessment using Impact Iran human rights indicators¹

The death sentence of Mr. Aref Hamediyani (Aref Hamidian), an Arab civil activist arrested in 2010, was upheld by the Supreme Court in April 2012.²

Regarding the progress of judicial proceedings for the case of Mr. Aref Hamediyani (Aref Hamidian), reports suggest that all stages were not in conformity with international standards. According to a family member, Mr. Aref Hamediyani (Aref Hamidian) was kept in solitary confinement for six months where he was interrogated. He was denied legal assistance at the early stages of his detention and could not choose a lawyer throughout the judicial proceedings. His family was informed of the Supreme Court's decision to uphold the death sentence through local media.³ According to the family of Mr. Aref Hamediyani (Aref Hamidian), his parents then tried to appeal the Supreme Court's decision in Tehran, however, the language barrier prevented them from doing so (they speak Arabic, judicial proceedings in Tehran are done in Persian).⁴

Additionally, there have been allegations of torture during Mr. Hamediyani's detention. These allegations.⁵

Mr. Aref Hamediyani (Aref Hamidian) was convicted in 2012 on drug-related charges under the Anti-Narcotic law, which was amended in 2017. Notably, the previous version of the law, under which Mr. Hamediyani was prosecuted, provided sentences such as the death penalty for persons

¹ CCPR.6.1.S.1; CPPR.6.2.S.2; CCPR.14.3.S.4
CCPR.6.2.P.2; CCPR.14.3.P.4
CCPR.6.1.O.1; CCPR.6.2.O.4

² Radio Zamaneh: <<https://www.radiozamaneh.com/42324> >

³ Human Rights Activists in Iran: <<https://www.hra-news.org/2012/hranews/1-10642/> >

⁴ Human Rights Activists in Iran: <<https://www.hra-news.org/2012/hranews/1-10642/> >

⁵ <https://www.hra-news.org/2012/hranews/1-10642/>

carrying 5kg or more of narcotics, a provision believed to have caused a surge in executions in the Islamic Republic of Iran.⁶

In November 2017, an amendment to the law on drug trafficking entered into force, replacing the mandatory death penalty with a prison term of up to 30 years for non-violent drug-related offences and increasing the quantity of drugs required for a death sentence to be imposed. As a result, the number of drug-related executions has significantly decreased. However, mandatory death sentences for numerous drug-related offences remain and the amendment transformed several crimes into capital crimes for first-time offenders in specific circumstances.⁷ Reportedly, 24 individuals were executed on drug-related charges in 2018, 30 in 2019, and 25 in 2020.^{8 9}

In its latest General Comment on Article 6, the Human Rights Committee explicitly stipulated that the term “the most serious crimes” must “be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing. Crimes not resulting directly and intentionally in death [...], although serious in nature, can never serve as the basis, within the framework of Article 6, for the imposition of the death penalty.”¹⁰ The Human Rights Committee has consistently underscored that drug-related offences do not meet the threshold of “most serious crimes” and that the death penalty should not be applied to them.¹¹

There is no official and readily available information that might suggest that the Islamic Republic of Iran has commuted the death sentence against Mr. Aref Hamediyani (Aref Hamidian). Since his sentence was confirmed by the Supreme Court in 2012, and as of early February 2021, there has been no official and readily available information on the progress of the judicial proceedings for this case.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁶ ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

⁷ Drug trafficking law, arts. 8 and 45

⁸ ECPM, Iran Human Rights, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

⁹ https://iranhr.net/media/files/Rapport_iran_2021-gb-290321-BD.pdf

¹⁰ UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/5e5e75e04.html>

¹¹ CCPR/C/PAK/CO/1, para. 17; CCPR/C/THA/CO/2, para. 17; CCPR/C/KWT/CO/3, para. 22; A/71/372, para. 48; and Human Rights Committee, general comment No. 36.