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**Working Group on Arbitrary Detention**

REFERENCE: G/SO 218/2

4 February 2013

Dear Sir or Madam,

I would like to refer to the sixty-eighth session of the Working Group on Arbitrary Detention, during which the Working Group adopted several Opinions on cases of detention submitted to it.

In accordance with paragraph 18 of the Working Group's Methods of Work, I am sending to you, attached herewith, the text of Opinion No. 52/2013 (Iran) regarding a case submitted by you.

This Opinion will be reflected in the Working Group's annual report to the Human Rights Council and published on the Working Group's website.

Yours sincerely,

Miguel De la Lama  
Secretary of the Working Group on Arbitrary Detention  
Office of the High Commissioner for Human Rights



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**Human Rights Council**  
**Working Group on Arbitrary Detention**

## **Opinions adopted by the Working Group on Arbitrary Detention at its sixty-eighth session, 13–22 November 2013**

### **No. 52/2013 (Islamic Republic of Iran)**

#### **Communication addressed to the Government on 12 September 2013**

#### **Concerning Khosro Kordpour and Massoud Kordpour**

**The Government has not replied to the communication.**

#### **The State is a party to the International Covenant on Civil and Political Rights.**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the former Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 2006/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013. In accordance with its methods of work (A/HRC/16/47, annex, and Corr.1), the Working Group transmitted the above-mentioned communication to the Government.

2. The Working Group regards deprivation of liberty as arbitrary in the following cases:

- (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to the detainee) (category I);
- (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
- (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

9. On 5 July 2013, a joint urgent appeal addressed to the Government of the Islamic Republic of Iran concerning Khosro and Massoud Kordpour, among others, was issued by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

10. On 5 August 2013, Branch 1 of the Islamic Revolutionary Court in Mahabad held the first session of the brothers' trial, during which the judge read out the charges against them. Their lawyers objected to the competence of the court on the ground that the defendants were journalists and should be tried at a Press Court in the presence of a jury, as their charges were related to press activities. They also objected to the absence of the prosecutor's representative at the hearing. The judge rejected the objection about his competence, but accepted the second objection.

11. Khosro Kordpour stated to the Court that he was there simply for being a journalist, and that all the news agency's articles had been published within the terms of the law. Massoud Kordpour also stated to the Court that he had merely fulfilled his duty to report on issues, as stipulated in the Constitution. Their lawyers requested the judge to release them on bail, but the judge did not issue a decision in court, saying that he would notify them of his decision at a later stage. The second hearing was scheduled to take place in late August 2013 or in September 2013.

12. The source submits that the detention of Khosro and Massoud Kordpour is arbitrary, being contrary to articles 9, 10 and 19 of the Universal Declaration of Human Rights and 9, 14 and 19 of the International Covenant on Civil and Political Rights, since it is aimed solely at sanctioning their human rights activities. This is also in violation of the Declaration on human rights defenders, in particular article 1, which states that "everyone has the right, individually or in association with others, to promote ... the protection and realization of human rights and fundamental freedoms at the national and international levels", and article 12, paragraph 2, which provides that "the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration".

#### *Response from the Government*

13. The Working Group communicated the above allegations from the source to the Government of the Islamic Republic of Iran, requesting the Government to provide the Working Group with detailed information about the current situation of Khosro and Massoud Kordpour and to clarify the legal provisions authorizing their continued detention. It is regretted that the Government did not respond to this request.

#### **Discussion**

14. Despite the absence of a response from the Government of the Islamic Republic of Iran and on the basis of information available to it, the Working Group considers that it is in a position to render an opinion in the present case.

15. The case in hand relates to the arrest and detention of two journalists of Kurdish ethnic origin, brothers Khosro and Massoud Kordpour. Their main area of analysis and media engagement is the situation of the Kurdish communities, as addressed to the

domestic and international audience. In the view of the Working Group, this is in line with their rights under international human rights law. They have in effect been arrested and detained for exercising their freedom of opinion and expression.

16. In his report to the General Assembly in October 2013, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran specifically mentioned the arrest and detention of Khosro and Massoud Kordpour and the fact that they were charged with *moharebeh* (enmity against God),<sup>1</sup> *mofsid-fil-arz* (corruption on earth), propaganda against the system, insulting the Supreme Leader and propagating falsehoods.<sup>2</sup> The Special Rapporteur noted that Massoud Kordpour had asserted his innocence and maintained that providing analysis or stating opinions about the problems in Kurdistan was not a criminal act, during the first session of his trial in August 2013. The Special Rapporteur reported that in its commentary, the Government accused the journalists of cooperating with terrorist groups but stopped short of specifying charges related to terrorism.

17. A number of Iranian laws and policies, including the 1986 Press Law, the 2009 Computer Crimes Law and the 2010 Cybercrime Law, are not in conformity with the right to freedom of expression and access to information under international law. It is reported that the Government considers 600 Iranian journalists to be part of an anti-State network, and that it has stated that journalists are arrested to prevent them from engaging in "seditious activities". Restrictions on the freedom of expression must be unambiguous, narrow and accompanied by adequate safeguards against abuse. Charges against the Kordpour brothers are general, vague and ambiguous and therefore difficult to substantiate, both in their meaning and scope and for rebuttal. Finally, these laws are contrary to the rights guaranteed under the Universal Declaration of Human Rights, the touchstone by which the Working Group tests these rights.

18. The trial of Khosro Kordpour and Massoud Kordpour is flawed in a number of respects from an international human rights law perspective. Some of the violations noted are: the inordinate delay in according them access to a lawyer, the 45-day delay in commencing interrogation and the jurisdiction of the court before which they are being tried.

#### Disposition

19. In the light of the foregoing, the Working Group on Arbitrary Detention renders the following opinion:

The deprivation of liberty of Khosro Kordpour and Massoud Kordpour is arbitrary, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights and falling within category II of the arbitrary detention categories defined by the Working Group. It is also in contravention of articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, falling within category III of the arbitrary detention categories defined by the Working Group.

20. Consequent upon the opinion rendered, the Working Group requests the Government of the Islamic Republic of Iran to release Khosro Kordpour and Massoud Kordpour forthwith and bring their situation into conformity with the requirements of international human rights instruments. If the case merits it, the Working Group requests the Government to, in particular, ensure a fair, impartial trial respecting all the guarantees

<sup>1</sup> The Working Group notes that the term *moharebeh* refers to the crime of using arms to terrorize people, although it is translated as "enmity against God" in the Special Rapporteur's report.

<sup>2</sup> A/68/503, para. 10.

thereof, as enshrined in the domestic law of the Islamic Republic of Iran and international human rights law.

21. In view of the adverse effect of this wrongful arrest and detention on Messrs. Kordpour and their family, the Working Group also requests the Government of the Islamic Republic of Iran to provide Khosro Kordpour and Massoud Kordpour with appropriate reparation.

22. The Working Group recalls the Human Rights Council's call for all States to cooperate with the Working Group, to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.<sup>3</sup>

*[Adopted on 20 November 2013]*

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<sup>3</sup> Human Rights Council resolution 24/7, paras. 3, 7 and 9.