

Opinion No. 8/2010 (Islamic Republic of Iran)

Communication addressed to the Government on 8 January 2010

Concerning Mr. Isa Saharkhiz

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

1. (Same text as paragraph 1 of Opinion No. 18/2009)
2. The Working Group regrets that the Government has not replied to the allegations of the source.
3. (Same text as paragraph 3 of Opinion No. 18/2009)
4. The Working Group would have welcomed the cooperation of the Government. It has not responded to the allegations transmitted to it in spite of the fact of having been requested to do it in two occasions, on 8 January and 26 April 2010. The Government has also not requested an extension of the delay to reply, as established in paragraph 16 of the Working Group's Methods of Work. In the absence of any information from the Government, the Working Group believes that it is in position to render an Opinion on the facts and circumstances of the case, since they have not been challenged by the Government.
5. According to the source, Mr. Isa Saharkhiz, an Iranian citizen, born in Abadan, Bushehr Province; 56 years old, is a political figure, a well-known journalist and a former

editor for two prestigious news publications, the monthly magazine *Aftab*, and newspaper *Akhbar-e-Eghtesad*. His usual place of residence is Tehran.

6. Mr. Saharkhiz studied economics at the University of Tehran before moving to the United States of America, where he worked as the Chief Manager of the Islamic Republic News Agency (IRNA). In 1997, he was appointed Head of the Media Department at the Ministry of Culture and Islamic Guidance. According to the source, his term at the Ministry was dubbed “the spring of journalism”. Mr. Saharkhiz eliminated the informal system of prepublication screening of certain periodicals, instead holding all publishers accountable for unlawful publications, or defamation, after their circulation. He also contributed to changing the law so that violations would be subjected to a public trial before a special press jury, rather than unofficial sanctions by State security services. These reforms were designed to prevent arbitrary State encroachment and to enhance press freedoms.

7. In 2006, Mr. Saharkhiz was previously detained for having given a speech praising the 1999 Iranian student movement of anti-government demonstrations which followed to the closure of *Salam* newspaper. Later Mr. Saharkhiz co-founded the Iran Association for the Defense of Press Freedom, a non-profit organization dedicated to the protection and promotion of a free press in the country. On 28 August 2008, he was elected to the executive committee for Iran’s National Peace Council, an organization of leading civil society activists, lawyers, human rights defenders and artists. During the tenth presidential elections, he campaigned on behalf of candidate Karroubi, a former Speaker of the Majlis, acting as his foreign media campaign manager.

8. It was reported that Mr. Saharkhiz was arrested on 4 July 2009 in northern Iran by plainclothes members of the police and/or the Sepah-e-Pasdar, the Revolutionary Guard Corps. Involvement may have also included the Basij militia. During the arrest, one of the agents struck Mr. Saharkhiz’s chest with his knee, breaking two of his ribs. Mr. Saharkhiz was taken to an unknown destination and placed in an undisclosed detention centre. Mr. Saharkhiz was not informed of the charges against him and the legal basis of his detention.

9. Mr. Saharkhiz’s arrest came two days after he printed articles criticizing the Iranian Government. He has on multiple occasions given speeches on the importance of the freedom of the press and of human rights, often criticizing the Government. According to the source, he was arrested on account of participating in Karroubi’s political campaign for the recent presidential elections and for speaking out against the Government.

10. On 20 June 2009, his Tehran house was raided by four plainclothes agents. After the officers threatened to break the door, Mr. Saharkhiz’s daughter, Mahtab, agreed to allow them in. The agents searched the house and seized Mr. Saharkhiz’s computer and election campaign materials. At the time, Mr. Saharkhiz was travelling in northern Iran.

11. Mr. Saharkhiz was placed in solitary confinement for 62 days. During that time, he was prevented from obtaining access to an attorney and allowed only one communication with his family, on 23 July 2009. At that conversation, he informed his family that the agents refused to tell him what his offences were. He was interrogated numerous times without the assistance of counsel. Mr. Saharkhiz lost over 20 kilos and was reportedly subjected to police brutality. Later, he was transferred to Section 209 of Evin prison in Tehran under the surveillance of the Revolutionary Guard. Section 209 is a part of Evin prison which is run by the Ministry of Intelligence and not by the Ministry of Justice.

12. Two months after his arrest, Mr. Saharkhiz was authorized to consult with an attorney. However, all communications with his attorney are monitored by the Revolutionary Guard and access is frequently denied.

13. According to the source, Mr. Saharkhiz’s detention is contrary to the Iranian law, particularly article 32 of the Constitution of the Islamic Republic of Iran, which prohibits

arbitrary arrest; article 35 of the Constitution, which establishes the right to legal counsel; article 128 of the Penal Procedure Code; and article 3 of the 2004 Act on Protection of Citizen's Rights and Respect to Legitimate Freedom.

Working Group's deliberation

14. It has not been refuted that Mr. Saharkhiz is a widely known political figure and a journalist. He has occupied very important administrative and managerial positions which allowed him to make his contribution to the consolidation of a free press in Iran.

15. It has not been discussed that Mr. Saharkhiz has suffered in the past several arrests and detentions in virtue of articles written for him; for his positions concerning the freedom of opinion and expression and the freedom of the press in the country, as well as in reason of the expression of his political views.

16. Following his last arrest in July 2009, he was held in detention in a secret section of Evin Prison. He was not informed about the charges brought against him nor about the legal basis justifying his arrest and detention.

17. The Working Group notes that Mr. Saharkhiz's arrest took place two days after the publication of an article written for him which was reportedly considered to be critic of the Government of Iran.

18. According to the source, Mr. Saharkhiz was held in incommunicado detention for 62 days following his arrest. During that period, he had no access to a defence lawyer and was authorized to see only once his family, on 23 July 2009. In that occasion, he advised his relatives that he had not been informed about the reasons for his arrest nor about the charges brought against him. These allegations have not been denied.

19. The analysis of the information submitted by the source also indicates that Mr. Saharkhiz has not been brought before a judge or a judicial authority and has not been able to contest the lawfulness of his detention. His right to a fair trial has been violated by the authorities by refusing to bring any charges against him and do not allow that he could be tried in a court of law.

20. On the basis of the allegations, not challenged by the Government, the Working Group considers that Mr. Saharkhiz's detention is characterized by the following elements:

(a) Since July 2009, Mr. Saharkhiz is being persecuted without any precise and concrete reason, cause or motive, duly notified to him. He is consequently incapable of defending himself;

(b) Given the absence of notification of any reason for his arrest, it is possible to consider that Mr. Saharkhiz is being persecuted in virtue of his professional, political or religious ideas, particularly taken into account that his last apprehension took place after publishing an article contrary to the Government's views;

(c) Mr. Saharkhiz has not been notified of any charges or accusations brought against him. He has not been formally charged with any offence;

(d) He has not been brought before a judge or a judicial authority. This fact has impeded him to challenge the lawfulness of his detention before a judicial authority;

(e) Mr. Saharkhiz has not had recourse to the assistance of a defence lawyer. He has been unable to prepare his defence in adequate conditions.

21. The Working Group notes that the authorities have not informed the detainee of the charges brought against him, have denied him access to a defence lawyer and have failed to bring him before a judge.

22. In the absence of a legal notification of the reasons for Mr. Saharkhiz's arrest and of the charges brought against him, and considering his past professional and political activities, it is possible to consider that Mr. Saharkhiz's arrest and detention are motivated in his exercise of the rights to free opinion and expression and to take part in the conduct of public affairs of his country.

23. The authorities exacerbated these violations by failing to provide him with a prompt hearing; with access to legal counsel; information about the charges brought against him; release pending trial and a fair trial. In addition, the authorities have failed to afford Mr. Saharkhiz the right of habeas corpus. His detention without trial also violates his right to be presumed innocent.

24. The Working Group considers that Mr. Saharkhiz's arrest and detention violates rights and fundamental freedoms established in articles 9, 10, 11, 18, 19 and 21 of the Universal Declaration of Human Rights and, *inter alia*, articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, of which the Islamic Republic of Iran is a State Party.

25. In the light of the foregoing, the Working Group renders the following Opinion:

The deprivation of liberty of Mr. Isa Saharkhiz is arbitrary and falls within categories II and III of the categories applicable to the consideration of cases submitted to the Working Group.

26. Having found the detention of Mr. Isa Saharkhiz to be arbitrary, the Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Saharkhiz, and in particular:

- (a) To order his immediate and unconditional release;
- (b) To guarantee him a fair trial according to international standards;
- (c) To consider the eventual reparation to be granted to Mr. Saharkhiz for the no respect of the legal norms in his arrest and detention.

Adopted on 6 May 2010