

# 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);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; or disability or other status, and which aims towards or can result in ignoring the equality of human rights (category V).

#### **Submissions**

##### *Communication from the source*

3. The case summarized below was reported to the Working Group on Arbitrary Detention.

4. Khosro Kordpour and Massoud Kordpour, who are brothers, are Iranian nationals from the Kurdish ethnic community. They work as an editor and a correspondent, respectively, for the Mokerian News Agency and report on human rights issues, including the arrests and prosecutions of Kurdish activists. Massoud Kordpour reported on human rights issues in the Kurdistan province for Radio France Internationale (RFI) Persian, Deutsche Welle Persian, Voice of America Persian, and local Kurdish-language websites.

5. On 7 March 2013, Khosro Kordpour was arrested in the Kurdish-inhabited city of Mahabad, in western Iran, by Iranian Intelligence Ministry agents on an arrest warrant issued by Branch 2 of the Revolutionary Court of Mahabad. He was allegedly transferred to the Mahabad Intelligence Office. The authorities, meanwhile, reportedly searched his home and confiscated his computer. On 9 March 2013, Massoud Kordpour went to the Boukan Intelligence Office to inquire about his brother's imprisonment. The source reports that he was subsequently arrested. The authorities allegedly searched his home and confiscated some personal items.

6. Approximately 10 days later, both brothers were taken to the detention centre of the Islamic Revolution Guards Corps (IRGC) in Oroumiyeh, the capital of West Azerbaijan province, where they were kept for four months in solitary confinement. Their family members were able to visit them separately for the first time on 25 April 2013 for 10 minutes. Khosro and Massoud Kordpour told their relatives that they had not even been interrogated during those 45 days, and demanded to have access to lawyers. The second visit took place on 27 May 2013.

7. Khosro Kordpour allegedly went on a hunger strike from 19 April to 13 May 2013 to protest his lack of access to a lawyer, at which point he was transferred to a cell with other detainees. On 14 May 2013, the investigative judge reportedly extended the temporary detention order for an additional two months and informed the brothers' family that he would not be able to issue bail until after the presidential election.

8. Both brothers were transferred to Mahabad prison on 26 June 2013, where it was revealed that Khosro and Massoud Kordpour had lost 12 and 20 kilos in weight respectively. Khosro Kordpour was thereafter charged with *moharebeh* (fighting God); corruption on earth through assembly and collusion to commit crimes against the national security; insulting the Leader; propaganda activities against the State and spreading lies with intent to disturb the public minds, while Massoud Kordpour was charged with assembly and collusion to commit crimes against the national security; insulting the Leader; propaganda activities against the State and spreading lies with intent to disturb the public minds.

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 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]

<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.

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