

URGENT ACTION

ASSISTANT JUDGE RISKS DOUBLE PROSECUTION

Assistant judge Hatsyar Wshyar faces up to seven years in prison as new charges have been brought against him, over the same social media posts for which he was sentenced and effectively served a full year prison term sentence. Instead of releasing him after his sentence, he remains detained and at risk of being tried again over the same tweets. The authorities must release Hatsyar Wshyar immediately and unconditionally and drop all charges against him.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Judge Bengeen Qasim Mohamed Kattany
Head of the Kurdistan Region Judicial Council
Kurdistan Region Judicial Council
c/o Dr. Dindar Zebari
Head of the Committee to Evaluate and Respond to International Reports
Erbil, Republic of Iraq
Email: dindar.zebari@gov.krd

Your Excellency,

Assistant judge **Hatsyar Wshyar** is facing up to seven years in prison after having completed a year's sentence over the same social media posts criticizing the conduct of certain judges in Sulaymaniyah, a city in the east of the Kurdistan Region of Iraq. He is currently being charged under article 226 of the Iraqi penal code for "insulting public institutions or officials" in those posts and awaits trial on 7 March 2021.

Hatsyar Wshyar was sentenced on 2 December 2019 to a one-year prison term under article 2 of the penal code, after he was charged with "misuse of electronics" in an unfair trial. The charges related to the same social media posts he is being tried for now. His trial in 2019 was in clear violation of fair trial standards; he was sentenced in a closed hearing, after having been denied access to his lawyer and appointed a court lawyer instead, and was not allowed to speak.

Despite having completed his prison sentence on 2 December 2020, Hatsyar Wshyar remains in the custody of the Sulaymaniyah security forces (Asayish). The last time his family saw him was in October 2020. He has only been able to call them three times since then, each time lasting less than one minute. Hatsyar Wshyar was able to see his lawyer on 28 February 2021 for a period of 30 minutes, during which Asayish members were present for the entire duration of the visit.

Hatsyar Wshyar's right to a fair trial and to exercise his freedom of expression have both been violated in 2019, and now he is being prosecuted over the same alleged offense for the second time with ongoing concerns around his right to adequately prepare for his defense. This is in contradiction with Iraq's obligations under article 38 of the Iraqi constitution, as well as under the International Convention on Civil and Political Rights.

In light of the above, I urge you to immediately and unconditionally release Hatsyar Wshyar, drop all charges against him, and ensure a prompt, and effective investigation into the claims of torture made in 2019 with the aim of holding perpetrators accountable and providing him with adequate redress.

Yours sincerely,

ADDITIONAL INFORMATION

In 2017, the Union of Judges filed multiple lawsuits against Hatsyar Wshyar for “using unseemly phrases on his private social media accounts targeting certain individuals” under article 236 of the penal code. He frequently published posts on his social media accounts, criticizing the justice system in Sulaymaniya and what he saw as corrupt practices in the courthouse. He was detained for 50 days and sentenced to four months in prison, during which time he was dismissed from his position. He was released in January 2018 and pursued legal action against the courthouse for firing him.

On 24 November 2019, the Asayish forces arbitrarily arrested him during his court hearing, searched his family home, taking official documents related to his case, his mobile phone and laptop. Hatsyar Wshyar remained in solitary confinement with the Asayish for seven days, where he was reportedly blindfolded and tortured. He was transported directly by the Asayish to face a closed hearing on 2 December 2019, where he was sentenced to one year in prison for “misuse of electronics” under article two of the penal code after he was denied access to his own lawyer and appointed a court lawyer instead and was not allowed to speak. He remained on hunger strike for more than two months after his sentencing, during which his health significantly deteriorated.

After serving his sentence on 2 December 2020, Hatsyar Wshyar was not released, and was transferred to the custody of Asayish Sulaymaniyah. Since then, he was only able to call his family three times, each time lasting less than one minute, and was only able to see his lawyer once with Asayish forces present, and was thus not able to inform his lawyer of his conditions. By 2 March 2021, the lawyer still did not have access to the case file against Hatsyar Wshyar.

PREFERRED LANGUAGE TO ADDRESS TARGET: English, Kurdish, Arabic

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 28 APRIL 2021

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PREFERRED PRONOUN: Hatsyar Wshyar (he/him)

LINK TO PREVIOUS UA: <https://www.amnesty.org/en/documents/mde14/2025/2020/en/>