URGENT ACTION

OMID KOKABEE GRANTED CONDITIONAL RELEASE

Iranian physicist Omid Kokabee, who was on medical leave following his surgery for advanced kidney cancer, has been granted conditional release. The Head of Judiciary approved a ruling from Branch 36 of the Court of Appeal in Tehran, which said that he qualified for conditional release and would therefore not be returning to prison.

Iranian physicist **Omid Kokabee**, 33, has been granted conditional release after the Head of Judiciary approved a ruling handed down by Branch 36 of the Court of Appeal in Tehran. In an interview with the Iranian Labour News Agency on 29 August, Omid Kokabee's lawyer, Saeed Khalili, said the new ruling, which he had received in writing the previous day, means that his client would not be returning to prison. Omid Kokabee has benefited from a provision under Article 58 of the 2013 Islamic Penal Code, which gives judges the discretion to grant conditional release to prisoners sentenced to 10 years or less who have served more than a third of their prison terms.

Omid Kokabee has been on medical leave following surgery on 22 April to remove a cancerous tumour in his right kidney. He was diagnosed with advanced kidney cancer earlier that month and told by doctors that his affected kidney had to be removed. He had complained of kidney and stomach pain for five years in prison but was denied specialized medical treatment. He passed kidney stones and found blood in his urine on several occasions and had repeatedly gone to the prison clinic complaining of kidney and stomach pain. However, prison doctors never adequately examined him and simply prescribed him painkillers. He was finally allowed to have a sonogram exam on 26 November 2015 in Taleghani Hospital in Tehran, which revealed a tumour. Despite doctors ordering a magnetic resonance imaging (MRI) scan to ascertain the nature of the tumour, the Prosecutor General of Tehran did not approve the test until 8 April 2016, after which Omid Kokabee was diagnosed with renal cell carcinoma (kidney cancer). Had he received adequate medical care at an earlier stage, his cancer might have been detected and treated before advancing further. Denying medical care to prisoners, especially if done deliberately, can constitute cruel, inhuman or degrading treatment, or even torture.

Amnesty International considered Omid Kokabee a prisoner of conscience. He was sentenced to 10 years' imprisonment on the basis of spurious charges arising solely from his refusal to work on military projects in Iran and his legitimate scholastic ties with academic institutions outside of Iran.

Please write immediately in English, Persian, Arabic, Spanish or your own language:

- Calling on the Iranian authorities to ensure that Omid Kokabee is released unconditionally, and to provide him with reparations, including compensation, for arbitrarily arresting and detaining him, and for depriving him of essential medical care;
- Urging the authorities to undertake a thorough investigation into the circumstances in which officials belonging to the Office of the Prosecutor and prison staff (including medical staff) denied medical care to Omid Kokabee and, in particular, whether this was deliberate or for punitive purposes, in which case those suspected of responsibility should be prosecuted in proceedings which comply with international law and standards on fair trial.

PLEASE SEND APPEALS BEFORE 17 OCTOBER 2016 TO:

Leader of the Islamic Republic of Iran	Head of Judiciary	**And copies to:**
Ayatollah Sayed 'Ali Khamenei	Ayatollah Sadegh Larijani	President of the Islamic Republic of Iran
Salutation: Your Excellency	**Salutation: Your Excellency**	Hassan Rouhani

Please send your appeals to the care of diplomatic representatives accredited to your country. If there is no Iranian embassy in your country, please mail the letter to the Permanent Mission of the Islamic Republic of Iran to the United Nations, 622 Third Avenue, 34th Floor, New York, NY 10017, USA. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the second update of UA 244/14. Further information: https://www.amnesty.org/en/documents/MDE13/4052/2016/en/

AMNESTY INTERNATIONAL

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ADDITIONAL INFORMATION

Omid Kokabee had experienced some kidney problems in childhood; he passed a kidney stone when he was seven years old. However, this did not happen again until his imprisonment in 2011, when he passed on average one kidney stone a year. His condition was exacerbated by the poor conditions in Section 7 of Tehran's Evin Prison where he was held. He also suffered from a number of other health problems, including heart palpitations, shortness of breath, pain and pressure in his chest, and "migratory" joint pain (pain that moves to different joints throughout the body). While in prison, he had complained of severe toothache and lost four teeth. He also required tests for his heart palpitations. The authorities failed to provide him with adequate medical care for any of these physical ailments. On 24 April 2016, Iran's judiciary spokesperson Gholamhossein Mohseni Eje'i said: "People in prison can become sick like other people. If the prison has the facilities, the person will be treated in prison, otherwise they will be transferred outside. He [Omid Kokabee] is now in hospital. If the Legal Medicine Organization decides that being in prison will worsen a prisoner's condition, the necessary decision will be made."

Omid Kokabee had been pursuing post-doctoral studies in the USA when he was arrested on 30 January 2011 at Imam Khomeini Airport upon his return to Iran to visit his family. He was held in solitary confinement for 15 months and was subjected to prolonged interrogations, and pressured to make "confessions". In May 2012, after an unfair trial in a Revolutionary Court at which no evidence other than his forced "confessions" was presented against him, Omid Kokabee was sentenced to 10 years in prison for "cooperating with a hostile government". His sentence was later upheld by Branch 36 of the Court of Appeal in Tehran in August 2012.

In October 2014, Branch 36 of the Supreme Court accepted Omid Kokabee's application for retrial (*e'adeh dadresi*). In its judgement, the Supreme Court said that, firstly, "at present, there are no governments that are in a state of hostility towards Iran, and political differences with other states do not constitute hostility." The judgement therefore said that the lower courts' interpretation of having "contact with a hostile government" had been incorrect. Secondly, the Supreme Court said that, as Omid Kokabee had repeatedly stated in his defence, he was not in a position to have access to classified and confidential information which he could pass on to any "hostile government". The Supreme Court judgement continued that "discussions, the exchange of ideas, delivering important academic papers in academic conferences, and receiving honours and awards, or benefits for academic and scholastic achievements is not a crime." Thirdly, the Supreme Court ruled that "in cases where the accused person's statements form the [sole] evidence of the crime, the subsequent retraction of the statements will refute that evidence, unless, however, other evidence and documents exist [pointing] against their denial. This was not the case here." Therefore, the Supreme Court quashed Omid Kobabee's conviction and sentence and returned his case to Branch 54 of the Court of Appeal in Tehran for retrial. In January 2015, the Court of Appeal dismissed the Supreme Court's reasoning and resentenced Omid Kokabee to 10 years' imprisonment.

Iranian authorities regularly deny political prisoners, including prisoners of conscience, adequate medical care – a key human right which under international law and standards must not be adversely affected by imprisonment. Amnesty International's research shows that the denial is often a deliberate act by the judiciary, in particular the Office of the Prosecutor, and/or the prison administration. In some of the cases, there is also evidence that the denial is being used as a means to extract "confessions" from political prisoners or to intimidate or punish them (see *Health taken hostage: Cruel denial of medical care in Iran's prisons*, https://www.amnesty.org/en/documents/mde13/4196/2016/en/).

Name: Omid Kokabee
Gender m/f: m

Further information on UA: 244/14 Index: MDE 13/4755/2016 Issue Date: 5 September 2016