

# IRAN

## Criminal procedures and documents



A joint report by the Norwegian Country of Origin Information Centre (Landinfo), the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) and the State Secretariat for Migration (SEM)

# About the authors

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**The Norwegian Country of Origin Information Centre, Landinfo**, is an independent body within the Norwegian Immigration Authorities. Landinfo provides Country of Origin Information (COI) to the Norwegian Directorate of Immigration (Utlendingsdirektoratet – UDI), the Immigration Appeals Board (Utlendingsnemnda – UNE), the National Police Immigration Service (Politiets utlendingsenhet – PU) and the Norwegian Ministry of Justice and Public Security (Justis- og beredskapsdepartementet). Reports produced by Landinfo are based on information from carefully selected sources. The information is collected and analysed in accordance with common methodology for processing COI and Landinfo’s internal guidelines on source and information analysis. For more information: <https://landinfo.no/>

**The Office of the Commissioner General for Refugees and Stateless Persons (CGRS)** is an independent federal administration and the central asylum authority in Belgium. **Cedoca** is the Country of Origin Information (COI) research unit of the CGRS. Its staff of specialized researchers collect and analyse information on the countries of origin of applicants for international protection and produce COI reports in accordance with the Common EU Guidelines for Processing Country of Origin Information (COI) (2008) and Cedoca’s own internal methodology on source and information analysis. For more information: <https://www.cgra.be>

**Country Analysis** – a service at the Swiss **State Secretariat for Migration (SEM)** – gathers, analyses, and makes current, factual, and impartial information available. Country Analysis also produces a wide range of publications of its own, often in cooperation with its international partners. The expertise of Country Analysis reports by the SEM provides information on general facts, examines the political, economic and human rights situation, and offers an in-depth view on gender-based issues and health care in countries of origin. Country Analysis follows international standards of quality, and findings are documented in keeping with scientific practice. Utmost transparency in reporting is an overriding goal. For more information: <https://www.sem.admin.ch/sem>

# Disclaimer

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This report was written according to the EASO COI Report Methodology (2019). The EASO methodology is largely based on the Common EU Guidelines for processing Country of Origin Information (COI), 2008, and can be downloaded from the EASO website: <https://easo.europa.eu/>.

The report was drafted by COI specialists from COI units of Landinfo, CGRS and SEM. It provides information for the processing of individual applications for international protection and does not contain policy guidelines or opinions and does not pass judgement on the merits of applications for international protection.

The report describes the system of criminal procedures in the Islamic Republic of Iran (IRI), including actors such as the court system and law enforcement agencies, as well as related judicial documents. It aims to cover relevant aspects of these subjects but should not be taken as exhaustive. More information can be found in the section about structure and use of the report in the introduction.

The authors have based the text on information that has been carefully selected with a permanent concern for crosschecking sources. All the sources used are briefly mentioned in a footnote and described in detail in the bibliography at the end of the report. When specific information from this report is used, the user is asked to quote the source mentioned in the bibliography.

The drafting process (including reviewing) for this report was finalised in November 2021. Any event that took place after this period is not included in this report. More information on the reference period for this report can be found in the introduction.

This document can only be published or distributed with the written consent of Landinfo, the CGRS and SEM.

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# Glossary

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<i>āgāhī</i>	cf. <i>polīs-e āgāhī</i>
<i>amāken</i>	cf. <i>polīs-e nazarāt bar amāken-e ‘omūmī</i>
<i>artesh</i>	(Regular) army
<i>bad hejāb</i>	“Improper veiling”; non-compliance with Islamic dress codes
<i>baghy</i>	Rebellion
<i>barg-e ehzār /</i>	<i>barg-e ehzārīyeh</i>
	cf. <i>ehzārīyeh</i>
<i>barg-e jalb</i>	Arrest warrant
<i>barg-e mamnū‘ ol-khorūjī</i>	Travel ban
<i>barg-e tahqīq az mottaham</i>	Investigation document of the accused
<i>bāzdāsht-e movaqqat</i>	Temporary detention
<i>bāzpor / qāzī-ye tahqīq</i>	Investigative judge
<i>bāzporī</i>	Office of the investigative judge
CCP	Code of Criminal Procedure
CIOC	Centre to Investigate Organized Crimes (IRGC)
COI	Country of Origin Information
<i>dādgāh-e badvī</i>	Court of first instance
<i>dādgāh-e atfāl va noujavānān</i>	Children and Juvenile Court
<i>dādgāh-e enqelāb</i>	Revolutionary Court
<i>dādgāh-e keifārī I</i>	Criminal Court One
<i>dādgāh-e keifārī II</i>	Criminal Court Two
<i>dādgāh-e nezāmī</i>	Military Court
<i>dādgāh-e ‘omūmī</i>	General Court
<i>dādgāh-e tajdīd-e nazar</i>	Appeal Court
<i>dādgāh-e tajdīd-e nazar-e ostān</i>	Provincial Court of Appeal
<i>dādgāh-e vīzheh-ye rouhānīyat</i>	Special Clerical Court
<i>dādgostarī</i>	Justice Administration
<i>dādnāmeḥ</i>	cf. <i>hokm</i>
<i>dādrasī-ye elektrōnīk</i>	Electronic trial



<i>dādsarā</i>	Prosecutor's Office
<i>dādsarāy-e 'omūmī va enqelāb</i>	General and Revolutionary Prosecutor's Office
<i>dādsetān</i>	(Public) prosecutor
<i>dādsetān-e koll</i>	Attorney General
<i>dādyār</i>	Assistant prosecutor
<i>dādyārī</i>	Office of the assistant prosecutor
<i>daftar-e dādgostarī</i>	Judicial administration office
<i>daftar-e ejrā-ye ahkām- keifari</i>	cf. <i>vāhed-e ejrā-ye ahkām keifari</i>
<i>daftar-e khadamāt-e elektrōnīk</i>	Electronic services office
<i>dīvān-e 'ālī-ye keshvar</i>	Supreme Court
<i>dīyeh / dīya</i>	Blood money (category of Islamic / IPC punishments)
<i>eblāghīyeh / eblāgh</i>	(Judicial) notice (summons)
<i>eblāgh-e vāqe'ī</i>	(Judicial) summons directly delivered to the accused
<i>eblāgh-e qānūnī</i>	(Judicial) summons indirectly delivered to the accused (left at the door)
<i>eblāgh-e elektrōnikī</i>	Electronic (judicial) notice
<i>edāreh-ye tashkhīs-e hovīyat</i>	Criminal records administration
<i>efsād fe-l-arz</i>	Corruption on earth
<i>ehzārīyeh / barg-e ehzār (-e mottaham)</i>	Summons
<i>ekhtārīyeh / barg-e ekhtārīyeh</i>	Summons
<i>eltezām-e katbī</i>	Written undertaking
<i>ettehām</i>	Accusation
<i>ettelā'āt</i>	cf. <i>vezārat-e ettelā'āt</i>
<i>ettelā'āt-e sepāh</i>	cf. <i>sāzmān-e ettelā'āt-e sepāh-e pāsdārān-e enqelāb-e eslāmī</i>
<i>farmāndehī-ye marzbānī (-ye NAJA)</i>	Border Guard Command (of the Police)
<i>fotoḳopī-ye / rūnevesht-e barābar bā asl</i>	True copy of the original / certified copy
<i>gardesh-kār</i>	History of a (judicial) case
<i>gasht-e ershād</i>	Morality Patrol
<i>gavāhī-ye 'adam-e sū'-pīshīneh</i>	Certificate of the absence of a criminal record

<i>gozāresh-e nīrū-ye entezāmī</i>	Police report
<i>hadd</i> (pl. <i>hodūd</i> )	Fixed corporal punishment(s) (category of Islamic / IPC punishments)
<i>herāsāt</i>	cf. <i>sāzmān-e herāsāt-e koll-e keshvar</i>
<i>hokm / ra’y / dādnāmeḥ</i>	Court verdict
<i>hokm-e ghyābī / ra’y-e ghyābī</i>	Verdict in absentia
<i>hokm-e taftīsh-e manzel / haqq-e taftīsh-e manzel</i>	Judicial search warrant
IPC	Islamic Penal Code
IRGC	Islamic Revolutionary Guard Corps
IRI	Islamic Republic of Iran
<i>jarā’em-e monāfi-ye ‘effat</i>	Crimes against chastity
<i>kafīl</i>	Bondsman
<i>kalāntarī</i>	Police station
<i>kānūn-e vokalā-ye dādgostarī (-ye markaz)</i>	(Central) Iranian Bar Association
<i>kānūn-e moshāverān va vokalā</i>	(National) Association of Legal Advisors and Attorneys
<i>kārshenās-e parvandeḥ</i>	Case expert (security officer)
<i>kārt-e mellī</i>	National (identity) card
<i>keifar-khāst</i>	Bill of Indictment
<i>kefāleh</i>	Surety (bail)
<i>levāt</i>	Sodomy
<i>mafāsed-e akhlāqī</i>	Moral corruptions
<i>ma’mūr-e eblāgh</i>	Service officer / bailiff
<i>markaz-e barrasī-ye jarā’em-e sāzmān-yāfteh</i>	Centre to Investigate Organized Crimes (CIOC – IRGC)
<i>mo’āven-e ejrā-ye ahkām-e keifarī</i>	Deputy (prosecutor) for the implementation of criminal sentences (Prosecutor’s Office)
<i>modda’ī-ye khosūsī</i>	Private claimant
<i>mohārebeh (bā khodā)</i>	Waging war against God (usually: armed resistance)
<i>mosāheqeh</i>	Lesbian sexual relationship
<i>mostashār</i>	Here: associate judge
<i>motaqāzī</i>	Applicant

<i>mottaham</i>	Accused
NAJA	cf. <i>nīrū-ye entezāmī-ye jomhūrī-ye eslāmī-ye Iran</i>
<i>nāmeḥ-ye e'lām-e mahkūmiyat-e qat'ī-ye keifārī</i>	Criminal conviction letter
<i>nīrū-ye entezāmī-ye jomhūrī-ye eslāmī-ye Iran</i> (NAJA)	Law Enforcement Force = Police
<i>nirū-ye vīzheh-ye pād-e vahshat</i> (NOPO)	The Counter-Fray Special Force
<i>ostān</i>	Province
<i>polīs-e ettelā'āt</i>	Intelligence Police
<i>polīs-e ettelā'āt va amniyat-e 'omūmī</i> (PAVA)	Intelligence and Public Security Police
<i>polīs-e fazāy-e toulīd va tabādol-e ettelā'āt</i> (FATA)	Cyberspace Police
<i>polīs-e āgāhī</i>	Criminal Investigation Police (CID)
<i>polīs-e amniyat-e akhlāqī</i>	Moral Security Police
<i>polīs-e gozarnāmeḥ</i>	Passport Police
<i>polīs-e mobārezeh bā mavādd-e mokhadder</i>	Anti-Narcotics Police
<i>polīs-e mohājerat va gozarnāmeḥ</i>	Immigration and Passport Police
<i>polīs-e nazarāt bar amāken-e 'omūmī = amāken</i>	Police in charge of Supervision over Public Facilities and Locations
<i>polīs-e pīshgīrī va 'amalīyāt</i> (PPVA)	The Prevention and Operation Police
<i>polīs-e rāhnamā'ī va rānandegī</i>	Traffic Police
<i>qānun-e ā'in-e dādrasī-ye madanī</i>	Code of Civil Procedure
<i>qānun-e ā'in-e dādrasī-ye keifārī</i>	Code of Criminal Procedure (CCP)
<i>qānūn-e hemāyat-e khānevādeh</i>	Family Protection Law
<i>qānūn-e mojāzāt-e eslāmī</i>	Islamic Penal Code (IPC)
<i>qarār</i>	Decision / warrant / writ
<i>qarār-e bāzdāsht-e movaqqat</i>	Writ of temporary detention
<i>qarār-e jalb / barg-e jalb / hokm-e jalb</i>	Arrest warrant
<i>qarār-e mamnū'iyat-e khorūj az keshvar /</i>	
<i>qarār-e man'-e khorūj</i>	Travel ban
<i>qarār-e qabūlī-ye vasiqeh / kefālat</i>	Writ of bail acceptance
<i>qarār-e ta'mīn</i>	Security guarantee
<i>qarār-e vasiqeh / qarār-e kefāla</i>	Bail (security of surety) order / arrangement
<i>qarārgāh-e defā'-e sāiberī</i>	Cyber Defense Command (IRGC)
<i>qat'-e ozv</i>	Amputation

<i>qavādī</i>	Procuring of prostitution
<i>qazf</i>	False accusation of sexual offences
<i>qāzī</i>	Judge
<i>qāzī-ye ejrā-ye ahkām-e keifari = qāzī-ye zendān</i>	Judge in charge of implementing criminal sentences
<i>qāzī-ye tahqīq</i>	cf. <i>bāzpor</i>
<i>qesās</i>	Retribution / retributive punishment (category of Islamic / IPC punishments)
<i>qovveh-ye qazā'iyeh</i>	Judiciary
<i>ra'īs-e dādgāh</i>	Presiding judge
<i>ra'īs-e qovveh-ye qazā'iyeh</i>	Head of the Judiciary
<i>rasīd</i>	Receipt
<i>ra'y</i>	cf. <i>hokm</i>
<i>sabb-e nabī</i>	Defamation of the prophet
<i>sāmāneh-ye khadamāt-e eletrōnīk-e qazā'ī</i>	Electronic Judicial Services Database (Adliran)
<i>sāzmān-e basīj-e mostaz'afīn</i>	Basij = Organization for Mobilization of the Oppressed
<i>sāzmān-e ettelā'āt-e basīj</i>	Basij Intelligence Organization
<i>sāzmān-e ettelā'āt-e sepāh-e pāsdārān-e enqelāb-e eslāmī = ettelā'āt-e sepāh</i>	IRGC Intelligence Organization
<i>sāzmān-e herāsāt-e koll-e keshvar</i>	Herasat = National Organization of Herasat
<i>sāzmān-e sabbt-e asnād va amlāk-e keshvar</i>	National Organization for the Registration of Documents and Properties
<i>sāzmān-e zendānhā va eqdāmāt-e ta'mīnī va tarbiyatī-ye keshvar</i>	State Prisons Organizations = State Prisons and Security and Corrective Measures Organization
SCC	Special Clerical Court
<i>sepāh-e pāsdārān-e enqelāb-e eslāmī = sepāh</i>	Islamic Revolutionary Guard Corps (IRGC)
<i>sepāh-e qods</i>	Quds Force (IRGC)
<i>setād-e koll-e nīrūhā-ye mosallah</i>	Armed Forces General Command Headquarters
<i>shahrestān</i>	Sub-provincial district
<i>shāki</i>	Complainant
<i>shenāsnāme</i>	Identity (family) booklet

<i>shomāreh-ye eblāghiyeh</i>	Notice / summons number
<i>shomāreh-ye parvandeh</i>	Case number
<i>shomāreh-ye bāygānī</i>	Archive number
<i>shomāreh-ye mellī</i>	National number
<i>shorb-e-khamr</i>	Consumption of alcohol
<i>sūrat-majles</i>	Written record
<i>taftīsh-e manzel</i>	House search (warrant)
<i>tahqīqāt-e moqaddamātī</i>	Initial / preliminary investigation
<i>tajdīd-e nazar khāh</i>	Appellant
<i>tajdīd-e nazar khāsteh</i>	Appellee
<i>tashvīq-e mardom be fahshā va fesād</i>	Encouraging people to depravity and immorality
<i>ta'zīr</i> (pl. <i>ta'zīrāt</i> )	Discretionary punishments (category of Islamic / IPC punishments)
<i>toubeh-nāmeḥ</i>	Repentance vow
<i>vāhed-e ejrā-ye ahkām-e keifari</i>	Unit for the Implementation of Criminal Sentences (Prosecutor's Office)
<i>vajh-e eltezām</i>	Cash guarantee / bond (bail)
<i>vākhāhi</i>	Retrial
<i>vakīl</i>	Lawyer
<i>vakīl-e taskhīrī</i>	Public lawyer
<i>vasīqeh</i>	Security (bail)
<i>vekālat-nāmeḥ</i>	Power of attorney
<i>vezārat-e ettelā'āt</i> (VAJA)	Ministry of Intelligence / formerly: Ministry of Intelligence and Security (MOIS)
<i>yegānhā-ye vīzheh-ye pāsdārān-e NAJA</i> (YEGUP)	Police Special Forces / Police Special Guardian Units
VPN	Virtual Private Network
<i>zābetān-e dādgostari</i>	Bailiffs of the Justice Administration / judicial enforcement officers
<i>zenā</i>	Adultery / fornication

# Introduction

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This report was drafted by Country of Origin Information (COI) specialists from COI units of Landinfo, the CGRS and SEM.

The purpose of this report is to provide relevant information for the assessment of international protection status determination (refugee status and subsidiary protection) in Iranian asylum applications.

## Methodology

This report was drafted in line with the EASO COI Report Methodology (2019)<sup>1</sup> and the EASO COI Writing and Referencing Style Guide (2019).<sup>2</sup>

The terms of reference (ToR) of this report focus on criteria for the assessment of the application of article 15(c) of the Qualification Directive on a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict. The ToR were defined by COI specialists from COI units of Landinfo, CGRS and SEM based on discussions held in November 2020. The ToR can be found in [Annex 3](#) of this report.

The information collected is a result of desk research of public, specialised paper-based and electronic sources up to 30 April 2021. Some additional information was added during the finalisation of this report in response to feedback received during the quality control process, until 15 November 2021.

## Sources

The two main sources on criminal procedures and judicial documents used in this report are two experts, namely Dr. Leila Alikarami and Dr. Mohammad M. Hedayati-Kakhki, who were consulted by email. Each expert filled in a query list that was compiled by COI specialists from COI units of Landinfo, CGRS and SEM. They each responded by email within the reference period of this report.

- Dr. Leila Alikarami is an expert on Iranian law, qualified attorney and a member of Iran's Central Bar Association since 2002. She obtained an LLB in Law from Tehran University, an LMM in Human Rights, Peace and Conflict from the School of Oriental and African Studies (SOAS) University of London and a PhD in Law from SOAS University of London. She has extensive experience as a lawyer and human rights practitioner having worked alongside Nobel Peace Laureate Dr. Shirin Ebadi. In Iran, she was active for two leading Iranian organizations, Society for Protection of the Rights of the Child and Defenders of Human Rights Center, and represented many prisoners of conscience in Iran's Revolutionary Courts. She was an active member of Iran's One Million Signatures campaign. In 2009, she accepted the Reach All Women in War Anna Politkovskaya Award on behalf of the women of Iran and the One Million Signatures campaign. Currently she is Executive Director of Hami Group in London.

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<sup>1</sup> EASO, EASO Country of Origin Information (COI) Report Methodology, June 2019, [url](#)

<sup>2</sup> EASO, Writing and Referencing Guide for EASO Country of Origin Information (COI) Reports, June 2019, [url](#)

- Dr. Mohammad Hedayati-Kakhki is an Iranian Attorney and Lecturer at Durham Law School (UK), sitting on the editorial board for the Manchester Journal of Transnational Islamic Law & Practice (MJTILP). He is also a Board Member of the Centre for Iranian Studies, and the Co-Founder and the Associate Director of the Islam, Law & Modernity (ILM) research group as well as a Special Advisor to the Centre for Criminal Law and Criminal Justice at Durham University. He studied law at Shahid Beheshti University in Tehran, and holds a Master's degree in International Law from the University of Shiraz. He completed his PhD in Politics and Law at Durham University and has continued to teach at this University since 2009. Alongside his academic and research work, Dr. Hedayati-Kakhki continues his legal practice by acting as an Attorney and Legal Consultant on criminal law matters for hearings in the UK and internationally.

The report usually explicitly mentions the relevant articles of law. This is mostly the case for the articles of the Code of Criminal Procedure (CCP) and the Islamic Penal Code (IPC). For each of these, there is an English translation, although only the English version of the IPC is publicly available. In order to save space and avoid redundancy, only a general reference to the English translations of these laws will be given here: Code of Criminal Procedure<sup>3</sup> and Islamic Penal Code.<sup>4</sup> Articles from further laws, or of later amendments to the CCP, which are in Farsi, will be referenced at each occurrence within the text.

## Quality control

This report was reviewed by COI specialists from COI units of Landinfo, Cedoca and SEM. A second review was carried out by Dr. Mohammad Nayyeri. He has studied law up to PhD level in Iran where he specialised in private law and qualified as an Attorney and became a member of the Central Bar Association in Tehran. He also holds a PhD in law from King's College London, a Graduate Diploma in Law (GDL) from the University of Westminster and an LLM in Human Rights from Birkbeck, University of London. He has worked as a visiting lecturer at King's College London and at the London School of Economics (LSE). He has also worked as Senior Associate with the Human Rights in Iran Unit at the University of Essex and advised a number of human rights NGOs. He has also conducted cases and representations before national and international bodies and mechanisms including the UN Working Group on Enforced or Involuntary Disappearances and the UN Committee on the Rights of the Child. Over the past ten years, he has been accepted by various judicial authorities including the UK's First-tier and Upper Tribunals (Immigration and Asylum Chambers) as an independent expert to give opinion on legal issues and conditions in asylum and immigration cases. He has advised lawyers and government officials and provided expert reports and oral testimony to courts in numerous cases in the UK and various other countries such as the US, Canada, Australia, Norway, and Sweden.

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<sup>3</sup> Judiciary – Office for Codification of Laws and Regulations, Code of Criminal Procedure, Translated into English by Mohammad Reza Matin Nejad, 2016

<sup>4</sup> IHRDC, English Translation of Books I & II of the New Islamic Penal Code, 2014, [url](#); IHRDC, Islamic Penal Code of the Islamic Republic of Iran – Book Five, 2013, [url](#)

## Structure and use of the report

The report is divided into five chapters. The first chapter gives a short overview of the most relevant law enforcement agencies and the security forces. The second chapter covers the main actors of the Iranian judiciary. The third chapter describes in detail how a court case is factually processed in Iran. The fourth chapter describes the electronic judicial database Adliran. The final chapter provides information about the rights of defendants in criminal procedures.

The report is not exhaustive in its coverage. It only details the constituents of the Iranian judiciary and law enforcement agencies that are considered to be important and relevant to the topic of criminal procedures. Institutions and elements considered less relevant for the target audience are left out or are only touched upon briefly. Crucially, the report focuses on how the judiciary and law enforcement agencies are supposed to work according to the legal theory in the law. In practice, Iranian courts and law enforcement agencies often disregard the rule of law. It is outside the scope of this report to cover all eventualities where this takes place. The report does provide general examples to indicate where courts and law enforcement agencies deviate in practice from the law; however, these examples do not aspire to be exhaustive. For further information regarding the actual track-record of the various courts and law enforcement agencies, it is recommended to consult the many human rights reports and other relevant literature on the subject.

Civil procedures are not covered in this report.



# 1. Law enforcement forces

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There are a plethora of different security and law enforcement agencies operating within Iran, including the Police, the Ministry of intelligence, the Islamic Revolutionary Guard Corps (IRGC) and the Basij. The most important branches in these agencies involved in law enforcement are detailed further in this chapter.

The investigation of criminal matters is the responsibility of the Public and Revolutionary Prosecutor's Office (*dādsarā-ye 'omūmī va enqelāb*). The duties of the Prosecutor's Office are outlined in [chapter 2.1](#). Law enforcement agencies are not authorized to lead criminal investigations but should instead act on orders from the Prosecutor's office. Only when a crime is discovered by law enforcement agents are they responsible for the immediate investigation and acquisition of evidence (in case of evident crimes, [see chapter 3](#)).<sup>5</sup>

Iran's many security and law enforcement agencies fulfil various tasks. In criminal proceedings, according to article 28 of the Code of Criminal Procedure (CCP), they act as bailiffs of the justice administration or judicial enforcement officers (*zābetān-e dādgostarī*). As such, they must act on the instruction and under the supervision of the judicial authorities (first and foremost the Prosecutor's Office). Article 29 CCP enumerates the specific security and law enforcement agencies whose officers can act as *zābetān-e dādgostarī*.<sup>6</sup>

- General judicial enforcement officers (i.e., the main law enforcement agencies):
  - o Police officers, who must receive relevant training from the judiciary
- Special judicial enforcement officers:
  - o Officials of the Ministry of Intelligence
  - o Officials of the Intelligence Organization of the Revolutionary Guard Corps<sup>7</sup>
  - o Basij officials
  - o Officials of other armed forces
  - o Prisons officials – in matters related to prisoners

Throughout this report, *zābetān-e dādgostarī*, both the general and special, will be referred to as law enforcement officers (or alternatively as their affiliated law enforcement agencies).

Regarding the duties and powers of law enforcement officers, the law distinguishes between evident and non-evident crimes ([see chapter 3](#)). In case of non-evident crimes, law enforcement officers must present the case to the Prosecutor's Office to receive further instructions. In case of evident crimes, law enforcement officers should take all measures necessary to preserve the equipment, instruments, proofs, and evidence of the crime, to prevent the offender from absconding or colluding, and to

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<sup>5</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>6</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>7</sup> This point was added in a later amendment to article 29 of the CCP: Vice Presidency for Legal Affairs, سامانه ملی قوانین و قانون اصلاح قانون آیین دادرسی کیفری [laws and regulations portal of Islamic Republic of Iran], مقررات جمهوری اسلامی ایران [amendment to the Code of Criminal Procedure], 24.03.1394 HS / 14.06-2015, Article 3, [url](#)

perform initial investigations. They are then obliged to immediately inform the Prosecutor's Office.<sup>8</sup> Law enforcement officers may interrogate and detain a suspect up to 24 hours unless judicial permission from the Prosecutor's Office is secured for an extension.<sup>9</sup>

According to judicial experts Alikarami and Hedayati-Kakhki, there is ample evidence that law enforcement agencies in practice often disregard the rule of law and act without orders from the prosecutor's office.<sup>10</sup>

The security establishment in Iran has been constantly adapting to new challenges – such as in particular repeated instances of mass protest – by reorganizing the different security forces, creating new units and new cooperation mechanisms.<sup>11</sup> Today, the various security and law enforcement agencies often undertake similar types of work and have overlapping and parallel responsibilities with respect to criminal investigations. There is no clear (legal) delineation between their responsibilities. The police, as the main law enforcement agency, is responsible for detecting and dealing with all types of ordinary crimes, including drinking alcohol, theft, assault, fraud, bribery, and drug offences. However, in certain crimes there is an overlap between the responsibilities of the police, the Ministry of Intelligence and the IRGC. For example, major cases of fraud and embezzlement or the payment of significant bribes might also fall under the remit of the Ministry of Intelligence or the IRGC Intelligence Organization (due to the potential security risks and damage these crimes may be claimed to cause to the country). Whilst the police are formally tasked with protecting the country's borders, the IRGC similarly deals with border control issues.<sup>12</sup>

The following subchapters describe the various Iranian law enforcement agencies in more detail. The aim is not to give a complete overview of all the various branches within these agencies, but rather to present the most important branches directly involved in law enforcement.

## 1.1. The Police (NAJA)

The Iranian police is officially called the Law Enforcement Force (*nirū-ye entezāmī-ye jomhūrī-ye eslāmī-ye īrān*, commonly referred to by its Farsi acronym NAJA). In its present form, it was created in 1991 through a merger of the police, the gendarmerie, and the revolutionary committees. It is charged with the combined duties of law enforcement, border control, and maintaining public order.<sup>13</sup>

NAJA is under the control of the Interior Ministry, which the Constitution places under the president's purview, but the head of NAJA is appointed by the Supreme Leader.

In each province, there is a police headquarters as well as local police stations. Police stations usually operate with a head of station, one or more deputies, as well as several ordinary officers and soldiers. Each station typically has a deputy responsible for the Prevention and Operation ([see chapter 1.1.1](#)) and a deputy responsible for the Intelligence and Public Security ([see chapter 1.1.2](#)), among other

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<sup>8</sup> Alikarami, L., question list, email, 2 March 2021

<sup>9</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>10</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki M. M., question list, email, 2 March 2021

<sup>11</sup> Golkar, S. Iran's Coercive Apparatus: Capacity and Desire, 5 January 2018, [url](#)

<sup>12</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>13</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

personnel. Approximately half of the police force is comprised of conscript soldiers who are completing their compulsory national military service.<sup>14</sup>

No official statistics on the force size are available. Different estimates place the total number of police personnel between 100 000 and 200 000.<sup>15</sup>

Since 2000, the police has assigned some of its administrative and bureaucratic responsibilities to NAJA-affiliated (semi-)private companies. At least 100 000 people work in NAJA-affiliated organizations, including protection and surveillance companies.<sup>16</sup> One such company, affiliated with NAJA's Ta'avon Foundation, runs the Police Electronic Services Offices (*daftar-e khadamāt-e elektrōnik-e entezāmī*) also known as Police+10 offices. They are responsible for issuing, among others, driving licenses and passports.<sup>17</sup>

NAJA consists of many different branches, the most relevant of which are detailed below. Each branch has different roles and responsibilities and while some operate at the national level, others operate locally. Smaller cities might not always have specialized sub-units.<sup>18</sup>

### 1.1.1. The Prevention and Operation Police (PPVA)

The Prevention and Operation Police (*polīs-e pīshgīrī va 'amaliyāt* – commonly referred to by its Farsi acronym PPVA) is the main branch of NAJA. It is responsible for running all the police stations. It also regulates and controls all protection units created to protect special governmental entities. Another task of the PPVA is crime prevention. To achieve this goal, the PPVA plans and sets up new police stations in urban and rural areas. It also regulates all private policing service companies and the issuing of permits for buying and carrying self-defence weapons.<sup>19</sup>

### 1.1.2. Intelligence and Public Security Police (PAVA)

The Intelligence and Public Security Police (*polīs-e ettelā'āt va amniyat-e 'omūmī* – commonly referred to by its Farsi acronym PAVA) is another branch of NAJA.<sup>20</sup> Among its sub-branches are:

- **The Intelligence Police** (*polīs-e ettelā'āt*) is responsible for gathering intelligence in local communities, including neighbourhoods, workplaces, and worker's unions. It also runs a network of local informers (commonly referred to as *mokhber-e mahallī*) to collect news and information. One example of the activities of the PAVA is to identify and arrest people conducting religious activities considered illegal in Iran.<sup>21</sup>

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<sup>14</sup> Golkar, S. Iran's Coercive Apparatus: Capacity and Desire, 5 January 2018, [url](#), pp. 1-2; Hedayati-Kakhki M. M., question list, email, 2 March 2021

<sup>15</sup> Golkar, S., Iran's Coercive Apparatus: Capacity and Desire, 5 January 2018, [url](#), pp. 1-2; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>16</sup> Golkar, S., Iran's Coercive Apparatus: Capacity and Desire, 5 January 2018, [url](#), p. 2

<sup>17</sup> Golkar, S., The Evolution of Iran's Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 4

<sup>18</sup> Alikarami, L., question list, email, 2 March 2021

<sup>19</sup> Golkar, S., The Evolution of Iran's Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6

<sup>20</sup> Golkar, S., The Evolution of Iran's Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6

<sup>21</sup> Golkar, S. Iran's Coercive Apparatus: Capacity and Desire, 5 January 2018, [url](#), p. 4; Golkar, S., The Evolution of Iran's Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6; Hedayati-Kakhki M. M., question list, email, 2 March 2021

- **The Public Security Police** (*polīs-e amnīyat-e ‘omūmī*) is tasked with identifying and arresting thugs and members of criminal gangs. In recent years, it has also been involved in arresting network marketing groups and breaking up companies involved in pyramid schemes.<sup>22</sup>
- **The Moral Security Police** (*polīs-e amnīyat-e akhlāqī*) was initially only tasked with dealing with women without proper hijabs or men with ‘un-Islamic’ appearances in public places. Its authority was later expanded to include those who do not observe ‘Islamic morals’ more generally. Examples include arresting of prostitution gangs and prostitutes, breaking up party gatherings, and monitoring head covering in public places or cars. **The Morality Patrol** (*gasht-e ershād*) is a sub-unit of the Moral Security Police and consists of both male and female personnel. They are typically stationed with their cars in public places where they monitor and arrest people, especially women deemed to be immodestly dressed, as well as discourage male-female fraternization.<sup>23</sup>
- **The Police in charge of Supervising Public Facilities and Locations** (*polīs-e nazarāt bar amāken-e ‘omūmī* – commonly referred to simply as *amāken* or *polīs-e amāken*) is responsible for regulating and inspecting businesses such as shops, restaurants, and hotels as well as issuing and revoking work permits for people in these businesses.<sup>24</sup> They also monitor behaviour in public places, such as the interaction of people of the opposite sex and the kind of music played in those places.<sup>25</sup>
- Other sub-branches of PAVA are the diplomatic police, and the foreign Nationals and Immigrant’s Affairs Office.

### 1.1.3. Cyber Police (FATA)

The Iranian Cyberspace Police, literally ‘police of the virtual space and information exchange’ (*polīs-e fazā-ye toulīd va tabādol-e ettelā’āt*), commonly referred to by its acronym FATA) was created in 2011. FATA is tasked with combating cybercrimes, such as financial scams and violations of privacy, as well as suppressing any form of online criticism perceived as propaganda against the state (political, religious, or otherwise). It is also involved in monitoring, tracking, intimidating, and arresting online activists, especially bloggers and those active on social media. Its responsibilities also include targeting those who create and sell virtual private network (VPN) accesses.<sup>26</sup> Their responsibilities overlap with those of the Centre to Investigate Organized Crimes (CIOC) of the IRGC ([see chapter 1.3.2](#)). However, while the latter mostly deals with issues related to national security, FATA is also tasked with monitoring morality-related offences in cyber space. They can include videos on social media of girls modelling, dancing or generally not complying with national Islamic dress codes or web sites advertising gambling.<sup>27</sup> FATA has offices in major cities.<sup>28</sup>

<sup>22</sup> Golkar, S., The Evolution of Iran’s Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6

<sup>23</sup> Alikarami, L., question list, email, 2 March 2021; Golkar S., The Evolution of Iran’s Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6.

<sup>24</sup> Golkar, S., The Evolution of Iran’s Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6

<sup>25</sup> Global Security, Iranian Law Enforcement Forces (LAF); Mohammadi, M., Judicial Reform and Reorganization in 20th Century Iran. State-Building, Modernization and Islamicization, January 2007, [url](#)

<sup>26</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Wege, C. A., Iranian Counterintelligence, 2019, p. 284; Golkar, S., The Evolution of Iran’s Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 7

<sup>27</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>28</sup> Alikarami, L., question list, email, 2 March 2021

#### 1.1.4. Specialized Forces

The Special Forces or Special Guardian Units (*yegānhā-ye vīzheh-ye pāsdārān-e NAJA*, commonly referred to by its acronym YEGUP) of the police is a branch consisting of specially trained personnel that act as anti-riot units. There are three main special forces or sub-units, namely Mūsā Ebn Ja'far, Emām Khomeinī and Amīr ol-Mo'menīn.<sup>29</sup>

A further specialized police unit is The Counter-Fray Special Force or Anti-Terror Special Force (*nirū-ye vīzheh-ye pād-e vahshat*, usually referred to by its acronym NOPO). Some sources claim that NOPO stands for The Supreme Leader's Special Guardian Force (*nirū-ye vīzheh-ye pāsdār-e velāyat*), which the Iranian authorities currently deny. Sources provide contradictory information on whether NOPO is part of the above-mentioned Special Forces or whether it is a separate unit. NOPO is considered to be one of the most elite of the Iranian security forces. According to official statements, they deal with terrorism and hostage-taking situations; however, the unit is known to have been used for political suppression and in anti-riot operations.<sup>30</sup>

#### 1.1.5. Other police branches

NAJA also comprises other branches, such as:<sup>31</sup>

- Border Guard Command (*farmāndehī-ye marzbānī*)
- Anti-narcotics police (*polīs-e mobārezeh bā mavādd-e mokhadder*)
- Traffic police (*polīs-e rāhnamā'ī va rānandegī*, often referred to by its Farsi acronym RAHVAR)<sup>32</sup>
- Criminal Investigation Department (*polīs-e āgāhī*). This branch is typically involved in the investigation of crimes in Iran: the detection of crimes, the acquisition and securing of evidence and the arresting of suspects. In this regard, it acts as a bailiff of justice administration, that is a law enforcement agency, on behalf of the Prosecutor's Office<sup>33</sup>

### 1.2. Ministry of Intelligence

The Ministry of Intelligence (*vezārat-e ettelā'āt*, commonly referred to as *ettelā'āt*, by its Farsi acronym VAJA or by its earlier English acronym MOIS), is one of Iran's numerous intelligence organizations, operating both within Iran and abroad. Its specific responsibilities within Iran include monitoring and maintaining internal security, for instance by surveilling Iran's ethnic minorities like the Baluch, Kurd, Azeri and Arab communities, as well as the large number of refugees from Afghanistan living in Iran.<sup>34</sup>

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<sup>29</sup> BBC News, افسانه و واقعیت در مورد عملیات 'نویو' در ایران [Myth and reality regarding the operations of 'NOPO' in Iran] 23 July 2014, [url](#); Parsine, اسم های مخفف در نیروهای مسلح [Acronyms of the armed forces], 5 February 2014, [url](#)

<sup>30</sup> BBC News, افسانه و واقعیت در مورد عملیات 'نویو' در ایران [Myth and reality regarding the operations of 'NOPO' in Iran] 23 July 2014, [url](#); Golkar, S., The Evolution of Iran's Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 3

<sup>31</sup> Golkar, S., The Evolution of Iran's Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6

<sup>32</sup> Golkar, S., The Evolution of Iran's Police forces and Social Control in the Islamic Republic, July 2018, [url](#), p. 6

<sup>33</sup> Mizan News Agency, پلیس آگاهی چیست؟ [What is the Criminal Investigation Police?], 21 January 2020, [url](#)

<sup>34</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

Externally, The Ministry of Intelligence is tasked with neutralizing Iranian expatriate dissident organizations and monitoring the activities of Iranian citizens abroad. There is evidence to suggest that its intelligence agents operate in foreign locations under diplomatic cover.<sup>35</sup>

The Minister of Intelligence is nominally appointed by the President and is part of his cabinet, but with the approval of the Supreme Leader. It is thus more akin to an executive reporting directly to the Supreme Leader.<sup>36</sup>

When conducting criminal investigations, the Ministry of Intelligence nominally reports to the judiciary, mainly to the Prosecutor's Office.<sup>37</sup> However, there is ample evidence to suggest that the ministry often disregards the rule of law and acts without orders from the judiciary. Furthermore, it has a significant influence on judicial proceeding and decisions. In some security-related or political and press-related cases, a member of the security forces who is called a case expert (*kārshenās-e parvande*) typically observes the proceedings. The judge, the prosecutor and the case expert can together create an atmosphere of fear for the accused and his/her lawyer.<sup>38</sup>

The Fifth Development Plan Act (2010-2015) defined the law enforcement responsibilities of the ministry in cases involving major economic corruption and systematic or organized security crimes. The law does not authorize the Ministry of Intelligence to investigate security cases in general, as most of them are not systematic or organized. However, in practice, the ministry acts as a law enforcement agency in more general security and political cases since the judiciary usually assign these cases to intelligence officers and task them with the investigation.<sup>39</sup>

The Ministry of Intelligence operates its own separate network of detention facilities, both formal and informal, outside of the jurisdiction of Iran's state Prison Organization. For example, Ward 209 in Evin prison serves as the main detention centre for the ministry, where individuals are held while initial investigations are ongoing.<sup>40</sup>

### 1.3. Revolutionary Guards (IRGC)

The Islamic Revolutionary Guards Corps (IRGC) (*sepāh-e pāsdārān-e enqelāb-e eslāmī*, commonly referred to as *sepāh* or *pāsdārān*), was founded in the aftermath of the 1979 revolution as an ideological custodian charged with defending the IRI against internal and external threats.<sup>41</sup>

IRGC is both a military combat force, a security service, an intelligence organization, a social and cultural force, and a complex industrial and economic conglomerate.<sup>42</sup> Its influence in all these fields has greatly increased in the last decade. Today it exerts huge influence in every aspect of Iranian public life, from culture and the environment to the economy, politics, and judicial processes.<sup>43</sup>

As a military force it exists in parallel to the regular army (*artesh*). Like all the security forces, it is under the control of the Armed Forces General Command Headquarters (*setād-e koll-e nīrūhā-ye mosallah*),

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<sup>35</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>36</sup> Wege, C.A., *Iranian Counterintelligence*, 2019, p. 273

<sup>37</sup> Alikarami, L., question list, email, 2 March 2021

<sup>38</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki M. M., question list, email, 2 March 2021

<sup>39</sup> Alikarami, L., question list, email, 2 March 2021

<sup>40</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>41</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>42</sup> Ostovar, A., *Vanguard of the Imam. Religion, Politics, and Iran's Revolutionary Guard*, 2016, p. 5

<sup>43</sup> Iranwire, *The IRGC Security and Intelligence Agencies*, 9 April 2019, [url](#)

the highest military establishment in Iran.<sup>44</sup> Whereas the army is responsible for defending Iran's territorial integrity, the IRGC is tasked with both defending Iran's territorial integrity and the safeguard of Iran's theocratic system. Pursuing this broad mission has allowed the IRGC to expand beyond the military sphere and become influential in the political, economic, strategic, and sociocultural arenas.<sup>45</sup> Overall, the IRGC consists of an estimated 130 000 professional officers and 50 000 conscripts drawn mainly from active members of the Basij militia ([see section 1.3.3](#)).<sup>46</sup>

The IRGC's military forces include the IRGC Ground Force, Air Force and Naval Force. In addition, it comprises several unconventional warfare, covert operations, and intelligence forces. They are the Basij, and the IRGC Intelligence Organization, both of which are described further below, and the Quds Force.<sup>47</sup> The Quds Force (*sepāh-e qods* – *qods* referring to Jerusalem) is responsible for all IRGC's foreign covert and military operations. Their primary function is to develop and assist allied armed groups outside of Iran.<sup>48</sup>

The basis for the IRGC involvement in law enforcement is the Statute of the Islamic Revolutionary Guard Corps (*asāsnāmeḥ-ye sepāh-e pāsdārān-e enqelāb-e eslāmī*) from 1982 which defines the duties of the IRGC as follows:<sup>49</sup>

- Article 2: Acting against those who seek to sabotage, or overthrow the IRI, or those who work against the Islamic Revolution
- Article 3: Acting against those who seek to deny the laws of the IRI
- Article 4: Working like other law enforcement officers to disarm persons who carry and maintain weapons and ammunition without a legal authorization
- Article 5: Cooperation with the law enforcement forces when necessary, to restore order, security, and rule of law in the country. Article 5 also defines the Revolutionary Guards as judicial law enforcement officers when carrying out these duties

As a security force, the IRGC is responsible for dealing with all offences relating to the internal and external security of the country. This may include crimes committed by ethnic/religious minority groups, issues relating to border control matters such as smuggling and combating Kurdish Iranian armed groups, as well as managing public disorder and protests. Clearly, many of their responsibilities overlap with those of the Ministry of Intelligence and/or the police.<sup>50</sup>

Inside Iran, the IRGC consists of ten regional headquarters that each command a handful of provincial corps (*sepāh-e ostānī*). They are tasked with defending the regime against major challenges such as warfare and insurgency. The provincial corps are responsible for defending their boundaries and suppressing unrest. This is carried out by security brigades (*sg. yegān-e amniyat*) consisting of IRGC ground forces and Basij units.<sup>51</sup>

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<sup>44</sup> Golkar, S., *Captive Society. The Basij Militia and Social control in Iran*, 2015, p. 31

<sup>45</sup> Ostovar, A., *Vanguard of the Imam. Religion, Politics, and Iran's Revolutionary Guard*, 2016, p. 5

<sup>46</sup> Golkar, S. *The Supreme Leader and the Guard. Civil-Military Relations and Regime Survival in Iran*, 2019, [url](#), p. 3

<sup>47</sup> Banerjee, U., *Revolutionary Intelligence: The Expanding Intelligence Role of the Iranian Revolutionary Guard Corps*, 2015, p. 95; Ostovar, A., *Vanguard of the Imam. Religion, Politics, and Iran's Revolutionary Guard*, 2016, p. 5

<sup>48</sup> Ostovar, A., *Vanguard of the Imam. Religion, Politics, and Iran's Revolutionary Guard*, 2016, pp. 5-6

<sup>49</sup> Alikarami, L., question list, email, 2 March 2021

<sup>50</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>51</sup> Golkar, S., *Iran's Coercive Apparatus: Capacity and Desire*, 2018, [url](#), p. 2

### 1.3.1. Intelligence Organization of the IRGC

Following the protests that erupted after the 2009 election, the Iranian regime reorganized many of its security agencies, including several associated with the IRGC. As part of this reorganization, a new body called the Intelligence Organization of the Islamic Revolutionary Guard Corps (*sāzmān-e ettelā'āt-e sepāh-e pāsdārān-e enqelāb-e eslāmī*) was created, consisting of existing IRGC officers. This organization has parallel security and intelligence responsibilities with the Ministry of Intelligence, occasionally causing conflict where investigations overlap.<sup>52</sup>

The Intelligence Organization of the IRGC is also a law enforcement entity, according to an amendment of Article 29 CCP, adopted by parliament on June 14, 2015.<sup>53</sup> However, its full tasks and boundaries have not been clearly defined in the Constitution or in law. In practice, it is actively involved in the detection and investigation of offences arbitrarily labelled as security crimes, many of which are politically motivated. It focuses on alleged spies and political and security threats. The judiciary works closely with the IRGC intelligence in the field of law enforcement.<sup>54</sup>

The IRGC Intelligence organization operates its own separate network of detention facilities, both formal and informal, which are outside of the jurisdiction of the State Prison Organization. For example, it controls Ward 2A and Section 325 within Evin prison, the Touhid Detention Centre, and Prison 59 (Eshratābad) in Teheran.<sup>55</sup>

### 1.3.2. IRGC Cyber Defense Command

The IRGC Cyber Defense Command (*qarārgāh-e defā'-e sāiberī*) is the cyber intelligence organization of the IRGC. Its tasks include monitoring and prosecuting organized cybercrime, terrorism, espionage, fighting against 'online destruction of cultural and social values', and tracking insults or defamation of revolutionary values. Affiliated with the Cyber Defense Command is the **Centre to Investigate Organized Crimes (CIOC)** (*markaz-e barrasī-ye jarā'em-e sāzmān-yāfteh*). This unit has been involved in various prominent cyber operations.<sup>56</sup>

The responsibilities of the IRGC Cyber Defense Command and the CIOC overlap with those of the Cyber Police (FATA). However, the CIOC mostly deals with issues related to national security, such as online material produced by Kurdish parties or other political movements. The IRGC Cyber Defense Command and the CIOC also deal with people advocating for Christianity on social media, as this is considered a matter of national security. The responsibilities of FATA focus more on common cybercrimes, including 'moral crimes' ([see chapter 1.1.3](#)).<sup>57</sup>

### 1.3.3. Basij

The Organization for the Mobilization of the Oppressed (*sāzmān-e basij-e mostaz'afin*, commonly known simply as the Basij), was established in 1980 as a volunteer para-military mass organization. Currently it is under the command of the IRGC. The regime has encouraged the development of the

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<sup>52</sup> Hedayati-Kakhki M. M., question list, email, 2 March 2021

<sup>53</sup> Iranwire, The IRGC Security and Intelligence Agencies, 9 April 2019, [url](#)

<sup>54</sup> Alikarami, L., question list, email, 2 March 2021

<sup>55</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>56</sup> Iranwire, The IRGC Security and Intelligence Agencies, 9 April 2019, [url](#)

<sup>57</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021



organization as a means of creating an ideologically and religiously orthodox citizenry devoted to the leader of Iran's theocratic system.<sup>58</sup>

There are no reliable data on the number of Basij members, but various estimates point to between 90 000 and 200 000 active personnel, and three to four million regular members. It should be noted that most of the regular members do not take active part in the organization's security-related activities. A regular member typically only needs to complete a compulsory eighteen-hour training.<sup>59</sup>

There are a variety of rules that govern the Basij, including the Judicial Protection Law of the Basij (*qānūn-e hemāyat-e qazā'i-ye basij*) from 1992, the Statute of the Islamic Revolutionary Guard Corps (*asās-nāmeḥ-ye sepāh-e pāsdārān-e enqelāb-e eslāmī*) of 1982, and the Law on the Protection of the Enjoiners of Good and the Forbidders of Wrong (*qānūn-e hemāyat az 'āmerān beh ma'rūf va nāhiyān az monkar*) ratified in 2015.<sup>60</sup>

Today, one of the main tasks of the Basij is riot control and guarding internal security.<sup>61</sup> According to the law, the Basij has certain law enforcement powers. Article 1 of the Judicial Protection Law of the Basij and article 29 of the CCP state that the Basij can act as a law enforcement agency in evident crimes in the absence of other law enforcement agencies. In practice, the Basij also monitors citizens in the streets and in public places.<sup>62</sup> The Basij differs from other Iranian security organizations in that it refuses to take conscripts. It is an organization made up entirely of paid and unpaid volunteers. Members are vetted along political and ideological lines before they can join.<sup>63</sup>

The Basij is organized along bases and districts. The bases are the lowest organizational level. Each district controls ten to fifteen bases. The districts are in turn controlled by IRGC regional branches. Depending on the size, some cities have more than one IRGC regional branch.<sup>64</sup>

Additionally, the Basij pervade all levels of Iranian society through local units affiliated with different governmental and private social organizations and groups. In total, such units exist within 22 such 'social strata'. There are local Basij units in the education system (from schools through university), in governmental departments, factories, professional organizations, mosques, and in media organizations.<sup>65</sup>

The Basij includes several units specialized in security and military tasks, which are composed of active and volunteer members. They regularly become active during demonstrations and riots alongside police and other security forces (IRGC). Worth mentioning are the following units:

- The Imam Ali Security Battalions (*gordān-e emām 'alī*), used in suppression of unrest.<sup>66</sup>

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<sup>58</sup> Alikarami, L., question list, email, 2 March 2021; Banerjea, U., *Revolutionary Intelligence: The Expanding Intelligence Role of the Iranian Revolutionary Guard Corps*, 2015, p. 96; Ostovar, A., *Vanguard of the Imam. Religion, Politics, and Iran's Revolutionary Guard*, 2016, pp. 5-6

<sup>59</sup> Banerjea, U., *Revolutionary Intelligence: The Expanding Intelligence Role of the Iranian Revolutionary Guard Corps*, 2015, p. 96; Golkar, S., *Captive Society. The Basij Militia and Social control in Iran*, pp. 47, 53

<sup>60</sup> Alikarami, L., question list, email, 2 March 2021

<sup>61</sup> Banerjea, U., *Revolutionary Intelligence: The Expanding Intelligence Role of the Iranian Revolutionary Guard Corps*, 2015, p. 96

<sup>62</sup> Alikarami, L., question list, email, 2 March 2021

<sup>63</sup> Ostovar, A., *Vanguard of the Imam. Religion, Politics, and Iran's Revolutionary Guard*, 2016, p. 6

<sup>64</sup> Golkar, S., *Iran's Coercive Apparatus: Capacity and Desire*, 2018, [url](#), p. 2

<sup>65</sup> Iranwire, *The Organization for the Mobilization of the Oppressed*, 10 April 2019, [url](#); Ostovar, A., *Vanguard of the Imam. Religion, Politics, and Iran's Revolutionary Guard*, 2016, p. 5

<sup>66</sup> Iranwire, *Basij Headquarters and Military Organizations*, 10 April 2019, [url](#)

- The Imam Hussein Battalion (*gordān-e emām hossein*), tasked with combatting security threats and foreign invasions.<sup>67</sup>
- Kowsar (or Kousar) Battalion (*gordān-e kousar*), an all-female unit tasked with maintaining safety and security in cities. It also engages in anti-riot operations.<sup>68</sup>
- The Beit al-Moqaddas Battalion (*gordān-e beit ol-moqaddas*), a rapid-reaction battalion in charge of suppressing civil protests and maintaining safety in cities and villages.<sup>69</sup>
- Ashura Battalions (*gordan-e āshūrā*) (all-male) and Al-Zahra Battalions (*gordan-e al-zahrā*) (all-female), responsible for the recruitment of new Basij members among citizens above the age of 15.<sup>70</sup> They were originally also tasked with defending the neighbourhoods in cases of emergencies.<sup>71</sup>

There is also an internal and secret security organization within the Basij called The Intelligence Protection Organization of the Basij (*sāzmān-e hefāzat-e ettelā'āt-e basij*). The head of the organization is appointed by the chief commander of the IRGC. The organization oversees security within the IRGC and reports back to the leaders of the IRGC Intelligence Organization.<sup>72</sup>

### 1.3.4. Other intelligence and security divisions within the IRGC

There are several other intelligence and security divisions within the IRGC. For instance:

- The Protection Organization (*sāzmān-e hefāzat-e sepāh*), responsible for the safety and security of important government buildings, national events, high-ranking officials, diplomats and international guests, and airlines and airports.<sup>73</sup>
- The Intelligence Protection Organization (*sāzmān-e hefāzat-e ettelā'āt-e sepāh*), an internal affairs agency responsible for the security and monitoring of IRGC actions and staff.<sup>74</sup>

## 1.4. Herasat

The Herasat (*herāsat*, literally meaning 'protection') is a monitoring and security body established some years after the revolution. It has branches in all universities, governmental organizations and public entities. In 1992, a law was ratified establishing the duties of the Herasat as follows:<sup>75</sup>

- Observe the implementation of Islamic orders in workplaces and monitor employees
- Monitor and report financial and administrative wrongdoings
- Protect facilities, buildings, and documents

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<sup>67</sup> Iranwire, Basij Headquarters and Military Organizations, 10 April 2019, [url](#)

<sup>68</sup> Iranwire, Basij Headquarters and Military Organizations, 10 April 2019, [url](#)

<sup>69</sup> Golkar, S., *Iran's Coercive Apparatus: Capacity and Desire*, 2018, [url](#), p. 2; Iranwire, Basij Headquarters and Military Organizations, 10 April 2019, [url](#)

<sup>70</sup> Iranwire, Basij Headquarters and Military Organizations, 10 April 2019, [url](#)

<sup>71</sup> USIP, *The Basij Resistance Force*, 2010, [url](#)

<sup>72</sup> Iranwire, *The Organization for the Mobilization of the Oppressed*, 10 April 2019, [url](#)

<sup>73</sup> Iranwire, *The IRGC Security and Intelligence Agencies*, 9 April 2019, [url](#)

<sup>74</sup> Iranwire, *The IRGC Security and Intelligence Agencies*, 9 April 2019, [url](#)

<sup>75</sup> Alikarami, L., question list, email, 2 March 2021

The Herasat also has its own code of conduct and organizational structure outlining its duties.<sup>76</sup>

It acts as the eyes and ears of the political system across the country, aiding the Ministry of Intelligence in its internal security efforts by monitoring individuals, uncovering signs of dissent and breaches of the regime's policies. It may act to suspend or expel individuals from their places of work or study if they are deemed to disregard expected behavioural standards or are suspected of disloyalty to the regime and its policies. It reports its findings to judicial or security and intelligence authorities such as the Ministry and/or takes appropriate action against the individual as is seen fit (e.g. reporting individuals for expulsion from university/workplace, or taking other disciplinary actions).<sup>77</sup>

Legally speaking, the Herasat is not a law enforcement body and has no official collaboration or direct relation with the judiciary. Herasat members are thus not (officially) allowed to interrogate or arrest any person. If they observe any kind of evident crime, they have to report it to the Prosecutor's Office, which then takes the appropriate decision.<sup>78</sup> In practice however, there have been numerous reports of individuals being interrogated, harassed and intimidated by members of the Herasat.<sup>79</sup>

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<sup>76</sup> Alikarami L., question list, email, 2 March 2021

<sup>77</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>78</sup> Alikarami L., question list, email, 2 March 2021

<sup>79</sup> Center for Human Rights in Iran, President Hassan Rouhani, 21 August 2013, [url](#)

## 2. Judiciary

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The Iranian judiciary is a unique system in that it combines Islamic principles and an overall structure inspired by the French system. After the Islamic revolution, the judicial system was greatly altered to incorporate Sharia. However, the new system was built over a pre-existing secular structure, which has created a very complex judicial branch.<sup>80</sup>

The highest judicial authority in Iran is the Head of the Judiciary (*ra'īs-e qovveh-ye qazā'īyeh*). He is appointed by the Supreme Leader for a renewable five-year term from amongst the *mojtaheds*, who possess the highest level of expertise in Shi'a Islamic jurisprudence. The Head of the Judiciary takes all major judicial and administrative decisions pertaining to the judiciary, including the nomination, promotion, and dismissal of judges.<sup>81</sup>

The right to a trial by a competent, independent, and impartial tribunal is reflected in Iran's Constitution and the Code of Criminal Procedure (CCP). However, in practice the independence of the judiciary is seriously undermined or non-existent and remains purely formal.<sup>82</sup>

The Head of the Judiciary in turn appoints the head of the Supreme Court and the Attorney General, with input from the Supreme Court's judges.<sup>83</sup>

### 2.1. Prosecutor's Office

The authority responsible for the preliminary investigation of criminal matters is the General and Revolutionary Prosecutor's Office (*dādsarāy-e 'omūmī va enqelāb*).

In most cases, the Prosecutor's Office (*dādsarā*) is the first judicial office to deal with a criminal case, except for some special cases such as crimes against chastity (*jarā'em-e monāfi-ye 'effat*), that are dealt with directly by the court.<sup>84</sup>

The Attorney General (*dādsetān-e koll*) presides over the Prosecutor's Offices and is nominated by the Head of the Judiciary. The Attorney General can request criminal investigations whenever necessary.<sup>85</sup>

There is a Prosecutor's Office alongside the criminal court system in each court district. The Prosecutor's Office is composed of a prosecutor, investigating judges, assistant prosecutors and administrative staff.<sup>86</sup>

A criminal case will typically land on the desk of either one of the investigating judges or one of the assistant prosecutors in each Prosecutor's Office branch, depending on the type and degree of importance of the case.<sup>87</sup>

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<sup>80</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#); USIP, The Islamic Judiciary, 1 August 2015, [url](#)

<sup>81</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>82</sup> AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), p. 12; IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>83</sup> AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), p. 65

<sup>84</sup> Alikarami, L., question list, email, 2 March 2021

<sup>85</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>86</sup> Alikarami, L., question list, email, 2 March 2021

<sup>87</sup> Alikarami, L., question list, email, 2 March 2021

### 2.1.1. Prosecutor

Each Prosecutor's Office is presided over by a prosecutor (*dādsetān*). The prosecutor is not directly involved in the investigation of individual criminal cases, since this is the task of the investigating judge, or the assistant prosecutor. The prosecutor typically only becomes active once the preliminary investigations have been completed. He then decides in accordance with the investigating judge whether to prosecute an accused or not and, according to article 268 CCP, issues a bill of indictment that he forwards to the competent court.<sup>88</sup>

### 2.1.2. Investigating judge

In the local Prosecutor's Office of each judicial district, several investigating judges work under the supervision of the prosecutor. The investigating judge (*bāzpor*, sometimes also called *qāzī-ye tahqīq*) has a legal status that resembles that of a judge and is often informally referred to simply as judge (*qāzī*) by people participating in proceedings.<sup>89</sup> Once a criminal case is opened, the prosecutor typically delegates the investigation of the crime and apprehension of the suspect to the investigating judge, who then has sole power to conduct the investigations and gather evidence for a trial. These investigating judges lead the investigation, for instance, by specifying questions to ask at the interrogation, attending the crime scene to collect evidence, calling witnesses, and taking statements. They have the right to summon the accused and potential witnesses. They can delegate certain tasks to the law enforcement agencies (such as gathering relevant information and evidence relating to a crime), except in crimes defined by article 302 CCP (punishable by death, life or long imprisonment, amputation). Investigating judges also have the competence to order temporary detention of an accused or to release her/him on bail.<sup>90</sup>

The investigating judge is independent from the prosecutor, but he is part of the Prosecutor's Office and as such, is under the direct supervision of the prosecutor in professional terms. The law further specifies that the prosecutor can supervise the investigations and/or take part in them, but that he cannot interrupt them once they have been handed over to the investigating judge. The prosecutor can also direct the investigating judge to conduct further investigations if he believes that this is needed. Finally, the prosecutor can decide to conduct the preliminary investigations himself in cases of grave offences if there is a shortage of investigating judges in that district.<sup>91</sup>

At the end of the preliminary investigations, according to article 264 CCP, the investigating judge must write a decision summarizing the preliminary findings of guilt. Based on this report, the prosecutor decides whether to prosecute a suspect or not, in accordance with the decision of the investigating judge.<sup>92</sup>

### 2.1.3. Assistant Prosecutor

The assistant prosecutor (*dādyār*) is a judicial officer who acts on behalf of the prosecutor in the investigation of a crime. He only becomes active in exceptional cases, e.g. if there are not enough

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<sup>88</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>89</sup> Alikarami, L., question list, email, 2 March 2021

<sup>90</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021; IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>91</sup> Alikarami, L., question list, email, 2 March 2021; IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>92</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

investigating judges. His role is similar to that of the investigating judge, but according to article 88 CCP all his decisions in relation to a criminal case should be authorized by the prosecutor, whereas the investigating judge acts independently. In case of a dispute between an assistant prosecutor and an investigating judge, the latter has the final say.<sup>93</sup>

#### 2.1.4. Duties of the Prosecutor's Office during the investigation stage

The remit of the Prosecutor's Office is to undertake the pre-trial investigation of an offence. If an accused or a witness is required to attend its office for questioning or to provide statements, it may issue a summons. If a person does not show up for questioning after receiving a summons, it may issue a further summons or an arrest warrant ([see chapter 3](#)).<sup>94</sup>

The Prosecutor's Office also has the power to issue bail or to detain the suspect for the duration of the investigation. At the end of the investigation, if the Prosecutor's Office is satisfied that sufficient information has been gathered to establish the guilt of the suspect and that there are otherwise reasonable prospects of a successful prosecution, it drafts a bill of indictment, addressed to the court and formally charging the accused.<sup>95</sup> The case is then transferred to the relevant criminal court (for further information on the procedure for issuing summonses, arrest warrants, bail and bills of indictment, [see chapter 3](#)).<sup>96</sup>

#### 2.1.5. Duties of the Prosecutor's Office during enforcement of sentences

According to article 484 CCP, prosecutors are also responsible for the enforcement of criminal judgements. The Prosecutor's Office is thus both responsible for conducting preliminary investigations and enforcing judgements.<sup>97</sup>

Once appeal rights have been exhausted and the verdict is considered final, the case is sent to the **Unit of the Implementation of Criminal Sentences** (*vāhed-e ejrā-ye ahkām-e keifari*), which is sometimes also called Office of the Implementation of Criminal Sentences (*daftar-e ejrā-ye ahkām-e keifari*). Each such office is headed by a deputy prosecutor in charge of implementing criminal judgements (*mo'āven-e ejrā-ye ahkām-e keifari*), who is under the supervision of the prosecutor. According to article 485 CCP, the deputy prosecutors in charge of implementing criminal judgements oversee several other officials, such as judges in charge of implementing criminal judgements (sg. *qāzī-ye ejrā-ye ahkām-e keifari*), informally called prison judges (*qāzī-ye zendān*), social workers (sg. *madadkār-e ejtemā'i*), implementation agents (ag. *ma'mūr-e ejrā*) and surveillance agents (sg. *ma'mūr-e morāqebati*).<sup>98</sup> The implementation units typically have specialized sub-units. According to article 488 CCP, there should be a sub-unit responsible for the following:<sup>99</sup>

- Keeping track of the criminal records of the detainees
- Managing amnesty and parole requests from the detainees

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<sup>93</sup> Alikarami, L., question list, email, 2 March 2021

<sup>94</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>95</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>96</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>97</sup> Alikarami, L., question list, email, 2 March 2021

<sup>98</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>99</sup> Alikarami, L., question list, email, 2 March 2021

Often, there is also a specific unit responsible for the implementation of sentences including lashes and amputations.<sup>100</sup> Some of these units are located in prisons or other penal institutions.<sup>101</sup>

## 2.2. The criminal court system

The Iranian judiciary manages a multi-layered court system. There are different courts, each dealing with specific issues.<sup>102</sup> This chapter describes the system of criminal courts, detailing their composition, geographical distribution, and jurisdiction.

Under article 294 CCP criminal courts are divided into:<sup>103</sup>

- Criminal Courts One
- Criminal Courts Two
- Revolutionary Courts
- Juvenile Courts
- Military Courts

Criminal Courts One and Two as well as the Juvenile Courts are so-called General Courts (sg. *dādgāh-e 'omūmī*) with general jurisdiction, whereas the Revolutionary Court (*dādgāh-e enqelāb*) and Military Court (*dādgāh-e nezāmī*) are specialized courts with jurisdiction on particular offences or disputes.<sup>104</sup>

In addition, there is a **Special Clerical Court** (*dādgāh-e vīzheh-ye rouhāniyat*), governed by the Special Courts for Clerics Ordinance (*ā'in nāmeḥ-ye dādsarāhā va dādgāhā-ye vīzheh-ye rouhāniyat*) which was passed in 1990 and amended in 2005. This is the only court that is not under the supervision of the Head of the Judiciary, but directly under that of the Supreme Leader.<sup>105</sup>

The law furthermore provides for a competent court (*dādgāh-e sāleheh*) to adjudicate violations defined by the Press Law of 1986 – so called **Press Courts**. These courts are designed to be part of the general court system and must hold trials in the presence of a jury. During the reformist presidency of Mohammad Khatami, the government promoted the use of these courts. Tehran's general court branch 1410 was such a court.<sup>106</sup> Currently, Criminal Courts One should be used to hear political and press cases which must be held open to the public and in the presence of a jury ([see chapter 2.2.2.](#)). According to Hedayati-Kakhki, however, journalists are mostly tried in Revolutionary Courts nowadays, charged with crimes against national security, propaganda against the state, and/or creating anxiety in the public mind. In Hedayati-Kakhki's opinion, this is a way of avoiding the legal provision which mandates that Press Court trials must be conducted in the presence of a jury. Consequently, Press Courts are currently not used.<sup>107</sup>

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<sup>100</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>101</sup> Alikarami, L., question list, email, 2 March 2021

<sup>102</sup> Alikarami, L., question list, email, 2 March 2021

<sup>103</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>104</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>105</sup> Alikarami, L., question list, email, 2 March 2021; IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>106</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; CPJ, Iran: Press Freedom Fact Sheet, November 2001, [url](#)

<sup>107</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

## 2.2.1. What determines whether a court has jurisdiction?

For a court to adjudicate a crime it must have jurisdiction and appropriate competencies. Courts can only adjudicate cases within their own area of jurisdiction.<sup>108</sup> The following subchapters explain the different criteria that determine whether a court has jurisdiction: (1) the type and seriousness of crime and punishment, (2) the individual qualifications of the defendant, (3) the location of the crime.

### 2.2.1.1. Type and seriousness of crime and punishment

The seriousness and type of a crime and its prescribed punishment determine which court has jurisdiction to hear the case. Article 14 of the Islamic Penal Code (IPC) divides crimes into four categories of punishments according to Sharia: *hadd*, *qesās*, *dīyeh*, and *ta'zīr*.<sup>109</sup>

#### 1. Crimes punished by *hadd* (pl. *hodūd*) punishments

These crimes are covered by book 2 of the IPC (articles 217-288) and are referred to as 'fixed corporal punishments.' *Hadd* punishments include the death penalty, stoning, crucifixion, flogging, amputation (of hand and foot), life imprisonment, and banishment. The type and scope of these punishments are determined by Islamic law, and regarded as being fixed by God, and therefore cannot be commuted or pardoned by a judge.<sup>110</sup>

*Hadd* crimes include fornication/adultery (*zenā*), sodomy (*levāt*), lesbian relationship (*mosāheqeh*), procuring of prostitution (*qavādī*), false accusation of fornication/sodomy (*qazf*), defamation of the Prophet (*sabb-e nabī*), consumption of alcohol (*shorb-e-khamr*), robbery/theft, waging war against god (*mohārebeh bā khodā*), corruption on earth (*efsād fe-l-arz*) and rebellion (*baghy*).<sup>111</sup>

Because of the seriousness of the punishments, and the fact that they are unchangeable, strict evidential and other requirements apply. According to articles 160-213 IPC, such crimes must usually be proved either by testimony of a specified number of eyewitnesses, or by multiple repeated confessions, or by what is called 'knowledge of the judge' (*'elm-e qāzī*). For instance, proving a theft must fulfil more than twenty requirements before a possible imposition of a *hadd* punishment. Some types of theft are, however, regulated according to *ta'zīr* crimes (cf. below).<sup>112</sup>

Iranian activists and dissidents, including members of ethnic and religious minorities, are usually presented with vaguely worded and broad charges drawn from the IPC. The *hadd* crimes of waging war against God (*mohārebeh*) and corruption on earth (*efsād fe-l-arz*) are the most notorious:<sup>113</sup>

- Article 279 of the IPC defines ***mohārebeh*** as follows: 'Taking up arms against the life, assets or honor of the people or with the intent to intimidate them in a way that causes insecurity'. Based on Article 283 IPC, the judge has the discretion of choosing one of the four punishments prescribed in article 282: (a) the death penalty [by hanging], (b) crucifixion, (c) amputation of the right hand and the left foot, (d) banishment.

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<sup>108</sup> Alikarami, L., question list, email, 2 March 2021

<sup>109</sup> Tellenbach, S., Iran, 2011, p. 321

<sup>110</sup> Tellenbach, S., Iran, 2011, pp. 321, 337; FIDH, Iran/death penalty. A state terror policy, April 2009, [url](#), p. 10

<sup>111</sup> Alikarami, L., question list, email, 2 March 2021

<sup>112</sup> Tellenbach, S., Iran, 2011, p. 343

<sup>113</sup> Alikarami, L., question list, email, 2 March 2021



- Article 286 of the IPC defines *efsād fe-l-arz* as follows: ‘Any person, who extensively commits felony against the bodily entity of people, offenses against domestic or international security of the state, spreads lies, disrupts the economic system of the state, commits arson and destruction of properties, distribution of poisonous and bacterial and dangerous materials, and establishment of, or aiding and abetting in, places of corruption and prostitution, [on a scale] that causes severe disruption in the public order of the state and insecurity, or causes harsh damage to the bodily entity of people or public or private properties, or causes distribution of corruption and prostitution on a large scale, shall be considered as *mofsed fel-arz* [corrupt on earth] and shall be sentenced to death.’

## 2. Crimes punished by *qesās* punishments

These crimes are covered by book 3 of the IPC (articles 289-447) and referred to as retributive punishments or what is known as talion. *Qesās* (also Arabic *qisās*) are thus ‘eye for an eye’ punishments. They are based on a principle of Islamic law allowing victims analogous retribution for violent crimes such as homicide or bodily injury – on the condition that the acts were intentional.<sup>114</sup>

Relatives of a victim of homicide (next of kin) and victims of bodily harm can alternatively withdraw their demand for retribution in exchange for financial compensation (*dīyeh*), i.e. blood money (cf. below), and let the perpetrator free. They can even pardon the perpetrator altogether and renounce *dīyeh*. The Iranian legal system considers these crimes to be a matter between private parties. The state’s role is to facilitate the investigation and litigation of these cases, and to make sure subsequent punishments occur in organized forms.<sup>115</sup> However, even if the blood avengers decide to waive their claim for retaliation, the state can impose an additional punishment if it considers the crime to disturb public order and the safety of society, as determined by articles 612 and 614 IPC.

In cases of homicide, it is normally more attractive for the blood avengers to take the blood money. According to figures from Iran Human Rights’ annual report on the death penalty, there were three times as many *dīyeh* cases (or forgiveness) as *qesās* cases in 2020 (662 cases of forgiveness/*dīyeh* compared to 211 executions for homicide). In the case of bodily injury, retaliation is rare.<sup>116</sup>

## 3. Crimes punished by *dīyeh* (pl. *dīyāt*) punishments

These crimes are covered by book 4 of the IPC (article 448-728). *Dīyeh* punishments are also called blood money, and it is a financial compensation payable to the victim or the next of kin (heirs of a victim with the exception of spouse) in cases of:<sup>117</sup>

- Unintentional homicide and bodily harm
- Intentional homicide and bodily harm when the blood avengers waive their claim to retaliation (*qesās*)
- Intentional bodily harm where no retribution is allowed or feasible

<sup>114</sup> Time, An Eye for an Eye: Iran's Blinding Justice System, 15 May 2011, [url](#)

<sup>115</sup> FIDH 2009, Iran/death penalty. A state terror policy, April 2009, [url](#), pp. 14-15; Time, An Eye for an Eye: Iran's Blinding Justice System, 15 May 2011, [url](#); Tellenbach, S., Iran, 2011, p. 321, 339

<sup>116</sup> Tellenbach, S., Iran, 2011, p. 338; IHR & ECPM, Annual Report on the Death Penalty in Iran 2020, 30 March 2021, [url](#), pp. 12-13

<sup>117</sup> Tellenbach, S., Iran, 2011, p. 337; IPC 2013, article 448

*Dīyeh* punishments are determined by Islamic law, and like *hadd* punishments they are unchangeable.<sup>118</sup>

Article 549 IPC authorizes the judiciary to set blood money according to the interpretation of centuries old Shia Islamic laws by the Supreme Leader.<sup>119</sup> Each year, the judiciary sets the amount of a full *dīyeh* – i.e. the rate of one man’s life – according to the market price of 100 camels, 100 cows, or 1000 sheep. Punishments are either set as a full *dīyeh* (for homicide) or portions of a full *dīyeh* (e.g., one half for the homicide of a woman,<sup>120</sup> or other percentages for bodily harm).

#### 4. Crimes punished by *ta’zīr* (pl. *ta’zīrāt*) and deterrent punishments

These crimes are covered by book 5<sup>121</sup> of the IPC (articles 498-728). *Ta’zīr* punishments are referred to as ‘discretionary punishments’, while deterrent punishments (*mojāzāt-e bāzdārandeh*) are state regulations to maintain public order. Whereas *hadd*, *qesās* and *dīyeh* are derived from and defined by Islamic law, *ta’zīr* and deterrent punishments are derived from state law, and will only be applied for crimes which do not fall into the categories of *hadd*, *qesās* or *dīyeh*.<sup>122</sup>

Crimes within this category include:

- Crimes against the internal and external security of the state (articles 498-512 and 610-611), for instance:
  - o Article 498: Establishing a group to disrupt national security
  - o Article 499: Membership in a group with the purpose of disrupting national security, or insulting Iranian ethnicities, divine religions or Islamic schools of thought recognised under the Constitution with the intent to cause violence or tensions, or with the knowledge that such consequences will follow<sup>123</sup>
  - o Article 500: Spreading propaganda against the system, or conducting any deviant educational or proselytising activity that contradicts or interferes with the sacred law of Islam<sup>124</sup>
  - o Article 610: Gathering and colluding to commit crimes against national security
- Insulting sacred religious values and attempts on the life of authorities (articles 513-515)
  - o Article 513: Insulting Islamic sanctities
  - o Article 514: Insulting the Supreme Leader
- Forgery and falsification (articles 523-542)
- Offences against public morals and decency (articles 637-641), for instance:

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<sup>118</sup> Alikarami, L., question list, email, 2 March 2021

<sup>119</sup> CHRI, How Many Camels is One Human Life Worth? Attorney Calls For Reform in Iran’s “Blood Money” Scheme, 14 December 2014, [url](#)

<sup>120</sup> According to article 550 IPC, a woman's life is only worth half as much as a man’s life.

<sup>121</sup> Although the Penal Code was amended in 2013, Book 5 was not subject to revision. Therefore, it remains unchanged from the previous version. Due to the amended version of books 1-4, there are now articles in book 4 and book 5, which have the same article number (but different content).


<sup>122</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>123</sup> Article 19, Iran: Parliament passes law to further choke freedoms and target minorities, 19 February 2021, [url](#)

<sup>124</sup> Article 19, Iran: Parliament passes law to further choke freedoms and target minorities, 19 February 2021, [url](#)

- Article 637: Illicit relationship between a man and a woman such as touching and kissing
- Article 638: Un-Islamic dress code (*bad hejāb*)
- Article 639: Encouraging people to depravity and immorality
- Theft and stealing of others' property (articles 651-667)
- Public consumption of alcoholic drinks, gambling, and vagrancy (articles 701-713)

*Ta'zīr* punishments are imposed at the judge's discretion (based on codified law) in respect of their type and extent. Since 2013 and under the current IPC, they are divided into eight degrees (see box below), where the first degree is the harshest and the eighth is the most lenient.<sup>125</sup>

 <b>Ta'zīr punishments</b> <sup>126</sup>	
<p><b>First degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment for over twenty-five years</li> <li>○ Fine of more than one billion IRR</li> <li>○ Confiscation of whole assets</li> <li>○ Dissolution of the legal person</li> </ul> <p><b>Second degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment from fifteen to twenty-five years</li> <li>○ Fine from 550 million to one billion IRR</li> </ul> <p><b>Third degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment from ten to fifteen years</li> <li>○ Fine from 360 million to 550 million IRR</li> </ul> <p><b>Fourth degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment from five to ten years</li> <li>○ Fine from 180 million to 360 million IRR</li> </ul> <p><b>Fifth degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment from two to five years</li> <li>○ Fine from 80 million to 180 million IRR</li> <li>○ Deprivation from social rights (as determined by article 26 IPC) from five to fifteen years</li> <li>○ Permanent ban from one or more professional or social activity (activities) for legal persons</li> <li>○ Permanent ban from public invitation to increase the capital for legal persons</li> </ul>	<p><b>Sixth degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment from six months to two years</li> <li>○ Fine from 20 million to 80 million IRR</li> <li>○ Flogging from 31 to 74 lashes and up to 99 lashes in crimes against chastity</li> <li>○ Deprivation from social rights from six months to five years</li> <li>○ Publication of the final judgement in the media</li> <li>○ Ban from one or more professional or social activity (activities) for legal persons for up to five years</li> <li>○ Ban from public invitation to increase the capital for legal persons for up to five years</li> <li>○ Ban from drawing some commercial bills by legal persons for up to five years</li> </ul> <p><b>Seventh degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment from 91 days to six months</li> <li>○ Fine from 10 million to 20 million IRR</li> <li>○ Flogging from eleven to thirty lashes</li> <li>○ Deprivation from social rights (as determined by article 26 IPC) up to six months</li> </ul> <p><b>Eight degree</b></p> <ul style="list-style-type: none"> <li>○ Imprisonment up to three months</li> <li>○ Fine up to 10 million IRR</li> <li>○ Flogging up to ten lashes</li> </ul>

<sup>125</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021

<sup>126</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021

### 2.2.1.2. Individual qualifications of the defendant

Individual qualifications of the defendant, such as his/her age and occupation, also determine the jurisdiction of Iranian courts. There are Juvenile Courts dealing with offenders under the age of 18 ([see chapter 2.2.5](#)), Military Courts adjudicating crimes committed by members of the armed forces while performing their military duties ([see chapter 2.2.6](#)), and Special Clerical Courts (SCC) for members of the clergy ([see chapter 2.2.7](#)).<sup>127</sup>

Articles 307 and 308 CCP stipulate that charges against defendants holding public positions will be investigated by Criminal Courts, unless another body has jurisdiction to address such charges in accordance with other special laws. The CCP distinguishes between different ranks of government officials:

- Criminal Courts of Tehran have jurisdiction in crimes committed by the highest-ranking government officials and civil servants (article 307 CCP).
- Criminal Courts of the provinces where the crime was committed have jurisdiction in crimes committed by lower-ranking individuals (article 308 CCP).

A note to article 307 CCP stipulates that the article is applicable to individuals holding judicial offices and military and police officers if they are serving in the judiciary or armed forces. A second note explicitly states that the charges against the military and police officers mentioned in the article, which are under the jurisdiction of the Judicial Organization of the Armed Forces, will be handled by the Tehran Military Court One or Two (see further explanations in [chapter 2.2.6](#)).

The jurisdiction of crimes committed by clerics holding public positions is less clear. Generally, however, the Special Clerical Court (SCC) is responsible for all legal matters involving clerics. Minor civil or criminal matters involving clerics could be treated by other courts, but the SCC (or its prosecutor) have the right to adjudicate all cases they want involving clerics.<sup>128</sup>

### 2.2.1.3. Location of the crime

Courts have a prescribed geographical jurisdiction, which means that the location of the crime determines which courts have jurisdiction to adjudicate the case. Article 310 CCP stipulates that a defendant shall be tried by the court within whose jurisdiction the offence was committed.



#### **Are there any official lists of criminal courts and their geographical distribution?**

The judiciary does not provide a comprehensive list of courts or other judicial bodies to the public. Internally, however, such lists probably do exist. The same applies to the names of judges, in order to ensure the personal safety of judges and their families.<sup>129</sup> Nevertheless, there are a number of unofficial websites listing the court types and their branch numbers, as well as other judicial bodies in the various provinces and cities of Iran. Such lists are usually

<sup>127</sup> Alikarami, L., email, 13 October 2021

<sup>128</sup> Alikarami, L., email, 13 October 2021; IHRDC, *The Iranian Judiciary: A Complex and Dysfunctional System*, 12 October 2016, [url](#)

<sup>129</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki M. M., question list, email, 2 March 2021

compiled and published by Iranian lawyers practicing in a particular province and are limited to the Farsi language.<sup>130</sup>

Here are some examples:<sup>131</sup>

- This [law blog](#) provides a comprehensive updated list of both civil and criminal courts/Prosecutors' Offices in the jurisdiction of Tehran province. Similar sources for other provinces are available within the public domain.
- This [website](#) lists the various types of courts and other judicial bodies, including the relevant branch numbers, for Mashhad (capital city of Khorasan Razavi province).
- This [website](#) lists the addresses of the different offices of the Tehran General and Revolutionary Prosecutor's Office.

#### 2.2.1.4. Jurisdiction of crimes committed abroad (double jeopardy)

If an Iranian commits a crime outside Iran, she/he may still be prosecuted by Iranian courts. Since the passing of the New Islamic Penal Code (IPC) in 2013, Iranian law acknowledges the principle of double jeopardy (*ne bis in idem*). This principle contains that a person who has been convicted to a sentence in a certain country and has served his sentence there, cannot be prosecuted for the same crime in another country.<sup>132</sup> However, the acknowledgment of the principle of double jeopardy is bound to specific conditions in Iran. Certain crimes committed abroad can thus still be prosecuted in Iran, especially crimes that are only considered crimes in Iran. The relevant provisions in this regard are contained in articles 5-9 IPC, in particular in articles 5 and 7.<sup>133</sup>

Article 7 IPC maintains that an Iranian, who committed a crime abroad and is arrested inside Iran or extradited to Iran, can be prosecuted in Iran if the following conditions are met:

- If the crime is deemed an offence according to the law of the IRI
- Only related to ***ta'zīr* crimes**: If the defendant has not already been tried (and convicted or acquitted) abroad and served (the whole or part of her/his sentence) abroad
- If according to Iranian law, there are no provisions for the removal or the discontinuation of the prosecution or the sentence

Article 5 IPC maintains that certain *ta'zīr* crimes might still be prosecuted in Iran, even if the defendant already has been prosecuted and served the sentence abroad. The relevant *ta'zīr* crimes here are related to the state security, namely:

- "[Acts] against the regime, and the internal and external security, and territorial integrity or the independence of the IRI"
- Various acts of forgery or counterfeiting of documents, stamps, or money

Accordingly, in theory at least, *ta'zīr* crimes related to state security as well as the other categories of the IPC, mainly *hadd*, *qesās* and *dīyeh* crimes can be prosecuted in Iran, even if the defendant has

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<sup>130</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>131</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>132</sup> UK Home Office, Iran: fear of punishment for crimes committed in other countries, January 2018, [url](#), p. 7

<sup>133</sup> Generally on this topic, see the following report: UK Home Office, Iran: fear of punishment for crimes committed in other countries, January 2018, [url](#)

already been convicted and served his sentence abroad.<sup>134</sup> The last three categories include crimes like fornication / adultery, ‘sodomy’, drinking alcohol, defamation (*qazf*) or crimes against the bodily integrity of a person (homicide and injury) ([see chapter 2.2.1.1](#)).

**In practice**, however, according to various experts, Iranian courts rarely prosecute and sentence a defendant who committed a crime abroad, depending on the specific category of crime:

- *Ta’zīr* crimes related to state security: Iranian courts in practice still can prosecute crimes they deem to be against the internal or external security of the IRI, irrespective of whether they have been prosecuted abroad. The Prosecutor’s Office (or security forces) typically would take the initiative here.<sup>135</sup>
- *Ta’zīr* crimes not related to state security: Iranian courts in practice only prosecute crimes when the defendants have not been prosecuted abroad or if they have not or only partly served their sentence abroad. In the latter case, the Iranian courts would initiate a new trial since the Iranian state is not able (and willing) to execute sentences of foreign jurisdictions. In practice, however, no such cases seem to have been reported in recent years.<sup>136</sup>
- *Hadd*, *qesās* and *dīyeh* crimes: Iranian courts in practice very rarely prosecute these crimes if committed abroad. This is due to the fact that generally, a private claimant has to initiate criminal proceedings in such crimes. While a few cases of defendants of such crimes (committed abroad) have been prosecuted in Iran during the last years, the Iranian courts typically refrain from adjudicating such cases, at times even actively discouraging complainants from continuing the case in court.<sup>137</sup>

If a case of double jeopardy is prosecuted in Iran, the case will be examined by the relevant court of the place where the person was arrested, as stipulated by article 316 CCP.<sup>138</sup>

#### 2.2.1.5. Adjudication of multiple crimes committed in different jurisdictions

Article 310 CCP stipulates that if a person is accused of multiple crimes committed in different locations, she/he will go on trial at the court where the most serious crime took place. If the crimes all carry the same degree of punishment, the court with jurisdiction over the location where the perpetrator has been arrested will process the case.<sup>139</sup>

If a person is accused of multiple crimes, some of which should be tried in a general court and some of which should be tried in a Revolutionary or Military Court, article 310 CCP stipulates that the accused will first go on trial at the court that has jurisdiction over the most serious crime. The accused will then proceed to the other competent courts for adjudication of the rest of the crimes. In cases where the accusations warrant the same degree of punishment, the accused will go on trial at the Revolutionary, Military, Criminal Court One, or Criminal Court Two in that order. A note to article 310 CCP further stipulates that if the accused is charged with multiple crimes, some of which should be

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<sup>134</sup> UK Home Office, Iran: fear of punishment for crimes committed in other countries, January 2018, [url](#), p. 13

<sup>135</sup> UK Home Office, Iran: fear of punishment for crimes committed in other countries, January 2018, [url](#), p. 13f.

<sup>136</sup> UK Home Office, Iran: fear of punishment for crimes committed in other countries, January 2018, [url](#), pp. 12-14

<sup>137</sup> UK Home Office, Iran: fear of punishment for crimes committed in other countries, January 2018, [url](#), p. 14f.

<sup>138</sup> Alikarami, L., question list, email, 2 March 2021

<sup>139</sup> Alikarami, L., question list, email, 2 March 2021

tried in Criminal Courts One and some of which should be tried in Criminal Courts Two or the Juvenile Court, the accused will be tried in Criminal Court One for all his alleged crimes.<sup>140</sup>

### 2.2.2 Criminal Court One

Criminal courts within the general court system are divided into Criminal Courts One (*dādgāh-e keifārī I*) and Criminal Courts Two (*dādgāh-e keifārī II*). Criminal Courts One are established in the capital cities of each of Iran's 31 provinces. They may also be set up in smaller cities/counties if deemed necessary by the Head of the Judiciary. Criminal Courts One have replaced the Provincial Criminal Courts.<sup>141</sup>

Criminal Courts One are composed of a presiding judge and two associate judges (sg. *mostashār*). However, according to an amendment passed in June 2015, they can also hold trials with only two judges present.<sup>142</sup>

#### Jurisdiction

Criminal Courts One deal with more serious crimes than Criminal Courts Two. According to article 302 CCP, the following crimes come under their jurisdiction:<sup>143</sup>

- Crimes punishable by death, specifically homicide, rape, and sexual assault<sup>144</sup>
- Crimes punishable by life imprisonment
- Crimes punishable by amputation or cases of intentional physical assault punishable by payment of half or more of a full *dīyeh*
- Crimes punishable by *ta'zīr* punishments of degrees I-IV
- Political and press crimes

According to article 305 CCP, cases involving political and press crimes should be held in open hearings and be conducted in the presence of a jury. However, the court usually disregards this particular regulation, often on the basis of national security concerns and the need to maintain confidentiality in such cases.<sup>145</sup> Political and press crimes are often labelled security offences, and are hence heard by Revolutionary Courts ([see chapters 2.2 and 2.2.4](#)).

### 2.2.3. Criminal Court Two

Criminal Courts Two are set up in each sub-provincial judicial district (*shahrestān*). These courts are composed of one chief judge or a substitute judge.<sup>146</sup>

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<sup>140</sup> Alikarami, L., question list, email, 2 March 2021

<sup>141</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>142</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>143</sup> Alikarami, L., question list, email, 2 March 2021, Hedayati-Kakhki M. M., question list, email, 2 March 2021

<sup>144</sup> IHR & ECPM, Annual Report on the Death Penalty in Iran 2020, 30 March 2021, [url](#), p. 33

<sup>145</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>146</sup> Alikarami, L., question list, email, 2 March 2021

## Jurisdiction

Criminal Courts Two have general jurisdiction over all criminal offences that are not within the specific jurisdiction of another (criminal) court (Criminal Court One, Juvenile Court, Revolutionary Court).<sup>147</sup> This includes *ta'zīr* offences of degrees V to VIII.

More specifically, the jurisdiction of Criminal Court Two includes but is not limited to:<sup>148</sup>

- All morality offences (except adultery committed by married couples, which carries the death penalty), for instance
  - o cases relating to dress code violations – e.g., not wearing/improperly wearing the hijab (commonly referred to as *bad-hejāb* in Farsi), inappropriate tattoos/hairstyles/clothing, etc.
  - o sexual offences that fall short of adultery/rape
  - o charges relating to homosexual acts if they only comprise non-penetrative acts
- Assault and battery not resulting in death or serious injury (which fall within the jurisdiction of Criminal Courts One)
- Defamation (except for *hadd* crimes of false accusation of fornication and defamation of the Prophet)
- *Ta'zīr* crimes of theft, breach of trust, fraud and misrepresentation, forgery, and crimes against public order falling outside the scope of Criminal Courts One

The appropriate appellate authority for Criminal Court Two is the Appeal Court of the relevant province. Decisions of the Appeal Court can in turn be appealed to the Supreme Court under certain conditions.<sup>149</sup>

Under Article 299 of the CCP, the Head of the Judiciary may choose to establish general County Courts (sg. *dādgāh-e 'omūmī-ye bakhsh*) instead of Criminal Courts Two in some regions. These are less specialized courts, dealing with all kinds of smaller crimes, sometimes only composed of one judge and one secretary. More serious cases are sent to larger cities.<sup>150</sup>

### 2.2.4. Revolutionary Court

The Revolutionary Courts (sg. *dādgāh-e enqelāb*) were established after the revolution in 1979. They adjudicate offences viewed as potentially threatening to the IRI, such as security-related and political cases.<sup>151</sup> These courts were initially meant to be temporary, to try officials and sympathizers of the Pahlavi monarchy.<sup>152</sup> Both the Revolutionary Courts and the Special Clerical Court are based on decrees by Ayatollah Khomeini and are not incorporated into the constitutional clauses defining the role and structure of the judiciary.<sup>153</sup>

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<sup>147</sup> Alikarami, L., question list, email, 2 March 2021

<sup>148</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021

<sup>149</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; IHRDC, *The Iranian Judiciary: A Complex and Dysfunctional System*, 12 October 2016, [url](#)

<sup>150</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>151</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>152</sup> IHRDC, *The Iranian Judiciary: A Complex and Dysfunctional System*, 12 October 2016, [url](#)

<sup>153</sup> USIP, *The Islamic Judiciary*, 1 August 2015, [url](#)



Revolutionary Courts are situated in the capital of each province and – at the discretion of the Head of the Judiciary – in sub-provincial judicial districts (*shahrestān*). If there is no branch of the Revolutionary Court in a city (usually smaller cities), the criminal file is sent to the Revolutionary Court in the nearest city.<sup>154</sup>

Like Criminal Courts One, Revolutionary Courts are composed of a chief judge and two associate judges (sg. *mostashār*). However, following an amendment passed in June 2015 (article 297 CCP), Revolutionary Courts can now hold trials with only two judges.<sup>155</sup>

Revolutionary Courts are renowned for their disregard of procedural law. Violations of the right to fair trial and due process are systemic. Sources claim these courts operate in association with the Islamic Revolutionary Guard Corps (IRGC) and the Ministry of Intelligence.<sup>156</sup>

## Jurisdiction

The following types of crimes fall under the jurisdiction of Revolutionary Courts:<sup>157</sup>

- All offences against the internal and external security of the country, including waging war against God (*mohārebeh*) and corruption on earth (*efsād fe-l-arz*)
- Slander against the founder of the IRI and the Supreme Leader
- Conspiracy against the IRI, carrying arms, resorting to terrorism or destruction of buildings in order to undermine the IRI's system
- Engaging in espionage for aliens (foreigners)
- Drugs smuggling/trafficking

In accordance with specific laws, Revolutionary Courts further adjudicate:<sup>158</sup>

- Financial crimes that harm the stability and economy of the country (such as forging currency)
- Trafficking goods or counterfeiting
- Economic crimes that disrupt the production system of the country by the unauthorized sale of goods or arms
- Smuggling of cultural heritage or national wealth abroad
- Illegal counterfeiting of audio-visual work
- Crimes pertaining to the public and private health institutions of the country
- Disputes relating to article 49 of the Constitution, which provides for the seizure and expropriation of illegally acquired assets

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<sup>154</sup> Alikarami, L., question list, email, 2 March 2021

<sup>155</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021

<sup>156</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; USDOS, Country Report on Human Rights Practices – Iran, 30 March 2021, [url](#), p. 3; Immigration and Refugee Board of Canada, Iran: The Revolutionary Court system, including procedures and documents issued by the courts (2017-March 2020) [IRN200132.E], 12 March 2020, [url](#)

<sup>157</sup> Alikarami, L., question list, email 2 March 2021, Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>158</sup> Alikarami, L., question list, email, 2 March 2021; IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

In some jurisdictions (larger cities), the various branches of the Revolutionary Courts are to some extent specialized in specific types of crimes. For example, some branches are specialized in national security offences, whilst others will be allocated financial corruption cases or narcotic offences.<sup>159</sup>



### Is there an overlap between Revolutionary Courts and Criminal Courts One?

As pointed out by Iran Human Rights Documentation Center (IHRDC), the vague wording of some of the crimes adjudicated in Revolutionary Courts allow these courts a wide jurisdiction. Consequently, there is frequent overlap with the jurisdiction of Criminal Courts One, particularly regarding political crimes, which are supposed to be adjudicated in Criminal Courts One. According to IHRDC, any political crime can be categorized as a crime against the internal and external security of the country, or corruption on earth, and hence could fall under the jurisdiction of Revolutionary Courts.<sup>160</sup>

Of the charges punishable by death, homicide and rape fall within the jurisdiction of Criminal Courts One, while drug-related crimes and the security charges of *mohārebeh*, *efsād fe-l-arz* and *baghy* fall within the jurisdiction of the Revolutionary Courts.<sup>161</sup>

#### 2.2.5. Juvenile Court

As stipulated by article 298 of the CCP, each sub-provincial judicial district (*shahrestān*) should hold at least one branch serving as a Children and Juvenile Court (*dādgāh-e atfāl va noujavānān*). Until Juvenile Courts are established, disputes that are within the jurisdiction of such courts will be adjudicated in Criminal Courts Two.<sup>162</sup> However, based on article 315 of the CCP, in cases where a juvenile commits a crime that comes under the jurisdiction of Criminal Court One or the Revolutionary Court, a special juvenile division within Criminal Court One shall hear the case. In such cases, the juvenile defendant shall benefit from all privileges pertaining to Juvenile Courts.<sup>163</sup>

Juvenile Courts are administered by one judge and two advisors (sg. *moshāver*) experienced in either psychology, criminology, social work, or education. Advisors are appointed for a period of two years. If the accused is a girl, at least one of the advisors must be a woman.<sup>164</sup>

Judges in Juvenile Courts must have a minimum of five years of legal experience and must have undergone specific training.<sup>165</sup> Other criteria such as their marital status, age, and whether they are parents themselves will be assessed in determining their eligibility for the position.<sup>166</sup>

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<sup>159</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>160</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>161</sup> IHR & ECPM, Annual Report on the Death Penalty in Iran 2020, 30 March 2021, [url](#), p. 33

<sup>162</sup> Alikarami, L., question list, email, 2 March 2021

<sup>163</sup> Alikarami, L., question list, email, 2 March 2021

<sup>164</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>165</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>166</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

## Jurisdiction

Juvenile Courts have jurisdiction over cases where the offender is under the age of 18. The age at which offenders are held criminally liable is 9 lunar years for girls and 15 lunar years for boys – the age of maturity according to Islamic law.<sup>167</sup>

Juvenile Courts retain jurisdiction over juvenile cases even when the accused person reaches the age of 18 during the course of proceedings. However, should the accused reach the age of 18 prior to the commencement of the trial, the Juvenile Courts will no longer hold jurisdiction and the case will proceed to the appropriate adult criminal court. Nevertheless, the defendant retains the benefits from the privileges of trials in Juvenile Courts in accordance with article 304 CCP.<sup>168</sup>

The appellate authority for judgements issued by the Juvenile Court is a special branch within the provincial Appeals Court.<sup>169</sup>



### Can an adult be convicted in a Juvenile Court?

Adults can be convicted in Juvenile Courts if the crime was committed when they were under the age of 18 and the trial commenced prior to their 18th birthday.<sup>170</sup> Furthermore, if a crime is committed by several individuals, both juveniles and adults, the Juvenile Court deals with the case of the adult(s) as well, provided that the contribution of each individual is equally important for the crime committed. If the individuals have different roles and contributions in the criminal act, the Juvenile Court only deals with people under the age of 18.<sup>171</sup>



### Conversely, can a minor be convicted by a general court?

Generally, it would be contrary to Iranian procedural law for a minor to be tried and convicted in an adult court. However, there are circumstances where the age of the minor at the time of their offence is disputed by the public prosecutor. In such a situation, it is possible that the accused (claiming to be a minor) may be tried in an adult court.<sup>172</sup>

Moreover, trials at the Revolutionary Courts are renowned for their disregard of procedural law. Thus, if a minor commits an offence related to national security and/or with a political implication (particularly if the offender belongs to an ethnic minority background, e.g. Kurdish) it is likely that she/he will be tried in this type of court, despite being a minor.<sup>173</sup> However, article 315 CCP mandates that a special juvenile division within Criminal Court One should hear such cases.<sup>174</sup>

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<sup>167</sup> USIP, *The Islamic Judiciary*, 1 August 2015, [url](#); IHRDC, *Legal Commentary: A Look at Criminal Procedure in Iran*, November 2010, [url](#), p. 3

<sup>168</sup> Hedayati-Kakhki, M. M., question list, email 2 March 2021

<sup>169</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>170</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>171</sup> Alikarami, L., question list, email, 2 March 2021

<sup>172</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>173</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>174</sup> Alikarami, L., question list, email, 2 March 2021

A minor could also be tried in an adult court if there is no Juvenile Court in the locality, and if the adult court hearing the case fails to comply with its obligation to transfer the matter to the relevant Juvenile Court (held in the provincial capital). However, if the adult court contravenes procedural law in this manner, it provides a basis for an appeal to the appellate body.<sup>175</sup>

### 2.2.6. Military Court

The composition of, jurisdiction of, and procedural rules applicable in Military Courts (sg. *dādgāh-e nezāmī*) are outlined in section 8 of the CCP (articles 571-648), and in the Law on Crimes and Punishments of the Armed Forces (2003). Article 582 CCP provides for different types of military courts: Military Courts One, Military Courts Two, Military Appeals Courts, Martial Courts One (in wartime), Martial Courts Two, and Martial Courts of Appeal.<sup>176</sup>

A Military Court along with a Military Prosecutor are located in the capital of each province. If needed, further branches are created at the discretion of the head of the Judicial Organization of the Armed Forces. Military Court judges must have at least fifteen years of legal experience. The number of judges, their duties and their obligations are identical to those of Criminal Courts One and Criminal Courts Two.<sup>177</sup>

#### Jurisdiction

Military Courts adjudicate crimes committed by the members of the armed forces, including the army, the police, the IRGC, members of the Ministry of Intelligence and the Basij in the exercise of their duties. However, article 597 CCP stipulates that offences committed by security personnel acting as bailiffs of the justice administration – i.e., while performing their legal obligations in relation to evident crimes or committed while enforcing orders given by judicial authorities – do not come under the jurisdiction of Military Courts. According to Alikarami, that means that civilian complaints against security personnel for misconduct during the pre-trial investigation period would be adjudicated in regular Criminal Courts, not in Military Courts. Likewise, crimes committed by security personnel but not related to rank and professional duties, will be adjudicated in regular Criminal Courts.<sup>178</sup>

Crimes committed by high-ranking members of the armed forces are tried by the (main) Military Courts of a province according to article 585 CCP. Crimes committed by military personnel abroad, provided that they fall within the jurisdiction of Military Courts, will be tried by Military Courts in Tehran, according to article 598 CCP.

### 2.2.7. Special Clerical Court (SCC)

The Special Clerical Court (SCC) (*dādgāh-e vīzheh-ye rouhānīyat*) was created by an order of Ayatollah Khomeini in May 1979. It handles crimes involving clerics, although it has taken on cases involving lay people as well. The SCC functions independently of the judiciary and is accountable directly to the

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<sup>175</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>176</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>177</sup> Alikarami, L., question list, email, 2 March 2021; IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>178</sup> Alikarami, L., question list, email, 2 March 2021

Supreme Leader.<sup>179</sup> Defendants can appeal rulings of the SCC to the Clerical Court of Appeal which will issue the final judgement.<sup>180</sup>

A Special Courts for Clerics Ordinance (*ā'in nāmeḥ-ye dādsarāhā va dādgāhā-ye vīzheḥ-ye rouhāniyat*) was passed in 1990 and amended in 2005. This 47-article ordinance outlines the courts' organization, mandate, applicable laws and appointment mechanisms for judges and prosecutors.<sup>181</sup>

Prosecutors' Offices and SCC Courts are set up in Tehran, Qom, Mashhad, Esfahan, Shiraz, Tabriz, Sari, Ahvaz, Kerman, Hamedan, and Rasht.<sup>182</sup>

## Jurisdiction

The following crimes fall under the jurisdiction of the SCC:<sup>183</sup>

- Crimes committed by clerics
- All actions contrary to the dignity of the clergy
- Local disputes affecting public order in which one of the litigants is a member of the clergy
- Any matter assigned to the court by the Supreme Leader

Article 14 of the Special Courts for Clerics Ordinance states that claims against a cleric, unrelated to his religious functions, are within the competence of general Criminal Courts. However, the ordinance also explicitly states exceptions to the jurisdiction of these Criminal Courts, which imply that all crimes by clergymen could be within the jurisdiction of the SCC.<sup>184</sup> As pointed out by IHRDC, the fact that the Supreme Leader can refer any case he deems appropriate to the SCC, grants him *carte blanche* to prosecute opponents within the clergy. Consequently, this is a powerful tool to curb and silence dissent.<sup>185</sup>

### 2.2.8. Appellate courts

Decisions made by first instance courts are subject to appeal either before the Court of Appeal (*dādgāh-e tajdīd-e nazar*) or before the Supreme Court (*divān-e ālī-ye keshvar*), depending on the subject matter of the case and the severity of the offence.<sup>186</sup> Subject to special conditions, verdicts of the Appeals Court can in turn be appealed before the Supreme Court.<sup>187</sup>

The Prosecutor can also appeal verdicts in criminal cases.<sup>188</sup>

The appeals process in Iran can be invoked for all judgements unless specified otherwise by the law. According to article 427 CCP, sentences of degree VIII of *ta'zīr* punishments, and sentences in which blood money is equal to or less than 1/10 of a full *dīyeh* cannot be appealed.

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<sup>179</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, e-mail, 2 March 2021

<sup>180</sup> HRANA, Four Decades of Special Court for the Clerics; A Special Report, 13 February 2018, [url](#)

<sup>181</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>182</sup> Alikarami, L., question list, email, 2 March 2021

<sup>183</sup> Alikarami, L., question list, email, 2 March 2021

<sup>184</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#); Alikarami, L., email, 13 October 2021

<sup>185</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>186</sup> Hedayati-Kakhki M. M., question list, email, 2 March 2021

<sup>187</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>188</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

To lodge an appeal the appellant must be able to present legal grounds listed in article 434 CCP, such as:<sup>189</sup>

- The judgement contradicts the law
- Important evidence was not considered by the court
- Documentation or testimonies relied upon in the judgement were incorrect or falsified
- The court lacked jurisdiction, or the judge should have been barred on legal grounds from hearing the case

The defendant has twenty days after having been served with the judgement to appeal the decision in an appropriate appellate authority. This is usually explicitly stated at the end of the verdict.<sup>190</sup>

In July 2019, judicial authorities decided to temporarily eliminate the right stipulated in article 450 CCP, which allows for the defendant, plaintiff, or their legal representatives to be present at appeals hearings. Consequently, Appeals Courts are no longer required to hold hearings before issuing their verdict. This decision was approved by the Supreme Leader but has not been put into law by parliament.<sup>191</sup>

#### 2.2.8.1. The Court of Appeal

The Courts of Appeal (sg. *dādgāh-e tajdīd-e nazar*) are situated in the capital of each province. These courts consist of a chief judge and two associate judges. Based on amendments of June 2015, they may convene with only two judges present.<sup>192</sup>

Appeals Courts will either annul the judgement of the court of first instance and issue a new ruling or confirm the original judgement. If confirmed, the case is remanded to the original court for enforcement. Appeals Court judgements can in turn be sent to the Supreme Court under the conditions stipulated by articles 474 and 477 CCP.<sup>193</sup>

- If the Appeals Court judge made an obvious error of law
- If new evidence has emerged since trial
- If the verdict is contrary to Iranian law or Sharia principles

### Jurisdiction

Appeals Courts have jurisdiction to hear all appeals apart from those falling under the jurisdiction of the Supreme Court. Criminal cases that carry a heavier punishment (see below) are appealed directly to the Supreme Court.<sup>194</sup>

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<sup>189</sup> Alikarami, L., question list, email, 2 March 2021; IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>190</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>191</sup> CHRI, Rule Allowing Appeals Hearings without Defendants Present is Blatant Violation of Law, 8 November 2019, [url](#)

<sup>192</sup> AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), p. 72

<sup>193</sup> Hedayati-Kakhki, M. M., email, 18 November 2021

<sup>194</sup> Alikarami, L., question list, email, 2 March 2021; AI, Flawed Reforms, 11 February 2016, [url](#), p. 72

### 2.2.8.2. The Supreme Court

The Supreme Court (*divān-e 'ālī-ye keshvar*) is the highest court of the country. As such, it is charged with supervising the correct application of the laws by the courts and ensuring uniformity of jurisdiction and judicial procedures. Furthermore, the Supreme Court fulfils any other responsibilities assigned to it by law and has jurisdiction over cases where the President is in breach of his legal responsibilities.<sup>195</sup>

The Head of the Supreme Court is appointed for a period of five years by the Head of the Judiciary.<sup>196</sup>

Unlike in many other countries, the Iranian Supreme Court does not consist of a single panel of judges whose decisions constitute binding precedence for the country's courts. Instead, there are various branches of the Court in different parts of the country – for instance in Teheran, Qom, and Mashhad. The individual branches are composed of a presiding judge and two associate judges but may convene with only two judges present.<sup>197</sup>

#### **The General Board of the Supreme Court**

If the branches of the Supreme Court issue conflicting decisions on identical issues, the General Board of the Supreme Court may convene a session to review these decisions. The General Board will then issue a so-called 'verdict of unified precedent' (*ra'y-e vahdat-e ravīyeh*) which is binding on all courts and has the status of law.<sup>198</sup>

The General Board consists of the Head of the Supreme Court or his deputy, the Attorney General or his representative, and at least a third of the heads of the Supreme Court branches, associate judges, and deputies.<sup>199</sup>

#### **Jurisdiction**

The Supreme Court has appellate jurisdiction over judgements of both civil and criminal courts. In criminal matters, this includes cases from Criminal Court One, Revolutionary Courts and Military Courts that carry severe criminal sentences or higher levels of blood money.<sup>200</sup> Specifically, the Supreme Court hears appeals against judgements sentencing the defendant to:<sup>201</sup>

- Death
- Amputation of limbs
- Life imprisonment
- *Ta'zīr* punishments of degrees I to IV

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<sup>195</sup> Alikarami, L., question list, email, 2 March 2021; AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), pp. 72-73

<sup>196</sup> AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), pp. 72-73; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>197</sup> AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), p. 73; Zar Rokh, E., Iranian Judicial System (Court's Structure), 7 December 2007, [url](#)

<sup>198</sup> AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), p. 73

<sup>199</sup> AI, Flawed Reforms, Iran's New Code of Criminal Procedure, 11 February 2016, [url](#), p. 73

<sup>200</sup> Alikarami, L., question list, email, 2 March 2021

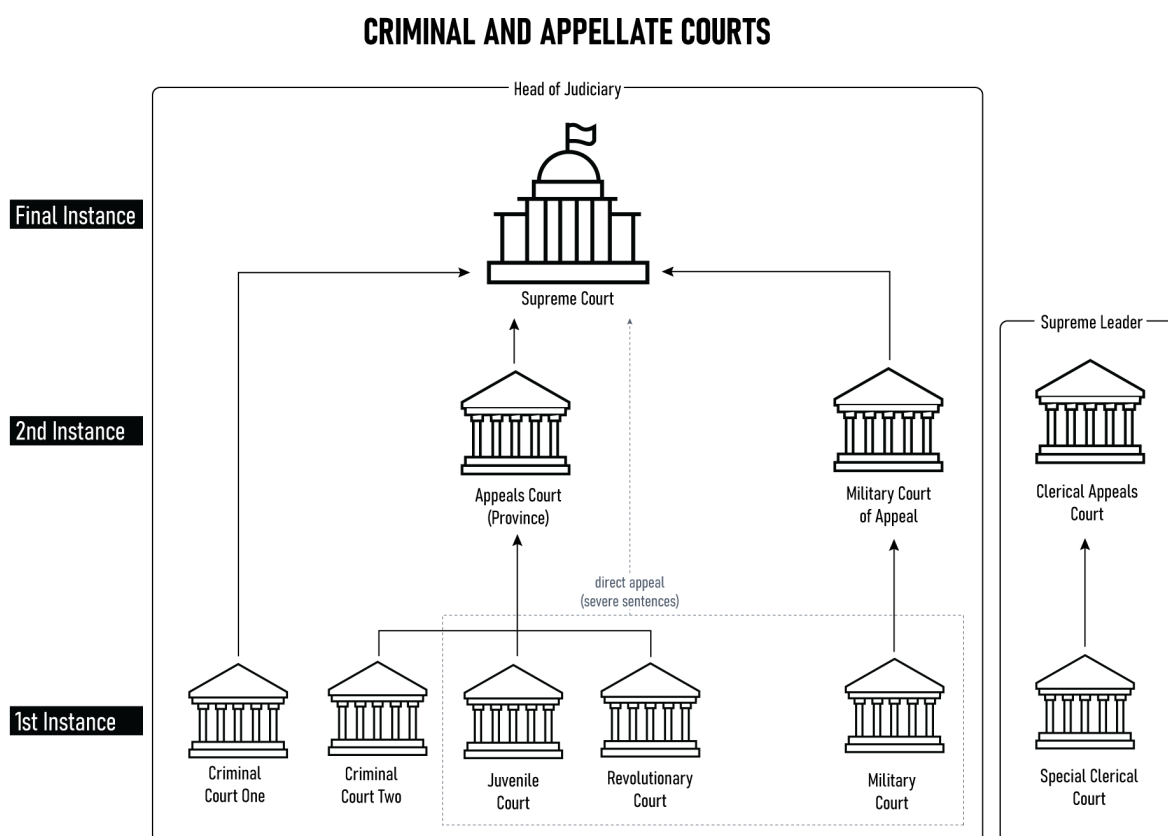
<sup>201</sup> Alikarami, L., question list, email, 2 March 2021

- Blood money for intentional homicide or bodily harm equalling or exceeding one third of a full *dīyeh* ([see chapter 2.2.1.1.](#))
- Judgements for political and press offences

Regardless of the appeal process, all death sentences must be approved by the Supreme Court.<sup>202</sup>

Unlike the Courts of Appeal, the Supreme Court does not have the power to issue a new judgement. If the court concludes that the appeal should be upheld, it can only remand the case to the original or another lower court, depending on the grounds for the appeal.<sup>203</sup> In such cases, the lower courts are not bound by the Supreme Court’s decision, and can choose to replicate the original ruling. However, the new ruling can be appealed once more to the Supreme Court. If the Supreme Court still disagrees with the ruling, the case will be sent to the General Board of the Supreme Court, which will issue a binding decision.<sup>204</sup>

Illustration 1: Criminal and Appellate Courts



This illustration is a simplified representation of the criminal court system in Iran.

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<sup>202</sup> IHR, Death Penalty in Iran: Legislations and procedures, 5 March 2019, [url](#)

<sup>203</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#)

<sup>204</sup> IHRDC, The Iranian Judiciary: A Complex and Dysfunctional System, 12 October 2016, [url](#); AI, Flawed Reforms, Iran’s New Code of Criminal Procedure, 11 February 2016, [url](#), p. 13



## 2.3. Lawyers & associations

### 2.3.1. Bar associations

Iranian lawyers and legal advisors are either members of the Iranian Bar Association or the judiciary's own so-called bar – the National Association of Legal Advisors and Attorneys (aka Article 187 Legal Advisors' Centre).<sup>205</sup>

The **Iranian Bar Association** (*kānūn-e vokalā-ye dādgostarī [-ye markaz]*) is a long-standing non-profit, non-political independent organization established and managed by lawyers.<sup>206</sup> It is comprised of 22 different regional associations, of which the Central Bar Association in Tehran is the largest.<sup>207</sup> The association is run by a board of directors, which is elected biannually. According to a 1997 law (the Law on Conditions for Obtaining the Attorney's License), however, the competence of candidates seeking a seat in the board must be confirmed by the Judiciary's Disciplinary Court for Judges.<sup>208</sup> By applying ideological criteria such as '*the belief and practical commitment to the rules and foundations of the holy Islam*', lawyers, including prominent human rights defenders, have routinely been disqualified from running for the Board.<sup>209</sup>

The regulation of these elections is only one of many measures aimed at undermining the independence of the Iranian Bar Association. Another significant step to limit the conditions for independent lawyers, is the inclusion of a note to article 48 of the CCP in 2015, stipulating the use of judiciary-approved lawyers in the preliminary investigation of political and national security crimes ([see chapter 2.3.2](#)). Furthermore, a more recent directive (late 2020) allows for the judiciary to investigate complaints against lawyers, thereby further increasing the judicial control of the profession. Such complaints were previously exclusively handled by the Iranian Bar Association's own Disciplinary Prosecutor's Office and Courts.<sup>210</sup>

The creation of the Legal Advisors of the Judiciary (*moshāverān-e qovveh-ye qazā'iyeh*) in 2001 is another result of the government's attempt to interfere with the Iranian Bar Association. This body of legal advisors, which is under direct supervision of the judiciary, was created pursuant to article 187 of the Law of the Third Economic, Social and Cultural Development Plan – hence they are also termed Article 187 Advisors. In 2009, the body was renamed the **National Association of Legal Advisors and Attorneys** (*kānūn-e moshāverān va vokalā*),<sup>211</sup> in an attempt on the part of the legal advisors to represent themselves as lawyers, and to resemble the name of the Iranian Bar Association.<sup>212</sup>

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<sup>205</sup> GlobalLex, UPDATE: An Overview of Iranian Legal System, August 2015, [url](#); Cress, R., Kent, C. & Nayyeri, M., Rule of Law in Iran: Independence of the Judiciary, Bar Association, Lawyers and Iran's Compliance with International Human Rights Obligation, March 2014, [url](#), p. 35

<sup>206</sup> GlobalLex, UPDATE: An Overview of Iranian Legal System, August 2015, [url](#)

<sup>207</sup> IHRDC, Iranian Bar Associations: Struggle for Independence, 27 November 2012, [url](#)

<sup>208</sup> CHRI, Prominent Lawyers Disqualified from Iran's Bar Association Election, 9 February 2016, [url](#); IHRDC, Iranian Bar Associations: Struggle for Independence, 27 November 2012, [url](#)

<sup>209</sup> Cress, R., Kent, C. & Nayyeri, M., Rule of Law in Iran: Independence of the Judiciary, Bar Association, Lawyers and Iran's Compliance with International Human Rights Obligation, March 2014, [url](#), pp. 35-36

<sup>210</sup> CHRI, New Directive Allows Iranian Judiciary to Control Lawyers Through Disciplinary Body, 17 December 2020, [url](#); IHRDC, Iranian Bar Associations: Struggle for Independence, 27 November 2012, [url](#)

<sup>211</sup> Also often referred to as National Association of Legal Advisors and Attorneys of the Judiciary (*kānūn-e moshāverān va vokalā-ye qovveh-ye qazā'iyeh*).

<sup>212</sup> Cress, R., Kent, C., Nayyeri, M., Rule of Law in Iran: Independence of the Judiciary, Bar Association, Lawyers and Iran's Compliance with International Human Rights Obligation, March 2014, [url](#), p. 36

Admission criteria, qualification requirements and training of these legal advisors are significantly less stringent than for regular lawyers.<sup>213</sup>

### 2.3.2. Judiciary-approved lawyers

According to a note to article 48 CCP (as amended in 2015), in cases of crimes against the internal or external security of the country as well as organized crimes, an accused must choose his lawyer from a list of qualified lawyers approved by the Head of the Judiciary.<sup>214</sup> The law explicitly applies this provision only to the stage of preliminary investigations (*tahqīqāt-e moqaddamātī*), meaning that for the court sessions and other activities, an accused still has the right to appoint a lawyer of his own choice.<sup>215</sup> In high-profile political cases, the judiciary (especially the Revolutionary Courts) might nevertheless still obstruct freely chosen lawyers in order to pressure the accused into taking a judiciary-approved lawyer.<sup>216</sup>

According to available information, no countrywide list of these judiciary-approved lawyers appears to be publicly accessible. There are lists for some provinces, but it is unclear whether such lists exist in all provinces. In June 2018, a list of 20 such lawyers was published for Teheran.<sup>217</sup> In October 2018, IRNA reported that 43 lawyers were added to the 20 judiciary-approved lawyers in Teheran, listing them by name.<sup>218</sup> Also in 2018, a reported 32 such lawyers were on the list for the province of West Azerbaijan.<sup>219</sup> In the same year, Radio Farda quoted the then Head of the Judiciary, Sadeq Larijani, saying that the countrywide list encompasses over 860 such lawyers and that this list will be continually updated. According to Alikarami, none of the lawyers contacted in Iran has ever seen this list.<sup>220</sup> Radio Farda also related criticism from lawyers in Iran, denouncing that most of these lawyers had been either former judges or legal experts working for the government.<sup>221</sup> As reported by lawyers from Tehran, Shiraz, Sanandaj and Marivan, these lists are not permanent but keep changing.<sup>222</sup>

In any event, according to Hedayati-Kakhki, the number of judiciary-approved lawyers on this list is extremely limited compared to the number of lawyers of the Iranian Bar Association. Independent lawyers and NGOs heavily criticize the appointment of a very limited number of judiciary-approved lawyers out of tens of thousands of qualified practitioners in Iran as massively limiting the freedom of choice for individuals to appoint a legal representative of their own free choice.<sup>223</sup>

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<sup>213</sup> Cress, R., Kent, C., Nayyeri, M., Rule of Law in Iran: Independence of the Judiciary, Bar Association, Lawyers and Iran's Compliance with International Human Rights Obligation, March 2014, [url](#), p. 36

<sup>214</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question List, email, 2 March 2021

<sup>215</sup> Alikarami, L., question list, email, 2 March 2021

<sup>216</sup> Alikarami, L., question list, email, 2 March 2021

<sup>217</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki M. M., question List, email, 2 March 2021; HRW, Want to choose your lawyer? Good luck in Iran, 5 June 2018, [url](#)

<sup>218</sup> IRNA, 43 43] وکیل جدید به وکلای مورد اعتماد رئیس قوه قضائیه اضافه شد [new lawyers were added to the [list of] lawyers of trust of the head of judiciary], 23.07.1397 HS / 15.10.2018, [url](#); Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>219</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>220</sup> Alikarami, L., question list, email, 2 March 2021

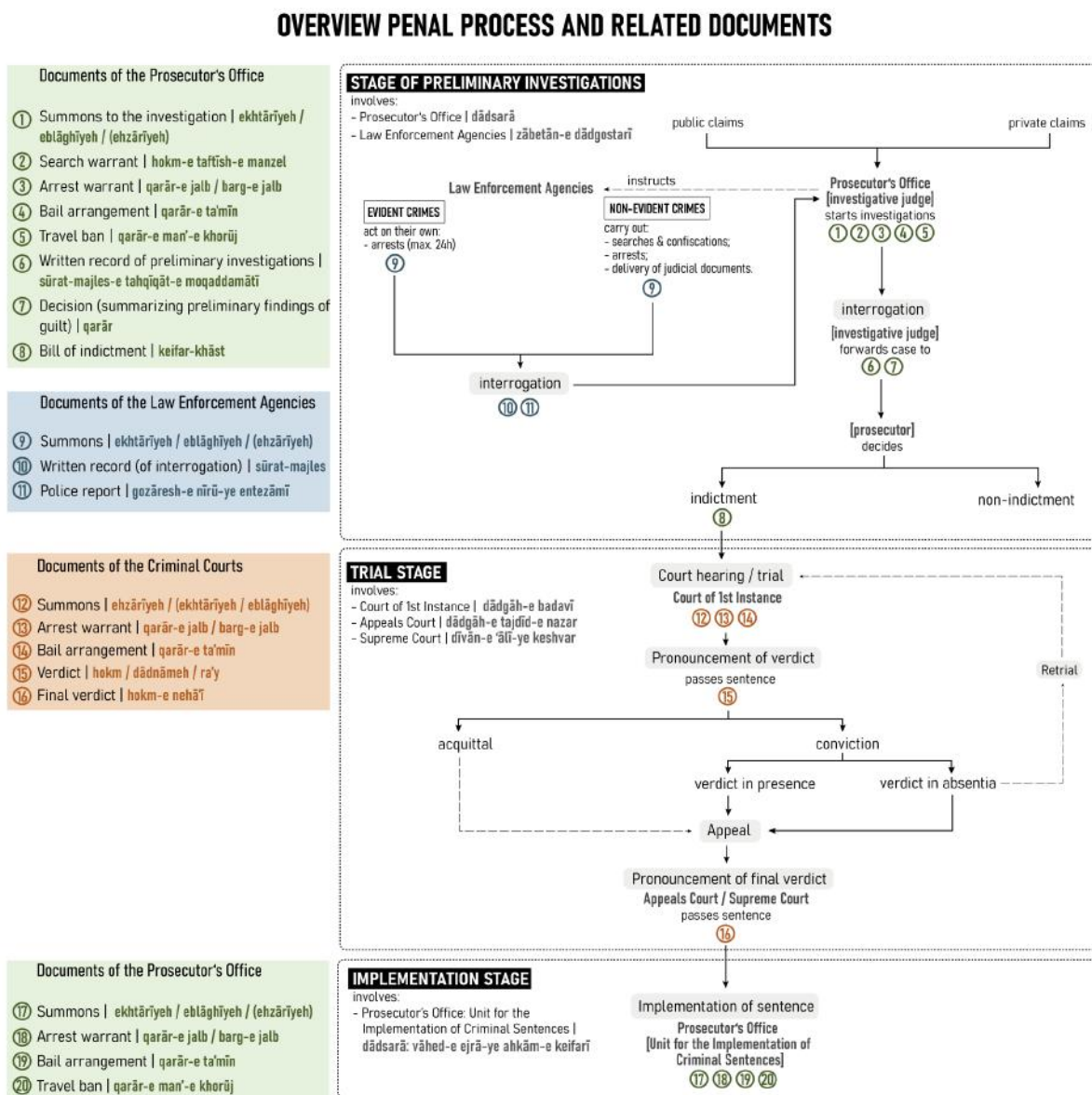
<sup>221</sup> Radio Farda, 860 وکیل از معرفی لاریجانی [Amoli Larijani announced the introduction of 860 lawyers of trust of the judiciary] 21.03.1397 HS / 11.06.2018, [url](#)

<sup>222</sup> Alikarami, L., question list, email, 2 March 2021

<sup>223</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

### 3. Judicial procedures and documents

Illustration 2: Overview penal process and related documents



This illustration is a simplified representation of the penal process in Iran. It only refers to the most important judicial documents. The numbering of the documents does not mandatorily follow the chronological sequence.

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Iranian law describes in detail which steps judicial bodies have to follow during criminal proceedings. The relevant provisions are contained in the IPC and the CCP. The following chapter elaborates on the specific judicial measures that these bodies are supposed and allowed to take at the different stages of a criminal proceeding, including the specific documents they (can) issue. The chapter follows the classification in Iranian law, dividing the judicial procedures of a criminal proceeding into three different stages:

- Pre-trial or investigation stage (Prosecutor's Offices, incl. law enforcement agencies)

- Trial stage (courts)
- Implementation stage (Units for the Implementation of Criminal Sentences and prisons)

## 3.1. Pre-trial or investigation stage

### 3.1.1. Beginning of an investigation

Article 64 CCP lists the specific cases, which lead to the opening of a criminal prosecution in Iran. Accordingly, the judicial authorities are obliged to start a criminal investigation in the following cases:<sup>224</sup>

- When a complainant (*shākī*) or private claimant (*modda'ī-ye khosūsi*) lodges a complaint
- When security forces or generally state officials notify the judicial authorities about a crime
- When an evident crime takes place in the presence of the prosecutor (or investigating judge)
- When an accused confesses to a crime
- When the prosecutor learns of a crime through other means

Contained herein are two basic distinctions of Iranian criminal law: the differentiation between evident and non-evident crimes, and the differentiation between private and public claims. Judicial authorities in Iran can start a criminal investigation in either of these cases, although under different conditions.

The difference between evident and non-evident crimes consists in the following definition. Non-evident crimes are crimes that are reported to but not directly witnessed by judicial authorities or law enforcement agencies. Evident crimes are crimes witnessed directly by judicial authorities or law enforcement agencies. Article 45 CCP provides an encompassing definition of evident crimes, among them:<sup>225</sup>

- When law enforcement agencies witness a crime or traces thereof immediately after the commitment of a crime
- When the victim, or two or more witnesses who have witnessed a crime, identify the perpetrator during, or immediately after the commitment of a crime
- When evidence (e.g. equipment) is found in the possession of the accused immediately after the commitment of a crime
- When an accused escapes, tries to abscond or is arrested immediately after the commitment of a crime
- When a resident asks for the presence of law enforcement officers during or immediately after the commitment of a crime in their place of residence
- When an accused confesses to a crime immediately after the commitment of a crime
- When an accused is a vagrant and has a bad reputation in the area

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<sup>224</sup> Alikarami, L., question list, email, 2 March 2021

<sup>225</sup> Alikarami, L., question list, email, 2 March 2021

The difference between private and public claims consists in the following definition provided by article 9 CCP. Public claims are claims filed by the Public Prosecutor, either in relation to (certain) *hadd* crimes ([see chapter 2.2.1](#)), to crimes against society or public order, or to evident crimes. Private claims are either claims filed by a private claimant asking for the compensation of private losses due to a crime, or claims of a complainant asking for the criminal prosecution of an accused, e.g. in cases of *qesās* or *ta'zīr* ([see chapter 2.2.1](#)).<sup>226</sup>



### How can individuals file a complaint?

Generally, it is the Prosecutor's Office responsibility to deal with all criminal complaints and conduct necessary preliminary investigations. Individuals can file a complaint directly with the Prosecutor's Office, or with an Office of Electronic Judicial Services (OEJS) (*daftar-e khadamāt-e elektrōnik-e qazā'i*). In evident crimes, they can also file a complaint with a local police station (*kalāntarī*) which registers the case and forwards it to the Prosecutor's Office. As a rule, complaints cannot be registered directly with a court.

The format the police uses for such complaints should be uniform across the country. According to article 68 CCP, the judiciary is supposed to have prepared uniform complaint forms. Variations might nevertheless exist.<sup>227</sup>



### How can individuals file a complaint against members of security forces?

Individuals can file a complaint against members of the security forces if they believe their rights have been violated in the course of criminal proceedings. The security forces are expected to act according to the law and can, in theory, be held responsible for any violations. Complainants can register such a criminal complaint either directly with the Prosecutor's Office, a Judicial Electronic Services Office, or a police station. They can further submit oral complaints against members of the police via the phone number 197. When filing such complaints, the complainants should provide the name of the specific officer as well as evidence proving the violation.<sup>228</sup> General criminal courts are responsible to deal with such violations of a defendant's rights.<sup>229</sup> In practice, however, the judiciary tends to shield security officials from legal proceedings.<sup>230</sup> An individual who files a complaint against a member of the security forces might even be subjected to harassment and intimidation in order for her/him to drop the case; or might be prosecuted for defamation.<sup>231</sup>

If during the course of a legal proceeding an accused presents an allegation of misconduct concerning an involved person, she/he has to file the complaint directly with the competent court hearing the case. This includes complaints against members of security forces for torture or mistreatment during the investigation stage. The same applies in reverse. If an accused for

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<sup>226</sup> Alikarami, L., question list, email, 2 March 2021

<sup>227</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>228</sup> Alikarami, L., question list, email, 2 March 2021

<sup>229</sup> Alikarami, L., question list, email, 2 March 2021

<sup>230</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>231</sup> Alikarami, L., question list, email, 2 March 2021

instance insults or threatens the counterparty or judiciary officials, complaints against her/him are directly filed with the competent court.<sup>232</sup>

### 3.1.2. Judicial authorities tasked with preliminary investigations

The judicial authority tasked with carrying out preliminary investigations into a criminal case is the Prosecutor's Office ([see chapter 2.1](#)). An exception is 'crimes against chastity' (incl. fornication and homosexual acts), where the Prosecutor's Office according to article 102 CCP generally has no right to conduct an investigation or prosecution. Such cases are directly dealt with by competent courts.<sup>233</sup> According to article 91 CCP, an investigating judge (*bāzpor*) within the Prosecutor's Offices is typically responsible for conducting the necessary preliminary investigations into a criminal case ([see chapter 2.2.2](#)). The prosecutor (*dādsetān*) or one of his assistant prosecutors (sg. *dādyār*) only actively pursue the preliminary investigations themselves if not enough investigating judges are available ([see chapter 2.1.3](#)). According to article 98 CCP, the investigating judges can further delegate investigations to the bailiffs of the justice administration (*zābetān-e dādgostarī*) or law enforcement agencies which act on behalf of the Prosecutor's Office, in such cases ([see chapter 1](#)).<sup>234</sup> The prosecutor himself usually only becomes active once the preliminary investigations have been completed. In accordance with the investigating judge, he then decides whether or not to prosecute an accused, and according to article 268 CCP he has to issue a bill of indictment within two days, which he forwards to the competent court ([see chapter 2.1.1](#)).<sup>235</sup>

According to Hedayati-Kakhki, in practice, the case is first sent to the criminal court administration, which then assigns the case to a particular court branch. According to article 269 CCP, in case of a disagreement between the prosecutor and the investigating judge, the case will be referred to the competent criminal court. There, a judge eventually makes the final decision whether to prosecute the accused or not.<sup>236</sup>

#### **Bailiffs of the justice administration (law enforcement agencies)**

As explained, the CCP provides various Iranian security and law enforcement forces with an official role during criminal investigations: namely the police, the Ministry of Intelligence, the IRGC, the Intelligence Organisation of the IRGC, the Basij, and prison officials. The law calls them bailiffs of the justice administration (*zābetān-e dādgostarī*). For the sake of clarity, this report refers to them as law enforcement agencies or officers ([see chapter 1](#)).

The specific duties of the law enforcement agencies during criminal proceedings are defined in articles 28 & 44 & 46 CCP. Their rights and duties differ in non-evident and evident crimes.

- In **non-evident crimes**, law enforcement agencies are only allowed to act on order of judicial authorities. When they are informed about a non-evident crime, they have to seek permission from the Prosecutor's Office to take any action. Their duties consist in preserving the evidence of crimes, preventing suspects from absconding, and hiding, conducting preliminary investigations and delivering judiciary documents. However, security forces do not have the

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<sup>232</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>233</sup> Alikarami, L., question list, email, 2 March 2021

<sup>234</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>235</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>236</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

power to take coercive measures such as issuing summons or conducting arrests and house searches without prior approval by the Prosecutor's Office. They generally do not have the competence to issue bail arrangements since this is the prerogative of judicial authorities.<sup>237</sup>

- In **evident crimes**, by contrast, law enforcement agencies have more independence. Their duties consist in immediately preserving the necessary evidence and preventing suspects from absconding and hiding. If strong evidence exists, they can arrest a suspect without prior knowledge and approval by the Prosecutor's Office. However, they can keep a suspect for a maximum of 24 hours in custody and they have to notify her/him of the charges in writing. They can only extend this detention period with the explicit permission of the Prosecutor's Office. In all cases, the security forces must immediately notify the Prosecutor's Office of the case and the results of their initial investigations. When the Prosecutor's Office takes over the case, their role in the criminal investigation usually ends, unless the Prosecutor's Office requests them to undertake additional investigations. From this moment on, they act on orders of the judicial authorities as in the case of non-evident crimes.<sup>238</sup>

According to Alikarami and Hedayati-Kakhki, the security forces **in practice** often disregard these standard legal procedures. In non-evident crimes, they summon and arrest people without instruction from the Prosecutor's Office; and in evident crimes, they keep suspects in custody without referring the case to the Prosecutor's Office within 24 hours.<sup>239</sup>

### 3.1.3. Specific procedures (and related documents) during preliminary investigations

The pre-trial period starts with the opening of investigations into the case and ends with the submission of the case to the competent court or the closing of the case (non-indictment). The investigations at this stage are called preliminary investigations (*tahqīqāt-e moqaddamātī*). Article 90 CCP defines the preliminary investigations as the series of legal measures taken by the investigating judge (or other judicial authorities) in order to preserve the traces of a crime, collect evidence, detect and find the culprit and prevent him from absconding or hiding.

To reach this goal, the Prosecutor's Office – with assistance from the law enforcement agencies – has the authority and duty to take required measures, for which it usually issues related documents. These measures include summoning an accused (or witnesses), ordering the arrest of a suspect, ordering house searches, keeping an accused in temporary detention or releasing her/him on bail, issuing travel bans, and eventually preparing a bill of indictment to prosecute the accused. Other judicial authorities, namely the courts and the Implementing Units for Criminal Sentences, can apply some of the same measures at later stages of a criminal proceeding. Since the general procedural rules remain the same, the following sub-chapters provide a comprehensive description of the relevant procedures for ordering such measures and issuing the relevant documents.<sup>240</sup>

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<sup>237</sup> Alikarami, L., question list, email, 2 March 2021

<sup>238</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>239</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>240</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021



### Judicial documents issued during the pre-trial stage

Prosecutor's Office	Security Forces
<ul style="list-style-type: none"> <li>- Summons (accused &amp; witnesses)</li> <li>- Arrest warrant</li> <li>- Search warrant</li> <li>- Travel ban</li> <li>- Bail arrangement</li> <li>- Written record of preliminary investigations</li> <li>- Bill of Indictment</li> </ul>	<ul style="list-style-type: none"> <li>- Summons (accused &amp; witnesses)</li> <li>- Written record of interrogation</li> <li>- Police report</li> </ul>

#### 3.1.3.1. Summons

Judicial authorities issue summons to request an accused (or witnesses) to attend an interrogation, a trial session, or for any other reason. A defendant can receive several summonses at various stages of a legal case, namely during the preliminary investigations, during the court hearing and during the appeal phase.<sup>241</sup> The CCP outlines clear procedures and regulations for issuing summons. According to article 168 CCP, during the pre-trial phase, an investigating judge must have sufficient evidence for a criminal case in order to summon an accused for investigation. According to Alikarami and Hedayati-Kakhki, however, the judicial authorities do not always respect these procedural provisions. The Prosecutor's Office and law enforcement agencies sometimes summon people without any credible evidence.<sup>242</sup>

In Farsi, different terms are used for what is usually translated as summons in English. The two main terms are *ekhtāriyeh* and *ehzāriyeh* (or variants thereof); also common is *ebلاغhiyeh*. *Ekhtāriyeh* and *ehzāriyeh* practically serve the same purpose, namely requesting an individual's attendance at the premises of a judicial or law enforcement authority.<sup>243</sup> There are, however, some notable differences:

- *Ekhtāriyeh / barg-e ekhtār*: literally 'notification'; usually used to summon someone for an interrogation / investigation (by the Prosecutor's Office or a court), for presenting a bondsman or for paying a fine
- *Ehzāriyeh / barg-e ehzār(-e mottaham)*: literally 'request for presence'; usually used to summon someone for a court trial (by a court)
- *Eblāghiyeh / eblāgh*: literally 'notice'; usually used to inform or notify someone about something (also in civil matters)

<sup>241</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>242</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>243</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021



On the electronic type of summons (see below), both terms (*ekhtārīyeh* and *ehzārīyeh*) are sometimes pre-printed on the document, with the issuing judicial authority supposed to mark the applicable term for the specific purpose. **In practice**, the judicial authorities often refrain from doing so. The terms have thus increasingly become synonyms.<sup>244</sup>



## How do judicial authorities summon an accused?

The procedures to summon an accused (or witnesses) depends on the issuing authority and the specific type of summons. In the course of the last years, the judiciary has started to replace the traditional hard-copy summonses with electronic summonses. While court clerks deliver the traditional summonses, electronic summonses are delivered through the electronic database system Adliran ([see chapter 4](#)).

### **Traditional summons**

Traditionally, judicial authorities summon an accused by a hard-copy summons. Usually, a court clerk serves the summons to the accused. The summons can either be delivered on site, for instance when the accused is present in the court or police station, or alternatively, to her/his residence address. Summons served to the residence can either be delivered to the accused personally or, in accordance with article 69 of the Civil Procedure Code,<sup>245</sup> to a family member (or another person) living in the same household.<sup>246</sup> The official in charge of delivering the summons is officially called bailiff or service officer (*ma'mūr-e eblāgh*). According to article 172 CCP, he does not have to wear an official uniform, but he has to identify himself by showing his identity card.<sup>247</sup> According to article 28 CCP, law enforcement officers (*zābetān-e dādgostarī*, e.g. a police officer) can also deliver judicial documents including summons. Court documents are generally not delivered by regular postal service.<sup>248</sup> When a summons is served directly to the summoned person it is called a real service (*eblāgh-e vāqe'ī*).<sup>249</sup>

According to article 169 CCP, the issuing authority has to issue the summons in two copies. The service officer hands over a copy to the recipient and returns the original to the court, where it is filed in the case file. The recipient has to sign the original in his presence. Alternatively, a fingerprint can serve as signature. The service officer has to sign both copies of the summons as a proof that he has delivered the summons. In practice, the service officers sometimes neglect to collect the signature of the recipient.<sup>250</sup>

An individual or his lawyer usually have access to such summons even at a later date, either through their profile on Adliran or by requesting a (certified) copy from the issuing judicial authority.<sup>251</sup>

<sup>244</sup> Alikarami, L., question list, email, 2 March 2021

<sup>245</sup> Islamic Consultative Assembly, ((درأمور مدنی) و انقلاب عمومی و دادگاههای عمومی و انقلاب) [Procedure Code for Public and Revolutionary Courts (in Civil Matters)], 21.01.1379 HS / 09.04.2000, Article 69, [url](#)

<sup>246</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>247</sup> Alikarami, L., question list, email, 2 March 2021

<sup>248</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>249</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>250</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>251</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

### ***Electronic summons***

According to article 175 CCP, the judicial authorities can also deliver documents (incl. summonses) by other means than delivering a hard copy by a service officer, notably by electronic communication systems. Since the establishment of the electronic database Adliran, summonses are increasingly delivered electronically.<sup>252</sup> However, this is only possible if the summoned person has a user account on Adliran. Otherwise, a traditional summons is delivered ([see chapter 5](#)).

### ***Summons by law enforcement agencies (incl. the police)***

Law enforcement agencies such as the police usually do not summon people for interrogations in a criminal case – this is typically the prerogative of the Prosecutor’s Office –, although exceptions exist. They might, however, deliver summons issued by judicial authorities.<sup>253</sup> In such a case, the police likely serves the original summons with a cover letter of their own which will be returned to the police station and archived with a note attesting the completion of service. Judicial authorities might request the police to serve ordinary or certified copies of other documents to an accused or a private complainant.<sup>254</sup> In exceptional cases, particularly in crimes directly reported to them or when they are instructed to do so by the judicial authority, the police might also issue their own summonses in a criminal case.<sup>255</sup> However, according to Alikarami and Hedayati-Kakhki, security forces like the Ministry of Intelligence or the Intelligence Organization of the IRGC **in practice** often summon people without an official judicial order. They might even summon them several times, without referring the case to the judicial authorities and thus without an official criminal case being opened. This happens despite the fact, that they are not entitled to issue summons without prior approval by the Prosecutor’s Office.<sup>256</sup>

### ***Oral summons***

According to Alikarami, judicial authorities cannot legally summon an accused by phone.<sup>257</sup> According to Hedayati-Kakhki, however, article 175 CCP provides the judicial authorities with the possibility to communicate via computer and telecommunication (incl. e-mail, fax and telephone), including for summoning a defendant.<sup>258</sup> **In practice**, courts, the Prosecutor’s Offices and law enforcement agencies sometimes do summon people by phone.<sup>259</sup> Intelligence services sometimes summon people using anonymous phone numbers and might threaten them if they refuse to follow the order.<sup>260</sup>

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<sup>252</sup> Alikarami, L., question list, email, 2 March 2021

<sup>253</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>254</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>255</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>256</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>257</sup> Alikarami, L., question list, email, 2 March 2021

<sup>258</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>259</sup> Alikarami, L., question list, email, 2 March 2021

<sup>260</sup> Alikarami, L., question list, email, 2 March 2021



## What happens if a summons cannot be delivered?

According to article 70 CCP,<sup>261</sup> when the service official finds no one at home, he leaves a copy of the summons with his signature at the door. The same applies if the recipient refuses to accept the summons. The original summons is returned to the court without the signature of the recipient. According to Alikarami, such a service of a summons is called legal service (*ebīāgh-e qānūnī*).<sup>262</sup>

According to article 174 CCP, if a summons cannot be delivered because the address of an accused is unknown and the accused cannot be accessed otherwise, the judicial authorities can issue a summons by the publication of a single note in a national or local newspaper.<sup>263</sup> If the summoned person is a governmental employee, the judicial authorities can deliver the summons through the human resources (or another) department of the specific governmental agency.<sup>264</sup>



## What happens if an accused does not show up after a summons?

According to article 179 CCP, the investigating judge should order to arrest an accused who fails to present himself and offers no plausible excuse after having been summoned. Summons often include a statement threatening the defendant with arrest in case of non-appearance.<sup>265</sup> An investigating judge might exceptionally summon an accused for a second time if the summons could not be delivered in person (i.e. in case of a legal service), and if he assumes that the accused has not been informed of the summons.<sup>266</sup> According to article 178 CCP, a defendant may present plausible excuses for not being able to show up at the appointed time, or ask the investigating judge to delay the interrogation session for up to three days.<sup>267</sup>

The consequence for not attending a trial after an *ehzārīyeh* or not attending an interrogation after an *ekhtārīyeh* would usually, although not always, be an arrest warrant; while the consequence of not presenting a bondsman or not paying a fine after an *ekhtārīyeh* is usually not an arrest warrant, although this is not excluded. Typically, the judicial authorities explicitly mention on the summons that the '*consequence for non-appearance is an arrest*' (*natījeh-ye 'adam-e hozūr jalb ast*) if they intend to do so.<sup>268</sup>

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<sup>261</sup> Islamic Consultative Assembly, (در امور مدنی) و انقلاب عمومی و دادگاههای عمومی [Procedure Code for Public and Revolutionary Courts (in Civil Matters)], 21.01.1379 HS / 09.04.2000, article 70, [url](#)

<sup>262</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>263</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>264</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>265</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>266</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>267</sup> Alikarami, L., question list, email, 2 March 2021

<sup>268</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021



## Summons (*ehzārīyeh / ekthārīyeh / eblāghīyeh*)<sup>269</sup>

### Content

According to articles 170 & 171 CCP, a summons should contain the following information:

- First & last name (of the summoned individual)
- Date & hour & place of appearance: at the earliest 5 days after service of the summons
- Reason for being summoned: with possible exceptions for
  - o 'crimes against public chastity'
  - o security-related crimes
  - o concerns for the social reputation of the accused
  - o fear of the accused absconding or hiding
- Consequences for failure to appear

### Format

The different types of summons have different formats:

- Traditional hard-copy summons: A5, specifics may be computer-generated or handwritten
- Electronic summons: A4, computer-generated

Slight variations amongst summons of a specific type might occur.

**Police summonses** might display greater variations depending on the specific region or police station).

### 3.1.3.2. Search warrant

According to article 55 CCP, the entry into and search of houses or closed places necessitates a permission from the judicial authorities. According to article 137 CCP, the investigating judge can take this decision during the investigation stage. Law enforcement agencies need a specific permission for each search, even if the investigating judge already has entrusted them with conducting the investigations.<sup>270</sup> According to article 140 CCP, house searches have to take place during daytime unless the circumstances require them to be done at night. According to article 58 CCP, the official conducting the search has to identify himself and show the judicial (search) warrant (*hokm-e taftīsh-e manzel* or *haqq-e taftīsh-e manzel*) when entering a home. This warrant is commonly simply called house search (*taftīsh-e manzel*) or sometimes entry (*vorūd*) or inspection (*bāzrasī*). The official usually does not provide the homeowner (or those present at the residence) with a copy of the warrant; however, the search warrant should be kept in the case file where it can later be accessed by an individual or his lawyer, either through their profile on Adliran or by requesting a (certified) copy from

<sup>269</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>270</sup> Alikarami, L., question list, email, 2 March 2021

the issuing judicial authority.<sup>271</sup> Exceptionally, the search warrant might be served together with the inventory list of the confiscated items as a receipt to the homeowner (see below).<sup>272</sup>

According to article 146 CCP, the investigating judge is only allowed to confiscate items directly related to a crime. He is under the obligation to act with caution regarding other items and documents. According to article 147 CCP, he has to prepare a detailed written record (*sūrat-majles*), numbering each confiscated item, whereas the items themselves have to be stored and labelled at a suitable place. This list has to be signed by the official conducting the search as well as by the homeowner (or another person present) and potential witnesses. If those persons refrain from doing so, the official should note this in the written record. He has to provide the homeowner (or another person present) with a receipt (*rasīd*) containing a description of the objects, which can be an informal, handwritten piece of paper.<sup>273</sup>

According to Alikarami, **in practice** security forces often disregard the legal provisions concerning house searches. They frequently conduct searches at night or in the early morning hours; and they often fail to present a search warrant, prepare a written record, or produce a receipt when confiscating items.<sup>274</sup>

### 3.1.3.3. Arrest warrant

According to article 179 CCP, judicial authorities can only arrest a person if she/he does not show up after having been summoned.<sup>275</sup> There are, however, some exceptions to this general rule. As mentioned above, in evident crimes, law enforcement agencies can arrest a suspect and detain her/him for a maximum of 24 hours before presenting the case to the Prosecutor's Office. Article 180 CCP defines further cases where a person can be arrested without first receiving a summons:<sup>276</sup>

- For crimes punishable by death, retribution (*qesās*) or amputation (*qat'-e ozv*)
- For crimes punishable by *ta'zīr* degrees V or higher when there is a risk that the accused may abscond, hide, or collude
- In organized crimes or security-related crimes
- When the place of residence of an accused is unknown



#### How is an accused arrested?

According to article 181 CCP, except in evident crimes, the arrest of an accused necessitates producing an arrest warrant (*qarār-e jalb / barg-e jalb / hokm-e jalb*). During the investigation stage, according to article 180 CCP, the investigating judge has the authority to issue an arrest warrant. According to article 182 CCP, the law enforcement officer making the arrest (*ma'mūr-e jalb*) invites the accused to accompany him to the Prosecutor's Office; if the accused refuses, the officer arrests him. According to article 184 CCP, if the investigating judge believes that

<sup>271</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>272</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>273</sup> Alikarami, L., question list, email, 2 March 2021

<sup>274</sup> Alikarami, L., question list, email, 2 March 2021

<sup>275</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>276</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

the accused is on the run or in hiding, he transmits the arrest warrant (with a time limit) to the law enforcement agencies in order for them to arrest him.<sup>277</sup> Still according to article 184 CCP, the investigating judge can further transmit the arrest warrant to a complainant of a criminal case, in order for her/him to inform the law enforcement agencies about the whereabouts of the accused. The arresting officer has to show the arrest warrant to the accused, but he does not provide her/him with a copy. Exceptionally, when judicial authorities conduct an arrest concomitantly with a house search, they might serve the arrest and search warrant(s) together with the inventory list of the confiscated items ([see chapter 3.1.3.2](#)).<sup>278</sup>

An arrest warrant in itself does not allow the house search; for this, a separate search warrant is needed ([see chapter 3.1.3.2](#)). A copy of the arrest warrant should be kept in the case file with a note explaining whether the arrest has been successful or not. The accused or his lawyer might be able to access the arrest warrant in the case file, either through their profile on Adliran or by requesting a (certified) copy from the issuing judicial authority.<sup>279</sup> **In practice**, however, the judicial authorities do not always keep in the case file documents that are normally not served on an individual. They might also restrict access to arrest warrants that have been served.<sup>280</sup>

According to article 183, arrests should be done during daytime except in specific emergency cases.<sup>281</sup> According to article 185 CCP, law enforcement agencies have to present an arrested person immediately to the Prosecutor's Office. They can keep her/him for a maximum of 24 hours before presenting him to the judicial authorities.<sup>282</sup>

**In practice**, the Ministry of Intelligence, or the Intelligence Organization of the IRGC in particular often arrest people without having or presenting an arrest warrant. Such arrests often take place at night or in the early morning hours instead of during daytime. Additionally, they often keep the arrested persons in their own prisons or detention facilities, which are not under the supervision of the state prison organization ([see chapters 1.2](#) and [1.3.1](#)). They usually do not provide any judicial documents following an arrest of a suspect.<sup>283</sup>



### Can people be arrested and released without a court case being opened?

The Iranian law provides a legal basis for the non-prosecution of a defendant who signs a written undertaking (*eltezām-e katbī*) promising to refrain from further crimes.<sup>284</sup> According to article 80 CCP, judicial authorities can refrain from further prosecuting an accused if the following conditions are met:

- If the crime is punishable by *ta'zīr* degrees VII or VIII
- If there is no complainant or the complainant renounces his complaint

<sup>277</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>278</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>279</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>280</sup> Alikarami, L., question list, email, 2 March 2021

<sup>281</sup> Alikarami, L., question list, email, 2 March 2021

<sup>282</sup> Alikarami, L., question list, email, 2 March 2021

<sup>283</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>284</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

- If the defendant has no effective criminal record

**In practice**, security forces such as the intelligence agencies, the Morality Police or the Herasat often summon or arrest people and then release them, without referring the case to the Prosecutor's Office and opening a court case. Sometimes they urge the arrested individual to sign a document, promising not to engage further in her/his activities. This serves as a means to intimidate people and prevent them from further actions.<sup>285</sup>

The available literature often refers to such documents as repentance vows (sg. *toubeh-nāmeḥ*).<sup>286</sup> According to Alikarami, the Iranian law does not provide a legal basis for such repentance vows.<sup>287</sup> Repentance vows do not correspond to written undertakings, since only judicial authorities can grant them, not security forces. According to Hedayati-Kakhki, these written undertakings are not official repentance vows, even though some people might refer to them as such. The Iranian judicial practice does indeed recognize the concept of repentance vows, but in a different context. The competence to regulate repentance vows lies exclusively with the judicial authorities (see chapter 3.2.5). The documents issued by security forces do nevertheless have a certain (factual) legal value as they serve the security forces to justify the release.<sup>288</sup> Since these documents produced by the security forces are not official documents, they are not filed in the case file or uploaded on Adliran. They might, however, be kept in the local archive of the specific security force. Law enforcement agencies from other locations usually would not have knowledge of such a pledge. If the same security force from the same location again arrests the same person for similar activities, she/he might receive a harsher treatment.<sup>289</sup>



### Arrest warrant (*qarār-e jalb*)<sup>290</sup>

#### Content

According to articles 181 & 184 CCP, an arrest warrant should contain the following information:

- First & last name (of the accused)
- Reason for being arrested
- Signature of the investigating judge
- Period of validity of the warrant: when the arrest warrant is transmitted to law enforcement agencies

<sup>285</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>286</sup> See e.g.: ACCORD, Iran: political opposition groups, security forces, selected human rights issues, rule of law, July 2015, [url](#), p. 186f; Danish Refugee Council & Danish Immigration Service, Iranian Kurds, September 2013, [url](#), p. 19

<sup>287</sup> Alikarami, L., question list, email, 2 March 2021

<sup>288</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>289</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>290</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

## Format

Arrest warrants are usually printed on templates similar to the traditional summons (A5 format)

### 3.1.3.4. Security guarantee

After the Prosecutor's Office has summoned or arrested an accused, it has various possibilities to ensure further access to her/him. Article 217 CCP provides a comprehensive list of these options, which are called security guarantees (sg. *qarār-e ta'mīn*). The individual security guarantees vary in their rigour and the degree of deprivation of freedoms of the accused.<sup>291</sup> They can be broadly differentiated into four categories, of which numbers 1, 3 and 4 will be described in more detail in the following sub-chapters:

1. Temporary (pre-trial) detention of an accused person
2. Release of an accused person against pledge (word of honour)
3. Release of an accused person against bail
4. Release of an accused person against pledge or bail with the obligation to report regularly to the authorities

According to article 218 CCP, the judicial authority of a specific jurisdiction can only issue one security guarantee at a time.<sup>292</sup> The judicial authorities have a certain discretionary power as to which type of security agreement they impose on an accused.<sup>293</sup>

### 3.1.3.5. Pre-trial temporary detention

The strictest type of judicial security guarantee to ensure access to an accused is temporary detention (*bāzdāsh-t-e movaqqat*). According to article 217 CCP, only judicial authorities (e.g. an investigating judge) – not the law enforcement agencies – can order temporary detention. They must explain the nature of the charges to the defendant before ordering his detention. The imposition of temporary detention is subject to specific conditions as defined in articles 237 and 238 CCP. The investigating judge must have sufficient evidence confirming that the defendant has committed the crime; and there must be a risk for the defendant to destroy evidence, abscond, hide or collude, or endanger the public safety or the security of the complainant, witnesses or their families.<sup>294</sup> Temporary detention is furthermore only permitted for the following types of offences:<sup>295</sup>

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<sup>291</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>292</sup> This also applies if the defendant committed several crimes within this jurisdiction. If the defendant committed several crimes in different jurisdictions, each respective judicial authority can issue their own security arrangements: Alikarami, L., question list, email, 2 March 2021

<sup>293</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>294</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>295</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021



- Crimes punishable by death, life imprisonment,<sup>296</sup> amputation or blood money (*dīyeh*) of a third or more of the worth of a full life. This for example includes homicide, kidnapping, acid attacks and *mohārebeh*
- Crimes punishable by *t'azīr* degrees IV or higher
- Crimes against the internal and external security of the country punishable by *t'azīr* degrees I to V
- (Sexual) harassment and molestation of women and children – and (general) intimidation and harassment by knife or any other weapon
- Subject to certain conditions, crimes such as theft, fraud, bribery, embezzlement, breach of trust, forgery or using forged documents

In practice, it is generally left to the discretion of the judge to determine whether to detain an accused or release him on bail.<sup>297</sup>



### How long can a defendant be kept in temporary detention?

According to article 242 CCP the default maximal duration of temporary detention depends on the type of crime:

- Two months – for serious crimes punishable by death, life imprisonment, amputation or blood money (*dīyeh*) of one third or more of the worth of a full life
- One month – for all other crimes

According to article 242 CCP, if the Prosecutor's Office has not made the final decision at the end of these periods, the investigating judge should cancel (or mitigate) the writ of temporary detention (*qarār-e bāzdāsh-t-e movaqqat*). However, he can also extend temporary detention, if he has justifiable reasons for this. For this, he needs the approval of the prosecutor. He also has to inform the defendant by describing the reasons for the extended detention. The defendant has the right to object the decision at the competent court within 10 days. If the investigating judge wants to extend the temporary detention even further, he has to repeat this procedure every one or two months. The maximal limit of temporary detention should in any case not exceed:<sup>298</sup>

- The minimum period of imprisonment that the law provides for the specific crime
- Two years for crimes punishable by death
- One year for all other crimes

According to article 241 CCP, if no (more) causes exist for a continued detention, the investigating judge has to immediately release the accused. The prosecutor has to approve

<sup>296</sup> Life imprisonment was added in a later amendment: Vice Presidency for Legal Affairs, سامانه ملی قوانین و مقررات جمهوری اسلامی ایران [laws and regulations portal of Islamic Republic of Iran], 24.03.1394 HS / 14.06-2015, Article 16, [url](#)

<sup>297</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>298</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

such a release. In case of a disagreement between the two, the competent court takes the final decision. The accused, too, has the right to ask for a release if he thinks that there are no more grounds for his further detention. The investigating judge has to provide him with a well-reasoned decision within 5 days at most. In case of a rejection, the defendant can object the decision within 10 days.



### Writ of temporary detention (*qarār-e bāzdāsht-e movaqqat*)

#### Content

According to article 239 CCP, a writ of temporary detention should contain the following information:

- Reasons for the detention (incl. the relevant articles of the law)
- Right of the accused to object to his detention

#### 3.1.3.6. Bail arrangements

According to article 226 CCP, a bail arrangement (*qarār-e ta'mīn*) usually serves as an alternative to temporary detention. The Prosecutor's Office decides largely on a case-by-case basis which decision to take.<sup>299</sup> The defendant is accordingly kept in custody until he is granted bail and until all necessary steps of the bail procedure are completed.<sup>300</sup> In principle, the bail arrangement remains in place until the end of the trial and the implementation of the sentence. The investigating judge (himself or on demand of the prosecutor) can alter, increase, or reduce a specific bail arrangement during the trial.<sup>301</sup>

The bail arrangements mentioned in article 217 CCP can be categorized into three types:

- Cash guarantee / bond (*vajh-e eltezām*) – sometimes combined with an electronic surveillance tag
- Surety (*kefāleh*) in the form of a property, or less often cash by a bondsman (*kafil*)
- Security (*vasīqeh*) in the form of a property, or less often cash

According to article 220 CCP, if a judicial authority asks the defendant to introduce a bondsman but she/he prefers to provide a personal security instead, it should accept this in principle.<sup>302</sup> The judicial authorities have nevertheless a certain discretionary power as to which type of bail they issue. Article 217 defines specific cases where the judicial authorities should rather issue bail in the form of surety by a bondsman instead of other security guarantees such as for instance a personal security.<sup>303</sup> When the judicial authorities accept the bail, they issue a bail writ (*qarār-e vasīqeh* or *qarār-e kefālat*) or writ of bail acceptance (*qarār-e qabūli-ye vasīqeh* or *qarār-e qabūli-ye kefālat*).

<sup>299</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>300</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>301</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>302</sup> Alikarami, L., question list, email, 2 March 2021

<sup>303</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

Both the personal security of a defendant and the surety of a bondsman can be either in the form of cash or property:

- When the bail is a fixed cash amount, the defendant or the bondsman have to pay the sum into the bank account of the judiciary. They then should present the transfer receipt to the judiciary.<sup>304</sup>
- When the bail is secured by a property, the defendant or the bondsman have to present the property deed to the judiciary. The judiciary then writes a formal letter to the relevant branch of the National Organization for the Registration of Documents and Properties (*sāzmān-e sabbt-e asnād va amlāk-e keshvar*), requesting it to block the property up to the specified amount for the benefit of the judiciary.<sup>305</sup> Usually, an expert has to evaluate the value of the property, unless the property is of significantly higher value than the bail amount. Courts normally have lists of evaluation experts they can recommend.<sup>306</sup> The land registry office then registers the bail arrangement in the relevant section of the property deed. Eventually, it confirms the (provisional) property transaction in favour of the judiciary with a formal letter to the judiciary.<sup>307</sup>

When all the procedures have been completed, the judicial authority sends a letter to the detention centre or prison, ordering the release of the accused. This document contains information about the case and the type of bail. According to Alikarami, the defendant and his lawyer can access this document in the case file; according to Hedayati-Kakhki, this is rather an internal document.<sup>308</sup>

Thus, in the course of a bail arrangement different documents are issued. All can serve as a proof for the existence of a bail arrangement. The defendant or the bondsman do not always have access to all these documents. The most important legal proof is the court order accepting bail: the security or surety writ (cf. box below). According to article 223 CCP, the defendant or the bondsman and their lawyers can ask for a copy of this bail writ. A defendant or a bondsman usually also have the receipt of the cash deposit they pay to the bank account of the judiciary. This can serve as proof of a bail arrangement if it clearly states that the payment was made for bail. The defendant or the bondsman should also be in possession of the property deed, where respective transactions should be mentioned. Letters between judicial authorities and the land registry or the prison should theoretically be saved in the case file, but in practice, they may not always be accessible to the defendant or the bondsman and their lawyers.<sup>309</sup>

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<sup>304</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>305</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>306</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>307</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>308</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>309</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021



## Bail writ (*qarār-e vasīqeh* or *qarār-e kefālat*)

### Content

According to article 223 CCP, a bail writ should contain the following information:

- Signature of the defendant in case of personal security (*vasīqeh*) or the bondsman in case of surety (*kefālat*)
- Signature of the investigating judge

According to article 223 CCP, the defendant or the bondsman and their lawyers can ask for a copy of the bail writ.



### Who can be a bondsman?

A bondsman is typically a family member or a friend of the accused, but according to article 221 CCP, legal entities can also provide surety. According to the same article, an investigating judge should only accept surety from a person he deems sufficiently solvent. A potential bondsman has to present his identity and credentials to the judicial authorities and submit a formal application. If the investigating judge has doubts about the credibility of a bondsman or his surety, he has to refer the case to the prosecutor who must take a decision on the same day. According to article 229 CCP, the bondsman is bound by the bail arrangement to present the accused to the judicial authorities if asked. This is usually only the case if the presence of the accused is essential for the investigation, the trial or the implementation of the sentence.<sup>310</sup>



### How long does it take to arrange bail?

According to article 226 CCP, the judicial and prison authorities have to take all necessary measures to ensure access to the defendant in order to help him organize a security or surety, even after office hours. According to Alikarami, once the judicial authorities granted bail, the arrangement of bail usually only takes a few days.<sup>311</sup> According to Hedayati-Kakhki, the time to arrange bail might vary significantly, depending on the geographical location, the availability of evaluation experts, and the caseload of the specific judicial authority. If the bail is in the form of a cash deposit or a property of considerably higher value than the bail amount, the process might be very quick, and may even be completed in one day. If the property is located outside the geographical area of the judicial authority or the value of the property is

<sup>310</sup> Alikarami, L., question list, email, 2 March 2021

<sup>311</sup> Alikarami, L., question list, email, 2 March 2021

close to the bail amount and needs evaluation, the process might be more bureaucratic and take several days or even weeks.<sup>312</sup>



### What is the typical amount of a bail arrangement?

The amount of a specific bail arrangement depends on various factors, such as in particular the severity of the crime and the expected severity of the punishment. According to article 219 CCP, the amount of bail should in any case not be less than the losses claimed by a private plaintiff. The judicial authority dealing with the case has the authority to specify the specific amount of bail.<sup>313</sup> In political or security-related cases, such bail amounts have increased considerably in recent years, often totalling the converted value of tens of thousands of US dollars.<sup>314</sup>

According to article 244 CCP, a prosecutor can ask the investigating judge during the investigation to reduce or increase the amount of bail. A prosecutor can also ask the competent court to alter the bail arrangement after the issuance of the indictment. A defendant, too, has the right to ask the competent court to change the bail arrangement. Both the prosecutor and the defendant can only make such a request once.<sup>315</sup>



### When does a bail arrangement end?

There are three scenarios in which a bail arrangement comes to an end, each with different outcomes for the accused and the deposited bail.

#### 1. *Termination of trial*

According to Alikarami, the judicial authorities return the security or the surety to the defendant or the bondsman when the defendant has attended all interrogation and court sessions (or has been missing with a valid excuse). This applies irrespective of whether the Prosecutor's Office decides to suspend the prosecution or the court either acquits or convicts the defendant. If the court convicts the defendant to a financial penalty, or if the defendant is financially liable for the loss of a private claimant and she/he fails to pay the due amount, then that amount is paid from the bail and the rest will be returned.<sup>316</sup>

#### 2. *Failure of the defendant to appear before the judicial authorities*

According to article 230 CCP, when a defendant fails to appear before the judicial authorities after being summoned, the prosecutor can order the confiscation of the security. The same applies to the surety, if the bondsman fails to present the

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<sup>312</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>313</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>314</sup> See e.g.: EASO, COI query: release on temporary bail, court documents, exit from Iran, 21 April 2020, [url](#), p. 2f.

<sup>315</sup> Alikarami, L., question list, email, 2 March 2021

<sup>316</sup> Alikarami, L., question list, email, 2 March 2021

defendant to the judicial authorities within one month after having been served an appropriate summons.<sup>317</sup>

According to Alikarami, if a court convicts a defendant who has failed to appear before the judicial authorities, it collects the bail. If it acquits her/him, but she/he has a civil liability to a private claimant, the due amount is paid from the bail and the rest returned to the defendant or the bondsman.<sup>318</sup>

According to article 235 CCP, both the defendant and the bondsman have the right to appeal the confiscation of the bail at the competent court within 10 days.<sup>319</sup>

### **3. Recusal or decease of the bondsman**

According to article 228 CCP, a bondsman has the right to ask to be relieved from the bail arrangement and have his surety released at any stage of the investigation. For this, she/he has to present the accused to the authorities.<sup>320</sup>

According to article 234 CCP, if the bondsman dies, the bail arrangement becomes automatically invalid. In consequence, the defendant is obliged to present an alternative security or introduce a new bondsman.

#### **3.1.3.7. Reporting to the authorities**

According to article 217 CCP, the investigating judge can also oblige a defendant to present herself/himself to the judicial or law enforcement authorities (*mo'arrefi beh marja'-e qaza'i ya entezami*) on a weekly or monthly basis. Depending on the type and degree of the specific crime, he might ask for a simple pledge or for a bail in cash or in property. Security forces themselves do not have this power.<sup>321</sup>

According to Alikarami and Hedayati-Kakhki, if the judicial authority (Prosecutor's Office or court) grants this security guarantee on condition of a bail arrangement, the same procedures as for general bail arrangements apply. The defendant accordingly has access to related documents ([see chapter 3.1.3.6](#)).<sup>322</sup>

#### **3.1.3.8. Travel ban**

A travel ban (*qarar-e mamnu'iyat-e khoruj az keshvar* or simply *qarar-e man'-e khoruj*) prohibits a person from leaving the country. Within criminal proceedings, only judicial authorities (Prosecutor's Offices and courts) can issue travel bans. Law enforcement agencies, in contrast, do not have this power. However, governmental authorities such as tax authorities or land registry offices, and even banks can request judicial authorities to issue a travel ban. The Judicial authorities can issue a travel ban at different stages of a criminal procedure. According to articles 188 & 247 CCP, the Prosecutor's

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<sup>317</sup> Alikarami, L., question list, email, 2 March 2021

<sup>318</sup> Alikarami, L., question list, email, 2 March 2021

<sup>319</sup> Alikarami, L., question list, email, 2 March 2021

<sup>320</sup> Alikarami, L., question list, email, 2 March 2021

<sup>321</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>322</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

Office can issue a travel ban for a defendant either if it does not have access to her/him, or in addition to a bail arrangement.<sup>323</sup>

According to article 292 CCP, judicial authorities have to inform the attorney-general of the issuance of a travel ban so that he can inform the relevant authorities, particularly the passport police and border control forces. Banks have to ask the Attorney-General through a request to the Central Bank of Iran.<sup>324</sup> Governmental agencies such as tax authorities and the land registry offices can directly ask the passport police (*polīs-e gozarnāmeḥ*) to ban a person from travelling abroad. The passport police is effectively responsible for implementing travel bans.<sup>325</sup>

Despite not having the legal power to order a travel ban, security forces **in practice** might simply confiscate the passport of a person and thus prevent her/him from travelling abroad. The intelligence services are said to maintain their own lists of people prevented from leaving the country, independent from the judiciary-approved lists.<sup>326</sup>



### Who can be subjected to a travel ban?

Within a criminal context, judicial and governmental authorities can issue travel bans against the following persons:<sup>327</sup>

- A defendant during the investigation or trial procedure
- A convicted person who has not presented himself for the implementation of the sentence or has not served his sentence entirely
- Tax debtors & other debtors including to banks

Security forces can, **in practice**, prevent anyone from leaving the country even without an official court decision.<sup>328</sup>



### How long is a travel ban valid?

According to articles 188 & 248 CCP, a travel ban is by default valid for six months. Judicial authorities can extend it every six months if they deem it necessary; if they do not extend it, the travel ban expires automatically. A travel ban also ends if the Prosecutor's Office suspends the prosecution of an accused or cancels the travel ban; if a court finds an accused innocent; or if an appellate court cancels the travel ban issued by a lower judicial authority. The competent judicial authorities are bound to immediately inform the relevant authorities about the cancellation. Passport Police and other relevant authorities henceforth do not have the authority to stop such persons from exiting the country.<sup>329</sup>

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<sup>323</sup> Alikarami, L., question list, email, 2 March 2021

<sup>324</sup> Alikarami, L., question list, email, 2 March 2021

<sup>325</sup> Alikarami, L., question list, email, 2 March 2021

<sup>326</sup> Alikarami, L., question list, email, 2 March 2021

<sup>327</sup> Alikarami, L., question list, email, 2 March 2021

<sup>328</sup> Ceasefire Centre for Civilian Rights & Minority Rights Group International, In the Name of Security, Human rights violations under Iran's national security laws, June 2020, [url](#), p. 22

<sup>329</sup> Alikarami, L., question list, email, 2 March 2021



### Can individuals appeal a travel ban?

An accused person against whom the Prosecutor's Office has issued a travel ban can appeal it within 10 days from the date of issuance, at the competent court.<sup>330</sup> Persons in debt – as well as women and children – who have a travel ban against them can request a permission from the attorney-general to travel abroad. He can grant them such an exception against the provision of necessary guarantees.<sup>331</sup>



### Would someone know of the existence of a travel ban against her/him?

Judicial and governmental authorities do not always automatically inform people about a travel ban, but individuals can check their travel status with an office of the Passport Police. Security forces might nevertheless prohibit someone from leaving the country, even if the check with the Passport Police revealed no official travel ban.<sup>332</sup>

#### 3.1.3.9. Written record of the interrogation & written record of preliminary investigations

Both the police and the investigating judge have to prepare written reports when interrogating a suspect.

When the **law enforcement agencies** (particularly the police) interrogate a suspect – in evident crimes or by order of the Prosecutor's Office in non-evident crimes– they have to prepare a written record (*sūrat-majles*) of the interrogation, according to article 53 CCP. This document is also called investigation document of the accused (*barg-e tahqīq az mottaham*). This written record lists the questions and answers of the interrogation and is signed by the investigating officer and the suspect at the end of the interrogation.<sup>333</sup> The police additionally prepares a report on the case, which it sends together with the case to the Prosecutor's Office. This report is called police report (*gozāresh-e nīrū-ye entezāmi*). It is itself considered evidence in a court case, and the judges usually cite it accordingly in the verdict.<sup>334</sup>

The police generally does not provide the accused with a copy of the written record of the interrogation; however, a copy of the record is kept in the case file if the case is sent to the Prosecutor's Office. If the police refrains from sending the case to the Prosecutor's Office (e.g. if there is not enough evidence for a crime), it might only store the written record locally.<sup>335</sup> At the stage of preliminary investigations, the Prosecutor's Office might grant the accused or her/his lawyer access to the written record of the interrogation or ask the police to provide them with a copy. At the trial stage, according to article 351 CCP, they can request to access the written record in order to prepare

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<sup>330</sup> Alikarami, L., question list, email, 2 March 2021

<sup>331</sup> Alikarami, L., question list, email, 2 March 2021

<sup>332</sup> Alikarami, L., question list, email, 2 March 2021

<sup>333</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>334</sup> Alikarami, L., question list, email, 2 March 2021

<sup>335</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021



their defence – except for ‘crimes against public chastity’ and security-related crimes. The same applies to any other document produced by the police.<sup>336</sup>

When the **Prosecutor’s Office** conducts the interrogation, it also has to prepare a written record. According to article 199 CCP, the investigating judge has to write down all the answers of the accused and his lawyers without any alterations in the written record of preliminary investigations (*sūrat-majles-e tahqīqāt-e moqaddāmtī*). A literate defendant is supposed to write down his own answers unless he renounces this right. At the end, the interrogator has to read the content of this report to the defendant, who has to sign the document (by signature or fingerprint). According to Alikarami, this written record of interrogation plays a key role as evidence in court.<sup>337</sup>

Article 100 CCP only explicitly grants access to the written record of the preliminary investigations to a complainant of a case, not to the defendant. However, according to article 190 CCP, a defendant’s lawyer has the right to obtain information on the charges brought against her/his client as well as on the evidence for these charges at the investigation stage. According to article 351 CCP, the accused and her/his lawyers have the right to review the case file at the court and make photocopies of the relevant pages of the case file at the trial stage. The relevant articles restrict this right for ‘crimes against public chastity’ and security-related crimes, as well as for cases where such access is deemed to impede the establishment of truth.<sup>338</sup>

### 3.1.3.10. Bill of indictment

At the end of the preliminary investigations, if the investigating judge and the prosecutor agree on prosecuting the accused, according to article 268 CCP, the prosecutor has to issue a bill of indictment (*keifar-khāst*) within two days and send the case to the competent court. This bill of indictment is addressed to the court and formally charges the accused.<sup>339</sup> According to article 342 CCP, the courts should also send a copy of the bill of indictment to the defendant, when summoning her/him to attend the court hearing.



#### **Bill of indictment (*keifar-khāst*)<sup>340</sup>**

##### **Content**

According to article 279 CCP, the bill of indictment should contain the following information:

- Personal information of the accused (first & family name, occupation, address, ...)
- The bail arrangement of the defendant (free, on bail, in detention, ...)
- A description of the charges (incl. place & date of the crime)
- Information on the evidence justifying his prosecution

<sup>336</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>337</sup> Alikarami, L., question list, email, 2 March 2021

<sup>338</sup> Alikarami, L., question list, email, 2 March 2021

<sup>339</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>340</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

- Legal basis for the accusation (incl. reference to the relevant articles of law)
- Criminal record

## 3.2. Trial stage

Once the Prosecutor's Office has issued a bill of indictment and sent the case to the criminal court administration, it usually takes a couple of weeks for the assigned court branch to list the case for trial.<sup>341</sup>

### 3.2.1. General rules

According to article 165 of the Constitution and article 352 CCP, trials should by default be open to the public. Closed trials can be held if the court decides that an open trial would be detrimental to public morality or disturb national security and religious and ethnic feelings; or if in private disputes, both parties request the public to be excluded. According to article 305 CCP, political crimes and press offences should be adjudicated in open trials and in the presence of a jury.<sup>342</sup>

At the trial session, according to article 359 CCP, the court secretary should read out the bill of indictment, and the court should hear the statement of the representative of the prosecutor and the defence of the accused and his lawyer.<sup>343</sup>

**In practice**, according to Alikarami, especially in political and security-related cases, the courts often violate due process. Such trials often only last a few minutes and judges rely on confessions extracted through compulsion or torture as the main evidence.<sup>344</sup> Often, a member of the security forces, called case expert (*kārshenās-e parvande*), observes the proceedings. His presence serves to intimidate the accused and her/his lawyer and to control the outcome of the court case.<sup>345</sup>



### Judicial documents issued during the trial stage

#### Courts

- Summons
- Arrest warrant
- Travel ban
- (Bail arrangement)
- Verdict (in presence or in absentia)

<sup>341</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>342</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>343</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>344</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>345</sup> Alikarami, L., question list, email, 2 March 2021

### 3.2.2. Summons & arrest warrant & travel ban

At the trial stage, courts too have the possibility to issue a summons (*ehzārīyeh*) or an arrest warrant (*barg-e jalb*) for a defendant. According to article 342 CCP, courts usually issue a summons to invite the parties (the defendant, the complainant and their lawyers) of a legal case to attend the hearing session. According to article 343 CCP, the time interval between the service of the summons and the court hearing should be at least a week. According to article 344 CCP, if the address of the defendant is unknown, the court should publish the contents of the summons once in a local or national newspaper. The date of the court hearing in this case should be at least one month after the publication date. In all other respects, the procedures for issuing a summons during the trial stage, as well as its content, are the same as during the stage of preliminary investigations ([see chapter 3.1.3.1](#)).

According to article 345 CCP, a court can issue an arrest warrant (*qarār-e mamnū'iyat-e khorūj az keshvar*) for a defendant, if she/he does not attend a court hearing after having been summoned. However, the presence of a defendant is not necessary in all court trials: only in certain *hadd* crimes is her/his presence mandatory. In all other cases, this depends on the decision of the competent court. The procedures for issuing an arrest warrant during the trial stage, as well as its content, are the same as during the stage of preliminary investigations ([see chapter 3.1.3.3](#)).

According to Alikarami, courts can further issue travel bans against a defendant during the trial.<sup>346</sup> The defendant can appeal such a travel ban with the provincial court of appeal (*dādgāh-e tajdīd-e nazar-e ostān*).<sup>347</sup>

### 3.2.3. Court verdict

According to article 404 CCP, at the end of the court hearings, if there is more than one judge (e.g. in Criminal Court One), they should hold a session and consult with each other in order to issue the verdict (*hokm/dādnāmeḥ/ra'y*). If they do not reach a unanimous decision, the opinion of the majority of the judges is binding.<sup>348</sup> According to article 404 CCP, the presiding judge (*ra'īs-e dādgāh*) at Criminal Court One has the task of writing the judgement; if his opinion disagrees with the majority of judges, the longest serving judge is entrusted with this task.<sup>349</sup> Still according to article 404 CCP, the court has to issue the verdict as soon as possible, ideally during the same session but within one week at the latest.<sup>350</sup> If it issues the verdict during the court session, it should hold an open session immediately afterwards where the secretary of the court reads out the verdict, and the presiding judge should explain the contents of the judgement to the accused. If the verdict acquits the defendant or pronounces a suspended sentence, the court should release the defendant immediately.<sup>351</sup>

According to article 380 CCP, the court has to serve the verdict to both parties of a legal case or to their lawyers respectively.<sup>352</sup> The serving of a verdict is essential, as the date of service sets the

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<sup>346</sup> Alikarami, L., question list, email, 2 March 2021

<sup>347</sup> Alikarami, L., question list, email, 2 March 2021

<sup>348</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>349</sup> Alikarami, L., question list, email, 2 March 2021

<sup>350</sup> A later amendment of the CCP has further defined the time frame, within which a verdict has to be issued: Vice Presidency for Legal Affairs, سامانه ملی قوانین و مقررات جمهوری اسلامی ایران [laws and regulations portal of Islamic Republic of Iran], قانون اصلاح قانون آیین دادرسی کیفری [amendment to the Code of Criminal Procedure], 24.03.1394 HS / 14.06-2015, Article 27, [url](#)

<sup>351</sup> Alikarami, L., question list, email, 2 March 2021

<sup>352</sup> Alikarami, L., question list, email, 2 March 2021

beginning for the appeals period.<sup>353</sup> The courts usually serve the verdict in writing by way of a formal note delivered by a court clerk. Verdicts can also be served to a family member living in the same household or to the defendant's lawyer.<sup>354</sup> Nowadays, the verdict is usually uploaded on Adliran.<sup>355</sup> According to Hedayati-Kakhki, in exceptional cases, a notice summarizing the verdict might be published in a local or national newspaper, if this announcement is not detrimental to the reputation of the defendant (and his/her family) or to public order or national security.<sup>356</sup> An individual or his lawyer can later also request a copy of the verdict from the court.<sup>357</sup> According to note 2 of article 380 CCP, however, in 'crimes against chastity' as well as in security-related crimes, the court should only read out the verdict to the parties. These have right to take notes of the verdict.<sup>358</sup>

**In practice**, according to Alikarami, the courts rarely announce the verdict orally during the court session. While the law requires the court to issue the verdict within seven days, in practice, this often takes longer.<sup>359</sup> The Revolutionary Courts, which handle political and security-related cases, mostly refrain from sending the verdict to the accused. They usually summon the defendant's lawyer to the court and read out the verdict. Such verdicts are consequentially not accessible on the electronic database Adliran.<sup>360</sup> In drug-related crimes, however, Revolutionary Courts more often serve the verdict.<sup>361</sup>



### Judgement / verdict (*hokm/dādnāmeḥ/ra'y*)<sup>362</sup>

#### Content

According to articles 374 & 375 CCP, the verdict should:

- Be well reasoned and explicitly refer to the relevant articles of law
- Mention the type of judgement (in presence or in absentia)
- Mention potential retrial and appeal options and periods

According to article 378 CCP, court verdicts should further contain the following information:

- The case number
- The number of the judgement of the court
- The date of issue
- The particulars of the court and the judge(s)
- The particulars of the involved parties (and their lawyers)

<sup>353</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>354</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>355</sup> Alikarami, L., question list, email, 2 March 2021

<sup>356</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>357</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>358</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>359</sup> Alikarami, L., question list, email, 2 March 2021

<sup>360</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>361</sup> Alikarami, L., question list, email, 2 March 2021

<sup>362</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

- The history of the case (*gardesh-kār*)
- The full text of the judgement (*ra'y*)
- The signature of the judge (usually the chief judge) & the stamp of the court

**In practice**, verdicts are not always in compliance with all these legal provisions. However, they usually contain at least a brief argumentation on the basis of the relevant articles of law and display the formal elements.

### 3.2.4. Court verdicts in absentia

According to article 406 CCP, a court can issue a verdict in absentia (*hokm-e ghiyābī / ra'y-e ghiyābī*), if the defendant or his lawyer do not appear in any of the trial sessions, or if they do not present a defence statement. Verdicts in absentia are possible for all types of crimes, except for convictions in *hadd* crimes like e.g. fornication, homosexuality, *mohārebeh* or *efsād fe-l-arz*. Judges can, however, acquit an accused in *hadd* crimes without his (or his lawyer's) attendance, if the evidence does not make his interrogation necessary.<sup>363</sup> According to Alikarami, courts also have to serve the verdict in absentia to both parties, in order for the latter to make use of their appeal rights.<sup>364</sup>

### 3.2.5. Reduction & postponement & suspension of punishments

With exception of the Supreme Leader ([see chapter 3.2.5](#)), courts are the only authority with the competence to reduce, postpone, or suspend a sentence. However, not all categories of criminal punishments are eligible for this.

According to article 37 IPC, only *ta'zīr* punishments generally qualify for such alternatives.<sup>365</sup> According to article 47 IPC, certain types of *ta'zīr* crimes are nevertheless excluded from a reduction or postponement of the sentence, for instance:<sup>366</sup>

- Security-related crimes (incl. vandalism of public infrastructure)
- Organized crimes (incl. armed robbery, abductions and acid-attacks)
- Intimidation and harassment by knife or any other weapon
- 'Crimes against public chastity' (incl. prostitution and procuring)
- Major trafficking (of drugs, alcohol, weapons, ammunition and human beings)
- *Ta'zīr* punishments that were (previously) given as alternative punishments for severe crimes
- Financial crimes involving amounts over 100 million IRR

For the remaining *ta'zīr* punishments, further mitigating conditions must be met in order for the convicted person to benefit from milder punishments. The judge has to state such mitigating factors explicitly in the judgement. According to article 38 IPC, a judge can reduce a *ta'zīr* punishment if:

<sup>363</sup> Alikarami, L., question list, email, 2 March 2021

<sup>364</sup> Alikarami, L., question list, email, 2 March 2021

<sup>365</sup> Alikarami, L., question list, email, 2 March 2021

<sup>366</sup> Alikarami, L., question list, email, 2 March 2021

- The complainant forgives the accused
- The accused cooperates with the judicial authorities (in solving the case)
- If the accused confesses to the crime
- If the accused regrets the crime or due to good conduct or specific conditions (like poor health or old age) of the accused

Based on similar mitigating factors, according to articles 39 & 40 & 46 IPC, a judge also has the general competence to postpone the enforcement of a sentence or suspend a sentence. This also depends on the specific *ta'zīr* degree of a crime:<sup>367</sup>

- Postponement of a punishment: crimes of *ta'zīr* degrees VI to VIII (article 40 IPC)
- Suspension of a punishment: crimes of *ta'zīr* degrees III to VIII (article 46 IPC)
  - In this case, the court condemns the defendant but suspends the implementation of the punishment. If the convict does not commit another crime during this period, the court eventually cancels the sentence.
- Exemption from punishment against a written pledge of the accused: crimes of *ta'zīr* degrees VII & VIII (article 39 IPC)
  - In this case, the court renounces to convict a defendant, even though it finds him guilty.

### 3.2.6. Complementary punishments

Article 23 IPC regulates complementary punishments. Courts can sentence defendants to complementary punishments in addition to a *hadd*-punishment, a *qesās*-punishment, or a *ta'zīr*-punishment of degrees I-VI. Among these complementary punishments are e.g.:<sup>368</sup>

- (a) Compulsory residence in a specified place
- (b) Ban from residing in a specified place / or several specified places
- (c) Ban from practicing a specific profession or pursuing a specific career
- (d) Ban from driving motor vehicles
- (h) Ban from leaving the country
- (j) Provision of public services
- (k) Ban from membership in a political party or social organization
- (m) Compulsory professional training
- (n) Compulsory education
- Additionally, courts can ban people from online activities

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<sup>367</sup> Alikarami, L., question list, email, 2 March 2021

<sup>368</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; CHRI, Iran Sentences Men Who Supported Women's Protests Against Compulsory Hijab to Six Years Prison, 22 January 2019, [url](#)

To ensure that a convict observes the terms of these complementary punishments, the court might additionally issue a bail arrangement. By default, the complementary punishments are only valid for two years at maximum. According to article 24 IPC, failure to comply with the imposed conditions might result in the imposition of an increased complementary punishment or, in case of repetition, in a prison sentence.<sup>369</sup>

### 3.2.7. Pardon by the Supreme Leader

In addition to the above-mentioned possibilities for a reduction or suspension of a punishment, convicted persons further have the possibility to request a pardon (*'afv*) from the Supreme Leader. According to article 96 IPC, the Head of the Judiciary prepares a list of eligible convicts to submit to the Supreme Leader. Eligible for such a pardon are only certain crime categories, specifically certain *hadd* and *ta'zīr* crimes. Here, the request for pardon usually takes place in the form of a repentance vow (*toubeh-nāmeḥ*) of the offender (see box below). Certain crimes are (in theory) categorically excluded from pardon, for instance drug-related crimes, security-related crimes with prison terms of more than five years, money laundering, rape, or acid attacks.<sup>370</sup>



#### Repentance (*toubeh*)<sup>371</sup>

While crime categories such as *hadd*, *qesās* and *dīyeh* are generally exempt from a reduction of the sentence, there is a nominal exception: in *hadd* crimes (except for *mohārebeh* and *qazf*), the IPC provides an offender with the possibility to submit a repentance-vow. The same applies to certain *ta'zīr* crimes.

An offender can repent his crime either before or after being convicted by the court.

- According to article 114 IPC, if an offender of a ***hadd* crime** repents before his guilt has been established, the court should acquit him. An offender of *mohārebeh* is exempted from the *hadd*-punishment, if she/he repents before being arrested (if she/he repents after the arrest, she/he is not excluded from the *hadd*-punishment). In cases of rape, the court should convict the offender to floggings and/or imprisonment instead of the death penalty
- According to article 114 IPC, even if an offender of a *hadd* crime repents after his guilt has been established, she/he can submit a repentance vow to the court. The Head of the Judiciary submits such requests for pardon (*'afv*) to the Supreme Leader
- According to article 115 IPC, a court can suspend a sentence for ***ta'zīr* crimes** of degrees VI-VIII, or mitigate a sentence for the other *ta'zīr* crimes, if the offender repents (at the trial stage)
- According to article 117 IPC, however, an offender can only benefit from such leniency if his repentance is established to be sincere. If it is later proven that his repentance was not sincere, the maximum punishment of the specific crime category will be (re-)imposed.

<sup>369</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>370</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>371</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

The **repentance vow** (*toubeh-nāmeḥ*) is not an official document, but a document drafted by the offender herself/himself and submitted to the competent judicial authority. The offender can naturally make a copy of this document. Legal documents can contain references to such a repentance vow, for instance the bill of indictment, the verdict, the prison release statement, or the criminal record file. Such documents are usually kept in the case file, where both a defendant and her/his lawyer as well as judicial authorities and law enforcement agencies from different jurisdiction can access the information.<sup>372</sup>

### 3.2.8. Appeal

According to article 431 CCP, the legal appeal period for a court verdict is twenty days for a convicted person residing in Iran, and two months for a convicted person residing abroad. The appeal period starts from the date the convicted person is served with the verdict. The appellant has to submit her/his appeal (*tajdīd-e nazar*) to the competent appellate court (see chapter 2.2.8). A verdict only becomes final once all appeal rights have been exhausted. According to Hedayati-Kakhki, **in practice** it can take months or even years until the appeal rights of a defendant have been completely exhausted.<sup>373</sup> There is, however, a difference between verdicts in presence and verdicts in absentia:

- In a **verdict in presence**, a convict is granted an appeal option provided by article 431 CCP. The verdict automatically becomes final if she/he does not appeal it.<sup>374</sup>
- For **verdicts in absentia**, in contrast, according to article 406 CCP, there are in practice two appeal options:<sup>375</sup>
  - o Option 1: the defendant or his attorney can ask the same issuing court for a retrial (*vākhāhi*) within twenty days
  - o Option 2: after expiry of the period for the retrial, the defendant or his attorney can appeal the verdict within twenty days at the competent appeal court (as in other verdicts)
- According to article 406 CCP, verdicts in absentia that are not objected within these appeal periods become automatically enforceable. There is, however, an exception where a later appeal is still possible: if the verdict was not served in person to the defendant (in case of a so-called 'legal service') and she/he only becomes aware of the verdict after the appeal period, she/he can request a retrial (according to option 1).<sup>376</sup>
- When a defendant absconds or his/her whereabouts are unknown, a court usually assumes that he is not aware of the verdict. It refrains from issuing a final verdict but instead issues an arrest warrant against her/him.<sup>377</sup> If she/he is arrested, the court might order temporary detention or secure her/his availability by a security guarantee (bail).<sup>378</sup>

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<sup>372</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>373</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>374</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>375</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>376</sup> Alikarami, L., question list, email, 2 March 2021

<sup>377</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>378</sup> Alikarami, L., question list, email, 2 March 2021



### 3.3. Implementation of judgement

The Prosecutor's Office is also responsible for the implementation of criminal sentences. There are specific Units for the Implementation of Criminal Sentences (sg. *vāhed-e ejrā-ye ahkām-e keifari*) within the jurisdiction of a Prosecutor's Office, headed by a deputy prosecutor in charge of implementing criminal judgements (*mo'āven-e ejrā-ye ahkām-e keifari*). These units have further specialized sub-units, some of which are typically located in penal institutions, usually headed by a so-called prison judge (*qāzī-ye zendān*). According to article 489 CCP, the prison judges are in charge of various duties related to prisoners, such as assessing amnesty and parole requests, granting leave, or adopting special measures for old or sick prisoners ([see chapter 2.1.4](#)).<sup>379</sup>



#### Are verdicts implemented directly after issuance?

The implementation of a verdict only starts after all appeal rights have been exhausted. According to Alikarami and Hedayati-Kakhki, in practice this can take months or even years.<sup>380</sup>

If the convict is not already in detention, or if she/he fails to present herself/himself to the implementation unit or the prison, the implementation unit issues an arrest warrant. Such an arrest warrant usually authorizes the law enforcement agencies to enter private properties in order to locate and arrest the convict. The implementation unit might also issue a travel ban and ask the Attorney General to communicate the travel ban to the security forces responsible for border control.<sup>381</sup>

The implementation of the verdict can differ based on the specific type of sentence:

- In the case of **floggings**, the convict receives the lashes either in the Unit for the Implementation of Criminal Sentences (in the Prosecutor's Office) or in the prison where he might already be in detention.<sup>382</sup> Lashes for drinking alcohol might be implemented on the day of conviction, because such convicts often waive their appeal rights.<sup>383</sup>
- In the case of a **cash penalty**, the Unit for the Implementation of Criminal Sentences issues a summons to the convict ordering him to pay the specified amount into the judiciary's bank account within a defined time. The convict should then send the proof of payment back.<sup>384</sup> If she/he fails to pay and present the proof of payment, the implementation unit issues an arrest warrant. She/he will be kept in detention, either until she/he pays the amount, or until the debt is considered paid (with each day of incarceration counting as a certain amount of the monetary fine).<sup>385</sup>

<sup>379</sup> Alikarami, L., question list, email, 2 March 2021

<sup>380</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>381</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>382</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>383</sup> Alikarami, L., question list, email, 2 March 2021

<sup>384</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>385</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

- In the case of **imprisonment**, the Unit for the Implementation of Criminal Sentences is responsible for supervising the implementation of the prison sentence, from the time a convict is presented to the prison until her/his release.<sup>386</sup>



### Does a convict receive a confirmation of the implementation of the sentence?

Individuals do not always automatically receive a written confirmation for the implementation of their sentence. Documents and correspondence concerning the implementation of sentences should usually be kept in the case file. Individuals can also make a formal request to the Unit for the Implementation of Criminal Sentences to receive such documents. However, they might not always be granted access to all such documents.<sup>387</sup>

Access to documents related to the implementation of sentences can depend on the specific type of the sentence:

- In the case of **floggings**, the convict might receive a summons for the implementation of the sentence. The state of the implementation of the sentence is usually recorded in the case file of the convict. However, the implementation unit does not generally provide copies of documents attesting the implementation of flogging sentences<sup>388</sup>
- In the case of a **cash penalty**, the implementation office sends the convict a summons (*ekhtāriyeh*) ordering him to make the payment. The proof of payment may also attest the payment of a fine, if it clearly states the purpose of payment. The implementation unit might additionally send a confirmation stating that the payment has been received and the sentence been implemented.<sup>389</sup>
- In cases of **imprisonment**, the implementation office sends a criminal conviction letter (*nāmeḥ-ye e'lām-e mahkūmiyat-e qat'i-ye keifari*) to the prison in order to introduce the convict. The convict might be able to access this document in the case file.<sup>390</sup> It further sends a summons (*ehzāriyeh*) to the convict ordering her/him to present herself/himself to the prison, if she/he is not already in (pre-trial) detention.<sup>391</sup> Once released from prison after having served the sentence, the convict should receive a printout from the Prison Organization indicating the total length as well as the end of the sentence. In practice, prisons often do not provide this letter automatically, but the convict or his lawyer can make a request for it.<sup>392</sup> A criminal records check should also mention served prison times. Further documents attesting a prison sentence may include prison documents such as the receipt that lists the personal items confiscated

<sup>386</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>387</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>388</sup> Alikarami, L., question list, email, 2 March 2021, E-Mail, 21 January 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021


<sup>389</sup> Alikarami, L., question list, email, 2 March 2021, E-Mail, 21 January 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>390</sup> Alikarami, L., question list, email, 2 March 2021

<sup>391</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>392</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

on arrival, receipts for the payment of money into the prisoners' money account or cash card, or visitor permissions.<sup>393</sup>

 <b>Judicial documents issued during the implementation stage</b>
<b>(Prosecutor's Office)</b> <b>Unit for the Implementation of Criminal Sentences</b>
<ul style="list-style-type: none"><li>- Summons</li><li>- Arrest warrant</li><li>- Travel ban</li><li>- Bail arrangement</li><li>- Documents confirming the completion of a sentence</li></ul>

### 3.3.1. Summons & arrest warrant & travel ban

At the enforcement stage, the Units for the Implementation of Criminal Sentences can also issue summonses (sg. *ekhtāriyeh* or *ehzāriyeh*), arrest warrant (*barg-e jalb*) and travel ban (*qarār-e mamnū'iyat-e khorūj az keshvar*) against convicts.

According to article 500 CCP, the implementation unit summons the convict for the implementation of the verdict. If the convict fails to present herself/himself, or if a bondsman fails to present her/him, the judge in charge of implementing criminal judgements can issue an arrest warrant against the convict. If the judge fears that the convict might abscond or hide, he can issue an arrest warrant without first summoning him. According to Hedayati-Kakhki, an arrest warrant is also issued for a convict who has been sentenced in absentia and whose whereabouts are unknown (see [chapter 3.2.7](#)).<sup>394</sup> According to Alikarami, summonses can also be issued for the implementation for *hadd*-punishments (e.g. for floggings). They do, however, usually not mention the specific form of punishment in the content.<sup>395</sup>

According to article 509 CCP, the judge in charge of implementing criminal judgements can also issue a travel ban against a convict whose whereabouts are unknown.

The procedures for issuing these documents during the enforcement stage, as well as their content, are the same as during the stage of preliminary investigations (see [chapters 3.1.3.1](#) and [3.1.3.3](#) and [3.1.3.8](#)).

<sup>393</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>394</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>395</sup> Alikarami, L., question list, email, 2 March 2021

### 3.3.2. Bail arrangements

Persons sentenced to imprisonment may be granted furlough or early release from prison. Responsible for taking such decision are the specific branches of the Units for the Implementation of Criminal Sentences, which are usually located within the prisons. They usually ask for bail, either to make sure that the prisoner returns after the furlough, or that she/he observes the terms of the early release. In case of a medical leave, a prison doctor or another medical specialist additionally needs to give her/his expert opinion. As in all bail arrangements (sg. *qarār-e ta'mīn*), a number of documents are issued in this regard ([see chapter 3.1.3.6](#)).<sup>396</sup>

## 3.4. Checking the legal status

Individuals can check their current legal status with the authorities. The official criminal records, however, only contain final convictions. Ongoing court cases do not appear in the criminal records and have to be checked either with the electronic judicial database Adliran or directly with the competent judicial authorities.<sup>397</sup> The specific way to check the legal status depends on a number of factors: whether an individual is present in Iran or abroad; whether she/he has a final conviction or an ongoing court case; whether the case is of civil or criminal nature; or whether she/he has been served with official legal documents from a governmental or judicial authority.<sup>398</sup> Usually, when the Prosecutor's Office starts an investigation against someone, that person receives a written communication (e.g. a summons).<sup>399</sup> Today, the easiest way for an individual to check his/her legal status is through the judiciary's electronic database Adliran.<sup>400</sup> As of late, this database can also be accessed from abroad ([see chapter 4](#)). However, if the Prosecutor's Office has not yet officially opened a case, a criminal investigation will not appear in Adliran.

**Within Iran**, individuals can ask for an extract from their own criminal record at a police station. This extract, if it does not show any effective criminal record, is called certificate of the absence of a criminal record (*gavāhī-ye 'adam-e sū'-pīshīneh*).<sup>401</sup> The judiciary runs the (central) criminal records administration (*edāreh-ye tashkhīs-e hoviyat*) where law enforcement agencies can check the criminal record of an individual.<sup>402</sup> The specific office of the judicial administration usually takes the fingerprints of a person requesting a criminal record and asks her/him to come back after three to four days to collect the result.<sup>403</sup> To check whether they have an ongoing judicial case, Iranians might have to refer to the competent judicial administration.<sup>404</sup> This can be a time-consuming process, since they would have to check this with different local administration offices.<sup>405</sup>

**From abroad**, individuals have to apply for an extract of the criminal record through the MIKHAK online database (cf. box below). The applicants eventually have to present themselves at the consulate, where their fingerprints will be taken. It usually takes up to two months for the certificate

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<sup>396</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>397</sup> Alikarami, L., question list, email, 2 March 2021

<sup>398</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>399</sup> Alikarami, L., question list, email, 2 March 2021

<sup>400</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>401</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>402</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>403</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>404</sup> Alikarami, L., question list, email, 2 March 2021

<sup>405</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

to be issued.<sup>406</sup> Alternatively, they can grant power of attorney (PoA) to relatives, friends or to a registered attorney-at-law in Iran, who in turn can enquire about their legal status within Iran.<sup>407</sup> Applications for a PoA have to be submitted through the MIKHAK database and the consulate (cf. second box below).<sup>408</sup> To check whether they have an ongoing judicial case, applicants should give PoA to a certified attorney-at-law in Iran; only a registered attorney-at-law can represent them in legal defence matters and before courts and can access relevant case material.<sup>409</sup> According to Hedayati-Kakhki, in practice, such a lawyer can only effectively become active when either the client or the competent judicial authorities inform him about an ongoing judicial investigation; otherwise, he would have to follow up potential legal cases with various courts and judicial bodies.<sup>410</sup>

However, the absence of a criminal record or the absence of proof of an ongoing judicial case (in the justice administration or Adliran) does not necessarily exclude the existence of an ongoing investigation. Security forces do not enter information (and related documents) into the judiciary system until they refer the case to the Prosecutor's Office for prosecution.<sup>411</sup> In particular, investigations by the intelligence agencies are by nature highly confidential and often take place outside the scope of the judicial administration. Unless these take some form of legal action such as summoning an accused for interrogation, conducting house searches or arrests, individuals can be unaware of an investigation against them. Even after the beginning of a formal investigation, the judicial authorities have the right to withhold information about the specific charges and evidence in cases like political or security-related crimes ([see chapter 5.1](#)). In such cases, security forces and judicial authorities often only provide the bare minimum of information needed to carry out and justify their actions, such as issuing summons or arrest and search warrants.<sup>412</sup>



### Power of attorney (*vekālat-nāmeḥ*)

Iranians living abroad can give power of attorney (PoA) to any individual inside Iran, for instance to a family member, a friend or a lawyer. However, only a qualified attorney-at-law in Iran can represent them in legal defence matters and access relevant case material.<sup>413</sup> Such lawyers have to be registered either with the Iranian Bar Association (*kānūn-e vokalā-ye dādgostari*) or the Judiciary's Legal Advisors (*moshāverān-e qovveh-ye qazā'i-yeḥ*) ([see chapter 2.3](#)).<sup>414</sup> Iranians living abroad can give PoA to an attorney-at-law either directly, or to another person living in Iran with the instruction to appoint such an attorney for them.<sup>415</sup> Theoretically, it is also possible for a qualified attorney in Iran to travel abroad to meet his client and arrange the PoA herself/himself.<sup>416</sup>

<sup>406</sup> Alikarami, L., question list, email, 2 March 2021

<sup>407</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>408</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>409</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>410</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>411</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>412</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>413</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>414</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>415</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>416</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

The websites of the Iranian consulates describe the specific procedures to apply for PoA and provide a list of required documents. The websites may differ from country to country. Typically, the relevant information is found under a rubric called ‘approval of documents’ (*ta’yīd-e madārak*) or ‘power of attorney’ (*vekālat-nāmeḥ*).<sup>417</sup> Currently, applicants have to submit their applications for PoA through the MIKHAK online database for consular affairs (see box below). They have to fill out a number of forms to confirm their identity and to specify the scope of the PoA.<sup>418</sup> Eventually, they have to present themselves at the consulate in person in order to submit their identity documents and to finalize the PoA.<sup>419</sup> In such a case, the identity and whereabouts of an applicant are naturally revealed to the Iranian authorities. Judicial authorities might request attorneys-at-law to provide an explanation for the absence of her/his client in interrogations or court hearings; and security forces might try to pressure the individual or his family.<sup>420</sup>



### MIKHAK

#### (The MoFA’s database for consular affairs)

Originally, the Iranian Ministry of Foreign Affairs administered an online database called TAK, an acronym for ‘confirmation of consular documents’ (*ta’yīd-e asnād-e konsūlī*).<sup>421</sup> In 2019, it replaced TAK by a new online database called MIKHAK, an acronym for ‘standardized administration of consular services’ (*modīriyat-e yek-parcheh-ye khadamāt-e konsūlī*). This database serves as a portal for the application of all consular affairs.<sup>422</sup> The database is accessible through the webpage <https://www.mikhak.mfa.gov.ir/>. In order to use the database, Iranians first have to register with the website, submit their request and upload the relevant documents. They are then provided with a tracking code, with which they eventually have to present themselves together with the original documents at the specific consulate.<sup>423</sup>

<sup>417</sup> Alikarami, L., question list, email, 2 March 2021

<sup>418</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>419</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>420</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>421</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>422</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Islamic Republic of Iran, سامانه میخک [Mikhak database], [url](https://www.mikhak.mfa.gov.ir/)

<sup>423</sup> Alikarami, L., question list, email, 2 March 2021; Islamic Republic of Iran, سامانه میخک [Mikhak database], [url](https://www.mikhak.mfa.gov.ir/)

## 4. Judicial electronic database Adliran

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### 4.1. General

The judiciary introduced an electronic database system named the Electronic Judicial Services Database/Portal (*sāmāneh-ye [or dargāh-e] khadamāt-e eletrōnīk-e qazā'ī*)<sup>424</sup> to the judicial system in Iran, as part of the e-government/-administration and modernization process. Chapter nine of the CCP contains regulations in relation to the electronic trial (*dādrasī-ye elektrōnīk*). A Bylaw on the Use of Computer and Telecommunication Systems (*ā'in-nāmeḥ-ye nahveh estefādeh az sāmānehā-ye rāyāneh'ī yā mokhāberātī*), describing the CCP provisions in detail, was adopted on 18 August 2016. In accordance with Article 175 CCP and its bylaw, the judiciary eventually established a website to provide electronic judicial services: [www.adliran.ir](http://www.adliran.ir).<sup>425</sup> In the Western secondary literature and according to both legal experts consulted for this report, the electronic database system is often referred to by the name Adliran.<sup>426</sup>

According to the Deputy Head of the Iranian Judiciary's Statistics -Technology Department, the use of this electronic system has been gradually introduced since 31 October 2016 [10/08/1395]. Both the Parliament and the judiciary itself have contemplated the use of the electronic judicial database Adliran for some years prior to 2016 (from 2013 onwards). It seems that some provinces in Iran started using the system three months prior to the aforementioned compulsory date, as part of a pilot project.<sup>427</sup> Hedayati-Kakhki states that any reference to a specific date when the system was introduced is likely to create confusion as not every province introduced the system at the same time and some provinces are still using the traditional hard-copy/archive system.<sup>428</sup> In contrast, Alikarami states that Adliran is currently used throughout the country, even in the provinces and smaller cities.<sup>429</sup>

Until recently, the database was only accessible from within Iran. Individuals could access it through different websites: [www.adliran.ir](http://www.adliran.ir); <http://eblagh.adliran.ir> and <http://eblagh1.adliran.ir>.<sup>430</sup> From abroad these sites are only accessible with the use of an Iranian VPN (Virtual Private Network) connection.<sup>431</sup> It is also possible to access the database through a mobile phone application named Mobile Justice (*'edālat-e hamrāh*).<sup>432</sup>

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<sup>424</sup> In this report, we refer to the name Adliran because this term is most used in Western secondary literature and by both legal experts. The term Adliran refers to the website [www.adliran.ir](http://www.adliran.ir)

<sup>425</sup> Fars News, Tehran. The Code on the Use of Computer and Telecommunication Systems has been passed, 16 August 2016, [url](#)

<sup>426</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021; Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109

<sup>427</sup> ISNA, *ها-دادگستری-در-امروز-از-الکترونیکی-نام-ثبت-شدن-اجباری*, [Mandatory electronic registration from today in the judiciary], 31 October 2016, HS/31.10/2016, [url](#)

<sup>428</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>429</sup> Alikarami, L., question list, email, 2 March 2021

<sup>430</sup> Iran uses different websites to access Adliran in case one of the website is not accessible.

<sup>431</sup> A COI-Expert of the CGRS had access to all mentioned websites with the use of an Iranian IP address with the use of an Iranian VPN.

<sup>432</sup> See website: [www.eadl.ir](http://www.eadl.ir) [only to consult in Iran or with an Iranian VPN or proxy]

Recently, it has also become possible to consult the database from abroad through the websites <https://kharej.adliran.ir> and <https://international.adliran.ir/>. This is, however, only possible for an individual who is already registered with the system in Iran ([see chapter 4.2.1](#)).<sup>433</sup>

## 4.2. Accessibility and registration

### 4.2.1. Accessibility

According to Hedayati-Kakhki, there is no unified system in place regarding the nationwide availability and accessibility of the judicial database. Whilst the judiciary is striving to administer all cases through the electronic system, there have been resource and technical limitations which have affected the speed of this change. Hedayati-Kakhki and Alikarami both note that it is not possible in practice to compel all individuals involved in legal proceedings in Iran to register with the electronic system due to the variation in technology, knowledge and facilities available in the different regions of the country. Whilst the judiciary tries to establish electronic records and service documents via this method, it is still far from achieving a nationwide uptake of registration with Adliran. Registration is not compulsory (although strongly encouraged) and a person may still receive relevant legal documents via the traditional method of service, i.e., by a bailiff attending in person.<sup>434</sup>

The specific judicial authorities determine the most appropriate method of service, whether this is in electronic format or in hard-copy or both in parallel, depending on the individual involved (e.g. their age, computer literacy, etc.) as well as the resources available within that region.<sup>435</sup>

Individuals who have registered with and have access to the Adliran website through their login details would be expected to follow the progress of their case through this electronic system. Otherwise, they should expect to be served with the relevant documents at their registered address via a bailiff ([see chapter 3](#)). Individuals can register with Adliran at any stage during a legal proceeding.<sup>436</sup>

According to Hedayati-Kakhki, it is unclear whether Revolutionary Courts use the electronic database system or not. It is well documented that Revolutionary Courts do not follow the proscribed procedural laws, instead following their own internal rules.<sup>437</sup> Alikarami mentions for her part that the Revolutionary Courts make use of the electronic database, though not systematically. Some of the branches send the notification summons through SMS and upload them on the database. The branches handling security-related crimes in particular seem to still prefer to use the traditional system. However, the Revolutionary Courts are connected to the online system and can use it both actively and passively.<sup>438</sup>

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<sup>433</sup> Test conducted by a COI- Expert of the CGRS on 16 April 2021 - see website <https://international.adliran.ir/> and <https://kharej.adliran.ir>

<sup>434</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021

<sup>435</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>436</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>437</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>438</sup> Alikarami, L., question list, email, 2 March 2021





## Can another person in Iran access Adliran on someone's behalf?

According to Alikarami and Hedayati-Kakhki, people other than the user can have access to the database if they have the 10-digits number, the users' national number and the 6-digits temporary password sent through SMS. The Iranian law does not explicitly prohibit accessing other people's accounts (with their consent).<sup>439</sup> Also, if information pertaining to a case has already been entered into the electronic system by the relevant judicial/court complex where the case is being heard, the lawyer still will be able to access those records by attending in person and requesting copies of any materials that are held on file. Such information/documentation will only be issued to a lawyer if the court has authorised its release and disclosure.<sup>440</sup> Anyone who has the defendant's username and password, including their family members or legal representatives, may use this information to access the site and print any documents they require.<sup>441</sup>

### 4.2.2. Registration

If an individual wants access to her/his judicial documents, she/he has to first complete the electronic registration (*sabtnām-e elektrōnīk*, usually referred to by its acronym SANA) on the website [www.sana.adliran.ir](http://www.sana.adliran.ir). This website guides the user through the first necessary steps to register.<sup>442</sup> Below follows a description of the individual steps a user has to take to have access to Adliran.

#### Step 1: [www.sana.adliran.ir](http://www.sana.adliran.ir)

On the registration website, a user has to first fill in the following identity details: the national number (*shomāreh-ye mellī*) as written on the national (identity) card (*kārt-e mellī*), the date of birth and the serial number of the identity (family) booklet (*shenās-nāme*). After having completed the registration process and providing further information such as the full address in the SANA system, the personal password (10-digits) for logging into the judicial database system has to be picked up in person from one of the Offices of Electronic Judicial Services (OEJS) (*daftar-e khadamāt-e elektrōnīk*) or a court. These check the identity of the applicant and then provide her/him with a personal password (10-digits). More recently, a tool seems to have been added to SANA that allows remote authentication of identity without the need to attend an OEJS or a court.<sup>443</sup> With this personal password (10-digits) and the national number, the applicant can proceed further to the website [www.adliran.ir](http://www.adliran.ir) in order to access the database.<sup>444</sup>

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<sup>439</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>440</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>441</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>442</sup> Alikarami, L., question list, email, 2 March 2021; Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109

<sup>443</sup> See the website <https://u-id.net/sana>

<sup>444</sup> Alikarami, L., question list, email, 2 March 2021; Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109

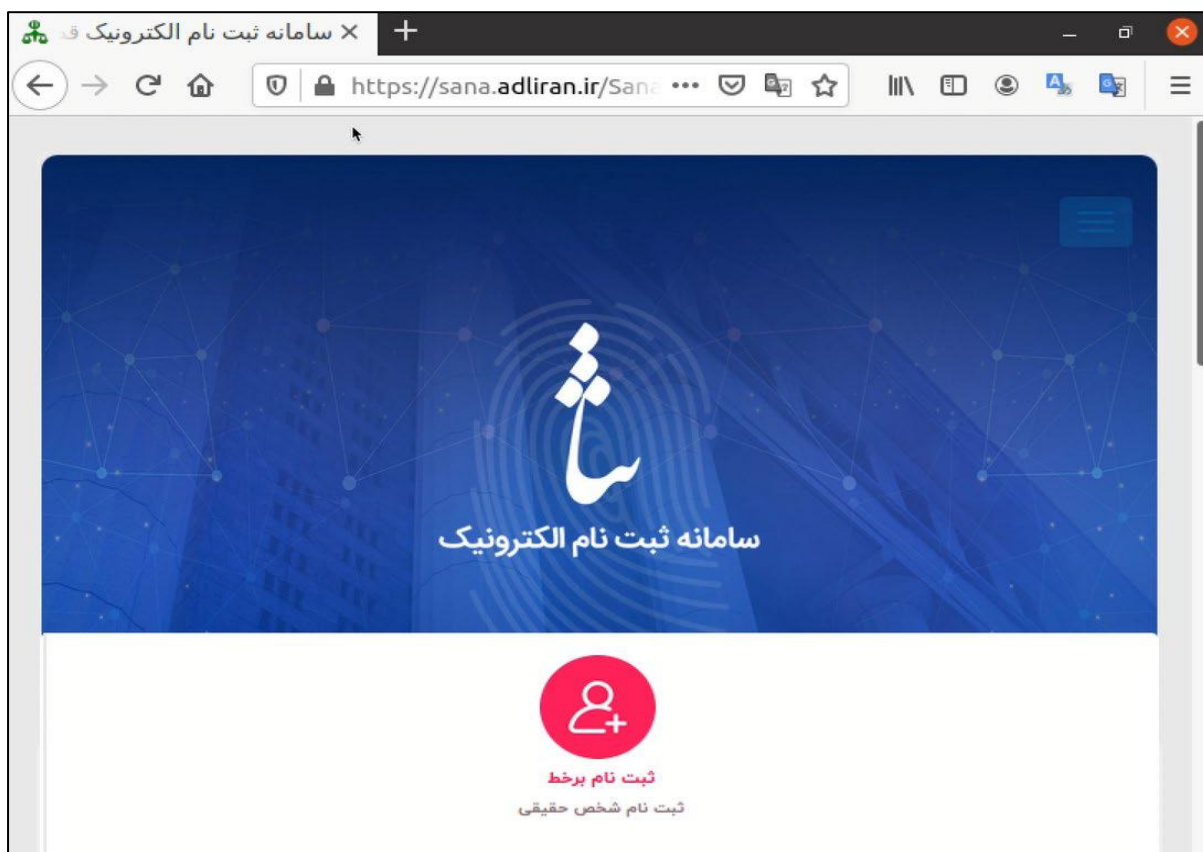


Image: main page website [www.sana.adliran.ir](http://www.sana.adliran.ir)

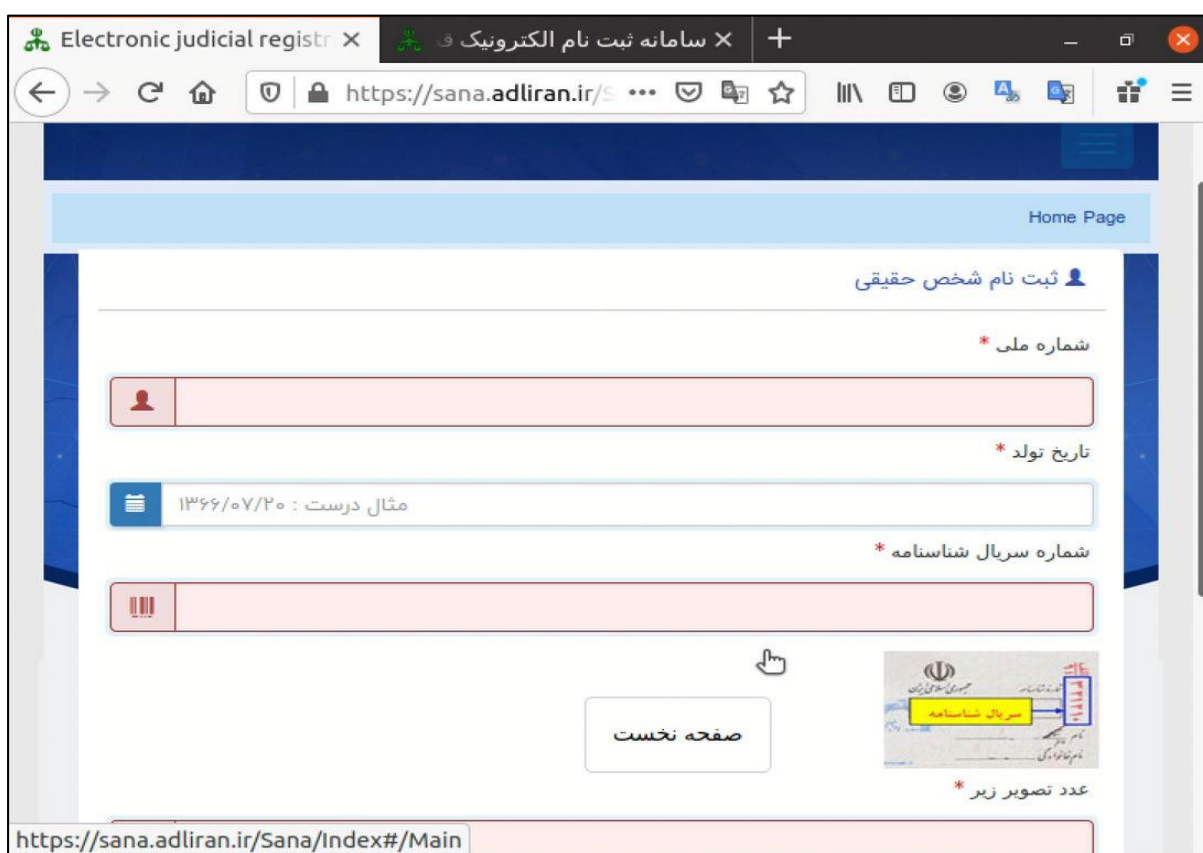


Image: registration page website [www.sana.adliran.ir](http://www.sana.adliran.ir)

**Step 2:** [www.adliran.ir](http://www.adliran.ir)

To eventually access the judicial database the user then has to go to the website [www.adliran.ir](http://www.adliran.ir) and select the option: 'registration for natural persons' (*sabt-nām-e shakhs-e haqāqī*). There is also a separate option for lawyers: 'database for lawyers and experts' (*sāmāneh-ye vokalā va kārshenāsān*). Having chosen one of these options, a new webpage will open where the user has to fill in her/his national number and the personal password (10-digits) issued by the OEJS or court. After this a temporary password (6-digits) is sent to the applicant via SMS or by e-mail, which she/he must enter into the system.<sup>445</sup> This temporary password (6-digits) is valid for up to one month for lawyers and up to 24 hours for individual persons.<sup>446</sup> Once she/he has entered the password (6-digits), the user has access to his judicial case and relevant documents.<sup>447</sup>



Image: main page website [www.adliran.ir](http://www.adliran.ir)

<sup>445</sup> Alikarami, L., question list, email, 2 March 2021; Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109

<sup>446</sup> Alikarami, L., question list, email, 2 March 2021

<sup>447</sup> Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109



Image: section individual persons website [www.adliran.ir](http://www.adliran.ir)

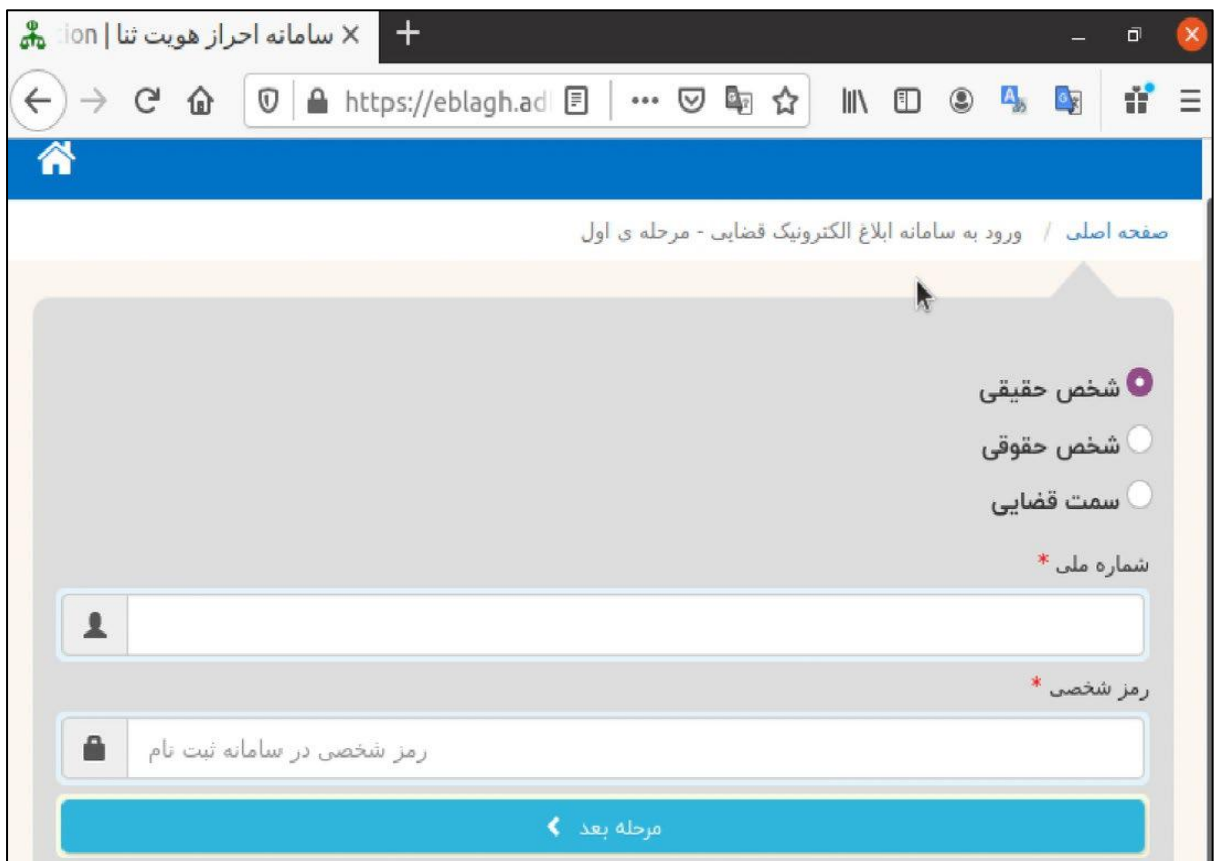


Image: login page national number and 10-digits password individual persons website [www.adliran.ir](http://www.adliran.ir)

### Step 3: case information

If all the above steps were applied correctly, the user will see her/his user account, information on the legal proceedings and the judicial documents relating to her/his judicial case.<sup>448</sup>



Image: mainpage case file electronic judicial database [www.adliran.ir](http://www.adliran.ir)

The user can also access her/his judicial documents through the application 'Mobile Justice' on a mobile phone. Further information about how to download this mobile application on a mobile phone can be found on the website: [www.eadl.ir](http://www.eadl.ir)

<sup>448</sup> Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109

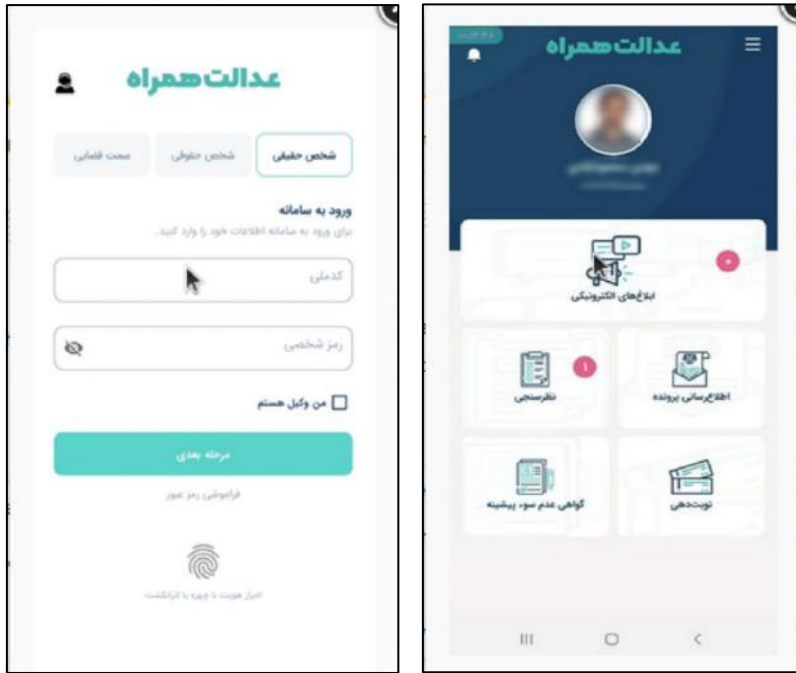


Image: mobile phone application 'Mobile Justice'



Image: main page <https://kharej.adliran.ir>

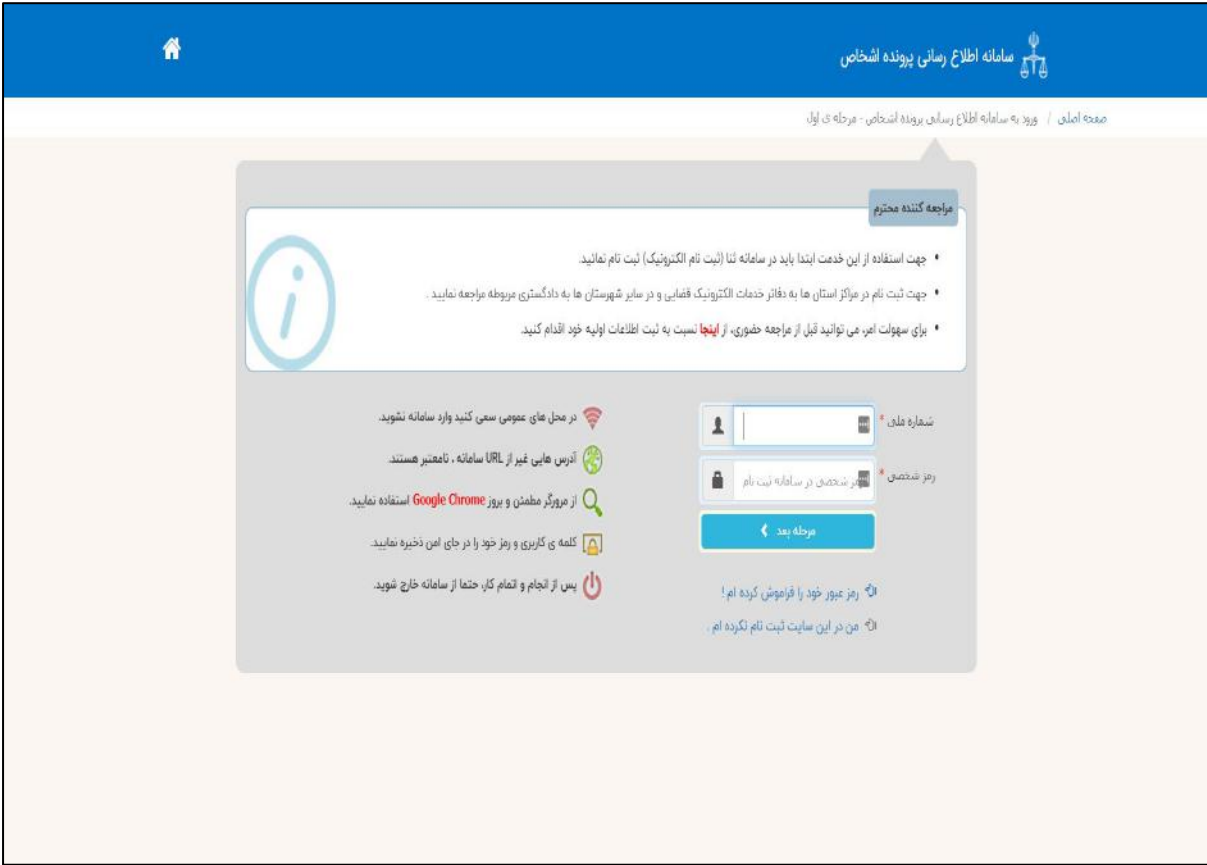


Image: login page national number and 10-digits password <https://kharej.adliran.ir>



Image: login page 6-digits password <https://kharej.adliran.ir>



## Can Adliran be accessed from abroad without a proxy or VPN?

The websites <https://kharej.adliran.ir> and <https://international.adliran.ir> on which users with a non-Iranian IP address can log in to Adliran, were accessible in the reporting period.<sup>449</sup> Hedayati-Kakhki states that in February/March 2021, the Iranian judiciary created these websites, which purports to permit Iranians residing abroad the ability to open an online account for the SANA system and view the status of their legal proceedings via this account. It has to be noted that a user has to first register in Iran in order to receive her/his 10-digits password issued by the OEJS or a court.<sup>450</sup> Hedayati-Kakhki also confirms that users who registered prior to departing Iran would be able to use their login details to access their records from abroad, subject to the website remaining available and accessible from outside the country.<sup>451</sup> However, Hedayati-Kakhki mentions that the websites can produce a number of errors when accessed from abroad, and when it is possible to complete an application this requires an Iranian mobile number (in order to provide a secure 6 digit code via SMS as part of the registration process) as well as for the applicant to attend a judicial office in Iran in order to obtain their user ID and password details/confirmation of their national ID card and to provide the office with their 6 digit SMS code, etc. Therefore, in practice, it is almost impossible (and an exceptionally onerous procedure) for an Iranian abroad to be able to successfully open a new account and obtain access to the SANA system once they are no longer resident in the country.<sup>452</sup>

According to information in the report of the Ministry of Foreign Affairs of the Netherlands of February 2021, users of Adliran can receive the text message with the temporary password (6-digits) outside Iran on a non-Iranian SIM card.<sup>453</sup> According to available information, Adliran is not used for signalling wanted persons to the Iranian authorities.<sup>454</sup>

### 4.3. Notifications and legal value of the documents on Adliran

According to Hedayati-Kakhki, in principle, all judicial documents of a criminal case file (summons, bail documents, verdicts etc.), as well as a chronology of events and other relevant information, are uploaded on Adliran. The documents which are normally served on the parties in person, are usually also accessible on Adliran. If a particular document is considered to be internal/confidential, the user will not be provided with access to that area of the database.<sup>455</sup>

If a person has registered with Adliran, and a document is uploaded or a new procedural step is announced, she/he is notified through the system and receives a notification. This usually happens by SMS. However, the judicial documents themselves are not attached to the notification. The notification only informs the user that a new document has been uploaded. In order to access the document, the user has to log into Adliran. However, according to Alikarami, the notification can serve

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<sup>449</sup> Test conducted by a COI- Expert of the CGRS on 16 April 2021 - see website <https://kharej.adliran.ir> and images in this report

<sup>450</sup> Test conducted by a COI- Expert of the CGRS on 16 April 2021 - see website <https://kharej.adliran.ir>

<sup>451</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>452</sup> Hedayati-Kakhki, M. M., question list, email, 18 November 2021

<sup>453</sup> Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109

<sup>454</sup> Netherlands Ministry of Foreign Affairs, Algemeen ambtsbericht Iran, February 2021, [url](#), p. 109

<sup>455</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021



as proof that the user was informed about the case. She adds an example to illustrate this: when a person receives a notification by SMS about the initial verdict, the 20-day time limit for the appeal will start from the date she/he received the SMS. The notification contains a number that identifies the document or amendment. With this number, the user can select the document or find the specific update in the electronic judicial system. According to Hedayati-Kakhki, individuals are able to print any case documents that appear within their account in the electronic system. The legal value of such printed documents is equal to that of physically served documents.<sup>456</sup>

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<sup>456</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

## 5. Rights during the criminal procedure

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The Iranian law – including the Constitution, the IPC and the CCP – defines the rights of the defendants during criminal proceedings, from the first investigations until a sentence has been served. The following chapter describes these rights, by listing the rights as provided by the law, and by briefly indicating to what extent judicial authorities and security forces observe or disregard these rights in practice.

### 5.1. Procedural rights

#### 5.1.1. Right to the presumption of innocence

Article 37 of the Constitution states that *'innocence is [presumed] and no one shall be regarded guilty before the law unless his guilt has been established by a competent court'*. **In practice**, according to Alikarami, in Iran it is often said that this rule is reversed: *'everybody is guilty unless she/he is proven to be innocent'*. Especially in political cases, judicial authorities often base their accusations on allegations rather than evidence. Security forces regularly build a case against a defendant during the preliminary investigations, especially during the interrogation, possibly under duress. Courts often use the interrogation statement or so-called investigation document signed by the accused as evidence.<sup>457</sup>

#### 5.1.2. Right to a lawyer

Iranian law grants a defendant the right to a legal counsel from the time of arrest until the issuance of the verdict. According to article 35 of the Constitution, both parties to a lawsuit have the right to choose their own lawyer. If they cannot afford a lawyer, the judicial authorities have to provide them with the means to appoint a lawyer.

According to article 48 CCP, the accused has the right to a lawyer immediately after being arrested. In this case, the lawyer can meet his client for an hour at most and has to respect the confidentiality of the investigations.<sup>458</sup> According to article 190 CCP, the accused also has the right to a lawyer during the **preliminary investigations**. The investigating judge has to inform him about this right prior to starting the interrogation. Violations of this right result in disciplinary liability. According to the note in article 48 CCP, however, the accused has to choose a lawyer from the list of judiciary-approved lawyers in severe crimes – such as crimes against the internal or external security of the country, organized crimes, or other crimes punishable by death, life or long imprisonment, or amputation (as defined by notes a-d in article 302).<sup>459</sup> This note replaces an earlier note, according to which the accused could be denied access to a lawyer up to a week in security-related and organized crimes.<sup>460</sup> This obligation to choose a lawyer from the judiciary-approved list only applies to the stage of preliminary investigations ([see chapter 2.3](#)). According to note 2 in article 190 CCP, in crimes

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<sup>457</sup> Alikarami, L., question list, email, 2 March 2021

<sup>458</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>459</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>460</sup> Vice Presidency for Legal Affairs, سامانه ملی قوانین و مقررات جمهوری اسلامی ایران [laws and regulations portal of Islamic Republic of Iran], قانون اصلاح قانون آیین دادرسی کیفری [amendment to the Code of Criminal Procedure], 24.03.1394 HS / 14.06-2015, Article 4, [url](#)

punishable by death or life imprisonment, the investigating judge has to provide the accused with a public lawyer (*vakīl-e taskhīrī*) if the accused fails to appoint his own lawyer.

At the **trial stage**, according to article 346 CCP, the involved parties in all penal matters have the right to present a lawyer of their own choice. This includes criminal cases, where the accused have to choose a lawyer from the judiciary-approved list during the stage of preliminary investigation. According to article 347 CCP, a defendant has the right to ask the court to appoint a lawyer for her/him, if he cannot afford a lawyer himself. This right to a court-mandated lawyer, however, only exists until the closing of the first hearing session. According to article 348 CCP, in severe crimes (as defined by article 302: punishable by death, life or long imprisonment, or amputation), the presence of a defence lawyer for the accused is mandatory; without her/his presence, the trial hearing cannot take place. If the accused does not appoint his own lawyer, or if her/his lawyer does not appear (without excuse), the court will appoint a public lawyer for her/him.<sup>461</sup>

**In practice**, according to Alikarami, human rights lawyers in Iran report few instances where their clients in Iran have had access to a lawyer directly after the arrest. This includes both political and non-political cases.<sup>462</sup> The accused are often not granted the lawyers of their own choice, but have a public lawyer allocated to their case. These lawyers frequently do not present an adequately prepared defence.<sup>463</sup> In political and security-related cases, security forces and judicial authorities routinely keep the accused in custody for long periods without granting them access to a lawyer. Investigating judges often only grant access to a lawyer after they have completed the preliminary investigations. This may be only days before a trial hearing starts, although the court may grant applications for a delay of the hearing to allow for more time for preparation. Courts sometimes even urge a defendant to choose a lawyer from the judiciary-approved list during the court hearing.<sup>464</sup> In Revolutionary Courts, lawyers usually need the permission from the judges to enter the courtroom in the first place.<sup>465</sup> Lawyers of people charged with *mohārebeh* were sometimes denied to participate in the trial; in other security-related cases, they were allowed to participate, but their right to present a proper defence was curtailed.<sup>466</sup>

### 5.1.3. Right not to be tortured, threatened, or disrespected

Article 38 of the Constitution explicitly prohibits the use of threat or torture in order to obtain a confession or information; any confession, testimony or oath obtained under force has no legal validity. Violation may result in legal liability. According to article 60 CCP, investigating judges are prohibited to coerce or impose duress on a defendant, to use insults or suggestive and misleading questions, or to ask any questions that are unrelated to the accusations. Answers obtained in such a way have no legal validity. According to article 195 CCP, an investigating judge is only allowed to ask questions that are related to the charges. He cannot ask suggestive or misleading questions or use force or coercion. Violation may result in legal liability.<sup>467</sup>

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<sup>461</sup> This article is not contained in the English translation of the CCP: Judiciary – Official Gazette of the Islamic Republic of Iran. No. 20135. قانون آیین دادرسی کیفری [Code of Criminal Procedure], 03.02.1393 HS / 23.04.2013, Article 348, [url](#)

<sup>462</sup> Alikarami, L., question list, email, 2 March 2021

<sup>463</sup> Alikarami, L., question list, email, 2 March 2021

<sup>464</sup> Alikarami, L., question list, email, 2 March 2021

<sup>465</sup> Alikarami, L., question list, email, 2 March 2021

<sup>466</sup> Alikarami, L., question list, email, 2 March 2021

<sup>467</sup> Alikarami, L., question list, email, 2 March 2021

According to article 39 of the Constitution, infringement on the dignity and reputation of individuals who are arrested, detained, jailed, or banished are prohibited. Violations may result in legal liability.<sup>468</sup> According to provision 6 of the Law on Respecting the Legitimate Liberties and Protection of Citizens' Rights (*qānūn-e ehterām beh āzādihā-ye mashrū' va hefz-e hoqūq-e shahravandī*) of 2003,<sup>469</sup> an interrogator has no right to interrogate an accused by handcuffing, blindfolding, humiliating or disrespecting him. Lengthy interrogations during night-time are also prohibited.<sup>470</sup> According to article 41 CCP, investigations and interrogations of women and minors should be done by trained female law enforcement officers (*zābetān-e dādgostarī*) as far as possible.

**In practice**, according to Alikarami, human rights lawyers in Iran report that interrogators in Iran often use physical and psychological torture, threats, and other forms of degrading treatment to obtain information or confessions from an accused. In practice, state officials accused of torture are rarely legally persecuted, let alone convicted.<sup>471</sup> Judicial officials and law enforcement agencies often do not respect the rights of the accused or their lawyers. They often interrogate defendants during the night; and state television regularly broadcasts programs denigrating political and human right activists and showing forced confessions.<sup>472</sup>

#### 5.1.4. Right to access case related documents

At the stage of **preliminary investigations**, according to article 190 CCP, the lawyer of an accused has the right to obtain information on the charges and supporting evidence brought against his client, in order to defend her/him. She/he is also allowed to cite such evidence in written statements to the judicial authorities. According to article 191 CCP, the investigating judge can restrict access to certain evidence and documents only if he deems the disclosure of this information to be contrary to the discovery of the truth, and in security-related cases. He has to justify such a restriction in a written decision (*qarār*) to the defendant or her/his lawyer. These have the right to object his decision within three days at the competent court.

At the **trial stage**, according to article 351 CCP, an accused – as well as complainants – and her/his lawyers have the right to review the case file at the court in order to prepare for the court hearing. They also have the right to make photocopies of the relevant pages of the case file. However, according to a note in article 351 CCP, they are prohibited from taking photocopies of classified documents, as well as of documents related to 'crimes against public chastity' and security-related crimes.<sup>473</sup> According to article 380 CCP, the court has to serve the verdict to both parties of a legal case or to their attorneys respectively. If the court announces the verdict orally during the court session, it later has to provide them with a regular or a certified copy of the verdict. According to note 2 of article 380 CCP, in 'crimes against chastity' as well as in security-related crimes, the court only announces the verdict orally, in the presence of the parties. However, lawyers have the right to take notes of the entire content of the verdict.

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<sup>468</sup> Alikarami, L., question list, email, 2 March 2021

<sup>469</sup> Islamic Consultative Assembly, قانون احترام به آزادیهای مشروع و حفظ حقوق شهروندی [Law on Respecting the Legitimate Liberties and Protection of Citizens' Rights], 15.02.1382 HS / 05.05.2003, Provision 5, [url](#)

<sup>470</sup> Alikarami, L., question list, email, 2 March 2021

<sup>471</sup> Alikarami, L., question list, email, 2 March 2021

<sup>472</sup> Alikarami, L., question list, email, 2 March 2021; see also a recent report on this topic: International Federation for Human Rights & Justice for Iran, Orwellian state: Islamic Republic of Iran's state media as weapons of mass suppression, June 2020, [url](#)

<sup>473</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

At the **implementation stage**, parties to the case (including the convicted person) or their lawyers usually also have access to relevant documents ([see chapters 3.3.1 and 3.3.2](#)) like summonses, arrest warrants, travel bans or bail arrangements, where the general procedural rules apply.<sup>474</sup>

**In practice**, according to Alikarami and Hedayati-Kakhki, particularly in political and security-related cases, judicial authorities often deny the accused and their lawyers access to evidence or the case file at all.<sup>475</sup> When given access to the file, often only shortly before the trial session, they are usually not permitted to make photocopies of relevant files but have to take handwritten notes from every item. Consequently, lawyers have to prepare their defence hastily.<sup>476</sup> Revolutionary Courts in particular often do not issue a copy of the verdict; lawyers are only granted access to study the verdict in the court, where they can take notes.<sup>477</sup>



### Copies of judicial documents

As described in the previous chapters, defendants and their lawyers can usually get copies of specific documents, such as for instance summonses, bail arrangements, bills of indictment or verdicts. Other documents, such as search and arrest warrants or written records of interrogation are not directly issued to them. However, all case-related files are usually kept in the case file of a defendant at the justice administration office or in the electronic casefile on Adliran.

Defendants and their lawyers can access these documents on Adliran ([see chapter 4](#)) or apply – even at a later stage – for a copy of such documents from the judicial administration offices (sg. *daftar-e dādgostari*), which are located in court buildings. This usually takes the form of a certified copy (*fotokopi-ye / rūnesht-e barābar bā asl*), which is certified by a stamp and sometimes a signature.<sup>478</sup>

**In practice**, the specific access to such documents depends on a number of factors, such as the type of document, the stage of a criminal proceeding, and particularly the decision of the judicial authorities. These might not grant a defendant or her/his lawyer access to documents that they normally do not serve (such as arrest warrants, travel bans, documents stating the implementation of floggings, etc.). The same often applies to cases relating to ‘crimes against chastity’, and political or security-related crimes.<sup>479</sup>

A defendant or her/his lawyer may nevertheless obtain access to such documents, including by unofficial means like bribery or connections. However, such unofficial copies often do not bear any stamp or signature from authorities certifying them as true copies of the original.<sup>480</sup>

<sup>474</sup> Alikarami, L., question list, email, 2 March 2021

<sup>475</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>476</sup> Alikarami, L., question list, email, 2 March 2021

<sup>477</sup> Alikarami, L., question list, email, 2 March 2021; Hedayati-Kakhki, M. M., question list, email, 2 March 2021

<sup>478</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021

<sup>479</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021; Alikarami, L., question list, email, 2 March 2021

<sup>480</sup> Hedayati-Kakhki, M. M., question list, email, 2 March 2021

Lawyers themselves also have the legal authority to certify copies of court documents. However, according to Alikarami, this only applies to court documents involving their own clients: usually the documents they have access to.<sup>481</sup>

### 5.1.5. Right to be notified of the charges

According to article 32 of the Constitution, in the case of an arrest, the relevant security forces and judicial authorities must immediately inform the accused of the reasons for her/his arrest in writing. Violations of this right should be penalized according to the law. Article 181 CCP states that the reasons for the arrest must be mentioned on the arrest warrant, which is served on the accused.

According to article 195 CCP, the investigating judge has to explicitly inform the accused about the charges levelled against him and about supporting evidence, prior to starting the interrogation. Article 190 CCP further grants the lawyer of an accused the right to obtain information on the charges and supporting evidence against her/his client. According to Alikarami, the charges should be communicated in full detail and in writing, both in evident and non-evident crimes.<sup>482</sup> According to article 191 CCP, only if the investigating judge deems the disclosure of this information to be contrary to the discovery of the truth or in security-related cases, can he restrict access to certain evidence and documents. He has to justify such a restriction in a written decision (*qarār*) to the defendant or her/his lawyer. These have the right to object his decision within three days at the competent court.

**In practice**, according to Alikarami, security forces and judicial authorities routinely withhold information on the charges and supporting evidence from defendants and their lawyers, especially in political and security-related cases.<sup>483</sup>

### 5.1.6. Right to remain silent

Article 197 CCP guarantees a defendant the right to remain silent. The investigating judge has no duty to inform her/him of this right; however, according to article 195 CCP he has to inform her/him that generally, her/his cooperation with the investigation can have a mitigating effect on her/his punishment. According to article 197 CCP, if the defendant chooses to remain silent or refuses to sign her/his statements, the investigating judge should state this in writing in the written record of the interrogation.

According to Alikarami, human rights lawyers in Iran report that **in practice**, judicial authorities often keep a defendant in detention if he asserts his right to remain silent, until he is ready to talk.<sup>484</sup>

### 5.1.7. Right to an interpreter

According to article 200 CCP, an investigating judge has to use an interpreter for the interrogation of an accused who is not able to speak Farsi.

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<sup>481</sup> Alikarami, L., question list, email, 2 March 2021

<sup>482</sup> Alikarami, L., question list, email, 2 March 2021

<sup>483</sup> Alikarami, L., question list, email, 2 March 2021

<sup>484</sup> Alikarami, L., question list, email, 2 March 2021

According to Alikarami, **in practice**, legal proceedings are conducted entirely in Farsi with no interpretation available. This is to the particular disadvantage of ethnic minorities who might not perfectly understand and speak Farsi.<sup>485</sup>

### 5.1.8. Right to a closing defence

According to article 262 CCP, the accused or her/his lawyer have the right to present a last defence (*ākharīn defā'*) after the termination of the preliminary investigation. According to article 367, they have the same right at the end of the trial procedure.

**In practice**, according to Alikarami, courts often do not admit defence lawyers to trial sessions in political and security cases.<sup>486</sup>

### 5.1.9. Right to receive a receipt for confiscated items

According to article 146 CCP, the investigating judge is only allowed to confiscate items directly related to a crime. According to article 147 CCP, he has to prepare a detailed written record (*sūrat-majles*), numbering each confiscated item, whereas the items themselves have to be stored and labelled at a suitable place. This list has to be signed by the official conducting the search as well as by the homeowner (or another person present) and potential witnesses. If those persons refrain from doing so, the official should notify this in the written record. He has to provide them with a receipt (*rasīd*) – usually a copy of the written record – containing a description of the objects.<sup>487</sup>

**In practice**, according to Alikarami, especially in political cases, the interrogators and law enforcement agencies often confiscate personal items such as computers, books, CDs and DVDs, or even items belonging to other persons. They do not always provide a written receipt, nor do they always return the confiscated items, even after years.<sup>488</sup>

### 5.1.10. Prohibition of monitoring telecommunication

According to article 150 CCP, the judicial and state authorities are generally not permitted to eavesdrop or intercept telecommunications of individuals in order to establish evidence. An exception, however, is made for security-related crimes and crimes punishable by death, life or long-term imprisonment, or amputation (as defined by notes a-d of article 302 CCP).

**In practice**, according to Alikarami, judicial authorities monitor all forms of communication and use them to arrest and try individuals.<sup>489</sup>

## 5.2. Prisoners' rights

### 5.2.1. Right to receive visitors

Articles 210 to 222 of the Regulation of the State Prisons and Security and Corrective Measures Organization (*ā'in-nāmeḥ-ye ejrā'ī-ye sāzmān-e zendānhā va eqdāmāt-e ta'mīnī va tarbiyātī-ye*

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<sup>485</sup> Alikarami, L., question list, email, 2 March 2021

<sup>486</sup> Alikarami, L., question list, email, 2 March 2021

<sup>487</sup> Alikarami, L., question list, email, 2 March 2021

<sup>488</sup> Alikarami, L., question list, email, 2 March 2021

<sup>489</sup> Alikarami, L., question list, email, 2 March 2021

*keshvar*) of 2021 regulate the visitation rights of prisoners and detainees in Iran. According to article 210, all accused and convicts have the right to communicate with and receive visits from family member and friends. According to article 211, special regulations apply for prisoners who are (temporarily) prevented from such visits.<sup>490</sup>

According to Alikarami, **in practice**, defendants are sometimes denied visiting rights, particularly in political or security-related cases.<sup>491</sup>

### 5.2.2. Right to healthcare

Articles 117 to 173 of the Regulation of the State Prisons and Security and Corrective Measures Organization of 2021<sup>492</sup> regulate details like the provision of healthcare, food, and daily activities for Iranian prisoners and detainees.<sup>493</sup>

According to article 136-138 of the same law, prisons and detention centres should provide for medical care needs as far as possible inside the institution; in case of necessity, however, they have to release the convict from prison for treatment outside.<sup>494</sup>

**In practice**, according to Alikarami, prisons often deny access to proper medical care. In the case of political prisoners, the denial of healthcare often seems to be used as a deliberate form of punishment.<sup>495</sup>

### 5.2.3. Right to object prison conditions

According to articles 114 & 115 of the Regulation of the State Prisons Organization of 2021,<sup>496</sup> collective objections, complaints, visiting demands or strikes by the prisoners are strictly prohibited. An individual prisoner, however, has the right to lodge a complaint. She/he can either ask for a meeting with the supervising judge or the prison director, or she/he can submit the complaint through the relevant (online) system, or a letter box designed for this purpose. The supervising judge is supposed to empty these boxes at least once a week and to forward the complaints to the prison director for examination.<sup>497</sup>

According to Alikarami, prison authorities **in practice** usually do not follow up on such complaints.<sup>498</sup> An individual who files a complaint against a prison guard or authorities might even be subjected to harassment and intimidation in order that she/he drop the case; or be prosecuted for defamation.<sup>499</sup>

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<sup>490</sup> Islamic Consultative Assembly, آیین نامه اجرایی سازمان زندان ها و اقدامات تأمینی و تربیتی کشور [Regulation of the State Prisons and Security and Corrective Measures Organization], 28.02.1400 HS / 18.05.2021, Articles 210-222, [url](#)

<sup>491</sup> Alikarami, L., question list, email, 2 March 2021

<sup>492</sup> Islamic Consultative Assembly, آیین نامه اجرایی سازمان زندان ها و اقدامات تأمینی و تربیتی کشور [Regulation of the State Prisons and Security and Corrective Measures Organization], 28.02.1400 HS / 18.05.2021, Articles 117-173, [url](#)

<sup>493</sup> Alikarami, L., question list, email, 2 March 2021

<sup>494</sup> Islamic Consultative Assembly, آیین نامه اجرایی سازمان زندان ها و اقدامات تأمینی و تربیتی کشور [Regulation of the State Prisons and Security and Corrective Measures Organization], 28.02.1400 HS / 18.05.2021, Articles 136-138, [url](#)

<sup>495</sup> Alikarami, L., question list, email, 2 March 2021

<sup>496</sup> Islamic Consultative Assembly, آیین نامه اجرایی سازمان زندان ها و اقدامات تأمینی و تربیتی کشور [Implementing Code of the State Prisons and Security and Corrective Measures Organization], 28.02.1400 HS / 18.05.2021, Articles 114 & 115, [url](#)

<sup>497</sup> Alikarami, L., question list, email, 2 March 2021

<sup>498</sup> Alikarami, L., question list, email, 2 March 2021

<sup>499</sup> Alikarami, L., question list, email, 2 March 2021



## Annex 1. Table overview of political and security-related offences

IPC	Political offences	Punishment	Law enforcement	Court
Article 279-285	'Waging war against God' ( <i>mohārebeh</i> )	(a) Death penalty [by hanging], (b) crucifixion, (c) amputation of the right hand and the left foot, (d) banishment	Intelligence Ministry IRGC IRGC Intelligence (Police)	Revolutionary Courts
Article 286-288	'Corruption on earth' ( <i>efsād fe-l-arz</i> )	Death penalty or <i>ta'zīr</i> imprisonment of the fifth or sixth degree	Intelligence Ministry IRGC IRGC Intelligence (Police)	Revolutionary Courts (Criminal Courts)
Article 498	Establishing a group to disrupt national security	2 to 10 years imprisonment (if not considered <i>mohārebeh</i> )	Intelligence Ministry IRGC IRGC Intelligence (Police) (Cyber Police)	Revolutionary Courts
Article 499	Membership in a group with the purpose of disrupting national security, or insulting Iranian ethnicities, divine religions or Islamic schools of thought recognised under the Constitution with the intent to cause violence or tensions in the society or with the knowledge	3 months to 5 years imprisonment and/or a fine between 20 million and 180 million IRR (if not considered a <i>hadd</i> crime). Under certain circumstances the punishment might be aggravated by	Intelligence Ministry IRGC IRGC Intelligence (Police) (Cyber Police)	Revolutionary Courts

	that such consequences will follow <sup>500</sup>	one <i>t'azir</i> degree [from V to IV] <sup>501</sup>		
Article 500	Spreading propaganda against the system, or conducting any deviant educational or proselytising activity that contradicts or interferes with the sacred law of Islam as part of a sect [among others] or through the use of mind control methods and psychological indoctrination <sup>502</sup>	3 months to 5 years imprisonment, and/or a fine between 80 million and 180 million IRR, [and the deprivation of social rights] (if not considered a <i>hadd</i> crime). Under certain circumstances the punishment might be aggravated by one <i>t'azir</i> degree [from V to IV] <sup>503</sup>	Police Cyber Police IRGC IRGC Cybercommand Intelligence Ministry IRGC Intelligence	Revolutionary Courts
Article 508	Collaboration with a hostile government	1 to 10 years imprisonment (if not considered <i>mohārebeh</i> )	Intelligence Ministry IRGC Intelligence (Police) (Cyber Police) (IRGC)	Revolutionary Courts

<sup>500</sup> Article 19, Iran: Parliament passes law to further choke freedoms and target minorities, 19 February 2021, [url](#)

<sup>501</sup> Islamic Parliament Research Center of The Islamic Republic of Iran, قانون مجازات اسلامی (تعزیرات) قانون الحاق دو ماده به کتاب پنجم قانون مجازات اسلامی [The law on the accession of two articles to the fifth book of the Islamic Penal Code (ta'zir and deterrent punishments)], 27.11.1399 HS / 15.02.2021, [url](#)

<sup>502</sup> Article 19, Iran: Parliament passes law to further choke freedoms and target minorities, 19 February 2021, [url](#)

<sup>503</sup> Islamic Parliament Research Center of The Islamic Republic of Iran, قانون مجازات اسلامی (تعزیرات) قانون الحاق دو ماده به کتاب پنجم قانون مجازات اسلامی [The law on the accession of two articles to the fifth book of the Islamic Penal Code (ta'zir and deterrent punishments)], 27.11.1399 HS / 15.02.2021, [url](#)

Article 513	Insulting Islamic sanctities	1 to 5 years imprisonment	Police Cyber Police (Intelligence Ministry) (IRGC) (IRGC Intelligence)	Revolutionary Courts
Article 514	Insulting the Supreme Leader	6 months to 2 years imprisonment	Police Cyber Police (Intelligence Ministry) (IRGC) (IRGC Intelligence)	Revolutionary Courts
Article 610	Gathering and colluding to commit crimes against national security	2 to 5 years imprisonment	Intelligence Ministry IRGC IRGC Intelligence (Police) (Cyber Police)	Revolutionary Courts
Article 609	Insulting officials	Up to 6 months imprisonment, or up to 74 lashes or a fine between 50 000 and 1 000 000 IRR	Police Cyber Police (Intelligence Ministry) (IRGC) (IRGC Intelligence)	Revolutionary Courts

## Annex 2. Table overview of moral offences

ICP	Moral offences	Punishment	Law enforcement	Court
Article 637	Illicit relationship between a man and a woman such as touching and kissing.	Up to 99 lashes	Morality Police Police	Criminal Court II
Article 638	Un-Islamic dress code ( <i>bad hejāb</i> )	10 days to 2 months imprisonment or 50 000 to 500 000 IRR monetary fine	Morality Police Police	Criminal Court II
Article 639	Encouraging people to depravity and immorality ( <i>tashvīq-e mardom be fahshā va fesād</i> )	1 to 10 years	Morality Police Police	Criminal Court II
Article 701	Drinking alcohol in public	2 to 6 months imprisonment in addition to flogging (80 lashes)	Morality Police Police	Criminal Court II

## Annex 3. Terms of Reference (ToR)

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The report aims to provide information on the judiciary, judicial proceedings, and judicial documents in Iran, that is relevant for the assessment of international protection status determination, including refugee status and subsidiary protection. The terms of reference were drafted by Country of Origin Information (COI) specialists from COI units of Landinfo, CGRS and SEM.

The content of the report should include information on the following topics:

1. Law enforcement and Security agencies
  - Relevant institutions
2. The judiciary
  - Relevant institutions
3. Judicial Procedures & Documents
  - Explanation of judicial proceedings
4. Rights of the accused
5. Electronic judicial database
  - Information about Adliran
  - Accessibility of Adliran

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