



# EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS

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## **The case of German-Iranian citizen Jamshid Sharmahd: Legal action against crimes against humanity in Iran**

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### **Why are we taking this case?**

The regime in Iran has committed human rights violations and crimes against humanity for decades. Members of the Iranian regime and judiciary are responsible for these systematic acts of violence – most recently in the wake of the crackdown on the feminist revolution.

The illegal detention, torture while in detention, unfair trial and imminent execution of Jamshid Sharmahd exemplify the crimes of the Iranian regime, including against those who are dual citizens. The case can and must trigger further investigations.

### **Against whom is the criminal complaint directed in the case of Jamshid Sharmahd?**

The criminal complaint focuses on eight high-ranking members of the Iranian judiciary and intelligence service: Abdolghassem Salavati (Presiding Judge of Branch 15 of the Tehran Revolutionary Court), Mahmoud Alavi (Minister of Intelligence of the Islamic Republic of Iran at the time of Sharmahd's abduction), Gholamhossein Mohseni-Ejei (Chief Justice of Iran) Mortazavi Moghadam (Moqaddam), Ahmad Mortazavi Moghadam (President of the Supreme Court of the Islamic Republic of Iran), and Mohammad Jafar Montazeri (Prosecutor General of the Islamic Republic of Iran).

### **What is the aim of the criminal complaint submitted to the German Federal Public Prosecutor?**

Jamshid Sharmahd, who has been sentenced to death in Iran, is a German citizen, which means that the German judiciary is required to investigate this case. With the criminal complaint, ECCHR is supporting the efforts of Gazelle Sharmahd in her fight against the illegal detention, torture while in detention, unfair trial and imminent execution of her father Jamshid Sharmahd.

Gazelle Sharmahd – the daughter of Jamshid Sharmahd – and ECCHR expect that, in addition, the Federal Public Prosecutor will initiate so-called structural proceedings concerning Iran. The so-called principle of universal jurisdiction in §1 VStGB (German International Code of Crimes) empowers the Federal Public Prosecutor to undertake



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systematic investigative proceedings (extending beyond the individual case) into unjust and repressive state structures in cases of crimes against humanity.

From experience with multiple criminal complaints concerning state torture in Syria, ECCHR currently assumes that the public prosecutors at the Public Prosecutor's Office are already addressing the situation in Iran. In cases of criminal prosecutions in third countries, a criminal complaint is often the first step on the path toward investigations. A complaint serves to direct the attention of the Federal Public Prosecutor to a specific situation or act, which, from the perspective of the complainants, constitutes a criminal offense, i.e. could be seen as a crime.

Structural proceedings can also aid in the process of gathering evidence not only for the Sharmahd case, but also for crimes in connection with the crackdown on the feminist revolution, and help to secure possible future criminal proceedings.

## **What is the principle of universal jurisdiction?**

Grave crimes affect the international community as a whole and must not be allowed to go unpunished. Therefore, it is also the task of national jurisdictions in third countries, such as Germany, to investigate grave crimes in Iran and bring them to prosecution.

In Germany, the International Code of Crimes (ICAIL), which came into force in 2002, makes it possible to criminally prosecute crimes in Iran. Under the ICAIL, German national criminal law was modified to fit the regulations of [international criminal law](#), in particular the Rome Statute of the International Criminal Court.

The principle of universal jurisdiction, enshrined in the ICAIL, establishes the prerequisites for the prosecution of genocide, crimes against humanity and war crimes by the German criminal justice authorities. According to the ICAIL, the German Federal Public Prosecutor may also investigate when such crimes are committed abroad – which means that they are punishable under German law regardless of where, by whom, and against whom they were committed.

## **What role does ECCHR play in the case?**

With their many years of expertise and experience in international, as well as German, criminal law, ECCHR legal advisors are supporting Gazelle Sharmahd. ECCHR staff members in the International Crimes and Accountability program drafted the criminal complaint. Senior Legal Advisor Patrick Kroker and ECCHR General Secretary Wolfgang Kaleck have also been retained by Gazelle Sharmahd as lawyers.



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## **Why not take on a case with a connection to the recent protests?**

There are many indications that the wave of repression against the women's protest movement involves crimes against humanity. Those responsible should be brought to justice. The criminal complaint in the name of Gazelle Sharmahd explicitly points to this.

The killing of individual demonstrators, as well as the massive scale of illegal detention, torture and sexual violence against women and girls in detention, must be investigated. This is not only the task of the international criminal justice system. National authorities such as the German Federal Public Prosecutor's Office can also investigate and contribute to prosecutions. The criminal complaint in the Sharmahd case should therefore also be seen as an initial catalyst.

## **How did the collaboration between ECCHR and Gazelle Sharmahd come about?**

As an international human rights organization, ECCHR employs legal means and avenues to work toward a world free of torture, exploitation and fortified borders. One area of emphasis is our work on crimes against humanity and war crimes committed globally. Our aim: to hold the immediate perpetrators, along with their superiors, legally accountable. One example of this is ECCHR's work on Syria, which has been reported on by multiple international media outlets. This is also how Gazelle Sharmahd, in cooperation with other NGOs, came across ECCHR.

## **How high is the risk that the criminal complaint will harm Jamshid Sharmahd?**

Based on ECCHR's experience, as well as that of Iranian activists and many other national and international human rights organizations, publicizing human rights violations is in the interest of those affected. This is also the case with legal action, such as criminal complaints, lawsuits, etc.

In the case of Jamshid Sharmahd, ECCHR trusts the assessment of Gazelle Sharmahd and her (legal) advisors, who have fought for years for Sharmahd's release. The criminal complaint in Germany has been drafted in close coordination with them.

## **How do you assess Germany's conduct in the Sharmahd case thus far?**

Gazelle Sharmahd and ECCHR are hopeful that the Federal Public Prosecutor's Office in Karlsruhe will concur with complaint's legal assessment of grave crimes and crimes against humanity. It is up to the other institutions in the Federal Republic of Germany to draw the necessary political conclusions from this legal assessment.



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## **What kind of expertise does ECCHR have concerning Iran?**

As an international human rights organization, ECCHR has been addressing human rights crimes and crimes against humanity for many years worldwide, hence also in Iran.

ECCHR usually initiates or supports legal interventions concerning those countries, situations or crimes in which opportunities for promising proceedings present themselves. In addition, the Berlin-based organization relies on close cooperation with affected persons, lawyers, organizations and activists from the respective countries and regions.

## **Will there be additional legal action concerning Iran?**

The continuation of legal work on Iran will depend on how the case of Jamshid Sharmahd develops. Legal means and channels at the international level may also be used for this purpose. For example, ECCHR could work within the framework of the United Nations (UN) independent international fact-finding mission that is now beginning.

In light of the deteriorating human rights situation in the Islamic Republic of Iran, particularly with regard to women and children, the UN Human Rights Council decided in Resolution S35/1 in November 2022 to establish an independent international fact-finding mission on the Islamic Republic of Iran by the end of March 2024.

In close exchange with other NGOs, ECCHR also continues to analyze further possibilities for initiating promising legal steps in third countries.