



Homeland Security

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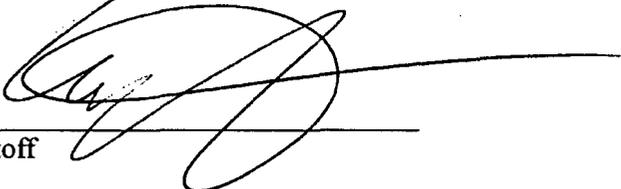
MEMORANDUM FOR: MICHAEL J. GARCIA
ASSISTANT SECRETARY
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

THROUGH: Randy Beardsworth
Acting Under Secretary
Border and Transportation Security

FROM: Michael Chertoff
Secretary
Department of Homeland Security

SUBJECT: Certification of Reza Ghol EMAMIPOUR, A75 508 175,
Pursuant to 8 CFR § 241.14(c)(1)

In accordance with the requirements of 8 CFR § 241.14(c)(1), I hereby certify that Reza Ghol EMAMIPOUR, A75 508 175, is an alien described in section 237(a)(4)(C) of the Immigration and Nationality Act, whose release is likely to have serious adverse foreign policy consequences to the United States, and there are no conditions of release that can reasonably be expected to avoid these serious adverse foreign policy consequences.



Michael Chertoff
Secretary
Department of Homeland Security

THE SECRETARY OF STATE

WASHINGTON

February 18, 2005

Dear Mr. Secretary:

The case of Reza Ghol Emamipour was brought to the Department of State's attention by the Department of Homeland Security (DHS) in a January 21 letter from your predecessor. In response, based on available information, I have determined, consistent with 8 CFR 241.14 that: (1) without regard to the grounds upon which Mr. Emamipour was found removable, Mr. Emamipour's presence in the United States would have potentially serious adverse foreign policy consequences for the United States, for purposes of Section 237(a)(4)(C) of the Immigration and Nationality Act; and (2) Mr. Emamipour's release from immigration detention will likely have serious adverse foreign policy consequences for the United States. Consistent with these determinations, I recommend that Mr. Emamipour be held in immigration detention unless DHS determines that he can be released in the United States subject to conditions that can reasonably be expected to avoid those serious adverse foreign policy consequences. To the extent that further consultations are necessary, I request that you consult with Acting Assistant Secretary of State for Democracy, Human Rights and Labor, Michael G. Kozak.

The available information shows that Mr. Emamipour has a long history of human rights abuses. Mr. Emamipour was first placed in removal proceedings in May 1998, after being charged as present without inspection. He admitted the immigration allegations and charge of removability and requested relief from removal in the form of asylum, withholding of removal, protection under the United Nations Convention Against Torture, and voluntary departure in the alternative.

Mr. Emamipour has admitted in his asylum application and during his direct testimony in immigration court that he served as a security officer to high-ranking Iranian government officials. Mr. Emamipour also admitted that he arrested "at

The Honorable
Michael Chertoff,
Secretary of Homeland Security.

least 500 people” and that many of these arrests were based on political and religious reasons.

On many occasions he witnessed the immediate execution of individuals he had arrested. He further admitted shooting 15 to 20 people, killing one, while trying to arrest them. He has testified that the Iranian government sent him to other countries for weapons and guerrilla warfare training, and the skills he acquired were used while he was employed as a security official.

Mr. Emamipour has also allegedly misrepresented his relationship with the Iranian government. During his asylum interview and immigration hearing, Emamipour claimed that he had defected from Iran and had severed all ties with the Iranian government. However, the available information shows that he has, in fact, maintained significant ties with the Iranian government while he has been in the United States. He was allegedly hired by the Iranian government to provide private security to Kamal Kharazi, the Iranian Foreign Minister, during Kharazi's visit to Los Angeles in September 2000. According to a Diplomatic Security Service officer who testified during Mr. Emamipour's removal proceedings, Mr. Emamipour refused to disclose his identity and activities to the DSS agents responsible for Kharazi's visit and thus interfered with the operation assigned to provide security for the Iranian Foreign Minister. Additionally, when he attempted to learn Mr. Emamipour's identity, the DSS officer was told by Kharazi's son that Mr. Emamipour "did not represent a threat to FM Kharazi."

On February 13, 2001, an immigration judge denied all relief sought by Mr. Emamipour and ordered him removed to Iran. The judge determined that Mr. Emamipour was a persecutor, as defined under Section 208(b)(2)(A)(i) of the Immigration and Nationality Act and was barred from asylum. The judge further held that he had filed a frivolous asylum claim, as Mr. Emamipour maintained strong ties with the current Iranian government from which he claimed asylum. Mr. Emamipour was taken into custody in August 2001 and has remained there pending execution of the final order of removal to Iran.

My determination that Mr. Emamipour's presence in the United States would have potentially adverse foreign policy consequences for the United States for purposes of Section 237(a)(4)(C) of the Immigration and Nationality Act and that Mr. Emamipour's release from immigration detention will likely have serious adverse foreign policy consequences for the United States is based on the following considerations:

The promotion of human rights, the rule of law, and holding answerable those who have committed serious human rights abuses, genocide, war crimes or crimes against humanity is a central element of United States foreign policy. To advance these goals, the United States is committed to denying safe haven to human rights violators in the United States, not only by identifying and locating them, but also by removing them from the United States or preventing their entry. If Mr. Emamipour were released from detention, other countries and perpetrators of human rights violations could conclude that the United States is not serious about barring human rights violators from residing freely in the United States.

The Iranian government has a history of summary executions, disappearances, widespread use of torture and other degrading treatment, reportedly including rape, restricted freedoms of speech, assembly, press, and expression. Women and religious and ethnic minorities also continue to face violence and discrimination. These and many other problems contribute to Iran's extremely poor human rights record.

Although the United States does not maintain diplomatic relations with Iran, the United States continues its multi-faceted effort to press the Iranian government to stop abusing its citizens' human rights.

For example, in the fall of 2004, for a second year in a row, the United States supported a Canadian resolution in the United Nations General Assembly condemning the human rights situation in Iran. The Iran human rights resolution passed in the United Nations General Assembly's 59th Plenary, sending an important signal to the Iranian people that the international community recognizes their suffering and to the Iranian government that dialogue on human rights is no substitute for concrete action to improve its record.

The United States has always supported and has lobbied strongly for passage of resolutions on the Iranian human rights situation at the U.N.'s Commission on Human Rights. Also, Iran has been designated as a "Country of Particular Concern" for five years in a row, in accordance with guidelines set out in the International Religious Freedom Act.

Given our country's strong position on human rights and religious freedom, releasing an individual with Mr. Emamipour's alleged background most certainly undermines United States credibility on human rights in the international foreign policy context.

Additionally, the United States has a strong foreign policy interest in advancing democracy and the rule of law, and establishing effective institutions in Iran. Under a new special authority granted by Congress in 2004 to provide grants to educational institutions, humanitarian groups, non-governmental organizations, and individuals inside Iran to support the advancement of democracy and human rights, the United States is supporting programs that document abuses inside Iran. Such projects seek to raise public awareness of accountability and the rule of law in Iran and aim to facilitate a peaceful transition to democratic rule accompanied by measures for redressing past abuses. Allowing Mr. Emamipour, a human rights persecutor, to reside freely in the United States would undermine a central aspect of our engagement with human rights interests in Iran and would denigrate efforts to redress the human rights violations perpetrated by the Iranian government.

The United States has repeatedly expressed its support for the Iranian people in their quest for freedom, democracy and a more transparent and accountable government, and it will continue to do so. If the United States were to release Mr. Emamipour, it would be inconsistent with these efforts, and it would directly and adversely affect U.S. foreign policy.

For the foregoing reasons, unless DHS determines that he can be released subject to conditions that can reasonably be expected to avoid those serious adverse foreign policy consequences, as provided for in 8 C.F.R. 241.14 (c)(1)(iii), I recommend that Mr. Emamipour be held in immigration detention until he can be removed to Iran or to a third country willing to accept him. The Department of State appreciates the importance of finding an acceptable way to end his detention as soon as possible and will continue working with DHS to facilitate his removal. To ensure effective coordination, I request that the Department of State be kept informed of efforts to effectuate the removal of Mr. Emamipour to Iran or such other third country that might be identified. In this regard and with respect to conditions of release and other issues, please do not hesitate to consult, as appropriate, with Acting Assistant Secretary of State Michael G. Kozak.

Sincerely,



Condoleezza Rice



U.S. Immigration and Customs Enforcement

Reza Ghol EMAMIPOUR (A75 508 175)
c/o San Pedro Processing Center
2001 Seaside Avenue
Terminal Island
San Pedro, CA 90731

Final Decision to Continue Detention

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), has reviewed your custody status and has decided to continue your detention at this time pursuant to 8 CFR § 241.14(c), because the Secretary of Homeland Security has certified that your release would pose serious adverse foreign policy consequences for the United States. The decision to continue your detention was based on a review of your file record, consideration of any information you submitted to reviewing officials, consultation with the Department of State, the recommendation of the Secretary of State, and the certification of the Secretary of Homeland Security.

You are a native and citizen of Iran who illegally entered the United States without inspection by an immigration officer on or about November 1, 1986. You filed an application for asylum on January 12, 1998 and were placed into removal proceedings on May 9, 1998. During your proceedings you admitted the allegations and charge of removability but requested relief from removal in the form of asylum, withholding of removal, protection under the United Nations Convention against Torture, and, in the alternative, voluntary departure. On February 13, 2001, the Immigration Judge denied all relief and ordered you removed from the United States to Iran. Additionally, the judge found that you were a persecutor, as defined under section 208(b)(2)(A)(i) of the Immigration and Nationality Act, and were thus barred from asylum. The judge further held you had filed a frivolous asylum claim as you maintained strong ties with the current Islamic government of Iran. You filed an appeal of this decision, but withdrew this appeal on December 28, 2001.

You were taken into custody on August 1, 2001. During a bond hearing on November 16, 2001, a different Immigration Judge ordered your continued detention, finding you are a flight risk, a threat to the community, and a national security concern. You have filed two petitions for a writ of *habeas corpus* to challenge your detention. The first petition was filed on June 14, 2002, and was dismissed on June 16, 2003. The second petition was filed May 5, 2004, and remains pending.

Our records show you engaged in the persecution of others while you were employed by the government of Iran. You served as the personal bodyguard to the Ayatollah Sadeq Khalkhali, former head of the Revolutionary Court, and Nategh Nouri, the head of the Iranian Parliament. Ayatollah Khalkhali was known as the "hanging judge" and was responsible for ordering the

summary execution of hundreds of people deemed to be anti-revolutionaries. You testified that you were appointed head of security at the Revolutionary Court, serving under Ayatollah Khalkhali.

You further testified to arresting individuals and taking them to the notorious Evin Prison, where many were summarily executed. You admitted to arresting "at least 500 people" who were believed to pose a threat to the Islamic government for political and religious reasons. On many occasions, you witnessed the immediate execution of individuals arrested. You further admitted to shooting 15 to 20 people while trying to arrest them, and admitted to killing a person during an arrest. During your asylum interview and immigration hearings, you testified that the Iranian government sent you to other countries for commando and guerilla warfare training. The skills you acquired were used while you were employed as a security official.

During your asylum interview and immigration hearing, you claimed you had defected from Iran and had severed all ties with the Iranian government. However, evidence showed you had in fact maintained significant ties with the Iranian government while in the United States. On September 18, 1991, you obtained a passport from the Iranian Interest Section in Washington, D.C., and on April 4, 1994, extended the validity of this passport, without incident, while in the United States. Further, you were hired by the government of Iran to provide private security services to Kamal Kharazi, the Iranian Foreign Minister, during his visit to Los Angeles in September 2000. During your immigration proceedings, photographs of you with Iranian officials were admitted as evidence.

Your case has been reviewed pursuant to Zadvydas v. Davis, 533 U.S. 678 (2001), and 8 CFR § 241.13. To date, ICE has been unable to obtain travel documents to effectuate your removal to Iran. It is arguable that your removal to Iran does not appear significantly likely in the reasonably foreseeable future. In the interim, ICE is continuing its efforts to remove you to a third country.

However, 8 CFR § 241.14(c) authorizes ICE to continue to detain aliens whose release would pose serious adverse foreign policy consequences for the United States, even if their removal is not reasonably foreseeable. ICE can continue to detain an alien due to serious adverse foreign policy consequences where the Secretary of Homeland Security has certified that: (1) the alien is a person described in section 237(a)(4)(C) of the Immigration and Nationality Act (INA), (2) the alien's release is likely to have serious adverse foreign policy consequences for the United States, and (3) no conditions of release can reasonably be expected to avoid those serious adverse foreign policy consequences. Additionally, the Secretary of Homeland Security may only make such a certification after consultation with the Department of State and upon the recommendation of the Secretary of State in regard to the first two requirements. See 8 CFR § 241.14(c).

In order to determine if your case falls under the requirements set forth in 8 CFR § 241.14(c), DHS requested the assistance of the Department of State and the recommendation of the Secretary of State on January 21, 2005. You were provided an opportunity to submit a written statement and additional information for consideration by the Secretary of State and the Secretary of Homeland Security. The packet you submitted was forwarded, in its entirety, to the Secretary of State for her consideration in making her recommendations. Additionally, the packet was forwarded to the Secretary of Homeland Security for his consideration in the certification process. On February 18, 2005, the Secretary of State determined that your presence in the United States would have potentially serious foreign adverse policy consequences for the purposes of § 237(a)(4)(C) of the INA and that your release

from detention will likely have serious adverse foreign policy consequences for the United States. The Secretary of State recommended that you remain in custody, as your release would pose serious adverse foreign policy consequences. The Secretary of State found that your release would adversely impact (1) the United States' foreign policy which promotes human rights, the rule of law, and holding answerable those who have committed serious human rights abuses, genocide, war crimes or crimes against humanity; (2) the United States' multi-faceted effort to press the Iranian government to stop abusing its citizens' human rights; (3) the United States' interest in advancing democracy, the rule of law, and establishing effective institutions in Iran; and (4) the United States' repeated expression of support for the Iranian peoples' quest for freedom, democracy, and a more transparent and accountable government. (See attached letter from Secretary of State.) The Secretary of State's determination satisfies the requirements at 8 CFR § 241.14(c)(i) and (ii).

In regard to the third requirement of the regulation at 8 CFR § 241.14(c)(iii), there are no release conditions that could reasonably be expected to avoid the serious adverse foreign policy consequences that would result if you were released from custody. The Department of Homeland Security has carefully considered possible alternatives to detention and is not convinced at this time that there are any conditions that will satisfy the foreign policy concerns identified in Secretary Condoleezza Rice's letter dated February 18, 2005. Allowing you to reside in the United States denigrates the importance of redressing the human rights violations perpetrated by the Iranian government and would undermine the United States' engagement with human rights interests in Iran.

Accordingly, you are to remain in ICE custody at this time. Pursuant to 8 CFR 241.14(c)(3), the Secretary's certification is subject to ongoing reviews semi-annually; however, it is not subject to administrative review.

As discussed above, ICE is continuing its efforts to effectuate your removal from the United States. In view of ICE's ongoing removal efforts, you are advised that pursuant to INA § 241(a)(1)(C) and 8 CFR § 241.13(e)(2), you are required to make continuous and good faith efforts to obtain travel or other documents necessary for your removal from the United States. Accordingly, you are required to comply with any request ICE makes of you to assist in obtaining a travel document. You are also advised that willful failure or refusal on your part to apply in good faith for travel documents, or any actions or conspiracy on your part with others to obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 USC § 1253(a).



Michael J. Garcia
Assistant Secretary
U.S. Immigration and Customs Enforcement
Department of Homeland Security

3-4-05
Date

Attachment

PROOF OF SERVICE

(1) Personal Service (Officer to complete both (a) and (b) below.)

(a) I _____, _____,
Name of ICE Officer Title
certify that I served _____ with a copy of
Name of detainee
this document at _____ on _____, at _____.
Institution Date Time

(b) I certify that I served the custodian _____,
Name of Official
_____, at _____, on
Title Institution
_____ with a copy of this document.
Date

OR

(2) Service by certified mail, return receipt. (Attach copy of receipt)

I _____, _____, certify
Name of ICE Officer Title
that I served _____ and the custodian _____,
Name of detainee Name of Official
with a copy of this document by certified mail at _____ on _____.
Institution Date

- () cc: Attorney of Record or Designated Representative
- () cc: A-File