

DECISION NO. 10/1993 (SYRIAN ARAB REPUBLIC)

Communications addressed to the Government of the Syrian Arab Republic on 6 November and 10 December 1992.

Concerning: Afif Jamil Mazhar, Aktham Nu'aysa, Nizar Nayouf, Ya'qub Musa, Hassan Ali, Hussam Salama, Jadi Nawfal, Mohamed Ali Habib, Thabed Murad and Bassam Al-Shaykh, on the one hand, and the Syrian Arab Republic, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communications received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.

2. The Working Group notes with concern that to date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiry of more than ninety (90) days since the transmittal of its letter, the Working Group is left with no option but to proceed to render its decision in respect of the cases of alleged arbitrary detention brought to its knowledge.

3. (Same text as paragraph 3 of Decision No. 43/1992).

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Syrian Arab Republic. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, especially since the facts and allegations contained in the communications have not been challenged by the Government.

5. The Working Group considers that:

(a) According to the allegations, Afif Jamil Mazhar, Aktham Nu'aysa, Nizar Nayouf, Ya'qub Musa, Hassan Ali, Hussam Salama, Jadi Nawfal, Mohamed Ali Habib, Thabed Murad and Bassam Al-Shaykh, all members of the Committee for the Defence of Democratic Freedoms and Human Rights (CDF), were arrested on 18 December 1991 in Damascus and Al Ladhigiyah by Military Investigation officials;

(b) It is alleged, in addition, that the first two were tortured;

(c) The first two were sentenced to nine years' hard labour by the State Supreme Court on 17 March 1992; there is no information about the sentences for the other persons;

(d) The acts behind the arrest and subsequent conviction, according to allegations, were criticisms that both of them made of the electoral plebiscite to re-elect the President of the Republic for a further seven years; the fact that they belonged to the Committee for the Defence of

Democratic Freedoms and Human Rights, and, in the case of Aktham Nu'aysa, the fact that he received US\$ 1,400 from his brother, who lives abroad, supposedly to finance the CDF;

(e) It is added that the Court considered these acts as constituting the offences of opposition to the aims of the revolution, or causing disorder or incitement to disorder or spreading rumours to cause disorder, all of which is prohibited under Legislative Decree No. 6, paragraph (e), of 1965; the receipt of money was deemed to constitute the offence of receiving money from abroad in order to engage in a verbal or physical act hostile to the objectives of the revolution of 3 March 1963;

(f) In the absence of any reply from the Government, the Working Group considers it is true that the persons mentioned have been deprived of their freedom since the date in question and sentenced for the acts described, which have been regarded as constituting criminal offences;

(g) In its latest report to the Commission, the Working Group expressed its concern about "offences described vaguely or encompassing indeterminate situations. Abuse of charges for such offences leaves an uncertain borderline between what is lawful and what is unlawful, and is a constant source of violations";

(h) The conduct of the persons who are in detention (stating views against an "electoral referendum" and even distributing propaganda in support of their beliefs, and belonging to a human rights organization) is simply legitimate exercise of the rights set out in articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights. Furthermore, the use of offences that are vague or encompass a number of indeterminate situations, such as those in question, further undermine the rights of the persons in prison;

(i) With regard to the allegations of torture inflicted on Afif Jamil Mazhar and Aktham Nu'aysa, the Working Group declares that this matter does not fall within its competence, since the Commission on Human Rights has appointed a Special Rapporteur on the question of torture. It should be noted from his latest report that the Rapporteur had learned of the case of Aktham Nu'aysa (E/CN.4/1993/26, para. 496) but not of the allegations concerning Afif Jamil Mazhar.

6. In the light of the above, the Working Group decides:

The detention of Afif Jamil Mazhar, Aktham Nu'aysa, Nizar Nayouf, Ya'qub Musa, Hassan Ali, Hussam Salam, Jadi Nawfal, Mohamed Ali Habib, Thabed Murad and Bassam Al-Shaykh is declared to be arbitrary, being in contravention of articles 9, 19, 20 and 21 of the Universal Declaration of Human Rights, and articles 9, 19, 21 and 22 of the International Covenant on Civil and Political Rights and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

7. Consequent upon the decision by the Working Group declaring the detention of these persons to be arbitrary, the Working Group requests the Government of the Syrian Arab Republic to take the necessary steps to remedy the situation, in order to bring it into conformity with the norms and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

8. The Working Group decides to bring this decision to the notice of the Special Rapporteur on the question of torture in so far as Afif Jamil Mazhar is concerned.

Adopted on 29 April 1993