

DECISION No. 26/1993 (ISRAEL)

Communication addressed to the Government of Israel on 6 November 1992.

Concerning: Ahmad Qatamesh, on the one hand, and the State of Israel, 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 communication 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 till date no information has been forwarded by the Government concerned in respect of the case in question. With the expiration of more than ninety (90) days of the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of the case 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 Israel. 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 case, especially since the facts and allegations contained in the communication have not been challenged by the Government.
5. Ahmad Qatamesh, a writer, from al-Bireh, Ramallah District, was allegedly arrested on 1 September 1992 by military and General Security Service (GSS) personnel. He is currently held in Ramallah prison, reportedly under interrogation by GSS agents in relation to his alleged activity as a leading member of the Popular Front for the Liberation of Palestine (PFLP).
6. It is alleged that Mr. Qatamesh was detained incommunicado, denied access to his advocate and family members, for 23 days. Allegedly, he was first brought before a military judge only on 10 September 1992, on his application for bail. At the hearing, conducted in a special closed session, his advocate was excluded by GSS order. On 12 September 1992 Mr. Qatamesh was brought before a military judge for extending his detention at the instance of the GSS. A 30-day extension was ordered. The alleged evidence was presented as "classified material" and as such not made available either to Mr. Qatamesh or his advocate. Subsequently access to legal advice remained restricted; advocate's visits, apart from being allowed for short durations, were also delayed. On a further hearing for extension of detention on 25 October 1992, the detention was extended for a further 25 days. Again the evidence presented remained classified. It is alleged that the whole purpose of Mr. Qatamesh's detention is to extract a confession by torture and denial of adequate medical care rather than to investigate in good faith the allegations made.

7. In November 1992 a charge sheet was allegedly presented. On 3 December 1992 Mr. Qatamesh, on a motion made by his advocate, was granted bail which was reversed in appeal.

8. The practice of incommunicado detention, which under military orders, can extend to a period of 30 days, denies the detainee access to any domestic procedure in court for a review. Under orders of a military court this period can be further extended by 60 days during which period again the detainee has no avenue of redress, judicial or otherwise, to challenge the legality of the detention. The presentation of classified material in closed session, denying access to the material relied upon and to counsel, leaves the detainee without any effective remedy.

9. Restricted visits and accessibility to advocate, lack of adequate time and facilities for defending the detainee and the inability to freely communicate with counsel, all go to render the detention arbitrary.

10. In the light of the above the Working Group decides:

The detention of Ahmad Qatamesh is declared to be arbitrary being in contravention of articles 5, 9 and 11 of the Universal Declaration of Human Rights, and articles 7, 9 and 14 of the International Covenant on Civil and Political Rights and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

11. Consequent upon the decision of the Working Group declaring the detention of Ahmad Qatamesh to be arbitrary, the Working Group requests the Government of Israel 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.

Adopted on 30 April 1993