

Decision No. 61/1993 (Egypt)

Communication addressed to the Government of the Arab Republic of Egypt on 3 August 1993.

Concerning: Hassan al-Gharbawi Shehata, on the one hand, and the Arab Republic of Egypt, 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 para. 3 of decision No. 43/1993.)

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Arab Republic of Egypt. 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. According to the communication submitted by the source, a summary of which was forwarded to the Government, Hassan al-Gharbawi Shehata, aged 31, a lawyer, was arrested around January 1989, and charged in connection with two cases relating to disturbances in Ain Shams. He has been kept in administrative detention since then, despite many court orders to release him. It was further reported that the Government, in its reply to a previous letter on that subject by the same source, said that Mr. Shehata was currently held in detention (in accordance with law No. 162 of 1958) in light of the criminal and terrorist danger he represented, issuing directives and orders to elements of a secret terrorist organization to undertake acts of violence and terrorism. Nevertheless, in its reply to the source, the Government failed to explain why, in these circumstances, the Egyptian court, on several occasions, ordered that Mr. Shehata be released.

6. It appears from the facts as described above that Hassan al-Gharbawi Shehata has now been kept in detention for five years without a trial despite several court orders for his release. He is thus being denied his right to a fair trial as guaranteed by articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights and by principles 32 and 38 of the Body of Principles for the

Protection of All Persons under Any Form of Detention or Imprisonment. The non-observance of these articles and principles relating to the right to a fair trial is such that it confers an arbitrary character on Mr. Shehata's deprivation of freedom.

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

The detention of Hassan al-Gharbawi Shehata is declared to be arbitrary being in contravention of articles 9, and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights to which Egypt is a Party, and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

8. Consequent upon the decision of the Working Group declaring the detention of Hassan al-Gharbawi Shehata to be arbitrary, the Working Group requests the Government of Egypt to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 9 December 1993.