

Decision No. 1/1994 (Syrian Arab Republic)

Communication addressed to the Government of the Syrian Arab Republic on 12 November 1993.

Concerning: Mustafa Khalifa, 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 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 appreciation the information forwarded by the Government concerned in respect of the case in question within 90 days of the transmittal of the letter by the Working Group.

3. (Same text as para. 3 of decision No. 43/1993.)

4. In the light of the allegations made the Working Group welcomes the cooperation of the Government of the Syrian Arab Republic. The Working Group transmitted the reply provided by the Government to the source, which has provided the Group with its comments. The Working Group believes that it is in a position to take a decision on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.

5. The Working Group considers that:

(a) According to the allegation, Mustafa Khalifa has been detained without charge or trial since 1982 for his involvement with the Communist Action Party (PCA), a peaceful association which claims the exercise of democratic freedoms. He is being held in Saidnaya prison near Damascus. He is suffering from health problems and has not been given proper medical attention. It is maintained that his human rights to personal freedom, freedom of expression and opinion, association and political participation and to a fair trial have been violated;

(b) The communication having been transmitted to the Government, the latter informed the Working Group that Mr. Khalifa had been sent for trial in accordance with a decision of 13 April 1992 on the charge of membership of a terrorist group that incites and engages in violence against citizens. He was also accused of abducting citizens, detaining them at secret locations and subjecting them to physical and psychological pressures and mutilation;

(c) The Government reply does not indicate: the group to which Mr. Khalifa supposedly belonged; the reason why it was considered to be a terrorist group; what persons had allegedly been abducted by the organization accused of inciting violence; what role Mr. Khalifa had allegedly played in that organization; on what dates the alleged abductions occurred; what physical and psychological pressure were allegedly inflicted by Mr. Khalifa; what the secret locations were in which the abducted persons were allegedly

detained; the reason why he was sent for trial after 10 years of deprivation of freedom; the authority which ordered the detention without trial for all that time; the legal basis of the 10-year detention without trial; and the court that is to judge the case;

(d) The only definite fact that emerges from the Government reply is that Mr. Khalifa has indeed been detained without trial since 1982;

(e) In these circumstances, the Working Group is forced to conclude that the sole reason why Mr. Khalifa has already been detained for 12 years is his active membership - admitted by the source - of the Communist Action Party;

(f) The more than 10 years' delay in starting the trial is such a serious violation of article 14 of the International Covenant on Civil and Political Rights and of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment that it confers on the deprivation of freedom an arbitrary character.

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

The detention of Mustafa Khalifa 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 the Syrian Arab Republic is a Party, and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

7. Consequent upon the decision of the Working Group declaring the detention of Mustafa Khalifa 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 provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 17 May 1994.