

DECISION No. 4/1995 (IRAQ)

Communication addressed to the Government of Iraq on 22 April 1994.

Concerning Mohammad Ahmad El-Khalili, on the one hand, and the Republic of Iraq, 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. 35/1994.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government of Iraq. The Working Group transmitted the reply provided by the Government to the source and received 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. In rendering its decision, the Working Group, in a spirit of cooperation and coordination, has also taken into account the report submitted by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, Mr. M. van der Stoep, pursuant to Commission resolution 1995/76.
6. The communication, a summary of which has been transmitted to the Government, concerned Mohammad Ahmad El-Khalili, born on 8 October 1958, an engineer of Lebanese nationality who lived in Baghdad, married to a German Woman (from the former German Democratic Republic). He was reportedly arrested in December 1989, while he was on his way to the German Embassy in Baghdad to collect his passport. In July 1990, he was reportedly tried and found guilty of endangering State security, under article 158 of the Iraqi Penal Code, and was sentenced to 20 years' imprisonment. He was believed to be detained in the First Section of the Abu Graib prison.
7. In its reply, the Government confirmed the detention and gave the following details. Mr. El-Khalili entered Iraq in 1958 and worked in several companies as an engineer. He was arrested under the accusation of spying on behalf of the intelligence service of the German Democratic Republic. During interrogation he confessed his guilt. On 22 May 1990 he was tried by a Revolutionary Court and was sentenced to life imprisonment under article 158 of the Penal Code.
8. In its observation on the Government's reply, the source simply expressed its belief that Mr. El Khalili was "not guilty of any crime and did not do any harm to anyone", without adding any pertinent information.

9. The Working Group has to adopt a decision on the basis of the pertinent information which has been made available to it. In this particular case, such information does not allow the Working Group to consider the deprivation of liberty of Mr. El-Khalili as arbitrary in the terms of any of the three categories established by the Working Group for the purpose of assessing the nature of the deprivation of liberty.

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

The detention of Mohammad Ahmad El-Khalili is declared not to be arbitrary.

Adopted on 30 May 1995.