

DECISION No. 30/1995 (LIBYAN ARAB JAMAHIRIYA)

Communication addressed to the Government of the Libyan Arab Jamahiriya on 7 February 1995.

Concerning Rashid el-Orfia, on the one hand, and the Libyan Arab Jamahiriya, 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 to date no information has been forwarded by the Government concerned in respect of the case in question. With the expiry of 90 days from 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. 35/1994.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Libyan Arab Jamahiriya. 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 although it was given the opportunity to do so.
5. According to the communication received from the source, a summary of which was transmitted to the Government, Rashid el-Orfia, aged 24, a resident of Benghazi, was arrested in 1982 together with approximately 20 other persons accused of plotting to overthrow the regime. He was first detained at the Tripoli Central Prison and then transferred to the Abu Salim prison, in Tripoli, where he was still believed to be held. According to the source, all the persons arrested with Mr. el-Orfia had been released, and the fact that he was still in detention was politically motivated.
6. It appears from the facts described above, which, it may be recalled, were not challenged by the Government despite the opportunity given to it to do so, that the detention of the above-mentioned person since 1982 (for 13 years) may be linked to his political activities in opposition to the ruling regime. It may be recalled that the Working Group, in its reports to the Commission on Human Rights, and in particular in its reports E/CN.4/1994/27 and E/CN.4/1995/31, expressed concern at the imprecision of charges, such as the one brought against Rashid el-Orfia of "plotting to overthrow the regime", which could be used as a pretext for grave violations of the right to freedom of opinion and expression guaranteed by article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights.

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

The detention of Rashid el-Orfia is declared to be arbitrary being in contravention of article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights and falling within category II of the principles applicable in the consideration of cases submitted to the Working Group.

8. Consequent upon the decision of the Working Group declaring the detention of Rashid el-Orfia to be arbitrary, the Working Group requests the Government of the Libyan Arab Jamahiriya 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 14 September 1995.