

DECISION No. 48/1995 (SAUDI ARABIA)

Communication addressed to the Government of the Kingdom of Saudi Arabia on 7 February 1995.

Concerning: Sheikh Salman bin Fahd al-Awda, Sheikh Safr Abdul-Rahman al-Hawali, Sulaiman al-Rushudi, Dr. Khalid al-Duwaish, Tuyan al-Tuyan, Ahmad bin Saleh al-Sa'wi, Dr. Abdullah al-Hamed, Dr. Muhsin al-Awaji, on the one hand and the Kingdom of Saudi Arabia 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 cases in question within 90 days of the transmittal of the letter by the Working Group.
3. (Same text as para. 3 of Decision No. 35/1995.)
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government concerned. The Working Group transmitted the reply provided by the Government to the source but, to date, the latter has not provided the Working 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 cases, in the context of the allegations made and the response of the Government thereto.
5. The communication received from the source, a summary of which was forwarded to the Government, concerned the following persons:
 - (a) Sheikh Salman bin Fahd al-Awda, aged 39, religious scholar; Sheikh Safr Abdul-Rahman al-Hawali, aged 40, former Head of Shari'a Department at 'Um al-Qura University; Sulaiman al-Rushudi, lawyer; Dr. Khalid al-Duwaish, aged 40, lecturer at al-Imam University; Tuyan al-Tuyan, journalist at 'Akadh newspaper; Ahmad bin Saleh al-Sa'wi, student; and hundreds of others. The above-mentioned were reported to be among hundreds of suspected Sunni opponents of the Government arrested between 13 and 19 September 1994 by the General Intelligence ("al-Mabahith al-'Ama") and other security forces. Most of the arrests were reported in the towns of al-Buraida, al-'Unaiza and al-Bukayriya in al-Qaseem Province, and included religious scholars, businessmen, students and academics. Those arrested were reportedly being held in incommunicado detention in al-Hair prison, General Intelligence headquarters in al-'Ulaisha and in police stations in al-Qaseem and Riyadh. The arrests were reportedly carried out following the transfer to London of an opposition group, the Committee for the Defence of Legitimate Rights (CDLR), which was banned in May 1993.

(b) Dr. Abdullah al-Hamed, a writer and a lecturer at Imam Muhammad bin Saud University in Riyadh, one of the six founding members of the CDLR, and Dr. Muhsin al-Awaji. Both were reportedly arrested on 8 September 1994 by the General Intelligence and taken to an unknown location. Both had been arrested and detained in 1993 and Dr. al-Hamed had allegedly been tortured and deprived of sleep for long periods during his detention. It was alleged that their arrest was due solely to their peaceful expression of their political beliefs.

6. The Government, in its reply, does not deny that the persons concerned were charged with establishing a committee (the "Committee for the Defence of Legitimate Rights" - CDLR), but points out that under the Saudi national legislation the establishment of such a committee requires an official permission beforehand, and that in the present case the establishment of the CDLR constituted a violation of the national legislation. The Government provided the Working Group with further information in which, after analysing the legal instruments and the practical measures aimed at protecting human rights under the Islamic law (Shari'a), it recalled the fact that the Kingdom of Saudi Arabia was not a State party to the International Covenant on Civil and Political Rights, nor to its Optional Protocol.

7. According to the Government Dr. Abdullah al-Hamed, Tuyen al-Tuyen and Ahmad bin Saleh al-Sa'wi "are not at present time under arrest in Saudi Arabia" "and the other five persons" had been charged in due form.

8. Under article 20 of the Universal Declaration of Human Rights and article 22 of the International Covenant on Civil and Political Rights the right to freedom of association may be subjected to restrictions only on two conditions: That such restrictions be prescribed by law, and that they be necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. The restriction placed on the right to freedom of association which consists of the obligation to obtain an authorization beforehand does not meet, in this particular case, these two conditions and cannot therefore be considered as admissible in terms of the aforementioned articles 20 and 22.

9. While it appears from the information provided by the Government that the restriction in question was indeed prescribed by law, it does not appear from the facts submitted to the Working Group's appreciation that the persons concerned had exercised their rights to freedom of opinion and expression and to freedom of association by resorting or by inciting to violence.

10. In the absence of any comments provided subsequently by the source, the Working Group notes the information provided by the Government according to which Tuyen al-Tuyen, Ahmad bin Saleh al-Sa'wi and Dr. Abdullah al-Hamed "are not at present time under arrest in Saudi Arabia". The Group nevertheless regrets not being informed about the circumstances of their possible release, and in particular whether it was accompanied by measures such as expulsion or extradition, or whether the fact that they were "not at present time under arrest" could imply that they were no longer alive.

11. In the light of the above, the Working Group decides as follows:

(a) The detention of Dr. Abdullah al-Hamed, Tuyan al-Tuyan and Ahmad bin Saleh al-Sa'wi is declared to be arbitrary, notwithstanding the fact that they are no longer under detention, being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

(b) The detention of Sheikh Salman bin Fahd al-Awda, Sheikh Safr Abdul-Rahman al-Hawali, Sulaiman al Rushudi, Dr. Khalid al-Duwaish and Dr. Muhsin al-Awaji, is declared to be arbitrary being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

12. Consequent upon the decision of the Working Group declaring the detention of the above-mentioned persons to be arbitrary, the Working Group requests the Government of the Kingdom of Saudi Arabia 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 1 December 1995.