

DECISION No. 18/1996 (ISRAEL)

Communication addressed to the Government of Israel
on 3 October 1995.

Concerning: Ali Abd-al-Rahman Mahmoud Jaradat,
Muhammad Abd-al-Halim Muhammad Rajoub and Abdel Raziq Yassin Farraj,
on the one hand and the State of Israel, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the revised 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 cases 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 each of the cases of alleged arbitrary detention brought to its knowledge.
3. (Same text as para. 3 of Decision No. 35/1995.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Israel. 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 cases, 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. In rendering its decision, the Working Group, in a spirit of cooperation and coordination, has also taken into account the report of the Special Rapporteur of the Commission on Human Rights, Mr. H. Halinen, pursuant to Commission resolution 1993/2 A.
6. The communication submitted by the source, a summary of which was forwarded to the Government, concerned the following persons:
 - (a) Ali Abd-al-Rahman Mahmoud Jaradat, a 40-year-old researcher, resident of the Ramallah district in the West Bank, was reportedly arrested at his home on 10 August 1994 by the IDF and the GSS without a warrant. Jaradat was first detained in Ramallah prison, then transferred to al-Fara'a Military Detention Centre where he reportedly spent two weeks in an isolation cell, and moved again to Ketziot Military Detention Centre. It was alleged by the source that Mr. Jaradat has not been charged of any crime. Reportedly, he has been placed under administrative detention for six months, a period which was later renewed by another six-month detention order.

(b) Muhammad Abd-al-Halim Muhammad Rajoub, a 35-year-old mechanical engineer, resident of the Hebron district of the West Bank. Rajoub was allegedly arrested on 30 May 1994 at a military checkpoint on the road between Hebron and Idna in the southern part of the West Bank while he was travelling to work. The arrest was reportedly carried out by the IDF without a warrant. According to the source Rajoub has been the subject of three consecutive six-month administrative detentions. It has been alleged further that Rajoub appealed against the imposition of each of the administrative detention orders before a military judge who rejected his appeals on the basis that the Israeli authorities were in possession of evidence which supported his detention. The source also claimed that neither Rajoub nor his lawyer have had access to the evidence in question.

(c) Abdel Raziq Yassin Farraj, a student at Birzeit University, aged 31, resident of the Jalazun Refugee Camp in the Ramallah district. The source alleged that IDF and GSS soldiers arrived at Farraj's home on 29 May 1994 at approximately midnight, forced their way into the house, carried out a search and arrested Farraj at his home. It has been reported that Farraj was detained at the Ramallah prison for one night and was thereafter taken to al-Fara'a Military Detention Centre to await a further transfer to Ketsiot Military Detention Centre in the Negev (southern Israel). The source affirmed that a six-month administrative detention order was issued against Farraj on 30 May 1994. The detention order which stated that Rajad was being detained because he was an activist in the Popular Front was renewed on 28 November 1994, and was followed by a third consecutive detention order on 27 May 1995. It was also alleged that the authorities who conducted the search and the arrest did not show a warrant nor an administrative detention order, nor did they state any reason for the search or the arrest. The source also reported that Farraj was not afforded the opportunity to be presented before a judge, nor any other magistrate until the time of the appeal of his first detention order, when he was presented before a judge.

7. On 18 August 1995 the source informed the Working Group that Abdel Raziq Yassin Farraj has been released.

8. It appears from the above allegations, which, it may be recalled, the Government of Israel did not refute despite the opportunity given to it to do so, that Ali Abd-al-Rahman Mahmoud Jaradat and Muhammad Abd-al-Halim Muhammad Rajoub, irrespective of the nature and motives of the accusations against them, are being denied their fundamental right to fair trial; in particular, they are being denied the right to be informed of the reasons for their arrest, the right to be brought promptly before a judge and to be entitled to trial within a reasonable time or to release and the right to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention. These rights are guaranteed by articles 10 and 11.1 of the Universal Declaration of Human Rights and by articles 9.2, 9.3, 9.4 and 14.3 (a) of the International Covenant on Civil and Political Rights, to which the State of Israel is a party. The absence of an effective possibility to appeal against the administrative detention order, and the excessive duration of the detention - over 21 months in the case of Ali Abd-al-Rahman Mahmoud Jaradat and two years in the case of Muhammad Abd-al-Halim Muhammad Rajoub - constitute a violation of the right to

fair trial of such gravity that they confer on the deprivation of liberty an arbitrary character. It further appears from the above that Abdel Raziq Yassin Farraj is no longer in detention.

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

(a) Having examined the available information and without prejudging the nature of the detention, the Working Group decides to file the case of Abdel Raziq Yassin Farraj in terms of paragraph 14.1 (a) of its revised methods of work.

(b) The detention of Ali Abd-al-Rahman Mahmoud Jaradat and Muhammad Abd-al-Halim Muhammad Rajoub is declared to be arbitrary being in contravention of articles 10 and 11.1 of the Universal Declaration of Human Rights, and articles 9.2, 9.3, 9.4 and 14.3 (a) of the International Covenant on Civil and Political Rights, to which the State of Israel is a party, and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

10. Consequent upon the decision of the Working Group declaring the detention of Ali Abd-al-Rahman Mahmoud Jaradat and Muhammad Abd-al-Halim Muhammad Rajoub to be arbitrary, the Working Group requests the Government of Israel 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 23 May 1996.