

DECISION No. 31/1996 (SYRIAN ARAB REPUBLIC)

Communication addressed to the Government of the Syrian Arab Republic on 22 February 1996.

Concerning: Mustafa al-Hussain, Umar al-Kayak, Muhammad Kheir Khalaf, Abd al-Karim Issa, Abdalla Qabbara, Hikmat Mirjaneh, Yasin al-Haj Salih and Yusha al-Khatib, on the one hand and the Syrian Arab Republic, 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 the Syrian Arab Republic. 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.

5. The Working Group considers that:

(a) Mustafa al-Hussain, Umar al-Kayak, Muhammad Kheir Khalaf, Abd al-Karim Issa, Abdalla Qabbara, Hikmat Mirjaneh, Yasin al-Haj Salih and Yusha al-Khatib were reportedly arrested on various dates between 1980 and 1990, on the sole charge of belonging to the asl-Hizb al Shuyu'i al Maktab al Siyassi, the Communist Party Political Bureau. Over 100 people were involved in the arrests, all of whom - with the exception of the persons referred to - were released as a result of various amnesties. The aforementioned detainees, on the other hand, did not come to trial until 1992. In 1994 they were sentenced by the Supreme State Security Court to terms of imprisonment ranging from 12 to 15 years, and they have not benefited from the 1995 amnesty.

(b) The Working Group deplores the Government's lack of cooperation, which makes it impossible to know what the latter's position is in respect of these cases. Moreover, the information provided by the source is clearly inadequate, so much so that no indication is given of each individual's date of arrest, what sentence was passed in each case, or why none of them have benefited from the 1995 amnesty. Most serious of all, neither the source nor

the Government states whether or not the time that has elapsed between the day of arrest and the day of sentencing will be taken into account in the sentences handed down.

(c) Notwithstanding these shortcomings, the Working Group decides that the detention is to be declared arbitrary under categories II and III above. First, because the reason for the charge is the legitimate exercise of the right to freedom of opinion, expression and association enshrined in articles 19 and 20 of the Universal Declaration of Human Rights and in articles 19 and 22 of the International Covenant on Civil and Political Rights. Secondly, because the detainees were not brought before the trial court without delay, as required under articles 9, 10 and 11 of the Universal Declaration of Human Rights, and articles 9 (3) and 14 of the International Covenant on Civil and Political Rights.

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

The detention of Mustafa al-Hussain, Umar al-Kayak, Muhammad Kheir Khalaf, Abd al-Karim Issa, Abdalla Qabbara, Hikmat Mirjaneh, Yasin al-Haj Salih, and Yusha'al Khatib is declared to be arbitrary being in contravention of articles 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights, and articles 9.3, 14, 19 and 22 of the International Covenant on Civil and Political Rights to which the Syrian Arab Republic is a party and falling within categories II and 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 the above-mentioned persons 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 September 1996.