

DECISION No. 41/1996 (LEBANON)

Communication addressed to the Lebanese Government on
20 February 1996.

Concerning: Ziad Abi-Saleh and Jean-Pierre Daccache, on the one
hand, and the Lebanese 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 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 paragraph 3 of Decision No. 37/1996.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Lebanese Government. The Working Group transmitted the reply provided by the Government to the source that provided the information 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 cases, in the context of the allegations made, the Government's reply thereto and the comments made by the source.
5. According to the communication, a summary of which was transmitted to the Government, Ziad Abi-Saleh and Jean-Pierre Daccache, former members (until 1990) of General Michel Aoun's Partisan Brigade were arrested on 21 and 22 September 1992 respectively, suspected of being accomplices of Captain Imad Abboud. The latter was an explosives expert who, according to the source, on 29 August 1992 was engaged in making a bomb in order to assassinate a candidate in the legislative elections when an explosives-handling error cost him his life. Following interrogation and the torture to which they were allegedly subjected at the Ministry of Defence they finally signed confessions which they were not shown and in which they admitted having booby-trapped the car belonging to Haykl Khazen in order to intimidate his brother Rachid Khazen, candidate in the legislative elections. They were tried on 24 April 1993 by the Beirut Military Court and sentenced to seven years' imprisonment for transporting weapons and booby-trapping Haykl Khazen's car. Their sentence was subsequently reduced on appeal to five years' imprisonment. Both are being held in Roumieh prison. The source maintains that these persons were sentenced despite the fact that they had told the judge that their confessions had been obtained under torture.
6. According to the source these persons were at a scout camp in Aamchit at the time when they were alleged to have committed the offences of which they are accused, and they made their own way to the Ministry of Defence as soon as

they knew that they were being sought. Moreover the only real evidence on the basis of which they were sentenced were the confessions extorted from them under torture, which renders them null and void.

7. In its reply, the Lebanese Government pointed out that the above-mentioned persons were arrested for the transport of explosive materials and for terrorist acts carried out using explosives during 1992. They expressly acknowledged these facts to the examining magistrate. After an indictment was drawn up against them by the examining magistrate on 15 December 1992, they were brought before the Military Court which sentenced them at a public hearing to seven years' imprisonment, under articles 5 and 6 of the act of 11 January 1958. The Military Court of Cassation reduced the sentences of Saleh and Daccache on appeal to five years' imprisonment.

8. The source maintains, in the initial communication as well as in the comments on the Government's reply, that the confessions purported to be by Saleh and Daccache were extorted under torture, and moreover that these two persons, who were at a scout camp at the time of the alleged acts of which they were accused, proceeded to the Ministry of Defence as soon as they heard that they had been summoned, which would appear to prove their good faith. Regarding this matter the Working Group notes, on the one hand that the source does not provide evidence that the torture referred to actually took place and, on the other, that it is not within its competence, subject to article 15 of the Convention against Torture, to call into question a sentence by reviewing the evidence on which the judgement was based, which seems to be what it is being called upon to do. Moreover, the Group notes that the source does not question the fact that the trial was held in a normal manner or that the two persons concerned were able to make full and effective use of the judicial remedies available to them.

9. In the light of the above, the Working Group decides that the detention of Ziad Abi-Saleh and Jean-Pierre Daccache is declared not to be arbitrary.

Adopted on 3 December 1996.