

OPINION No. 17/1998 (UNITED ARAB EMIRATES)

Communication addressed to the Government on 23 December 1997

Concerning: George Atkinson

The State is not a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established pursuant to resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended in resolution 1997/50. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Governments.
2. The Working Group regrets that the Government has not replied within the 90-day deadline.
3. (Same text as paragraph 3 of Opinion 1/1998.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government. In the absence of any information from the Government, the Working Group believes that it is in a position to render an opinion 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. Given that the Government had an opportunity but did not comment on the allegations, the Working Group had no choice but to contact the source to obtain additional clarifications. In the Working Group's opinion, the source's further clarifications do not change the Group's findings in the present case.
6. According to the source, George Atkinson, a British citizen, businessman and landscape engineer, born on 16 May 1951, was reportedly arrested in Dubai on 1 March 1997. Mr. Atkinson had lived in Dubai from 1982 until 1993 and was involved in the building of three golf courses and other landscaping activities. He left Dubai after his company's contract had been terminated by the authorities. In January 1994 he was informed that unless he transferred his company and assets to the Government of Dubai, he would face criminal and civil proceedings for having paid unlawful commission to a Mr. Stephen Trutch, who at the time was acting as engineer to Sheikh Mohammed. As a result, Mr. Atkinson, together with other local and expatriate businessmen, agreed to sign, on 17 January 1994, a settlement agreement providing that in return for handing over his company's assets, no further action would be taken against him. The agreement provided, inter alia, that "The Government and Sheikh Mohammed waive and release the transferers and the employees of the businesses from all claims which they have or may have against them in respect of their conduct and activities in connection with the businesses prior to the effective date."

7. Mr. Atkinson returned to Dubai on 26 February 1997 in order to watch a golf tournament and was arrested shortly before he was due to return to the United Kingdom. Reportedly, the Attorney-General indicated that no charge sheet would be issued until the investigations were completed, but, in fact, no investigations were taking place. All requests for release on bail have been refused and the detention has already been extended several times. It is further alleged that all the accusations referred to in the detention order (articles 45 and 47 (sections 2 and 3) of the United Arab Emirates Criminal Law and articles 227, 228 and 230 of the United Arab Emirates Criminal Code) fall under a three-year time limitation, which had already expired.

8. In a further submission, the source notes that Mr. Atkinson was charged on 5 April 1998, and that he denied all charges of having paid unlawful commissions. On 12 July 1998, after hearing the motions, the Court ordered Mr. Atkinson released on bail. On 14 July 1998, Mr. Atkinson had fulfilled the conditions attached to the bail order and his guarantor was informed that he would be released; this reportedly was confirmed by the Attorney-General himself the next day. On 18 July 1998, however, the Public Prosecutor and the Acting Attorney-General changed their minds and sought to add to the bail conditions terms which had not been included in the court order, namely that the guarantor should have assets worth 17 million dirhams.

9. On 19 July 1998, another court hearing took place and the Judge ordered the release on bail of Mr. Atkinson on the same conditions as those stipulated in the order issued a week earlier. On 16 August 1998, Mr. Atkinson's lawyer filed a petition on his behalf. In yet another court hearing on 6 September 1998, the judge confirmed the terms of the initial order for release on bail. On the same day, Mr. Atkinson handed a personal letter to the judge. His lawyer, however, suggested to him that since the judge had already made his decision on the matter, it would now be better to deal with the bail issue directly with the public prosecutor.

10. According to Mr. Atkinson's lawyer, the Public Prosecutor had the right to appeal the court order; he did not do so and let the deadline for the appeal pass. Instead, he continues to obstruct the enforcement of the court order and the judge is unwilling to force its compliance and implementation.

11. Given that the State party's Government had an opportunity to comment on the allegations but did not do so, the Working Group had no choice but to contact the source to obtain additional clarifications. In the Group's opinion, these clarifications (see paragraphs 7 to 9 above) do not change its findings in the present case.

12. The Working Group notes that Mr. Atkinson has been detained since 26 February 1997 and was only charged on 5 April 1998, that he has not been judged and that a judge has ordered his release on bail, an order which has not been implemented. His detention was extended on several occasions although it should not have been more than three times in the light of the relevant legal provisions which would have been applicable to his case.

13. In the opinion of the Working Group, the deprivation of the liberty of Mr. George Atkinson is contrary to articles 9 and 10 of the Universal Declaration of Human Rights and to principles 36 to 39 of the Body of

Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The violation is of such gravity as to confer an arbitrary character to his continued detention.

14. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of the liberty of George Atkinson is arbitrary, as being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and principles 36 to 39 of the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, and falls into Category III of the categories applicable to cases submitted to the Working Group.

15. In accordance with the above Opinion, the Working Group requests the Government to take the necessary steps to remedy the situation, in accordance with the standards and principles set forth in the Universal Declaration of Human Rights, and to take appropriate initiatives with a view to becoming a party to the International Covenant on Civil and Political Rights.

Adopted on 17 September 1998.