

OPINION No. 33/2000 (SYRIAN ARAB REPUBLIC)

Communication addressed to the Government on 1 February 2000

Concerning Veyzi Özgür (alias Bengin Ahmed Kamis)

The State is a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by Commission on Human Rights resolution 1991/42. The mandate of the Working Group was clarified and extended by resolution 1997/50, and reconfirmed by resolution 2000/36. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group conveys its appreciation to the Government for having forwarded the requisite information in good time.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category (i));
 - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category (ii));
 - (iii) When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category (iii)).
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. It has transmitted the Government's reply to the source, which has given its comments upon it. The Working Group believes that it is in a position to render an opinion on the acts and circumstances of the case, in the context of the allegations made, the response of the Government thereto and the comments by the source.
5. According to the source, Mr. Veyzi Özgür (now known under the name Bengin Ahmed Kamis) is a Turkish citizen. After accidentally stepping on a landmine in northern Iraq on an unspecified date in the mid-1990s and losing part of his left leg, he crossed the border to Syria to live in the small town of Amude, in an area inhabited predominantly by ethnic Kurds.

6. In October or November 1996, Mr. Özgür was involved in a motorcycle accident caused by an acquaintance. Only Mr. Özgür was injured. Local residents brought him to a nearby hospital and informed the local police. Upon regaining consciousness, Mr. Özgür told police officers that he was a Kurd of Turkish origin. He had no identity papers. He was immediately arrested and transferred to the prison of Adra in Damascus.

7. The source indicates that since his arrest, Mr. Özgür has not been charged with any recognizable criminal offence, indicted or been brought before a judge or judicial officer. He is said not to have been engaged in any criminal activities prior to his arrest, and the source adds that at the time of his arrest the police were unable to record any evidence of criminal activity. His brother, a resident in Germany, has only been able to visit him twice, for an extremely limited time and always in the presence of armed security guards. His brother has allegedly been prevented from leaving him money to pay for his legal representation, as a result, it is said, Mr. Özgür has no access to legal representation.

8. The Government has informed the Working Group that Mr. Bengin Ahmed Kamis (Veyzi Özgür), together with four others, was brought before a court for having committed the offence of causing bodily injury to citizen Ahmed Abdul Rahman Ayu of the Syrian village, Soujaq Sadoun. The Government does not specify the court, the nature of the procedure, the time when the event allegedly took place, the time of the court appearance or the legal position of Mr. Özgür and the four other persons mentioned. It does not even confirm the fact that Mr. Özgür has been deprived of his liberty. It does not make any reference to the legal provisions under which Mr. Özgür could be prosecuted or detained.

9. According to the information submitted by the source, between May 1999 and 13 January 2000 Mr. Özgür's relatives made four short visits to the Adra prison in Damascus. According to the testimony of these relatives (the brother, mother and sister of Mr. Özgür), he has never been charged or sentenced and his state of health is deteriorating.

10. In the light of the source's allegations and the reply by the Government, which has not refuted these allegations, the Working Group is of the opinion that the right to a fair trial guaranteed by articles 9 and 10 of the Universal Declaration and articles 9 and 14 of the Covenant has not been respected in the case.

11. The Working Group considers that Veyzi Özgür (alias Bengin Ahmed Kamis) has been in prison for four years without a warrant having been issued for his arrest or a decision having been taken by a competent authority justifying the deprivation of his liberty. He is being held without charge or sentence in the Adra prison at Damascus. He is deprived of the assistance of a lawyer. The violation of articles 9 and 10 of the Universal Declaration, of articles 9 and 14 of the International Covenant on Civil and Political Rights, and of principles 10, 11, 12, 13, 16, 17, 18, 35, 36, 37, 38 and 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (adopted by the General Assembly on 9 December 1988) is of such gravity as to confer on the deprivation of liberty suffered by Veyzi Özgür an arbitrary character.

12. In the light of the above, the Working Group renders the following opinion:

The deprivation of liberty suffered by Veyzi Özgür is arbitrary in that it is contrary to articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights and principles 35 to 39 of the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, and falls within category (iii) of the principles applicable to the consideration of cases submitted to the Group.

13. Consequently, the Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Veyzi Özgür and to bring it into line with the provisions of the International Covenant on Civil and Political Rights, to which the Syrian Arab Republic is a party.

Adopted on 27 November 2000