

**OPINION No. 13/2002 (LEBANON)**

Communication addressed to the Government on 13 June 2002

Concerning: Mr. Hanna Youssef Chalita

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

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. 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 to the Government the above-mentioned communication.

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, by 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 relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial 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. The Working Group transmitted the reply provided by the Government to the source, who has not replied. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case.

5. Mr. Hanna Youssef Chalita, born 20 September 1956, of Lebanese and Australian nationalities, residing in Kfarabida (North-Lebanon), merchant, is currently detained at the Lebanese Ministry of Defence in Yarzé (Beirut).

6. According to the source, Mr. Chalita was arrested in September 1994 by the intelligence services of the Lebanese army after a warrant for his arrest had been issued by the investigating judge Abdallah Bitar of Beirut, and accused of alleged participation in the assassination of the Lebanese deputy Tony Sleimane Frangieh in 1978.

7. Since he was first detained in 1994, Mr. Chalita was apparently never interrogated regarding his alleged participation in the assassination of deputy Tony Sleimane Frangieh. His counsel, Maître Michel Semaan, asked for his client to be interrogated in his presence, but obtained no reply. He put in many requests for his client's release, which also remained unanswered. It appears that the Australian Embassy in Beirut also tried to intervene, but without success. Mr. Chalita's detention for seven years is unlawful. According to the Lebanese Code of Penal Procedure, an accused person must be brought before a court as soon as possible.

8. The case of the assassination of the Lebanese deputy Tony Sleimane Frangieh in 1978 was referred to the Legal Council under Amnesty Act No. 48/91. Hanna Youssef Chalita was interrogated accordingly by the investigating judge Abdallah Bitar and allegedly admitted having committed the crime of which he is accused.

9. The investigating judge issued an order to find out the identity and places of residence of the other persons involved in the assassination. This order took a long time to be enforced in view of the large number of persons involved. The judge is therefore continuing his investigations into the case and one of the suspects involved in the crime has been interrogated and is now detained as a result.

10. The Government's reply shows that investigations are still continuing with a view to closing the file and transferring it to the Legal Council for judgement, in accordance with procedure. This means that Mr. Chalita's detention from September 1994 to date (September 2002) has lasted eight years without leading to a final judgement. Deprivation of liberty for such a long period is arbitrary, as it appears contrary to articles 9 and 10 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights, according to which anyone arrested or detained is entitled to trial within a reasonable time or to release.

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

The deprivation of liberty of Mr. Chalita is arbitrary, as being in contravention of the provisions of articles 9 and 10 of the Universal Declaration of Human Rights (and article 9 of the International Covenant on Civil and Political Rights) and falls within Category (...) of the applicable categories to the consideration of the cases submitted to the Working Group.

12. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation, in conformity with the standards and principles set forth in the Universal Declaration of Human Rights.

Adopted on 12 September 2002