

OPINION No. 12/2002 (SYRIAN ARAB REPUBLIC)

Communication addressed to the Government on 20 December 2001

Concerning: Mohamed Rame Osman, Taraq Shukri, Abdel Naser Arab, Mohamed Joum'a Msetto, Hilal Msetto, Mohamed Yazan Al Kojak and Mohamed Ayman Al Kojak

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 Commission 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 provided the requested 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 in 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. The Working Group transmitted the Government's reply to the source, which so far has not provided the Working Group with its comments thereon. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.

5. The cases involve both Syrian and American citizens, as well as a Palestinian refugee who were allegedly arrested on 28 June 2000 and accused of destroying a statue of the late President Hafez Al-Assad. According to the source, those persons did not belong to any political

organization and were described by the authorities as a group of homosexuals. One of them, Mohamed Rame Osman, was a minor when the alleged incident and arrest took place. The following details about the accused were given:

(a) Mr. Mohamed Rame Osman, born in Illinois, USA, in 1984, of Syrian and American nationalities and living in Qudsyya, Damascus, was arrested on 28 June 2000 by members of Public Security Forces and detained at Adra Prison;

(b) Mr. Taraq Shukri, born in Damascus in 1982, of Syrian nationality and living in Qudsyya, Damascus, was arrested on 28 June 2000 by members of Public Security Forces and detained at Adra Prison;

(c) Mr. Abdel Naser Arab, born in Damascus in 1959, a Palestinian refugee living in Qudsyya, Damascus, was arrested on 28 June 2000 by members of Public Security Forces and detained at Adra Prison;

(d) Mr. Mohamed Joum'a Msetto, born in Damascus in 1981, of Syrian nationality and living in Qudsyya, Damascus, was arrested on 28 June 2000 by members of Public Security Forces and detained at Adra Prison;

(e) Mr. Hilal Msetto, born in Damascus in 1981, of Syrian nationality and living in Qudsyya, Damascus, was arrested on 28 June 2000 by members of Public Security Forces and detained at Adra Prison;

(f) Mr. Mohamed Yazan Al Kojak, born in Hama in 1983, of Syrian nationality and living in Qudsyya, Damascus, was arrested on 28 June 2000 by members of Public Security Forces and detained at Adra Prison;

(g) Mr. Mohamed Ayman Al Kojak, born in Hama in 1982, of Syrian nationality and living in Qudsyya, Damascus, was arrested on 28 June 2000 by members of Public Security Forces and detained at Adra Prison.

6. It was reported all these persons were apparently tortured during their arrest and that no sentence as yet has been pronounced against them. The authorities described these persons as a group of homosexual perverts. Fears were expressed regarding their physical and psychological integrity.

7. According to the source, in the cases under consideration, several provisions of international human rights instruments invoked by the Working Group in the examination of cases brought to its attention were violated, in particular articles 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, to which the Syrian Arab Republic is a party.

8. In its reply, the Government explained that, according to the security services, the persons mentioned in the communication were attempting to form secret organizations with the aim of engaging in acts of sabotage, including the demolition of statues of former national leaders. The persons involved were arrested, prosecuted and sentenced as follows:

- (a) Abdel Naser Arab, a Palestinian residing in Syria: three years' imprisonment; release date: 30 June 2002;
- (b) Mohamed Ayman Al Kojak: two years' imprisonment; release date: 28 June 2002;
- (c) Mohamed Joum'a Chaabane Msetto: two years' imprisonment; release date: 28 June 2002;
- (d) Hilal Mohamed Hassen Msetto: two years' imprisonment; release date: 28 June 2002;
- (e) Mohamed Rame Osman, a Syrian also holding American nationality: 18 months' imprisonment; served his sentence and was released on 15 January 2002;
- (f) Mohamed Yazan Al Kojak: eight months' imprisonment; served his sentence and was released on 28 December 2001;
- (g) Taraq Shukri: eight months' imprisonment; served his sentence and was released on 28 December 2001.

9. From the foregoing it appears that the allegations made by the source are not sufficiently substantiated to enable the Working Group to render an opinion with full knowledge of the facts on the circumstances of the arrest of those individuals, the reasons for their detention and the conditions under which the trial that led to their conviction was conducted. The Working Group also notes that the information provided by the source does not tally with the account given by the Government in its reply. According to the source, those individuals, one of whom was a minor at the time of his arrest, were apprehended by members of the political police on 28 June 2000 and detained at Adra Prison on charges of "thwarting the goals of the revolution". The source maintains that those persons were described as a group of homosexuals, tortured and held in incommunicado detention for seven months. On the other hand, the Government maintains that they were involved in acts of sabotage, that they were brought before the State security court and sentenced to custodial penalties and that six of them had already served their sentences and had since been released. According to the Government's reply, Abdel Naser Arab is the only one currently still in prison serving a three-year sentence and due to be released on 28 June 2003.

10. On 17 June 2002, the Working Group requested the source, in writing, to transmit to it updated information about the situation of the persons mentioned in the communication; the Group's secretariat has received no reply to date.

11. Under these circumstances, the Working Group considers that neither the source nor the Government has provided it with the information needed to determine whether or not the detention of the above-mentioned persons was arbitrary. Regarding the release of those individuals who had already served their sentences, the Working Group considers that, as the information provided by the Government was not contested by the source, Abdel Naser Arab appears to be the only person still being held.

12. Accordingly, with regard to the persons released and without venturing an opinion as to whether their detention was arbitrary or not, the Working Group decides, pursuant to paragraph 14 (a) of its methods of work, to file the case in respect of Mohamed Rame Osman, Taraq Shukri, Mohamed Joum'a Msetto, Hilal Msetto, Mohamed Yazan Al Kojak and Mohamed Ayman Al Kojak.

13. With respect to Abdel Naser Arab, reportedly still in detention, the Working Group, in accordance with paragraph 17 (d) of its methods of work, decides to file the case provisionally.

Adopted on 12 September 2002