

**OPINION No. 17/2002 (SYRIAN ARAB REPUBLIC)**

Communication addressed to the Government on 17 June 2002.

Concerning: Joseph Amine Houeiss, and Ayoub Chalaweet.

**The State has not ratified the International Covenant on Civil and Political Rights**

1. (Same text as paragraph 1 of opinion No. 15/2002.)
2. The Working Group conveys its appreciation to the Government for having provided the requisite information.
3. (Same text as paragraph 3 of opinion No. 15/2002.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The reply of the Government was forwarded to the source, which provided the Working Group with its comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case.
5. According to the source, the case concerns two Lebanese nationals who were arrested in Lebanon and transferred to the Syrian Arab Republic, where they are now detained.
6. Joseph Amine Houeiss, born in 1960, living in Bolonia, Mont-Liban, Lebanon, was reportedly arrested on 2 June 1992 on the Dhour Choueir road in Bolonia, by members of the Syrian army after an accident in which his car, collided with a Syrian military vehicle. Two Syrian soldiers died as a result and a third was injured.
7. Mr. Houeiss was reportedly transferred to Syria, where he was accused of voluntary homicide. During his trial in 1994 before a military tribunal in Syria, he testified that he was having an epileptic fit when the car accident occurred. The court apparently did not take his testimony into account and sentenced him to 20 years of forced labour in Syria.
8. In 1998, the medical doctor who was treating him in prison confirmed that Mr. Houeiss was in fact suffering from epilepsy. Recent reports indicate that his health has been deteriorating. According to the source, the Lebanese authorities have never requested the repatriation of their citizens in detention in Syria.
9. The source considers the detention of Mr. Houeiss to be arbitrary because he was arrested in Lebanon by the Syrian army and then transferred, tried and sentenced in Syria for events that occurred in Lebanon and without any form of extradition procedure.
10. Georges Ayoub Chalaweet, born in 1962, and, living in Ashrafieh, Beirut, was reportedly arrested on 30 March 1994 at the Ministry of Health in Beirut where he had gone with his father. He was then taken for interrogation to some unknown location and his father never saw him again. Only six months later did his father learn that Mr. Chalaweet was detained in Syria.

11. According to the source, Mr. Chalaweet was first detained at the Palestine Section Prison in Damascus and then transferred to the Mazzé Prison in Damascus, where he had been receiving visits from his family. Four years ago, Mr. Chalaweet was transferred to Saydnaya Prison and has not been allowed visits since.
12. The source considers the detention of Mr. Chalaweet to be arbitrary because he was arrested in Lebanon and then transferred and detained in Syria without any charges having been laid against him nor any trial, and without any form of extradition procedure.
13. In its reply, the Government of the Syrian Arab Republic states that the two individuals indicated by the source in the communication were arrested in 1992 following a car accident in which their vehicle collided with a Syrian military vehicle, killing two soldiers and seriously injuring a third. They were sentenced by the court to 20 years' imprisonment for deliberately causing the accident. The Government adds that in 1998 the two above-mentioned individuals claimed that the person driving the vehicle at the time of the accident, Mr. Joseph Houeiss, had suffered a shock that induced a nervous fit. The relevant authorities are currently looking into this claim and the Working Group will be notified of the results promptly once they are available.
14. In its reply, the source continues to challenge the legality of the detention of Joseph Amine Houeiss in Syria, since the events for which he is blamed took place in Lebanon, adding that he suffered an epileptic fit which led to the accident and that his medical condition was officially recognized by the doctor who treated him for several years at the central prison in Damascus (medical certificate dated 5 August 1998 attached). The source says that Georges Ayoub Chalaweet was arrested in Lebanon in 1994, not in 1992 as claimed by the Government, and that it did not know he was linked to the Houeiss case, as his name had not come up at the trial. The source challenges his detention in Syria for the reasons mentioned above and adds that it is also protesting the failure to respect Mr. Houeiss' right to a public trial and the fact that he has been allowed no family visits since 1998.
15. In the light of the foregoing and of the documents provided by the source, the Working Group believes that each case should be dealt with separately.
16. With regard to the case of Joseph Amine Houeiss, the Working Group, in order to express an opinion on whether the detention is arbitrary, must first determine whether the case is covered by one of the three categories of arbitrary detention defined in its methods of work and, consequently, whether it comes within the scope of the Working Group's mandate. With regard to category I, it is clear that Mr. Houeiss' deprivation of liberty has a legal basis, namely, a judgement. With regard to category II, there is no doubt that the deprivation of liberty is not the result of the legitimate exercise of the human rights referred to. This leaves category III. In the case in point, the source does not claim that Mr. Houeiss' right to a fair trial was violated, but challenges the legality of his detention on the ground that he was arrested by the Syrian army in Lebanon and taken to, tried and sentenced in Syria for events that took place in Lebanon.
17. On this point, the Working Group does not believe that the unauthorized transfer of the person from one country to another for trial in a court that may not have territorial jurisdiction is sufficient in this case to classify the detention as arbitrary. In order for the Working Group to

find the detention arbitrary, it must establish that the court's total or partial failure to respect international standards on the right to a fair trial was of such gravity as to confer on the deprivation of liberty an arbitrary character.

18. With regard to the claim that the court that tried Joseph Amine Houeiss did not take account of the fact that the accident had been caused by his having had an epileptic fit, it should be pointed out that although the Working Group, as it has repeatedly stated, has always refrained from evaluating the evidence on which a court's decision to deprive a person of liberty is based, the situation in this case is different, since Mr. Houeiss was taken to Syria, tried by a military court and sentenced to 20 years' imprisonment because it was believed that he had deliberately caused the collision with a Syrian military vehicle that led to the death of two soldiers and seriously injured a third. Therefore, if his medical condition is confirmed, and it turns out that, as he has always maintained, the cause of the accident was an epileptic fit, his case should be reconsidered.

19. The source has provided a medical certificate signed by the doctor of the central prison in Damascus confirming that Joseph Amine Houeiss has epilepsy, and the Government has informed the Working Group that the relevant authorities are currently looking into this claim and that the Working Group will be notified of the results promptly once they are available. In the light of this, the Working Group decides to keep the case of Joseph Amine Houeiss under consideration while awaiting further information, in accordance with paragraph 17 (c) of its methods of work.

20. With regard to the case of Georges Ayoub Chalaweet, the Working Group notes the discrepancies between the source's allegations and the Government's reply. The source states that he was arrested at the Lebanese Ministry of Health on 30 March 1994, questioned at a secret location and then taken to Syria, where he is currently being detained without trial and without having been informed of any charge against him (at least that was the case until 1998, since when his family has not been permitted to visit him). In its reply, the Government maintains that he was arrested in 1992 with Joseph Amine Houeiss, tried in the same case and sentenced to 20 years' imprisonment. While the Government has submitted no documents to back up its argument, the source has provided a copy of the sentence passed on Mr. Houeiss. The Working Group notes that this sentence, which was handed down on 7 February 1994 by the First Military Court of Damascus, refers only to Joseph Amine Houeiss and makes no mention of Mr. Chalaweet or anyone else who might have been involved with Mr. Houeiss in this case. If Mr. Chalaweet was arrested with Mr. Houeiss in 1992 for his involvement in the same case, why was he not tried with him?

21. The Working Group therefore concludes that Georges Ayoub Chalaweet has been deprived of liberty since 30 March 1994 without having been informed of any charge against him, without a court ruling on the legality of his detention and with no contact whatsoever with his family since 1998, which constitutes a series of violations of such gravity as to confer on the deprivation of liberty an arbitrary character. Such deprivation of liberty is in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and of principles 10 to 12 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

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

With regard to Joseph Amine Houeiss, the Working Group decides to keep the case under consideration while awaiting further, more recent information, in accordance with paragraph 17 (c) of its methods of work.

With regard to Georges Ayoub Chalaweet, the Working Group believes that the deprivation of liberty is arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and principles 10 to 12 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 categories applicable to the consideration of cases submitted to the Working Group.

23. The Working Group, having rendered this opinion, 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 steps with a view to ratifying the International Covenant on Civil and Political Rights.

Adopted on 29 November 2002