

OPINION No. 7/2004 (UNITED ARAB EMIRATES)

Communication addressed to the Government on 12 February 2004.

Concerning: Janie Model.

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

1. (Same text as paragraph 1 of opinion No. 20/2003.)
2. The Working Group conveys its appreciation to the Government for having provided it with the requested information.
3. (Same text as paragraph 3 of opinion No. 20/2003.)
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, but the latter did not provide 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, in the context of the allegations made and the response of the Government thereto.
5. According to the communication, Janie Model, a British citizen, was arrested in November 1999 in Dubai. After being found guilty of credit card fraud he was sentenced to imprisonment and is still detained. In December 2003 he was granted amnesty and requested his relatives to provide him with an air ticket to return to the United Kingdom. Later however, he was informed by the authorities that until he pays a fine of UAE dirhams 94,000 (the equivalent to approximately US\$ 25,000), an amount which neither he nor his family was able to pay, he would not be released. According to the source, his detention became arbitrary on the day the amnesty was granted.
6. In its reply the Government provided the Working Group with the following information. Mr. Model was tried and found guilty of not only one single offence - credit card fraud - as the source contended, but of six different offences. He was sentenced altogether to six year's imprisonment. In addition, he was sentenced to pay UAE dirhams 600,000 or, in case of failure to pay that fine, to serve another six-year prison term, beginning on the last day of his prison sentence and ending on 19 June 2007. The reply of the Government does not specify whether the enforcement of the second six-year prison term for non-payment of the fine has ever been ordered. However, the Government's information is unambiguous: "This person was included in the amnesty decree issued by His Highness Sheikh Mohammed Bin Rashid Al Maktum, the Crown Prince of Dubai and Minister of Defence, on the occasion of the month of Ramadan and the Id Festival. However, his release was suspended because he was implicated in a civil case."
7. In 2002 the Working Group adopted opinion No. 16/2002 (George Atkinson - United Arab Emirates), the facts of which were similar to the present communication. Mindful of the importance of a consistent jurisprudence, the Working Group thoroughly analysed the facts of the present case in the light of its conclusions reached in the Atkinson case. It found that on one important point a meaningful difference exists between the two cases. Mr. Atkinson's release was denied on the ground that although he had served three quarters of his prison sentence, which made him eligible for release (article 41 of Federal Law No. 43

provides that “Everyone sentenced to a punishment that restricts his liberty for a period of one month or more, shall be released if he has served three quarters of the sentenced period ...”), he did not discharge his duty to pay the fine imposed on him.

8. In contrast, the entitlement of Mr. Model to release is based on an amnesty decree and not his having served three quarters of his sentence. The Government did not refer to any specific term in the amnesty decree which would exclude any convict from the amnesty who has not discharged an ancillary pecuniary obligation imposed by the sentencing court. The only ground for excluding Mr. Model from the amnesty was his alleged implication in a civil case, which apparently has nothing to do with his criminal conviction. In addition, the Government did not invoke any legal basis explaining how and why involvement in a civil case could hinder someone’s release from prison after being amnestied.

9. The Working Group believes that a civil law debt or pending civil law litigation may exceptionally give rise to some form of limitation against the debtor to leave a country until a guarantee is given for the discharge of the debt. The postponement, however, of one’s release from prison after being amnestied or pardoned cannot be justified under international law.

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

The deprivation of liberty of Janie Model subsequent to the date he should have been released after being amnestied is arbitrary, being in contravention of article 9 of the Universal Declaration of Human Rights, and falls within category I of the categories applicable to the consideration of cases submitted to the Working Group.

11. Consequent upon this opinion, the Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Model in order to bring it into conformity with the provisions and principles contained in the Universal Declaration of Human Rights and encourages it to take appropriate initiatives with a view to the United Arab Emirates becoming a State party to the International Covenant on Civil and Political Rights.

Adopted on 27 May 2004