

OPINION No. 22/2004 (UNITED ARAB EMIRATES)

Communication addressed to the Government on 11 June 2004.

Concerning Mr. Cherif Mohammed Haidera.

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

1. (Same text as paragraph 1 of opinion No. 20/2004.)
2. The Working Group expresses its appreciation to the Government for the information it has provided.
3. (Same text as paragraph 3 of opinion No. 20/2004.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government, which has replied within the 90-day deadline.

5. Mr. Cherif Mohammed Haidera, a citizen of Niger, born on 11 November 1960, a diplomat of Niger, resident of Niamey, currently detained at Dubai Central Prison, United Arab Emirates, was arrested on 20 May 1998 at the General Prosecution Building in Dubai, following an interview with the Attorney-General. He had been summoned to appear before the Attorney-General, Mr. Ibrahim Bin Milha. Mr. Haidera was first transferred to Bahrain and later to Dubai Central Prison. Later, he was accused of involvement in a case of counterfeiting Bahraini dinars and depositing them in the Dubai Islamic Bank.

6. Mr. Haidera was sentenced to three years' imprisonment. According to the source, he completed his prison term on 20 May 2001 and should have been released. According to the federal law, he was to have been released on 19 August 2000, when he had completed two thirds of his sentence. Mr. Haidera has been in prison for more than six years, in spite of having been sentenced to only three years of imprisonment.

7. The Government replied that on 28 June 2000, Mr. Haidera was sentenced in a criminal case (No. M-1998/2681) to three years' imprisonment for the offences of fraud and use of magic to appropriate other people's property. The sentence also included an order for the deportation of Mr. Haidera. Mr. Haidera served his term of imprisonment, which ran until December 2002, but could not be released and deported owing to the fact that he had also been sentenced in a civil suit linked to the criminal case and imposed following proceedings brought by the Dubai Islamic Bank (case No. 44/2002). Mr. Haidera, along with his co-defendants, was ordered by the court to pay the Bank the amount of 888,881,097 U.A.E. dirhams as compensation for damages incurred from the date of the misappropriation until such time as the entire amount, and any taxes due, were paid. The court also suspended the deportation order (decision of the court of first instance, case No. 375/2000).

8. The Working Group transmitted the reply provided by the Government to the source, which insisted that Mr. Haidera had been arrested in May 1998 and sentenced in absentia to three years' imprisonment. No fine was imposed by the court at that time. The full sentence was completed on 20 May 2001. The source wonders why the Government considers that the sentence was completed on 5 December 2002, and not on 20 May 2001, in view of the three-year sentence. Furthermore, it is still unclear to the source why he remained in jail in November 2004.

9. The source further reports that the Dubai Islamic Bank brought a civil complaint against Mr. Haidera in Miami, Florida, United States of America, in 1998 (case No. 98-14580). Judgement was pronounced, in absentia, against the defendant and assets were seized from Mr. Haidera's Merrill Lynch account in New York. The Dubai authorities are now saying that the Dubai Islamic Bank (which belongs to the Government) has brought another civil complaint, this time before a Dubai court, against Mr. Haidera and are seeking reimbursement of 888,881,097 U.A.E. dirhams and 100,000,000 U.A.E. dirhams as compensation. The source points out that in the Miami suit brought by the Dubai Islamic Bank's lawyers while Mr. Haidera was detained in Dubai, he is said to have received, by electronic transfers, a total sum of US\$ 2,850,000.

10. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.

11. The Government confirms that Mr. Haidera completed his term of imprisonment on 5 December 2002. With regard to the claim in civil court for amounts corresponding to debts arising from a criminal sentence, the Government explains that Mr. Haidera's release and expulsion were suspended, but that the order by which he was kept in detention was not. The Government has not specified what judicial authority or decision is responsible for Mr. Haidera's remaining in prison, nor has it indicated how long he is to remain in detention. Such deprivation of liberty for an unspecified period of time is contrary to the principles set out in the Universal Declaration of Human Rights.

12. The Working Group therefore considers that, as from 5 December 2002, Mr. Haidera's continued detention without any legal basis, which under international standards a detention order may constitute, is arbitrary.

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

The deprivation of liberty of Mr. Cherif Mohamed Haidera since December 2002 is arbitrary as 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 the cases by the Working Group.

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

Adopted on 24 November 2004