

OPINION No. 4/2005 (SYRIAN ARAB REPUBLIC)

Communication addressed to the Government on 25 October 2004.

Concerning Mr. ‘Abdel Rahman al-Shaghouri.

The State is 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 conveys its appreciation to the Government for having provided the requested information.

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. The Working Group transmitted the reply provided by the Government to the source, which made comments on it. 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 information submitted, Mr. Abdel Rahman al-Shaghouri was arrested by security personnel on 23 February 2003 at a checkpoint between the towns of Qunaytra and Damascus. No warrant was issued for his arrest. On the same day, secret police agents entered his house and confiscated his computer, fax, CDs and other computer-related items. He was held incommunicado in solitary confinement, without access to his family or lawyers, and was allegedly beaten in custody. Later, he was transferred to Sednaya prison, on the outskirts of Damascus, where he is now held.
6. On 20 June 2004, Mr. al-Shaghouri was sentenced to three years' imprisonment by the Supreme State Security Court (SSSC) on charges of disseminating in Syria false and exaggerated information that sap the morale of the nation, in accordance with article 286 of the Penal Code. However, the sentence was immediately reduced to 2½ years. The charges relate to his sending via the Internet e-mail articles which were mainly obtained from the Akhbar al-Sharq Internet site, www.thisissyria.net. The prosecution charge sheet notes that material on this Internet site is considered "detrimental to the reputation and security of the nation" and "full of ideas and views opposed to the system of government in Syria".
7. The source considers that SSSC is neither independent nor impartial. Trials before it fall short of international standards for fair trial. SSSC places severe restrictions on the defendant's right to obtain effective legal representation and its verdicts are not subject to appeal before a higher tribunal.
8. The source adds that Mr. al-Shaghouri's trial was grossly unfair. His lawyers were not allowed to see all the court documents relating to the case, despite repeated requests.
9. According to the source, this person was detained and condemned solely for the peaceful exercise of his right to freedom of expression through the Internet. His sole fault was to download material from a banned émigré website and to e-mail it to friends. His sentence is considered a dangerous precedent.
10. The allegations of the source have been brought to the attention of the Government. The Government informed the Working Group that 'Abdel Rahman al-Shaghouri was in fact arrested on 23 March 2003 "for using the Internet to disseminate to persons living in the country and abroad articles that were detrimental to the country's security and reputation. He was arraigned before the Supreme State Security Court on 30 June 2003". The source made comments on the reply of the Government.

11. The position of the Working Group can be summarized as follows: the Working Group notes at the outset that the information provided by the Government is fairly terse. It fails to reveal how and to what extent the information disseminated by Mr. al-Shaghouri through the Internet was detrimental to the security and reputation of the country. However, it appears from the Government's reply that Mr. al-Shaghouri was punished for having imparted information to others. Yet, under international law the freedom of expression includes the freedom to impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of choice, hence through the Internet.

12. The freedom of expression may only be subject to restrictions that are necessary for the respect of the rights and reputation of others, and for the protection of national security.

13. The unsubstantiated references by the Government to the interests of national security and the reputation of the country did not convince the Working Group that the restrictions on Mr. al-Shaghouri's freedom of expression through the operation of criminal law were absolutely necessary and were proportionate to the aim pursued. The Working Group is of the opinion that the language used by the prosecution sheet, referred to by the source and not contested by the Government, stating that the Internet site in question was full of ideas and views opposed to the system of government in Syria, clearly shows that the charges brought against Mr. al-Shaghouri were motivated by the intention to punish the expression of an opinion that was not in line with the official policy of the Government.

14. The source also complained of the alleged unfairness of the procedure conducted before the Supreme State Security Court. The Working Group notes that the Government did not comment on this allegation. The Working Group finds that the allegations of the source concerning the lack of procedural guarantees during the hearing of Mr. al-Shaghouri's case have been satisfactorily substantiated. The Working Group takes into account the concluding observations of the Human Rights Committee following its consideration of the second periodic report submitted by Syria under article 40 of the International Covenant on Civil and Political Rights (CCPR/CO/71/SYR), which state that the procedures of the Supreme State Security Court are incompatible with the provisions of article 14, paragraphs 1, 3 and 5, of the Covenant.

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

The deprivation of liberty of Mr. 'Abdel Rahman al-Shaghouri is arbitrary, being in contravention of articles 14 and 21 of the International Covenant on Civil and Political Rights, to which the Syrian Arab Republic is a party, and falls within categories II and III of the categories applicable to the consideration of the cases submitted to the Working Group.

16. Consequent upon the opinion rendered, the Working Group requests the Government to remedy the situation of 'Abdel Rahman al-Shaghouri in order to bring it into conformity with the norms and principles set forth in the Universal Declaration of Human Right and in the International Covenant on Civil and Political Rights.

Adopted on 24 May 2005