

OPINION No. 7/2005 (SYRIAN ARAB REPUBLIC)

Communication addressed to the Government on 10 February 2005.

**Concerning Mr. Muhannad Qutaysh, Mr. Haytham Qutaysh and
Mr. Mas'oud Hamid.**

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. The source reported that Mr. Muhannad Qutaysh is being held in Sednaya Prison on the outskirts of Damascus. He has been imprisoned since December 2003 for writing articles for an Internet newspaper based in the United Arab Emirates. He was charged with “obtaining information that must remain secret for the safety of the State and in the interest of a foreign State”. He was also charged with “disseminating false news abroad”. In July 2004, he was sentenced to four years in prison by the Supreme State Security Court (SSSC).

5. Mr. Haytham Qutaysh, brother of Muhannad Qutaysh, is also being held in Sednaya Prison, since December 2003, charged with “incitement of obtaining information that must remain secret for the safety of the State and in the interest of a foreign State” and with “producing written material not approved by the Government which expose Syria and the Syrians to the threat of hostile acts that harm Syria’s relations with a foreign State”. In July 2004, SSSC sentenced him to three years’ imprisonment.

6. Mr. Mas’oud Hamid, student, member of the Kurdish minority in Syria, is being held in incommunicado detention at ‘Adra Prison, near Damascus. He was arrested on 24 July 2003 for taking photographs of a peaceful Kurdish demonstration and posting them on the Internet. He was charged with unlawful use of the Internet. In October 2004, he was sentenced by SSSC to five years in prison.

7. According to the source, the judicial procedures followed in the cases of these three defendants before SSSC were seriously flawed and fell far short of international standards of fairness. SSSC, which was created under 1963 emergency legislation, is not bound by the rules of the Syrian Code of Criminal Procedure. Judges, especially the President of the Court, have been granted wide discretionary powers. In addition, the defendants’ access to defence lawyers was restricted. Lastly, SSSC verdicts are not subjected to appeal.

8. The source recalls that in April 2001, the United Nations Human Rights Committee expressed concern about the procedures of SSSC, stating that they were “incompatible with the provisions of article 14, paragraphs 1, 3 and 5, of the International Covenant on Civil and Political Rights”; that SSSC rejects torture allegations even in flagrant cases, and that its decisions are not subject to appeal (see CCPR/CO/71/SYR, para. 16).

9. The Government replied to the source’s allegations that:

(a) Mr. Muhannad Qutaysh and Mr. Haytham Qutaysh were investigated and found to have been engaged in spying activities, to have established contacts with foreign agencies and to have disseminated false information about Syria. In July 2004, Muhannad Qutaysh was convicted and sentenced to three years in prison with hard labour while Haytham Qutaysh was given a term of four years in prison with hard labour;

(b) Mr. Mas'oud Hamid has been arrested for committing an offence which is punishable by law, i.e. being a member of a proscribed Kurdish party called "Yakiti"; for disseminating inflammatory propaganda; and for publishing articles, under a pseudonym, in an unauthorized magazine called DEM. The magazine, several copies of which Mr. Hamid had distributed on the university campus, advocates racist ideas. Mr. Hamid also printed 1,000 copies of a calendar showing a map of what purports to be Kurdistan, with the intention of distributing it among Kurdish students at Damascus University. He sought to stir up racial tensions, undermine national unity and malign the State, participating in demonstrations which had not been authorized by the competent authorities. He is still awaiting trial;

(c) The above-mentioned persons were detained in accordance with the due process of law.

10. In response to the Government's reply, the source reported that Muhannad Qutaysh and Haytham Qutaysh had been informed that the charges against them were "spreading false information" obtained from websites banned in Syria.

11. In the case of Mas'oud Hamid, the source was unaware of the allegations that he had written for the unauthorized magazine DEM, which is said to advocate racist ideas, and that he had allegedly printed a calendar to stir up racial tensions. However, in relation to the Government's reply that Mas'oud Hamid is awaiting trial, the source adds that he was sentenced to five years' imprisonment on 10 October 2004 by SSSC on charges of being a member of an unauthorized organization and attempting to sever part of the Syrian territory and annex it to a foreign State, and that he remains incommunicado in solitary confinement.

12. With regard to the Government's reply on due process of law, the source stated that it had consistently documented gross violations of the right to fair trial in proceedings before SSSC.

13. The Working Group considers:

(a) That Muhannad Qutaysh and Haytham Qutaysh have been sentenced to three and four years' imprisonment respectively by the Supreme State Security Court on the sole grounds that they exercised their freedom of expression, since the information received from the Government does not indicate that they carried out the spying and incitement to racism of which they are accused;

(b) The description of the acts carried out by Muhannad Qutaysh and Haytham Qutaysh indicates only that they expressed their opinions, which differ from those of their Government, in writing in an Internet magazine published in the United Arab Emirates. Article 19 of the Universal Declaration of Human Rights defines freedom of expression as the right of everyone to freedom of opinion and expression, to hold opinions without interference, and to seek, receive and impart information and ideas through any media and regardless of frontiers;

(c) Mas'oud Hamid has been sentenced to five years' imprisonment by the Supreme State Security Court for having peacefully exercised his freedom of expression and assembly in Syria in connection with the demands of the Kurdish minority to which he belongs. Article 20 of the Universal Declaration of Human Rights lays down that everyone has the right to freedom of peaceful assembly and association;

(d) In April 2001 the Human Rights Committee found the procedure followed by the Supreme State Security Court to be incompatible with article 14, paragraphs 1 and 3, of the International Covenant on Civil and Political Rights. In addition, none of these three persons has been able to appeal against his conviction to a higher court.

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

The deprivation of liberty of Mr. Muhannad Qutaysh, Mr. Haytham Qutaysh and Mr. Mas'oud Hamid is arbitrary, as being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights and articles 18 and 19 of the International Covenant on Civil and Political Rights, and falls within categories I and III of the categories applicable to the consideration of the cases submitted to the Working Group.

15. 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 and the International Covenant on Civil and Political Rights.

Adopted on 25 May 2005