

OPINION No. 27/2005 (LIBYAN ARAB JAMAHIRIYA)

Communication addressed to the Government on 10 May 2005.

Concerning Mr. Abdenacer Younes Meftah Al Rabassi.

The State has ratified the International Covenant on Civil and Political Rights.

1. (Same text as paragraph 1 of opinion No. 20/2004.)
2. The Working Group regrets that the Government has not replied.
3. (Same text as paragraph 3 of opinion No. 20/2004.)

4. The Working Group deplores the lack of cooperation by the Government in this case. The Working Group, when sending out the communication to the Government, invited it to provide information concerning the allegations put forward by the source, in respect of both the facts and the applicable legislation. The deadline expired on 10 August 2005 without any reply from the Government. Similarly, no reaction from the Government was provided to the renewed invitation of the Working Group dated 10 August 2005, and neither was a request to extend the time limit for a reply submitted.
5. On the basis of paragraph 16 of its revised methods of work, 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.
6. According to the communication, Mr. Abdenacer Younes Meftah Al Rabassi, an employee of the Social Security Fund of Beni Walid, of Libyan nationality, was arrested on 3 January 2003 at his home in Beni Walid by Internal Security agents. He is currently detained at Abou Salim Prison in Tripoli. No reasons for his arrest were given. He was driven to the Internal Security Office in Beni Walid and was transferred to Tripoli on 5 January 2003. It is also alleged that Mr. Al Rabassi was detained incommunicado at an undisclosed location belonging to the Internal Security Agency for more than a month, where he was allegedly subjected to torture. The source contends that Mr. Al Rabassi was accused, under article 164 of the Libyan Penal Code, of “having undermined the prestige of the Leader of the revolution”, by having sent an e-mail to the newspaper *Arab Times* on 8 June 2002, in which he expressed a criticism of the Head of State. He was indicted by the People’s Tribunal, a special court, on 26 June 2003 and was sentenced to 15 years of imprisonment. He is now serving his sentence at Abou Salim Prison in Tripoli.
7. Furthermore, according to the information received, prior to his indictment before a special court, Mr. Al Rabassi was not allowed the assistance of a lawyer.
8. The source concludes that the deprivation of liberty of Mr. Al Rabassi is aimed at punishing him for having expressed a critical opinion of a political leader, and asserts that the criminal proceedings against him failed to comply with the requirements of a fair trial.
9. The Working Group notes at the outset that the freedom of expression enshrined in international instruments to which the Libyan Arab Jamahiriya is a party, includes the right to impart one’s opinion to others verbally, in writing, or through electronic means like e-mail or the Internet.
10. It is the position of the Working Group that freedom of expression protects not only opinions and ideas that are favourably received or regarded as inoffensive, or as a matter of indifference, but also those that may offend actors in public life and politicians, including political leaders. The peaceful expression of one’s opinion, including through e-mail, if it is not carried out violently, and does not constitute incitement to national, racial or religious hatred or violence, is within the boundaries of freedom of expression.

11. The information available to the Working Group in the communication at issue, which is not contested by the Government, does not suggest that the apparently critical opinion of the Head of State expressed by Mr. Al Rabassi in an e-mail addressed to the *Arab Times* newspaper would have transgressed the permissible limits of his freedom of expression.

12. As to the allegation, also not contested by the Government, that Mr. Al Rabassi did not have access to a lawyer during the investigative stage of the criminal proceedings against him, the position of the Working Group is that the denial of the right to defence in a serious charge potentially involving a long prison sentence is incompatible with the right to a fair trial.

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

The deprivation of liberty of Mr. Abdenacer Younes Meftah Al Rabassi is arbitrary, being in contravention of articles 14 and 19 of the International Covenant on Civil and Political Rights, and falls under categories II and III of the categories applicable to the consideration of cases submitted to 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 to bring it into conformity with the provisions of the International Covenant on Civil and Political Rights.

Adopted on 30 August 2005