

**OPINION No. 37/2006 (SAUDI ARABIA)**

**Communication: addressed to the Government on 22 June 2006.**

**Concerning: Mr. Chalaane bin Saïd Saoud Al-Chahrani Al-Khodri.**

**The State has not signed or ratified the International Covenant on Civil and Political Rights.**

1. (Same text as paragraph 1 of Opinion No. 32/2006.)
2. The Working Group welcomes the cooperation of the Government in having provided it with the requested information.
3. (Same text as paragraph 3 of Opinion No. 32/2006.)
4. The Working Group forwarded to the source the reply of the Government. The source submitted its comments on the information given by the Government. In the light of the allegations made, the reply of the Government and the comments of the source thereon the Working Group believes that it is in a position to render an opinion.
5. According to the information submitted by the source, Mr. Chaalane bin Saïd Saoud Al-Chahrani Al-Khodri, a citizen of the Kingdom of Saudi Arabia, born on 27 May 1979 and resident in Iskane Al-Azizia, Al-Khobar, is currently held in detention at Dammam in a detention centre under the authority of the Saudi Intelligence Services.
6. It was reported that Mr. Al-Khodri went to Iraq in 2003. In June 2003, he was arrested by United States military forces reportedly because of his Saudi nationality and under suspicion of trying to contact armed opposition forces. He was allegedly tortured during his interrogation. Later he was transferred to Abu Ghraib prison in Baghdad. In April 2004, after 10 months in detention, he was released and immediately returned to his country.

7. Upon his return, Mr. Al-Khodri learnt that all persons who had been in Iraq and then returned to Saudi Arabia were systematically arrested. After a Royal Amnesty Decree had been issued, on 18 June 2004, Mr. Al-Khodri, who was living at liberty, decided to present himself to a police station, being immediately arrested. No reason was given to him for his arrest and no arrest warrant was shown. He was interrogated about his stay in Iraq and suffered from acts of ill-treatment. Later, he was transferred to Dammam detention centre, run under the authority of the Intelligence Services.

8. According to the source, for more than two years at present, Mr. Al-Khodri has neither been formally charged with any offence, nor informed of the eventual duration of his detention. He has not been brought before a judicial officer, nor has he been provided the possibility to challenge the legality of his detention.

9. The source alleges that the detention of Mr. Al-Khodri is arbitrary because it is devoid of any legal basis. The authorities have so far failed to provide any decision justifying his arrest and detention, which constitutes a violation not only of international norms but also of Saudi domestic law, in particular articles 2 and 4 of the Royal Decree No. M.39 of 19 October 2001. According to the source, these norms establish that a person shall only be deprived of his liberty in cases provided for by law, shall be detained only for the duration decided by the authorities, shall not be subjected to ill-treatment, and shall have the right to seek the assistance of a lawyer during the investigation phase and at trial.

10. Mr. Al-Khodri has also been denied the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the Constitution or by law and the right to a fair and public hearing by an independent and impartial tribunal.

11. In its reply, the Government alleges that Mr. Al-Khodri was detained on 30 June 2004 for illegally entering Saudi Arabia across Iraqi borders. After interrogation he has been accused of illegally entering Iraq with the intention to engage in fighting there and convicted accordingly. According to the Government Mr. Al-Khodri is now being imprisoned as a result of his trial and verdict.

12. The Government further referred the Working Group to the fact that the Kingdom of Saudi Arabia, in its endeavour to combat terror and secure its border, is, like other members of the international community, determined to fight all forms of terror in a manner consistent with its obligations pursuant to international conventions.

13. According to the comments of source, the Saudi Government's response is merely restricted to confirming that Mr. Al-Khodri was arrested for illegally entering Saudi Arabia on 30 June 2004, that during his interrogation he confessed to having illegally adjourned to Iraq with the intention to engage in fighting, and that he is being detained in conformity with legal procedures. However, the response of the Government does not explain which judicial authority convicted Mr. Al-Khodri, by virtue of what kind of legal procedure he is currently detained, subject to which jurisdiction he was judged, and what kind of punishment was announced pursuant to which legal provision.

14. The Working Group starts to point out that the presentation of the facts and the explanation of the source and the Government are on major points contradictory. Yet, the allegations of the

parties coincide in that Mr Al-Khodri was detained in June 2004 and that since then he is in detention. The Government contended, and the source admitted - at least impliedly - that the deprivation of liberty of Mr Al-Khodri is linked to his alleged involvement in the hostilities in Iraq. It is also admitted that the Saudi authorities, in their legitimate attempt to fight against international terrorism, detain anyone who returns from Iraq by illegally crossing the border.

15. According to the opinion of the Working Group, the Government did not put forward convincing arguments justifying the holding in detention of Mr Al-Khodri for almost two and a half years. It does not transpire from the information of the Government either, whether the criminal proceeding is ongoing, and if so, it is in the investigation or trial against him phase, already convicted. The Government did not contest either the allegation of the source that the proceedings were unfair, in particular that Mr Al-Khodri was not given the opportunity to have, and to consult with, defence counsels.

16. Assessing all the information before it the Working Group renders the following opinion:

The deprivation of liberty of Mr Chalaane bin Saïd Saoud Al-Chahrani Al-Khodri is arbitrary being in contravention of article 9 of the Universal Declaration of Human Rights and falls under category III of the categories applicable to the consideration of cases submitted to the Working Group.

17. Consequent upon the opinion rendered the Working Group requests the Government to remedy the situation of Mr Al-Khodri and to bring it into conformity with the provisions of the Universal Declaration of Human Rights.

Adopted on 17 November 2006.