

**OPINION No. 3/2008 (United Arab Emirates)**

**Communication addressed to the Government on 20 February 2007 and on 24 January 2008.**

**Concerning Mr. Abdullah Sultan Sabihat Al Alili.**

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

1. (Same text as paragraph 1 of Opinion No. 14/2007.)
2. The Working Group conveys its appreciation to the Government for having provided it with information concerning the allegations of the source.
3. (Same text as paragraph 3 of Opinion No. 15/2007.)
4. In the light of the allegations made, the Working Group welcomes the initial cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source and received its comments. It regrets, however, that the Government did not reply to additional allegations made by the source in its observations to the first response of the Government. Nonetheless, the Working

Group believes that it is in a position to render an opinion on the facts and circumstances of the case.

5. According to the source: Mr. Abdullah Sultan Sabihat Al Alili, aged 46, a citizen of the United Arab Emirates, married, is an agricultural engineer at the Ministry of Agriculture of the Emirate of Ajman, resident in Ajman.

6. It was reported that he was arrested on 15 February 2007 at his residence by agents of the Internal Security Services (Amn Aldawla), who neither showed any arrest warrant nor informed him about the reason for his arrest or about any charges laid against him. His house was searched without a search warrant and his personal documents and books were confiscated.

7. Mr. Al Alili had previously been arrested on 8 August 2005 and interrogated on his political views and about statements he had made regarding the situation of democracy and freedom of expression in the country. He was kept in incommunicado detention. On 13 September 2005, the Working Group on Arbitrary Detention sent an urgent appeal on his behalf to the Government of the United Arab Emirates. Mr. Al Alili was released on 25 October 2005, after 78 days in detention.

8. It was also alleged that, prior to his release, Mr. Al Alili was asked to refrain from further engaging in political activities, particularly from making statements and declarations to the media. As he decided to continue with his activities, the source believes that his current detention is related to his right to freely hold and express political opinions.

9. The source further reported that Mr. Al Alili is being held in incommunicado detention without charge; without having been entitled to have the assistance of a legal counsel and without access to his relatives or to adequate medical care. His current place of detention is unknown. Fears have been expressed that he could be subjected to ill-treatment.

10. In its observations the Government stated that Mr. Al Alili was arrested in accordance with the law of the United Arab Emirates by the competent authorities, which conducted the necessary investigations before handing him over to the judiciary and the prosecution services. According to the Government the prosecuting authorities reviewed the procedural and substantive aspects of the case and verified that the arrest of Mr. Al Alili had been conducted according to the established legal procedure, including the human rights norms applicable in the State. Thereafter, the prosecution service conducted an investigation and charged the accused with “incitement and conspiracy to disclose secrets relating to national defence” and “illegally obtaining secrets relating to national defence”.

11. The Government furthermore stated that Mr. Hasan Al-Idrus, a national of the United Arab Emirates resident in Abu Dhabi, was appointed as defence lawyer for Mr. Al Alili and was assigned to deal with the accused, plead his case in court and present legal arguments to enable him to prove his client’s innocence. Family members have been able to visit the accused, subject to the procedures applicable in such cases, as laid down in prison regulations. On 28 May 2007, the case was referred to a court and registered as State security case No. 394/35 of 2007. The first session was held on 25 June 2007. At the time of the submission of the government reply the case was still pending with the next hearing scheduled for September 2007.

12. In its observations to the reply of the Government the source states that Mr. Al Alili was detained incommunicado between 15 February and 28 May 2007 for 102 days. During this period his family was unaware of his fate because the authorities refused to provide any information on the reasons for his arrest and detention.

13. The source also refers to a letter addressed to the President of the Federal Supreme Court, in which Mr. Al Alili describes his treatment in the detention centre. Mr. Al Alili, inter alia, reported that he had been beaten with a hosepipe and a baton, deprived of sleep for several days, forced to sleep without bedding in the cold on concrete floor, had to stand upright for the whole day for two weeks, forced to carry a chair on his head all day for one week, forcibly treated with medication against high blood pressure and insomnia, although he is not suffering from any of these diseases, placed in an isolation cell for one month, deprived of contact with his wife and his next-of-kin, and threatened with sexual assault and with the arrest of his wife.

14. The source further alleges that Mr. Al Alili was presented before a magistrate for the first time on 28 May 2007 and was accused of “dissemination of secrets concerning the defence of supreme interests of the State”. His confession was extracted by torture and during an oral procedure which was applied by officials of the Internal Security Services. He was forced to sign a confession statement without having been able to read it before, which was then admitted by the tribunal as evidence against him.

15. During the first court session the Federal Supreme Court decided to conduct closed hearings. Despite repeated requests by the competent judge during several trial hearings the Office of the Prosecution failed to produce the evidence upon which the accusation of Mr. Al Alili was based and he was kept in detention. The only witnesses were the very Internal Security Service officers who had tortured him and conducted the preliminary investigation.

16. Mr. Al Alili was eventually sentenced on 1 October 2007 to three years of imprisonment after a trial during which he was not permitted to speak and his lawyer was not allowed to plead. His lawyer was only authorized to submit a written brief. The Court did not investigate the allegations of torture in detention Mr. Al Alili had made.

17. The source alleges that the sentencing of Mr. Al Alili followed an unfair trial during which the basic norms of fair trial, including his right to defence, were violated. Furthermore, Mr. Al Alili’s right to appeal was infringed, since an appeal or review of the conviction by the Federal Supreme Court is not possible and the judgement has never been delivered to him or his counsel, leaving Mr. Al Alili unaware of the reasons for his sentencing.

18. Despite having been invited to do so, the Government failed to comment on new allegations contained in the source’s reply to the observations of the Government. The Working Group notes that the Government, therefore, did not challenge the allegation of the source that Mr. Al Alili was arrested without a warrant and detained for expressing his views publicly in the media. This is evidenced by the fact that the Government did not question the allegation of the source that authorities had warned him not to become furthermore involved in political activities.

19. The exercise of the right to freedom of opinion and expression is protected by articles 19 and 20 of the Universal Declaration of Human Rights, which permit the imparting of ideas of any kind by any means. The case of Mr. Abdullah Sultan Sabihat Al Alili appears to be a case of detention for merely exercising these rights to freedom of opinion and expression, for imparting his ideas through the media, which could include a broad range of ideas, including his political views on the situation related to democracy and to freedom of speech prevailing in the country.

20. At the same time, it is beyond doubt that Mr. Al Alili did not enjoy the benefits of a fair trial, since his confession was extracted by ill-treatment, humiliation and coercion, and the Federal Supreme Court did not investigate into these serious allegations put forward by Mr. Al Alili during his trial. The Working Group considers these allegations as substantiated and credible, for the ordeal Mr. Al Alili suffered from was described in much detail.

21. Since Mr. Al Alili was undisputedly detained incommunicado for a significant period of time without being able to challenge the legality of his detention, it is not necessary to express an opinion on the differing information provided by the source and the Government as to whether Mr. Al Alili could receive family visits or had access to his lawyer and whether his counsel was in fact permitted to plead during the trial. Suffice to state that even assuming in favour of the Government that Mr. Al Alili's lawyer was able to act in his defence, requiring him to prove his client's innocence as asserted by the Government already violates the right to be presumed innocent. All of the elements described constitute a violation of articles 9, 10 and 11 of the Universal Declaration of the Human Rights of such gravity as to confer on his deprivation of liberty an arbitrary character.

22. In the light of the foregoing, the Working Group renders the following Opinion:

The deprivation of liberty of Mr. Abdullah Sultan Sabihat Al Alili is arbitrary, being in contravention of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and falls into categories II and III of the categories applicable to the cases submitted to the consideration of the Working Group

23. Consequent upon the Opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Abdullah Sultan Sabihat Al Alili. The Working Group invites the Government to consider becoming a State party to the International Covenant on Civil and Political Rights, as soon as is practicable.

Adopted on 7 May 2008