

Opinion No. 22/2008 (Saudi Arabia)

Communications addressed to the Government on 6 November 2006 and 29 May 2007

Concerning Mr. Suleyman b. Nasser b. Abdullah Al-Alouane

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

1. (Same text as paragraph 1 of Opinion No. 17/2008.)
2. The Working Group welcomes the cooperation of the Government, which provided the Working Group with information concerning the case. The replies of the Government were brought to the attention of the source, which made observations on them. As the first comments by the source to the first Government's reply did contain new allegations, the Working Group decided, at its forty-eighth session, to transmit them to the Government, which submitted its comments or observations. The Working Group believes that it is in a position to render an Opinion on the facts and circumstances of the case.
3. (Same text as paragraph 3 of Opinion No. 17/2008.)
4. The case summarized below was reported to the Working Group as follows: Mr. Suleyman b. Nasser b. Abdullah Al-Alouane, born in 1969 at Al Burayda, Al Qasim, married and father of three children, addressed at Hai Mechaal, Al Burayda, a teacher by profession, was arrested on 28 April 2004 at his place of work by General Information Services agents, without any judicial warrant or charges laid against him.
5. On the same day, his home was searched without a legal warrant. Mr. Al-Alouane was taken to a detention centre depending of the Ministry of the Interior, where he was allegedly tortured. He was accused of having repeatedly criticized the Government of the United States of America for its policies concerning the Arab world and particularly the 2003 invasion of Iraq. Mr. Al-Alouane was subsequently transferred to El Hayr prison in the south of Riyadh, where he has been kept in detention during more than four years. He has been placed in complete isolation during long periods. No charges have, up to the date

of submission of the case, been laid against Mr. Al-Alouane and no trial date has been set. He has furthermore been refused access to legal counsel.

6. The source further reports that Mr. Al-Alouane had previously been banned from exercising his profession as a teacher, but this ban was lifted in 2003. Due to the expression of his political views, Mr. Al-Alouane was accused by public officers of expressing opinions contrary to the national interest and of sowing discord in the society. He continues to be kept in incommunicado detention, has been subject to ill-treatment and has not been brought before a judge.

7. The source considers that the detention of Mr. Al-Alouane is contrary not only to the principles enunciated in the Universal Declaration of Human Rights but also to articles 2 and 4 of Royal Decree No. M-39 concerning the regulation of the penal procedure and the rights of detainees to legal counsel. No legal norm was invoked to justify the arrest and detention of Mr. Al-Alouane. The source concludes that his detention is an outcome resulting from the exercise of his right to freely express his political opinions.

8. The Government, in its reply to the allegations of the source, confirmed that Mr. Al-Alouane was detained on 29 April 2004 and informed that his detention took place in the framework of a matter involving terrorism. The arresting authorities treated him in accordance with the judicial regulations in force in the Kingdom and he enjoyed all the rights guaranteed to defendants in the said regulations. His relatives have been permitted to pay him 37 visits, the last of which took place on 10 January 2007. His family was granted financial assistance. Arrangements were made for Mr. Al-Alouane to avail himself of the services of a defence lawyer during the stages of investigation and trial. He also was permitted to contact officials in order to transmit his complaints.

9. In its comments to the Government's reply, the source denies that Mr. Al-Alouane was allowed to consult with a defense lawyer. It also points out that the Government has not disputed its allegation that Mr. Al-Alouane was arrested without a legal order to that effect; that he was not informed of the charges brought against him; that he did not have the possibility to effectively challenge the lawfulness of his detention; and that, in spite of the more than four years already spent in detention, he has not been put to any kind of trial.

10. During its forty-eighth session, the Working Group decided to request the Government clarifications concerning the information which it had submitted. By letter dated 29 May 2007, it requested the Government to be informed about the following: (a) When Mr. Alouane's trial took place; (b) before which court; (c) who was his defence lawyer and (d) on how many occasions Mr. Al-Alouane was able to meet with him. The Working Group also requested a copy of the final judgement or sentence.

11. The Government responded that Mr. Al-Alouane was detained on charges of transmitting funds outside the Kingdom to organizations and groups engaged in acts of terrorism; issuing interpretations of Islamic law (Fatwas), and delivering unauthorized sermons and lectures of an inflammatory nature to terrorist groups. His case is still being investigated due to its connection with terrorist cells, some of which are operating outside the Kingdom and in view of new evidence of his involvement in a number of crimes and his association with other suspects. The Government added that Mr. Al-Alouane's case was brought before the competent court, which has issued judicial orders for the prolongation of his detention so that the investigation procedures could be completed.

12. The source considers that the Government limits itself to declare that Mr. Al-Alouane is under investigation for terrorism but it has not specified the nature of the concrete acts; Mr. Al-Alouane's involvement on them; the charges brought against him or the specific articles of the Penal Code allegedly infringed. According to the source, Mr. Al-Alouane is well-known in his country for having taken public positions concerning the invasion of Iraq; the political situation in Saudi Arabia and in the Arab region. His right

to a legal recourse against his detention has not been recognized in violation of the Universal Declaration of Human Rights, the Constitution of the Kingdom and Saudi Arabia's domestic law.

13. On the basis of these elements, the Working Group considers that it is in a position to issue an Opinion. The Working Group deems that, in relation to the concrete allegations from the source, the Government has not provided specific responses. It has not been provided concrete responses to the Working Group's questions contained in its communication dated 29 May 2007. It seems that the Government is itself satisfied of providing the Working Group with generalities and not concrete information. The Government does not refute the reasons by which the source considers Mr. Al-Alouane's detention as arbitrary.

14. The Working Group notes that, on the contrary, the Government recognizes, implicitly or explicitly, in their responses, the following allegations from the source:

(a) That Mr. Al-Alouane was in effect arrested on 29 April 2004 and that he has been detained since then.

(b) Mr. Al-Alouane's arrest was carried out without a previous mandate; without an arrest warrant; and that precise charges were not articulated nor brought against him.

(c) The only fact to affirm in a general way that this person is implied in financing or publicizing terrorist activities, without specifying his participation in those activities, or the nature of them, is not enough to establish a legal basis for his detention.

(d) This person has not been informed of the exact and precise facts which are reproached to him and, in this way; he is not able to adequately prepare his defense.

(e) Even if the Government has informed that Mr. Al-Alouane is able to complaint before the authorities, it has not specified if he is able to contest the lawfulness of his detention, and, in this last case, in what way.

(f) The Government has implicitly recognized that Mr. Al-Alouane is not authorized to obtain legal counsel or to have the services of a lawyer who help him to prepare his defense.

(g) The Government has recognized that Mr. Al-Alouane is in detention since 29 April 2004. However, it has not provided any information concerning the advancement of the legal procedure, the stage of the process or any date on which his trial should start.

(h) The Government informs that Mr. Al-Alouane "issued interpretations of Islamic law (Fatwas) and delivered unauthorized sermons and lectures of an inflammatory nature to terrorist groups". This seems confirm the allegations from the source concerning Mr. Al-Alouane's opinions and views as the main reasons for his detention.

15. The Working Group wishes at this stage to underline that the Government has the obligation to respect the rights to the exercise of the freedoms of opinion and expression of all its nationals and persons living under its jurisdiction, according to the Universal Declaration of Human Rights, to the Constitution of the Kingdom and to Saudi Arabia legal norms. It has also the obligation to respect the due process of law, to bring charges against those detained and to bring them before an impartial and independent tribunal.

16. In the light of the allegations submitted, the information transmitted by the Government on the case and the source's observations on it, the Working Group observes that Mr. Al-Alouane was not shown an arrest warrant; was not informed about the reasons for his arrest; was not informed about the precise charges laid against him; was not allowed to consult or to appoint a defense lawyer; could not effectively contest or appeal his detention; and continues to be deprived of his liberty without having been formally charged

or tried. The Government's sweeping assertion that Mr. Al-Alouane has been detained in relation to a matter involving terrorism; that he enjoyed all the rights and guarantees to which he is entitled as a criminal defendant, and that arrangements were made to avail himself of the services of a defense lawyer, lacks the necessary precision and details to be significantly considered and remains thus unsubstantiated. In addition, the Working Group notes that the Government has not responded to the concrete questions formulated by the Working Group in its communication dated 29 May 2007.

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

The deprivation of liberty of Mr. Suleyman b. Nasser b. Abdullah Al-Alouane is arbitrary, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights, and falls within categories I, II and III of the categories applicable to the consideration of cases submitted to the Working Group.

18. 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.

19. The Working Group also recommends the Government to consider the possibility of becoming a party to the International Covenant on Civil and Political Rights.

Adopted on 10 September 2008