

## Opinion No. 1/2010 (Libyan Arab Jamahiriya)

### Communication addressed to the Government on 21 January 2010

#### Concerning: Mr. Jamali Al Hajji

#### The State is a party to the International Covenant on Civil and Political Rights.

1. (Same text as paragraph 1 of Opinion No. 18/2009)
2. Acting in accordance with its methods of work, the Working Group forwarded a Communication addressed to the Government on 21 January 2010. The Working Group rejects that the Government has not provided it with information concerning the allegations of the source.
3. (Same text as paragraph 3 of Opinion N° 18/2009)

#### *Submission from the source*

4. Jamali Al Hajji, born on 6 March 1955, a citizen of the Libyan Arab Jamahiriya, usually resident on Belkheir Avenue in Tripoli, working as an accountant, has also been active in the field of human rights for many years.
5. On 9 December 2009, Mr. Al Hajji was arrested by the State Security Service without being presented with any arrest warrant or informed about the reasons for his arrest.
6. Several months before his arrest, Mr. Al Hajji submitted a complaint to Mustafa Muhammad Abdeljalil, the Secretary of the General People's Committee for Justice (Justice Minister) regarding allegations of numerous human rights violations committed by the Libyan authorities. In the complaint, Mr. Al Hajji expressed his opinions and criticism of the system of justice implemented by the Libyan authorities; the treatment of Libyan prisoners; the torture and arbitrary detention of individuals, and other allegations of violations committed by the Libyan security forces.
7. On 5 November 2009, Mr. Al Hajji was summoned by the State Security Prosecution Office in Tripoli regarding this complaint. He was reportedly questioned and then released.
8. On 9 December 2009, Mr. Al Hajji was arrested when he was for the second time summoned to the State Security Prosecution Office. He was taken to Jdeida prison in Tripoli where he has been detained since then.
9. Mr. Al Hajji's family received official confirmation of his detention on 10 December 2009, the second day of his arrest. However, his family and lawyer have been denied any contact with him. Since his arrest, Mr. Al Hajji has been detained incommunicado. He has not been charged, nor has he been brought before a judge.
10. The Working Group observes that Mr. Jamali Al Hajji was arrested in February 2007 after participating in a call for a peaceful gathering to commemorate the deaths, two years earlier, of 12 people in Benghazi during a demonstration. He was then released in March 2009. After his release he filed a writ addressed to the Secretary of the General People's Committee for Justice complaining about the judicial system; the treatment of prisoners; ill-treatment and torture by State agents, and other situations concerning human rights in the country.

*Deliberation*

11. The Working Group regrets that the Government has not provided it with information concerning the allegations of the source.

12. Mr. Jamali Al Hajji was arrested without any judicial warrant issued by a competent authority. No reason for his arrest was expressed at the moment of his detention. He was held incommunicado; impeded from contacting his relatives or a defence lawyer and has been deprived of his right to a fair trial before an independent and impartial tribunal.

13. The Working Group further notes that Mr. Al Hajji's detention is in relation with his activities as a human rights defender, in particular his complaint about the human rights situation in Libya to the Secretary of the General People's Committee for Justice (Minister of Justice). This would be a sanction or punishment for Mr. Al Hajji's legitimate exercise of his right to freedom of opinion and expression, as enshrined in articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

14. Mr. Al Hajji's detention is also contrary to articles 1, 6, 7 and 8 of the Declaration on Human Rights Defenders, adopted on 9 December 1998 by the General Assembly in its resolution 53/144.

15. Although the Libyan Arab Jamahiriya was one of the 26 co-signatories of a letter expressing certain reservations to some articles of the Declaration, the Declaration on Human Rights Defenders resumes principles and norms of customary international law and is in fully concordance with articles 3, 5, 8, 9, 10, 11, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 9, 10, 14, 18, 19, 21, 22 and 25 of the International Covenant on Civil and Political Rights.

*Conclusion*

16. Accordingly, the Working Group renders the following Opinion:

The detention of Mr. Jamali Al Hajji is arbitrary because it is devoid of any legal basis. Since his arrest, Mr. Al Hajji has not been informed about the reasons for his arrest, nor has he been accused or charged. His detention is in violation of article 9, 10 and 19 of the Universal Declaration of Human Rights and 9, 14 and 19 of the International Covenant on Civil and Political Rights. It is also contrary to article 9.3 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by the General Assembly on 9 December 1998.

17. The Working Group requests the Government of the Libyan Arab Jamahiriya:

- (a) To release Mr. Jamali Al Hajji;
- (b) Alternatively, to release him on bail and to submit him to a process with all the guarantees of a fair trial;
- (c) To consider providing him with an effective reparation for the damage caused.

Adopted on 4 May 2010