

No. 25/2010 (Qatar)

Communication addressed to the Government on 2 August 2010

Concerning: Mohamed Farouk al Mahdi

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

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the former Commission on Human Rights. The mandate of the Working Group was clarified and extended in Commission resolution 1997/50. The Human Rights Council assumed the Working Group's mandate in its decision 2006/102 and extended it for a further three-year period in Council resolution 15/18 of 30 September 2010. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communication.
2. The Working Group regrets that the Government has not provided the requested information.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III).
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government.
5. This case concerns Mohamed Farouk al Mahdi, who holds United Kingdom and Egyptian nationalities.
6. In its letter of 2 August 2010, the Working Group provided the Government of Qatar with the above-mentioned communication. On 3 November 2010, the Working Group informed the Government of Qatar about the Working Group's intention to consider the case of detention of Mohamed Farouk al Mahdi during its fifty-ninth session. No response from the Government was received during the 90-day term established by the Working Group's methods of work.
7. According to the source, Mr. Al Mahdi was arrested in October 2009 without a warrant following financial disputes with his employer, Al Khaliji Bank in Doha. He was detained without charge or trial until his release on 14 September 2010.
8. Following allegations by his former employers that he was implicated in financial mishandling, Mr. Al Mahdi was arrested on 15 October 2009 when he was summoned to the office of the Public Prosecution. He was transferred that same day to "capital" (Asima) police station in Doha and held

there incommunicado and in solitary confinement for four days. Only after his family made appeals to the authorities of the police station to see him did they take him out of solitary confinement.

9. The source states that Mr. Al Mahdi was not presented with an arrest warrant and was not presented before a judge, officially charged or tried. His lawyer lodged a complaint challenging the legality of Mr. Al Mahdi's detention. This complaint led the Appeals Court of Doha, on 30 May 2010, to order his release. However the authorities ignored this order and kept him in detention.

10. Only on 14 September 2010, according the source, was Mr. Al Mahdi released.

11. Mr. Al Mahdi, according to the source, suffers from medical conditions which have worsened due to his detention. He suffered a number of panic attacks and suffered from depression before being detained, but during his detention these have worsened and he has twice been transferred to the psychiatric ward. The first time he was transferred was in December 2009, due to a number of panic attacks, and he was again moved between 18 and 22 May 2010. Following his transfer, the Prosecution automatically requested that he be returned to prison, and they returned him despite the advice of the doctors for him to be given proper treatment.

12. The source reports that Mr. Al Mahdi's young family was in a very difficult situation during his arrest. The authorities have frozen his bank accounts since his arrest, forcing his wife to work full time to care for her children, the youngest of whom was born only weeks before Mr. Al Mahdi's arrest.

13. The source submits that the Qatari authorities were unable to invoke any legal basis for the detention of Mr. Al Mahdi, as they ignored a release order from a competent court. The source considers that this case falls under category I of the categories applicable to the consideration of the cases submitted to the Working Group.

14. Furthermore, according to the source, Mr. Al Mahdi was not provided with the basic guarantees to fair trial as he was not charged or tried since his arrest until the release; his lawyer was unable to obtain a copy of his file and was therefore unable to prepare his defence appropriately. The source submits that this case thus falls under category III of the categories applicable to the consideration of the cases submitted to the Working Group.

15. The source had urged the Working Group to request Mr. Al Mahdi's immediate release and that compensation be provided for more than nine months of arbitrary detention. After the original submission, the source informed the Working Group of Mr. Al Mahdi's release in April.

16. The Working Group considers it is in a position to provide an opinion on the deprivation of liberty of Mr. Al Mahdi.

17. After his arrest on 15 October 2009, Mr. Al Mahdi was not brought before a judge, formally charged or tried, and was not served with an arrest warrant. Only on 30 May 2010, upon complaint lodged by his lawyer, did the Appeals Court of Doha order the release of Mr. Al Mahdi. In the Working Group's view, due to these facts of non-observance of the right to fair trial, as provided for in article 10 of the Universal Declaration of Human Rights, the case falls into category III of the categories applicable to the consideration of the cases submitted to the Working Group.

18. Despite the judicial order to release Mr. Al Mahdi, he was still kept in detention until 14 September 2010. The Working Group considers that maintaining a person in detention once his release has been ordered by the court competent to exercise control over the legality of detention, renders the deprivation of liberty arbitrary. Such an arbitrary detention violates article 9 of the Universal Declaration of Human Rights. The Working Group reiterates that in such cases no legal basis can be invoked to justify the detention. Thus, the case falls into category I of the categories applicable to the consideration of the cases submitted to the Working Group.

19. Pursuant to the procedures followed by the working group, if the person has been released, for whatever reason, following the reference of the case to the Working Group, the Group reserves the right to render an opinion, on case-by-case basis, whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned.

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

(a) The deprivation of liberty of Mohamed Farouk al Mahdi during the period of 15 October 2009-30 May 2010 (the date on which the court ordered his release) was arbitrary, according to articles 9 and

10 of the Universal Declaration of Human Rights and falling into categories I and III of the categories applicable to the consideration of the cases submitted to the Working Group;

(b) The detention of Mohamed Farouk al Mahdi during the period of 30 May 2010-14 September 2010 (day of his release), was arbitrary, according to applicable category I, for the inexistence of any valid legal basis to justify his deprivation of liberty.

21. Consequent upon the opinion rendered, the Working Group requests the Government that Mohamed Farouk Al Mahdi be accorded an enforceable right to compensation.

22. The Working Group encourages the Government of Qatar to consider the possibility of acceding to the International Covenant on Civil and Political Rights.

[Adopted on 19 November 2010]