

No. 42/2013 (United Arab Emirates)

Communication addressed to the Government on 12 August 2013

Concerning Abdullah Al Hadidi

The Government has not replied to the communication. 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, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 2006/102 and extended it for a three-year period in its resolution 24/7 of 26 September 2013. In accordance with its methods of work (A/HRC/16/47, annex, and Corr.1), the Working Group transmitted the above-mentioned communication to the Government.
2. 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 or her sentence or despite an amnesty law applicable to the detainee) (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);
 - (d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; or disability or other status, and which aims towards or can result in ignoring the equality of human rights (category V).

Submissions

Communication from the source

3. The case summarized below was reported to the Working Group on Arbitrary Detention as follows:
4. Abdullah Al Hadidi (hereinafter Mr. Al Hadidi) is a national of the United Arab Emirates, usually residing with his wife and three children in Sharjah, United Arab Emirates. He is an activist on "Twitter", an online social networking and microblogging service.
5. On 22 March 2013, at 3 a.m., national security agents of the United Arab Emirates arrested Mr. Al Hadidi in his residence in Sharjah. He was allegedly not presented with an arrest warrant nor informed of the charges against him. Immediately following his arrest, Mr. Al Hadidi was taken to the

Sharjah police station and later that same night he was transferred to the Al Khalidiya police station in Abu Dhabi.

6. On 23 March 2013, Mr. Al Hadidi was permitted to telephone his family and inform them of his detention by the Abu Dhabi police. The source reports that Mr. Al Hadidi's family were not permitted to visit him at the Al Khalidiya police station. Further, the police authorities denied their request to post his bail. The source states that the family was later informed by the police that Mr. Al Hadidi was being held in relation to his accusation in a financial case.

7. According to the source, the General Prosecutor of the United Arab Emirates requested the Court to prosecute Mr. Al Hadidi under articles 1 and 46 of the new Cybercrime Law No. 5/2012. Article 1 defines, inter alia, "Electronic information", and article 46 incriminates the use of the Internet and information technologies. The source notes that this law was the subject of numerous recommendations for amendment or abolishment during the second cycle of the Universal Periodic Review (UPR) of the United Arab Emirates that took place in January 2013.

8. The source recounts that Mr. Al Hadidi had attended the hearings of the "UAE 94" case¹ before the Federal Supreme Court and had reported to international human rights organizations, as international observers and media personnel were denied access to the trial. He was also active in coordinating the families of the defendants, which included his father, and in helping to compile evidence, particularly of videos and documents, to be used in the defence.

9. In reference to the "UAE 94" case, the source highlights the joint urgent appeal dated 7 November 2012, sent by a number of special procedure mandate holders, including the Working Group on Arbitrary Detention, that was issued regarding the alleged mass arrest and detention of human rights defenders, judges and lawyers..²

10. On 8 April 2013, the Abu Dhabi Court of First Instance sentenced Mr. Al Hadidi to 10 months in prison for disseminating false information on Twitter about the Federal Supreme Court hearings of the "UAE 94" case. The court determined that Mr. Al Hadidi, in reporting on the hearings, had cast them in a negative light.

11. In the source's view, Mr. Al Hadidi's arrest and verdict represent a generalized crackdown targeting individuals exercising their rights as guaranteed by the Constitution of the United Arab Emirates and laws, including the freedom of opinion and expression. It contends that the punishment meted out to Mr. Al Hadidi and the publication of his name in the local media is intended to serve as a deterrent to human rights activities in the country.

12. The source submits that Mr. Al Hadidi is a prisoner of conscience as his arrest and detention came about as a result of carrying out legitimate human rights work. It argues that Mr. Al Hadidi's detention constitutes a violation of the United Arab Emirates' obligations under international law.

13. The source submits that Mr. Al Hadidi's sentence and deprivation of liberty are related to the exercise of his right to freedom of opinion and expression guaranteed by article 19 of the Universal Declaration of Human Rights.

Response from the Government

14. By letter dated 12 August 2013, the Working Group transmitted the above allegations to the Government of the United Arab Emirates, requesting detailed information about the current situation of Mr. Al Hadidi. The Working Group regrets that the Government did not respond to the allegations transmitted by the Group within 60 days, in accordance with paragraph 15 of the Working Group's methods of work.

15. The Government, by letter dated 12 November 2013, requested an extension of the timeline within which to submit a response. This request was rejected by the Working Group on the basis that the letter was received outside the above-mentioned 60-day deadline, and did not provide any reasons for requesting the extension.

16. The Working Group considers that it is in a position to render its opinion on the detention of Mr. Al Hadidi, in conformity with paragraph 16 of its methods of work.

Discussion

17. Although the Working Group has learned that Mr. Al Hadidi was released on 3 November 2013, it has decided not to file the case in accordance with paragraph 17 (a) of its methods of work due to the severity of the violations alleged by the source. This includes: the lack of an arrest warrant; the

absence of notification of charges; and a judgement rendered on the basis of transmitting information on Twitter about Federal Supreme Court proceedings with the intention of committing malice.

18. The Working Group has considered the relationship between the detention and prosecution of Mr. Al Hadidi and his exercise of the fundamental rights to freedom of expression and association in his work as a human rights defender. The source alleges that his detention is in direct consequence of this and has no other grounds.

19. In the view of the Working Group, a prosecution void of any specific facts that could lead to a criminal conviction and one that is based solely on having commented on the trial in the media, having transmitted information relating to the trial via the Internet, and having helped families and friends of the accused, violates the freedom of opinion, of expression and assembly guaranteed by the Constitution of the United Arab Emirates and articles 9, 19 and 20 of the Universal Declaration of Human Rights.

Disposition

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

The deprivation of liberty of Mr. Al Hadidi was arbitrary, being in contravention of articles 9, 19 and 20 of the Universal Declaration of Human Rights and falls within categories I and II of the arbitrary detention categories referred to by the Working Group when considering the cases submitted to it.

21. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation, which include providing adequate reparation for the arbitrary detention that Mr. Al Hadidi suffered.

22. The Working Group encourages the Government of the United Arab Emirates to ratify the International Covenant on Civil and Political Rights.

23. The Working Group recalls the Human Rights Council's call for all States to cooperate with the Working Group, to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.³

[Adopted on 15 November 2013]

¹See Opinion No. 17/2013 of the Working Group on Arbitrary Detention.

²A/HRC/22/67, p. 137; communication No. ARE 7/2012.

³Resolution 24/7, paras. 3, 6 and 9.