

## **Opinion No. 14/2010 (United Arab Emirates)**

### **Communication addressed to the Government on 17 December 2009**

#### **Concerning: Mr. Nikola Milat**

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

1. (Same text as paragraph 1 of Opinion No. 18/2009)
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. 18/2009)
4. The case summarized below was reported to the Working Group on Arbitrary Detention as follows:
  5. Mr. **Nikola Milat**, born on 27 December 1974, a Serbian national, company owner, usually residing at Danat Al Rolla 114A, Bur Dubai, was arrested without a warrant on 22 April 2007 at his office in Dubai, Ayal Nasir Building, Flat No-M-05, Deira, by officers of the Dubai police. Since then he has remained in detention under the orders of the Public Prosecution of Dubai and the courts of Dubai. Mr. Nikola Milat was accused of being an accomplice in a robbery of 15 April 2007. He was alleged to have known the perpetrators, who are Serbian citizens and still at large. Mr. Nikola Milat denies any involvement in the robbery.
  6. Following his arrest he was taken to the main police station in Dubai. There, he was interrogated for 10 days before being transferred to the Al Raifa police station. He had to sign three statements, each of which were issued in Arabic only, which he did not understand. Two statements were taken by police officers, the third one was made before the prosecutor five to seven days after his arrest. His respective interrogators required Mr. Nikola Milat to state that he knows who the perpetrators of the robbery are and that he knew about their plan but did not report the plan to the authorities. He was interrogated in English; some parts of the interrogation he understood, other parts he did not. The interrogations before the police took longer than permitted under the laws of the United Arab Emirates.
  7. Following the interrogation session with the prosecutor, upon his return to the police station, Mr. Nikola Milat's telephone was seized. He was not allowed to make phone calls or any other contact with the outside world. He was not able to arrange for a lawyer. Mr. Nikola Milat was granted access to a lawyer only after the police and public prosecutor interrogations.
  8. Mr. Nikola Milat went on trial and was convicted by the Dubai Court of First Instance to a prison term of 10 years, judgement dated 8 June 2008 (Case No 7089 - Penal for the year 2009). The source has submitted an English translation of this judgement to the

case file, which is made integral part thereof. The conviction was upheld by the Appeal Court of Dubai, judgement dated 23 November 2008, and by the Dubai Court of Cassation, judgement dated 2 February 2009. During the trial Mr. Milat asked the judge to give him the opportunity to speak, which was denied. The whole trial was conducted in Arabic, with no Serbian interpreters.

9. At the trial, Mr. Nikola Milat's lawyer applied for annulment of the statement he had given to the police since the police did not have valid permission of the prosecution to interrogate Mr. Nikola Milat. The lawyer also asked for annulment of the testimonies of police officers since during his interrogation, while he was still a suspect, no interpretation was available to understand the questions put to him by the police. Mr. Nikola Milat did not understand these questions, and he did not understand the statements made during his trial because of a lack of interpretation.

10. The sequestration officer asked Mr. Nikola Milat questions which were written down in a report submitted to the prosecution thereafter. The officer freely translated Mr. Nikola Milat's replies and added to his statements in order to render it possible to press charges against him.

11. Mr. Nikola Milat noted that he never provided visas to persons who committed the robbery in which he was the alleged accomplice. He also stated that he did not know the reason of their arrival to Dubai. The written statements did not contain what he had stated, rather the contrary of everything he had said. The police took his statements in the absence of his lawyer or an interpreter. When he asked for interpretation he was told that there is no time for arranging for an interpreter. Mr. Nikola Milat answered as much as he could and he was constantly repeating that he was not an accomplice in the robbery and that he does not know who organized and committed the robbery. Mr. Nikola Milat was never provided a copy of the statements assigned to him.

12. Mr. Nikola Milat's lawyer used the lack of information in a language Mr. Nikola Milat understands about the nature and cause of charges against him in his defence at all court hearings, and also in all statements for the Dubai media. No testimonies were ever registered in an official report. The source further reports that despite fingerprints being taken from Mr. Nikola Milat's apartment, office, car, computer, mobile phones, 18 witnesses being interrogated, not a single piece of evidence was found to link him with the persons who committed the robbery.

13. Serbian authorities were involved in the trial through its embassy in Egypt. The Serbian Consul was present at five court hearings and had the opportunity to speak with the judge and with representatives of the Ministry of Foreign Affairs in Dubai. Serbian authorities also provided a certificate that Mr. Nikola Milat had never been convicted before; this certificate, however, appears to be missing from his case file in the United Arab Emirates. Further, the Serbian Minister of Foreign Affairs addressed a letter to his counterpart in the United Arab Emirates.

14. On 30 December 2009, Mr. Nikola Milat was taken to court, where the judge requested his interpreter to explain to him that he had been sentenced for another ten years for the same crime for which he had previously been sentenced to 10 years. It is not clear whether this was the result of an increase of sentencing on appeal, or the result of a new trial, possibly on a separate charge. Mr. Nikola Milat was not represented by a lawyer and he was not brought to any court hearings prior to being informed of this new sentence.

15. Mr. Nikola Milat requested the judge through his interpreter to show him the charges, and to be represented by a lawyer. He was told that he would be brought before the court again on 11 January 2010.

16. Mr. Nikola Milat was able to contact his lawyer after returning from the court, who told him that the crime he was sentenced for carries a maximum penalty of three years of imprisonment, whereas his total tariff is now 20 years.
17. The source further informs that the nearest embassy of the Republic of Serbia in Cairo, Egypt, was never officially informed by authorities of the United Arab Emirates about the arrest, detention, trial and conviction of Mr. Nikola Milat, who is a Serbian citizen.
18. In its response on 16 February 2010, the Government informed the Working Group the following: the trial was carried out in public, in the presence of Mr. Milat's lawyer and a Serbian translator, and with a right to a fair trial. The Court condemned Mr. Nikola Milat to a sentence of 10 years of imprisonment followed by an expulsion from the country. Mr. Nikola Milat appealed his sentence to the Court of appeals, which received the complaint and dismissed it completely. Mr. Nikola Milat appealed to the Court of Cassation which rejected the appeal.
19. In its comments to the Government's response, the source observed what follows in the paragraphs below.
20. Mr. Nikola Milat was arrested on 22 April 2007 and for the next 10 days, he did not meet the Prosecutor. Mr. Milat was interrogated by police officers day and night and he was denied any possibility to contact his family or his lawyer. Mr. Milat was obligated to sign the verbal statement in Arabic, a language which he does not speak, and that no interpreter was ever presented to him by the police.
21. After 10 days, Mr. Nikola Milat was taken to the Prosecutor who interrogated him also without an interpreter. For the next 30 days Mr. Nikola Milat was detained in another police station, without any possibility whatsoever to contact his family or his lawyer.
22. All of the interrogations that followed were conducted without an assistance of an interpreter, at the end of which Mr. Nikola Milat was obligated to sign another verbal statement written in Arabic in front of the Prosecutor. The entire procedure was conducted with consideration for these signed statements. Mr. Nikola Milat remains to this day, unaware of their contents.
23. Mr. Nikola Milat was subjected to 14 hearings which were conducted in Arabic, without a presence of an interpreter. During these hearings, Mr. Milat attempted to address the Court, but his attempts were in vane.
24. Mr. Nikola Milat was able to address the court only when the ambassador of his country was in the courtroom. Only in that occasion, the judge had initially dismissed Mr. Nikola Milat's case as there was no interpreter present. The ambassador provided the interpreter and conveyed his message to the Court, which only then accepted to hear for the first time the position of Mr. Nikola Milat.
25. It should be noted that paragraph 15 of the Methods of Work of the Working Group on Arbitrary Detention provides that "it shall request the Government to reply within 90 days after having carried out such inquiries as may be appropriate so as to furnish the Group with the fullest possible information". This provision is based on the fact that the Government is chiefly responsible for the matters pertaining the respect of human rights, as it is the Government which undertakes the obligations in good faith in front of the international community.
26. In the light of the foregoing, the Working Group observes that the response submitted by the Government is questionable, given that its character is brief, generalized and incomplete. The Government, in fact, declares that the trial was public, in the presence of Mr. Nikola Milat's lawyer, and in the presence of a Serbian-language interpreter; but the

Government fails to provide the information regarding the severe allegations regarding the fact that Mr. Milat was in the police custody for 10 days; that he was interrogated incessantly day and night; that Mr. Milat was not provided with a lawyer; that Mr. Milat was obligated to sign a verbal statement in a language he did not understand and in the absence of an interpreter; that he was interrogated again in front of the judicial Prosecutor, again in the complete absence of an interpreter and a legal representative, and for the period of 30 days.

27. All of the aforementioned deficiencies had repercussions on the judicial process conducted by the Court in regard of the case. The Government does provide information that an interpreter and a lawyer were present during the trial, but without elaborating on the respect of Mr. Milat's individual rights during this process.

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

The deprivation of liberty of Mr. Nikola Milat is arbitrary being in contravention of articles 9, 10 and 11 of the Universal Declaration of Human Rights and of 9 and 14 of the International Covenant on Civil and Political Rights and falls under the category III of the categories applicable to the consideration of cases submitted to the Working Group.

29. Consequent upon the Opinion rendered, the Working Group requests the Government to take necessary steps to remedy the situation, which, under the specific circumstances of this case, would be the immediate release of Mr. Nikola Milat; to provide for his right to compensation, and to secure a fair and public hearing by an independent and impartial tribunal if necessary.

30. The Working Group invites the Government to consider signing and ratifying the International Covenant on Civil and Political Rights, as soon as is practicable.

Adopted 31 August 2010