

## DECISION No. 38/1992 (MOROCCO)

Communication addressed to the Government of the Kingdom of Morocco on 14 October 1991.

Concerning: Driss Achebrak, Abdallah Akaou, Kouin Amarouch, Abdellatif Belkebir, Hamid Bendourou, Abdelaziz Binbine, Ahmed Bouamlate, Ahmed Bouhiha, Abdelkrim Chaoui, Abdelaziz Daoudi, Dris Daroughi, Ahmed Elouafi, Mohamed el-Hafyaoui, Akka el-Majdoub, Mohamed Ghaloul, Mohamed Mansatte, Ahmed Marzak, Mohamed Moujahid, Ahmed Mzirek, Lahcen Oussayad, Ahmed Rajali, Abdelkrim Saoudi, Mouden Sefrioui, Bouchaib Skika on the one hand and the Government of the Kingdom of Morocco on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of the work adopted by it (E/CN.4/1992/20, chapter II), and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with appreciation the information forwarded by the Government concerned on 17 February 1992 in respect of the above-mentioned communication.
3. (Same as in decision No. 1/1992.)
4. According to the communication submitted by the source, a summary of which was forwarded to the Government of Morocco, 61 soldiers, including those sentenced in 1972 by the military court of Kenitra for involvement in an attempt on the life of the King, were transferred in 1973 to the unofficial detention centre of Tazmamart. According to the source, three of them were sentenced to life imprisonment and the others to prison terms ranging from 3 to 20 years. According to the source, since 1973 these persons have been held incommunicado, without access to their lawyers or the right to receive visits from or communicate with their families, in inhuman conditions of detention. The source has supplied the names of 24 of these detainees, as well as the duration of their sentences, indicating that they continue to be detained beyond the expiry of their sentences. The names of these soldiers are given below.
5. While it appreciates the reply of the Government of Morocco dated 17 February 1991 as a positive sign of cooperation, the Working Group considers that this reply is limited to vague statements, since it merely indicates that "the cases of the soldiers imprisoned following the events of 1972 have been settled and all the soldiers who were imprisoned have been released". It is therefore incomplete and insufficient. The reply from the

Government of Morocco is limited to this general reference and indicates neither the names nor the number of the persons who have allegedly been released nor the date of their alleged release.

6. According to the source, the persons referred to above have been kept in detention beyond the expiry of their sentences and can be divided into three groups:

(a) Persons who have been released, including Abdelaziz Binbine, Ahmed Elouafi and Abdelaziz Daoudi;

(b) Kouin Amarouch and Hamid Bendourou, who died in detention;

(c) Others who are still in detention in a secret prison.

7. The Working Group is not in possession of all the facts, on the basis of which it could have taken a decision as to whether the detention of these persons was arbitrary or not, or resulted from serious violations of the rules regarding the right to a fair trial in respect of the judgements rendered against them.

8. The Working Group deemed it appropriate to transmit this information to the Special Rapporteur on the question of torture.

9. In the light of the allegations made, the Government's reply and the source's reactions to that reply, the Working Group believes, on the other hand, that it is in a position to take a decision regarding the detention of these persons beyond the expiry of their sentences.

10. In the light of the above, and without it being possible to draw any conclusion from the present decision as to the fairness or otherwise of the trial culminating in the sentences of imprisonment, the Working Group decides:

(a) The detention of Driss Achebrak, Abdallah Akaou, Abdellatif Belkebir, Ahmed Bouamlate, Ahmed Bouhiha, Abdelkrim Chaoui, Dris Daraoughi, Mohamed el-Hafyaoui, Akka el-Majdoub, Mohamed Ghaloul, Mohamed Mansatte, Ahmed Marzak, Mohamed Moujahid, Ahmed Mzirek, Lahcen Oussayad, Ahmed Rajali, Abdelkrim Saoudi, Mouden Sefrioui and Bouchaib Skika beyond the execution of their sentences is declared to be arbitrary as it manifestly cannot be justified on any legal basis and falls within category I of the principles applicable in the consideration of the cases submitted to the Working Group;

(b) Regarding both the case of Kouin Amarouch and Hamid Bendourou, who allegedly died in prison, and the possible release of Abdelaziz Binbine, Ahmed Elouafi and Abdelaziz Daoudi, the Working Group considers any continuation of their detention beyond the expiry of their sentences to be arbitrary under category I of the principles applicable in the consideration of the cases submitted to the Working Group;

(c) The Working Group decides, furthermore, to transmit the information concerning the human and material conditions of the detention to the Special Rapporteur on the question of torture.

11. Consequent upon the decision of the Working Group declaring the detention of the persons mentioned above to be arbitrary, the Working Group requests the Government of Morocco to take the necessary steps to remedy the situation, in order to bring it into conformity with the norms and principles incorporated in article 9 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights, to which Morocco is a party.