

DECISION No. 1/1992 (ISLAMIC REPUBLIC OF IRAN)

Communication addressed to the Government of the Islamic Republic of Iran on 14 October 1991.

Concerning: Ali Ardalan, Mohammed Tavassoli Hojati, Hashem Sabbaghian, Mezameddin Mohaved, Abdol Fazl Mir Shams Shahshahani, Dr. Habidollah Davaran, Abdoladi Bazargan, Khosrow Mansourian, Akbar Zaninehbaf on the one hand and the Islamic Republic of Iran on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it (see report of the Working Group 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 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 concern that to date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days from the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.
3. With a view to taking a decision the Working Group considers if the cases in question fall into one or more of the following three categories:
 - I. Cases in which the deprivation of freedom is arbitrary, as it manifestly cannot be linked to any legal basis (such as continued detention beyond the execution of the sentence or despite an amnesty act, etc.); or
 - II. Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; or
 - III. Cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary character.
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Islamic Republic of Iran. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and

circumstances of the case, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. In rendering its decision, the Working Group, in a spirit of cooperation and coordination, has also taken into account the report of the Special Representative of the Commission on Human Rights, Mr. Reynaldo Galindo Pohl, pursuant to Commission resolution 1991/82 (E/CN.4/1992/34).

6. It is clear from the facts as reported that Ali Ardalan, Mohammed Tavassoli Hojati, Hashem Sabbaghian, Mezameddin Mohaved, Abdol Fazl Mir Shams Shahshahani, Dr. Habidollah Davaran, Abdoladi Bazargan, Khosrow Mansourian and Akbar Zaninehbaf were subjected to arrest for approximately one year without charge or trial in connection with an open letter addressed to President Rafsanjani criticizing the Government of Iran as alleged. It is further clear that the subsequent trial and the sentences pronounced were the result of opinions expressed by them and for having criticized the Government. There is no material on record to lead the Working Group to draw an inference that the expression of their opinions endangered in any way national security or public order. Their arrest and continued detention is in clear violation of article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights. The Working Group notes that the Islamic Republic of Iran is a party to the International Covenant on Civil and Political Rights.

7. Ali Ardalan, Mohammed Tavassoli Hojati, Hashem Sabbaghian, Mezameddin Mohaved, Abdol Fazl Mir Shams Shahshahani, Dr. Habidollah Davaran, Abdoladi Bazargan, Khosrow Mansourian and Akbar Zaninehbaf, to the extent that they were held for approximately one year without charge or trial and were denied access to defence counsel, were deprived of the basic guarantees to which they were entitled under articles 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.

8. The facts as alleged also indicate that the proceedings before a Revolutionary Court were not in the nature of public hearings and as such were in violation of article 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights.

9. The facts as alleged further lead to the conclusion that the prison sentences received by Ali Ardalan, Mohammed Tavassoli Hojati, Hashem Sabbaghian, Mezameddin Mohaved, Abdol Fazl Mir Shams Shahshahani, Dr. Habidollah Davaran, Abdoladi Bazargan, Khosrow Mansourian and Akbar Zaninehbaf did not take into account the period of approximately one year during which they were detained without charge or trial. The Working Group finds this to be arbitrary in accordance with category III of the principles applicable in the consideration of cases submitted to the Working Group.

10. The Working Group also takes note of paragraphs 262 and 438 and page 104 (in annex V, entitled "Government information relating to the list of prisoners handed to the Iranian authorities on 8 December 1991 in Tehran) of the report by the Special Representative of the Commission on Human Rights.

11. In the light of the above the Working Group decides:

The detention of Ali Ardalan, Mohammed Tavassoli Hojati, Hashem Sabbaghian, Mezameddin Mohaved, Abdol Fazl Mir Shams Shahshahani, Dr. Habidollah Davaran, Abdoladi Bazargan, Khosrow Mansourian and Akbar Zaninehbaf is declared to be arbitrary, being in contravention of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

12. Consequent upon the decision of the Working Group declaring the detention of Ali Ardalan, Mohammed Tavassoli Hojati, Hashem Sabbaghian, Mezameddin Mohaved, Abdol Fazl Mir Shams Shahshahani, Dr. Habidollah Davaran, Abdoladi Bazargan, Khosrow Mansourian and Akbar Zaninehbaf to be arbitrary, the Working Group requests the Government of the Islamic Republic of Iran to take the necessary steps to remedy the situation in order to bring it into conformity with the norms and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.