

DECISION NO. 10/1992 (CUBA)

Communication addressed to the Government of Cuba on 14 October 1991.

Concerning: Juan Enrique García Cruz and Ramón Obregón Sarduy on the one hand and the Republic of Cuba on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of 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 in respect of the cases in question within 90 days of the transmittal of the letter by the Working Group. The Group also expresses its appreciation for the information provided at its third session by the Permanent Mission of Cuba to the United Nations Office at Geneva and the statement made by the Dean of the Law Faculty of the University of Havana.

3. (See paragraph 3 of decision No. 1/1992.)

4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government of the Republic of Cuba. The Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.

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 Secretary-General pursuant to Commission on Human Rights resolution 1991/68 (E/CN.4/1992/27).

6. The Working Group considers that:

(a) The allegation merely indicates that Juan Enrique García Cruz and Ramón Obregón Sarduy, members of the Pro Arte Libre Association, are in prison;

(b) The Government states that García is in prison after being sentenced, in case 32/79 before the People's Provincial Court of Santiago de Cuba, to 13 years' imprisonment for offences of robbery with violence and other acts against State security, and completes his sentence on 14 April 1992;

(c) In respect of Obregón, the Government states that he was initially sentenced for leaving the national territory illegally and was released on 2 August 1987. The benefit of this measure was revoked when he committed a further offence of criminal association. The organization concerned planned to hold an "exhibition of dissident art" to which foreign diplomats and journalists would be invited and would then be attacked with a firearm, with the authorities receiving the blame. For the latter offence he was sentenced to nine months' imprisonment, and the cumulative sentences for his offences will be completed on 19 September in the year 2000;

(d) The report of the Special Representative of the Secretary-General does not mention this situation;

(e) The Government's reply was transmitted to the source that submitted the communication in February 1992 but no response has yet been received;

(f) In the absence of any further information, the Working Group takes it that Mr. García and Mr. Obregón were given the sentences mentioned by the Government;

(g) In respect of García, it is to be understood that the sentence of 13 years' imprisonment imposed in case 32/79 was completed on 14 April 1992 and the Working Group therefore believes that he has been released. Consequently, in accordance with the Group's methods of work, the communication should be filed;

(h) Neither the allegation nor the Government's reply provide convincing evidence for a finding that Obregón's detention was arbitrary or otherwise. Neither the date or place of his arrest, nor the circumstances in which the attack on the projected "exhibition of dissident art" was to occur, nor the degree of seriousness of the crime nor the involvement of Obregón Sarduy are established. Consequently, in accordance with the Group's methods of work, the case should be filed without further action, unless convincing new evidence is forthcoming.

7. In the light of the above, the Working Group decides:

(a) To file the case of Juan Enrique García Cruz since he has been released;

(b) To file the case of Ramón Obregón Sarduy without further action.

(See also annex II, Decision No. 10/1992.)

Annex IIDECISION ON CASES OF REPORTEDLY RELEASED DETAINEES  
AND LIST OF SUCH PERSONS

In the course of its consideration of some of the cases of alleged arbitrary detention which it transmitted to Governments, the Working Group was informed, either by the Government concerned or by the source of the allegation, and in some cases by both, that the person(s) concerned is (are) no longer in detention.

Paragraph 14 (a) of its methods of work states that the Working Group, in the light of the information examined during its investigation, shall take one of the following decisions:

"(a) If the person has been released, for whatever reason, since the Working Group took up the case, the case is filed; nevertheless, the Working Group reserves the right to decide, on a case-by-case basis, whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned".

The following list contains the cases of persons who are reportedly no longer in detention and regarding whom the Working Group, after having examined the available information, is of the opinion that no special circumstances warrant the Group to consider the nature of their detention. The Working Group, without prejudging the nature of the detention, therefore decides to file their cases, in the terms of paragraph 14 (a) of its methods of work.

(The names of the persons listed below are preceded by the number of the decision regarding them, by order of its adoption by the Working Group, and the country concerned. The signs (X), (Y) and (Z) following each name indicate whether the information of that person's release was provided by the Government (X), the source (Y), or both (Z).)

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