

DECISION No. 16/1992 (CUBA)

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

Concerning: Pedro Alvarez Martínez 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 of the Working Group. The Working 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 case, 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 states that Pedro Alvarez Martínez was arrested in December 1989 and sentenced to five years' imprisonment for printing unlawful publications and other offences;

(b) According to the allegation, 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 have been violated in this case;

(c) The Government states that the person concerned is in prison serving a five-year sentence imposed by the People's Provincial Court of Havana for the offence of "other acts against State security", without indicating the acts constituting the offence;

(d) The report of the Special Representative of the Secretary-General maintains that Mr. Alvarez is a member of the Partido Pro Derechos Humanos sentenced to five years' imprisonment for printing unlawful publications;

(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. Alvarez is in prison serving the sentence referred to by the Government, but does not have information enabling it to determine whether or not arbitrariness is involved;

(g) Mr. Alvarez's conduct, which is not disputed by the Government, is said to have been participation in the production or distribution of illegal printed matter. The Working Group considers such conduct as a legitimate exercise of the freedom of expression and opinion embodied in article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights and therefore considers the detention arbitrary, within the meaning of category II of paragraph 3 of this decision.

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

The detention of Pedro Alvarez Martínez is declared to be arbitrary, being in contravention of articles 9, 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 II of the principles applicable in the consideration of the cases submitted to the Working Group.

8. Consequent upon the decision of the Working Group declaring the detention of Pedro Alvarez Martínez to be arbitrary, the Working Group requests the Government of the Republic of Cuba 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.