

DECISION No. 4/1992 (MALAWI)\*

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

Concerning: Goodluck Mhango, Ms. Sikwese and Martin Machipisa  
Munthali on the one hand, and Malawi 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 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. (Same as in Decision No. 1/1992.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Malawi. In the absence of any information from the Government, the Working Group believes that it is in a

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\* By letter dated 12 November 1992 the Permanent Representative of Malawi to the United Nations addressed a letter to the Chairman-Rapporteur of the Working Group on Arbitrary Detention, in response to the above Decision. By that letter the Government of Malawi informed the Working Group as follows:

1. Martin Machipisa Munthali was released on 11 June 1992 together with seven other persons.
2. Dan Mhango was released on 11 June 1992, but it was not yet clear whether this was the person referred to in the Decision as Goodluck Mhango.
3. As regards Ms. Sikwese, no trace of that name was found in the records held at the Permanent Mission of Malawi in New York, and the Permanent Representative sought information from his capital on whether or not Ms. Sikwese was in fact ever detained.

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 the case of Goodluck Mhango and Ms. Sikwese, the facts suggest that both were detained not on account of any opinions that they might have held. Goodluck Mhango was apparently detained on account of his journalist brother's article published in a foreign magazine, critical of the policies of the Malawi Government. Similarly, Ms. Sikwese was also detained on account of her family relationship with Fred Sikwese, her brother. She apparently alleged that the authorities were responsible for her brother's death. The case of Martin Machipisa Munthali stands on a different footing. Despite completion of his sentence in 1975, he has remained in detention without charge or trial ever since.

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

The detention of Goodluck Mhango and Ms. Sikwese and the continued detention of Martin Machipisa Munthali cannot be justified on any legal basis. It is declared to be arbitrary, being in contravention of article 9 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights and falling within category I of the principles applicable in the consideration of the cases submitted to the Working Group.

7. Consequent upon the decision of the Working Group declaring the detention of Goodluck Mhango, Ms. Sikwese and Martin Machipisa Munthali to be arbitrary, the Working Group requests the Government of Malawi to take the necessary steps to remedy the situation in order to bring it into conformity with the laws and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.