

DECISION No. 18/1992 (CUBA)

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

Concerning: Miguel Angel Sordo Quintanilla 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 in the country in question.

2. The Working Group notes with appreciation the information forwarded by the Government concerned in respect of the case 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) According to the allegation, Miguel Angel Sordo Quintanilla was arrested on 2 June 1991, having been caught painting anti-Government slogans on walls, placed in custody and interrogated on a charge of "enemy propaganda";

(b) According to the allegation, articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights, articles 9, 14 and 19 of the International Covenant on Civil and Political Rights and Principles 11 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment have been violated in this case;

(c) The Government states that the person concerned is in detention awaiting trial on a charge of contempt of authority;

(d) The report of the Special Representative of the Secretary-General mentions this situation and indicates that, according to the reports received, the person in question was caught painting anti-Government slogans on a wall in Havana on 22 June 1991;

(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 the act for which Mr. Sordo is being held is wall-writing. The assertion that the charge is one of "contempt of authority", with no indication of the facts or denial of those cited by the source, leads the Working Group to believe that the facts given by the source are accurate;

(g) Wall-writing must be considered as a manifestation of freedom of opinion and expression, as provided for in article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights;

(h) According to the principles for categorizing detention as arbitrary, as referred to in paragraph 3 of this decision, arbitrary detention under category II is detention deriving from acts involving the exercise of particular fundamental human rights, including those established in article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights.

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

The detention of Miguel Angel Sordo Quintanilla 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 Miguel Angel Sordo Quintanilla 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.