

DECISION No. 19/1992 (CUBA)

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

Concerning: Armando Rodríguez Rodríguez and Alfredo Yáñez Márquez (or Wilfredo Llanes Márquez) 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 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 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) According to the allegation, Armando Rodríguez Rodríguez and Alfredo Yáñez Márquez were arrested on 21 March (no year is given) and are awaiting trial on charges 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 persons concerned are serving prison sentences, having been convicted of the offence of enemy propaganda, but without indicating the acts constituting the offence. Rodríguez was sentenced to four years' imprisonment and Yáñez (or Llanes) to three;

(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. Rodríguez and Mr. Yáñez (or Llanes) are in prison, serving the sentences mentioned by the Government;

(g) The Government has not specified the acts constituting the offence of "enemy propaganda";

(h) The allegation fails to provide convincing evidence that the detention is arbitrary;

(i) The methods of work adopted by the Group provide that, if it does not have enough information to take a decision, the case remains pending for further investigation, and, if the Working Group considers that it does not have enough information to warrant keeping the case pending, the case is filed without further action.

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

To file the cases without further action.