

DECISION No. 17/1992 (CUBA)

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

Concerning: Julio Araña Rosainz and Julio Bientz Saab 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 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, Julio Araña Rosainz and Julio Bientz Saab were arrested on 2 October 1990 and sentenced on 9 July 1991 to terms of 8 and 12 years' imprisonment for offences against State security and 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 Principle 11 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 in prison serving sentences of 8 and 12 years' for a terrorism offence involving the organization of a bomb attack in the hospital where they worked;

(d) The report of the Special Representative of the Secretary-General mentions this situation and indicates that, according to the reports received, these persons were tried without the guarantees of due process of law, in that no evidence whatever was presented and the charge was based solely on the assertion that the two accused admitted responsibility;

(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. Araña and Mr. Bientz are in prison serving the sentences referred to both by the Government and in the allegation;

(g) The Government has provided no evidence that the detainees participated in an act of terrorism and has given no indication of whether the act was carried out or whether it went no further than the proposal, conspiracy or attempt stage, or of the date or circumstances surrounding this very serious act;

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

(i) The Working Group's methods of work provide that, if it does not have enough information to take a decision, the case remains pending for further investigation and that, 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.