

DECISION No. 46/1992 (EGYPT)

Communication addressed to the Government of Egypt on 31 January 1992.

Concerning: Ali Ahmed Gad al-Rab Ahmed, on the one hand, and the Arab Republic of Egypt, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it, and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the 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 case in question within 90 days of the transmittal of the letter by the Working Group.

3. (Same text as paragraph 3 of Decision No. 43/1992).

4. In the light of the allegations made the Working Group welcomes the cooperation of the Government of Egypt. The Working Group transmitted the reply provided by the Government to the source, but, to date, the latter has not provided the Working Group with its comments. 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. It appears from the facts as reported that Ali Ahmed Gad al-Rab Ahmed, aged 22, university student, was arrested by agents of the State Security Investigation Police (SSIP) in Alexandria on 16 August 1990. Allegedly, he has been detained since then without charge or trial, under article 3 of the Emergency Law, which, with the exception of an 18-month period in 1980-1981, has been in force since 1967. After the arrest of Ali Ahmed Gad al-Rab Ahmed, a petition for his release on his behalf was reportedly submitted to the court which, on 19 September 1990, ordered his release. Allegedly, the Minister of the Interior objected. A second court decided to release him on 13 October 1990, but he was reportedly taken by the SSIP from the prison to a police station where he remained several days before being transferred back to prison with a new detention order. Three further petitions for release were reportedly submitted on Ali Ahmed Gad al-Rab Ahmed's behalf. Different courts were said to have decided his release on 3 December 1990, 22 December 1990, 7 February 1991, 28 February 1991, 23 May 1991 and 9 June 1991 on the grounds that there was insufficient basis for his detention. Each time, the Minister of the Interior allegedly objected to the court's decisions to release him.

6. In its reply, the Egyptian Government informed the Working Group that Mr. Ahmed Gad al-Rab was arrested in a furnished apartment in the Abu Qir district of Alexandria on the charge of planning, in association with others, to drug members of the Alexandria Coastguard with a view to gaining possession of their weapons. They intended to carry out this operation by using forged identity cards, stolen from an apartment in the town of Beni Suef, to which

they had affixed their photographs. The Department of Public Prosecutions was notified and began an investigation, as a result of which 10 charges were brought against the accused after he had admitted his involvement therein. The Department of Public Prosecutions ordered the competent authority to place him in precautionary detention pending trial in case No. 8648-90 by the Court of Misdemeanours at Muntazah. He has not yet been sentenced, since the case was still being heard by the judicial authorities. The Government has nevertheless failed to provide the Working Group with a reply to the following specific questions regarding which the Working Group requested clarifications: whether there was a provision under Egyptian law which authorizes the Minister of the Interior, in spite of a decision by the judiciary, to maintain a person in detention; how many detention orders had been issued to the person concerned and whether they were of a judicial or an administrative nature.

7. Without expressing an opinion on whether the Emergency Law, and particularly its article 3, is in conformity with international standards, the Working Group notes that there is nothing in the Government's reply that seriously contradicts the allegations by the source. Similarly, without giving an opinion on the charges brought against the person concerned or his culpability, the Working Group is required solely to determine whether the procedure for his preventive detention involved any arbitrary deprivation of freedom. The Working Group considers that the continued detention of Mr. Ahmed Gad al-Rab Ahmed from the time of the initial decision to release him, delivered on 13 October 1990 by the Supreme State Security Court, was not in conformity with domestic law or international standards, particularly article 9 of the Universal Declaration of Human Rights and article 9, paragraph 1, of the International Covenant on Civil and Political Rights. It feels this all the more strongly in that, on four occasions the Ministry of the Interior kept this person in detention without granting him the possibility of seeking remedy. The Working Group also considers that, in the case in question, non-observance of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom an arbitrary character.

8. In the light of the above the Working Group decides:

The detention of Ali-Ahmed Gad al-Rab Ahmed, from 13 October 1990 on, is declared to be arbitrary being in contravention of article 9 of the Universal Declaration of Human Rights, article 9 of the International Covenant on Civil and Political Rights, to which Egypt is a Party, and Principles 2, 4 and 9 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

9. Consequent upon the decision of the Working Group declaring the detention of Ali Ahmed Gad al-Rab Ahmed, to be arbitrary, the Working Group requests the Government of Egypt to take the necessary steps to remedy the situation, so as to comply with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 8 December 1992