

DECISION No. 25/1993 (HAITI)

Communication addressed to the Government of Haiti on 6 November 1992.

Concerning: Mr. Bernard Benoît, Mr Pierre-Charles Douze and Mr. Roger Cadichon, on the one hand, and the Republic of Haiti, 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 above-mentioned communication received by it and found to be admissible, in respect of allegations of temporary detention reported to have occurred.

2. The Working Group notes with concern that to date no information has been forwarded by the Government in respect of the cases in question. With the expiry of ninety (90) days since the transmittal of its letter, the Working Group is left with no option but to proceed to render its decision in respect of the cases of alleged arbitrary detention brought to its knowledge.

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

4. According to the communication, which was transmitted to the Government of Haiti, Bernard Benoît and Pierre-Charles Douze, both of them lawyers, were arrested on 15 December 1991 in Arcahie, Haiti, by members of the Haitian armed forces. Their place of detention is unknown. Roger Cadichon, justice of the peace, living in Hinche, is said to have been arrested on 2 December 1991 in his town, without an arrest warrant, by soldiers of the Haitian Army. He is being held incommunicado in the Hinche municipal jail. The reason for their arrest and detention is reportedly the fact that they belong to a group which is calling for the return of Jean-Bertrand Aristide, the deposed President of Haiti.

5. According to the source, the above-mentioned persons are being held without charge or trial, notably in violation of the Haitian Constitution, whereby a person in custody must be charged within 48 hours of his arrest or must be released, and whereby everyone is entitled to a fair and public hearing. Furthermore, these persons have been deprived of the assistance of lawyers.

6. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Haiti. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

7. It is apparent from the facts as described above that Bernard Benoît, Pierre-Charles Douze and Roger Cadichon have been held in detention for more than 16 months simply for peacefully exercising their right to freedom of expression and opinion, a right guaranteed by article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on

Civil and Political Rights. It is also apparent that being held without charge or trial is not in conformity with the provisions of the Haitian Constitution. Hence, they have been denied the right to a fair hearing. Non-observance of principles 2, 9, 11, 13, 15, 16, 17, 18, 19, 31, 32, 33, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights guaranteeing the right to a fair hearing is of such seriousness that it warrants the following decision.

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

The detention of Bernard Benoît, Pierre-Charles Douze and Roger Cadichon is declared to be arbitrary, being in contravention of article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights as well as articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights and principles, 2, 9, 11, 13, 15, 16, 17, 18, 19, 31, 32, 33, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and falls within categories II and III of the principles applicable in the consideration of the cases submitted to the Group.

9. Consequent upon the decision declaring the detention of Bernard Benoît, Pierre-Charles Douze and Roger Cadichon to be arbitrary, the Working Group requests the Government of Haiti to take the necessary steps to remedy the situation in order to bring it into conformity 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 30 April 1993