

DECISION No. 21/1993 (MOROCCO)

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

Concerning: Mr. Noubir El Amaoui, on the one hand, and the Kingdom of Morocco, 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 arbitrary 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 case 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 case of alleged arbitrary detention brought to its knowledge.
3. (Same text as paragraph 3 of Decision No. 43/1992).
4. According to the communication, a summary of which was transmitted to the Moroccan Government, Noubir El Amaoui, a member of the political bureau of the Socialist Union of the People's Forces and Secretary-General of the Democratic Labour Confederation, was arrested by security agents on 17 April 1992 at the hearing of the Rabat Court of First Instance, in the course of the proceedings. They are reported to have acted on the orders of the Department of Public Prosecutions, further to a complaint laid by the Prime Minister, on behalf of the Moroccan Government.
5. According to the source of the communication, Noubir El Amaoui was sentenced under article 400 of the Code of Criminal Procedure to two years' imprisonment for defamation of members of the Government. The conviction is said to have been based on an interview published by the Spanish newspaper "El Pais" on 11 March 1992 and on Noubir El Amaoui's trade union activity, in contravention of his right to freedom of expression and association.
6. The source also states that article 400 of the Code of Criminal Procedure applies to offences under ordinary law, whereas the proceedings against Noubir El Amaoui pertains to a press offence, for which article 76 of the Code of Criminal Procedure prohibits arrest. The proceedings are also said to have involved many irregularities: Noubir El Amaoui's lawyers, for example, were forbidden free entry to the courtroom.
7. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Morocco. 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 case, especially since the facts and allegations contained in the communication have not been challenged by the Government.

8. It is apparent from the facts as described above that Noubir El Amaoui has been in detention for more than a year simply because he peacefully exercised his rights to freedom of opinion and expression and freedom of association, these rights being guaranteed by articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 22 of the International Covenant on Civil and Political Rights. This justifies the following decision.

9. In the light of the above, the Working Group decides the following:

The detention of Noubir El Amaoui is declared to be arbitrary, being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 22 of the International Covenant on Civil and Political Rights, and falls within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

10. Consequent upon the decision declaring the detention of Noubir El Amaoui to be arbitrary, the Working Group requests the Government of Morocco 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