

DECISION No. 22/1993 (NIGERIA)

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

Concerning: Mr. Femi Falana, on the one hand, and the Federal Republic of Nigeria, 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 concerned in respect of the case in question. With the expiration of more than 90 days from the transmittal of the letter by the Working Group, it 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 has been transmitted to the Government of Nigeria, Femi Falana, an attorney, President of the National Association of Democratic Lawyers, Vice-President of the Committee for the Defence of Human Rights and a member of the Campaign for Democracy, resident of Lagos, Nigeria, was arrested without a warrant on 19 May 1992 at Ikeja High Court, Lagos, by the Nigerian State Security Service (SSS) and was accused of conspiring, along with others, to compel a change in government policies, particularly the Government's "transition to civil rule" programme, by overt acts including holding illegal meetings and issuing seditious pamphlets.
5. Femi Falana was reportedly held incommunicado at a Lagos jail. Shortly after his arrest, and pursuant to a habeas corpus application, the Lagos State High Court allegedly ordered that he be released, stating that his detention was "illegal, unconstitutional, null and void". Despite this order he was reportedly brought on 15 June 1992 before a magistrate's court in Gwagwalade (550 miles from Lagos) and charged with conspiracy and treason under section 97 412 (1) (b) of the Penal Code of Nigeria.
6. On 29 June 1992, Femi Falana was reportedly released on bail. A trial date was reportedly set for 23 October 1992. According to the source, Femi Falana has been repeatedly harassed, arrested and/or detained by Nigerian security forces in the past several years, owing to his political, legal, civic and human rights activities, and he was in danger of continuing to be subjected to harassment and to arbitrary arrest and/or detention.

7. The Working Group has no information on the trial which was scheduled for 23 October 1992. On the other hand, the source lists a whole series of measures to which Femi Falana has been subjected:

- (a) Arrest and detention for 24 hours in June 1989;
- (b) Questioning on 10 April 1990 and release on the same day, outside Lagos;
- (c) Questioning on 11 May 1990 concerning a case of corruption in which the name of the wife of the President of Nigeria was mentioned;
- (d) Questioning on 26 May 1991 after his return from the United States, and release on the same day;
- (e) Illegal search of Femi Falana's office without a warrant and in his absence on 30 May 1991;
- (f) Search of his residence on 14 July 1991, begun at 4 a.m. in his absence; the members of the SSS tried to arrest his wife but were thwarted thanks to the assistance of neighbours; during the search pressure was exerted on Femi Falana to give up his defence of a client in the case in which the name of the President's wife had been mentioned;
- (g) Confiscation of Femi Falana's passport on 9 October 1991 at Lagos airport when he was on his way to Zimbabwe; three days later he was interrogated at the SSS for two days concerning the same corruption case; his passport was not returned to him.

8. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Nigeria. 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.

9. It is apparent from the facts as described above that Femi Falana was detained from 19 May to 29 June 1992, the day when he was released on bail, solely for having peacefully exercised his right to freedom of expression and opinion, his right to freedom of peaceful assembly and association, and his right to exercise his profession as an attorney. These rights are guaranteed by articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights. It is also apparent that his detention between 19 May and 29 June was ordered only because of his above-mentioned activities, that this persecution is continuing, and that the fears expressed by the source that they may continue in the future are justified. This persecution to which Femi Falana has been subjected, represents non-observance of international norms which prohibit such actions against the individual, namely, articles 3, 9, 12 and 13 of the Universal Declaration of Human Rights and articles 9, 12, 14 and 17 of the International Covenant on Civil and Political Rights. In accordance with paragraph 14 (a) of its methods of work, the Working Group considers that the violation by the Nigerian authorities of articles 19, 20 and 21 of the

Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights justifies the following decision.

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

The detention of Femi Falana is declared to be arbitrary, being in contravention of articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the International Covenant on Civil and Political Rights, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

11. Consequent upon the decision of the Working Group declaring the detention of Femi Falana to be arbitrary, the Working Group requests the Government of Nigeria 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