

DECISION No. 32/1993 (UZBEKISTAN)

Communication addressed to the Government of Uzbekistan on 22 February 1993.

Concerning: Babur Alikhanovich Shakirov and Khazratkul Khudayberdi, on the one hand and the Republic of Uzbekistan, 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 till date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days of 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 each of the cases of alleged arbitrary detention brought to its knowledge.

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

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Uzbekistan. 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.

5. It was alleged in the communication from the source, a summary of which was transmitted to the Government, that: Babur Alikhanovich Shakirov, born in 1948 and Khazratkul Khudayberdi, both members of the Birlik movement, the political opposition to the Government of President Islam Karimov, were reportedly arrested in Tashkent on 14 August and on 9 December 1992, respectively. They were said to be held at the investigation-isolation prison of the National Security Service in Tashkent. Both have reportedly been charged with "calling for the violent overthrow of the State and social system". Reportedly, in the case of Mr. Khudayberdi, article 60 of the Uzbekistan Criminal Code has been applied, which carries a possible sentence of up to seven years in prison: in the case of Mr. Shakirov the source did not know to which specific article in the Criminal Code the charge related, but expressed the fear that it may be article 54 - treason - which carried a possible death sentence. According to the source the charges were believed to be linked to the activities by the detainees in connection with the foundation of a non-violent social organization called Milli Mejlis ("National Council"). In 1968 (or 1970) Mr. Shakirov had reportedly been arrested and charged with treason and with anti-Soviet agitation and propaganda, which related to an illegal attempt to leave the USSR and to his nationalist activities, respectively. The source further alleged that Mr. Shakirov and Mr. Khudayberdi were being detained solely because of their non-violent activities in opposition to the Government of Uzbekistan.

6. It appears from the facts as described above that the arrest and detention of Babur Alikhanovich Shakirov and Khazratkul Khudayberdi are due solely to the fact that they have freely exercised their right to freedom of opinion and expression, a right which is guaranteed by article 19 of the Universal Declaration of Human Rights and by article 19 of the International Covenant on Civil and Political Rights. Furthermore, there is no record that, in doing so, they used violence or in any way threatened national security, public order, or public health or morals, or that they failed to respect the rights or reputations of others, as provided for by article 29 (2) of the Universal Declaration on Human Rights and by article 19 (3) of the International Covenant on Civil and Political Rights.

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

The detention of Babur Alikhanovich Shakirov and Khazratkul Khudayberdi is declared to be arbitrary being in contravention of articles 9 and 19 of the Universal Declaration of Human Rights and articles 9 and 19 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.

8. Consequent upon the decision of the Working Group declaring the detention of Babur Alikhanovich Shakirov and Khazratkul Khudayberdi to be arbitrary, the Working Group requests the Government of Uzbekistan 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 28 September 1993