

Decision No. 2/1994 (Uzbekistan)

Communication addressed to the Government of Uzbekistan on 20 September 1993.

Concerning: Pulat Akhunov, 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 case 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 the case of alleged arbitrary detention brought to its knowledge.

3. (Same text as para. 3 of decision No. 43/1993.)

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 case, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. According to the communication, a summary of which was transmitted to the Government of Uzbekistan, Pulat Akhunov, aged 31, teacher of biology, a former deputy of the USSR Supreme Soviet and deputy Chairman of the opposition Birlik movement, was arrested in July 1992 and tried in December in Andizhan Regional Court for "malicious hooliganism", for which he was sentenced to 18 months in a labour camp. While serving this sentence, he was charged with illegal possession of narcotics and with assaulting a prison guard, and on 17 August 1993 he was sentenced to three years in a labour camp. At his second trial, Mr. Akhunov's defence lawyer was allegedly obstructed from calling as defence witnesses prison inmates who allegedly witnessed an incident, on 5 February 1993, when a prison guard attempted to plant a package in a pocket of Mr. Akhuno's clothing while the latter was taking a shower. According to the source Pulat Akhunov may have been imprisoned as a punishment for his opposition political activities, and the charges brought against him by the authorities may have been fabricated.

6. It is evident from the above allegations that the detention of Pulat Akhunov and his second sentence in August 1993 to 3 years' prison term, in prolongation of his original sentence to 18 months' term in July 1992, are due to the fact that he freely exercised his right to freedom of opinion and expression guaranteed by article 19 of the Universal Declaration of Human

Rights and by article 19 of the International Covenant on Civil and Political Rights, as well as his right to peaceful association guaranteed by article 20 of the Universal Declaration of Human Rights and by article 20 of the International Covenant on Civil and Political Rights.

7. Moreover, the allegations made by the source might also lead to the conclusion that the trial of Pulat Akhunov on 17 August 1993 and his resultant detention were not in keeping with international law, and more particularly with article 9 of the Universal Declaration of Human Rights and article 14, paragraph 3, subparagraph (e), of the International Covenant on Civil and Political Rights. However, in view of the conclusions formulated in paragraph 6, the Working Group did not consider whether the non-observance of the international provisions relating to the right to a fair trial was such that it conferred on the detention of Pulat Akhunov an arbitrary character.

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

The detention of Pulat Akhunov 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, to which the Republic of Uzbekistan is a Party as a former Republic of the USSR, and falling within category II 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 Pulat Akhunov 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 17 May 1994.