

Decision No. 4/1994 (Zaire)

Communication addressed to the Government of Zaire on
12 November 1993.

Concerning: Kalala Mbenga Kalao and Chimanka Ntagaya-Ngabo, on
the one hand, and the Republic of Zaire, 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 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 the cases 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 Zaire. 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. The facts of the cases in question are as follows:
 - (a) Kalala Mbenga Kalao, publisher and journalist of the opposition newspaper "La tempête des Tropiques" is alleged to have been arrested on 25 August 1993 in the Lemba district of Kinshasa by members of the Civil Guard and to have been beaten in the course of his arrest. It is alleged that he was first held at the Institut supérieur des bâtiments (offices and detention centre of the Civil Guard) and to have later been transferred to a detention centre of the Service d'Action et de Renseignements Militaires (SARM) where he is alleged to be still in solitary confinement. The source alleges that Mr. Kalao was neither charged nor brought before a judge.

The cause of the arrest and detention of Kalala Mbenga Kalao is alleged to be the fact that, in three recent issues, his newspaper published the identity, unit, rank and origin of high-ranking officers of the Armed Forces of Zaire. According to the source, statistics show that 70 per cent of the Zairian officers belong to the same ethnic group, the Ngabandi, as President Mobutu Sese Seko.

(b) It is alleged that Chimanuka Ntagaya-Ngabo, a member of the Tourist Bureau of Kasha, Bukavu, Southern Kivu Province and a member of the opposition Christian Social Democratic Party, was arrested on 23 October 1993 at Bukavu. It is alleged that he was transferred the next day to Luzumo prison and later to Makala prison, where he is said now to be held.

The source alleges that the arrest was due to the recent publication of a statement opposing the monetary measures decided upon by President Mobutu. According to other sources the arrest formed part of pressures being exerted on leaders and members of opposition parties.

6. According to the source, the very difficult conditions in which the above-named persons may be held is a matter for concern because, in the prisons of Zaire and particularly those under the authority of the security forces, the inmates are subjected to severe physical and psychological pressure and are deprived of food, water and the most basic medical care.

7. The facts, as set out above, indicate that the only ground for the detention of Kalala Mbenga Kalao and Chimanuka Ntagaya Ngabo is the fact that they belong to the Zairian opposition and the fact that they freely and peacefully exercised their right to freedom of opinion and expression by voicing criticism of the policy of President Mobutu, a right guaranteed by articles 19 and 20 of the Universal Declaration of Human Rights and by articles 19 and 22 of the International Covenant on Civil and Political Rights.

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

The detention of the above-mentioned persons 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 Zaire is a party, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

9. The Working Group having declared the detention of these persons to be arbitrary, the Working Group requests the Government of Zaire 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 18 May 1994.