

Decision No. 10/1994 (Tunisia)

Communication addressed to the Government of Tunisia on  
22 April 1994.

Concerning: Abderrahmane El Hani, on the one hand, and the  
Republic of Tunisia, 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 appreciation the information forwarded by the Government concerned in respect of the case in question within 90 days of the transmittal of the letter by the Working Group.
3. With a view to taking a decision the Working Group considers if the cases in question fall into one or more of the following three categories:
  - I. Cases in which the deprivation of freedom is arbitrary, as it manifestly cannot be linked to any legal basis (such as continued detention beyond the execution of the sentence or despite an amnesty act, etc.); or
  - II. Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; or
  - III. Cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary character.
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government of Tunisia. The Working Group believes that it is in a position to take a decision on the facts and circumstances of the case, in the context of the allegations made, the Government's reply and the comments made by the source.
5. According to the source, Abderrahmane El Hani, a lawyer, was arrested on 15 February 1994, although he had declared himself a candidate for the presidency of the Republic, and charged with maintaining an illicit association and disseminating false news, and then kept in custody pending trial.
6. In its reply, the Government confirms the nature of the proceedings, explaining that the first offence relates to the maintenance of a non-recognized party (Act of 3 May 1982, arts. 8 and 26) and that the second

involves violation of articles 50 and 51 of the Press Code, which forbid the "dissemination of false news liable to disturb public order". It adds that the charges against Abderrahmane El Hani have nothing to do with "the allegations that he had declared himself a candidate for the presidency of the Republic". Finally, it states, which the source does not deny, that he was released on 23 April 1994 pending trial (after being in custody for 72 days).

7. The Working Group, having considered the available information, is of the opinion that in the case in question no special circumstances would warrant its considering the nature of the detention of the person released.

8. The Working Group, without prejudging the nature of the detention, decides to file the case of Mr. Abderrahmane El Hani under the terms of paragraph 14 (a) of its methods of work.

Adopted on 27 September 1994.