

Decision No. 11/1994 (Tunisia)

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

Concerning: Moncef Marzouk, 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. (Same text as para. 3 of Decision No. 10/1994.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government of Tunisia. The Working Group forwarded the Tunisian Government's reply to the source of the information, which submitted its comments on 4 August 1994. 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, Moncef Marzouk, former President of the Tunisian Human Rights League, was arrested on 24 March 1994 and charged with "dissemination of false news liable to disturb public order and defamation of the judicial order" under articles 50 and 51 of the Press Code. In support of these charges, the Prosecutor produced an interview published in a Spanish newspaper. The accused contested the facts.
6. In its reply, the Government points out that, the facts having been established through the judicial procedure, Moncef Marzouk was released on 30 July 1994, i.e. after 110 days in custody, and discharged in the following circumstances:
 - (a) Contesting the source's allegations, the Government considers that it is inaccurate to suggest that Moncef Marzouk had denied the facts, inasmuch as it was established that he had in fact made statements to foreign journalists, but that one of them, from the newspaper Diario 16, might have distorted what he had said;
 - (b) This hypothesis proved in the end to be true, the newspaper having published on 13 May 1994 an article stating that "an unfortunate error crept into the interview with Moncef Marzouk, owing to the need to translate from English into French, and then from French into Spanish";

(c) Against this background, the lawyer, after sending a complaint to the newspaper on behalf of his client, handed the judge a copy of the correction published in return by the newspaper. The judge accordingly dismissed the case.

7. In the light of the above, the Working Group decides as follows:

The Working Group notes the release of Moncef Marzouk with satisfaction. Nevertheless, in accordance with its methods of work, the Group decides that the detention of Moncef Marzouk for 110 days was arbitrary, being in contravention of article 19 of the Universal Declaration of Human Rights and article 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. In consequence of the decision of the Working Group declaring the detention of Moncef Marzouk to be arbitrary, and taking into account the fact that he has been released, the Working Group requests the Government of Tunisia to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles contained in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 28 September 1994.