

Decision No. 29/1994 (Republic of Korea)

Communication addressed to the Government of the Republic of Korea on 22 April 1994.

Concerning: Lee Kun-hee and Choi Chin-sup, on the one hand, and the Republic of Korea, 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 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. 10/1994.)

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Republic of Korea. 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. The communication, a summary of which has been transmitted to the Government, concerned the following persons:

(a) Lee Kun-hee, a 27-year old Democratic Party worker (main opposition party) was allegedly arrested without warrant by 7 or 8 officials of the Agency for National Security Planning (ANSP) on 26 September 1992. He was accused of passing information about the 1992 national defence budget to Hwang In-uk, knowing that he was a North Korean agent and that the information would be passed on to North Korea. This information, however, had previously been published and was available to the general public. Lee Kun-hee was reportedly also accused of possessing pro-North Korean literature and a video which praises the North Korean leader, President Kim Il Sung. On 15 January 1993, Lee Kun-hee was sentenced to three years' imprisonment under the National Security Law and the Military Secret Protection Law for giving State secrets to North Korea.

(b) Choi Chin-sup, aged 33, a journalist working for the "Mal" monthly journal, who was allegedly arrested by four officials of the ANSP on 14 September 1992. It was reported that Choi Chin-sup was charged with belonging to an "anti-State" organization, a pro-reunification group called the "1995 Committee". In 1991, it was renamed the Patriotic League, but Choi Chin-sup was apparently no longer a member at the time of his arrest. Choi Chin-sup was also charged with publishing information praising

North Korea. On 24 February 1993, Choi Chin-sup was reportedly sentenced to three years' imprisonment under the National Security Law, for belonging to an "anti-State" organization and for producing and disseminating material in support of North Korea. It was alleged that in both cases the following elements relating to the rights of detained persons to a fair trial had not been respected:

On 6 October 1992, the ANSP reported that it had uncovered the largest spying organization in South Korea since the 1950s. A large exhibition was set up by the ANSP at the Seoul Railway Station, with posters of some defendants, including Lee Kun-hee and Choi Chin-sup, who were labelled as "spies". However, the defendants had neither been charged nor tried at this time.

Both men were allegedly severely ill-treated: Lee Kun-hee was allegedly deprived of sleep and beaten during his interrogation. Choi Chin-sup was allegedly beaten, stripped naked and forced to stand in the same position for long periods of time during his interrogation. Both were also denied access to their families and lawyers.

6. Article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights guarantee the right to freedom of opinion and expression. The question remains whether the restrictions placed on this freedom by national legislation correspond to article 19, paragraph 3 (b) of the Covenant. In the absence of information supplied by the Government, the Working Group considers that Mr. Lee and Mr. Choi did not employ, propagate or prepare for violence; nor, according to the same source, did they transmit to others secret information or information that could represent a threat to national security, since the Government has not specified the secret material in question or the reason for which it was considered to constitute a State secret.

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

The detention of Lee Kun-hee and Choi Chin-sup is declared to be 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, to which the Republic of Korea is a Party 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 the above-mentioned persons to be arbitrary, the Working Group requests the Government of the Republic of Korea 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 29 September 1994.