

Decision No. 33/1994 (Tunisia)

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

Concerning: Tawfik Rajhi, 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 has forwarded the reply of the Government of Tunisia to the source of the information, which has so far not responded. 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 and the response of the Government thereto.
5. According to the source, Tawfik Rajhi, a 32 year-old academic, was arrested on 26 July 1993 and held incommunicado for 23 days, during which time his family received no information concerning his place of detention (the maximum legal duration of custody is 10 days).
6. Tawfik Rajhi was allegedly sentenced on 31 August 1993 to two years' non-suspended imprisonment and two years' administrative supervision for belonging to an unauthorized organization (the Islamist Al-Nahda movement).
7. According to the source, no evidence was produced in court concerning Mr. Rajhi's membership of that movement and he was not charged with violence or incitement to violence. Rajhi is said to have told the court that, during his incommunicado detention, he had been ill-treated and compelled to sign a statement while ignorant of its content. It is reported that no investigation into his allegations was ordered by the court.
8. In its reply, the Government confirmed Mr. Rajhi's arrest, which it says took place on 11 August 1993 (and not, as the source claims, on 26 July 1993). Mr. Rajhi was brought before the Government Procurator's office in Tunis on 18 August, charged and committed the same day under article 30 of the Associations Act, which provides that "anyone participating in the direct or indirect maintenance or re-establishment of associations recognized as not existing or dissolved shall be punished by a term of one to five years' imprisonment and/or a fine of 100 to 1,000 dinars".

9. According to the Government, Tawfik Rajhi joined the unrecognized Al-Nahda movement in 1982, participated in the Congress of that movement in 1986 and in 1990 was the instigator of the policy of nationwide violence practised by that movement.

10. For these acts, he was finally sentenced on 31 August 1993 to two years' non-suspended imprisonment and two years' administrative supervision. On 8 October 1993 this sentence was upheld by a decision of the Tunis Court of Appeal, which did, however, reduce the two-year prison term to one of eight months.

11. The Government emphasizes that Mr. Tawfik Rajhi was assisted by lawyers of his choosing, both at the first instance and the appeal stages, that the hearings, including those before the court of appeal, were always held in public and that foreign lawyers were admitted to the hearings as observers.

12. By letters of 1 June and 20 July 1994, the Government indicated that Tawfik Rajhi had been released on 11 April 1994, the date of completion of the sentence, and that he had left Tunisia for France, where he is now living.

13. After examining all the information available to it, the Working Group is of the opinion that there are no special circumstances in the case which warrant consideration by the Group of the nature of the detention of the person released.

14. The Working Group, without prejudging the arbitrariness or otherwise of the detention, decides to file the case of Mr. Tawfik Rajhi under paragraph 14 (a) of its methods of work.

Adopted on 30 September 1994.