

DECISION No. 3/1995 (UZBEKISTAN)

Communication addressed to the Government of Uzbekistan on
23 August 1994.

Concerning Salavat Umurzakov, Otanazar Aripov, Abdunabi Abdiyer, Arif Abdiyer, Nemat Akhnedov, Shavkat Khalbayev, Mamadali Mahmudov, Sherali Ruzimuradov, Akhmadkhon Turakhnoboy-ugly, Inamzhon Tursunov and Nosyr Zokhir, on the one hand, and the Republic of Uzbekistan, 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 expiry of 90 days from 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. 35/1994.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Uzbekistan. 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 communication, a summary of which has been transmitted to the Government, concerned the following persons:

(a) Salavat Umurzakov, aged 38 at the time of his detention, a journalist and opposition party member, was reportedly arrested in May 1993 by police agents at his home in Tashkent. He was first accused of "organizational activity directed towards commission of especially dangerous State crimes and participation in anti-government organization", under article 62 of the Criminal Code. The accusation was reportedly related to his membership of the "Milli Mejlis" (National Council) organizing committee. This was later changed to charges of "conspiracy with the aim of seizing power", under article 54 of the Criminal Code. In August 1993, he was convicted and sentenced to three years in prison, suspended for three years. On 23 March 1994 he was rearrested at his home and was taken to the police station in a police car where copies of the forbidden "Erk" newspaper were lying on a seat. He was accused of having the newspaper in his jacket and was again put on trial, before the Khamza district people's court, which sentenced him to serve the remaining two years and nine months (taking into account the three months of pre-trial detention from May to August 1993). He was reportedly sent to serve his sentence in a "labour colony".

(b) Otanazar Aripov, a professor of physics and the secretary of the "Erk" Central Committee (The Freedom Democratic Party), was arrested at his home in Tashkent in March 1994 following a police search. At first, he was reportedly charged with possession of a small quantity of narcotics, but later he was charged under article 62 of the Criminal Code, apparently on the grounds of having continued his active involvement in opposition politics, in violation of an undertaking he had signed while under investigation in connection with the "Milli Mejlis" case, to give up his political activities and leave the "Erk" party. Previously, in July-August 1993, during the trial of six "Milli Mejlis" defendants, he had been charged under article 54 and sentenced to five years in prison, suspended for three years. At the beginning of April 1994, he was found guilty and was sentenced to serve the outstanding four years and 10 months at a strict regime labour colony at Zarafhan, Navoi region (central Uzbekistan).

(c) Abdunabi Abdiyev, a correspondent for the banned "Erk" newspaper, and his brother Arif Abdiyev, were arrested on 20 April 1994 in Bakhoriston district, Kashkadarya region, allegedly for possession of copies of the "Erk" newspaper. They were reportedly held in the basement remand cells of the Directorate of Internal Affairs, in Tashkent.

(d) Nemat Akhmedov and Shavkat Khalbayev, local "Erk" activists in Kashkadarya region, were arrested on 13 April 1994 in the town of Mubarek in Kashkadarya region for possessing copies of the "Erk" newspaper. They were reportedly held in the basement remand cells of the Directorate of Internal Affairs, in Tashkent.

(e) Mamadali Mahmudov, a well-known writer, was arrested on 3 March 1994 at his home in Tashkent. A pistol was found in his house during a police search, but it had allegedly been planted on him by the police. However, sources subsequently suggested that he was being investigated for embezzlement connected with his position as chairman of the Uzbek Culture Fund. It was alleged that the authorities were trying to fabricate a criminal charge against him to punish him for his association with the exiled "Erk" leader, Muhammad Salih.

(f) Sherali Ruzimuradov, a student at Karshi University and a member of "Erk", was arrested in Karshi on 24 May 1994, apparently for promoting "Erk".

(g) Nosyr Zokhir, a musician and chairman of the Birlik regional organization in Namangan region, and Akhmadkhon Turakhnobo'yev, an Islamic cleric and chairman of the local Birlik organization in the city of Namangan, eastern Uzbekistan. They were arrested on 27 November 1993 at their respective homes by officers of the National Security Service. During a search carried out at their homes, hand grenades were found, but allegedly they were planted by the officers themselves in order to fabricate criminal charges of illegal possession of a weapon, to punish them for their political opposition activities. Nosyr Zokhir was reportedly held in the basement remand cells of the Directorate of Internal Affairs, in Tashkent.

(h) Inamzhon Tursunov, chairman of the "Erk" regional organization in Fergana region, was reportedly serving a sentence of two years in prison which

was passed on him in February 1993 for "hooliganism and resisting a police officer", a charge which had allegedly been fabricated. In March 1994, he was allegedly being held in isolation at a prison in Tashkent.

6. On 3 November 1994 the source provided the Working Group with updated information on the above-mentioned cases, according to which four of the persons concerned, Salavat Umurzakov, Otanazar Aripov, Inamzhon Tursunov and Nosyr Zokhir, had been amnestied by a presidential decree and were to be released. The decree reportedly referred to the prisoners' "acknowledgement of their guilt and their repentance" and their "desire in future to serve society through honest labour".

7. It appears from the facts as described above that Salavat Umurzakov, Otanazar Aripov, Inamzhon Tursunov and Nosyr Zokhir had been detained (from 23 March 1993 for Umurzakov, the beginning of March 1994 for Aripov, February 1993 for Tursunov and 27 November 1993 for Zokhir, until 2 November 1994, date of their release by presidential decree), solely for having peacefully exercised their right to freedom of opinion and expression, guaranteed by article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, and their right to freedom of association, guaranteed by article 20 of the Universal Declaration of Human Rights and article 22 of the International Covenant on Civil and Political Rights. There is nothing to prove that their activities fall within the framework of the permissible restrictions, which must be provided for by the law and must be necessary for the respect of the rights or reputations of others or the protection of national security or of public order or of public health or morals.

8. While welcoming the release of the four above-mentioned persons, the Working Group considers, in keeping with paragraph 14 (a) of its methods of work, that it should take a decision on whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the persons concerned.

9. It further appears from the information received that the other persons concerned continue to be held in detention (Abdunabi Abdiyer and his brother Arif Abdiyer since 20 April 1994, Nemat Akhnedov since 13 April 1994, Shavkat Khalbayev since 13 April 1994, Mamadali Mahmudov since 3 March 1994, Sherali Ruzimuradov since 24 May 1994 and Akhmadkhon Turakhnoboy-ugly since 27 November 1993) solely for having peacefully exercised their right to freedom of opinion and expression, guaranteed by article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, and their right to freedom of association, guaranteed by article 20 of the Universal Declaration of Human Rights and article 22 of the International Covenant on Civil and Political Rights. There is nothing to prove that their activities fall within the framework of the permissible restrictions, which must be provided for by the law and must be necessary for the respect of the rights or reputations of others or the protection of national security or of public order or of public health or morals.

10. In the light of the above, the Working Group decides:

The detention of Abdunabi Abdiyer, Arif Abdiyer, Nemat Akhnedov, Shavkat Khalbayev, Mamadali Mahmudov, Sherali Ruzimuradov and Akhmadkhon Turakhnoboy-ugly, and the detention of Salavat Umurzakov, Otanazar Aripov, Inamzhon Tursunov and Nosyr Zokhir, notwithstanding their release, 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 the Republic of Uzbekistan is a Party as a former republic of the Soviet Union, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

11. 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 Uzbekistan 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 30 May 1995.