

DECISION No. 42/1995 (PERU)

Communication addressed to the Government of Peru on 4 May 1994.

Concerning: Luis Rolo Huamán Morales, Pablo Abraham Huamán Morales, Julián Oscar Huamán Morales and Mayela Alicia Huamán Morales, on the one hand, and the Republic of Peru, on the other.

1. With reference to the above-mentioned communication, in respect of which the Government of Peru did not forward a reply within 90 days, the Working Group in its decision No. 41/1994 decided to keep the above-mentioned cases pending until it received further information.

2. The Government of Peru has provided further information, which is incomplete since it relates to only two of the four persons whose cases are under consideration: the juvenile Luis Rolo Huamán Morales, who has been released, and Julián Oscar Huamán Morales, who is said not to have been held in detention.

3. The Working Group considers that:

(a) According to the source the four siblings were arrested on 15 October 1992 and brought before the 43rd Provincial Prosecutor's Office in Lima accused of terrorist offences which they claim not to have committed.

(b) The Government of Peru has not forwarded any information concerning detainees Pablo Abraham Huamán Morales and Mayela Alicia Huamán Morales, notwithstanding the expiry of the established deadline.

(c) The Working Group reiterates its position, already stated on numerous occasions in connection with communications from Peruvian non-governmental organizations, that it cannot decide on the quality of evidence produced in judicial proceedings and may only consider as arbitrary cases of detention falling within one or more of the three categories defined in its methods of work.

(d) Since Luis Rolo Huamán Morales has been released and Julián Oscar Huamán Morales is not in detention, the Working Group will file those cases.

(e) In order for the Working Group to decide whether the detention of Pablo Abraham and Mayela Alicia Huamán Morales may be described as arbitrary, further information is required, under the terms of paragraph 14.1 (c) of its methods of work, about the alleged contraventions of the rules relating to due process established in the international instruments.

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

(a) To discontinue consideration of the situation of Luis Rolo and Julián Oscar Huamán Morales, the former having been released and the latter not having been held in detention.

(b) To keep the cases of Pablo Abraham Huamán Morales and Mayela Alicia Huamán Morales pending for further and more up-to-date information on the conditions of their judicial examination.

Adopted on 30 November 1995.