

DECISION No. 4/1996 (MOROCCO)

Communication addressed to the Government of the Kingdom of Morocco on 3 October 1995.

Concerning: Saaba Bent Ahmed, El Mokhtar Ould Saheb, El Ansari Mohamed Salem, Khadidjatou Bent Aij and Malaenin Ould Abdenabi, on the one hand, and the Kingdom of Morocco, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the revised 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 till 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 each of the cases of alleged arbitrary detention brought to its knowledge.
3. (Same text as para. 3 of Decision No. 35/1995.)
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Moroccan Government. 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. According to the communication, the above-mentioned persons were arrested and taken into custody for having organized a demonstration in support of the Polisario Front on 11 May 1995 in Laayoune in western Sahara. They are said to have been prosecuted for "jeopardizing the external security of the State and the territorial unity of Morocco", for having demonstrated, distributed leaflets and shouted slogans in favour of an independent Sahrawi State. It is alleged that one of the detainees, Malaenin Ould Abdenabi, died as a result of torture inflicted during his imprisonment. In view of that death, fears have been expressed concerning the fate of the other detainees.
6. From the facts as described in the previous paragraph, it appears that the persons in question have been held without charge since May 1995. Furthermore, they do not seem to have been brought promptly before a judge, as provided for in article 9, paragraph 3, of the International Covenant on Civil and Political Rights, or to have been tried within a reasonable time by an independent and impartial tribunal, in accordance with article 14, paragraph 3 (c), of the Covenant. In various documents attached to the communication, several human rights organizations report various similar arrests which are alleged to have occurred for the same reasons in Laayoune in May and June 1995 and to have led to summary proceedings before special courts, such as the Permanent Tribunal of the Royal Armed Forces, resulting in

the imposition of 15- to 20-year sentences. Those organizations believe the sentences to be unjustified, not being commensurate with the acts for which the persons concerned were prosecuted and which at most constituted the offence of undeclared demonstration, all the more so as the persons in question are said merely to have been engaged in the peaceful exercise of their right to freedom of opinion. It is furthermore alleged that most of them were subjected to torture and ill-treatment, as appears to have been the case with Malaenin Ould Abdenabi, who is said to have died from torture during his imprisonment.

7. The Working Group is thus of the opinion that the detention of Saaba Bent Ahmed, El Mokhtar Ould Saheb, El Ansari Mohamed Salem, Khadidjatou Bent Aij and Malaenin Ould Abdenabi took place in contravention of articles 8 and 10 of the Universal Declaration of Human Rights and of articles 9, paragraph 3, and 14 of the International Covenant on Civil and Political Rights, to which the Kingdom of Morocco is a party, relating to the right to a fair trial, and that the gravity of this contravention is such that it confers on the detention an arbitrary character.

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

(a) The detention of the above-mentioned persons is declared to be arbitrary being in contravention of articles 8 and 10 of the Universal Declaration of Human Rights and of articles 9, paragraph 3 and 14 of the International Covenant on Civil and Political Rights, to which the Kingdom of Morocco is a party, and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

(b) The Working Group furthermore decides to transmit this decision to the Special Rapporteur on the question of torture and to the Special Rapporteur on extrajudicial, summary or arbitrary executions.

9. 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 Morocco 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 23 May 1996.