

REVISED DECISION No. 2/1996 (REPUBLIC OF KOREA)

1. The Working Group on Arbitrary Detention adopted on 30 May 1995 Decision No. 1/1995 by which it considered the detention of Lee Jang-hyong and Kim Sun-myung arbitrary, falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group, and the detention of Ahn Jae-ku, Ahn Young-min, Ryu Nak-jin, Kim Sung-hwan, Kim Jin-bae, Jong Hwa-ryo, Jong Chang-soo, Hong Jong-hee and Park Rae-koon arbitrary, falling within category II of the same principles.

2. By letter dated 27 July 1995, the Government of the Republic of Korea requested the Group to reconsider the above-mentioned decision.

3. At its fourteenth session, in December 1995, the Working Group adopted criteria in order to decide on the admissibility on such requests. These criteria, which are reflected in the revised methods of work of the Group, are the following:

"Very exceptionally, the Group may, at the request of the Government concerned or the source, reconsider its decisions on the following conditions:

(a) If the facts on which the request is based are considered by the Group to be entirely new and such as to have caused the Group to alter its decision had it been aware of them;

(b) If the facts had not been known or had not been accessible to the party originating the request;

(c) In a case where the request comes from a Government, on condition that the latter has replied within 90 days as stipulated in the Working Group's revised methods of work".

4. Since the request for reconsideration of decision No. 1/1995 was made prior to the adoption of the aforementioned criteria, the Working Group decided, in application of the principle of non-retroactivity, that these criteria would only be applied to requests made after their adoption. Consequently, the Working Group decided to consider the present request as admissible.

5. (a) After the Working Group had adopted decision No. 1/1995, the Government provided it with very detailed information concerning the conviction - after the decision had been adopted - of the persons referred to in the decision, as well as information concerning the freeing of two of those persons, which also took place after the adoption of the decision.

(b) Concerning the convicted persons who are still being held, the Government has provided the Group with information concerning procedure and explanations relating to the nature of the activities of which the persons in question are accused.

(c) As far as the first category of information is concerned, that relating to procedure, the Group considers that even if it had been available to the Group before the adoption of its decision, it would not have been such as to modify its decision relating to the arbitrary nature of the detention of the above-mentioned persons.

(d) As far as the second category of information is concerned, that relating to the explanations regarding the nature of the activities of the detained persons, the Working group considers that it constitutes no more than an interpretation of facts of which the Group was already aware and which it had examined on the basis of the criteria set out in its methods of work. Consequently, this information is also not such as to modify the Group's decision.

(e) As regards the information concerning the freeing of two of the persons concerned, the Working Group welcomes this step. However, it emphasizes that, while this information does indeed constitute a new fact, it would have enabled the Group to modify its decision only if they had been freed before the Group adopted its decision.

6. In the light of the above, the Working Group decides that it is not in a position to reconsider its decision.

Adopted on 23 May 1996.