

DECISION No. 39/1996 (MOROCCO)

Communication addressed to the Moroccan Government on 2 August 1996.

Concerning: Andala Cheikh Abilil, Abdellah Ouali Lekhfaoui, Salek Leghdat Bambari, Abdellah Dafa Mohamed, Mohamed M'barek Kharchi, Saleh Mohamed-Lamin Baiba, Abdellah Mustapha Sid-Ahmed, Sid-Ahmed Ahmed Mustafa, Ahmed Nabt Ahmed, Mansour Ali Sid-Ahmed and Driss Houssein Khatari El Fakraoui, 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 to date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiry of more than 90 days since 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 attention.
3. (Same text as paragraph 3 of Decision No. 37/1996.)
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 although it was given the opportunity to do so.
5. According to the communication, a summary of which was transmitted to the Government, several young Sahrawis were allegedly arrested on 20 May 1996 by the Moroccan authorities in the town of Boujdor for distributing leaflets and brandishing flags of the self-proclaimed "Sahrawi Arab Democratic Republic" (RASD) during a demonstration. Among those arrested were: Andala Cheikh Abilil, Abdellah Ouali Lekhfaoui, Salek Leghdat Bambari, Abdellah Dafa Mohamed, Mohamed M'barek Kharchi, Saleh Mohamed-Lamin Baiba, Abdellah Mustapha Sid-Ahmed, Sid-Ahmed Ahmed Mustafa, Ahmed Nabt Ahmed and Mansour Ali Sid-Ahmed.
6. According to the source, the young persons arrested were immediately transferred, blindfolded, to the secret prison of the Mobile Intervention Unit (CMR) at El Ayoun, where they were allegedly interrogated and ill-treated. Some of them were sentenced by a court in El Ayoun to prison terms of between 18 months and seven years.

7. Another young Sahrawi, Driss Houssein Khatari El Fakraoui, was allegedly arrested by the Moroccan police at his home at El Housseima on 22 January 1996, and sentenced on 7 February 1996 by the Appeal Court of El Housseima to eight years' imprisonment. The Working Group has not been informed of the main charges of which he was found guilty.

8. According to the source, the trials of the young Sahrawis in question were not fair and the prison sentences imposed were disproportionate to the acts of which they were accused.

9. The facts as described above are of the same nature as those which the Working Group had cause to consider in its Decision No. 4/1996, in that the persons concerned were arrested during pro-RASD demonstrations at which they distributed leaflets or waved flags. As the Working Group has already pointed out, the sentences imposed on these persons are usually handed down at the end of summary trials, despite the fact that, in demonstrating, these people were merely engaging in the peaceful exercise of their right to freedom of opinion and expression, since it was not reported that they had used violence.

10. The Working Group is therefore of the opinion that the detention of the above-mentioned persons is arbitrary, since it took place in violation of article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, to which the Kingdom of Morocco is a party.

11. In the light of the above, the Working Group decides that the detention of the above-mentioned persons is considered to be arbitrary, being in contravention of articles 9 and 19 of the Universal Declaration of Human Rights and of articles 9 and 19 of the International Covenant on Civil and Political Rights, to which the Kingdom of Morocco is a party, and falling within category II of the principles applicable in the consideration of cases submitted to the Working Group.

12. 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 contained in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 3 December 1996.