

OPINION No. 31/1998 (CAMEROON)

Communication addressed to the Government on 10 June 1998

Concerning Pius Njawé

Cameroon is a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The Working Group's mandate was clarified and extended by resolution 1997/50. In accordance with its methods of work, the Working Group transmitted the above-mentioned communication to the Government concerned.
2. The Working Group regrets that the Government did not reply within the 90-day time limit.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
 - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (iii) When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty of whatever kind, an arbitrary character (category III).
4. In the communication from the source it was stated that Pius Njawé, publisher and editor-in-chief of Le Messenger newspaper, was arrested on 24 December 1997 and charged with having published false information, an offence punishable under article 13 of the Penal Code of Cameroon. He was accused of having published an article raising questions about the health of President Biya, who, according to Mr. Njawé's article, had suffered a heart attack at a football match. On 13 January 1998, Mr. Njawé was sentenced to two years' imprisonment and a fine of 500,000 CFA francs. On 14 April 1998, the Court of Appeal confirmed his conviction but reduced the imprisonment to one year and the fine to 300,000 CFA francs.
5. Again according to the source, and it should be recalled that the allegations have not been refuted by the Government although it has been given the opportunity to do so, Mr. Njawé is a

victim of a violation of his right to freedom of expression and opinion, a right guaranteed by article 19 of the International Covenant on Civil and Political Rights, to which Cameroon is a party.

6. According to subsequent information received from the source, Mr. Njawé's sentence of imprisonment was confirmed by the Higher Court on 17 September 1998 and, following the pardon granted by the President of the Republic, he was released on 12 October 1998.

7. In accordance with its methods of work (see para. 17 (a)), the Working Group reserves the right to render an opinion, on a case-by-case basis, whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned. In this context, the Working Group is prepared to examine, in accordance with its methods of work, whether there has been a violation of article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights.

8. The Working Group is of the opinion that the comments concerning the health of the President of the Republic made by the complainant in his newspaper and in the context of his work and his profession as a journalist were neither defamatory nor offensive, nor did they amount to an attack on the President's reputation. The fact that they were judged to have constituted an offence and gave rise to Mr. Njawé's conviction may in no circumstances be regarded as being permissible under the restriction provided for in article 19, paragraph 3, of the Covenant and, in the view of the Working Group, represents a violation of the right to freedom of expression and opinion, and the right to freedom of the press (Covenant, art. 19, para. 2).

9. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Pius Njawé since 24 December 1997, notwithstanding his release on 12 October 1998, was arbitrary since it was contrary to the provisions of articles 9 and 19 of the Universal Declaration of Human Rights and articles 9 and 19 of the International Covenant on Civil and Political Rights, and fell within category II of the categories applicable to the consideration of cases before the Working Group.

10. Consequently, the Working Group requests the Cameroonian Government to take the necessary steps to remedy the situation and to bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Adopted on 3 December 1998