

OPINION No. 8/1999 (CHAD)

Communication addressed to the Government on 23 June 1998

Concerning Ngarléjy Yorongar

The State 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, which extended and clarified its mandate in resolution 1997/50. In accordance with its methods of work, the Working Group transmitted the above-mentioned communication to the Government.
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 light of the allegations made, the Working Group would have welcomed the Government's cooperation. In the absence of any information from the Government, the Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, especially since the facts mentioned and the allegations contained in the communication have not been contested by the Government.
5. According to the communication, a summary of which was submitted to the Government, Mr. Yorongar is an opposition deputy in the Chad National Assembly. He expressed public criticism of the way in which a petroleum project undertaken by an international consortium in his constituency was being handled by the Head of State and his family. He also criticized the President of the National Assembly, alleging that he had improperly received certain sums of money paid by oil companies, and the Head of State, maintaining that his election campaign and

that of the President of the National Assembly, during the presidential elections of 1996, had been financed by the ELF petroleum group, a member of the above-mentioned consortium.

6. By a letter of 4 August 1997, the Minister of Justice requested the Procurator General to initiate proceedings against Mr. Yorongar for contempt and abuse of the Head of State (Penal Code, arts. 118 et seq.). For his part, in a letter dated 1 August 1997, the President of the National Assembly lodged a complaint of defamation with the Procurator General.

7. The Procurator General accordingly notified the President of the National Assembly that he was initiating dual proceedings for the removal of Mr. Yorongar's parliamentary immunity. On 26 May 1998, the National Assembly voted for the removal of Mr. Yorongar's parliamentary immunity, and on 3 June 1998 he was arrested and held in detention. On 20 July 1998, he received an enforceable sentence of three years' imprisonment and a fine of 50,000 CFA francs. His appeal was rejected.

8. The source states that the judicial proceedings against Mr. Yorongar were characterized by several incidents and irregularities, such as to confer an arbitrary character on his detention.

9. The Working Group notes that, according to the source itself, Mr. Yorongar benefited from a presidential pardon which was notified orally to the source by the Chad Minister of Justice, and that Mr. Yorongar was released on 4 February 1999 and authorized to resume his seat in the National Assembly. He was subsequently able to address the United Nations Commission on Human Rights at its fifty-fifth session.

10. In view of the foregoing, and having considered all the information in the file brought to its attention, and without determining whether or not the detention of Mr. Yorongar was arbitrary, the Working Group decides, in conformity with paragraph 17 (a) of its methods of work, to file the case.

Adopted on 20 May 1999