

OPINION No. 12/2000 (JAPAN)

Communication addressed to the Government on 27 October 1999

Concerning Yoshihiro Yasuda

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. The mandate of the Working Group was clarified and extended by resolution 1997/50 and reconfirmed by resolution 2000/36. Acting in accordance with its methods of work, the Working Group forwarded to the Government the above-mentioned communication.
2. The Working Group conveys its appreciation to the Government for having forwarded the requisite information in good time.
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, in 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 present case the opinions of the parties differ completely as to the facts. For the source, the deprivation of liberty is arbitrary since it was connected with Mr. Yasuda's work as a human rights lawyer; for the Government, on the other hand, the deprivation of liberty, as supported by judicial decisions, was due to acts that might constitute tax fraud and was effected in accordance with the rules of due process and with all the appropriate safeguards.
5. The submissions made by the parties do not enable a reasoned opinion to be issued on the matter.

6. The Working Group notes with satisfaction that, as stated by the Government in its reply and as confirmed by the source, Yoshihiro Yasuda was released on bail on 27 September 1999, i.e. even before the communication was forwarded to the Government, while further proceedings are being taken against him.

7. Therefore, in accordance with paragraph 17 (a) of its methods of work, the Working Group is of the view that the case should be filed, without expressing an opinion on the arbitrary nature of the detention of Mr. Yasuda.

Adopted on 17 May 2000