

OPINION No. 1/2001 (UZBEKISTAN)

Communication addressed to the Government on 2 August 2000

Concerning Munavar and Ismail Hasanov

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

1. The Working Group on Arbitrary Detention was established by Commission on Human Rights resolution 1991/42. The mandate of the Working Group was clarified and extended by resolution 1997/50, and reconfirmed by resolution 2001/40. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group regrets that the Government has not replied within the 90-day deadline.
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 relating to the right to a fair trial 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 cooperation of the Government. 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 and allegations contained in the communication have not been challenged by the Government.
5. According to the source, on 18 November 1999, Manuvar Hasanov, 70 years old, was arrested by members of the Uzbek police on charges of possessing leaflets printed by the banned Islamic organization Hizb ut-Tahrir. According to the source, during interrogation he agreed to sign a confession statement, to put an end to the torture of his son Ismail Hasanov that he reportedly was forced to witness.

6. According to the information received, the police later confronted Ismail Hasanov with his father and threatened to continue to beat his father unless Ismail signed a confession statement, which he did. The source recalls that Ismail Hasanov, 27 years old, was arrested in April 1999, accused of Islamist extremism and convicted in August 1999 of anti-State activities. The authorities included Ismail Hasanov's name in a new case brought against individuals suspected of implication in an alleged terrorist incident in the Yangiabad region of Uzbekistan which took place in November 1999, when Ismail Hasanov was in fact already in prison. He was charged with having learned karate and studied Islam since 1997 with one of the alleged terrorists who died at the scene, and was sentenced to 25 years in prison on terrorism charges. He denied any involvement in any kind of violence or anti-State activity.

7. On 16 February 2000, the Tashkent Regional Court sentenced Munavar Hasanov to three years in prison for anti-constitutional activity, solely on the basis of leaflets found in his house. He denied possession of the leaflets and insisted that the police had conducted the search without a warrant and that they had fabricated and planted evidence in his house. He identified in the courtroom the officer who had allegedly put the leaflets in his home. It is said that the judge studiously ignored his intervention. Mr. Hasanov's three-year sentence was later extended by six months on charges that he had violated internal prison rules by not shaving his beard and not removing his skullcap while passing a guard.

8. In the light of the allegations presented by the source, which have not been denied by the Government although it had the opportunity to do so, the Working Group finds that the rights of Munavar and Ismail Hasanov under articles 9 and 10 of the Universal Declaration of Human Rights and articles 9, 10 and 14 of the International Covenant on Civil and Political Rights, to which Uzbekistan is a party, have been violated during their detention. Their rights to a fair trial have not been respected.

9. The Working Group concludes that the non-observance of the rights of Munavar and Ismail Hasanov to a fair trial is of such gravity as to confer an arbitrary character upon the deprivation of their liberty and falls within category III of the principles applicable to the consideration of cases submitted to the Working Group.

10. Consequent upon the opinion rendered, the Working Group requests the 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 16 May 2001