

OPINION No. 10/2001 (PERU)

Communication addressed to the Government on 16 January 2001

Concerning José Victoriano Acevedo Orbegoso

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 resolutions 1997/50 and 2000/36, 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 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).
3. The Working Group conveys its appreciation to the Government for having provided the requisite information in good time. The Government's reply was transmitted to the source.
4. In the light of the allegations formulated, the Working Group welcomes the cooperation of the Government and the information provided, to the effect that Mr. Acevedo was pardoned by the President of the Republic, Dr. Valentín Paniagua, on 29 January 2001, under the powers conferred upon him by article 118, paragraph 21, of the Political Constitution of Peru ("It is the competence of the President of the Republic ... to grant pardons and commute sentences ..."), and that since then Mr. Acevedo has enjoyed full liberty.

5. The Working Group transmitted the reply provided by the Government to the source, who has confirmed Mr. Acevedo's release. The Working Group is in a position to render an opinion on the case.

6. Having examined all the available information before it, and without prejudging the arbitrary nature of the detention, the Working Group decides to file the case of Mr. Acevedo, in accordance with paragraph 17 (a) of its methods of work.

Adopted on 12 September 2001