

OPINION No. 14/2001 (RUSSIAN FEDERATION)

Communication addressed to the Government on 4 July 2000

Concerning Igor Sutyagin

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 conveys its appreciation to the Government for having provided the requisite information in good time. The Government's reply was transmitted to the source, which sent its comments thereon to the Working Group.
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. According to the source of the communication, Igor Sutyagin, a Russian citizen born in 1965 and a resident of Obninsk, was taken into custody on 27 October 1999 by agents of the Federal Security Bureau (FSB) of the Kaluga region. He is said to be accused of high treason pursuant to article 275 of the Criminal Code of the Russian Federation and could, if convicted and sentenced, face a 12- to 20-year prison sentence. No formal charges are said to have been brought against him until early July 2000. Allegedly, the arresting officers told his wife not to inform anyone of his arrest, including his parents.
5. According to the source, Mr. Sutyagin was initially held in pre-trial custody for a period of six months. This was subsequently extended by another three months, on the grounds that the investigation had not been completed. He is currently held in a special prison of the Russian

security agencies in the Moscow region, allegedly, in very harsh conditions. No one, allegedly, has been permitted to visit him in the past four months (at the time of writing, i.e. since the beginning of March 2000).

6. Igor Sutyagin is a graduate of Moscow State University. He joined the Institute for United States and Canadian Studies and obtained a doctorate in History. Subsequently, he was promoted to a position of senior researcher and made head of section in the Department of Military and Political Research. He is the author of several papers published in Russian and foreign academic journals; in 1998, he published a book entitled "Strategic nuclear arms in Russia".

7. According to the source, the FSB considers that by publishing a book about nuclear disarmament, Mr. Sutyagin disseminated "secret information". It is argued, however, that at no time did Mr. Sutyagin have access to classified information, a fact that was confirmed by the head of the Institute for American and Canadian Studies at Moscow University. As an acknowledged expert on arms control issues, Mr. Sutyagin had well-established relations with Russian academic circles, and it was in his capacity as a researcher that he exchanged information with a United States doctoral candidate at Princeton University on the subject of strategic nuclear weapons.

8. Also according to the source, in spite of FSB affirmations to the contrary, Mr. Sutyagin has never worked in any federal institution, nor has he worked for an intelligence service. The FSB initially reported that it had found classified military information during a search of Mr. Sutyagin's apartment, but no formal charge in this respect has been brought against him until now. The FSB further claimed that Mr. Sutyagin transmitted classified information on the design of a new generation of submarines on the occasion of a business trip abroad but, once again, no charge to this effect has been formulated and, according to the source, Mr. Sutyagin never had access to this type of information. Rather, it is contended, the arrest and detention of Mr. Sutyagin is part of a concerted drive, on the part of Russian security agencies, to obstruct the activities of Russian scientists and environmental activists who cooperate with foreign colleagues and academics.

9. In the light of the allegations formulated, the Working Group welcomes the cooperation of the Government.

10. In its reply, dated 20 November 2000, the Government of the Russian Federation explains that Igor Vyacheslavovich Sutyagin is a Russian citizen who was working as a head of section at the Russian Academy of Science's Institute of United States and Canadian Studies. He has been under investigation since 26 October 1999 in connection with criminal proceedings instituted by the Federal Security Service Authority for Kaluga oblast.

11. On 5 November 1999, he was formally charged with high treason, an offence under article 275 of the Criminal Code of the Russian Federation. Considering the seriousness of the offence, the procurator supervising the case authorized that Mr. Sutyagin should be held in custody in a normal remand prison in Kaluga oblast. A medical examination revealed no reason why he should not be detained in such a facility.

12. The accused currently has access to the case file, in accordance with the provisions of article 201 of the Code of Criminal Procedure of the Russian Soviet Federative Socialist Republic.
13. The investigation has been monitored by the Office of the Procurator-General of the Russian Federation since the commencement of the proceedings.
14. The allegations stated in the Working Group's enquiry have been looked into on several occasions pursuant to complaints lodged by the accused, Mr. Sutyagin, in the course of the investigation, and were found to have no basis in fact.
15. The investigating authorities are taking every step to ensure that all aspects of the case are examined thoroughly and objectively, in strict compliance with the laws of the Russian Federation and international human rights standards. Mr. Sutyagin has benefited from expert legal assistance provided by counsel of his choice from the very first day of his detention. There are no time limits on meetings between the accused and his counsel, and the accused is visited by his relatives once a month, as provided for by law.
16. The source, to which the Government reply was transmitted, has forwarded to the Working Group detailed and substantive information, inter alia the following:
 - (i) In response to the argument of the Government of the Russian Federation that "Mr. Sutyagin has benefited from expert legal assistance provided by counsel of his choice from the very first day of his detention", the source contends that Mr. Sutyagin was detained by the Federal Security Service (FSB) in the early morning of 27 October 1999. After that he was interrogated by FSB representatives in the FSB office in Obainsk for about 60 hours, until late at night on 29 October 1999. During that time Mr. Sutyagin was not allowed to consult a lawyer. Neither was he allowed to leave the FSB premises, although the FSB did not arrest him until late at night on 29 October 1999.
 - (ii) In response to the Governments argument that Mr. Sutyagin "is visited by his relatives once a month as provided for by law" the source specifies that, according to testimony which was brought to the attention of the Working Group on 6 May 2001, Mr. Sutyagin's relatives were repeatedly denied visits to Mr. Sutyagin during the investigation. As a result, Mr. Sutyagin was not allowed to see his relatives more often than once every two or three months, not once a month.
 - (iii) The Government's assertion that Mr. Sutyagin is being held "in an ordinary pre-trial detention centre in Kaluga District" is not in accordance with the facts, according to the source, insofar as he is currently held in a cell that is usually used as a punishment cell and was previously used as a cell for death-row inmates. The cell has no ventilation, no natural light (there is no window) and no adequate water supply.

- (iv) Concerning the Government's response that "all aspects of the case are examined thoroughly and objectively in strict compliance with the law of the Russian Federation and international human rights standards", the source specifies that in violation of article 223 of the Russian Criminal Procedures Law that requires a court to grant a request to call additional witnesses unconditionally, the Kaluga court, which is hearing the case, refused to call a witness requested by Mr. Sutyagin's defence. Moreover, the source emphasizes, the trial is held behind closed doors and no information about the charges or the evidence (or rather, lack thereof) is available to the public. The trial is secret despite the fact, repeatedly admitted by the investigators, that Mr. Sutyagin has never had access to classified information. According to the public testimony of Mr. Sutyagin's lawyers, the investigation has failed to find any classified documents in Mr. Sutyagin's possession or to find any signs of his having access to any classified information. In spite of this, the trial is secret. According to the source, the closed character of the trial is one of the most serious obstacles to ensuring that Mr. Sutyagin's right to a fair trial is not infringed.

8. In the light of the foregoing, and especially of the observations of the source, the Working Group renders the following opinion:

Although Mr. Sutyagin's detention may, in some respects, not be in conformity with the provisions of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, these infringements of international rules are, on the basis of the information collected by the Working Group, not of such gravity as to confer on the deprivation of liberty an arbitrary character.

Adopted on 12 September 2001