

OPINION No. 6/2007 (MAURITANIA)

Communication: addressed to the Government on 20 December 2006.

Concerning: Mohamed Sidiya Ould Ajdoud and 17 other persons.

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

1. (Same text as paragraph 1 of Opinion No. 32/2006.)
2. (Same text as paragraph 3 of Opinion No. 32/2006.)
3. The 18 cases mentioned below were reported to the Working Group on Arbitrary Detention as follows: Mohamed Sidiya Ould Ajdoud, born in 1959, professor, arrested on 25 April 2005;
4. Abdellah Ould Ahmed Ould Aminou, born in 1966, imam and professor, arrested on 25 April 2005;
5. Mohamed Mouhid Ould Mohamed Abdelhaq, born in 1976, imam and teacher, arrested on 25 May 2005;
6. Mohamed Ould Ahmed Ould Sid Ahmed, known as Al Chaer, born in 1968, doctor in literature and poet, arrested on 21 April 2005;

7. Ahmed Ould El Kowri, born in 1972, professor, arrested on 25 April 2005;
8. Mohamed Mahfoud Ould Ahmed, born in 1965, professor, arrested on 2 May 2005;
9. Mohamed Mahmoud Ould Salek, born in 1972, driver, arrested on 2 May 2005;
10. Mohamed Al Amine Ould Hassen, born in 1984, university student, arrested on 2 May 2005;
11. Mohamed Hassen Ould Mohamed Abderrahmane, born in 1981, graphic artist, arrested on 2 May 2005;
12. Mohamed Ould Abdelwadoud, born in 1976, university student, arrested on 3 May 2005;
13. Ahmed Ould Mohamed Abdellah, born in 1964, professor, arrested on 3 May 2005;
14. Mohamed Al Amine Ould Salek, born in 1971, professor, arrested on 3 May 2005;
15. Sidi Mohamed Ould Ahmed Vall, born in 1964, imam and professor, arrested on 6 April 2005;
16. Ahmed Ould Hine Ould Mouloud, born in 1978, student of religious sciences, arrested on 6 April 2005;
17. Abderrahmane Ould El Ghouth, born in 1979, student of religious sciences, arrested on 6 April 2005;
18. Sid Ould Abah Al Imam, born in 1980, sailor, arrested on 6 April 2005;
19. Ismaïl Aïssa, born on 16 January 1972, of Algerian nationality, residing in Mauritania, secondary schoolteacher and master's student in law, arrested on 29 May 2005;
20. Abdelmadjid Belbachir, born in 1974, of Algerian nationality, residing in Mauritania, student of religious sciences, arrested on 3 June 2005.
21. It was reported that the aforementioned persons, currently detained at the Nouakchott civil prison, were arrested between the months of April and June 2005 during a wave of arrests of opposition figures, presidents of associations, professors, lawyers, journalists and ordinary citizens known to have expressed criticism of the Government's policy. They were not informed of the grounds for their arrest or the charges brought against them.
22. They were held incommunicado for periods ranging from 20 to 44 days, some at the Nouakchott police academy, others at El Mina police station No. 2, without being informed of the precise reasons for their arrest. The source adds that they were subjected to serious acts of torture and particularly inhuman and degrading treatment.
23. According to the Government in power at the time, these persons were arrested in connection with a matter concerning the internal security of the State, and were reportedly accused of belonging to an extremist group acting outside of any legal framework, calling for

violence and using mosques for sectarian political propaganda. During their interrogation, they were reproached for expressing subversive ideas that were detrimental to the interests of the Government.

24. Between 9 May and 12 July 2005, the aforementioned persons were brought by officers of the judicial police before the public prosecutor attached to the Nouakchott court. They were accused of having committed acts constituting criminal association, falsification and use of false documents and unauthorized acts that would expose their country to reprisals; such acts are covered by articles 77, 141, 142, 143, 246 and 247 of the Criminal Code, articles 3 and 8 of Act No. 64-098 of 9 June 1964 on associations, as amended by Act No. 73-007 of 23 January 1973, and Act No. 73-157 of 2 July 1973, and by articles 3 and 20 of Act No. 2003-031 of 24 January 2003 on mosques. The prosecutor instructed the examining magistrate of the first chamber to investigate the case and issue arrest warrants for the accused.

25. Beginning in September 2005, many people who were arrested at the same time, in the same circumstances and with the same charges, were released through an amnesty measure. However, the 18 persons referred to above were not affected by this measure. Their lawyers subsequently petitioned for their provisional release. The examining magistrate accepted the petitions and on 14 September 2005 issued an order for their provisional release. However, the prosecutor's office immediately appealed against that decision, citing the seriousness of the charges. On 6 April 2006, the indictment division of the Nouakchott court of appeal - the court supervising the decisions made by the examining magistrate - issued a final decision confirming the order. However, the prosecutor's office filed an application for a judicial review of the court's decision.

26. According to the source, under domestic law, the indictment division's decision is enforceable. The persons in question were arrested for peacefully expressing their political views; they remained in detention because the authorities refused to apply to them a general amnesty for prisoners of conscience. They are still in detention because the authorities have refused to release them in spite of a final court decision on their provisional release.

27. The persons in question are still being deprived of their liberty, in violation of the procedure established by Mauritanian domestic law, which, in cases of pretrial detention, does not provide that decisions by the court's indictment division are subject to an application for judicial review with suspensive effect.

28. The source adds that these persons are being held in detention solely for having peacefully expressed their political opinions. It has not been established that they have committed any specific reprehensible acts that can be qualified as criminal. Precisely for this reason, the examining magistrate assigned to this case ordered their provisional release, and the court's indictment division confirmed the magistrate's order.

29. The Working Group considers that the continued detention of these persons despite the decision of the indictment division of the Nouakchott court of appeal ordering their provisional release is a violation of the principle according to which any detention measure must be in strict compliance with the law. Their deprivation of liberty no longer has any legal basis because of the final court decision ordering their provisional release - a decision that the authorities have refused to implement.

30. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of the aforementioned 18 persons is arbitrary, being in contravention of 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, and falls within category I of the categories applicable to the consideration of the cases submitted to the Working Group.

31. The Working Group, having rendered this opinion, requests the Government to take the necessary steps to remedy the situation of these persons.

Adopted on 9 May 2007.