

OPINION No. 15/2007 (Central African Republic)

Concerning Colonel Bertrand Mamour.

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

1. (Same text as paragraph 1 of Opinion No. 14/2007.)
2. The Working Group regrets that the Government has not replied despite the 90-day extension of the time limit requested by it and granted by the Working Group.
3. The Working Group considers detention to be arbitrary when:
 - (i) It is clearly impossible to invoke any legal basis to justify the deprivation of liberty (as when a person is kept in detention after completion of his sentence or despite an amnesty law applicable to him) (category I);
 - (ii) The deprivation of liberty results from the exercise of the rights and freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (iii) The partial or total non-observance of the international laws relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of

such gravity as to give the deprivation of liberty an arbitrary character (category III).

4. This case was reported to the Working Group on Arbitrary Detention as follows: Colonel Bertrand Mamour, born in 1956 at Ouadja, a citizen of the Central African Republic resident in Bangui (Résidence Mackin), is a networks and communications engineer and Deputy Chief of Staff of the army of the Central African Republic.

5. According to the information gathered by the source, Colonel Mamour was arrested on 18 November 2006 in Bangui by the Presidential Security Unit, without a warrant and for reasons not stated, and is now being held at Camp de Roux, Bangui. Some hours before his arrest, Colonel Mamour, previously Operations Commander, had been appointed a senior administrator at the Public Service Ministry by presidential decree.

6. The source states that he was probably suspected of being in league with the rebels of the Union of Democratic Forces for Unity (UFDR). According to the military hierarchy, Colonel Mamour was passing information to the UFDR and had been arrested on the basis of a document accusing him of having informed the rebels about the deployment and strategies of the armed forces of the Central African Republic (FACA).

7. Colonel Mamour, who has now been in detention for more than three months, has not had access to the assistance of a lawyer and has been deprived of all contact with his family. The source also states that he has been subjected to inhuman and degrading treatment, which has had a serious impact on his health. Moreover, the source states that a member of Colonel Mamour's family died in October 2006 under similar circumstances.

8. The Government has not provided any information regarding the alleged facts, although invited to do so. In accordance with its procedures, the Working Group believes that it is in a position to render an opinion regarding the facts and circumstances of the case on the basis of the allegations made by the source.

9. It should be noted that Colonel Mamour was subjected to detention already in 2002, in the buildings of the gendarmerie command in Bangui. On 29 November 2002, the Working Group rendered an opinion (Opinion No. 18/2002 [Central African Republic], see E/CN.4/2004/3/Add.1) in which, noting that Colonel Mamour had been arrested on 16 May 2002, it stated that it considered his detention after 15 June 2002 to be arbitrary. The source adds that Colonel Mamour is not being held as a result of a judicial decision or on the basis of a legal instrument. He has not been informed of the charges brought against him or of the duration of his detention. He has not been granted the assistance of a defence counsel of his choice and he has still not been brought before a judge or a competent authority.

10. In the absence of all comment by the Government, the Working Group believes, in view of the circumstances of the case, that the detention of Colonel Mamour is arbitrary, being without any legal basis, and falls within category I of the categories applicable to the consideration of cases submitted to the Working Group.

11. In the light of the foregoing, the Working Group renders the following Opinion:

The deprivation of liberty of Colonel Bertrand Mamour is arbitrary, being in contravention of the provisions of paragraphs 1, 2 and 3 of article 9 of the International Covenant on Civil and Political Rights, and falls within category I of the categories applicable to the consideration of cases submitted to the Working Group.

12. The Working Group requests the Government of the Central African Republic to take the necessary steps to remedy the situation, in order to bring it into conformity with the norms and principles enshrined in the International Covenant on Civil and Political Rights.

Adopted on 13 September 2007