

## **Opinion No. 18/2010 (Mauritania)**

### **Communication addressed to the Government on 14 April 2010**

#### **Concerning Mr. Hanevy Ould Dahah**

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

1. (Same text as paragraph 1 of Opinion No. 18/2009.)
2. The Working Group regrets that the Government did not provide the information requested.
3. (Same text as paragraph 3 of Opinion No. 18/2009.)
4. Mr. Hanevy Ould Dahah, aged 33, a journalist and a Mauritanian citizen residing in Nouakchott who is married and the father of two children, was arrested in Nouakchott on 18 June 2009 by men in civilian clothing without being shown a warrant and without being informed of the reasons for his arrest.
5. Mr. Hanevy Ould Dahah was handcuffed and taken to a gendarmerie post and then to a police station in Nouakchott. He was placed in custody and was not able to receive visits from his family or his lawyer, even though such visits are an entitlement under domestic law, specifically article 58 of the Mauritanian Criminal Code.
6. According to the information received, his arrest took place after a criminal complaint was filed by the presidential election candidate Mr. Ibrahima Moctar Sarr, Chairman of the Alliance pour la justice et la démocratie/Mouvement pour la rénovation (AJD/MR) party, after an article on the origins of his fortune appeared on the *Taqadoumy* news website. Mr. Hanevy Ould Dahah was referred to the Public Prosecutor's Office in Nouakchott on 24 May 2009, charged with "offending public decency" and remanded in custody.
7. On 19 August 2009, Mr. Hanevy Ould Dahah was sentenced on the above charge to six months' imprisonment by the criminal division of the court and was kept in detention at Dar Naim prison in Nouakchott.

8. He should, therefore, have been released on 24 December 2009 at the end of his legal term of imprisonment. However, he is still being kept in detention even though he has already served his prison sentence in full. The judicial authorities have refused to state the reason for his continued detention. Mr. Hanevy began a hunger strike, which he continued until 13 January 2010, to protest against being kept in detention without any legal basis.
9. On 14 January 2010, the Mauritanian Supreme Court, hearing an appeal on points of law brought by the Public Prosecutor's Office against the judgement of 19 August 2009, overturned that judgement and referred the accused back to the same court, the composition of which had been modified, for a retrial.
10. According to the source, however, the Supreme Court, the highest review court in the country, should have ruled *ex officio* that Mr. Hanevy's detention was arbitrary and ordered his immediate release, which it refrained from doing.
11. The Government has not replied, despite being given 90 days to do so, nor has it requested an extension of the time limit for replying, as permitted under paragraph 16 of the Group's methods of work. The Group is therefore in a position to render an opinion.
12. The last paragraph of article 14 of the International Covenant on Civil and Political Rights provides: "No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country."
13. Mauritania, which is a party to the Covenant, is bound by this provision.
14. Mr. Hanevy Ould Dahah, who was placed under a committal order on 24 May 2009 and sentenced to six months in prison, should have been released on 24 December 2009 if no further proceedings had been instituted against him.
15. The only possible consequence of the Supreme Court order that overturned the judgement is a retrial; however, pending the outcome of the retrial, Mr. Dahah, who has finished serving his sentence, should be released in accordance with the above-mentioned provisions.
16. The continued detention of this person, without any legal basis in domestic law, is arbitrary, being in contravention 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, to which the Islamic Republic of Mauritania is a party.
17. It could also constitute a violation of the interested party's freedom of opinion and expression, enshrined in article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights.
18. The Working Group considers the current detention of Mr. Dahah, which has no legal basis, to be arbitrary detention constituting a violation under category I in its methods of work.
19. The Working Group therefore requests the Government:
  - (a) To cooperate with the Working Group, as encouraged by the resolution;
  - (b) To release the interested party immediately;
  - (c) To consider the possibility of reparation for any damage that he may have suffered as a result of this situation.

Adopted on 31 August 2010