

# No. 64/2012 (Switzerland)

## Communication addressed to the Government on 5 September 2012

### Concerning Shokhrukh Sabirov

**The Government replied on 1 November 2012. The State is a party to the International Covenant on Civil and Political Rights.**

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the former Commission on Human Rights. Its mandate was clarified and extended by the Commission in its resolution 1997/50. The Human Rights Council assumed that mandate in its decision 2006/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. In accordance with its methods of work (A/HRC/16/47, annex), the Working Group transmitted the above-mentioned communication to the Government.

2. The Working Group regards deprivation of liberty as arbitrary in the following cases:

- (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to the detainee) (category I);
- (b) When the deprivation of liberty results from the exercise of the rights or 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);
- (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established 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);
- (d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
- (e) When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; or disability or other status, and which aims towards or can result in ignoring the equality of human rights (category V).

#### **Submissions**

##### *Communication from the source*

3. Mr. Shokhrukh Sabirov, an Uzbek citizen, husband of Ms. Shoir Sabirova and father of three children, was arrested by the police in Geneva on 29 July 2012 as he entered a restaurant after having fasted all day for Ramadan. At the time of his arrest, the police officers did not inform him of the reasons for his detention. Nevertheless, Mr. Sabirov did not offer resistance of any kind.

4. He was reportedly driven immediately to the town of Fribourg, in the Canton of Fribourg, where he was held in solitary confinement.

5. Although he was not informed of the reasons for his arrest, the source claims that it was linked to the arrest, also in Geneva, of another Uzbek citizen, Mr. Alisher Ergashev, who was accused by the Attorney General of Switzerland of money-laundering and forgery.

6. According to the source, Mr. Sabirov was arrested because he was near to Mr. Ergashev when Mr. Ergashev was arrested. The source also explains that Mr. Sabirov appeared confused and disorientated at the time of his arrest because he had just finished fasting all day for Ramadan.

7. The source considers the detention of Mr. Sabirov to be arbitrary and contrary to articles 9 and 14 of the International Covenant on Civil and Political Rights to which the Swiss Confederation is party.

*Response from the Government*

8. In a letter dated 4 September 2012, the Working Group invited the Government to respond to the above allegations.

9. In a note verbale dated 1 November 2012, the Government provided the Working Group with precise responses to the allegations, within the allocated deadline and in the terms below.

10. The Office of the Attorney General of Switzerland filed criminal charges in July 2012 against four persons of Uzbek nationality for money-laundering and forgery. Two of them were arrested on 30 July 2012 in Geneva and brought to the Office of the Attorney General to attend a hearing at which they were told the reasons for their arrest before being remanded into custody pending trial on the grounds that they posed a flight risk and might collude with others.

11. The two suspects were interviewed several times, in the presence of their defence lawyers, who were able to communicate and meet with their clients and had access to all the evidence associated with the case. The suspects were visited on several occasions by the consul of the Uzbek embassy. They were allowed to telephone their relatives more than once and could ask to see a doctor at any time. Their religious rights were respected.

12. They were released on bail on 16 October 2012. Consequently, according to the Government, on the basis of that information, the international rules on detention were respected.

*Comments from the source*

13. The Government's response was forwarded to the source on 15 November 2012 for comment. The Working Group has still not received a reply from the source and considers itself in a position to decide on the matter on the basis of the information at its disposal.

**Disposition**

14. In accordance with paragraph 17 (a) and (b) of its methods of work, the Working Group decides to file the case.

[Adopted on 22 November 2012]