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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its sixty-fifth session, 14–23 November 2012

#### No. 41/2012 (Togo)

#### Communication addressed to the Government on 7 September 2012

#### Concerning Sow Bertin Agba

#### The Government replied to the communication on 6 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 in resolution 1991/42 of the former Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 2006/102 and extended it for a further three years in its resolution 15/18 of 30 September 2010. In accordance with its methods of work,<sup>1</sup> 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

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<sup>1</sup> A/HRC/16/47, annex.



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. Sow Bertin Agba is a Togolese company director who habitually resides at Maison Agba, Aïse à Tokoin Hôpital, BP 20256 Lomé, Togo.

### *Circumstances of Mr. Agba's arrest and procedures followed*

4. Mr. Agba was arrested on 7 March 2011 in his offices in Tokoin Trésor, north of Lomé, by officers of the National Intelligence Agency under the command of Colonel Yotrofeï Massina. He was held by the Agency for around 10 days and claims to have been subjected to inhuman and degrading treatment and torture. Mr. Agba was subsequently handed over to the National Gendarmerie. On 23 March 2011, he was brought before the public prosecutor's office, which remanded him in custody.

5. On 25 March 2011, Mr. Agba was brought before the investigating judge of the fourth chamber and charged with defrauding Abbass Al Youssef. At the request of the State Counsel, the judge, without engaging in any detailed questioning, ordered Mr. Agba's transfer to Mango prison. That night, police officers arrived at the civil prison in Lomé with the order, against which Mr. Agba had appealed, to take him to Mango.

6. Mr. Agba was informed of a request by the State Counsel's Office to transfer him to Tsévié prison. The request was not brought to his attention until his transfer to the prison from the University Hospital Centre in Lomé, where he had been admitted after attempting suicide and handcuffed to his hospital bed. He is still being held in Tsévié prison but has regularly been hospitalized in Lomé for various medical conditions.

7. In a decision of 19 April 2011, the Indictment Division of Lomé Court of Appeal rescinded the transfer order of 25 March 2011 and ordered that Mr. Agba should remain in Lomé prison.

8. A meeting between the parties to the proceedings was held in the office of the investigating judge on 20 July 2011. The process did not establish that Mr. Agba had defrauded Abbass Al Youssef, whose contribution was restricted to making unsupported statements.

9. Following this confrontation of the parties, Mr. Agba applied for bail. While the application was being considered, the National Intelligence Agency, in the person of its director, Colonel Yotrofeï Massina, lodged a complaint against Mr. Agba for defamation in claiming that the Agency had tortured him.

10. The investigating judge rejected Mr. Agba's bail application.

11. By decision No. 127/2011 of 2 September 2011, the Indictment Division of Lomé Court of Appeal upheld the order rejecting the bail request. Mr. Agba appealed.

12. In refusing bail, the investigating judge, highlighting the complexity of the case, identified various further elements and ordered that Loïk Le Floch-Prigent, Mamadou Keita and Mounira Awa should be taken in for questioning in connection with the investigation.

13. At the same time, the Indictment Division ordered that a number of persons who had testified during the preliminary inquiry should be examined within a month. Rather than do so, the investigating judge notified Mr. Agba of a new charge stemming from the Agency's complaint.

14. During Mr. Agba's examination on the new complaint, the defence argued that, pursuant to the decree on the establishment and operation of the Agency, Colonel Yotrofeï Massina could not act on behalf of the Agency, as he held only delegated power. The Agency was under the direct authority of the President of the Republic and was not a legal person.

15. The defence petitioned the investigating judge, reminding him that he had still not heard the witnesses in question and that no proceedings had been instituted against the other defendants, given that it would be pointless to try to pursue a complaint against Mr. Le Floch-Prigent, who was at large in France.

16. On 16 December 2011, the defendant submitted a new bail request through his lawyers after his wife, Françoise Agba, and brother, Cyril Agba, whose passports and French residence permits had been confiscated and kept by the Agency, had themselves applied to the investigating judge for the documents to be returned.

17. Cyril and Françoise Agba had been taken in for questioning by the Agency, held on Agency premises, which are not legal detention facilities, and then released without recovering the documents that had been confiscated from them or knowing why they had been questioned.

18. In separate rulings issued on 20 and 28 December 2011, the investigating judge decided to: (1) refuse bail; (2) reject the defence's argument that the Agency director's lawsuit should be set aside; (3) reject the request for the documents to be returned.

19. The defence appealed against the rulings in the order in which they had been issued.

20. Ruling on the new appeal, the Indictment Division issued decision No. 9 of 23 January 2012, ordering Mr. Agba's release and the return of the documents confiscated from his wife and brother.

21. The Principal State Counsel, Atara N'Dakena, refused to release Mr. Agba, despite the fact that article 179 of the Code of Criminal Procedure provides that, even in appeal cases, the Principal State Counsel must execute a decision by the Indictment Division ordering release on bail.

22. The Principal State Counsel also refused to send the case file to the Supreme Court in good time.

23. Mr. Agba's lawyers had to refer the matter to the Judicial Services Inspectorate of the Ministry of Justice in a letter dated 21 March 2012, two months after the appeal, to protest against the attitude of the State Counsel's Office.

24. Despite this, the Principal State Counsel did not send the file to the Supreme Court: when the defence asked the Chief Registrar of the Supreme Court on 30 March 2012, through a court usher, it was informed "that no file has, to date, been transmitted by the State Counsel's Office attached to Lomé Court of Appeal in relation to the Sow Bertin Agba case".

25. According to the source, the situation is in violation of the law requiring the investigating judge to rule on a bail application within a month. The defence had noted that

the deadline had not been met by the Indictment Division and had demanded the defendant's immediate release.

26. On 20 June 2012, by decision No. 48/12, the Supreme Court rejected an appeal lodged by the Principal State Counsel regarding the release and ruled that the decision of the Indictment Division should be given full force and effect; in other words, that Mr. Agba should be released upon payment of bail of 150 million CFA francs, the equivalent of US\$ 286,946.

27. Since then, however, Mr. Agba has remained in detention.

*Submissions from the source on the arbitrary nature of Mr. Agba's arrest*

28. Mr. Agba was arrested by plainclothes officers of the National Intelligence Agency. The source contends that, pursuant to article 2 of Decree No. 2006-001/PR of 26 January 2006, it is not the remit of the Agency to arrest any person accused or suspected of an offence, particularly an ordinary offence, as in the case of Mr. Agba, who faced allegations of fraud that were made known to him a few days after his arrest. The Agency is not competent to arrest, detain or interrogate citizens or to confiscate and keep their passports or identity documents.

29. The source reports that the Agency's investigative methods have been the subject of several complaints. It has been alleged that the Agency has tortured persons arrested for threatening national security. The National Human Rights Commission was tasked with investigating the claims. In its report, the Commission noted cases in which the Agency acted incorrectly or exceeded its competence. It upheld the allegations of cruel, inhuman and degrading treatment and recommended that the Agency should stop arresting and detaining citizens.

30. Under articles 19 et seq. of the Code of Criminal Procedure, the criminal investigation police comprises the National Gendarmerie and the police, whose members are treated as criminal investigation officers and who, before assuming their duties, take an oath and receive appropriate training. Offices of the Agency, meanwhile, are not criminal investigation police and the training they receive is the same as that given to the military and intelligence service rather than that given to criminal investigation police.

31. Moreover, article 52 of the Code of Criminal Procedure stipulates that the maximum period of custody is 48 hours, although this may be extended for a further 24 hours with the authorization of State Counsel. The Agency did not obtain written confirmation of extension from a judge but nonetheless detained Mr. Agba for around 10 days before handing him over to the National Gendarmerie for questioning and, five days later, bringing him before a judge.

32. During the 10 days that he spent on the Agency's premises, Mr. Agba was beaten, exposed to the sun, shut up in a place where vehicle engines are started at regular intervals and handcuffed to his hospital bed, even after he had attempted to take his own life to avoid being transferred to Mango prison, 500 kilometres from Lomé.

33. The source therefore concludes that Mr. Agba was arrested arbitrarily, in violation of article 9 of the Universal Declaration of Human Rights and article 9 of the International Covenant on Civil and Political Rights.

*Submissions from the source on the arbitrary nature of Mr. Agba's detention since 23 January 2012*

34. On 23 January 2012, the Indictment Division ordered Mr. Agba's release on bail. The Principal State Counsel attached to Lomé Court of Appeal refused to execute the order, on the grounds that he had appealed against the decision of January 2012. The refusal

constitutes a violation of the Code of Criminal Procedure, particularly articles 112 et seq. and 179.

35. On 20 June 2012, the Supreme Court dismissed as inadmissible the appeal lodged by the Principal State Counsel concerning Mr. Agba's release. The Court ordered "the release on bail of Sow Bertin Agba upon payment of 150 million CFA francs; in the interests of procedural requirements, the defendant is prohibited from leaving Togo until further notice".

36. Mr. Agba posted bail, in addition to remaining subject to the provisional measures taken against his assets at the start of the case. Nevertheless, he remains in detention. The Principal State Counsel still refuses to grant his release, in violation of article 179 of the Code of Criminal Procedure. In a letter dated 31 July 2012 and addressed to Mr. Agba's lawyers, the Director of Public Prosecutions stated that:

"the Judicial Division of the Supreme Court did not dismiss [his] appeal in its decision No. 48/12 of 20 June 2012. It did so only in part and it also set aside decision No. 09/2012 of 23 January 2012 issued by the Indictment Division of Lomé Court of Appeal. Moreover, it ordered that relevant measures should be taken, particularly the examination, through an appropriate channel, of the Government Spokesperson Pascal Akoussoulélou Bodjona, Minister of Territorial Administration, Decentralization and Local Collectivities".

37. According to the source, Mr. Agba's detention is arbitrary under article 9 of the Universal Declaration of Human Rights, article 9 of the International Covenant on Civil and Political Rights, article 15 of the Togolese Constitution and certain provisions of articles 112 et seq. of the Code of Criminal Procedure.

38. Mr. Agba's release is all the more warranted in view of his state of health. He suffered stroke symptoms and was kept in the neurology unit of the University Hospital Centre for a month. He suffers from congestive heart failure and could have a heart attack or stroke at any moment.

39. Mr. Agba was also the target of an attempted poisoning in July 2012, when a fellow inmate took his cool box and moved his water bottle. Mr. Agba noticed this strange behaviour and complained to the judicial authorities. While investigations were under way, the fellow inmate managed to escape with all his belongings.

#### *Response from the Government*

40. In a letter dated 6 November 2012, the Government of Togo provided the Working Group with the response described below.

#### *(a) On the facts*

41. In July 2008, a businessman from the United Arab Emirates was asked by supposed relatives of the deceased Ivorian President Robert Guéï to help them transfer US\$ 275 million out of Togo. He sent a representative to Lomé, who reported on his return that the deal looked promising.

42. At that point, some intermediaries became involved, including Sow Bertin Agba, who claimed to be the Togolese Minister of the Interior, and Pascal Bodjona, who claimed to be an influential figure enjoying the esteem of the Head of State. The two men received a series of payments totalling US\$ 12.825 million.

43. While this initial operation was under way, Mr. Le Floch-Prigent and Mr. Agba and his associates, acting in complicity with other persons, lured Abbass Al Youssef into

another deal involving the transfer of funds belonging to an Iraqi general. In the first few hours, they managed to obtain US\$ 5.6 million from him.

44. To overcome difficulties in transferring the money, further payments amounting to US\$ 33 million were made to Mr. Agba and his associates.

45. The victim, Abbass Al Youssef, having realized that it was a swindle, pressed charges against Mr. Agba and his associates for defrauding him of almost US\$ 48 million. Mr. Agba was subsequently taken in by the National Gendarmerie. He admitted to having received sums amounting to about US\$ 4.5 million from Abbass Al Youssef as part of a money-transfer scheme.

(b) *On the proceedings*

46. Mr. Agba was charged with fraud, forgery and using forged documents and remanded in custody. An initial application for release was turned down by the investigating judge, whose order was upheld on appeal by the Indictment Division. A second bail request was also rejected. Following a further appeal by the accused, the Indictment Division ordered his release on bail upon payment of 150 million CFA francs.

47. The Principal State Counsel referred the decision of the Indictment Division to the Supreme Court (appeal in cassation) for a violation of article 422, paragraph 2, of the Togolese Code of Criminal Procedure, as the Division had ruled that the testimony of Mr. Bodjona, then Minister of Territorial Administration, should be heard by the President of the Division, whereas the article in question stipulates that statements by members of the Government must be made before the President of the Court of Appeal.

(c) *Current state of the proceedings*

48. At the time of Mr. Agba's arrest, Mr. Le Floch-Prigent was in France, his country of origin. After Mr. Agba had been charged, international arrest warrants were issued against Mr. Le Floch-Prigent and the supposed relatives of the deceased Ivorian President Guéï who were also involved in the case. Once the arrest warrant against him had been executed, Mr. Le Floch-Prigent was charged in connection with the case; so too was Mr. Bodjona, a Togolese national. Both men were remanded in custody.

(d) *Reasons for Mr. Agba's continued detention*

49. In its decision of 20 June 2012, the Supreme Court reiterated the need to examine Mr. Bodjona, who was then a member of the Government and appeared to be a key witness in the case. In practice, this meant that, even though there may have appeared to be no legal obstacle to granting release on bail, it was imperative to reconcile such a release with the requirement to ascertain the truth, which is what the Supreme Court had in mind when ordering that the witness should testify.

50. It was therefore necessary to guard against the subornation of witnesses and prevent the accused from contacting other persons who were likely to be involved in the offences in question.

51. The Indictment Division, which was handling both the release on bail that it had ordered and the examination of Mr. Bodjona, agreed with the investigating judge, who did not completely oppose release on bail but wanted to ensure that it was granted only under rational and logical conditions, namely after the examination of the witnesses, particularly the key witness, in the interests of ensuring an efficient and productive inquiry.

52. The Supreme Court itself must have attached some value to examining the key witness or it would simply have set aside its ruling that the examination of the minister fell within the competence of the President of the Indictment Division.

53. In recognizing that competence and ordering the President of the Court of Appeal to take Mr. Bodjona's evidence, the Supreme Court laid down two positive obligations that must be discharged in a logical order dictated by the need for effectiveness and usefulness.

54. We believe that the necessary order entails examining the key witness before releasing the accused.

55. It is worth point out here that, while the process of obtaining authorization from the Head of State to examine Mr. Bodjona — the key witness — was under way, a new Government was formed on 31 July 2012 and Mr. Bodjona was not reappointed. In those circumstances, the Principal State Counsel sent the case file to the investigating judge, who was once again competent to examine Mr. Bodjona, given that the latter had lost the privilege of being examined by the President of the Lomé Court of Appeal (Code of Criminal Procedure, art. 442).

56. It was under these circumstances that the Principal State Counsel replied to Mr. Agba's lawyers that, although the key witness had indeed been examined by the investigating judge, the Counsel had appealed against the examination, a step not possible in criminal cases, where it is necessary to await the outcome of proceedings before the examination becomes definitive and can have an effect.

57. In the meantime, on 1 September, Mr. Bodjona was arrested, charged with being an accessory to fraud and remanded in custody. He contests the charge and has refused to be questioned or confronted with the plaintiff or his co-accused. The judge responsible for implementing the decisions of the Indictment Division feels that no progress has been made towards examining the former minister, which is a prerequisite for Mr. Agba's release.

58. In the light of all this, the Principal State Counsel believes that he has acted in accordance with the law in his implementation of the two decisions handed down by the Indictment Division. He also believes that Mr. Agba's detention is lawful under the Code of Criminal Procedure and the decisions of the investigating judge, the Indictment Division and the Supreme Court.

(e) *On the allegations of torture*

59. Under article 2 of the decree on the establishment of the National Intelligence Agency, the Agency "is responsible for coordinating operational research and intelligence gathering with a view to providing the Head of State with the information necessary for the exercise of his or her constitutional powers in the area of defence and security".

60. Mr. Agba's use of the title Minister of Internal Affairs, a position responsible for all the security services as well as territorial administration, gave the Agency grounds to arrest him with a view to carrying out an investigation. Upon realizing that it was a case of fraud, the Agency immediately referred it to a unit of the National Gendarmerie vested with the traditional functions of the criminal investigation police.

61. The Directorate-General of the Agency formally denied at the time the allegations made by Mr. Agba. Moreover, it brought defamation proceedings against him, to run concurrently with the main proceedings, and the judge will rule on the merits of the torture allegations.

62. It should be made clear that, contrary to Mr. Agba's claims, police custody may last up to 13 days, in accordance with article 52 of the Code of Criminal Procedure, as amended by Act No. 87-05 of 26 May 1987.

63. Lastly, regarding Mr. Agba's claim that he was handcuffed to his bed, it should be noted that the incident occurred not on the Agency's premises but in hospital, where he had been admitted after attempting suicide following his indictment and committal to the civil

prison in Lomé. He had thus become a danger to himself and his case called for special measures and attention.

(f) *On the allegations of attempted poisoning*

64. Action will be taken to investigate the allegation of attempted poisoning, which appears to have been a decoy or diversion to draw attention away from the jailbreak. In any event, it is obvious that Mr. Agba's refusal to cooperate in the matter, which he says is one for his lawyers, is a diversionary tactic.

*Further comments from the source*

65. In a letter dated 12 November 2012, the source sent the Working Group its comments on the Government's response.

66. On the facts, the source maintains that Mr. Agba has never admitted to having received sums amounting to about US\$ 4.5 million from Abbass Al Youssef as part of a money-transfer scheme. The source contends that, in reality, the person concerned was the victim of a swindle.

67. As to the current state of the proceedings, after two earlier bail requests had been rejected by the investigating judge, the Indictment Division of Lomé Court of Appeal issued decision No. 09/2012 of 23 January 2012 ordering Mr. Agba's release on bail upon payment of 150 million CFA francs. Decision No. 09/2012 acquired the force of res judicata. The appeal lodged against the decision by the Principal State Counsel attached to Lomé Court of Appeal was declared inadmissible in decision No. 48/12 of 20 June 2012, issued by the Judicial Division of the Supreme Court.

68. At no point did the Judicial Division of the Supreme Court impugn the decision of the Indictment Division regarding Mr. Agba's release on bail upon payment of 150 million CFA francs. Since that amount was paid into the Treasury on 24 July 2012, Mr. Agba should be released, regardless of whether the investigating judge handling the case disagrees with the decision of the Indictment Division.

69. According to the source, the investigating judge has no latitude to interpret the decision of the Indictment Division. This follows from the double-hearing principle applied in the investigation of criminal cases. Refusal by the public authorities to execute the decision of the Indictment Division or any delay in doing so renders Mr. Agba's detention arbitrary, as there is no longer a valid basis for it.

70. As to the allegations of torture, the Government does not specify the provisions establishing the National Intelligence Agency or the rule authorizing the Agency to arrest suspects and perform the duties of the criminal investigation police, such as remanding a suspect in custody without allowing him to consult his lawyer or be examined by a doctor.

**Discussion**

71. This case presents two fundamental issues. The first relates to Mr. Agba's detention between his arrest on 7 March 2011 and his appearance before the investigating judge on 25 March 2011, while the second concerns his detention following decision No. 09/2012, issued by the Indictment Division of Lomé Court of Appeal on 23 January 2012, ordering his release on bail, and particularly after the ruling of the Supreme Court dismissing the appeal lodged by Principal State Counsel against that decision.

72. On the first point, whatever assessment may be made of the powers or otherwise of the National Intelligence Agency, which is an official legal body under the authority of the President of the Republic (Official Gazette of the Togolese Republic, 9 February 2006, p. 2), the fact is that officers of the Agency arrested and detained Mr. Agba for around 10 days



for the purpose of investigation before handing him over to the National Gendarmerie, which did not bring him before the investigating judge until 25 March 2011, more than two weeks after his arrest.

73. While the Government may take the view that, in certain cases, custody can last up to 13 days, article 52 of the Code of Criminal Procedure, which it cites, sets the limit at 48 hours, barring an extension authorized by State Counsel. Not only does the Government fail to mention any such extension in its response but it also refrains from stating when and for how long the State Counsel extended Mr. Agba's custody.

74. Moreover, article 9, paragraph 3, of the International Covenant on Civil and Political Rights provides that "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power ...". According to general comment No. 8 (1982) of the Human Rights Committee,<sup>2</sup> the time limit must not exceed a few days, and Togolese law sets it at 48 hours.

75. In bringing the person concerned before the judge after more than 15 days, in the absence of a decision extending the period of custody, national and international law was violated.

76. On the second point, two higher courts, namely the Indictment Division of Lomé Court of Appeal and the Supreme Court, in decisions issued on 23 January and 20 June 2012, respectively, unequivocally ordered the release on bail of Mr. Agba, who, incomprehensibly, continues to be kept in detention. Moreover, according to the source, Togolese law (Code of Criminal Procedure, art. 179) requires that persons granted bail be released, regardless of any appeal in cassation lodged by the State Counsel's office. In particular, the source emphasizes that the Principal State Counsel deliberately delayed forwarding the case file to the Supreme Court following his appeal.

77. In its decision, the Indictment Division of Lomé Court of Appeal "order[ed] the release on bail of Sow Bertin Agba upon payment of 150 million CFA francs", and subsequently the Supreme Court, in its decision on the appeal in cassation lodged by the Principal State Counsel attached to Lomé Court of Appeal, stated that it: "Dismisses the appeal lodged by the Principal State Counsel attached to Lomé Court of Appeal regarding pretrial detention and finds that the contested decision should be given full force and effect".

78. It is clear from a receipt issued by the Treasury and Public Accounting Office on 24 July 2012, which is not contested by the Government, that the bail set by the Indictment Division was posted. Accordingly, Mr. Agba should no longer be kept in prison in connection with this case.

79. The letter addressed to Mr. Agba's lawyers by the Principal State Counsel attached to Lomé Court of Appeal on 31 July 2012 must thus be considered particularly inappropriate, when he writes: "I would like to inform you that, contrary to your assertions, the Judicial Division of the Supreme Court did not dismiss my appeal in its decision No. 48/12 of 20 June 2012."

80. The position taken by the Principal State Counsel was reiterated in the Government's reply. Although no more than an interpretation of decisions handed down by the higher courts, however, it constitutes, in his view, the sole grounds for Mr. Agba's continued detention, which is devoid of any legal basis.

81. The Principal State Counsel, who is a party to the criminal proceedings, is required, like all the other parties, to respect court decisions. His status as a privileged party does not

<sup>2</sup> *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V, p. 106.*

in any circumstances allow him to prevent the execution of court decisions as he pleases. This attitude is manifestly disturbing, inappropriate and worth highlighting because of its seriousness.

82. A court decision, particularly one that has acquired the force of *res judicata*, cannot under any pretext be thwarted by anyone for any reason: the credibility of the entire justice system is thereby put at risk. Such a decision is binding on everyone in a State governed by the rule of law.

#### **Disposition**

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

The detention of Sow Bertin Agba is arbitrary, in violation of articles 9 and 10 of the Universal Declaration of Human Rights and 9 and 14 of the International Covenant on Civil and Political Rights. His detention falls under categories I and III of the categories of arbitrary detention to which the Working Group refers when examining cases submitted to it.

84. The Working Group therefore requests the Government to release Mr. Agba immediately, consider compensation for the harm suffered as a result of his detention, conduct a thorough investigation to determine the reasons and motives behind the failures identified, which are attributable to certain law enforcement officers, and draw all the necessary legal conclusions.

*[Adopted on 14 November 2012]*

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