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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its sixty-eighth session, 13–22 November 2013

No. 40/2013 (Uzbekistan)

Communication addressed to the Government on 12 September 2013

Concerning Abdumavlon Abdurakhmonov

The Government replied to the communication on 11 November 2013.

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 Commission on Human Rights, which extended and clarified the mandate of the Working Group in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 2006/102 and extended it for a three-year period in its resolution 24/7 of 26 September 2013. In accordance with its methods of work (A/HRC/16/47, annex, and Corr.1), 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);

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(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. The case summarized below was reported to the Working Group on Arbitrary Detention as follows.

4. Abdumavlon Abdurakhmonov is a 38-year old citizen of Tajikistan and an ethnic Tajik. On 25 April 2013, Mr. Abdurakhmonov arrived in Uzbekistan to visit his child from his first marriage. He was due to return to Tajikistan on 28 April 2013.

5. According to information received, on 29 April 2013, Mr. Abdurakhmonov's brother, living in Tajikistan, received a phone call from Mr. Abdurakhmonov's ex-wife saying that he had been detained on 27 April 2013 by members of the National Security Service of Uzbekistan. Reportedly, he was held for two days in a police station in Bekabad, eastern Uzbekistan, 150 kilometres from Tashkent.

6. Mr. Abdurakhmonov's relatives have not had any direct contact with him since his detention in April 2013. On 10 June 2013, his family received a phone call from a man who claimed he had been in a pretrial detention centre in Tashkent with Mr. Abdurakhmonov. Representatives of the Embassy of Tajikistan thereafter visited Mr. Abdurakhmonov at the pretrial detention centre in Tashkent and conveyed his apparently adequate state of well-being.

7. The source notes that Mr. Abdurakhmonov has now been in pretrial detention without access to a lawyer or to his family for over five months. Furthermore, he has still not been made aware of the reasons for his detention. In its view, his incommunicado detention poses a continued risk of torture, despite the visit from the Tajik authorities.

8. The source argues that international standards are clear that detainees are entitled to have immediate access to a lawyer of their choice, to have a family member or other third party notified of their detention and to have contact with their family. The source further argues that these standards have not been respected during the five months that Mr. Abdurakhmonov has been in pretrial detention.

Response from the Government

9. By a letter dated 12 September 2013, the Working Group transmitted the above allegations to the Government of Uzbekistan, requesting detailed information about the current situation of Mr. Abdurakhmonov.

10. The Government, by a letter dated 11 November 2013, stated that Mr. Abdurakhmonov, who was staying in Uzbekistan without a fixed place of residence and occupation, was placed in the Centre for social and vocational rehabilitation of persons with no fixed place of residence and occupation under the Ministry of Internal Affairs. During his stay at the Centre no requests for visits were made by his family or lawyer. Further, he was not subject to any pressure or illegal actions during the period he stayed at the Centre.

On 5 October 2013, Mr. Abdurakhmonov was released and deported to his country of citizenship, Tajikistan, after his identity was determined.

Further comments from the source

11. According to information received from the source on 13 November 2013, Mr. Abdurakhmonov was released on 7 October 2013 and returned home to Tajikistan. However, the reasons for his arrest and detention remain unclear and the source believes that a reason for his detention was that he was on the territory of Uzbekistan allegedly without his passport.

Discussion and disposition

12. The Working Group decides to file the case, pursuant to subsection 17 (a) of its methods of work, on the basis of the fact that Mr. Abdurakhmonov was released, that according to the source the reasons for his arrest are unclear and because the violations alleged were rejected by the Government.

[Adopted on 14 November 2013]
