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Human Rights Council Working Group on Arbitrary Detention

Opinion adopted by the Working Group on Arbitrary Detention at its seventy-second session (20–29 April 2015)

No. 12/2015 (Republic of Moldova)

Communication addressed to the Government on 20 February 2015

concerning Olesya Vedj

The Government has not replied to the communication.

The State is not 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 three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013. In accordance with its methods of work (A/HRC/16/47 and Corr.1, 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. Ms. Olesya Vedy was detained on 26 November 2014 at her residence, after the search operation conducted by the prosecutor. Ms. Vedy was initially detained for 72 hours on the basis of the warrant issued by the Prosecutor General of the Republic of Moldova. Upon the termination of this period, on 28 November 2014, the arrest warrant based on article 166.1 of the Criminal Code of the Republic of Moldova was issued by the Central Chisinau Court.

4. Charges brought against Ms. Vedy were based on article 284.1 of the Criminal Code of the Republic of Moldova. She was suspected of assisting in the establishment and functioning of a criminal organization aimed at destabilizing the political situation in the country during the parliamentary elections.

5. More specifically, Ms. Vedy was accused of promising her accomplices to assist in providing and concealing arms and funds of the organization, to recruit new members and to collect the information about activities of law enforcement authorities. According to the source, the Court established that arguments of the prosecution can be considered sufficient so as to qualify the crime committed by Ms. Vedy as “grave” in character.

6. For 30 days following her detention, Ms. Vedy was held in prison, after which she was placed under house arrest at her residence. There have been several appeals against the legality of warrants for the search operation and the arrest, all of which have been declined by courts.

7. The source claims that the detention of Ms. Vedy lacked due process as no sufficient evidence has been presented by authorities. Additionally, the source reports that on 19 December 2014, the Prosecutor General brought additional charges against Ms. Vedy. These charges ruled out the relevance of article 284.1 of the Criminal Code of the Republic of Moldova in the given case.

8. The source thus submits that the above-mentioned detention can be considered arbitrary and falls under category III of the Working Group’s defined categories of arbitrary detention.

Response from the Government

9. The Working Group regrets that the Government has not responded to the allegations transmitted by the Group on 20 February 2015.

Discussion

10. The source has not identified any violation in Ms. Vedy’s case which would fall within one of the categories applicable to the consideration of cases submitted to the Working Group.

11. As to the source's submission that Ms. Vedj was arrested without "convincing" evidence, the Working Group recalls that it is outside of its mandate to re-assess the sufficiency of the evidence in a case.

Disposition

12. In the light of the preceding, the Working Group on Arbitrary Detention does not possess information which would indicate any violation which would fall within one of the categories applicable to the consideration of cases submitted to the Working Group.

13. Thus, the Working Group considers it does not have sufficient elements to issue an opinion. Therefore, and according to paragraph 10 (f) of the Working Group's methods of work, the Working Group decides to file the case.

[Adopted on 27 April 2015]
