

DECISION No. 39/1992 (MALAYSIA)

Communication addressed to the Government of Malaysia on 31 January 1992.

Concerning: Vincent Chung on the one hand and the Government of Malaysia on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it (E/CN.4/1992/20, chapter II), and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with concern that to date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days from the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.
3. (Same as in Decision No. 1/1992.)
4. According to the allegation by the source, the summary of which was forwarded by the Working Group to the Government of Malaysia in the form of the above-mentioned communication, Vincent Chung, aged 48, the administrator and personnel manager of Innoprise Foundation, a holding company of the Sabah Foundation, was arrested on 16 January 1991 by officers of the Karamuning police at Karamuning police station, Kota Kinabalu. According to the source, he was transferred to Kamunting Detention Centre, Taiping, Perak State, where he was held for involvement in a plot "to take Sabah out of the Federation of Malaysia". The source indicates that Vincent Chung is a well-known supporter of the Parti Bersatu Sabah, the United Sabah Party, a legal political party which currently forms the state government. According to the source, the accusation against Vincent Chung cannot be substantiated by any evidence by the federal authorities; he is being held in detention under section 8 of the Internal Security Act, which means that the opportunities for him to seek redress from the courts are extremely limited.
5. Bearing in mind the allegations made, the Working Group would have welcomed the cooperation of the Government of Malaysia. In the absence of any information from the Government, the Working Group believes that it is in a

position to take a decision on the facts and circumstances of the case, especially since the facts and allegations contained in the communication have not been challenged by the Government.

6. The facts submitted to the Working Group for its appreciation indicate that the arrest of Vincent Chung in January 1991 and his ensuing detention since then can be attributed solely to the fact that he exercised his right to express his opinions, a right guaranteed by article 19 of the Universal Declaration of Human Rights and by article 19 of the International Covenant on Civil and Political Rights, and his right to freedom of peaceful assembly and association, a right guaranteed by article 20 of the Universal Declaration of Human Rights and by articles 21 and 22 of the International Covenant on Civil and Political Rights.

7. Moreover, there is no indication that, by so doing, he had recourse to violence or threatened in any way national security, public order, public health or morals and the rights or reputation of others in the conditions set forth in article 29 (2) of the Universal Declaration of Human Rights and article 19 (3) of the International Covenant on Civil and Political Rights.

8. In the light of the foregoing, the Working Group decides as follows:

The detention of Vincent Chung is declared to be arbitrary, being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights and of articles 19, 21 and 22 of the International Covenant on Civil and Political Rights and falling within category II of the principles applicable to the consideration of the cases submitted to the Working Group.

9. Consequent upon the decision of the Working Group declaring the detention of Vincent Chung to be arbitrary, the Working Group requests the Government of Malaysia to take the necessary steps to remedy the situation, so as to comply with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.