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Working Group on Arbitrary Detention

4 July 2017

Dear Ms. Wazan,

I would like to refer to 78th session of the Working Group on Arbitrary Detention, during which the Working Group adopted several Opinions on cases of deprivation of liberty submitted to it.

In accordance with paragraph 18 of the Working Group's revised methods of work, I am sending to you, attached herewith, the text of Opinion No. 21/2017 (United Arab Emirates) adopted on 24 April 2017, regarding a case submitted by your organization.

In conformity with its revised methods of work, the Working Group transmits its Opinions to the source of the petitions, forty eight hours after having transmitted it to the relevant Government.

This Opinion will be published on the website of the Working Group and reflected in its annual report to the Human Rights Council. In the meanwhile, we would encourage you to treat the information given to you by the Working Group on this matter with discretion.

Yours sincerely,

Lucie Viersma
Secretary

Working Group on Arbitrary Detention

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Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its 78th session, 18-28 April 2017**Opinion No. 21/2017 concerning Mohamad Ismat Mohamad Shaker Az (United Arab Emirates)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The mandate of the Working Group was most recently extended for a three-year period in Council resolution 33/30 of 30 September 2016.

2. In accordance with its methods of work (A/HRC/33/66), on 14 December 2016 the Working Group transmitted to the Government of the United Arab Emirates a communication concerning Mohamad Ismat Mohamad Shaker Az. The Government replied to the communication on 13 February 2017. The State is not a party to the International Covenant on Civil and Political Rights.

3. 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 him or her) (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 Covenant (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 on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Mohamad Ismat Mohamad Shaker Az, born on 20 February 1977, national of the Syrian Arab Republic, is a computer engineer. He usually resides in Al Dhaid, Al Sharjah, in the United Arab Emirates.

5. Prior to his arrest Mr. Az lived in the United Arab Emirates for 12 years. He taught computer science at a public school in Umm Al-Quwain. Since the beginning of the conflict in Syria, Mr. Az has been administering a Facebook page commenting on the unfolding of the conflict in his hometown of Taftanaz in Idlib.

6. On 26 September 2013, while driving from Al Dhaid to Dubai, Mr. Az was arrested by state security officers in plain clothes. They blindfolded him and took him to his house. Security officers proceeded to search his home for three hours without a warrant. They confiscated laptops, mobile phones and money. Reportedly, officers then took Mr. Az to an unknown location, not providing any reason for his arrest, nor informing him of charges against him.

7. The source states that initially, Mr. Az was detained at an unknown location for four months. Throughout this period his family members searched for him. They inquired about his whereabouts at different police stations and state security departments to no avail.

8. During the initial four months of secret detention by the state security forces of Al Ain, Mr. Az was reportedly held in solitary confinement in a small and dark room. He was threatened that he would be killed and that his family members would be persecuted if he did not confess. Consequently, due to the psychological pressure he was subjected to, Mr. Az signed confessions, which he was not allowed to read beforehand, as he was blindfolded. In addition, during the first four months of his detention, Mr. Az was denied access to a lawyer and consequently was interrogated without the presence of legal counsel. Moreover, he was repeatedly denied medical care for his thyroid deficiency.

9. On 12 January 2014, Mr. Az was transferred to Al Wathba prison, where his family was allowed to visit him for the first time. According to the information received, he had lost a considerable amount of weight.

10. In June 2014, Mr. Az was brought before an investigative judge who works for the public prosecution. Mr. Az indicated to the judge that while he was held in secret detention, he was forced to sign the confessions without knowing the content of the document.

11. On 11 August 2014, Mr. Az was officially informed of the charges against him during the first hearing before the State Security Chamber of the Federal Supreme Court, the court of first and last instance.

12. On 9 December 2014, Mr. Az was convicted under articles 5 and 12 of Decree Law No. 1 of 2004 on Combating Terrorism Offences of "belonging to a terrorist organisation (Ahrar al Sham)" and "collecting and transferring property to be used in full or in part to finance terrorist acts". Mr. Az was also convicted of "running and managing a website for the interest of a terrorist group" on the basis of the article 26 of the Decree Law No. 5 of 2012.

13. During the trial, Mr. Az's defence counsel insisted that his client denied having any link with any terrorist group and that he was forced to make confessions under duress, which should therefore be deemed inadmissible. However, when Mr. Az's lawyer pointed out that he had been interrogated without the presence of his counsel, the Court replied that the right to legal counsel is only applicable "during the trial, in accordance with the article 4 of the Code of Criminal Procedure, and does not include the investigation phase". Subsequently, the Court accepted coerced confessions as evidence.

14. On 9 December 2014, Mr. Az was sentenced to 15 years in prison. In the judgement, the Court stated that the evaluation of the veracity and probative value of confessions were "in its hands". It further stated that if these confessions were later retracted, the Court was the only competent body to decide whether to launch an investigation into the claims of coercion. The Court decided that it considered the confessions to be sound and was

convinced that they were true. It further stated that the allegations made could not be proven and that nothing in the legal documents corroborated the defendant's claims of psychological and physical coercion.

15. Mr. Az is currently detained in Al Wathba prison where he receives two visits per month from his family, lasting 15 minutes each.

16. The source submits that the deprivation of liberty of Mr. Az is arbitrary and falls under categories I and III of the categories defined in the methods of work of the Working Group. With regard to the category I, in the view of the source, no legal basis was invoked by the authorities to justify the deprivation of liberty of Mr. Az between the time of his arrest in September 2013 and June 2014, when he was first presented to a judge. Furthermore, the source adds that Mr. Az was held at an unknown location during first four months of his detention. Authorities failed to inform the family of Mr. Az about his whereabouts during this period. The source argues that the initial four months of secret detention confirms the lack of respect of due process by authorities as well as the lack of legal basis justifying the arrest and detention of Mr. Az. The source thus argues that the detention of Mr. Az between September 2013 and June 2014 has no legal basis and is in violation of the article 9 of the Universal Declaration of Human Rights.

17. The source also submits that Mr. Az has not been guaranteed his right to a fair trial throughout his deprivation of liberty, in violation of articles 10 and 11 of the Universal Declaration of Human Rights. The source recalls that Mr. Az was arrested by plainly-clothed state security personnel, which did not present an arrest warrant; that he was not informed of the reason of his arrest at the time of arrest; that he was held at an unknown location and in solitary confinement for four months during which period he was forced to make confessions; that he did not have access to a lawyer during this period of time; that he was brought before a judge for the first time more than nine months after his arrest and that the Court did not initiate investigation into the reported forced confessions admittedly obtained under duress. In addition, the source submits that Mr. Az was sentenced to 15 years in prison by the Federal Supreme Court's State Security Chamber, which is the highest judicial instance in the United Arab Emirates and its decisions may not be appealed. The article 33 of the Federal Law No. (10) of 1973 concerning the Federal Supreme Court states that the Court has exclusive competence over, *inter alia*, crimes directly affecting the interests of the Union, such as crimes related to its security at home and abroad. The source argues that the exclusive competence of the Federal Supreme Court over certain criminal cases rules out the possibility of Mr. Az to appeal his case before a higher judicial court.

Response from the Government

18. On 14 December 2016, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure, requesting the Government to provide detailed information about the current situation of Mr. Az and any comment on the source's allegations by 12 February 2017. The Working Group also requested the Government to clarify the factual and legal grounds justifying his continued detention and to provide details regarding the conformity of the relevant legal provisions and proceedings with international law, in particular the norms of international human rights law, which bind the United Arab Emirates. Moreover, the Working Group called upon the Government to ensure physical and mental integrity of Mr. Az.

19. In its reply dated 13 February 2017, the Government responded the Working Group with the information below.

20. According to the Government, Mr. Az was arrested in accordance with the applicable laws of the United Arab Emirates, after being informed of the reasons for his arrest by those who conducted the arrest and search. His family was also informed about the place of his detention in the Emirate of Abu Dhabi. Mr. Az was allowed to contact his family during the period of his detention.

21. On 10 December 2013 and on 9 June 2014, Mr. Az was referred to the competent authority, which then referred the case to the Federal Supreme Court with the charges of joining a terrorist organization with the knowledge of its objectives; convincing people to

join the terrorist organization to participate in the conflict in Syria; collecting and transferring funds to a terrorist organization; supervising and administering a website on the internet via Facebook to disseminate information about al-Qaida with to promote its ideas. Mr. Az was allowed to appoint and meet a lawyer.

22. The Government also states that Mr. Az was informed of the charges against him as the court read them out publicly, and on 9 December 2014, the Federal Supreme Court sentenced him to 15 years of imprisonment, a fine of one million AED (equivalent to approximately \$272,230.48) as well as ordering his deportation from the State after the execution of the sentence. Mr. Az is currently serving his sentence in the central prison.

Further comments from the source

23. In response to the Government's claim that Mr. Az was able to communicate with his family during his detention, the source states that the Government did not specify at which point in time he was allowed to do so. This information therefore does not contradict the allegation that Mr. Az was detained *incommunicado* before being able to contact his family.

24. As for the Government's argument that Mr. Az's was arrested in accordance with the domestic law, the source responds that the UAE law indeed does not impose the existence of a warrant for the arrest of an individual nor does it provide him or her the right to know the reason for his or her arrest, which is in clear contravention with international standards. The source therefore reaffirms that Mr. Az was arrested without being informed of the reason for his arrest and without being presented with a warrant.

25. The source further adds that Mr. Az's place of detention was kept secret from his family and they were repeatedly misinformed by authorities about the place of his detention.

26. While the Government states that on 10 December 2013 Mr. Az was presented to the "concerned authority", which on 9 June 2014 transferred his case to the Supreme Court, the source alleges that Mr. Az was first presented to a judicial authority in June 2014. The source argues that given that the Government did not specify the authority concerned, it cannot be said that Mr. Az was presented to a judicial authority before the start of his trial. Furthermore, the UAE Government did not provide information as to whether the concerned authority was habilitated to review the legality of his detention.

27. Finally, the source states that the Government did not deny allegations made in regard to torture, absence of legal counsel, violation to the exclusionary rule and the nature of the court.

28. The source maintains that Mr. Az's detention is arbitrary and falls under categories I and III of the categories applicable to cases submitted to the Working Group.

Discussion

29. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a *prima facie* case of breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.¹

30. The Working Group considers that it is entitled to assess the proceedings of the court and the law itself to determine whether they meet international standards.² However, the Working Group also reiterates that it has consistently refrained from taking the place of the national judicial authorities or acting as a kind of supranational tribunal when it is urged to review the application of domestic law by the judiciary.³

¹ See Report of the Working Group on Arbitrary Detention, 26 December 2011, A/HRC/19/57, para. 68.

² See opinion No. 33/2015, para. 80.

³ See opinion No. 40/2005.

31. The Working Group notes with concern a series of cases over the past few years in which the Government subjected its citizens and foreign nationals to secret detention or *incommunicado* detention.⁴ Such practices of *incommunicado* detention effectively place victims outside the protection of the law and deprive them of any legal safeguards. More specifically, the Working Group received numerous allegations of the arbitrary deprivation of liberty of foreigners by the agents of the State Security Department in the context of the Arab Spring and its aftermath. For example, there are clear similarities between factual patterns of the present case and those of Opinion No. 51/2015 (5 Libyan nationals), Opinion 35/2015 (1 Qatari national) and Opinion 56/2014 (13 Egyptian nationals), where the Working Group found the deprivation of liberty to be arbitrary.

32. The Working Group considers that states are legitimated to investigate and prosecute the crime of terrorism in conformity with national law and with international customary law obligations that are applicable in all times and circumstances.⁵ However, it recalls the reaffirmation in numerous resolutions of the UN Security Council, including in its' resolution 2170 (2014), the need to combat threats to international peace and security caused by terrorist acts by all means, in accordance with the Charter of the United Nations and international law, including applicable international human rights, refugee and humanitarian law. The Working Group also emphasises effective counter-terrorism measures and respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing.⁶

33. Furthermore, the Working Group has recognized that where persons who have or are suspected to have engaged in the preparation, commission or instigation of acts of terrorism are deprived of their liberty:

- (a) They shall be immediately informed of the charges against them, and be brought before a competent and independent judicial authority as soon as possible, within a reasonable period of time;
- (b) They shall enjoy the effective right to judicial determination of the arbitrariness and lawfulness of their detention;
- (c) The exercise of the right to judicial oversight of their detention shall not impede the obligation of the law enforcement authority responsible for the decision to detain or to maintain the detention to present suspects before a competent and independent judicial authority within a reasonable period of time. Such persons shall be brought before the judicial authority, which will then evaluate the accusations, the basis of the deprivation of liberty and the continuation of the judicial process;
- (d) In the proceedings against them, suspects shall have a right to enjoy the necessary guarantees of a fair trial, access to legal counsel and the ability to present exculpatory evidence and arguments under the same conditions as the prosecution, all of which should take place in an adversarial process.⁷

34. The Working Group also points out that secret or *incommunicado* detention may put individuals under pressure to confess to a crime and infringe the right not to be compelled to testify against oneself, contrary to the article 11 of the Universal Declaration of Human Rights. Conclusions of the 2010 joint study on global practices in relation to secret

⁴ Opinion No. 51/2015 concerning Salim Alaradi et al (United Arab Emirates), Opinion No. 35/2015 concerning Mahmoud Abdulrahman al-Jaidah (United Arab Emirates), Opinion No. 56/2014 concerning Saleh Farag Dhaifullah et al (United Arab Emirates), Opinion No. 12/2014 concerning Khalifa Rabia Najdi (United Arab Emirates), Opinion No. 60/2013 concerning 61 individuals (United Arab Emirates), Opinion No. 42/2013 concerning Abdullah Al Hadidi (United Arab Emirates), Opinion No. 27/2013 concerning Rami Shaher Abdel Jalil al-Mrayat (United Arab Emirates), Opinion No. 61/2012 concerning Hassine Beltaibi (United Arab Emirates), Opinion No. 64/2011 concerning Ahmed Mansoor (United Arab Emirates).

⁵ See Opinion No. 51/2015 concerning Salim Alaradi et al (United Arab Emirates), para. 59.

⁶ Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court, A/HRC/30/37 (adopted by resolution 20/16 of the Human Rights Council), para. 15.

⁷ *Id.* para. 93.

detention in the context of countering terrorism reiterate that international law clearly prohibits secret detention and that secret detention violates a number of human rights and humanitarian law norms that may not be derogated from under any circumstances.⁸

Category I

35. The Working Group first determines whether it is clearly impossible to invoke any legal basis justifying Mr. Az's arrest and detention between September 2013 and June 2014, rendering it arbitrary under category I.

36. While the Government states that Mr. Az was arrested in accordance with the law, it has failed to substantiate its statements to refute the source's *prima facie* allegations. In the present case, the Government has offered no documentary evidence, such as a copy of the arrest warrant, the case file or the record of court proceedings, which reportedly occurred on 10 December 2013.

37. The Working Group, therefore, accepts arguments presented by the source in this regard. The initial arrest and prolonged detention of Mr. Az by the State Security Department without any plausible legal basis constituted arbitrary arrest and detention, in violation of the article 9 of the Universal Declaration of Human Rights and the principle 2 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The deprivation of liberty of Mr. Az, therefore, falls within category I.⁹

Category II

38. The source further argues that Mr. Az's arrest, trial and imprisonment for violating the anti-terrorist legislation fall within the category II, as they resulted from the legitimate exercise of his rights and freedoms.

39. The Working Group recalls its observation that, in some cases, states are inclined to assert that the use of the internet serves terrorist purposes, whereas, in fact, this proves later to be a pretext to restrict freedom of expression and repress political opponents.¹⁰

40. The established practice of the Working Group is that restrictions placed on the freedom of expression by way of deprivation of liberty can only be justified when it is shown that the deprivation of liberty has a legal basis in domestic law, is not in violation of international law and is necessary to ensure the respect of the rights or reputation of others, or for the protection of national security, public order, public health or morals, and is proportionate to the pursued legitimate aims.¹¹

41. While the source states that Mr. Az has been administering his Facebook page to comment on the recent developments regarding the ongoing conflict in his hometown of Taftanaz in Idlib in Syria, which *per se* may have been a legitimate exercise of his right to freedom of expression under the article 19 of the Universal Declaration of Human Rights, the Government submits that he was in fact using his Facebook to propagate for the Al-Qaeda network and to recruit members for this terrorist organization.

42. The Working Group is aware of the trend whereby terrorist organizations use social networks for recruitment or propaganda purposes. However, the Working Group considers that in the present case, the Government has failed to meet the burden of proof to support its contention and the conviction of Mr. Az by the Federal Supreme Court's State Security

⁸ Joint study on global practices in relation to secret detention in the context of countering terrorism of the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the working group on arbitrary detention; and the working group on enforced or involuntary disappearances, A/HRC/13/42, 20 May 2010.

⁹ See Opinion No. 39/2016 concerning Adam al Natour (Jordan) (unedited version), para. 45.

¹⁰ See Deliberation No. 8 on Deprivation of Liberty Linked to/resulting from the Use of the Internet, Report of the Working Group on Arbitrary Detention, 12 December 2005, E/CN.4/2006/7, para. 33.

¹¹ *Id.*, para. 43.

Chamber. The Working Group also notes the Government's past record of arbitrarily imprisoning individuals for their online social networking activities.¹²

43. The Working Group considers that Mr. Az's deprivation of liberty resulted from his exercise of the right to freedom of expression, as the Government has failed to adequately prove or justify its necessity. The Working Group, therefore, concludes that the arrest and subsequent detention of Mr. Az fall within category II.

Category III

44. The Working Group has also considered whether violations of the right to a fair trial and due process of Mr. Az were grave enough to give his deprivation of liberty an arbitrary character falling within the category III.

45. In particular, the Working Group examined allegations that Mr. Az. was subject to arbitrary arrest and *incommunicado* detention; that his confession was extracted through the use of torture during interrogations without legal counsel; that his consular rights were violated;¹³ and that forced confession was used as evidence against Mr. Az during the trial. The Working Group also reviewed the question of independence and impartiality of the Federal Supreme Court's State Security Chamber under international law.

46. According to the information provided by the source, which the Government failed to rebut with credible evidence, Mr. Az was arrested without a warrant and was neither promptly informed of the reasons for his arrest, nor of any charges against him. Such arrest is arbitrary and in violation of the article 9 of the Universal Declaration of Human Rights, and principles 2 and 10 of the Body of Principles.

47. Subsequently, Mr. Az was detained *incommunicado* by the State Security Department for four months. This placed him outside the protection of the law. Furthermore, the *incommunicado* detention also entailed the denial of his right to notify and communicate with his family, lawyer and consular officers in accordance with principles 15, 16, 17, 18 and 19 of the Body of Principles as well as of his right to be brought promptly before a judge and to be tried within a reasonable time as stipulated in principles 37 and 38 of the Body of Principles. In all, it resulted in the cumulative violation of articles 8, 9, 10 and 12 of the Universal Declaration of Human Rights.

48. Mr. Az's *incommunicado* detention also enabled torture and other cruel, inhuman or degrading treatment to extract self-incriminating confession.¹⁴ The Working Group has previously considered allegations concerning the practice of employing torture and ill-treatment during *incommunicado* interrogation.¹⁵ The Special Rapporteur on the independence of judges and lawyers reported after the country visit to the United Arab Emirates in 2014 that more than 200 complaints relating to torture and/or ill-treatment had been presented before judges and/or prosecutors over the past few years, but that those complaints had not been taken into account in judicial proceedings and no independent investigation into those complaints had allegedly taken place.¹⁶

49. The Working Group recalls that extraction of confession from a blindfolded detainee under torture by the State Security Department and acceptance of such confession as evidence by the Federal Supreme Court's State Security Chamber violate the right to a fair

¹² See Opinions No. 12/2014 and 42/2013.

¹³ With regard to the right to be informed of consular protection as distinct from the right to consular protection *per se*, see also Article 36(1)(b) of the 1963 Vienna Convention on Consular Relations to which the United Arab Emirates is a State Party; International Court of Justice, LaGrand Case (Germany v. United States of America), I.C.J. Reports 2001, p.494 at paras. 77 & 78 and Avena and Other Mexican Nationals (Mexico v. United States of America), I.C.J. Reports 2004, p.35-36 at para. 40.

¹⁴ See Human Rights Committee, General Comment No. 35: Article 9 (Liberty and security of person), 16 December 2014, CCPR/C/GC/35, para. 56.

¹⁵ Opinions No. 51/2015, 56/2014, 60/2013, 27/2013

¹⁶ Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul: Mission to the United Arab Emirates, 5 May 2015, A/HRC/29/26/Add.2, para. 53.

and public hearing found in articles 10 and 11 of the Universal Declaration of Human Rights.¹⁷

50. In this regard, the Working Group recalls, the judgment by the International Court of Justice holding that the prohibition of torture is part of customary international law and it has become a peremptory norm (*jus cogens*).¹⁸

51. Domestic law must therefore ensure that statements or confessions obtained as a result of torture are excluded from the evidence; and where there is an allegation that a statement was made under torture, the burden of proof is on the prosecution and the courts.¹⁹

52. The Working Group previously considered and found the criminal proceedings before the Federal Supreme Court's State Security Chamber to be in violation of the right to a fair trial guaranteed by article 10 of the Universal Declaration of Human Rights.²⁰

53. The Working Group shares the Human Rights Committee's standards applicable to all courts and tribunals, whether they are ordinary or specialized, civilian or military, which reflects customary international law under the article 11 of the Universal Declaration of Human Rights.²¹

54. The Working Group also notes that the Special Rapporteur on the independence of judges and lawyers observed after the country visit to the United Arab Emirates in 2014 that the current mechanism for appointing judges including the President and other members of the Federal Supreme Court by the highest representatives of the executive branch lacks transparency and may expose them to undue political pressure.²² She also raised concern that so-called State security crimes are considered in first and last instance by the State Security Chamber of the Federal Supreme Court with no possibility of review by a higher tribunal, as the Federal Supreme Court is the highest tribunal in the United Arab Emirates, in breach of international human rights standards.²³ In the present case, the Working Group is concerned that the exclusive competence of the Federal Supreme Court over certain criminal cases rules out the possibility of Mr. Az to appeal his case before a higher judicial court, which may result in a serious and irrevocable violation of the right to a fair trial.

55. The Working Group shall refer the present case to the Special Rapporteur on torture.

56. The Working Group considers that the above violations of Mr. Az's right to a fair trial are of such gravity as to give his deprivation of liberty an arbitrary character. Accordingly, his deprivation of liberty falls within the category III of the arbitrary detention categories referred to by the Working Group when considering the cases submitted to it.

Disposition

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

The deprivation of liberty of Mr. Az, being in contravention of articles 6, 8, 9, 10, 11, 12 and 19 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, II and III.

58. The Working Group requests the Government of the United Arab Emirates to take the steps necessary to remedy the situation of Mr. Az without delay and bring it into

¹⁷ See also Human Rights Committee's General Comment No. 32 (2007)

¹⁸ International Court of Justice, Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), judgment of 20 July 2012, para. 99.

¹⁹ See Human Rights Committee's General Comment No. 32 (2007), para. 41

²⁰ Opinion No. 60/2013, paras. 14 and 23

²¹ See Human Rights Committee, General Comment No. 32: Article 14 (Right to equality before courts and tribunals and to fair trial), 23 August 2007, CCPR/C/GC/32, paras. 14 and 22.

²² Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul: Mission to the United Arab Emirates, 5 May 2015, A/HRC/29/26/Add.2, para. 35.

²³ *Id.* para. 61.

conformity with relevant international norms, including those set out in the Universal Declaration of Human Rights.

59. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Az immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

60. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers this case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

61. The Working Group encourages the Government to ratify the International Covenant on Civil and Political Rights and the International Convention for the Protection of All Persons from Enforced Disappearance.

Follow-up procedure

62. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Az has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Az;
- (c) Whether an investigation has been conducted into the violation of Mr. Az's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the United Arab Emirates with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

63. The Government The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

64. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

65. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.²⁴

[Adopted on 24 April 2017]

²⁴ See Human Rights Council resolution 33/30, paras. 3 and 7.