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Human Rights Council Working Group on Arbitrary Detention

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Opinion No. 13/2024 concerning Ángel Serrano Hernández, Carlos Paul Michelena Valdés, Denis Ojeda Álvarez, Felipe Almirall, Fredy Beirut Matos, Katia Beirut Rodríguez, Luis Frómeta Compte, Odet Hernández Cruzata, Oscar Luis Ortiz Arrovmeth, Reynier Reinoso Cabrera, Robert Orlando Cairo Díaz, Roberto Pérez Ortega, Rolando Vázquez Fleita, Walnier Luis Aguilar Rivera, Wilmer Moreno Suárez, Yerandis Rillos Pao and Yoandry Reinier Sayu Silva (Cuba)*

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,¹ on 24 November 2023, the Working Group transmitted to the Government of Cuba a communication concerning Ángel Serrano Hernández, Carlos Paul Michelena Valdés, Denis Ojeda Álvarez, Felipe Almirall, Fredy Beirut Matos, Katia Beirut Rodríguez, Luis Frómeta Compte, Odet Hernández Cruzata, Oscar Luis Ortiz Arrovmeth, Reynier Reinoso Cabrera, Robert Orlando Cairo Díaz, Roberto Pérez Ortega, Rolando Vázquez Fleita, Walnier Luis Aguilar Rivera, Wilmer Moreno Suárez, Yerandis Rillos Pao and Yoandry Reinier Sayu Silva. The Government submitted a late response on 26 February 2024. 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

* Miriam Estrada-Castillo did not participate in the discussion of the case.

¹ [A/HRC/36/38](#).



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).

1. Submissions

(a) Communication from the source

(i) Context

- Ángel Serrano Hernández is a national of Cuba, born on 27 April 1967.
- Carlos Paul Michelena Valdés is a national of Cuba, born on 19 February 1988.
- Denis Ojeda Álvarez is a national of Cuba, born on 26 December 1988.
- Felipe Almirall is a national of Cuba, born on 23 March 1960.
- Fredy Beirut Matos is a national of Cuba, born on 27 July 1957.
- Katia Beirut Rodríguez is a national of Cuba, born on 21 September 1985.
- Luis Frómata Compte is a national of Cuba and Germany, born on 10 November 1962.
- Odet Hernández Cruzata is a national of Cuba, born on 22 September 1988.
- Oscar Luis Ortiz Arrovmeth is a national of Cuba, born on 9 July 1999.
- Reynier Reinoso Cabrera is a national of Cuba, born on 30 September 1979.
- Robert Orlando Cairo Díaz is a national of Cuba, born on 5 May 1995.
- Roberto Pérez Ortega is a national of Cuba, born on 26 December 1985.
- Rolando Vázquez Fleita is a national of Cuba, born on 6 September 1989.
- Walnier Luis Aguilar Rivera is a national of Cuba, born on 12 February 2000.
- Wilmer Moreno Suárez is a national of Cuba, born on 13 June 1988.
- Yerandis Rillos Pao is a national of Cuba, born on 12 August 1990.
- Yoandry Reinier Sayu Silva is a national of Cuba, born on 28 May 2002.

4. On 11 July 2021 and for several days thereafter, a series of peaceful demonstrations took place, starting in the municipality of San Antonio de los Baños and quickly spreading throughout the country. The Government's reaction to the demonstrations was excessive. The President stated on public television that the demonstrations were a front for "criminals" and "officials of the Government of the United States" and called on the people of Cuba to "fight" against those who questioned the Government.

5. The source states that busloads of individuals, summoned by the Government in coordination with the Department of State Security and the police forces of the Ministry of the Interior and the Communist Party of Cuba, arrived and violently repressed the demonstrators.

6. After the demonstrations had been broken up, thousands of protesters were arrested and prosecuted. All the persons mentioned above were arrested by the authorities between 12 and 24 July 2021 because they had taken part in the demonstrations. They were all investigated for the offence of sedition under the same case No. 9 of preliminary case file No. 145 of 2021, which was tried in the Provincial Court of Havana.

*(ii) Detentions and arrests**Mr. Aguilar Rivera*

7. Against the backdrop of the demonstrations of 11 July 2021, State security agents arrived at Mr. Aguilar Rivera's home on 26 motorcycles and verbally informed a family member that Mr. Aguilar Rivera had "pending business" with the police. On 20 July, Mr. Aguilar Rivera and a family member went to the local police station of the National Police, where he was arrested, with no justification, solely for having participated in the demonstrations.

8. Mr. Aguilar Rivera was disappeared for more than 21 days, during which time he was held in a punishment and isolation cell at the "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. Mr. Aguilar Rivera's family had no contact with him for more than 30 days and it was not until 210 days after his arrest that he was allowed his first family visit, at which time the family noted that his state of health had significantly deteriorated because, despite having a psychosocial disability certified by specialists, he was prosecuted, tried and sentenced as a person without a disability.

Mr. Moreno Suárez

9. Mr. Moreno Suárez was arrested on 17 July 2021. He was disappeared for more than 15 days and was held for more than 53 days in a punishment and isolation cell at the "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. Mr. Moreno Suárez's family had no contact with him for more than 90 days and it was not until 120 days after his arrest that he was allowed his first family visit.

Ms. Beirut Rodríguez

10. Ms. Beirut Rodríguez was arrested on 19 July 2021 when she responded to a summons. She was disappeared for more than four days, during which time she was held in a punishment and isolation cell at "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. On 8 September 2021, she was transferred without prior notification to Occidente Women's Prison, also known as El Guatao, in Havana. Her family had no contact with her for more than 95 days, after which time she was allowed her first family visit.

Mr. Beirut Matos

11. Mr. Beirut Matos was arrested on 14 July 2021. He was disappeared for more than eight days and was held for more than 40 days in a punishment and isolation cell at "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. In early September 2021, he was transferred without prior notification to Combinado del Este Prison in Havana. Mr. Beirut Matos' family had no contact with him for more than 40 days and it was not until 150 days after his arrest that he was allowed his first family visit.

Mr. Serrano Hernández

12. Mr. Serrano Hernández was arrested on 25 July 2021. He was disappeared for more than 31 days, during which time he was held in a punishment and isolation cell at Combinado del Este Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. Mr. Serrano Hernández's family had no contact with him for more than 45 days and it was not until 60 days after his arrest that he was allowed his first family visit. Mr. Serrano Hernández has been subjected to ill-treatment and threats of physical harm by State security agents and was beaten by several prisoners convicted of offences under ordinary law, with the backing of security agents.

Mr. Almirall

13. Mr. Almirall was arrested on 12 July 2021. Mr. Almirall has a physical impairment that limits his mobility: he was left with a limp after an accident, for which he underwent surgery, but the procedure did not go well and he has a rod in one of his legs that prevents him from bending it. However, he was violently arrested by the National Police, even though he was only at the scene to buy cigarettes. He was subsequently taken to El Vivac Detention Centre in Arroyo Naranjo, where he was beaten for more than five days and then transferred to “100 y Aldabó” Prison in Havana, where he was subjected to torture and degrading and inhuman treatment for seven days to extract a confession from him. On 4 September 2021, he was transferred to Combinado del Este Prison in Havana, where charges were brought and the precautionary measure of house arrest was ordered. Mr. Almirall’s family had no contact with him for more than 60 days. Since he agreed to carry out high-risk forced labour in the area of construction, with custody, he receives a release permit once a month.

Mr. Ortiz Arrovmeth

14. Mr. Ortiz Arrovmeth was arrested on 13 July 2021. He was disappeared for more than 15 days, during which time he was held in solitary confinement in “100 y Aldabó” Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. In early August 2021, he was transferred without prior notification to Valle Grande Prison in Havana. His family had no contact with him for more than 20 days, after which time he was allowed his first family visit, lasting only three minutes. He is continually subjected to ill-treatment and threats of physical harm by State security agents.

Mr. Reynosa Cabrera

15. Mr. Reynosa Cabrera was arrested on 15 July 2021. He was disappeared for more than 30 days, during which time he was held in a punishment and isolation cell at “100 y Aldabó” Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. In early August 2021, he was transferred without prior notification to Valle Grande Prison in Havana. Mr. Reynosa Cabrera’s family had no contact with him for more than 30 days and it was not until more than 45 days after his arrest that he was allowed his first family visit. He is continually subjected to ill-treatment and threats of physical harm by State security agents.

Mr. Sayu Silva

16. Mr. Sayu Silva was arrested on 19 July 2021. He was initially taken to the Capri unit of the National Revolutionary Police, where he was brutally beaten. He was subsequently disappeared for more than 30 days, during which time he was held in a punishment and isolation cell at “100 y Aldabó” Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. Mr. Sayu Silva’s family had no contact with him for more than 30 days and it was not until almost two years after his arrest that he was allowed his first visit from family members as, prior to that, they had been allowed only to bring him supplies. Mr. Sayu Silva was beaten by nine inmates who had been detained for offences under ordinary law, with the backing of State security agents.

Mr. Cairo Díaz

17. Mr. Cairo Díaz was arrested on 13 July 2021. His family had no verbal or physical contact with him for nine days, during which time he was held at “100 y Aldabó” detention and torture centre. He was subsequently transferred to Combinado del Este Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. He is currently being held in detention and his state of health is very poor.

Mr. Ojeda Álvarez

18. Mr. Ojeda Álvarez was arrested on 15 July 2021. His family had no contact with him for 75 days, during which time he was held in solitary confinement in Ivanov Prison, in the municipality of Cotorro. He was then taken to the Criminal Investigations and Operations Division in “100 y Aldabó” Prison in Havana, a centre specifically dedicated to interrogation

and torture, and then to the maximum security Combinado del Este Prison in Havana. Charges were brought and a precautionary measure of pretrial imprisonment was ordered. During the criminal trial hearings, when the defendant stated that a charge brought against him was false, the guards beat him. Mr. Ojeda Álvarez was subjected to interrogation and physical, verbal and psychological violence as a form of torture, harassment and bullying.

Mr. Pérez Ortega

19. Mr. Pérez Ortega was arrested on 17 July 2021. His family had no contact with him for several days, during which time he was held in solitary confinement at Combinado del Este Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. Mr. Pérez Ortega was subjected to beatings by State security agents.

Ms. Hernández Cruzata

20. On 15 July 2021, the National Police authorities went to Ms. Hernández Cruzata's home without an arrest warrant or any apparent legal grounds for doing so. Upon learning of the incident, Ms. Hernández Cruzata decided to go to the Capri unit of the National Revolutionary Police to seek information. When she arrived, she was arrested solely for having allegedly participated peacefully in the protests of 12 July 2021. She was disappeared for more than 15 days, during which time she was held in a punishment and isolation cell at "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. Ms. Hernández Cruzata's family had no contact with her for more than 15 days and it was not until more than 90 days after her arrest that she was allowed her first family visit.

Luis Frómeta Compte

21. Mr. Frómeta Compte was arrested on 17 July 2021. He was disappeared for more than eight days, during which time he was held in a punishment and isolation cell at "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. In early 2021, without prior notification, he was transferred to Combinado del Este Prison in Havana. His family had no contact with him for 20 days, after which time he was allowed his first family visit.

Mr. Vázquez Fleita

22. Mr. Vázquez Fleita was arrested on 21 July 2021, when, in response to a summons, he reported to the Capri unit of the National Revolutionary Police, where he was held for 15 days. He was subsequently disappeared for more than 60 days, during which time he was held in a punishment and isolation cell at "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. In the first few days of August 2021, he was transferred without prior notification to Valle Grande Prison in Havana. Mr. Vázquez Fleita's family had no contact with him for more than 75 days and it was not until more than 100 days after his arrest that he was allowed his first family visit. Mr. Vázquez Fleita was subjected to a beating by three State security agents.

Mr. Rillos Pao

23. Mr. Rillos Pao was arrested on 26 July 2021. He was disappeared for more than two days, during which time he was held in a punishment and isolation cell at "100 y Aldabó" Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. Subsequently, he was transferred without prior notification to Combinado del Este Prison in Havana. His family had no contact with him for 30 days, after which time he was allowed his first family visit.

Mr. Michelena Valdés

24. Mr. Michelena Valdés was arrested on 12 July 2021. During his arrest he was brutally beaten, leaving him with a serious head wound. He was taken to Miguel Enríquez Hospital, where the wound was closed with six stitches. At around 9 p.m. he was transferred to the Capri unit of the National Revolutionary Police. He was subsequently disappeared for more

than 30 days, during which time he was held in a punishment and isolation cell at Combinado del Este Prison in Havana, where charges were brought and the precautionary measure of pretrial detention was ordered. His family had no contact with him for the first 30 days of his detention.

25. According to the source, the precautionary measure of pretrial detention was ordered in 16 of the cases while house arrest was ordered in one case. In every case, the measure was taken without legal protection and ordered by the criminal investigation police and the prosecution service. The state of health of most of the 17 detained persons was evidently deteriorating owing to poor sanitation, lack of food and water, and lack of medical treatment and medication. Almost all of them and their families are subjected to torture, ill-treatment and continual persecution by the authorities.

(iii) *Trial proceedings*

26. The source states that the authorities fabricated a story and tried the 17 individuals, handing down sentences at first instance ranging from 15 to 26 years' imprisonment, including a sentence of 23 years for a person with a psychosocial disability. The authorities accused them of "extreme violence" but they were peaceful demonstrators. Only 2 of the 17 protesters were arrested on 12 July. A year after the arrests, following the filing of applications for judicial review by the families, international pressure caused the courts to reduce the custodial sentences by between 8 and 18 years.

27. The source states that Court reproduces the prosecutor's statement in the "proven facts" section of the first instance judgment.² Furthermore, the source fails to understand how both the prosecutor's statement and the judgment can claim that the situation described constituted a "climate of violence". The words "violence" and "extreme violence" occur throughout the prosecutor's indictment, but not a single State official or non-demonstrating citizen cited any injuries during the entire criminal proceedings. No criminality can be deduced from an analysis of the indictment and the "proven facts" of the judgment, both of which are identical. In the Court's ruling, the 17 defendants are described in defamatory and offensive terms that violate their privacy and the presumption of innocence. Offences are even attributed to persons recognized as having no criminal record.

(iv) *Legal analysis*

28. According to the source, the Government of Cuba engaged in at least six patterns of conduct that violate articles 2, 3, 7–13 and 18–20 of the Universal Declaration of Human Rights. The source maintains that the detentions of the 17 persons mentioned are arbitrary and fall within categories I, II, III and V of the Working Group.

a. Categories I and III

Lack of arrest warrants and judicial oversight, and use of pretrial detention

29. The source states that none of the detained persons was shown an arrest warrant at the time of arrest or shortly thereafter. In addition, principle 4 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment was violated because in no case was the judiciary involved in, or informed of, these detentions. Neither the families nor the detained persons have copies of, or access to, the arrest warrants or detention orders issued by the prosecutor. In none of the cases was there any judicial protection. There is also evidence that judicial functions are carried out by staff who are not part of the judiciary. The source recalls that State agents undertaking judicial duties within the framework of criminal proceedings must be professional judges and comply with the requirement of being independent of the executive branch and the parties.³ In the present case, none of these criteria is fulfilled.

² People's Provincial Court of Havana, judgment No. 5 of 2022.

³ European Court of Human Rights, *Nikolova v. Bulgaria*, judgment of 25 March 1999, application No. 31195/96.

30. In proceedings that took place prior to 1 January 2022, the Criminal Procedure Act (No. 5 of 1977) granted full powers to police officers known as “investigators”. After 24 hours of police custody, the investigating police officer had an additional 72 hours (additional to the initial 24) to keep the defendant in custody and make a further decision. The prosecutor then had an additional 72 hours in which to make a decision on the recommendation of the investigating police officer. At no point during these 168 hours (that is, seven days) does any judge take part in the procedure defined in the Act. Therefore, no judge is even informed of the detentions carried out by the police, the investigating police officer and the public prosecutor’s office.

31. The precautionary measures thus defined were extended for the individuals mentioned in this communication, without any involvement by a judge throughout the investigation stage, which has a maximum duration of six months. However, the time afforded for the investigation, and the pretrial detention that is closely linked to it, can be extended by law as long as necessary. Only the approval of the Attorney General, that is, another agent of the State who does not form part of the judiciary, is required.

32. All the individuals in this case have been subjected to arrests and pretrial detention lasting more than 24 hours. In most of the cases, pretrial detention lasted more than six months and in many of the cases it lasted significantly longer. This amounts to a sort of advance punishment that disregards the human rights relating to the presumption of innocence and the fact that the adoption of precautionary measures restricting the right to liberty should have been authorized by an independent and impartial court.

Lack of independent defence lawyers

33. The source notes that the lack of independent lawyers in Cuba has been highlighted by the Working Group on numerous occasions.⁴ The Committee against Torture has also raised concerns about this issue.⁵

34. The above implies that two violations of the Universal Declaration of Human Rights have occurred: a violation of article 11, in that the right to a defence has been restricted, and a violation of article 10, concerning equal treatment before the law and independent and impartial tribunals. None of the persons referred to in this communication was assisted at any time by independent counsel.

35. In Cuba, there are no independent defence lawyers, since they are officially, hierarchically and financially dependent on the Government. In the present case, it was the lawyers of the defendants themselves (in the vast majority of cases) who requested that sentences for the offence of sedition and other offences be handed down to their defendants.

Lack of judicial independence and impartiality

36. According to the source: (a) judges in Cuba are not appointed on the basis of academic excellence or an independent examination governing entry to the legal profession and lay judges are not randomly selected from among the population; rather, the procedure for admission involves an administrative verification of a candidate’s alignment with the relevant “morals” and their degree of “prestige” or “standing” – concepts that have not been clearly defined – as assessed and monitored by the Communist Party of Cuba; and (b) anyone who intends to continue working as a judge must necessarily align himself or herself with the dictates of the Communist Party of Cuba.

37. The mass organizations that constitute the political arm of the Communist Party of Cuba, such as the National Assembly of People’s Power and other elective bodies in Cuba, are those that propose, approve and establish lists of candidates. Therefore, the delegates of the National Assembly must either belong to the Communist Party or be loyal supporters of the Party’s leaders in order to correctly and effectively carry out their roles.

38. The functions of the National Assembly include electing and removing the Attorney General of the Republic, the Deputy Attorney Generals, the President of the People’s

⁴ Opinions No. 63/2019 and No. 63/2021.

⁵ CAT/C/CUB/CO/3, paras. 14 and 15.

Supreme Court, the Vice-Presidents and judges of the People's Supreme Court, and the lay judges of the Court. The fact that the Assembly is controlled by, and dependent on, the Communist Party means that the Party directly controls and influences the manner in which the public prosecutor's office and the courts carry out their functions.

39. The source states that the result of this pattern of conduct is that all the individuals referred to in this communication were tried by dependent and biased judges. This violates article 10 of the Universal Declaration of Human Rights.

Lack of independent experts and witnesses

40. The source states that one of the key principles of the application of justice is equality of arms, as it is directly related to article 7 of the Universal Declaration of Human Rights and indirectly related to article 10.

41. Independent experts must be "experts" and "independent" or be considered experts representing one of the parties, whose testimonies have significantly less value for evidentiary purposes.⁶ Moreover, court-appointed independent experts should not be officials of the State when the State itself is a party to the proceedings, since they would effectively lose their neutrality, thereby invalidating the assessment that the court may make of their opinion. In Cuba there is no such thing as an independent expert in criminal matters. Under the Criminal Procedure Act, experts in all cases participate at the request of the "acting authority" and never at the request of the defence.

b. Category II

42. The arrests and subsequent prosecutions, conducted on the basis of the legal grounds put forward by the competent courts, give rise to conclusions pointing to a conflict with articles 19 and 20 of the Universal Declaration of Human Rights, namely, that any opponent who demonstrates against the Government is liable to be charged with a criminal offence. The courts responsible for trying persons accused of participating in the demonstrations of 11 July 2021 have provided no justification for the conclusion that the impact on public order was sufficiently serious as to justify such a severe restriction of the right to freedom of demonstration and expression. Lastly, the criminal charges against the defendants are so ambiguous that any action might fall within their scope of application, in violation of article 11 (2) of the Universal Declaration of Human Rights, relating to the principle of legality.

43. The source notes that the prosecutorial documents and court documents in the present case discredit demonstrators for speaking out against the system and its leaders, and this classification constitutes the primary argument used by the prosecution and the courts.

44. The 17 individuals were charged with the offence of sedition under article 100 of the Criminal Code (article 122 of the new Criminal Code), which was in force until 1 December 2022. The source adds that persons accused of this offence can be sentenced to up to 30 years' imprisonment and can even be handed the death penalty.

45. The Inter-American Commission on Human Rights has stated that the terms used in the law could make it possible to criminalize social protest, civic activism or any criticism of government authorities.⁷ The Committee against Torture has also raised concerns about the offence of sedition.⁸

46. The wording of the criminal offence contains a number of elements that de facto criminalize the exercise of the right to freedom of expression, demonstration and association, as enshrined in articles 19 and 20 of the Universal Declaration of Human Rights. In the case of the 17 individuals, it was found that no detailed justification for charging the demonstrators of 11 July 2021 with the offences concerned was given, since any conduct relating to the

⁶ European Court of Human Rights, *Bönisch v. Austria*, judgment of 6 May 1985, application No. 8658/79.

⁷ Report No. 27/18, document OEA/Ser.L/V/II.167, doc. 32, paras. 91 and 92.

⁸ See [CAT/C/CUB/CO/3](#).

demonstrations, such as simply displaying banners or accompanying the march, was classed as criminal.

c. Category V

47. The deprivation of liberty of the 17 persons constitutes a violation of international law in that it is an act of discrimination on the basis of opinion, disregarding the principle of equality of human beings with regard to thought, expression, assembly and demonstration.

(b) Response from the Government

48. The Working Group, in accordance with its methods of work, transmitted the source's allegations to the Government on 24 November 2023, requesting it to provide detailed information on the situation of the 17 persons by 23 January 2024 and to clarify the legal and factual grounds justifying their detention, as well as the compatibility of these grounds with the international human rights obligations of Cuba. On 17 January 2024, the Government requested an extension of the deadline and was given until 22 February 2024 to reply.

49. The Government sent its response on 26 February 2024, after the previously established deadline. The Working Group therefore cannot treat the Government's reply as if it had been submitted before the deadline.

2. Discussion

50. The Working Group regrets that it did not receive a timely response from the Government to the communication. In the absence of a timely response from the Government, and on the basis of all the information that the Working Group has received, the Working Group has decided to render the present opinion in conformity with paragraph 16 of its methods of work.

51. In determining whether the deprivation of liberty of the 17 persons is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a *prima facie* case for breach of international human rights law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.⁹ Mere assertions that lawful procedures have been followed are not sufficient to rebut the source's allegations.

(a) Category I

Lack of arrest warrant

52. The source states that none of the 17 persons was presented with an arrest warrant – in the sense of a written order setting out the reason for restricting his or her liberty – either at the time of arrest or at any other point in the proceedings. The source adds that no judge was even informed of the 17 arrests. In its late response, the Government claims that, in each of the 17 cases, records of arrest were issued and signed by the individuals in question.

53. The Working Group notes that none of the arrested persons was arrested while participating in the protests of 11 and 12 July 2021. Most of them were arrested several days later, in different locations. According to the source, two of the arrested persons were arrested on 12 July. The first of them, Mr. Almirall, was arrested while buying cigarettes. The second, Mr. Michelena Valdés, was arrested a few days later, according to the Government. In neither case does the Government explain why an arrest warrant was not obtained prior to the arrest. In addition, the Working Group notes that the Government has not submitted detailed information on the detention orders issued against the 17 persons. The Working Group recalls that there is a difference between a detention order and a record of detention, and that a detention order requires the approval of a judicial authority, as stipulated in principle 4 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Likewise, principle 11 (2) establishes that “a detained person and his counsel,

⁹ [A/HRC/19/57](#), para. 68.

if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor”.

54. The Working Group has already stated that it is not sufficient that there is a law that may authorize the arrest; the authorities must invoke that legal basis and apply it to the circumstances of the case, normally through an arrest warrant.¹⁰ The source states that two of the individuals – Mr. Almirall and Mr. Michelena Valdés – were arrested on 12 July 2021, which was close in time to the protests. In its late response, the Government does not state that these persons were arrested in flagrante delicto, but that they were arrested on 15 and 16 July, respectively. On the basis of this information, the Working Group does not consider that sufficient explanation has been given as to why arrest warrants were not shown to the 17 persons at the time of their arrests. This violates article 9 of the Universal Declaration of Human Rights.

Judicial oversight

55. The source states that there was no judicial oversight of the initial arrest in any of the 17 cases. In its late response, the Government does not address this argument directly.

56. Principle 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that any “person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest.” International human rights standards specify that the maximum time limit for bringing a detained person before the competent authority is 48 hours and make clear that any delay must be absolutely exceptional and justified.¹¹

57. The Government does not provide sufficient information to show that any of the detained persons were brought before a judge to challenge their detention within 48 hours of their initial deprivation of liberty. Although the persons in question were eventually brought before the courts, this took place well after the 48-hour deadline for challenging the grounds for the arrest. On the basis of the information received, the Working Group considers that the detention of the 17 persons was not subject to judicial oversight, in violation of article 9 of the Universal Declaration of Human Rights.

The role of “investigators”

58. The source states that personnel who are not part of the judiciary – the police officers known as “investigators” and the prosecutor – carried out judicial functions. The source states that the Criminal Procedure Act in force at the time empowered investigators to subject arrested persons to a precautionary measure of partial deprivation of liberty lasting 24 hours and that, after this period of police custody, the investigating officer had an additional 72 hours in which to keep the person in custody and make a decision. The source adds that the prosecutor then had an additional 72 hours in which to make a decision. According to the source, in none of the cases was any judge part of the process or even informed of the detentions carried out by the police, the investigating police officer and the public prosecutor’s office during these 168 hours, or seven days in total. The judge did not become involved until the case had been referred to the court at the end of the preliminary phase. The Government did not refute these claims in its response but merely pointed out that the prosecutor’s power to impose provisional measures is established by law.

59. The Working Group recalls that, even if a detention is in conformity with national law, regulations and practice, this does not automatically mean that it is also compatible with international law. Principle 9 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that the authorities which arrest a person may exercise only the powers granted to them under the law and that, most relevantly for these 17 cases, the exercise of these powers must be subject to recourse to a judicial or other authority.¹² The Working Group also recalls principle 4, which states that “any form of

¹⁰ Opinions No. 10/2018, para. 45; and No. 46/2019, para. 51.

¹¹ Opinions No. 20/2019, para. 66; and No. 26/2019, para. 89.

¹² Human Rights Committee, general comment No. 35 (2014), para. 32. See also opinion No. 45/2019, para. 52.

detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.” The Working Group considers that a prosecuting body cannot be considered a judicial authority for the purposes of proceedings of this type.

60. The Working Group considers that, in these 17 cases, the investigating police officers and the prosecutor took on the role of judges or judicial officers. In order to be considered as having a legal basis, the legality of a detention must be overseen by a judge and not a prosecution or security body. The above constitutes a violation of article 9 of the Universal Declaration of Human Rights.

Pretrial detention

61. The source notes that, in every case except that of Mr. Almirall, who was sentenced to house arrest, the investigating police officers and the prosecutor ordered pretrial detention for the arrested persons. In its late response, the Government states that, in the case of Mr. Almirall, the precautionary measure of pretrial detention applied by the prosecutor was replaced with that of house arrest pending criminal proceedings. The Working Group notes that, aside from in this case, the Government provides no explanation or justification of the legal basis for placing the other 16 persons in pretrial detention.

62. Pretrial deprivation of liberty, as a precautionary and non-punitive measure, must also comply with the principles of legality, necessity and proportionality to the extent strictly necessary in a democratic society. It may be imposed only within the limits strictly necessary to ensure that the efficient undertaking of investigations is not impeded nor the action of justice evaded, and provided that the competent authority substantiates and confirms the fulfilment of the aforementioned requirements. Owing to the particularly restrictive nature of pretrial detention, use of this measure should be the exception, rather than the rule. The exceptional nature of pretrial detention is a consequence of the presumption of innocence, according to which, in principle, all persons subject to trial must be tried at liberty. In the interests of justice, liberty should be recognized as a general principle or rule, and pretrial detention as an exception.¹³ Despite the Government’s assertions that the 17 individuals were involved in allegedly violent protests, it has not provided sufficient information to demonstrate the need for pretrial detention in these circumstances.

63. The Working Group considers that the detention of the 17 individuals has been carried out without the guarantees set forth in article 9 of the Universal Declaration of Human Rights, and that their detention is therefore arbitrary and falls within category I.

64. The Working Group also notes that pretrial detention was ordered by prosecutors and not by judges. There is no indication that the detained persons could have appealed against this decision before a judge. This also constitutes a violation of their right, under article 9 of the Universal Declaration of Human Rights, not to be subjected to pretrial detention in the absence of an individualized judicial assessment.¹⁴

(b) Category II

65. The source notes that the 17 persons concerned in the present case have been arbitrarily detained for reasons relating to their exercise of the rights protected under articles 18–20 of the Universal Declaration of Human Rights relating to the freedoms of thought, conscience, opinion, expression, assembly and association. It further states that the Government’s reaction to the demonstrators was excessive in that it deployed persons to use violence, in coordination with the Department of State Security and the police forces of the Ministry of the Interior and the Communist Party of Cuba. It also claims that none of the pro-government individuals or the thousands of armed plain-clothes military personnel have been prosecuted in connection with the acts of violence carried out against the demonstrators. In its late response, the Government denies this allegation, arguing that the 17 individuals were detained for their violent conduct during the protests.

¹³ Opinion No. 37/2022, para. 60.

¹⁴ Opinions No. 14/2020; and No. 63/2021, paras. 91–93.

66. The Working Group notes the source's arguments relating to the judgment of the court of first instance, which is a copy of the prosecutor's statement. It also considers that the Government has not provided detailed and substantiated information demonstrating that the arrested persons were responsible for acts of violence, or incitement to violence, of sufficient gravity as to have been considered to have exceeded the limits of freedom of expression. Therefore, the actions in question constitute an exercise of freedom of expression and assembly guaranteed by articles 19 and 20 of the Universal Declaration of Human Rights, and do not appear to meet the threshold for legitimate limitation set out in article 29 (2) of the Universal Declaration of Human Rights.

67. Despite the Government's claims of alleged "violence" and "extreme violence", the allegations that it makes do not relate to the conduct of individuals but to violence in a broad sense and in plural terms. The Government's late response does not provide sufficient information on each individual case and the allegedly violent acts related to it. Therefore, the use of deprivation of liberty as a response does not conform to the principles of legality, necessity and proportionality.

68. Contrary to what the Government's late response appears to imply, holding a demonstration is not in itself a criminal act but the exercise of a human right enshrined in article 20 of the Universal Declaration of Human Rights. In considering the context of the demonstration of 11 July 2021, the Working Group maintains that the officials acted contrary to their obligations to facilitate the right to freedom of peaceful assembly. This particularly applies to the incendiary comments and orders to fight issued by the President of Cuba on television and, following these comments, the allegedly violent repression of the demonstrations by the security forces.

69. The Working Group recalls that, in accordance with international human rights law and related standards, even offensive expressions are protected by the right to freedom of expression, as set out in article 19 of the Universal Declaration of Human Rights. The phrases uttered by the demonstrators during the demonstration of 11 July 2021 do not meet the threshold for legitimate limitation established in article 29 (2) of the Universal Declaration of Human Rights.

70. The Working Group maintains that the detention of the 17 persons was arbitrary under category II, as the rights to freedom of expression and peaceful assembly enshrined in articles 19 and 20 of the Universal Declaration of Human Rights were violated.

71. The Working Group adds that the imposition of lengthy prison sentences can have a chilling effect on the exercise of other human rights, including the right to freedom of expression, and requests the Government to avoid unduly infringing on the rights of its citizens in this way.¹⁵

72. The source states that all the individuals referred to in the present communication have been charged with the offence of sedition under article 100 of the Criminal Code in force prior to 1 December 2022, which is punishable by a sentence of up to 30 years' imprisonment or even the death penalty. The arbitrariness and ambiguity of this definition, as applied to protesters, is such that any action may be considered punishable. In its late response, the Government argues that the decision to apply the offence of sedition provided for harsh penalties but is commensurate with the level of violence in the conduct of the detained persons, which caused injuries and endangered lives. However, the Government mentions acts of violence only in a broad sense and in plural terms.

73. The Working Group considers the offence of sedition in Cuba to be a subjective and loosely defined criminal offence.¹⁶ Like the Committee against Torture, the Working Group requests the Government of Cuba to consider amending the provisions of the Criminal Code with a view to ending detention on the basis of subjective, vague and imprecise criminal concepts such as posing a danger to society without having committed a criminal act and sedition.¹⁷

¹⁵ See opinion No. 82/2022.

¹⁶ Report No. 27/18, document OEA/Ser.L/V/II.167, doc. 32, paras. 91 and 92.

¹⁷ CAT/C/CUB/CO/3, paras. 26 and 27.

(c) Category III

74. Given its finding that the detention of the 17 persons was arbitrary under category II, the Working Group wishes to emphasize that no trial should have taken place. However, in the light of the source's allegations, the Working Group will proceed to analyse whether, in the course of the judicial proceedings, the fundamental components of a fair, independent and impartial trial have been respected. The right to a fair trial was established in the Universal Declaration of Human Rights as one of the fundamental pillars of international law to protect individuals against arbitrary treatment.

Incommunicado detention

75. The source states that the 17 detained persons were held incommunicado for several days or even weeks, for periods ranging from 2 to 60 days, while they were in pretrial detention without judicial protection. During this period, the detained persons were held in a punishment and isolation cell in "100 y Aldabó" Prison or in Combinado del Este Prison, both of which are in Havana. They had no verbal or physical contact with their family members. During this period, charges were brought and precautionary measures of pretrial detention were ordered with no judicial protection.

76. The Government claims that this information is incorrect and even gives different dates for the arrests in 6 of the 17 cases. The Working Group is concerned about this discrepancy between the dates given by the source and those given by the Government, especially as the Government does not provide sufficient information in support of the chronology of the events that it mentions.

77. Even if the dates of detention given by the Government were accepted as valid, there would still be periods of several days during which the detained persons were unable to contact the outside world. The Working Group recalls that incommunicado detention violates the right to challenge the lawfulness of detention before a court, as provided for in articles 8 and 9 of the Universal Declaration of Human Rights¹⁸ and principle 15 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

78. With regard to Mr. Serrano Hernández, however, the Government provided detailed information indicating that he was visited the day after his arrest by his brother and his lawyer. In its subsequent comments, the source refutes the claim that Mr. Serrano Hernández's brother visited him but does not address the claim regarding the lawyer. On this basis, the Working Group cannot determine whether Mr. Serrano Hernández was subjected to incommunicado detention.

Questioning without respect for safeguards

79. According to the source, the questioning of the 17 detained persons by the police took place without the presence of legal counsel. The Government has limited itself to refuting this claim by stating that they were assisted by lawyers for their defence in accordance with the law, without referring to the dates of the rounds of questioning or the circumstances in which they took place.

80. The source also claims that, during the questioning of the 17 detained persons, at least two were subjected to torture and degrading and inhuman treatment. In the case of Mr. Almirall, the Government claims that the source falsified the dates and that he was granted house arrest on 3 September 2021. While the Working Group acknowledges that the information provided by the source about Mr. Almirall's house arrest matches that provided by the Government, it is important to note that the decision in question was not taken until 4 September 2021, according to the source, or one day earlier, according to the Government. Mr. Almirall therefore spent more than one and a half months in detention and the violation of his guarantees to have legal representation during questioning and not to be subjected to torture or degrading and inhuman treatment could have occurred prior to his house arrest.

81. In the case of Mr. Ojeda Álvarez, the source reports that he was subjected to physical, verbal and psychological violence during questioning and was even beaten by the guards

¹⁸ Opinion No. 41/2021, para. 107.

when he denied false allegations during the hearings that formed part of the criminal proceedings.

82. The Working Group recognizes that the 17 detained persons were questioned under duress without legal representation and held in incommunicado detention as part of the criminal proceedings against them, which had a negative impact on the prosecution process and restricted their ability to assert their rights.

83. In view of the above, the Working Group finds that the Government violated article 10 of the Universal Declaration of Human Rights and principles 6 and 11 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Presumption of innocence

84. According to the source, the judgment issued by the court describes the 17 detained persons in defamatory terms that violate their privacy and the presumption of innocence. On several occasions, criminal attitudes are attributed to persons who subsequently, in the same court judgment, are recognized as having no criminal record, which violates the privacy and presumption of innocence of the detained persons. The Government makes no reference to this allegation in its late response.

85. The Working Group recognizes the importance of respect for the presumption of innocence¹⁹ and takes note of the source's allegation that the main findings in the judgment against the detained persons were copied from the prosecutor's indictment. The source also mentions the cases of Mr. Serrano Hernández, Mr. Sayu Silva and Mr. Cairo Díaz, who were in pretrial detention and were held with inmates serving custodial sentences. In these cases, the physical safety of these three persons was in imminent danger and Mr. Serrano Hernández and Mr. Sayu Silva were beaten by a number of inmates.

86. The Government's response did not provide any clarification concerning this claim. The Working Group recognizes that the decision to hold persons in prison together with prisoners serving custodial sentences contravenes principles 6 and 36 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. This fact serves to compound the violation of the right to the presumption of innocence.²⁰

87. The source refers to the cases of Mr. Almirall and Mr. Michelena Valdés, who were held in pretrial detention and subjected to aggression and violence while in detention. In the case of Mr. Michelena Valdés, the brutality was such that he sustained a head injury during his arrest, for which he was taken to hospital. These facts aggravate the violation of principles 6 and 36 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In its response, the Government limited itself to mentioning that the dates of detention given in both cases are incorrect and that both periods of detention took place after the dates mentioned by the source. It did not refer to the claim that violence was used during the arrest.

88. The Working Group finds that the Government violated the detained persons' right to the presumption of innocence recognized in article 11 of the Universal Declaration of Human Rights.

Legal assistance

89. The source states that none of the 17 persons had an expert, legal and independent defence throughout the criminal proceedings, except for the lawyers provided by the Government through the National Organization of Collective Law Firms, who report to the Ministry of Justice. In most cases, these lawyers did not prepare a proper defence but acted as supplementary prosecutors.

90. In its late response, the Government refutes the above and states that, in 16 of the 17 cases considered, the detained persons appointed their own counsel. A court-appointed lawyer was assigned to Mr. Almirall since, unlike the rest of the detained persons, he did not

¹⁹ Human Rights Committee, general comment No. 32 (2007), para. 30.

²⁰ Opinion No. 72/2023, para. 85.

propose one of his own choosing. It also rejects the claim that the National Organization of Collective Law Firms has a direct relationship with the Government, depends on the Ministry of Justice or receives funding from the State, although it does acknowledge that lawyers in Cuba need to be admitted by this organization.

91. The right to legal assistance is a fundamental safeguard of a fair trial.²¹ With regard to the evidence that the detained persons were represented by lawyers, the Working Group considers that it cannot make a definitive statement on the violation of guarantees owing to the lack of detailed information on how the irregularities in the Cuban legal profession affected each of the 17 cases considered. However, the Working Group reiterates its concerns about the independence of the National Organization of Collective Law Firms and urges the Government to guarantee this independence.²²

Equality of arms

92. The source claims that all the prosecution witnesses in the trial were prominent members of the Government and the ruling party, although they presented themselves as citizens. The only expert witness in the case was a captain of the State security forces. No independent experts were allowed. In its response, the Government provides no clear justification for the lack of independent experts or the limited range of prosecution and defence witnesses.

93. In the opinion of the Working Group, the defence did not have access to the evidence, which contravenes the right of accused persons to defend themselves and to receive effective legal assistance, in violation of article 10 of the Universal Declaration of Human Rights.

94. In the light of the above, the Working Group concludes that the non-observance of the international norms relating to the right to a fair and impartial trial, established in articles 8–11 of the Universal Declaration of Human Rights, is of such gravity as to give the detention of the 17 persons an arbitrary character under category III.

(d) Category V

95. With regard to category V, the source claims that the deprivation of liberty of the 17 detained persons constitutes a violation of international law in that it is an act of discrimination on the basis of opinion, disregarding the principle of equality of human beings with regard to thought, expression, assembly and demonstration.

96. The Government denies that any of the detentions in the 17 cases were carried out because of the detained persons' political opinions or because they were exercising the rights of assembly and demonstration. The Government argues that the detentions were carried out because the detained persons participated in the "violent" demonstrations that took place on 11 July 2021.

97. The Working Group is persuaded that the detentions of the persons involved in the 17 cases were based on discriminatory grounds because of their political opinions. The Working Group notes that the charges brought by the prosecution refer explicitly to detained persons who carried counter-revolutionary posters at the anti-government demonstration. Moreover, the demonstration was fuelled by discontent towards the Government and therefore, in the Working Group's view, the 17 individuals were arrested, charged and imprisoned specifically because of their alleged political affiliations. In the light of the above, the Working Group finds that the detentions of the 17 persons were arbitrary under category V, in violation of articles 2 and 7 of the Universal Declaration of Human Rights.

²¹ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, principle 1; opinion No. 63/2019, para. 103; and the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principle 9.

²² See [CAT/C/CUB/CO/3](#).

(e) Concluding remarks

98. According to the source, Mr. Aguilar Rivera has a mental disability, certified by the State in numerous documents, and his state of health has deteriorated significantly since he was detained. This is because Mr. Aguilar Rivera was prosecuted, tried and convicted as a person without a disability. In its late response, the Government claims that Mr. Aguilar Rivera has been in good health and receives regular medical follow-up for his dissocial personality disorder. The Working Group recalls the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and article 13 (1) of the Convention on the Rights of Persons with Disabilities, ratified by Cuba in 2007.

99. The Working Group wishes to stress that this is not the first case of arbitrary deprivation of liberty in Cuba that it has examined in recent years. The conclusions reached by the Working Group in its opinions on Cuba show that arbitrary detention is used systematically.²³ The Working Group would welcome the opportunity to undertake a visit to Cuba in order to assist the Government in addressing concerns related to arbitrary detention. As a member of the Human Rights Council, Cuba is in a unique position to demonstrate its commitment to human rights by inviting the Working Group to undertake a visit.

3. Disposition

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

The deprivation of liberty of Ángel Serrano Hernández, Carlos Paul Michelena Valdés, Denis Ojeda Álvarez, Felipe Almirall, Fredy Beirut Matos, Katia Beirut Rodríguez, Luis Frómeta Compte, Odet Hernández Cruzata, Oscar Luis Ortiz Arrovmeth, Reynier Reinoso Cabrera, Robert Orlando Cairo Díaz, Roberto Pérez Ortega, Rolando Vázquez Fleita, Walnier Luis Aguilar Rivera, Wilmer Moreno Suárez, Yerandis Rillos Pao and Yoandry Reinier Sayu Silva, being in contravention of articles 2, 3, 7–11, 19 and 20 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, II, III and V.

101. The Working Group requests the Government of Cuba to take the steps necessary to remedy the situation of the 17 persons without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights.

102. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release the 17 persons immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.

103. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of the 17 persons and to take appropriate measures against those responsible for the violation of their rights.

104. The Working Group requests the Government to bring its laws, in particular the provisions relating to the offence of sedition in the Criminal Code, into conformity with international human rights standards.

105. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

4. Follow-up procedure

106. 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:

²³ Opinions No. 23/2012, No. 69/2012, No. 17/2013, No. 9/2014, No. 12/2017, No. 55/2017, No. 64/2017, No. 48/2018, No. 59/2018, No. 66/2018, No. 63/2019, No. 4/2020, No. 50/2020, No. 65/2020, No. 13/2021, No. 41/2021, No. 63/2021, No. 37/2022 and No. 52/2022.

- (a) Whether the 17 persons have been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to the 17 persons;
- (c) Whether an investigation has been conducted into the violation of the 17 persons' 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 Cuba with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

107. 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.

108. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of 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 of any failure to take action.

109. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has 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 20 March 2024]

²⁴ Human Rights Council resolution 51/8, paras. 6 and 9.