



# General Assembly

Distr.: General  
21 May 2024  
English  
Original: Spanish

---

## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its ninety-ninth session, 18–27 March 2024

#### Opinion No. 15/2024 concerning Oreste Alfredo Schiavo Lavieri (Bolivarian Republic of Venezuela)\*

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,<sup>1</sup> on 6 November 2023 the Working Group transmitted to the Government of the Bolivarian Republic of Venezuela a communication concerning Oreste Alfredo Schiavo Lavieri. The Government replied to the communication on 5 February 2024. The State is 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,

---

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

<sup>1</sup> [A/HRC/36/38](#).



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**

4. Oreste Alfredo Schiavo Lavieri, born on 11 August 1957, is a national of Italy and the Bolivarian Republic of Venezuela. He is an economist and business owner.

5. Mr. Schiavo Lavieri was arrested along with a family member on 8 June 2020 in the Puerto Escondido residential complex in Guarira by members of the Bolivarian National Intelligence Service.

6. At the time of the arrest, no arrest warrant had been issued; consequently, the two individuals were not shown the corresponding warrant. The officers of the Bolivarian National Intelligence Service said that they were conducting an investigation into a general and asked Mr. Schiavo Lavieri and his family member if they knew him and then proceeded to arrest them. The officers who carried out the arrest did not identify themselves at the time as State officials nor did they inform Mr. Schiavo Lavieri and his family member of the reasons for which they were being deprived of their liberty; they simply told them that they had to follow them.

7. Subsequently, it emerged that the general was being linked to Operation Gideon, in which a group of Venezuelan military dissidents in exile allegedly planned to overthrow the Government of the Bolivarian Republic of Venezuela.

8. After the arrest, they were kept in isolation for several days; they were not allowed to communicate with their relatives or lawyers and their relatives and lawyers were not informed of their place of detention. Mr. Schiavo Lavieri's family member was released on 12 June 2020.

9. Mr. Schiavo Lavieri and his family member were victims of enforced disappearance, as they were kept in isolation for five days, during which they were not allowed to make any calls to inform their families of their whereabouts, were not allowed legal assistance, were threatened and forced to testify against themselves and sign documents in which they acknowledged that their human rights had been respected, and were threatened with death if they reported what had happened.

10. On 12 June 2020, the authority that carried out the arrest entered Mr. Schiavo Lavieri's home, in violation of the Constitution, and conducted an illegal search.

11. On 17 June 2020, Mr. Schiavo Lavieri was brought before the State Procedural Court of First Instance No. 4, which has national jurisdiction over cases involving terrorism-related offences, at the headquarters of the Bolivarian National Intelligence Service in El Helicoide. Mr. Schiavo Lavieri was not allowed to be assisted by a lawyer of his choice, and the day after the hearing, on 18 June, he was forced to turn informant, without being provided with the guarantees associated with the informant procedure.

12. The public defender who was assigned by the Government refused to meet with Mr. Schiavo Lavieri's relatives or to give them any information about the case. His family members did not have access to the case file.

13. On 24 October 2020, the preliminary hearing was held at the headquarters in El Helicoide, where the judge admitted the charges in full for the alleged offences of treason, financing of terrorism and criminal association. The source is of the view that those offences could not be listed in the indictment, since the evidence does not bear any relation to the structure of the offences with which he is charged.

14. It was not until 29 April 2021, at the opening of the public oral proceedings, that Mr. Schiavo Lavieri was allowed to appoint a lawyer of his choice. This means that throughout the preparatory phase he did not have a proper defence.

15. According to the source, Mr. Schiavo Lavieri is being tried by a court that is not autonomous and independent. The conduct of the trial has been plagued with irregularities

that will compromise the decision eventually adopted by the judge, not to mention that this court is used to persecute persons whose opinions run counter to those of the Government. Indeed, the bodies of the universal system for the protection of human rights have on several occasions urged the Bolivarian Republic of Venezuela to stop using the anti-terrorism court to persecute dissidents and those considered “enemies” of the State.

16. Once the arrest was made, the officers brought Mr. Schiavo Lavieri before a judicial authority after the constitutionally and legally established time limit of 48 hours, thus giving rise to an unconstitutional situation, which was not corrected at the time by the competent authority.

17. According to the source, the judge sitting at Procedural Court of First Instance No. 4, which has jurisdiction at the national level in cases relating to terrorist offences and is competent to try offences related to corruption and organized crime, approved the unlawful detention. Furthermore, Mr. Schiavo Lavieri was not allowed to appoint a lawyer of his choice, in violation of article 49 of the Constitution.

18. The source asserts that the offences with which Mr. Schiavo Lavieri is charged bear no relation to his alleged conduct. This undermines the principle of legality and *nullum crimen, nulla poena sine lege*, which is set out in article 1 of the Criminal Code, in line with article 49 of the Constitution and article 15 of the Covenant.

19. The source argues that Mr. Schiavo Lavieri’s right to the presumption of innocence was infringed from the day of his arrest, since he was treated as guilty and not guaranteed the right to due process.

20. The source alleges that Mr. Schiavo Lavieri’s detention can be regarded as arbitrary due to the unjustified prolongation of his pretrial detention, which has exceeded the time limit established in article 230 of the Code of Criminal Procedure, according to which in no circumstances may the duration of pretrial detention exceed the minimum sentence established for each offence or last longer than 2 years. Exceptionally, and when there are serious grounds to justify extending pretrial detention, when the time limit is about to expire, the judge may extend this period for up to one year, provided that it does not exceed the minimum penalty provided for the offence with which the individual is charged. If the individual has been charged with several offences, the minimum penalty for the most serious offence will be taken into account. This extension may also be requested when the time limit is about to expire because of undue delays attributable to the accused or defendant or his or her defence counsel. These circumstances must be justified by the prosecutor or the plaintiff.

21. In accordance with article 230 of the Code of Criminal Procedure, on 9 June 2022 Mr. Schiavo Lavieri’s defence counsel filed a request for the measure of pretrial detention to be revoked, which the judge denied without giving any grounds, thus violating the principle whereby State officials must justify their decisions.

22. Another factor in considering this a case of arbitrary detention is the court that is trying Mr. Schiavo Lavieri. The Constitution establishes a right to be tried by an impartial court, and that necessarily entails a guarantee that the trial will be heard by a judge duly appointed law.

23. The right to be heard by a judge duly appointed by law has been violated in the present case, since the courts in the case, Procedural Court of First Instance No. 4, which has jurisdiction at the national level in cases relating to terrorist offences and is competent to try offences related to corruption and organized crime, and Special Examining Court of First Instance No. 1, which has jurisdiction at the national level in cases relating to terrorist offences and is competent to try offences related to corruption and organized crime, are special courts that have not been established in compliance with constitutional parameters.

24. These courts were not established under an instrument having the status of a law, but rather by a decision of the Supreme Court of Justice, in violation of the constitutional principle that certain matters are reserved for the legislature, for the purpose of trying a series of offences that are often brought against troublesome, dissenting political figures for the group that holds political power in the Bolivarian Republic of Venezuela.

25. The source adds that article 255 of the Constitution establishes that judges shall be admitted to the judiciary and promoted by means of public competitive examinations that ensure the suitability and excellence of the participants. It also stipulates that they shall be selected by panels from circuit courts in the form and under the conditions laid down by law.

26. No competitive examinations have been organized in the Bolivarian Republic of Venezuela for years, and the Supreme Court of Justice has become accustomed to appointing temporary judges who may be removed from their positions at any time and who therefore find themselves in a highly unstable situation. Judges, even career judges, who hand down judgments that are not in the Government's interests are removed from their posts, as occurred in the case of the judges of the First Court of Administrative Disputes, which was referred to the Inter-American Court of Human Rights.<sup>2</sup>

27. In the present case, the court's sitting judge is a temporary official who was admitted to the judiciary without having passed the necessary competitive examination, which means there is no objective, serious way of knowing whether she meets the requirements of the post, to ensure her suitability as a judge. In addition, she is not secure enough in her position to be able to make fair decisions without feeling she is risking her job.

28. The source states that Mr. Schiavo Lavieri falls into two of the categories considered under international human rights law as groups in situation of vulnerability, since he is both a person deprived of liberty and older person, according to the United Nations Principles for Older Persons: To add life to the years that have been added to life, since he is 66 years old.

29. In Mr. Schiavo Lavieri's case, it is absolutely certain that he is a victim of irreparable harm, due to his advanced age and his vulnerability from a health perspective. In fact, from the date on which he was unjustly deprived of his liberty until the time the source sent the information, Mr. Schiavo Lavieri's state of health deteriorated and, as a result, gave rise to the situations described below, which put his life at risk.

30. In mid-August 2020, Mr. Schiavo Lavieri was in respiratory distress for which he was seen by a doctor of his choice, who, after the consultation, diagnosed him with pneumonia, for which he prescribed a treatment that was administered to him with difficulty. One year later, he continued to present respiratory symptoms and, in December 2021, had shown no signs of recovery; on the contrary, his health worsened as a result of the cold, humidity and unsanitary conditions of the place of detention. New skin lesions also appeared.

31. In late January 2022, there was an outbreak of the omicron variant of the coronavirus disease (COVID-19) in El Helicoide as a result of the absence of preventive measures. On 16 February, Mr. Schiavo Lavieri was rushed to the Tamanaco Institute of Clinics and Urology, where several specialists detected new pathologies.

32. In June and October 2022, he presented symptoms of respiratory failure. On 14 October 2022, he had a fall in the bathroom of his cell because he lost consciousness, which caused injuries to several parts of his body and the dislocation of his right ring finger, which was checked at the infirmary of the Bolivarian Service of National Intelligence. He was not prescribed any treatment, which means he continues to have recurrent swelling and pain in that finger. On 29 November 2022, as Mr. Schiavo Lavieri had oxygen saturation levels of 82 per cent and a severe obstruction that prevented him from breathing, he was transferred by ambulance to the Hospital de Clínicas in Caracas, where he was admitted to the intermediate care service to try to stabilize him. He was kept in hospital for five days before his discharge was ordered, even though he was not in a stable condition, and he was returned to the prison. He was prescribed continuous oxygen therapy (nocturnal) for whenever his saturation levels dropped below 88 per cent. When he was returned to the Bolivarian National Intelligence Service, his saturation rate was fluctuating between 84 and 86 per cent. In the detention centre, both at that time and at when the source sent the information, there was no oxygen equipment, so he was provided with an oxygen concentrator that he kept in his cell. In addition, at that time – early December 2022 – a request was made for specialist tests, which were essential for his complementary treatment,

<sup>2</sup> *Apitz Barbera et al. ("First Court of Administrative Disputes") v. Bolivarian Republic of Venezuela*, judgment of 5 August 2008.

and for respiratory rehabilitation. These tests were only performed in late January and early February 2023, and he has not yet been given access to rehabilitation.

33. In April 2023, as his symptoms persisted and kept him very weak, he underwent a COVID-19 test, which came back positive, but he was denied a medical transfer, despite the danger of this disease in a patient with pre-existing pathologies being well known and the fact that his oxygen saturation levels ranged between 83 and 85 per cent. A specialist in pulmonary diseases in Rome was consulted on his case and requested an urgent chest CT scan on 26 April 2023.

34. On 29 May 2023, as a new situation arose that compromised his health, Mr. Schiavo Lavieri was transferred to the Tamanaco Institute of Clinics and Urology, where he was attended by five specialists and underwent tests to check his state of health. These tests confirmed the suspected combination of pulmonary fibrosis, pulmonary emphysema and chronic obstructive pulmonary disease, as well as the presence of new pathologies. The chest CT scan also showed areas of scarring which, according to the attending physician, demonstrate that he has had COVID-19 on several occasions.

35. On 16 October 2023, Mr. Schiavo Lavieri suffered another relapse. On 21 October, he was examined by a pulmonologist who prescribed a chest CT scan, laboratory tests and a spirometry test, which was performed by the medical staff at the prison where he is deprived of his liberty.

36. The source argues that, if Mr. Schiavo Lavieri is not granted release on parole, his health will enter an unprecedented phase of imminent irreversible deterioration that would endanger his life.

37. According to the source, the detention centre where Mr. Schiavo Lavieri is being held is not in compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and, as a result, his health has become much worse. The centre is very damp and has poor ventilation, little sunlight, a lack of specialized medical care, poor hygiene conditions and unsuitable conditions for older persons.

38. Given Mr. Schiavo Lavieri's situation, his defence counsel had to file a request for review of the custodial measure on health grounds on 7 July 2021, which, like the rest of the requests, was denied without justification.

#### *Legal analysis*

39. According to the source, Mr. Schiavo Lavieri's detention is arbitrary and falls under categories I, III and V of the Working Group.

#### a. Category I

40. The source argues that there is no legal basis for Mr. Schiavo Lavieri's detention, which makes it arbitrary. According to the source, this claim is based on the criteria used in the jurisprudence of the Human Rights Committee.<sup>3</sup>

41. The detention is not in line with the criteria established by the Working Group, which has considered that in order to deprive an individual of liberty, one of the following criteria must be met: (a) an arrest warrant has been issued by a procedural criminal court, or (b) the individual has been caught committing a punishable act.<sup>4</sup>

42. In the present case, it is clear that the authority that made the arrest did not justify Mr. Schiavo Lavieri's deprivation of liberty on legal grounds.

43. According to the Working Group's jurisprudence,<sup>5</sup> Mr. Schiavo Lavieri's detention falls under category I, since he was not detained pursuant to a warrant issued by a competent authority or because he was caught committing a punishable act.

<sup>3</sup> *Mika Miha v. Equatorial Guinea* (CCPR/C/51/D/414/1990).

<sup>4</sup> Opinion No. 13/2019, para. 53.

<sup>5</sup> Opinion No. 16/2019.

44. The source is of the opinion that the detention occurred in violation of articles 3 and 9 of the Universal Declaration of Human Rights and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, as Mr. Schiavo Lavieri was not shown a court order or any other decision by a competent authority ordering the arrest.

45. The source adds that the detention is arbitrary under category I because Mr. Schiavo Lavieri was not informed of the reasons for his detention, which is contrary to the Working Group's jurisprudence.<sup>6</sup>

46. Mr. Schiavo Lavieri was a victim of enforced disappearance, since he was kept in solitary confinement and incommunicado detention for 12 days, without anyone knowing his whereabouts. Enforced disappearance, incommunicado detention and prolonged solitary confinement constitute forms of arbitrary detention according to the Working Group.<sup>7</sup> Furthermore, enforced disappearance constitutes an aggravated form of arbitrary detention, in violation of articles 6 and 9 of the Universal Declaration of Human Rights.

47. The source notes that the Working Group has considered that enforced disappearance violates the right to legal personality and, consequently, affects the human dignity of the victim. When individuals are hidden without their whereabouts being known, they run the risk of being the victims of irreparable harm, as it is presumed that they are being subjected to serious acts, including the practice of torture or other cruel, inhuman and degrading treatment, that undermine their dignity.

48. When a person is a victim of enforced disappearance, the State agents involved disregard his or her status as a person with legal personality, since he or she is denied the right to be tried within a reasonable time and in circumstances that guarantee the right to life. In addition to the right to legal personality being violated, the individual's right to life is violated as a result of prolonged solitary confinement.

49. In order to be legitimate, detention must meet criteria of reasonableness. For the detention to be legitimate, the unlawful acts a person is accused of having committed must actually fall under a legal provision that qualifies the acts as a crime. There must, therefore, be a logical connection between the accusation, the acts attributed to the suspect and the norms invoked.

50. In the present case, the acts that have been attributed to Mr. Schiavo Lavieri have not been proven, much less do they match the definition of a criminal offence, which is why the accusation is unlawful and lacks any legal basis to justify it.

b. Category III

51. The source alleges that, in Mr. Schiavo Lavieri's case, his right to be tried by an impartial and autonomous tribunal has been violated.

52. The judge hearing Mr. Schiavo Lavieri's case cannot guarantee impartiality or autonomy, due to the temporary nature of her position (see para. 27). Likewise, the mechanism that created the court examining the case cannot offer such guarantees either (see paras. 23 and 24).

53. The source alleges that the decision to impose pretrial detention on Mr. Schiavo Lavieri was not based on the procedural requirements set forth in article 236 of the Code of Criminal Procedure, which requires the judicial authority to order pretrial deprivation of liberty only if it proves that: (a) the punishable act that warrants deprivation of liberty is not time-barred; (b) there is due cause to believe that the accused was the perpetrator or accomplice in the commission of the punishable act, and (c) there is a reasonable presumption that there is a risk of flight or of obstruction of the truth in a specific investigation.

54. Custodial preventive measures in Venezuelan criminal law must be exceptional, which means that trying defendants while at liberty is the rule, rather than the exception,

<sup>6</sup> Opinion No. 52/2022, para. 62.

<sup>7</sup> Opinion No. 25/2021.

especially when the person being tried suffers from serious pathologies that require special care, as in the case of Mr. Schiavo Lavieri.

55. The source states that the Office of the United Nations High Commissioner for Human Rights (OHCHR) has urged the State authorities, in the context of the submission of its reports, to stop the widespread use of pretrial detention.

56. In the opinion of the source, the pretrial detention measure ordered against Mr. Schiavo Lavieri is contrary to the spirit of domestic legislation and, moreover, violates the principle of the presumption of innocence set forth in article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant, since pretrial detention presupposes the person's guilt rather than his or her innocence.

57. The source asserts that the decision to impose pretrial detention on Mr. Schiavo Lavieri was not reasoned or analysed from an individualized perspective. Consequently, the reasoning of the judicial authority was vague and abstract, which is why Mr. Schiavo Lavieri's defence counsel requested a review of the measure on the grounds of lack of substantiation and reasoning.

58. The source considers that the Working Group should take into account that Mr. Schiavo Lavieri is an older person over 60 years of age who requires special care that is not provided to him in the detention centre where he is being held. The source requests that, when deliberating on its opinion in this case, the Working Group take into account that, in its jurisprudence, it has urged States to reconsider the deprivation of liberty of persons over 60 years of age.

c. Category V

59. According to the source, Mr. Schiavo Lavieri is a businessman, which has made him a victim of discriminatory and inhumane treatment, since the Government promotes anti-business sentiment, as it considers the business classes to be "enemies of the State". In the opinion of the source, the Working Group should consider that Venezuelan business owners are part of a vulnerable group due to the policy of persecution and harassment being pursued by State institutions. That is why, in 2019, representatives of the International Labour Organization called on the Government of the Bolivarian Republic of Venezuela to cease all acts of violence, threats, persecution, stigmatization, intimidation or any other form of aggression against employers' and workers' organizations not aligned with the Government, due to the number of employers threatened by the Government.<sup>8</sup>

60. The source concludes that the arbitrary detention of Mr. Schiavo Lavieri falls under category V.

**(b) Response from the Government**

61. The Working Group, in accordance with its methods of work, transmitted the source's allegations to the Government of the Bolivarian Republic of Venezuela on 6 November 2023 and requested it to submit a response by 5 January 2024. The Government requested an extension of the time limit for its response, which was granted. The Working Group received the Government's response on 5 February 2024, within the established deadline.

62. In its reply, the Government points out that Mr. Schiavo Lavieri is currently deprived of his liberty by court order, in the context of criminal proceedings against him for his alleged involvement in the commission of serious crimes under Venezuelan law.

63. The criminal proceedings against Mr. Schiavo Lavieri are related to his alleged participation and collaboration in a subversive operation called "Gideon," whose aim was to assassinate the country's senior authorities, including the President, and to threaten the democratic institutionalism of the country. As part of this operation, a group of mercenaries, organized and trained in Colombia by a United States private security company, arrived with military supplies on the country's coastlines.

<sup>8</sup> See <https://news.un.org/es/story/2019/10/1463382>.

64. When intercepted by the police and military, the group made use of firearms, which led to a confrontation. As a result of this operation, two people were arrested and eight were killed. Various weapons of war and communications equipment, among other items, were seized at the scene.

65. In the vicinity of where the failed incursion took place, the security forces managed to locate two vehicles equipped with machine guns and hundreds of rounds of ammunition of different calibres.

66. Hours after the aforementioned events, in Chuao, in Aragua state, State security agencies apprehended a second group of people who were travelling on board a boat and attempting to enter the country illegally. Subsequently, other citizens linked to the failed incursion were arrested in various actions carried out by State security agencies.

67. Mr. Schiavo Lavieri's pretrial detention was requested by the Public Prosecution Service before the State Procedural Court of First Instance No. 4, which has national jurisdiction over cases involving terrorism-related offences.

68. In response to the Public Prosecution Service's request, on 8 June 2020, the Court issued arrest warrant No. 132–20 against Mr. Schiavo Lavieri, in accordance with the provisions of article 236 of the Code of Criminal Procedure.

69. On 8 June 2020, Mr. Schiavo Lavieri was arrested by uniformed and identified officers of the Bolivarian National Intelligence Service.

70. At the time of the arrest, the officers of the Bolivarian National Intelligence Service informed Mr. Schiavo Lavieri of the reasons for his arrest and of his rights, as is noted in the corresponding record, dated 8 June 2020, which bears Mr. Schiavo Lavieri's legible signature and fingerprints. In this regard, the Human Rights Committee has specified that oral notification of the reasons for arrest satisfies the requirement to inform the arrested person.<sup>9</sup>

71. According to the Government, the arrest was carried out on grounds established by law and in accordance with legal procedure, as required under article 9 (1) of the Covenant.

72. The procedures in the present case were carried out by the Bolivarian National Intelligence Service, acting as a criminal investigation body, in accordance with article 113 of the Code of Criminal Procedure.

73. On 17 June 2020, Mr. Schiavo Lavieri was brought before the State Procedural Court of First Instance No. 4, which has national jurisdiction over cases involving terrorism-related offences, for the oral hearing to present the accused, as provided for in article 236 of the Code of Criminal Procedure.

74. In the present case, the postponement of the hearing for the presentation of the accused was due to the COVID-19 pandemic, which caused delays in all judicial activities nationwide.

75. Before the hearing began, Mr. Schiavo Lavieri stated that he did not have a private lawyer to represent him, so the Court proceeded to swear in a public defender to assist him, in full respect for due process and the right to defence.

76. In the aforementioned judicial procedure, both Mr. Schiavo Lavieri and his defence counsel had the opportunity to make all points they considered pertinent to strengthen his defence.

77. In the course of the aforementioned hearing, neither Mr. Schiavo Lavieri nor his defence counsel reported the alleged human rights violations, enforced disappearance, denial of communication with family members and lawyers, or alleged search of his home. These allegations were reported for the first time to the Working Group. This fact must be taken into account by the Working Group when examining the credibility of the source's allegations.

78. The State Procedural Court of First Instance No. 4 provisionally confirmed the preliminary charges brought against Mr. Schiavo Lavieri by the Public Prosecution Service

<sup>9</sup> General comment No. 35 (2014), para. 26.



of treason, rebellion, conspiracy with a foreign Government, illicit trafficking of war weapons, financing of terrorism and criminal association.

79. The Court agreed to follow the ordinary procedure and to keep Mr. Schiavo Lavieri in pretrial detention, designating the headquarters of the Bolivarian National Intelligence Service, located in El Helicoide, Caracas, as the place of his detention. It also ordered that he undergo a medical evaluation, thus guaranteeing his human right to health.

80. At the time of his arrest, Mr. Schiavo Lavieri was informed in a timely manner, within the legally established time limit, of the charges against him, as required by article 9 (2) of the Covenant.

81. Before approving the pretrial detention, State Procedural Court of First Instance No. 4, which has national jurisdiction over cases involving terrorism-related offences, made a detailed assessment of whether the requirements for its imposition were met, namely: (a) a punishable act warranting deprivation of liberty; (b) well-founded elements of proof that the accused has participated in the commission of the punishable act, and (c) a reasonable presumption, on evaluation of the particular circumstances of the case, that there is a risk of flight or of obstruction of the truth in a specific investigation.

82. The decision to impose pretrial detention is compatible with article 9 (3) of the Covenant, according to which pretrial detention may be ordered to ensure the appearance of the accused for trial or at any other stage of the judicial proceedings.

83. The case file shows the various procedural steps taken by Mr. Schiavo Lavieri's public defender, including requests for medical assistance and hospital transfers, which were approved by the Court.

84. On 14 October 2020, Mr. Schiavo Lavieri's preliminary hearing was held before the State Procedural Court of First Instance No. 4, which has national jurisdiction over cases involving terrorism-related offences, pursuant to article 309 of the Code of Criminal Procedure.

85. At the preliminary hearing, Mr. Schiavo Lavieri again had the opportunity to address the Court and to raise any matters he considered relevant to his defence. However, he decided not to testify.

86. At the preliminary hearing, the Court admitted the indictment filed by the Public Prosecution Service against Mr. Schiavo Lavieri in full. Likewise, all the evidence offered by the Public Prosecution Service was admitted, the measure of pretrial detention was maintained and an oral, public trial was ordered.

87. On April 2021, Mr. Schiavo Lavieri's oral, public trial began before Special Examining Court of First Instance No. 1, which has jurisdiction at the national level in cases relating to terrorist offences and is competent to try offences related to corruption and organized crime.

88. The postponement of the hearing for the opening of the oral, public trial was due to multiple factors, including the COVID-19 pandemic, which delayed all judicial activities, and the number of people involved in the case.

89. At present, Mr. Schiavo Lavieri is being held, by court order, at the Centre for Remand and Convicted Prisoners of the Metropolitan Area of Caracas (maximum security I), located in the city of Caracas.

90. At all times, Mr. Schiavo Lavieri's conditions of detention have been compatible with the Constitution and applicable national and international standards, including the Nelson Mandela Rules. The facilities where Mr. Schiavo Lavieri has been detained have been visited by OHCHR staff, who were able to verify that the human rights of persons deprived of their liberty in these establishments are respected.

91. During his time in detention, Mr. Schiavo Lavieri has been given the complete COVID-19 vaccination schedule, as have all persons deprived of liberty nationwide, thus guaranteeing his right to health.

92. Mr. Schiavo Lavieri's detention cannot be considered arbitrary under category I since it was carried out based on the provisions of domestic legislation, as well as the Universal Declaration of Human Rights, the Covenant and other applicable instruments signed and ratified by the Bolivarian Republic of Venezuela.

93. Mr. Schiavo Lavieri's detention cannot be considered arbitrary under category III, since every stage of the criminal proceedings was conducted in strict compliance with the guarantees of due process and the rights to defence, fair trial and impartiality set forth in articles 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant.

94. Mr. Schiavo Lavieri has had legal representation. At the time when he said that he did not have a private lawyer to defend him, he was represented by a public defender.

95. Mr. Schiavo Lavieri has had the opportunity to be heard on several occasions and with due process safeguards by competent, independent and impartial tribunals established by law. The courts with jurisdiction over terrorism-related cases that have heard the case against him are criminal courts, established in accordance with the Code of Criminal Procedure.

96. In 2004, the Supreme Court of Justice – the highest court in the country – adopted decision No. 2004–0217 of 22 November 2004, pursuant to which it was decided that terrorism-related cases would be heard only by specific procedural courts in order to increase the level of specialization.

97. Accordingly, the present case meets the fundamental requirement set forth in article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant, which establish that for proceedings to be considered fair, the tribunal rendering the judgment in a given case must have been established by law and must be competent, independent and impartial.

98. The Government adds that the officers of the Bolivarian National Intelligence Service who arrested Mr. Schiavo Lavieri were properly uniformed and identified. Likewise, during his detention, the competent authorities have respected and guaranteed his right to personal integrity.

99. From the time of his arrest until the date of the Government's comments, Mr. Schiavo Lavieri has been in full contact with his defence lawyers, who have been able to represent him throughout the proceedings. On the day of his arrest, 8 June 2020, he was informed of his rights and guarantees, in accordance with article 49 of the Constitution and article 127 of the Code of Criminal Procedure. In addition, the right to the presumption of innocence has been respected during the criminal proceedings.

100. Mr. Schiavo Lavieri's detention does not constitute a violation of international human rights law on the grounds of discrimination based on social status because he is a member of the country's business class, as it was imposed for the alleged commission of crimes provided for and punishable under Venezuelan law, without prejudice to the particular circumstances of the arrested person and to the provisions of articles 1 and 7 of the Universal Declaration of Human Rights and articles 2 and 26 of the Covenant. Accordingly, the detention cannot be considered arbitrary under category V of the Working Group.

**(c) Additional comments from the source**

101. The Working Group transmitted the Government's response to the source on 8 February 2024 and requested any final comments and observations, which were received on 24 February 2024.

102. In reference to the Government's argument concerning the officers of the Bolivarian National Intelligence Service who informed Mr. Schiavo Lavieri of the reasons for his arrest and detention, the source claims that this is untrue, since, at the time of the arrest, Mr. Schiavo Lavieri was unaware of the reasons for his arrest and subsequent detention, and adds that, given the lack of clarity of the indictment, he was unable to understand the reasons for his detention, which constitutes a violation of the right to defence.

103. The source, referring to the Government's assertion that the police and investigation procedures were carried out by officers of the Bolivarian National Intelligence Service,

maintains that this is not an independent and impartial organization, since it is functionally dependent on the national executive branch, which impinges on the required impartiality of the investigation.

104. The source reiterates that Mr. Schiavo Lavieri's right to the presumption of innocence was violated since he was treated as guilty without being guaranteed the right to due process to which every citizen is entitled. This constitutional violation was confirmed when the Vice-President of the Republic (President of the National Assembly and Vice-President of the government party) prejudged Mr. Schiavo Lavieri's guilt, and that of his co-defendants, during a press conference.<sup>10</sup>

105. The source urges the Working Group to take into consideration the fact that the court trying Mr. Schiavo Lavieri was not created in accordance with constitutional procedure, which in itself is a sign that the detention is arbitrary. This is in violation of articles 49 (4) and 255 of the Constitution and the right to be heard by a duly appointed judge.

106. The source maintains that there was no exceptional situation that would justify extending the 48-hour time limit allowed under international human rights law to bring the arrested person before a judge.

107. Furthermore, the source argues that the Government's reasoning that the COVID-19 pandemic justifies the delay in the court appearance is not valid since, on the date of the hearing, the Supreme Court had arranged virtual hearings so as to avoid unwarranted delays.

108. The source claims that the Government did not allow the detainee to appoint a lawyer of his own choosing until the oral, public hearing. Therefore, his right to defence was violated during the indictment hearing and the preliminary hearing, both of which were held during the procedural phase, at which he was assisted by a court-appointed public defender.

109. Mr. Schiavo Lavieri did not report the acts of torture during the procedural phase because he had not been allowed access to a lawyer he trusted. In addition, he was threatened by officers of the Bolivarian National Intelligence Service, who told him that if he reported the irregularities, they would harm him and his family. It was not until the oral, public trial phase – when Mr. Schiavo Lavieri had a lawyer of his own choosing – that he formally announced that he had been a victim of enforced disappearance and psychological torture.

110. The source recalls that victims and their lawyers can dispense with filing a formal complaint of torture; it is sufficient for the victim to report the facts to a State authority for an investigation to be initiated.

111. Because the detainee is over 60 years old, the source requests the Working Group to take his age into account in the issuance of its opinion, as he requires special care that is not provided in the detention centre where he is being held.

## **2. Discussion**

112. The Working Group thanks the source and the Government for their submissions.

113. In determining whether Mr. Schiavo Lavieri's detention 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 law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.<sup>11</sup>

114. The source argues that Mr. Schiavo Lavieri's detention is arbitrary and falls under categories I, III and V of the Working Group. The Working Group shall proceed to examine the submissions under each of the categories.

### **(a) Category I**

115. A detention is arbitrary and falls under category I if it has no legal basis. International law on the right to liberty of person includes the right to be presented with an arrest warrant

<sup>10</sup> The source submits the following link: <https://www.youtube.com/watch?v=MzBxSuRHmwk>.

<sup>11</sup> A/HRC/19/57, para. 68.

to ensure the exercise of effective control by a competent, independent and impartial judicial authority, which is procedurally inherent in the right to liberty and security and the prohibition of arbitrary deprivation under articles 3 and 9 of the Universal Declaration of Human Rights and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Therefore, in the present case, the Working Group should examine the circumstances of Mr. Schiavo Lavieri's arrest on 8 June 2020.

116. According to the source, Mr. Schiavo Lavieri was arrested by agents of the Bolivarian National Intelligence Service without a warrant or equivalent document. Subsequently, Mr. Schiavo Lavieri was subjected to enforced disappearance for 12 days, during which he was held incommunicado.

117. Article 9 (2) of the Covenant provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. The Working Group has stated that, in order for a deprivation of liberty to have a legal basis, it is not sufficient for there to be a law authorizing the arrest. The authorities must invoke this legal basis and apply it to the circumstances of the case. This is typically done through an arrest warrant or a court order, or an equivalent document.<sup>12</sup> The reasons for the arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim.<sup>13</sup>

118. According to the Government, there is a legal basis for Mr. Schiavo Lavieri's detention. The Government states that on 8 June 2020, pursuant to article 236 of the Code of Criminal Procedure, the Public Prosecution Service requested the procedural judge to issue a warrant for the arrest of Mr. Schiavo Lavieri, who was shown the warrant in question and informed of the reasons for his arrest.

119. The Working Group notes that the Government attached a photocopy of the arrest warrant of 8 June 2020 and insisted that it was shown to Mr. Schiavo Lavieri at the time of his arrest. The source, on the other hand, states that at the time of the arrest Mr. Schiavo Lavieri was neither shown this warrant nor informed of the reasons for his arrest and detention. The Working Group notes that the source and the Government have presented two contradictory versions of the events that took place during Mr. Schiavo Lavieri's arrest. Based on the information received, the Working Group has not reached any conclusions on this matter.

120. However, the Working Group notes that the Government does not dispute that Mr. Schiavo Lavieri was not brought promptly before a judge, within 48 hours of his arrest, in accordance with the international standard.<sup>14</sup> According to the source, Mr. Schiavo Lavieri was held incommunicado for 12 days before being brought before the competent authority. The Government has not submitted any information to the contrary.

121. Therefore, the Working Group concludes that Mr. Schiavo Lavieri does not appear to have been brought before a judicial authority within 48 hours of his arrest, in violation of article 9 (3) of the Covenant. Consequently, in arresting Mr. Schiavo Lavieri and holding him in pretrial detention, the Government violated articles 3, 6 and 9 of the Universal Declaration of Human Rights, articles 9 and 16 of the Covenant and principles 11, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

122. The source alleges that Mr. Schiavo Lavieri was remanded in custody for a prolonged period of time without an individualized evaluation. The Working Group recalls that it is a well-established norm of international law that pretrial detention should be the exception and not the rule, and that it should be ordered for as short a time as possible.<sup>15</sup>

<sup>12</sup> Opinion No. 88/2017, para. 27. In cases of arrests made in flagrante delicto, it is not generally possible to obtain a warrant.

<sup>13</sup> Human Rights Committee, general comment No. 35 (2014), para. 25.

<sup>14</sup> Ibid., para. 33. [CCPR/C/SLV/CO/6](#), para. 14; and opinion No. 82/2019, para. 76.

<sup>15</sup> Opinion No. 8/2020, para. 54. See also Human Rights Committee, general comment No. 32 (2007), para. 38; and [A/HRC/19/57](#), paras. 48–58.

123. Article 9 (3) of the Covenant establishes that it shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial or at any other stage of the judicial proceedings. It follows that, in the interests of justice, liberty should be recognized as a principle, and detention as an exception. Although the severity of the sentence is a relevant factor in the evaluation of the risk of absconding or reoffending, the need for continued deprivation of liberty cannot be evaluated from this purely abstract point of view, taking into consideration only the severity of the punishment for the crime and using stereotypical formulas without individualized assessment or consideration of alternative preventive measures.

124. The Government explains that the prolonged pretrial detention was the result of delays caused by the COVID-19 pandemic. The source refutes these claims by pointing out that the highest court of the Bolivarian Republic of Venezuela had allowed the hearing to be held virtually in order to avoid unjustified delays.

125. The Working Group recalls its deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies,<sup>16</sup> in which it emphasized that the public health emergency puts an additional onus of consideration upon the authorities, as they must explain the necessity and proportionality of the measure in the circumstances of the pandemic. In addition, it specified, in relation to COVID-19, that persons who, like Mr. Schiavo Lavieri, are over 60 years of age should be treated as vulnerable and, therefore, recommended that States refrain from holding such individuals in places of deprivation of liberty where the risk to their physical and mental integrity and life is heightened.<sup>17</sup> That recommendation was not followed in this case. In view of the foregoing, the Working Group considers that by failing to address the specific facts and consider alternative preventive measures, as well as essentially relying on the pandemic to justify the prolongation of the trial, the authorities did not adequately justify Mr. Schiavo Lavieri's pretrial detention, which has lasted some three and a half years to date. In the absence of any argument to the contrary, the Working Group finds his detention to be in violation of article 9 (3) of the Covenant.

126. The Working Group thus finds that Mr. Schiavo Lavieri's arrest and detention are arbitrary under category I.

**(b) Category III**

127. The source invokes multiple violations of Mr. Schiavo Lavieri's rights that would make his detention arbitrary under category III.

128. According to the source, Mr. Schiavo Lavieri was not tried by an independent and impartial tribunal, as the competence, independence and impartiality of the courts is questionable. It presents an analysis of the appointment and dismissal of judges in the Bolivarian Republic of Venezuela. The Working Group has previously referred to the appointments, which are part of the judicial structure in the Bolivarian Republic of Venezuela for handling cases involving acts related to terrorism or its financing.<sup>18</sup> The Working Group noted that the lack of fixed, stable, guaranteed appointments makes judges' positions less secure and, consequently, detracts from the independence required of them.

129. According to the Human Rights Committee, the requirement of competence, independence and impartiality of a tribunal in the sense of article 14 (1) of the Covenant is an absolute right that is not subject to any exception.<sup>19</sup> Furthermore, a situation where the functions and competences of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent and impartial tribunal.<sup>20</sup> It is necessary to protect judges against conflicts of interest and intimidation. In order to safeguard their independence, the status of judges, including their term of office, their independence, security, adequate remuneration,

<sup>16</sup> A/HRC/45/16, annex II (English only).

<sup>17</sup> Ibid., para. 15.

<sup>18</sup> Opinion No. 48/2022, para. 90.

<sup>19</sup> *González del Río v. Peru* (CCPR/C/46/D/263/1987), para. 5.2.

<sup>20</sup> *Oló Bahamonde v. Equatorial Guinea* (CCPR/C/49/D/468/1991), para. 9.4.

conditions of service, pensions and the age of retirement shall be adequately secured by law.<sup>21</sup> The Working Group recalls that its mandate is not to evaluate evidence presented before the national judiciary or to determine whether such evidence is sufficient or has in fact been properly weighed by the national courts.<sup>22</sup> However, the source has presented a credible case regarding the temporary and insecure status of the judge hearing Mr. Schiavo Lavieri's case. The Working Group considers that this description reflects a lack of independence under the standards established by the Human Rights Committee in its interpretation of article 14 of the Covenant.

130. This situation in particular has not been refuted by the Government. In the light of the foregoing, the Working Group decides to refer the present case to the Special Rapporteur on the independence of judges and lawyers for appropriate action.

131. The source maintains that Mr. Schiavo Lavieri's right to the presumption of innocence was violated when a senior public official – the Vice-President of the Republic and President of the National Assembly – prejudged Mr. Schiavo Lavieri's guilt, and that of his co-defendants, during a press conference (see para. 104). The Government has not submitted any information to the contrary.

132. The presumption of innocence is one of the fundamental principles of a fair trial and therefore cannot be suspended. It guarantees that guilt cannot be presumed until the charges have been proven beyond a reasonable doubt. As the Human Rights Committee has stated, public authorities have a duty to refrain from prejudging the outcome of a trial by abstaining from making public statements affirming the guilt of the accused.<sup>23</sup> In the present case, the Working Group notes that the press statements made by high-ranking public officials about the criminal proceedings against Mr. Schiavo Lavieri would inevitably have encouraged the public to consider him guilty before his guilt had been proven according to law. Accordingly, Mr. Schiavo Lavieri's right to the presumption of innocence, as enshrined in article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant, was violated as a result of the statements made by the Vice-President of the Republic.

133. According to the source, Mr. Schiavo Lavieri was denied access to a lawyer of his own choosing and, despite having requested a private lawyer, he was assigned a public defender against his will. The Government argues that Mr. Schiavo Lavieri was only assigned a public defender after he stated that he did not have a private lawyer.

134. According to principle 2 of the Basic Principles on the Role of Lawyers, detained or arrested persons should have effective access to a lawyer as soon as possible. This principle is fundamentally related to the principle of equality of arms, as enshrined in articles 10 and 11 (1) of the Universal Declaration of Human Rights. Article 14 (3) (b) of the Covenant guarantees the right of all persons charged with a criminal offence to have adequate time and facilities to prepare their defence and to communicate with counsel of their own choosing.

135. In the present case, the Working Group finds that the incommunicado detention to which Mr. Schiavo Lavieri was subjected by definition deprived him of his right to legal counsel at a critical stage of criminal proceedings and exposed him to a risk of coercion, which according to the source indeed took place.

136. Holding an accused person incommunicado at the crucial initial period of detention violates the essence of the right to legal assistance and to prepare a defence and the principle of equality of arms, guaranteed under articles 10 and 11 (1) of the Universal Declaration of Human Rights and article 14 (3) (b) of the Covenant. The Working Group considers that these violations substantially undermined and compromised Mr. Schiavo Lavieri's capacity to suspend the court proceedings and to have a lawyer of his own choosing.

137. Therefore, the Working Group believes that, by hindering Mr. Schiavo Lavieri's access to adequate legal representation, the authorities have hindered the possibility of

<sup>21</sup> Human Rights Committee, general comment No. 32 (2007), para. 19; see also opinion No. 40/2019.

<sup>22</sup> Opinion No. 48/2022.

<sup>23</sup> Human Rights Committee, general comment No. 32 (2007), para. 30.

effective legal assistance by altering the principle of equality of arms and, therefore, his right to effective legal assistance, protected under article 14 of the Covenant, was denied.

138. The Working Group concludes that Mr. Schiavo Lavieri's detention is arbitrary due to the denial of fundamental human rights, such as the presumption of innocence, the right to be tried by an independent tribunal and the right to have a lawyer of his own choosing, all of which qualifies his detention as arbitrary under category III.

**(c) Category V**

139. The source argues that Mr. Schiavo Lavieri's detention should be considered arbitrary under category V because he is a businessman, and in the Bolivarian Republic of Venezuela businesspeople are a vulnerable group due to the State's policy of persecution against them. The Government refutes these accusations.

140. After reviewing the allegations, the Working Group does not find that the source's assertions are sufficiently substantiated. Therefore, it cannot conclude that Mr. Schiavo Lavieri's detention is arbitrary under category V.

**(d) Concluding remarks**

141. The Working Group notes the source's claims concerning Mr. Schiavo Lavieri's state of health. Although the Government has vaccinated Mr. Schiavo Lavieri against COVID-19, which the Working Group welcomes, vaccination does not sufficiently guarantee all aspects of the right to health. The Working Group takes this opportunity to remind the Government of its obligations under article 10 (1) of the Covenant to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person.<sup>24</sup> The Working Group has decided to refer the present case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

**3. Disposition**

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

The deprivation of liberty of Oreste Alfredo Schiavo Lavieri, being in contravention of articles 3, 6, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 3, 6, 9, 14 and 16 of the Covenant, is arbitrary and falls within categories I and III.

143. The Working Group requests the Government of the Bolivarian Republic of Venezuela to take the steps necessary to remedy the situation of Mr. Schiavo Lavieri without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

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

145. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary detention of Mr. Schiavo Lavieri and to take appropriate measures against those responsible for the violation of his rights.

146. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers and to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, for appropriate action.

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

<sup>24</sup> Opinion No. 46/2020, para. 64.

#### 4. Follow-up procedure

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

149. 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.

150. 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.

151. 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.<sup>25</sup>

*[Adopted on 20 March 2024]*

---

<sup>25</sup> Human Rights Council resolution 51/8, paras. 6 and 9.