



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. 11/2024 concerning Evan Gershkovich (Russian Federation)*, ****

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 19 December 2023 the Working Group transmitted to the Government of the Russian Federation a communication concerning Evan Gershkovich. The Government has not replied to the communication. 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,

* In accordance with paragraph 5 of the Working Group's methods of work, Ganna Yudkivska could not participate in the discussion of the case.

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

¹ [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. Evan Gershkovich, born on 26 October 1991, is a national of the United States of America. According to the source, Mr. Gershkovich has been held in Lefortovo Prison, Moscow.

5. Mr. Gershkovich is a journalist working with multiple global news networks. He has been reporting on the Russian Federation for nearly six years, with his most recent position being as a correspondent for *The Wall Street Journal*.

6. The source states that in 2017, Mr. Gershkovich joined *The Moscow Times* as a reporter based in Moscow. There, Mr. Gershkovich reported on events of vital public importance, including the handling by the Russian Federation of the coronavirus disease (COVID-19) pandemic, the poisoning of an opposition leader, the amendments by the President, Vladimir Putin, to the Constitution of the Russian Federation to extend his rule at least until 2036, and the arrest and detention by the Russian Federation of prominent journalists and protesters. In 2020, Mr. Gershkovich began working for Agence France-Presse in Moscow and continued his in-depth coverage of the Russian Federation. As a reporter for Agence France-Presse, he reported on a range of important issues, including the bilateral diplomatic talks of the Russian Federation with the United States concerning Ukraine, and the blocking by the Russian Federation of OVD-Info, a human rights media project that tracks political persecution in the Russian Federation. In January 2022, Mr. Gershkovich joined *The Wall Street Journal* as a foreign correspondent covering the Russian Federation. As a member of the Moscow bureau of *The Wall Street Journal*, Mr. Gershkovich helped shed light on various facets of the armed conflict in Ukraine. Mr. Gershkovich reported on, among other things, the drafting by the Russian Federation of reservists and others for the armed conflict in Ukraine, the effects of Western sanctions on the economy and people of the Russian Federation, the growing isolation of the President, Mr. Putin, and the attempts by the Russian Federation to silence war-related speech and anti-war activism.

7. The source highlights the long-standing issues with press freedom in the Russian Federation, noting observations by the Human Rights Committee² of widespread harassment, persecution and violent acts against journalists and protesters.

8. The source states that on 4 March 2022, the Russian Federation implemented stringent laws targeting war-related speech, notably article 207.3 of the Criminal Code, which prohibits “public dissemination of deliberate false information about the use of the Armed Forces of the Russian Federation”, with penalties of up to 15 years in prison. The source further adds that this was broadened on 25 March 2022 to encompass any State body, severely restricting freedom of speech and press freedom. United Nations experts have criticized these laws as part of a crackdown on civil society and media outlets.³

9. According to the source, the Russian Federation has also sought to control the flow of all war-related information by criminalizing journalism, including truthful reporting about the armed conflict in Ukraine. On 14 July 2022, the Russian Federation amended its Criminal Code (art. 276) to expand the definition of espionage. The new amendment criminalizes “the transfer, collecting, stealing or keeping for the purpose of transfer to a foreign State or

² Office of the United Nations High Commissioner for Human Rights, “Human Rights Committee considers report of the Russian Federation in the absence of a delegation, experts raise issues on the persecution of journalists and the arrests of protesters”, press release (20 October 2022), available at <https://www.ohchr.org/en/news/2022/10/human-rights-committee-considers-report-russian-federation-absence-delegation-experts>.

³ See, for example, Office of the United Nations High Commissioner for Human Rights, “Russia: UN experts condemn civil society shutdown”, press release (13 July 2022), available at <https://www.ohchr.org/en/press-releases/2022/07/russia-un-experts-condemn-civil-society-shutdown>.

international or foreign organization, or their representatives, information comprising a State secret”, which is defined to include virtually any sensitive but truthful information regarding the armed conflict and effectively criminalize journalism aimed at reporting truthfully on wartime activities. Article 276 of this law specifically targets foreign nationals or stateless persons, making their reporting activities potentially punishable as “espionage”.

10. The source alleges that the Russian Federation has engaged in hostage-taking practices by arresting and detaining citizens of the United States, including journalists like Mr. Gershkovich, using them as leverage in diplomatic negotiations to achieve political aims of the Russian Federation.

11. Detailing Mr. Gershkovich’s journalistic career, the source outlines that despite the increasingly repressive environment for journalists in the Russian Federation, Mr. Gershkovich maintained full compliance with all legal requirements for foreign journalists, including the accreditation and visa regulations. His detention, on 29 March 2023, occurred despite his adherence to these requirements.

(i) *Arrest and detention*

12. The source reports that on 29 March 2023, Mr. Gershkovich travelled from Moscow to Yekaterinburg for a reporting assignment. Shortly after his arrival, he was arrested by the Federal Security Service of the Russian Federation. The details surrounding the presence or absence of an arrest warrant at the time of his capture remain unclear. The Federal Security Service later publicly accused Mr. Gershkovich of espionage, alleging that he had been gathering State secrets about the military-industrial complex of the Russian Federation on behalf of the United States.

13. The source claims that the Federal Security Service held Mr. Gershkovich incommunicado and transported him to Moscow soon after arresting him in Yekaterinburg. He was transferred to Moscow swiftly, where he has been detained in Lefortovo Prison.

14. Reportedly, prisoners in Lefortovo Prison are held in small concrete cells with very little if any natural light and with poor air circulation. They are afforded no common time or communication with others outside their cell or with the outside world. The prison regime imposes severe isolation, excessive interrogation sessions, and conditions aimed at inducing psychological stress and false confessions. Electric lights are kept on all day and all night. Detainees are allowed only a minimal amount of time outside their cells, in a confined rooftop area, under strict surveillance.

15. According to the source, from the time of his detention on 29 March 2023 until his arraignment on 30 March 2023, Mr. Gershkovich was denied any form of communication with the outside world. During his arraignment, he was not permitted to choose his legal representation and was instead assigned a court-appointed lawyer. The source assumes that he was subjected to interrogation during this period and thereafter. It was not until 4 April 2023, several days after his arraignment, that he was granted access to an officially approved Russian counsel, albeit with limited and intermittent contact thereafter.

16. The source emphasizes the refusal of the Russian Federation to provide United States officials with consular access to Mr. Gershkovich, a right that is safeguarded under international law, including under the Confederated Independent States Treaty, of 1964, which stipulates the reciprocal right to promptly visit and communicate with detained nationals. Despite these provisions, the diplomatic efforts by the United States to gain access to Mr. Gershkovich were consistently rebuffed by authorities of the Russian Federation.

17. According to the source, following Mr. Gershkovich’s detention, the Government of the United States swiftly requested consular access. Initial permission for such a visit was only granted on 17 April 2023, after nearly three weeks of detention. Subsequent requests by the Government of the United States for consular visits were met with repeated denials by the Russian Federation, often purportedly in retaliation for what the Ministry of Foreign Affairs of the Russian Federation described as the refusal by the Government of the United States to grant visas to Russian journalists in time for them to accompany the Minister of Foreign Affairs of the Russian Federation on his trip to the United Nations in New York.

18. After the initial consular visit on 17 April 2023 by the Ambassador of the United States, further attempts to secure consular access were largely unsuccessful, with requests being denied multiple times under various pretexts. It was not until 3 July 2023 that the Ambassador of the United States was again allowed to visit Mr. Gershkovich, marking only the second consular visit in nearly 100 days of detention. A subsequent visit was permitted on 14 August 2023 in Lefortovo Prison.

(ii) *Legal proceedings against Mr. Gershkovich*

19. The source alleges that the Government of the Russian Federation has shrouded Mr. Gershkovich's case in secrecy, preventing discussion of any aspect of the case, including the detention, potential interrogations, allegations, charges and proceedings. Proceedings have been conducted almost entirely behind closed doors, with restricted access to hearings, case files and other relevant information. State news agency TASS reported that the hearings, closed to the public and media, were due to accusations against Mr. Gershkovich of espionage and possessing "secret materials", resulting in United States counsel being denied access to any information, evidence, witnesses, legal briefs or court proceedings.

20. According to the source, the Russian Federation has not publicly disclosed the allegations or charges against Mr. Gershkovich. Limited available information, sourced from State media of the Russian Federation, suggests Mr. Gershkovich's arrest and detention by the Federal Security Service for purported violations of article 276 of the country's Criminal Code, alleging espionage activities "at the behest of the American side", involving the collection of State secrets from a military-industrial complex enterprise in the Russian Federation. If convicted under article 276, Mr. Gershkovich faces a minimum sentence of 10 years and a maximum sentence of 20 years of imprisonment in a penal colony of the Russian Federation.

21. Reportedly, Mr. Gershkovich faced arraignment on 30 March 2023 without the option to select his legal representation, being appointed a court-selected lawyer instead. Despite pleading not guilty, it was only on 4 April 2023, following the arraignment, that Mr. Gershkovich managed to meet with the chosen Russian counsel. Mr. Gershkovich is unable to confer with any counsel other than his Russian lawyers.

22. According to the information received, on 18 April 2023 Moscow City Court denied Mr. Gershkovich's challenge to his pretrial detention, including his request for bail or house arrest, in a closed-door hearing. His pretrial detention, initially due to expire on 29 May 2023, was extended on 23 May 2023 by Lefortovo District Court until 30 August 2023 following a closed-door hearing. This extension was upheld by Moscow City Court on 22 June 2023. Furthermore, on 24 August 2023, an additional three-month pretrial detention extension was granted, prolonging his detention until the end of November 2023. Mr. Gershkovich appealed against this latest extension on 26 August 2023. The courts of the Russian Federation have not published or otherwise meaningfully disclosed any account of the above-mentioned proceedings or the courts' rulings or their legal bases.

23. The source asserts that since Mr. Gershkovich's detention on 29 March 2023 and until the time of its submission to the Working Group – for over 250 days – Mr. Gershkovich has been isolated from the outside world, aside from occasional meetings with Russian-approved legal representatives. During this entire period, he has been barred from communicating with his family in the United States or with his current employer *The Wall Street Journal* by telephone. His sole means of communicating with them is via letters screened (and potentially censored) by Lefortovo Prison officials and the Federal Security Service.

(iii) *Legal analysis*

24. The source argues that Mr. Gershkovich's case satisfies the criteria for four categories: category I (no legal basis), category II (exercise of protected rights), category III (procedural violations) and category V (discrimination).

a. *Category I*

25. The source recalls that the arbitrary detention of Mr. Gershkovich falls under category I of the categories used by the Working Group when considering cases submitted

to it, which is identified “when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty”.⁴ This categorization is substantiated through analysis of the circumstances surrounding Mr. Gershkovich’s reporting activities in the Russian Federation and the allegations made against him.

26. According to the source, the principle of arbitrary detention under category I is met in Mr. Gershkovich’s situation due to the absence of a legitimate legal basis for his arrest and continued detention. The distinction between legitimate journalistic activities and espionage is stark, with Mr. Gershkovich’s years of public reporting and adherence to journalistic standards serving as a clear counterpoint to the accusations of espionage levelled against him by the Russian Federation. This distinction is underscored by the lack of evidence presented by the authorities of the Russian Federation to substantiate the claim that Mr. Gershkovich was engaged in activities that could be legitimately construed as espionage on behalf of the United States.

27. The source claims that the accusations made by the Russian Federation of spying must be viewed in the context of the country’s armed conflict in Ukraine, its attempt to control public information regarding that armed conflict, and its recent pattern of holding United States citizens hostage in order to obtain concessions from the United States.

28. The source argues that, despite assertions from the Russian Federation of capturing Mr. Gershkovich “red-handed” engaging in espionage, credible evidence to support such claims has not been presented. Moreover, the Government of the United States, including the President of the United States, Joseph Biden, has categorically denied these allegations, affirming Mr. Gershkovich’s status as a journalist and not a spy. This denial is supported by statements from Mr. Gershkovich, *The Wall Street Journal* and United States officials, all of whom affirm his innocence and identify his work as legitimate journalism.

29. The source states that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression issued a public statement declaring that “WSJ journalist Evan Gershkovich should be released immediately”. She added: “#Journalismisnotacrime!” On 2 May 2023, at a World Press Freedom Day panel held in New York, the Special Rapporteur expressed her concerns regarding the case, focusing on the fact that the Russian Federation appeared to have wrongfully detained Mr. Gershkovich for his work as a journalist.

30. According to the source, widespread international condemnation of Mr. Gershkovich’s detention has been echoed by Governments, the European Union, media organizations and non-governmental organizations, all advocating for his release and highlighting the baselessness of the spying allegations in the light of his journalistic work.

31. The source recalls that article 9 of the International Covenant on Civil and Political Rights, alongside the same article of the Universal Declaration of Human Rights to which the Russian Federation is a signatory, enshrines the right to liberty and security of person, explicitly prohibiting arbitrary arrest or detention. The actions of the Russian Federation contravene these international norms through its detention of Mr. Gershkovich without presenting any legitimate legal basis or evidence to justify the serious allegations of espionage.

32. The source concludes that the stark contrast between Mr. Gershkovich’s well-documented journalistic endeavours and the unsubstantiated accusations made by the Russian Federation demonstrates a clear lack of a legal basis for his detention. For that reason, his detention should be categorized as “arbitrary” under category I.

b. Category II

33. The source states that Mr. Gershkovich’s detention by the Russian Federation, predicated on unfounded accusations of espionage, constitutes a violation under category II of the categories used by the Working Group when considering cases submitted to it. This categorization is attributed to the detention being a direct consequence of Mr. Gershkovich exercising his universally recognized rights and freedoms, specifically: (a) freedom of

⁴ [A/HRC/16/47](#), annex.

opinion and expression, as outlined in article 19 (2) of the Covenant and article 19 of the Universal Declaration of Human Rights; (b) freedom of association, as enshrined in article 22 (1) of the Covenant and article 20 (1) of the Universal Declaration of Human Rights; and (c) the right to equal treatment under the law, as enshrined in article 26 of the Covenant and articles 2 and 7 of the Universal Declaration of Human Rights.

34. The source claims that the fact that officials of the Russian Federation oppose truthful reporting on the country's armed conflict in Ukraine or other sensitive topics is not a reason under the law to warrant censorship, much less a legal basis to arrest and detain an accredited journalist such as Mr. Gershkovich. In particular, under article 19 of the Covenant, the restrictions on the right to freedom of expression are permissible only when they are legally sanctioned and necessary for the protection of national security or public order. Mr. Gershkovich's reporting activities did not pose a threat to these interests. The characterization by the Russian Federation of his journalistic work as espionage lacks substantiation and contradicts the public record of his published reporting. The source recalls what the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression said on 6 April 2023: "When journalists are labelled as foreign agents, traitors or enemies of the State, it undermines public trust in the media, increases the likelihood of attacks against journalists and chills media freedom and democratic debate."

35. According to the source, by arresting Mr. Gershkovich, the Russian Federation has also flouted Mr. Gershkovich's right to free association. The Universal Declaration of Human Rights, in its article 20 (1), provides that "everyone has the right to freedom of peaceful assembly and association", and the Covenant, in its article 22 (1), likewise safeguards "freedom of association with others" – a freedom that cannot be restricted unless "prescribed by law" and "necessary in a democratic society in the interests of national security or public safety". Mr. Gershkovich's detention represents a continuous breach of his freedom to associate with the international press corps and news organizations within the Russian Federation, severely affecting his professional duties.

36. The source recalls that, under the Covenant, "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law", including protection against discrimination based on "national or social origin ... birth or other status". This principle is echoed in the Universal Declaration of Human Rights, in its articles 2 and 7, which advocate for non-discrimination and equal legal protection for all individuals.

37. The source argues that an individual's core right to free expression under article 19 of both the Covenant and the Universal Declaration of Human Rights would be cheapened, trivialized and rendered meaningless if States could curtail that right on discriminatory grounds – including the right holder's country of citizenship, nationality, and social and cultural background and affiliation. The work of the international press corps – which strives to inform readers about developments in complex and challenging environments through rigorous, independent reporting – depends on ensuring that the right to free expression of journalists is protected without discrimination rooted in citizenship, nationality, and other protected characteristics.

38. In Mr. Gershkovich's case, the source suggests that his detention was motivated not only by his journalistic activities but also by discriminatory factors, notably his United States nationality. The Russian Federation has recently used citizens of the United States in its custody as hostages and apparently is holding Mr. Gershkovich as a hostage to exploit his status as a citizen of the United States and seek concessions from, and otherwise exert pressure on, the Government of the United States. Such discrimination on the basis of citizenship and national origin is a violation of the right to equal treatment under the law, as enshrined in the Covenant and the Universal Declaration of Human Rights.

c. Category III

39. The source contends that the Government of the Russian Federation violated Mr. Gershkovich's right to a public hearing. The Universal Declaration of Human Rights, in its article 10, provides that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him". The source states that the Russian Federation has

violated, and continues to violate, Mr. Gershkovich's right to such public hearings in the determination of his rights and obligations. Since Mr. Gershkovich's arrest, his case has been shrouded in secrecy, both substantively and procedurally. The Russian Federation has subjected Mr. Gershkovich to judicial proceedings behind closed doors. In these almost entirely closed hearings, the Russian Federation has apparently ordered his pretrial detention, denied his requests for release on bail or house arrest, and denied his appeals against these decisions. However, rather than affording a fair and public hearing in the determination of these rights and obligations, the Russian Federation has restricted access to the hearings, refused to disclose any factual or legal bases for its actions and decisions, and otherwise kept the proceedings obscured by secrecy.

40. Although it is stated in article 14 (1) of the Covenant that "the press and the public may be excluded from all or part of a trial for reasons of ... national security", the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has stated that "any restrictions on the public nature of a trial, including for the protection of national security, must be both necessary and proportionate, as assessed on a case-by-case basis. Any such restrictions should be accompanied by adequate mechanisms for observation or review to guarantee the fairness of the hearing."⁵

41. The source asserts that in the present case, the Government of the Russian Federation has invoked "national security" as an excuse for closing the proceedings and avoiding public scrutiny, but it has not publicly provided any plausible legal or factual basis for that extraordinary step. Nor has the Russian Federation provided any mechanisms for independent observation or review processes to enable public scrutiny in the interests of justice and fair application of the law. At the same time, officials of the Russian Federation have publicly discussed the case and claimed in public statements aired by State media that Mr. Gershkovich is guilty. The Kremlin's spokesperson has claimed, without offering any evidence or support, that Mr. Gershkovich was "caught red-handed",⁶ and the foreign ministry spokesperson has made the same remark.⁷ The public discussion of the case by the Russian Federation makes it clear that secrecy is not a national security imperative. Under these circumstances, the act of holding closed hearings is neither necessary nor proportionate.

42. Furthermore, the source argues that the Government of the Russian Federation violated Mr. Gershkovich's right to have his case presented to an independent and impartial tribunal. Article 14 (1) of the Covenant provides that "in the determination of any criminal charge", the accused "shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law". Article 10 of the Universal Declaration of Human Rights similarly provides that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him". In this context, impartiality requires that judges must not harbour preconceptions about the matter put before them, and that they must not act in ways that promote the interests of one of the parties.⁸ Here, courts of the Russian Federation have ordered Mr. Gershkovich's continued detention in Lefortovo Prison even though the Government of the Russian Federation has not publicly provided any credible legal or factual bases to support its claims or its need for pretrial detention. Despite the lack of any factual evidence or legal support for pretrial detention, the courts of the Russian Federation continue to rule in favour of the Government of the Russian Federation while denying Mr. Gershkovich's requests and appeals.

⁵ See, for example, Working Group on Protecting Human Rights While Countering Terrorism, *Basic Human Rights Reference Guide: Right to a Fair Trial and Due Process in the Context of Countering Terrorism* (October 2014), available at <https://www.ohchr.org/sites/default/files/newyork/Documents/FairTrial.pdf>.

⁶ The source refers to the following news article: Paul Kirby (BBC News), "Russia arrests US journalist Evan Gershkovich on spying charge", 30 March 2023, available at <https://www.bbc.com/news/world-europe-65121885>.

⁷ The source refers to the following news article: "Foreign ministry spokeswoman Maria Zakharova's answer to a media question on consular access to US citizen Evan Gershkovich detained on charges of espionage", Ministry of Foreign Affairs of the Russian Federation, 12 April 2023, available at https://mid.ru/en/foreign_policy/news/1863180/.

⁸ *Karttunen v. Finland* (CCPR/C/46/D/387/1989), para. 7.2.

43. The source alleges that the judiciary of the Russian Federation, in cases such as Mr. Gershkovich's, does not operate with the independence or impartiality required by law. Instead, it acts under the influence of the executive branch, including the President and the Federal Security Service, particularly in high-profile, politically charged cases. The law of the Russian Federation provides for the right of any person to challenge the lawfulness of his or her arrest or detention, but successful challenges in courts of the Russian Federation are rare and essentially impossible in high-profile cases such as this one. During the 23 years of the current presidency, there have been no known acquittals in espionage cases in the Russian Federation.

44. The source asserts that this manipulation of the judiciary by the executive branch and the Federal Security Service, as highlighted in Mr. Gershkovich's case, signifies a breach of the principle of judicial independence and impartiality. The orchestrated nature of the proceedings, aimed at achieving predetermined outcomes favourable to the State's position, deprives defendants of their due process rights. This failure to afford Mr. Gershkovich a truly independent and impartial tribunal violates his right to due process and underscores that his detention is an arbitrary deprivation of his liberty under category III.

45. According to the source, the Government of the Russian Federation violated Mr. Gershkovich's right to the presumption of innocence. Article 11 of the Universal Declaration of Human Rights provides that "everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence". Similarly, article 14 (2) of the Covenant provides that "everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law". The Human Rights Committee has found that the presumption of innocence creates "a duty for all public authorities to refrain from prejudging the outcome of a trial".⁹ Under the Working Group's jurisprudence, any interference with the right to be presumed innocent is a violation of the right to a fair trial.¹⁰ The presumption of innocence is also enshrined in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,¹¹ as well as the Constitution of the Russian Federation.

46. The source claims that the Russian Federation has not produced any credible factual evidence or legal support for its claim that Mr. Gershkovich was engaged in spying in the interests of the United States. Moreover, comments by executive branch officials openly declaring Mr. Gershkovich's guilt violate the presumption of innocence under article 14 (2) of the Covenant and assure he will be found guilty. The spokesperson for the Ministry of Foreign Affairs stated at a press conference on 12 April 2023: "Let's recall that [Gershkovich] was caught red-handed and his journalistic status, as it transpires from a series of already established facts, was merely a cover for spying."¹² Such statements make it clear that the executive branch in the Russian Federation, including the judiciary that it controls, has made up its mind about Mr. Gershkovich's case. By prejudging how the court proceedings will turn out and referring to "a series of already established facts" about "a cover for spying" – without producing any evidence and before a trial date is even announced – officials of the Russian Federation violated Mr. Gershkovich's right to be presumed innocent under international law and in effect ensured that he would be found guilty. By treating his guilt as a fait accompli, they highlight the politicized nature of judicial processes in the Russian Federation.

47. The source asserts that the Russian Federation has confined Mr. Gershkovich to a cage – and has then publicized pictures of him in that cage – during each of his court appearances. Yet, the Human Rights Committee has repeatedly held that "defendants should not be shackled or kept in cages during trials or otherwise presented to the court in a manner

⁹ See the Committee's general comment No. 13 (1984).

¹⁰ Opinion No. 28/2012; see also Human Rights Committee, general comment No. 32 (2007).

¹¹ See principle 36 (1): "a detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law".

¹² "Foreign ministry spokeswoman Maria Zakharova's answer to a media question on consular access to US citizen Evan Gershkovich detained on charges of espionage", Ministry of Foreign Affairs of the Russian Federation, 12 April 2023, available at https://mid.ru/en/foreign_policy/news/1863180/.

indicating that they may be dangerous criminals”.¹³ This right extends to pretrial hearings. Subjecting Mr. Gershkovich to this demeaning treatment constitutes a further violation of his right to be presumed innocent, because the unambiguous message from the Russian Federation is that Mr. Gershkovich poses such an imminent threat that he cannot be allowed to sit beside his counsel at the hearing. The confinement by the Russian Federation of Mr. Gershkovich in a cage amounts to an inhumane piece of political theatre, disingenuously conveying that Mr. Gershkovich is to be feared as a physical threat.

48. The source argues that the Government of the Russian Federation violated the presumption against pretrial detention. Article 9 (3) of the Covenant establishes a presumption against pretrial detention. Interpreting this provision, the Human Rights Committee has stated that “detention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime”.¹⁴ Applying this principle, the Working Group has found detention to be arbitrary where relevant national authorities have failed to conduct an individualized assessment to determine whether it is “reasonable and necessary” to keep an individual in pretrial detention.¹⁵

49. According to the source, authorities of the Russian Federation have held Mr. Gershkovich in pretrial detention without just cause, denying his appeals and approving multiple extensions of his pretrial detention without an apparent end in sight. After his initial request for bail or house arrest was denied on 18 April 2023, Mr. Gershkovich’s pretrial detention was ordered for up until 29 May 2023. On 23 May 2023, a court extended that initial period by three months, until 30 August 2023. Mr. Gershkovich’s appeal against the extension was denied on 22 June 2023. On 24 August 2023, a court granted a further three-month extension up until the end of November 2023 at the request of the Federal Security Service, which Mr. Gershkovich has now appealed against. Mr. Gershkovich’s pretrial detention in Lefortovo Prison is both unnecessary and disproportionate, given the lack of any evidence that he poses a flight risk or a continuing threat to public safety that could not otherwise be remedied with supervised house arrest, bail offered by his employer, or other less restrictive measures. Accordingly, the continued detention by the Russian Federation of Mr. Gershkovich at Lefortovo Prison is a violation of the presumption against pretrial detention, to which he is entitled under international law.

50. The source claims that the Government of the Russian Federation unjustly deprived Mr. Gershkovich of his right to counsel. Article 14 (3) of the Covenant guarantees the right of any person accused of a crime “to defend himself in person or through legal assistance of his own choosing”. Principle 18 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that a detained or imprisoned person shall be entitled to communicate and consult with legal counsel. Furthermore, principle 18 (3) states that “the right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted”, in the absence of exceptional circumstances not present here. The right to receive assistance from a lawyer, from the moment of detention, confinement in custody or facing charges, is similarly enshrined in the Constitution of the Russian Federation. The Government of the Russian Federation violated Mr. Gershkovich’s right to counsel by preventing him from engaging counsel of his choosing for his arraignment on 30 March 2023 and instead requiring him to proceed, against his wishes, with using a court-appointed attorney. He has since been granted access to Russian counsel of his choosing, but he has not been allowed to engage and confer with United States counsel of his choosing. Moreover, he and his Russian counsel have been prohibited from disclosing to the United States counsel any information about the case, which has effectively deprived the legal team of the ability to coordinate, strategize, and advise Mr. Gershkovich with regard to his rights under international law.

¹³ *Formonov v. Uzbekistan* (CCPR/C/122/D/2577/2015), para. 9.4. See also the Committee’s general comment No. 32 (2007), para. 30; and *Sannikov v. Belarus* (CCPR/C/122/D/2212/2012), para. 6.8.

¹⁴ See the Committee’s general comment No. 35 (2014), para. 38.

¹⁵ See, for example, opinion No. 62/2017, paras. 45 and 46; and opinion No. 56/2017, paras. 67 and 68.

d. Category V

51. The source recalls that arbitrary detention under category V is identified when detention is based on discriminatory grounds, such as national origin, which leads to or implies a disregard for equal human rights.

52. The detention of Mr. Gershkovich, as argued by the source, appears to be significantly influenced by discriminatory factors, notably his United States nationality, which may also have led to the unjustified denial of bail and the continued imposition of pretrial detention for Mr. Gershkovich. This detention, especially considering the context of the history of the Russian Federation of detaining citizens of the United States for political leverage, suggests a targeted approach based on national origin. The implications of this detention, potentially aimed at gaining concessions from the United States, exemplify a violation of the principle of equality before the law as enshrined in international human rights standards. Moreover, the Russian Federation has expressed its openness to negotiating with the United States about releasing Mr. Gershkovich in a future prisoner exchange. Given the facts of the present case and the pattern by the Russian Federation of political hostage-taking, it is clear that the Government of the Russian Federation has detained Mr. Gershkovich on the basis of his nationality and citizenship.

e. Additional information received from the source

53. On 3 March 2024, the source submitted additional information informing the Working Group that courts of the Russian Federation had ruled four times to extend Mr. Gershkovich's detention – on 23 May 2023, 24 August 2023 and 28 November 2023 and most recently on 26 January 2024. Although Mr. Gershkovich has appealed against each extension, Moscow City Court has rejected all of those appeals. The most recent denial of such an appeal occurred on 20 February 2024.

54. Furthermore, the source asserts that the authorities of the Russian Federation have indicated that Mr. Gershkovich's trial, if and when it occurs, will likely take place in Yekaterinburg, a city in Siberia around 900 miles from Moscow. Mr. Gershkovich would likely be transferred there for the duration of the potentially lengthy trial. This relocation will place severe strain on the ability of the Embassy of the United States in Moscow to support Mr. Gershkovich and have basic consular access to him. It will certainly mean that consular access will occur more rarely.

(b) Response from the Government

55. On 19 December 2023, the Working Group transmitted the allegations from the source to the Government of the Russian Federation under its regular communications procedure. The Working Group requested the Government to provide detailed information by 19 February 2024 about the current situation of Mr. Gershkovich. The Working Group also requested the Government to clarify the legal provisions justifying his detention, as well as its compatibility with the State's obligations under international human rights law, and, in particular, with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government to ensure Mr. Gershkovich's physical and mental integrity.

56. The Working Group regrets that it did not receive a response from the Government of the Russian Federation to this communication. The Government did not request an extension of the time limit for its reply, as is provided for in the Working Group's methods of work.

2. Discussion

57. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

58. In determining whether Mr. Gershkovich'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 requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the

Government if it wishes to refute the allegations.¹⁶ In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

(a) Category I

59. The Working Group will first consider whether there have been violations under category I, which concerns deprivation of liberty without a legal basis.

60. The source contends that Mr. Gershkovich's arrest and continued detention lack a legitimate legal basis, distinguishing between acts of lawful journalism and accusations of espionage or spying for the benefit of a foreign government. It argues that the absence of evidence or a legal rationale provided by the authorities of the Russian Federation to substantiate the espionage charges against Mr. Gershkovich underscores the arbitrary nature of his detention under this category. The source asserts that the espionage charges are a pretext for penalizing Mr. Gershkovich for his journalistic work. Furthermore, the source highlights the broader context of the crackdown by the Russian Federation on independent journalism and dissent, particularly in relation to the armed conflict in Ukraine. This context is relevant in assessing the motivations behind Mr. Gershkovich's detention and the likelihood of it being used as a means to suppress critical reporting.

61. In evaluating Mr. Gershkovich's detention under category I, the Working Group notes that there is a striking lack of any factual or legal substantiation provided by the authorities of the Russian Federation for the espionage charges against Mr. Gershkovich. It further notes the source's unrefuted argument that the espionage charges are being used by the Russian Federation as a pretext to penalize Mr. Gershkovich for his journalistic work. Moreover, the amended Criminal Code (art. 276) includes virtually any sensitive but truthful information regarding the armed conflict in Ukraine, which encompasses large swathes of legitimate journalism seeking to truthfully report on the conflict. This creates a significant risk that article 276 will be used pretextually to punish those engaging in legitimate journalistic work. The Working Group notes that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has underscored the need for legal standards to ensure that national security is not invoked to stifle freedom of expression without a legitimate basis.¹⁷ Based on the unrefuted materials provided, the Working Group considers that the source has demonstrated that Mr. Gershkovich's arrest was conducted under the pretextual label of espionage but was in fact designed to punish his reporting on the armed conflict. Consequently, it lacked a legal basis and is arbitrary under category I.

62. Additionally, the Working Group notes the source's submission that the Government of the Russian Federation has not provided any legal basis for the pretrial detention of Mr. Gershkovich. The Government of the Russian Federation has chosen not to respond to this allegation.

63. Article 9 (3) of the Covenant provides that "it shall not be the general rule that persons awaiting trial shall be detained in custody". The Working Group recalls the Human Rights Committee's view that pretrial detention should be an exception and should be as short as possible, and must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime. Courts must examine whether alternatives to pretrial detention, such as bail or other conditions, would render detention unnecessary in the particular case.¹⁸

64. Given the lack of information provided by the Government of the Russian Federation, the Working Group concludes that Mr. Gershkovich's pretrial detention lacks a legal basis. This again renders it arbitrary under category I.

(b) Category II

65. According to the source, Mr. Gershkovich's arrest resulted from his reporting on the armed conflict in Ukraine or other sensitive topics, thereby impinging on his exercise of

¹⁶ A/HRC/19/57, para. 68.

¹⁷ See A/HRC/29/32.

¹⁸ See the Committee's general comment No. 35 (2014), para. 38.

freedom of opinion and expression. The Russian Federation has not responded to this allegation.

66. As noted above, the source has established that Mr. Gershkovich was arrested in relation to his legitimate work as a journalist. In the absence of a response from the Russian Federation, the Working Group is satisfied that his detention arose from his exercise of his right to freedom of expression, recognized under article 19 of the Covenant and article 19 of the Universal Declaration of Human Rights. Although, under article 19 of the Covenant, the right to freedom of expression may be restricted as provided by law and where necessary for the protection of national security or of public order (*ordre public*), it has not been demonstrated that Mr. Gershkovich's reporting amounted to inciting violence and consequently it has not been shown that his arrest was necessary and proportionate for a legitimate aim of protecting national security or public order.

67. Moreover, the source argues that by arresting Mr. Gershkovich, the Russian Federation violated Mr. Gershkovich's right to freedom of association. The source argues that it prevents him from meeting and communicating with colleagues, sources and other professional associations in pursuit of his news gathering and reporting. It also argues that this violates his right to equal treatment under the law by discriminating against him with regard to his freedom of expression as a journalist on the grounds of citizenship, nationality, and social and cultural background and affiliation.

68. The Working Group recalls from its methods of work that a deprivation of liberty is considered arbitrary under category II if it results from the exercise of the listed rights or freedoms. This is different from the question of whether an arrest results in the repression of rights or freedoms. Here, the restriction on his freedom of association has arisen because of his detention, rather than his detention being imposed because of his exercise of his right to freedom of association. Consequentially, it is not an issue for category II. As regards the claim of inequality of treatment, this is addressed under category V below. On the basis of the materials provided, the Working Group finds that there are insufficient grounds to associate Mr. Gershkovich's arrest with his exercise of the right to freedom of association and the right to equal treatment under the law, for the purposes of category II.

69. Nonetheless, in the light of all the above considerations concerning Mr. Gershkovich's freedom of expression, the Working Group concludes that his deprivation of liberty was arbitrary under category II.

(c) Category III

70. Given its finding that Mr. Gershkovich's detention was arbitrary under category II, the Working Group emphasizes that no trial should take place. However, from the information provided by the source, it appears that the charges against him remain in effect and he is in jeopardy of a minimum sentence of 10 years and a maximum sentence of 20 years of imprisonment in a penal colony of the Russian Federation.

71. The source argues that the Government of the Russian Federation violated Mr. Gershkovich's right to a fair trial on multiple fronts. These include his right to a fair and public hearing by a competent, independent and impartial tribunal (art. 10 of the Universal Declaration of Human Rights and art. 14 (1) of the Covenant), his right to the presumption of innocence (art. 11 of the Universal Declaration of Human Rights and art. 14 (2) of the Covenant) and his right to counsel (art. 14 (3) of the Covenant). Article 14 (1) of the Covenant provides that "in the determination of any criminal charge", the accused "shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law", and article 10 of the Universal Declaration of Human Rights similarly provides that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him".

72. Firstly, regarding the right to a public hearing, the source submits that Mr. Gershkovich's judicial proceedings have been conducted behind closed doors, with the Russian Federation limiting access to the hearings and withholding factual or legal justifications for its decisions. The Working Group notes that, as the Human Rights Committee has stated, criminal trials are to be conducted in public unless one of the exceptional circumstances outlined in article 14 (1) justifies the closure of a trial, that is, for reasons of morals, public order or national security.

73. Noting the unrefuted allegations set out above, the Working Group finds that Mr. Gershkovich did not have a public hearing. The Government of the Russian Federation has not demonstrated sufficient reasons to justify the exceptional imposition of trial proceedings behind closed doors. This violates article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant.

74. Next, the source asserts that Mr. Gershkovich has been deprived of his right to be heard by a competent, independent and impartial tribunal. Specifically, the source argues that the court's actions indicate it is not operating with the requisite independence or impartiality but is instead influenced by the executive branch and the Federal Security Service. Noting the source's unrefuted allegations regarding the involvement and influence of the executive branch, and particularly the Federal Security Service, in the proceedings against Mr. Gershkovich, the Working Group considers that his rights under article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant have been violated in this respect also.

75. Additionally, the source asserts that violation by the Government of the Russian Federation of Mr. Gershkovich's right to be presumed innocent until proven guilty, enshrined in article 11 of the Universal Declaration of Human Rights and article 14 (2) of the Covenant, is evident through public declarations of his supposed guilt by government officials. Here, the Working Group notes the unrefuted allegations that the treatment of Mr. Gershkovich during court appearances, notably his confinement in a cage, have contributed to undermining the presumption of his innocence, by pre-emptively labelling him as a significant security risk without that having been established by evidence.¹⁹ As such, the Working Group finds that Mr. Gershkovich's right to the presumption of innocence guaranteed under article 14 (2) of the Covenant and article 11 (1) of the Universal Declaration of Human Rights has been undermined.

76. Finally, the source submits that the Government of the Russian Federation violated Mr. Gershkovich's right to counsel, guaranteed by article 14 (3) of the Covenant, by preventing him from engaging counsel of his choosing for his arraignment on 30 March 2023 and, instead, requiring Mr. Gershkovich to proceed against his wishes with a Russian court-appointed attorney instead of a United States counsel of his choosing. Moreover, he and his Russian counsel have been prohibited from disclosing to the United States counsel any information about the case, which has effectively deprived the legal team of the ability to coordinate, strategize, and advise Mr. Gershkovich regarding his rights under international law.

77. The Working Group recalls that all persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and that such access is to be provided without delay.²⁰

78. In the present case, Mr. Gershkovich was prevented from being represented by his United States counsel. Although Mr. Gershkovich was represented by a Russian counsel at his arraignment, this was a court appointment. Later, he was able to gain access to Russian counsel of his choosing, but neither he nor his Russian counsel have been able to disclose to his United States counsel any information about the case. This has effectively deprived the legal team of the ability to coordinate, strategize, and advise Mr. Gershkovich regarding his rights under international law. Noting that the Government of the Russian Federation has provided no justification for this restriction on his rights, the Working Group finds that Mr. Gershkovich's rights were violated in this respect.

79. The source adds that Mr. Gershkovich has had his rights to consular assistance restricted. After an initial consular visit, further attempts to secure consular access were largely unsuccessful. The Working Group notes that consular assistance constitutes an important safeguard for individuals who are arrested and detained in a foreign State, and helps to ensure that international standards are being complied with. It provides detainees as well as consular

¹⁹ Opinions No. 36/2020, para. 68; No. 83/2019, para. 73; No. 36/2018, para. 55; No. 79/2017, para. 62; and No. 40/2016, para. 41; and see Human Rights Committee, general comment No. 32 (2007), para. 30.

²⁰ 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 and guideline 8; Human Rights Committee, general comment No. 35 (2014), para. 35; [A/HRC/48/55](#), para. 56; and [A/HRC/45/16](#), paras. 50–55. See also [A/HRC/27/47](#), para. 13.

officials of the detainee's nationality with certain consular rights, which include, inter alia, the right to freely communicate with and have access to their detained nationals and to be informed about the arrest without delay. These rights are embodied in rule 62 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and principle 16 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.²¹ Noting the source's unrefuted allegations, the Working Group finds that Mr. Gershkovich's rights to consular assistance were restricted without sufficient reason being given. This aggravated the fair trial violations against him as set out above.

80. For the reasons enumerated above, the Working Group concludes that these numerous violations of Mr. Gershkovich's right to a fair trial and to due process mentioned above are of such gravity as to render his deprivation of liberty arbitrary under category III.

(d) Category V

81. According to the source, Mr. Gershkovich's detention by the Government of the Russian Federation is discriminatory, being based on his national origin, a protected characteristic under the Covenant and the Universal Declaration of Human Rights. The Government of the Russian Federation chose not to address this allegation.

82. The Working Group has determined that detaining individuals on the basis of their national origin is a violation of their right to equality before the law and to the equal protection of the law under article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant.²²

83. In the light of the unrefuted information provided, the Working Group considers that Mr. Gershkovich's nationality has been a factor in his detention, and that his detention thereby has a discriminatory basis. The Working Group notes in this respect the practice of authorities of the Russian Federation detaining Americans, as set out in the submissions. This discrimination contravenes the principle of equal protection of the law and thereby violates the autonomous right recognized under article 26 of the Covenant and article 7 of the Universal Declaration of Human Rights. Because the discriminatory treatment also contributed to the deprivation of Mr. Gershkovich's other rights, including under articles 9 and 14 of the Covenant, it constitutes a violation of article 2 (1) of the Covenant, as reflected in article 2 of the Universal Declaration of Human Rights.

84. Consequently, the Working Group finds that Mr. Gershkovich's deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on his nationality. His detention violates articles 2 (1) and 26 of the Covenant and articles 2 and 7 of the Universal Declaration of Human Rights²³ and is arbitrary under category V.

(e) Concluding remarks

85. The Working Group notes the source's submission that, since his detention on 29 March 2023, Mr. Gershkovich has been isolated from the outside world and barred from communicating directly with his family in the United States. In this respect, the Working Group reminds the Russian Federation to adhere to its obligations under principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rules 43 (3), 58 and 59 of the Nelson Mandela Rules. It notes that prompt and regular access to family members, as well as to independent medical personnel and lawyers, is an essential and necessary safeguard to protect against arbitrary detention and prevent torture, as the Human Rights Committee has observed in its general comment No. 35 (2014).²⁴

86. Noting the source's complaints regarding Mr. Gershkovich's conditions of detention, including the incommunicado detention after his arrest in Yekaterinburg, the restrictions on his consular access, his move to Lefortovo Prison in Moscow, and his potential transfer to Yekaterinburg, a city in Siberia around 900 miles from Moscow, the Working Group reminds the Government of its obligations under article 10 of the Covenant and under the Nelson

²¹ Opinion No. 34/2018, para. 37.

²² Opinion No. 85/2020, para. 84.

²³ Human Rights Committee, general comment No. 18 (1989), paras. 1 and 12.

²⁴ See para. 58. See also the Committee's general comment No. 32 (2007), para. 34; and opinions No. 35/2018, para. 39; No. 44/2019, paras. 74 and 75; and No. 45/2019, para. 76.

Mandela Rules to ensure that detainees are housed appropriately with due regard for their health and for the maintenance of consular communication in the case of foreign nationals such as Mr. Gershkovich.

87. Furthermore, the Working Group notes the source's allegation that Mr. Gershkovich was detained as leverage in order to obtain concessions from the State of his nationality. The Working Group reiterates its serious concerns at the detention of foreign nationals in a State in circumstances where their foreign nationality has served as a reason for their deprivation of liberty.²⁵

3. Disposition

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

The deprivation of liberty of Evan Gershkovich, being in contravention of articles 2, 7, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 2, 9, 14, 19 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

89. The Working Group requests the Government of the Russian Federation to take the steps necessary to remedy the situation of Mr. Gershkovich 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.

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

91. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Gershkovich and to take appropriate measures against those responsible for the violation of his rights.

92. The Working Group requests the Government to bring its laws, particularly article 276 of the Criminal Code, into conformity with the recommendations made in the present opinion and with the obligations of the Russian Federation under international human rights law.

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

4. Follow-up procedure

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

95. 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.

²⁵ [A/HRC/48/55](#), paras. 60–63 and 72.

96. 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.

97. 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.²⁶

[Adopted on 20 March 2024]

²⁶ Human Rights Council resolution [51/8](#), paras. 6 and 9.