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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its ninety-eighth session, 13–17 November 2023

#### Opinion No. 63/2023 concerning Carlos Manuel de São Vicente (Angola)

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 30 May 2023 the Working Group transmitted to the Government of Angola a communication concerning Carlos Manuel de São Vicente. The Government submitted a late response on 8 September 2023. 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, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

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

## 1. Submissions

### (a) Communication from the source

4. Carlos Manuel de São Vicente is a dual citizen of Angola and Portugal, born on 16 March 1960. He is an entrepreneur and an economist by training and is married to a former member of parliament and vice-minister in the Administration of President of Angola, José Eduardo dos Santos, and daughter of former President of Angola, Agostinho Neto. He usually resides in Luanda.

#### (i) Background

5. According to the source, Mr. São Vicente became successful in the early 2000s, when a State company where he was employed, Sonangol, perfected its risk management system in the oil fields at his initiative, thanks to the creation of another company set up for that purpose, AAA Seguros. That company was reportedly granted the position of “leader” of co-insurance of Angolan oil activities under the terms of decrees No. 6/01 of 2 March 2001 and No. 39/01 of 22 June 2001.

6. In return for his decisive contribution, Mr. São Vicente was granted the possibility of gradually acquiring shares in AAA Seguros, originally majority owned by Sonangol. According to the source, these insurance and reinsurance activities were beneficial for the State and highly profitable for Mr. São Vicente, who invested his wealth in the economy of Angola, in particular by equipping the country with a hotel network. According to the source, at the time of his arrest, Mr. São Vicente had become the most important Angolan investor in the country.

7. Reportedly, on 18 September 2018, Mr. São Vicente gave instructions to a Swiss bank, where he held both personal accounts and business accounts opened in the names of his companies, for two internal fund transfers. Being aware of its client’s intention to withdraw his funds from the bank’s management, the bank alerted the Swiss authorities to suspicions of money-laundering. On 4 December 2018, the Swiss authorities opened an investigation for money-laundering into Mr. São Vicente and froze his assets and those of his family.

8. In January 2020, while his assets were still frozen by the Swiss authorities, the “Luanda leaks” documents revealed significant embezzlement committed by the former leader of the Sonangol company. According to the source, despite the lack of any link with Mr. São Vicente, these revelations had an impact on his case and on 11 March 2020, the Swiss public prosecutor sent Angola a request for mutual legal assistance, relating particularly to the relationship between Sonangol and AAA Seguros.

9. Reportedly, the Angolan authorities responded to the Swiss authorities’ request on 7 August 2020, stating that a full investigation had been carried out, that the procedure awarding the position of co-insurance leader was regular, and that other AAA Seguros shareholders had stated that there was no claim against the company or its Board of Directors. The prosecutor’s office further stated that Mr. São Vicente had demonstrated responsible citizenship and diligent and zealous management of an activity essential to the oil industry and therefore to national security. The prosecutor’s office reportedly concluded that there was no indication in Angola of any corruption, money-laundering, economic participation in a business or any other crime committed by Mr. São Vicente in connection with the facts appearing in the request for judicial assistance.

#### (ii) Arrest and detention

10. According to the source, as at 27 August 2020, the amount of Mr. São Vicente’s assets were widely exposed by media outlets, in a heated political and social context and the serious economic and financial crisis faced by Angola since 2014, allegedly linked to the fall in oil prices and the corruption of its leaders.

11. The source explains that in 2017, the President of Angola, João Lourenço, embarked on a campaign against corruption, which reportedly targeted the family of his predecessor.

Apparently, this campaign was criticized as a politically motivated instrumentalization of the justice system and a way to settle scores with old rivals.

12. The source further explains that the economic crisis in Angola has worsened following the health crisis linked to the coronavirus disease (COVID-19) pandemic, which itself revealed the extreme poverty in the country and led to social upheaval and human rights violations by the authorities. The source observes that in this context of political, economic and social instability, mention of the alleged embezzlement of \$900 million was bound to cause popular outrage against the ruling class and placed the Government under a high degree of pressure, especially in view of the then-impending presidential election.

13. The source explains that in this highly politicized and socially unstable context, despite having exonerated Mr. São Vicente a month earlier, the public prosecutor decided to open an investigation into him for embezzlement and corruption. On 8 September 2020, the prosecutor reportedly ordered the sequestration of buildings belonging to AAA Seguros and hotels built and operated by Mr. São Vicente in Angola. According to the source, the order did not include any facts to justify such measures. Reportedly, the authorities also seized the shares of a company held by one of Mr. São Vicente's companies, although such assets were not included in the sequestration order. The source also contends that Mr. São Vicente received no notification of any of the sequestration orders. The public prosecutor reportedly issued press releases informing the public of its actions, which were relayed by national media.

14. It is reported that Mr. São Vicente appeared for the first time before the public prosecutor on 15 September 2020 and for the second time on 22 September 2020. Allegedly, he was denied access to the minutes of his hearing on both occasions. The source notes that, following that hearing, the same two judges who had assured the Swiss authorities two months previously of Mr. São Vicente's innocence ordered he be placed in detention. The media was reportedly made aware of the detention order more than half an hour before Mr. São Vicente was notified of it.

15. According to the source, after the Angolan media had revealed the content of the response sent by the Government to the Swiss authorities in August 2020, the prosecutor's office attempted to explain its turnaround by stating that when the Swiss authorities had sent the request for judicial assistance, there was not enough evidence and the Swiss authorities had not provided information on the amounts at stake. The source contends that such information, in addition to a number of other details, was expressly included in the request for judicial assistance and that therefore the Angolan authorities had been in possession of all information relevant to the Swiss proceedings for several months.

16. The source considers that the arrest of Mr. São Vicente was meant to deflect popular discontent. Reportedly, the detention order of 22 September 2020 merely enumerates a number of allegations without establishing any facts linking Mr. São Vicente to his alleged crimes. The authorities reportedly argued that his power, influence, finances and regular travel abroad demonstrated a risk of absconding that justified his detention. According to the source, Mr. São Vicente's health was not taken into consideration, even though he is vulnerable to a serious COVID-19 infection because of his type 2 diabetes and hypertension, and no alternative to detention was considered because of the social instability that threatened the Government.

17. From 22 September 2020 to date, Mr. São Vicente was reportedly detained in Viana prison in particularly dire conditions. The source reports that Viana is chronically overcrowded and pretrial detainees are detained together with convicted individuals. Allegedly, Mr. São Vicente does not receive adequate food and lacks access to running and drinkable water. As a result, his relatives attempt to supply him with food and clean water daily. Reportedly, after the media exposed his wealth and depicted him as guilty of significant embezzlement, thereby fuelling public hostility, Mr. São Vicente became the target of other detainees. The source notes that Mr. São Vicente's mental and physical health are deteriorating, as he cannot access proper medical care and treatment. The source expresses concern that in the context of COVID-19, these ailments may render Mr. São Vicente more vulnerable and expose him to a risk of death.

18. On 28 September 2020, the public prosecutor reportedly sent a supplementary response to the request for judicial assistance sent by the Swiss authorities, informing the latter of the criminal proceedings brought against Mr. São Vicente and thereby contradicting the initial report sent by the Angolan authorities in August 2020.

19. On 12 November 2020, the Court of Justice of the Canton of Geneva, ruling on the lifting of the freezing of the assets of AAA International Ltd., underlined the need to specify the offence alleged against Mr. São Vicente to justify prosecuting him for money-laundering in Switzerland and stated that the response of the Angolan authorities did not indicate any such offence. The source observes that the Swiss authorities were particularly sceptical as to the existence of any offence committed by Mr. São Vicente.

20. The source further reports that on 6 October 2020, two officers of the office of the public prosecutor in charge of the case visited Mr. São Vicente in detention, outside any procedural framework. Reportedly, neither Mr. São Vicente nor his lawyer had been notified of the visit and the agents threatened to convict Mr. São Vicente if he did not hand over his assets to the Government, which they said needed money.

21. According to the source, the detention of Mr. São Vicente was first reviewed by a judge on 7 October 2020, when the Supreme Court rejected his request for habeas corpus, in which he alleged that his detention was not legal and that his health was in danger. The Court reportedly considered that Mr. São Vicente's health, although likely to render his detention illegal, did not fall within the scope of article 315 of the Code of Criminal Procedure, which governs the habeas corpus procedure. In addition, the Supreme Court reportedly omitted to answer the main grounds raised by Mr. São Vicente to demonstrate the illegality of his detention.

22. On 15 October 2020, the Provincial Court of Luanda reportedly rejected Mr. São Vicente's appeal against the detention order of 22 September 2020, despite not having examined the existence of any factual element likely to implicate him in the alleged acts and merely adopting the reasons enumerated in the detention order. While admitting the existence of deplorable sanitary detention conditions and the increased risk of contracting diseases in the prison of Viana and recalling the right to health enshrined in the Constitution, the Court concluded that in view of the principle of equality and the fact that all detainees were subject to the same conditions, there was no violation of Mr. São Vicente's rights.

23. On 20 January 2021, despite having found no element likely to justify indicting Mr. São Vicente, the public prosecutor extended his pretrial detention for two additional months. During his appearance before the public prosecutor, on 29 January 2021, the latter reportedly asked Mr. São Vicente if it was "fair" that he had made such large profits from his activities in the oil sector. The source notes that Mr. São Vicente was denied access to the minutes of his hearing.

24. The source contends that Mr. São Vicente's detention is based on political and moral considerations. It is submitted that Mr. São Vicente has served as a scapegoat for difficulties in the country linked to the time, the regime and the system, and entirely unrelated to the charges against him, in a context in which public opinion was focused on issues of corruption and was stirred up against Mr. São Vicente.

25. On 24 March 2022, the District Court of Luanda reportedly sentenced Mr. São Vicente to nine years in prison for embezzlement, tax fraud and money-laundering, as well as a fine of \$4.5 billion and the loss of all assets seized in the context of the judicial proceedings in favour of the State. On 25 July 2022, the Luanda Appeals Court increased the sentence to 10 years and on 22 September 2022, the Supreme Court confirmed the judgment. Mr. São Vicente reportedly filed an appeal before the Constitutional Court, which is currently pending.

26. The source notes that under domestic law, a Supreme Court judgment is not final if an appeal is pending before the Constitutional Court. The source explains that given the circumstances of the present case, its complexity, the appeal pending before the Constitutional Court and the inability of Mr. São Vicente to attend some hearings due to his hospitalization, his pretrial detention should have been limited to 24 months and 4 days and should have ended on 26 September 2022 at the latest. The source therefore contends that,

pending a final judgment, Mr. São Vicente is being detained in pretrial detention beyond the maximum duration established by law.

(iii) *Legal analysis*

27. At the outset, the source notes that article 9 (1) of the Covenant, article 6 of the African Charter on Human and People's Rights, and article 36 of the Constitution of Angola prohibit arbitrary detention. In accordance with article 13 of the Constitution, international instruments ratified by the State are directly applicable in domestic law and are therefore binding on domestic judges.

28. The source argues that the detention of Mr. São Vicente is arbitrary under categories I, III and V.

a. Category I

29. The source argues that the detention of Mr. São Vicente is arbitrary insofar as it resulted from an invalid title, lacking any factual evidence, and his detention was neither necessary nor reasonable.

30. The source recalls that under article 9 (2) of the Covenant, anyone arrested must be notified of the reasons for the arrest at the time of the arrest and promptly notified of the charges against them. It notes that the term "reasons" includes the general legal basis for the arrest, but also facts sufficient to give an indication of the merits of the complaint, and that a detention is arbitrary where the arrest warrant does not mention any factual element likely to implicate the person concerned in the acts in question. The source adds that according to the European Court of Human Rights, "having a reasonable suspicion presupposes the existence of facts or information capable of persuading an objective observer that the individual in question may have committed the offence"<sup>2</sup> and therefore, the absence of elements linking the person concerned to the alleged facts deprives the detention of a legal basis.

31. According to the source, the order dated 22 September 2020 ordering the detention of Mr. São Vicente does not mention any concrete element likely to link him to the facts with which he is charged. Reportedly, it mentions that the defendant carried out a scheme of illegal appropriation of AAA Seguros shares, income and profits produced by the insurance and reinsurance system in the oil sector in Angola, as a result of the co-insurance monopoly in the sector through AAA Seguros. According to the order, most of the assets of AAA Seguros now belong to other companies of the same group owned or controlled by Mr. de São Vicente, namely AAA Investors, AAA Serviços Financeiros, AAA Activos, AAA Angola Invest Limited and AAA International Limited, achieved through a fraudulent process and to the detriment of the Angolan State. The order also alleges that there are strong indications that the transfer of the shares in favour of AAA Seguros held by Mr. de São Vicente, was made illegally, as there is no evidence in the records that the Board of Directors of Sonangol agreed to the transfer of shares.

32. The source notes that the changes in the shareholding of AAA Seguros were made public through the official gazette and that Sonangol accepted these changes at shareholder meetings. Reportedly, Sonangol was informed in real time of the composition of the shareholding of AAA Seguros and has always indicated, including through its most recent director, that it has no claim or grievance against AAA Seguros or its directors, including Mr. São Vicente. The source argues that the lack of precision characterizing the detention order reflects the extreme fragility of the case brought against Mr. São Vicente. The source adds that the order reverses the burden of proof insofar as it states that there is no evidence in the records that Sonangol agreed to the transfer of shares, which is not only contrary to the right to be presumed innocent but also testifies to the absence of any material element in support of the accusations against Mr. São Vicente. The source also recalls that in its

<sup>2</sup> See, for example, European Court of Human Rights, *Fox, Campbell and Hartley v. United Kingdom*, Applications No. 12244/8, No. 12245/86 and No. 12383/86, Judgment, 30 August 1990, para. 32. See also *Brogan and others v. United Kingdom*, Applications No. 11209/84, No. 11234/84, No. 11266/84 and No. 11386/85, Judgment, 29 November 1988.

judgment, the Court of Justice of the Canton of Geneva emphasized that the response of the Angolan authorities did not suggest that any offence had been committed by Mr. São Vicente.

33. The source notes that despite the lack of factual elements to support the charges against Mr. São Vicente, the Provincial Court of Luanda and the Supreme Court confirmed the detention order of 22 September 2020. For the reasons set out above, the source argues that Mr. São Vicente is detained on the basis of an invalid detention order.

34. It is further submitted that the detention of Mr. São Vicente is contrary to article 9 (3) of the Covenant, as it is not necessary or reasonable.

35. Allegedly, at the time that Mr. São Vicente was placed in detention, the authorities had been duly informed that Mr. São Vicente's passport had expired and most of his assets had been frozen, depriving him of any financial support. In addition, his notoriety, which was heightened by the press campaign to which he was subjected after September 2020, would not have allowed him to move around in anonymity. The source emphasizes that, as stated by the Working Group, such factors make the flight risk unlikely. It further notes that Mr. São Vicente has never attempted or even thought about leaving the country or interfering with the investigation and has systematically cooperated with the authorities and provided the necessary documents and answers. The source therefore submits that there was no indication of any risk of absconding or interference with the investigation.

36. In addition, the source argues that the detention of Mr. São Vicente is unreasonable as it exposes him to a risk of death. It notes that Mr. São Vicente is over 60 years old and has diabetes 2 and high blood pressure, requiring regular cardiology and urology monitoring, which the Viana prison cannot provide. The source emphasizes that in the context of the COVID-19 pandemic, made worse by the overcrowding in the prison and the dire detention conditions, Mr. São Vicente is vulnerable to serious infections. Despite the spread of COVID-19 cases in prisons and Mr. São Vicente's fragile health, the Supreme Court considered his habeas corpus request on the basis of his health inadmissible and the Provincial Court of Luanda concluded that there was no violation of Mr. São Vicente's right to health because all detainees were subject to the same conditions.

37. The source further notes that Mr. São Vicente's house is under permanent supervision and it would have therefore been entirely conceivable to consider alternative measures to detention, such as house arrest.

38. The source concludes that the lack of any material proof implicating Mr. São Vicente and the unnecessary and unreasonable nature of his detention render his detention arbitrary under category I.

b. Category III

39. The source argues that Mr. São Vicente was detained for political reasons and deprived of his rights guaranteed by articles 9 and 14 of the Covenant.

40. The source recalls that the right to be heard before an independent and impartial tribunal, guaranteed by article 14 (1) of the Covenant, is absolute and requires that the judicial authority be able to rule independently and without political interference. It notes that different United Nations organs, including the Working Group on Arbitrary Detention, have regularly expressed concern regarding the lack of independence and impartiality of the Angolan judiciary.

41. The source argues that Mr. São Vicente's right to an independent and impartial tribunal was violated, given the political nature of the proceedings against him. It notes that Mr. São Vicente was detained on 22 September 2020, following the freezing of his assets on 8 September, despite the authorities having stated one month prior that Mr. São Vicente had behaved in a responsible, diligent and zealous manner and that nothing justified prosecuting him. The source contends that the public prosecutor was put under pressure by a press campaign that had exposed the procedure against Mr. São Vicente in Switzerland and the socially and politically tense context in which the President of Angola himself was accused of corruption. According to the source, the public prosecutor made an example out of Mr. São Vicente to divert legitimate popular anger and frustration towards him in the wake of the upcoming 2022 presidential elections.

42. The source emphasizes that Mr. São Vicente is married to the daughter of former President Neto. According to the source, Mr. São Vicente's wife was also a minister in the Government of former President dos Santos, whose entourage was particularly targeted by the anti-corruption campaign of his successor.

43. The source submits that the freezing of Mr. São Vicente's assets was aimed at replenishing the State budget, as illustrated by the visit of two officers from the public prosecutor's office to Mr. São Vicente on 6 October 2020, during which they threatened that he would be found guilty if he did not surrender his assets to the State, which they said needed money.

44. The source also contends that the judges themselves lacked independence and impartiality. The source argues that the judges of the Provincial Court of Luanda and the Supreme Court failed to consider any alternatives to detention, merely affirming the prosecutor's detention order. The source observes that the Working Group on Arbitrary Detention has previously described the habeas corpus procedure before the Supreme Court of Angola as cumbersome and ineffective. Reportedly, despite the 2010 constitutional reform, judges of the Supreme Court are still nominated by the President without any parliamentary control. According to the source, it is thus unsurprising that the Supreme Court rejected Mr. São Vicente's application, simply arguing that it fell outside the scope of the habeas corpus procedure.

45. The source concludes that the lack of independence of both the public prosecutor and the judges of the Provincial Court of Luanda and of the Supreme Court deprived Mr. São Vicente of the rights enshrined in article 14 (1) of the Covenant.

46. The source recalls the requirements that detainees be treated with dignity and be separated from convicted individuals under article 10 of the Covenant and rules 1 and 11 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The source notes the concept of an "unreasonable risk of serious damage" to one's health developed by the European Court of Human Rights, and its finding that the lack of appropriate medical care and more generally, the detention of a sick individual in inadequate conditions, may constitute treatment contrary to article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention of Human Rights).<sup>3</sup> The source also recalls that detention conditions that affect a detainee's health, safety or well-being, place the individual in less favourable conditions than the prosecution, in violation of articles 10 and 14 of the Covenant. The source adds that the principle of equality of arms is a corollary to the right to a fair trial.

47. The source emphasizes the overcrowding and dire conditions of detention in Angola, particularly regarding access to food, sanitary facilities and medical care and the failure to separate detainees and minors from convicted individuals. Specifically, it is submitted that Mr. São Vicente is detained in particularly challenging conditions, without access to running or potable water, insufficient food and inadequate clothing. Despite his medical record showing particularized dietary needs due to his illnesses, he is not provided with such a diet and is deprived of the necessary regular cardiology and urology monitoring. The source observes that because of his detention conditions, Mr. São Vicente's mental health has deteriorated and he has suffered from suicidal ideation, as observed by a doctor two months after he was detained. The source argues that such detention conditions violate his dignity, threaten his health and well-being, and put him at a disadvantage vis-à-vis the public prosecutor, who carries out proceedings with no judicial control.

48. According to the source, Mr. São Vicente is not separated from convicted individuals despite the lack of a final judgment against him. He is also transported to the health clinic in handcuffs, which creates further humiliation. The source adds that the visit to Mr. São Vicente by two officers from the public prosecutor's office on 6 October 2020, without his

<sup>3</sup> For example, European Court of Human Rights, *Price v. United Kingdom*, Application No. 33394/96, Judgment of 10 July 2001, para. 30; *Ilhan v. Türkiye*, Application No. 22277/93, Judgment, 27 June 2000, para. 87; and *Gennadiy Naumenko v. Ukraine*, Application No. 42023/98, Judgment 10 February 2004, para. 112.

lawyers being present and in a vulnerable detention setting, increased the imbalance of the procedure against Mr. São Vicente.

49. The source recalls that article 9 (3) of the Covenant aims to place detention under the control of a judicial authority and therefore applies at all times, without exception. Such control must be exercised by an independent authority within the meaning of article 9 (3), which excludes prosecutors, and detainees must be presented before a judge within 48 hours, save in exceptional and justified circumstances.

50. In the case at hand, Mr. São Vicente was reportedly detained based on an order issued by the public prosecutor on 22 September 2020. On 20 January 2021, the prosecutor extended Mr. São Vicente's detention for another two months, based on the complexity of the case, its international nature and the risk of Mr. São Vicente absconding. According to the source, at no time was Mr. São Vicente's detention subject to the control of a judicial authority, as required by article 9 (3) of the Covenant.

51. Further, the source contends that the national criminal procedure violates article 9 (3) of the Covenant in so far as article 40 (1) and (2) of Law no. 24/2015 of 18 September 2015, concerning security measures in criminal procedures, allows for the pretrial detention of individuals for up to six months without any judicial control.

52. The source argues that Mr. São Vicente's appeals before the Provincial Court of Luanda and the Supreme Court do not satisfy the requirement of an automatic judicial control under article 9 (3) of the Covenant. In addition, the source submits that both courts failed to effectively control the detention order against Mr. São Vicente and the latter filed two appeals before the Constitutional Court, which have yet to be examined. Mr. São Vicente also filed habeas corpus applications on 23 December 2020, 10 February 2021 and 6 April 2023. Reportedly, despite the legal period to decide on such a request being five days, there has not yet been a decision on the merits.

53. The source argues that Mr. São Vicente was deprived of his right to benefit from adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing, as guaranteed by article 14 (3) (b) of the Covenant.

54. The source recalls the importance of the right to legal assistance, which is fundamental to the right to a fair trial. Restrictions to the right to legal assistance should not prejudice the right itself, be unlawful or unreasonable and access to a lawyer must be provided promptly and throughout the detention, including immediately after arrest.

55. Allegedly, Mr. São Vicente faces difficulties communicating with his lawyers and was denied visits from them on at least three occasions: on 22 September 2020 when he was first arrested, then on 30 October and on 2 November 2020, on the sole basis that a visit from the prison director was under way. The source adds that the visit of the two officers from the public prosecutor's office to Mr. São Vicente in detention on 6 October 2020 occurred despite his lawyers not being present and not having been notified of the visit.

56. Further, the source emphasizes that the right to adequate time and facilities for the preparation of one's defence is an important element of the right to a fair trial and an application of the principle of equality of arms, and includes the right to access documents, evidence and all materials that the prosecution plans to offer in court against the accused or that are exculpatory.

57. Allegedly, since the beginning of the proceedings, neither Mr. São Vicente nor his lawyers have had access to any element of the prosecution file. Mr. São Vicente reportedly learned of the course of the investigation, including the hearing of Sonangol's previous manager, through the media.

58. The source argues that the failure of the authorities to provide Mr. São Vicente with a lawyer and with access to his file significantly undermined the fairness of the trial and has further contributed to the arbitrary nature of his detention.

59. The source submits that the right of Mr. São Vicente to be presumed innocent was violated, contrary to article 14 (2) of the Covenant and to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. It recalls that it is the duty of all public authorities to refrain from prejudging the outcome of a trial, for instance

by abstaining from making public statements affirming the guilt of the accused, and that the media should avoid news coverage undermining the presumption of innocence. The source notes that an aggressive media campaign may harm the fairness of the trial and broadcasting a suspect's pictures on television may, in certain circumstances, run contrary to the presumption of innocence. Similarly, the source emphasizes the finding by the Working Group of a breach of the presumption of innocence, where the authorities used an individual's detention as a piece of political propaganda to convince public opinion that it constituted a step forward in the fight against terrorism.

60. The source submits that Mr. São Vicente was the target of media and political harassment and was set up as a symbol of corruption, in violation of his right to be presumed innocent. After a newspaper revealed the procedure against him on 27 August 2020, Mr. São Vicente reportedly made the headlines multiple times. The source contends that the public prosecutor fuelled the media campaign by releasing detailed press releases at each stage of the proceedings. The source notes that the prosecutor informed the media of Mr. São Vicente's imminent placement in pretrial detention before the latter was informed of it. On 24 November 2020, a television channel reportedly presented Mr. São Vicente as a member of a gang who had endeavoured to drain the State treasury through diverse criminal manoeuvres. Further, despite Mr. São Vicente not having yet been judged, the authorities allegedly retrieved the keys to buildings of which his ownership had been frozen, with the aim of carrying out visits with State representatives interested in using the buildings, thereby violating his right to be presumed innocent.

61. The source argues that on appeal, the defence alleged several violations of the right of Mr. São Vicente to a fair trial. Nonetheless, the Court of Appeal and the Supreme Court both confirmed the conviction and the Court of Appeal even increased Mr. São Vicente's sentence. The source stresses that the Supreme Court's judgment of 22 September 2022 for the most part transcribes excerpts from the judgment of the Court of Appeal and makes generic considerations of a theoretical nature without substantiating its conclusions.

62. In particular, the source contends that once formal accusations were issued against Mr. São Vicente, his lawyers were only given access to the file against him one day before the deadline for submitting a request for a preliminary hearing. Further, the higher courts allegedly failed to decide on the allegation that Mr. São Vicente was unable to examine and comment on evidence that the prosecution sent to the trial court after the production of evidence at the trial was completed.

63. In addition, the Court of Appeal allegedly granted the appeal, despite the prosecutor not having submitted its conclusions, as required under domestic law. Further, during the trial before the District Court of Luanda, one of the judges reportedly fell ill and could not participate in the hearing. The presiding judge failed to adjourn the session and the missing judge issued a dissenting decision contending, *inter alia*, that she had not been continuously present at the trial hearing.

64. Further, the defence stated that the main lawyer appointed by Mr. São Vicente was prevented by the trial court from representing him at the first hearing, on the basis that he could be called as a witness in the case. Although that lawyer was never heard as a witness in the case, the Supreme Court reportedly failed to assess the trial court's decision to prevent Mr. São Vicente from being represented by a lawyer of his choice.

65. The source further submits that the trial court refused to hear two important defence witnesses and that the Supreme Court failed to address that issue in its judgment.

66. The source also notes that the factual matter on which a judgment must rely is limited to the indictment prior to trial and the organized list of questions after the production of evidence at the trial. Reportedly, the trial court considered new facts, outside the indictment and the list of questions, and relied on testimonies of witnesses that were based on hearsay and information transmitted by third parties, and that contained personal opinions rather than facts. For instance, one witness reportedly relied on a letter he had signed but that he admitted had been drafted by a third person and contained facts of which he was not aware. The trial court also reportedly substantially relied on an audit report that was not signed and whose author remained anonymous, in violation of domestic law.

67. The source alleges that, despite the defence having submitted evidence contradicting the findings of the trial court judgment, the Court of Appeal and the Supreme Court confirmed the lower court's findings, thereby ignoring the lack of factual support to justify Mr. São Vicente's conviction. Further, the Court of Appeal and the Supreme Court allegedly confirmed the trial court's judgment, despite both objective and subjective elements of the crimes of which Mr. São Vicente was accused not having been proven. In addition, it ignored the fact that Mr. São Vicente was convicted based on facts that related to a period more than 15 years previously and were subject to a 15-year statute of limitation under domestic law, and other facts subject to amnesty law No. 11/16 of 12 August 2016 and another amnesty approved in law No. 35/22 of 23 December 2022.

68. The source also notes that, while domestic law requires the liquidation of a defendant's assets resulting from facts for which the defendant was convicted, the judgment against Mr. São Vicente ordered the confiscation of his assets, including bank accounts and buildings, as well as that of family members, leaving him and his family without fair means of subsistence.

c. Category V

69. The source argues that Mr. São Vicente is detained based on his economic status and the symbolic position he embodies because of his wealth. Allegedly, he is being prosecuted on charges of corruption and influence-peddling, implicating other Sonangol managers. While such managers should have been prosecuted or at least investigated under national criminal law, the source notes that the President of Sonangol was only heard as a witness after being assured that he would not be prosecuted. The source considers that, in the light of the particular context in Angola, such differential treatment can only be explained by Mr. São Vicente's social situation and wealth.

70. The source notes that any differential treatment based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, is discriminatory. It adds that, in accordance with the jurisprudence of the European Court of Human Rights, discrimination occurs when individuals in comparable situations are treated differently despite the lack of any objective or reasonable justification.<sup>4</sup> The source thus argues that Mr. São Vicente's detention is discriminatory and violates article 26 of the Covenant, rendering it arbitrary under category V.

**(b) Response from the Government**

71. On 30 May 2023, the Working Group transmitted to the Government of Angola a communication concerning Mr. São Vicente under its regular communications procedure. The Working Group requested the Government to provide, by 31 July 2023, detailed information about the situation of Mr. São Vicente and to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of Angola under international human rights law, and in particular with regard to the treaties ratified by the State. The Working Group also called upon the Government of Angola to ensure Mr. São Vicente's physical and mental integrity.

72. On 1 June 2023, the Government of Angola requested an extension in accordance with the Working Group's methods of work, which was granted with a new deadline of 31 August 2023. On 8 September 2023, the Government submitted its reply. The Working Group cannot accept the Government response as though it were submitted on time.

**2. Discussion**

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

<sup>4</sup> See, in particular, European Court of Human Rights, *Willis v. United Kingdom*, Application No. 36042/97, Judgment, 11 June 2002, para. 48; and *Bekos and Koutropoulos v. Greece*, Application No. 15250/02, Judgment, 13 December 2005, para. 63.

74. To determine whether Mr. São Vicente's deprivation of liberty was arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented 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>5</sup> In the current case, the Government has not responded to the allegations of the source.

75. The source has argued that the detention of Mr. São Vicente is arbitrary and falls under categories I, III and V. The Working Group shall proceed to examine the submissions under each category in turn.

**(a) Category I**

76. The source submits that the detention of Mr. São Vicente is arbitrary under Category I, based upon article 9 of the Covenant, because Mr. São Vicente was not adequately informed of the reasons for his arrest. In its late response, the Government argues that due process was adhered to.

77. The Working Group notes that under article 9 (1) of the Covenant, no one is to be deprived of liberty except on such grounds and in accordance with such procedures as are established by law. Article 9 (2) stipulates 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 on Arbitrary Detention has stated that the authorities must invoke the legal basis and apply it to the circumstances of the case in question.<sup>6</sup> That is typically done through an arrest warrant or order, or an equivalent document.<sup>7</sup> Those rights are reinforced by article 9 of the Universal Declaration of Human Rights.

78. In the present case, the Working Group notes that the authorities did obtain an arrest warrant for Mr. São Vicente, dated 22 September 2020, as the source acknowledges in its submissions summarized above. Although the source argues that the arrest order lacked sufficient information linking Mr. São Vicente to the offence, it did indicate the reason for the arrest and how he was allegedly linked to wrongdoing, namely through the allegation that "the defendant carried out a scheme of illegal appropriation of AAA [Seguros] shares, income and profits produced by the insurance and reinsurance system in the oil sector in Angola". Consequently, the source's claim that he was not provided with sufficient notice of the reasons for being arrested is dismissed.

79. In addition, the source argues that Mr. São Vicente's detention order lacked sufficient factual elements to support the charges against him. However, it is not the Working Group's role to assess Mr. São Vicente's responsibility under domestic law for the crimes with which he is charged.

80. The source submits that Mr. São Vicente's pretrial detention was unjustified. It argues that, with his assets being seized and owing to the extensive public attention his case received, he was unlikely to present a flight risk. It adds that alternatives to detention at Viana prison, such as house arrest, were not properly considered. In its late response, the Government states that pretrial detention was considered necessary because of Mr. São Vicente's status as "a well-known, influential person, with financial power, ... [who] travels regularly abroad, factors which combined could facilitate [his] contact with evidence, both at home and abroad, yet to be brought to the file".

81. The Working Group recalls that under article 9 (3) of the Covenant, pretrial detention should be an exception, be as short as possible and 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, electronic bracelets or other conditions, would render detention unnecessary in the particular case.<sup>8</sup> In

<sup>5</sup> A/HRC/19/57, para. 68.

<sup>6</sup> In cases of *flagrante delicto*, the opportunity to obtain a warrant will not typically be available.

<sup>7</sup> For example, opinion No. 4/2023, para. 64.

<sup>8</sup> Opinion No. 75/2021, para. 49; and Human Rights Committee, general comment No. 35 (2014), para. 38.

and of itself, the conjecture that an individual would have the capacity to escape its jurisdiction does not typically suffice for a State to find an exception to article 9 (3) of the Covenant.<sup>9</sup>

82. At the outset, the Working Group emphasizes that there is no indication that Mr. São Vicente presented any risk of violent offending against the public or witnesses. Moreover, noting the source's detailed claims, including that Mr. São Vicente's assets had been frozen and his passport had expired, and noting that the Government's response was late and does not address the source's argument that alternatives to detention were not considered, the Working Group considers that the source has demonstrated a violation of article 9 (3) and principles 38 and 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment in relation to the imposition of pretrial detention on Mr. São Vicente.

83. According to the source, after Mr. São Vicente was arrested on 22 September 2020, his detention was first reviewed by a judge on 7 October 2020, when the Supreme Court rejected his habeas corpus petition.

84. Article 9 (3) of the Covenant provides that: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power". The Working Group recalls the Human Rights Committee's view that detention longer than 48 hours in the custody of law enforcement officials without judicial control must be exceptional and justified, especially when it increases the risk of ill-treatment.<sup>10</sup>

85. In the present case, the source submits that approximately two weeks passed before Mr. São Vicente was first brought before a judge to have his detention reviewed, on 7 October 2020. The Government does not directly address this argument in its late response. Given that two weeks significantly exceeds the usual 48-hour period and no explanation has been provided by the Government, the Working Group concludes that this constituted a violation under article 9 (3) of the Covenant.

86. The source also argues in its reply to the Government that Mr. São Vicente was improperly held in pretrial detention for almost a year longer than the two-year maximum period of pretrial detention (from 22 September 2020 to 2 August 2023). However, the Working Group notes that by 22 September 2022, Mr. São Vicente had been convicted. In the absence of a sufficient substantiation of this argument by the source, the Working Group cannot find that this argument demonstrates a violation of his rights.

87. In light of the above, the Working Group concludes that the detention of Mr. São Vicente involved multiple violations of his human rights, which rendered it arbitrary under category I.

**(b) Category III**

88. According to the source, Mr. São Vicente has been deprived of several rights, including the right to an independent and impartial tribunal, the right to have his detention and conviction reviewed by a judge, the right to be treated humanely and with dignity while in detention, the right to legal defence and the right to be presumed innocent. In its late response, the Government submitted that his rights had not been violated, as he was given the opportunity to learn about the accusations against him and challenge them.

89. The source submits that given the political nature of the proceedings against Mr. São Vicente, his right to an independent and impartial tribunal was violated. The source submits that the political atmosphere in Angola, alongside the high level of media interest in his activities, had strongly encouraged the Government to seek charges in order to quell public anger. The source notes that the judges of the Supreme Court of Angola are nominated by the President without parliamentary control and thus that the decision to reject the habeas corpus request of Mr. São Vicente is unsurprising, given the potential for a lack of independence and impartiality. Further, the source asserts that the meeting of Mr. São Vicente

<sup>9</sup> Opinion No. 80/2021, para. 49.

<sup>10</sup> Human Rights Committee, general comment No. 35 (2014), para. 33.

with two officers of the law, while in detention and without his lawyers present, was an attempt to secure Mr. São Vicente's wealth for use by the Government, further indicating the lack of impartiality of the prosecution in this case. Conversely, the Government submits that Mr. São Vicente was afforded his fair trial rights, including hearings before courts at three different levels.

90. Article 14 (1) of the Covenant provides that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. In its general comment No. 32 (2007), the Human Rights Committee notes that: "The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges". The Working Group wishes to recall that the guarantees of independence and impartiality enshrined in article 14 of the Covenant require that States guarantee the independence of the judiciary, including by protecting judges from any form of potential influence in their decision-making. Those rights are reinforced by article 10 of the Universal Declaration of Human Rights.

91. The Working Group notes that the source's complaints are detailed and do raise concerns about Mr. São Vicente being tried before an impartial and independent tribunal in this specific instance. Angolan Law No. 69/21 states that the courts of Angola will receive 10 per cent of the value of assets seized by the State in the fight against corruption. That creates a potential financial interest for judges in the course of proceedings, which would be particularly acute in the present case, as it involved a large sum of allegedly ill-gotten money.<sup>11</sup> The Human Rights Committee has pointed out that not only must judicial officers exercise their functions without personal bias, prejudice or preconceptions about the particular case before them ("subjective impartiality"), but the tribunal must offer sufficient guarantees to exclude any legitimate doubt of impartiality ("objective impartiality").<sup>12</sup> In the light of the Government's late response, which does not sufficiently address the claims by the source, the Working Group considers that the existence of a law providing proceeds to the Angolan courts could create a doubt about the court's impartiality in the present case. Accordingly, the Working Group concludes that Mr. São Vicente was deprived of his right in the present circumstances in contravention of article 14 (1) of the Covenant.

92. In relation to the meeting between Mr. São Vicente and two officers of the law, reportedly made with the intention of convincing Mr. São Vicente to hand over his wealth to the State, the Working Group notes that these were not judges but were prosecuting authorities and so does not consider this demonstrates any violation.

93. The source claims that the right of Mr. São Vicente to be presumed innocent was violated, contrary to article 14 (2) of the Covenant. According to the source, Mr. São Vicente was the target of media and political harassment fuelled by the public prosecutor and State authorities. The source submits that the public prosecutor fuelled the media campaign by releasing detailed press statements at each stage of the proceedings and by informing them of Mr. São Vicente's placement in pretrial detention before he was informed about it himself. The source further alleges that, despite Mr. São Vicente not having yet been judged, the authorities retrieved keys to his seized property with the aim of carrying out visits with State representatives interested in it, thereby violating his right to be presumed innocent.

94. 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 Working Group recalls the comment of the Human Rights Committee on the presumption of innocence, which reiterates the duty of all public authorities to refrain from prejudicing the outcome of a trial, including by abstaining from influencing the media coverage.<sup>13</sup> Those rights are reinforced by articles 10 and 11 of the Universal Declaration of Human Rights.

95. The Working Group notes that in its late reply, the Government did not address any of the source's submissions concerning the instances that prejudiced Mr. São Vicente's

<sup>11</sup> On the independence of judges from having a direct interest which favours one party over the other, see opinion No. 76/2018, para. 55.

<sup>12</sup> General comment No. 32 (2007), para. 21.

<sup>13</sup> General comment No. 32 (2007), para. 30.

presumption of innocence, other than to say that the authorities routinely published judgments and that the proceedings in his case adhered to the relevant domestic laws and human rights. Notably, the Government made no response to the allegations of the prosecution's involvement in supporting the media campaign against Mr. São Vicente, nor about the allegation that the media was informed about his pretrial detention before he was. On the basis of the information before it, the Working Group considers that Mr. São Vicente's right to be presumed innocent was violated in contravention of article 14 (2).

96. The source argues that Mr. São Vicente's detention conditions are in violation of his right to dignified treatment under article 10 (1) of the Covenant and his right to be treated as a person without a conviction pursuant to article 10 (2) of the Covenant. The source further submits that these violations directly impair his right to equality of arms under article 14 of the Covenant. Specifically, it asserts that the particularly dire conditions in the Viana prison have negatively impacted Mr. São Vicente's health, which has put him at significant disadvantage vis-à-vis the public prosecutor.

97. The Working Group has previously established that conditions of detention that are so inadequate as to seriously weaken a pretrial detainee are in contravention of the equality of arms principle and fair trial rights under article 14, even where procedural guarantees are otherwise observed.<sup>14</sup> It has also observed that persons over 60 years of age and persons with underlying health conditions should be treated with care and States should refrain from holding them in detention facilities where the risk to their physical and mental integrity is excessive.<sup>15</sup>

98. The Working Group expresses its very serious concern over the state of Mr. São Vicente's mental and physical health. It further expresses its concern over the fact that Mr. São Vicente was placed in detention in the context of the COVID-19 pandemic, without adequate medical facilities and when he was already in delicate health. Regarding the facility's conditions, the issue was raised before the Provincial Court of Luanda on 15 October 2020, which held that there was no violation based on the principle of equality as all detainees are in detained in the same conditions. However, the Working Group recalls that differential measures may be necessary to protect sick persons while in detention and should not therefore be deemed to be discriminatory.<sup>16</sup> In the light of the fact that Mr. São Vicente asserted during his proceedings that the lack of adequate provision for his health was undermining his ability to defend himself and given the lack of a detailed response from the Government to the specific complaints raised by the source, the Working Group considers that he was placed at a disadvantage vis-à-vis the prosecution. The source has accordingly established a violation of article 14. The Working Group further recalls that according to article 10 (1) of the Covenant and rules 1, 24, 27 and 118 of the Nelson Mandela Rules, all persons deprived of their liberty must be treated with humanity and with respect for their inherent dignity, including by being allowed to enjoy the same standards of health care that are available in the community. In addition, rules 22, 24 and 25 of the Nelson Mandela Rules provide for the right to access adequate food and drinking water and health care.

99. The source further submits there has been a violation of Mr. São Vicente's right to benefit from adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing, as guaranteed by article 14 (3) (b). The source asserts that the preparation of Mr. São Vicente's defence has been impaired by obstacles, such as the fact that his first lawyer of choice was not allowed to represent him, his legal counsel was only given two hours for the examination of his file, he was denied visits from his lawyers on at least three occasions and he was visited by officers from the public prosecutor's office without his lawyers present.

100. Regarding Mr. São Vicente's right to adequate preparation of his defence under article 14 (3) (b), the Working Group notes that it enshrines essential fair trial guarantees and the application of the principle of equality of arms.<sup>17</sup> The Working Group further recalls that

<sup>14</sup> E/CN.4/2005/6, paras. 69–70.

<sup>15</sup> A/HRC/45/16, annex II, para. 15.

<sup>16</sup> See principle 5 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

<sup>17</sup> Human Rights Committee, general comment No. 32 (2007), para. 32.

detained persons must have access to all materials related to their detention and any restrictions to this right shall be supported by a finding that it was necessary and proportionate, and that less restrictive measures would not have achieved the same result.<sup>18</sup> Those rights are reinforced by article 11 of the Universal Declaration of Human Rights.

101. The Working Group notes the Government's response that Mr. São Vicente was represented at all times, albeit not always by the lawyer of his first choice. As noted above, the visit to him by prosecuting authorities has not been demonstrated to violate his right to representation. However, it considers that the Government's information regarding access to the file against him was insufficient. Given the complexity of the case and the need for Mr. São Vicente's defence to properly consult the evidence against him, the Working Group concludes that the source has demonstrated a violation in this respect, which undermined his right to adequate time and facilities to present his defence under article 14 (3) (b) of the Covenant.

102. Based on the reasons set out above, the Working Group finds that Mr. São Vicente's conditions of detention are contrary to his rights under article 14 of the Covenant. Noting all of the above, the Working Group finds that the violations of Mr. São Vicente's right under are of such gravity as to give his deprivation of liberty an arbitrary character, falling under category III.

**(c) Category V**

103. The Working Group notes the source's argument that Mr. São Vicente suffered discrimination due to his socioeconomic status, namely his wealth. However, given the nature of the specific facts at issue, the Working Group does not consider that it has been sufficiently demonstrated that any discrimination under Category V occurred in the present case.

**3. Disposition**

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

The deprivation of liberty of Carlos Manuel de São Vicente, being in contravention of articles 9 and 14 of the International Covenant on Civil and Political Rights and 9, 10 and 11 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I and III.

105. The Working Group requests the Government of Angola to take the steps necessary to remedy the situation of Mr. São Vicente 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.

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

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

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

**4. Follow-up procedure**

109. 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. São Vicente has been released and, if so, on what date;

<sup>18</sup> Opinion No. 83/2021, para. 84.

(b) Whether compensation or other reparations have been made to Mr. São Vicente;

(c) Whether an investigation has been conducted into the violation of Mr. São Vicente 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 Angola with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

110. 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.

111. 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.

112. 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>19</sup>

*[Adopted on 14 November 2023]*

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<sup>19</sup> Human Rights Council resolution 51/8, paras. 6 and 9.