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**Human Rights Council**  
**Working Group on Arbitrary Detention**

## **Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017**

### **Opinion No. 47/2017 concerning Ahmad Ali Mekkaoui (United Arab Emirates)**

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

2. In accordance with its methods of work (A/HRC/33/66), on 5 April 2017, the Working Group transmitted to the Government of the United Arab Emirates a communication concerning Ahmad Ali Mekkaoui. The Government replied to the communication on 9 June 2017. The State is not a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

## Submissions

### *Communication from the source*

4. Ahmad Ali Mekkaoui, born in 1967 in Tripoli, is a citizen of Lebanon. Prior to his detention, Mr. Mekkaoui had been based in Abu Dhabi, where he owned a car repair shop.

5. Mr. Mekkaoui was arrested at his home by plain-clothed State security officers at 10 p.m. on 13 October 2014. The officers searched Mr. Mekkaoui's home for less than an hour in what the source described as a superficial search. The source reports that Mr. Mekkaoui was arrested after another suspect in the same case had provided Mr. Mekkaoui's name while being tortured.

6. Mr. Mekkaoui called his wife the day after his arrest to tell her that he was fine. He called again the following day to say that he was very tired and needed to leave detention. According to the source, after that telephone call, Mr. Mekkaoui was detained without any access to the outside world for seven months. The source alleges that during that period, Mr. Mekkaoui was detained in solitary confinement, subjected to severe beatings on his head and body, and raped. As a result, Mr. Mekkaoui sustained serious injuries, which required him to undergo three operations. The source further alleges that Mr. Mekkaoui was forced to sign a written confession that he belonged to a terrorist group in the United Arab Emirates affiliated with Hezbollah.

7. According to the source, Mr. Mekkaoui was first presented to the State Security Prosecutor in June 2015 after he signed the confession. Mr. Mekkaoui informed the Prosecutor of the treatment he had been subjected to and that he had confessed under torture. He was subsequently charged with belonging to and recruiting for a terrorist group.

8. Mr. Mekkaoui was tried by the State Security Chamber of the Federal Supreme Court, which is a court of first and last instance competent in matters of State security and terrorism. The source alleges that Mr. Mekkaoui was not allowed access to his lawyer prior to the start of his trial in June 2016. On 4 December 2016, after seven hearings in which confessions made under torture were admitted as evidence, the Court sentenced him to 15 years' imprisonment. Mr. Mekkaoui's family has not been provided with a copy of the judgment.

9. The source submits that Mr. Mekkaoui's deprivation of liberty is arbitrary according to categories I and III of the categories applicable to cases submitted to the Working Group.

10. In relation to category I, the source submits that no legal basis was invoked by the authorities to justify Mr. Mekkaoui's deprivation of liberty during the first seven months of his detention. Mr. Mekkaoui was presented to a judicial authority only after seven months of incommunicado detention, and was therefore held outside the protection of the law and deprived of his legal safeguards as a detainee. The source claims that his arrest violates article 9 of the Universal Declaration of Human Rights and falls within category I.

11. In relation to category III, the source submits that the non-observance of international norms relating to the right to a fair trial was of such gravity as to give Mr. Mekkaoui's deprivation of liberty an arbitrary character. Specifically, the source submits that:

(a) Following his arrest, although Mr. Mekkaoui was allowed two telephone calls to his family, he was subsequently denied all contact with his family and his lawyer for seven months. Incommunicado detention is a prima facie form of arbitrary detention and constitutes a violation of a detainee's right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights;

(b) Mr. Mekkaoui was only brought before a judicial authority (that is, the State Security Prosecutor) seven months after his arrest. During that period, Mr. Mekkaoui was unable to challenge the legality of his detention and thus denied his right to habeas corpus in violation of principle 11 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (hereafter, the "Body of Principles");

(c) During the first seven months of his detention, Mr. Mekkaoui was held in incommunicado solitary confinement and was subjected to severe forms of torture to force

him to confess that he belonged to a terrorist organization. In its resolution 60/148, the General Assembly recalled that prolonged incommunicado detention can itself constitute torture. According to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, prolonged solitary confinement exceeding 15 days may constitute torture or ill-treatment (see A/66/268, para. 61, and A/63/175, para. 56);

(d) The interrogation of Mr. Mekkaoui directly violated the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the United Arab Emirates is a party, and article 5 of the Universal Declaration of Human Rights. Mr. Mekkaoui was subjected to severe acts of physical torture, including beatings to his head and body, and rape. As a consequence, Mr. Mekkaoui had three operations: one for the rape, one for his neck, which sustained serious injuries due to the beatings, and one for his scalp as the skin of his head was ripped off. The operations took place at the Zayed Military Hospital in Abu Dhabi. Although Mr. Mekkaoui reported the torture that he had been subjected to during interrogations and stated that he had signed his confession under torture, his confession was used as evidence at his trial. The use of his confession violates article 15 of the Convention against Torture;

(e) From the beginning of his detention and until his first trial hearing, Mr. Mekkaoui was denied access to legal counsel. He was unable to contact his lawyer prior to the start of his trial in June 2016. Mr. Mekkaoui was unable to properly prepare his defence, in violation of article 11 of the Universal Declaration of Human Rights and principles 17 and 18 of the Body of Principles;

(f) Mr. Mekkaoui was tried before the State Security Chamber of the Federal Supreme Court, which is a court of first and last instance competent in matters of State security and terrorism. According to article 101 of the 1971 Constitution, the Federal Supreme Court is the highest judicial instance in the United Arab Emirates and its decisions cannot be appealed. In a report following her country visit to the United Arab Emirates in 2014, the Special Rapporteur on the independence of judges and lawyers highlighted that the exclusive competence of the Federal Supreme Court in certain criminal cases without the possibility of review by a higher judicial court was in breach of international human rights standards (see A/HRC/29/26/Add.2, para. 61). The characteristics of the Federal Supreme Court do not meet the standard of a fair trial by “an independent and impartial tribunal” under article 10 of the Universal Declaration of Human Rights.

#### *Response from the Government*

12. On 5 April 2017, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure. The Working Group requested the Government to provide detailed information by 5 June 2017 regarding the current situation of Mr. Mekkaoui. The Working Group also requested the Government to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of the United Arab Emirates under international human rights law. Moreover, the Working Group called upon the Government to ensure Mr. Mekkaoui’s physical and mental integrity.

13. The Government responded to the regular communication on 9 June 2017, four days after the deadline for its response. The Government had not requested an extension of the deadline in accordance with paragraph 16 of the Working Group’s methods of work. The response in the present case is therefore considered late and, given the failure by the Government to request a time extension, the Working Group cannot accept it as if it had been presented within the time limit. However, as indicated in paragraphs 15 and 16 of its methods of work, and in conformity with its practice, the Working Group may consider any relevant information that it has obtained in order to render an opinion.

#### *Further information from the source*

14. On 17 July 2017, the response from the Government was sent to the source for further comment. The Working Group requested the source to respond by 31 July 2017. The source responded on 24 July 2017.

## Discussion

15. 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.

16. In its response, the Government stated that Mr. Mekkaoui, a citizen of Lebanon, was arrested on 13 October 2014. He was held in custody for 90 days in accordance with the law and legal procedures of the United Arab Emirates, after being informed of the reasons for his arrest and of the authority that conducted the arrest and search. Mr. Mekkaoui's family was told where he was detained in Abu Dhabi, and he was allowed to contact them during his detention.

17. The Government further noted that, on 10 January 2015, Mr. Mekkaoui was referred to the "competent authority", which in turn referred the case to the Federal Supreme Court on 29 November 2015, and charged him with the following offences:

(a) Communicating with a foreign organization (Hezbollah) and one of its agents, and with a foreign State and one person who serves its interests, with the aim of harming the military and political status of the United Arab Emirates and its national interests;

(b) Disclosing classified defence secrets to a foreign organization (Hezbollah), and a foreign State and one person who serves that State's interests;

(c) Establishing an international organization inside the United Arab Emirates without obtaining authorization from the Government.

18. According to the Government, a lawyer appointed to act for Mr. Mekkaoui met with him and defended him in court. Mr. Mekkaoui was aware of the charges against him as they were read out publicly in court. On 31 October 2016, the Federal Supreme Court sentenced Mr. Mekkaoui to 15 years' imprisonment and to deportation after serving his sentence. He is currently serving his sentence in the Central Prison and has been allowed to receive at least 28 visits. The Government attached a list of those visitors to its submission.

19. In determining whether Mr. Mekkaoui's deprivation of liberty 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 the international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (see A/HRC/19/57, para. 68). The Government can meet this burden of proof by producing documentary evidence in support of its claims.<sup>1</sup>

20. The Working Group considers that the source has established a credible prima facie case, which has not been rebutted by the Government. Most of the Government's response to the source's allegations consisted of mere assertions that Mr. Mekkaoui's arrest and detention was carried out in accordance with the law and legal procedures of the United Arab Emirates, with little detail as to the circumstances surrounding the detention. For example, the Government asserted that: (a) after his arrest, Mr. Mekkaoui was held in custody for 90 days until 10 January 2015, when his case was referred to the "competent authority" (with no supporting evidence, such as custodial records), and (b) a lawyer was appointed to act for Mr. Mekkaoui, who met with him and defended him in court (with no supporting evidence, such as a trial transcript). The Government also provided no

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<sup>1</sup> See opinion No. 41/2013, in which the Working Group noted that the source of a communication and the Government do not always have equal access to the evidence and, frequently, the Government alone has the relevant information. In that case, the Working Group recalled that where it is alleged that a person has not been afforded, by a public authority, certain procedural guarantees to which he or she was entitled, the burden to prove the negative fact asserted by the applicant is on the public authority, because the latter is "generally able to demonstrate that it has followed the appropriate procedures and applied the guarantees required by law ... by producing documentary evidence of the actions that were carried out": *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, *Merits, Judgment, I.C.J. Reports 2010*, p. 639, at pp. 660-661, para. 55.

information to explain which actions Mr. Mekkaoui had allegedly taken that resulted in the charges against him and did not attempt to refute or address any of the source's serious allegations in relation to acts of torture inflicted upon Mr. Mekkaoui.

21. In the present case, the source claims that Mr. Mekkaoui was only presented to a judicial authority in June 2015 after seven months of incommunicado detention. In its response, the Government states that Mr. Mekkaoui was held for 90 days before being presented to the "competent authority" on 10 January 2015. However, even if Mr. Mekkaoui was presented to the State Security Prosecutor (or other judicial authority) within that time frame, and not seven months after his arrest as the source alleges, his right to be brought promptly before a judicial authority was still violated by a 90-day delay. He was not able to challenge the legality of his detention during that period, contrary to articles 9, 10 and 11 (1) of the Universal Declaration of Human Rights and principles 11 and 37 of the Body of Principles.

22. Moreover, the Government states that Mr. Mekkaoui was charged in November 2015 when his case was referred to the Federal Supreme Court, and that he was aware of the charges against him as they were publicly read out in court. This means that, by the Government's own admission, Mr. Mekkaoui was only informed of the charges against him in November 2015 at the earliest, over a year after his arrest on 13 October 2014. Mr. Mekkaoui was not promptly informed of the charges against him, in violation of his rights under articles 9, 10 and 11 (1) of the Universal Declaration of Human Rights and principle 10 of the Body of Principles, and the authorities therefore failed to invoke a legal basis to justify his detention.<sup>2</sup>

23. Thus, the Working Group considers that there was no legal basis invoked to justify the arrest and detention of Mr. Mekkaoui and his deprivation of liberty falls within category I of the categories applicable to cases submitted to it.

24. In addition, the source's allegations disclose violations of Mr. Mekkaoui's right to a fair trial. The source alleges that Mr. Mekkaoui was held in incommunicado solitary confinement during the first seven months of his detention. In its response, the Government stated that Mr. Mekkaoui's family had been told where he was detained in Abu Dhabi, and that he had been allowed to contact them during his detention. The Government further stated that Mr. Mekkaoui had been allowed to receive at least 28 visits, and provided a list of those visitors. However, the Government neither specified when or how often Mr. Mekkaoui had been able to contact his family, nor when the 28 visits had taken place. The Government appeared to be referring to visits that had taken place since Mr. Mekkaoui had been sentenced. In the absence of sufficient information from the Government to rebut the source's allegations, the Working Group finds that Mr. Mekkaoui was held in incommunicado solitary confinement for the first seven months of his detention.<sup>3</sup>

25. The Working Group has consistently argued that holding persons incommunicado is not permitted under international human rights law because it breaches their right to challenge the lawfulness of their detention before a judge (see, for example, opinions No. 56/2016 and No. 53/2016). In this case, Mr. Mekkaoui was not able to challenge his detention because he was being held incommunicado, and was therefore placed outside the protection of the law. The Working Group finds that this violated Mr. Mekkaoui's right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights.

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<sup>2</sup> According to the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37, hereafter the "Basic Principles and Guidelines"), when persons who have or are suspected to have engaged in acts of terrorism are deprived of their liberty, they are entitled to certain rights, including to be immediately informed of the charges against them and brought before a competent and independent judicial authority as soon as possible, within a reasonable period of time, and to have access to legal counsel (para. 93).

<sup>3</sup> The Working Group notes that there is no information to suggest that Mr. Mekkaoui, as a foreign citizen, was ever afforded the right to access consular assistance.

26. Furthermore, the Working Group considers that Mr. Mekkaoui's prolonged incommunicado detention and solitary confinement for seven months reveals a prima facie breach of the absolute prohibition of torture as a peremptory norm of international law, and of article 5 of the Universal Declaration of Human Rights. Such treatment exacerbated the physical acts of torture inflicted upon Mr. Mekkaoui and, in the circumstances, itself amounted to psychological torture. There was no suggestion in the materials submitted by either the source or the Government that prolonged incommunicado detention and solitary confinement was motivated by reasons of security, and its purpose appears to have been to impose additional pain and suffering upon Mr. Mekkaoui and to add to the pressure upon him to provide a confession. According to the General Assembly, prolonged incommunicado detention can itself constitute torture (see resolution 60/148, para. 11). Moreover, the Special Rapporteur on torture has stated that prolonged solitary confinement exceeding 15 days amounts to torture or ill-treatment (see A/66/268, paras. 61 and 70-78, and A/63/175, paras. 56 and 77-85). In addition, prolonged incommunicado detention and solitary confinement exceeding 15 days violate applicable standards, such as rules 43-45, 58 and 62 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (hereafter the "Nelson Mandela Rules") and principles 15, 16 and 19 of the Body of Principles.

27. The Working Group finds that the source has presented a credible prima facie case that Mr. Mekkaoui was also subjected to acts amounting to physical torture during his interrogation. The acts of physical torture, which included beatings and rape, resulted in Mr. Mekkaoui signing a confession that was subsequently used at his trial, in violation of articles 10 and 11 (1) of the Universal Declaration of Human Rights and principles 6 and 21 of the Body of Principles. To make matters worse, the source reported that Mr. Mekkaoui was arrested after another suspect in the same case had provided his name while being tortured, suggesting that the basis for Mr. Mekkaoui's detention was the inherently unreliable information given during his own torture and that extracted under torture from another individual.<sup>4</sup>

28. Given the severity of the alleged torture in this case, the Working Group considers it extremely unlikely that Mr. Mekkaoui would have been able to effectively assist with and participate in his own defence, either pretrial or during the trial hearing, thus adding to the conclusion that the alleged torture violated Mr. Mekkaoui's right to a fair trial.<sup>5</sup>

29. Moreover, although Mr. Mekkaoui reported his treatment to the State Security Prosecutor in June 2015 and stated that he signed his confession under torture, no action was taken and Mr. Mekkaoui was still tried and sentenced on the basis of that information. The Working Group considers that this was a clear violation by the State Security Prosecutor of guideline 16 of the Guidelines on the Role of Prosecutors, which states that when prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.

30. The Working Group also considers that the acts of psychological and physical torture committed upon Mr. Mekkaoui, the use of his confession at trial and the failure by the Prosecutor to investigate and report his allegations of torture represent prima facie

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<sup>4</sup> See, for example, Asia Pacific Forum of National Human Rights Institutions, Association for the Prevention of Torture and the Office of the United Nations High Commissioner for Human Rights, *Preventing Torture: An Operational Guide for National Human Rights Institutions* (Geneva, 2010), p. 14, explaining that information extracted by torture or ill-treatment is not reliable.

<sup>5</sup> In opinion No. 29/2017, the Working Group stated that, although its mandate does not cover conditions of detention or the treatment of prisoners, it must consider to what extent detention conditions can negatively affect the ability of detainees to prepare their defence and their chances of a fair trial (para. 63). See also the report of the Working Group's visit to Argentina (E/CN.4/2004/3/Add.3, para. 33).

violations of articles 1, 2, 12, 13 and 15 of the Convention against Torture, to which the United Arab Emirates is a party. The Working Group urges the Government to accede to the Optional Protocol to the Convention against Torture, part IV of which requires each State party to establish a national preventive mechanism. Such a body could visit places where deprivation of liberty occurs, including the premises of the State security services, with a view to regularly examining the treatment of people deprived of their liberty and strengthening their protection against torture and ill-treatment. The Working Group will refer this case to the Special Rapporteur on torture for further consideration.

31. Furthermore, the Working Group finds that, from the beginning of his detention on 13 October 2014 until his first trial hearing in June 2016, Mr. Mekkaoui was denied access to legal counsel, in violation of article 11 (1) of the Universal Declaration of Human Rights, principles 17 and 18 of the Body of Principles, and rule 61 of the Nelson Mandela Rules. Although the Government stated in its response that a lawyer had been appointed to act for Mr. Mekkaoui, and that the lawyer had met with Mr. Mekkaoui and defended him in court, the Government provided no documentary evidence to support this assertion. Moreover, the Government did not provide sufficient details, including as to when Mr. Mekkaoui had met with the lawyer, and whether Mr. Mekkaoui had been able to consult his lawyer or have him or her present during interrogations before the start of his trial. As the Working Group stated in principle 9 of the Basic Principles and Guidelines, all persons deprived of their liberty shall have the right to legal assistance by the counsel of their choice, at any time during their detention, including immediately after the moment of apprehension (para. 12).

32. In addition, the long delay between Mr. Mekkaoui's arrest on 13 October 2014 and his trial in June 2016 violated his right to be tried within a reasonable time under articles 10 and 11 (1) of the Universal Declaration of Human Rights and principle 38 of the Body of Principles.

33. Finally, the Working Group considers that Mr. Mekkaoui's trial by the State Security Chamber of the Federal Supreme Court did not meet international standards. As the source stated and the Government did not contest in its reply, the Federal Supreme Court acts as the court of first and last instance, and there is no avenue of appeal to review any substantive or procedural errors that it may make. In the present case, Mr. Mekkaoui had no means of ensuring that his conviction and substantial sentence of 15 years' imprisonment was in conformity with the applicable law, and if it was not, that it could be corrected. In the view of the Working Group, the absence of a right to review by a higher tribunal violates the right to an effective remedy and the right to a fair trial under articles 8, 10 and 11 (1) of the Universal Declaration of Human Rights. The Working Group has expressed concern in relation to this issue and found that the absence of a right to appeal decisions of the Federal Supreme Court violates the right to a fair trial (see, for example, opinions No. 21/2017, No. 60/2013 and No. 34/2011). The Working Group will refer this case to the Special Rapporteur on the independence of judges and lawyers for further consideration of this issue.

34. The Working Group therefore concludes that these violations of the right to a fair trial are of such gravity as to give the deprivation of liberty of Mr. Mekkaoui an arbitrary character according to category III of the categories applicable to cases submitted to it.

35. The Working Group wishes to record its grave concern about the treatment of Mr. Mekkaoui, particularly the allegations that he required surgery on three occasions for the injuries he sustained through sickening acts of physical torture committed during his interrogation, which occurred during a seven-month period in which Mr. Mekkaoui was being held incommunicado and in solitary confinement. Given that Mr. Mekkaoui has now been in detention for nearly three years in conditions that risk irreparable harm to his physical and mental integrity, the Working Group calls upon the Government to immediately and unconditionally release him.

36. The Working Group notes a series of cases in recent years in which the Government has subjected its citizens and foreign nationals to arbitrary deprivation of liberty, particularly after torture and ill-treatment had been used to coerce confessions in criminal matters (see, for example, opinions Nos. 21/2017, 51/2015, 56/2014, 60/2013, 27/2013, 34/2011 and 3/2008). This has also been the experience of other special procedure mandate

holders. After her official visit to the United Arab Emirates in 2014, the Special Rapporteur on the independence of judges and lawyers reported that more than 200 complaints relating to torture and/or ill-treatment had been presented before judges and prosecutors in recent years, but that no independent investigation had taken place.<sup>6</sup> The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law may constitute crimes against humanity.<sup>7</sup> The Working Group calls on the Government to promptly investigate allegations of torture and to require the exclusion of all confessions and statements established as having been made under torture or ill-treatment.

37. The Working Group would welcome an invitation from the Government to undertake its first country visit to the United Arab Emirates so that it can work constructively with its authorities in addressing serious concerns relating to the arbitrary deprivation of liberty. In November 2016, the Working Group sent a request to the Government to undertake a country visit and awaits a positive response. The human rights record of the United Arab Emirates will be subject to review during the third cycle of the universal periodic review in January 2018, and this is an opportunity for the Government to enhance its cooperation with the special procedure mandate holders and to bring its laws and practices into conformity with international human rights law.

### **Disposition**

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

The deprivation of liberty of Ahmad Ali Mekkaoui, being in contravention of articles 5, 6, 8, 9, 10 and 11 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I and III.

39. The Working Group requests the Government of the United Arab Emirates to take the steps necessary to remedy the situation of Mr. Mekkaoui without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights. The Working Group urges the Government to accede to the International Covenant on Civil and Political Rights and to the Optional Protocol to the Convention against Torture.

40. The Working Group considers that, taking into account all the circumstances of the present case, especially the risk of irreparable harm to Mr. Mekkaoui's health and to his physical and mental integrity, the appropriate remedy would be to release Mr. Mekkaoui immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

41. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Mekkaoui, including an independent inquiry into his allegations of torture, and to take appropriate measures against those responsible for the violation of his rights.

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

### **Follow-up procedure**

43. 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. Mekkaoui has been released and, if so, on what date;

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<sup>6</sup> See report of the mission of the Special Rapporteur on the independence of judges and lawyers to the United Arab Emirates (A/HRC/29/26/Add.2, para. 53).

<sup>7</sup> See, e.g., opinion No. 47/2012, para. 22.

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

(c) Whether an investigation has been conducted into the violation of Mr. Mekkaoui's rights and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the United Arab Emirates with its international obligations in line with the present opinion;

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

44. 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.

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

46. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.<sup>8</sup>

*[Adopted on 22 August 2017]*

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<sup>8</sup> See Human Rights Council resolution 33/30, paras. 3 and 7.