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Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its eighty-ninth session, 23–27 November 2020

Opinion No. 90/2020 concerning Hassan al-Dika (Lebanon)

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 42/22.

2. In accordance with its methods of work (A/HRC/36/38), on 14 July 2020 the Working Group transmitted to the Government of Lebanon a communication concerning Hassan al-Dika. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

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

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

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

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

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

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, 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. Hassan al-Dika was a national of Lebanon born in 1973. Mr. Al-Dika worked as a customs broker for 10 years and had an office in Beirut. His address of usual residence was in Aramun, Lebanon.

a. Arrest and detention

5. According to the source, Mr. Al-Dika was arrested on 1 November 2018 after a raid and search of his house that started at approximately 9.30 p.m. and continued until 3 a.m. The source reports that the Information Bureau of the Internal Security Forces was responsible for carrying out the arrest. Dozens of members of the Information Bureau participated in the arrest, heavily equipped with military gear. Some of the officers were masked. Dozens of civil and military vehicles were also involved in the operation.

6. The source reports that at no point that night did the agents arresting Mr. Al-Dika show any official written order or decision issued by any official body, in violation of the Criminal Procedure Code.

7. Moreover, the source claims that Mr. Al-Dika was not informed of the reasons for the arrest. The raid was carried out by members of the armed forces, who spread throughout all the inhabited floors of the building, from the entrance to the rooftop, while screaming and threatening him and without disclosing any information on the reasons for the arrest.

8. Mr. Al-Dika was allegedly held incommunicado by the Information Bureau from 1 to 9 November 2018 at the headquarters of the General Directorate of the Internal Security Forces, in Ashrafiyah. The source states that, during this period, neither Mr. Al-Dika's family nor his lawyer was informed of his whereabouts. The source highlights the fact that the authorities have denied that the arrest was conducted on 1 November 2018 and claim that it occurred on 3 November 2018.

9. The source explains that an arrest record was apparently filed for Mr. Al-Dika by the Internal Security Forces Information Bureau under record No. 272/302, dated 2 November 2018. That record shows that the Information Bureau interrogated Mr. Al-Dika on 2 November 2018 at 10 p.m., proving that Mr. Al-Dika was arrested before 3 November 2018. It includes in its introduction a section explaining a court-ordered warrant for Mr. Al-Dika's arrest that contradicts the date of the records of Mr. Al-Dika's interrogation, which are dated 2 November 2018. In addition, record No. 272/302 indicates that on 3 November 2018 at 9 p.m., the Information Bureau called the public prosecutor to give the arrest signal for Mr. Al-Dika. However, the arrest had already occurred before the signal of the judiciary on that date, as proven in record No. 1793/302, dated 1 November 2018. Record No. 1972/302, dated 4 December 2018, refers to record No. 1973/302 concerning Mr. Al-Dika's arrest, proving that the arrest occurred on 1 November 2018. Record No. 272/032, dated 2 November 2018, also refers to Mr. Al-Dika's interrogation, which ended on 3 November 2018 at 11 p.m.

10. The source alleges that Mr. Al-Dika was subjected to heavy beating and electric shocks while in the custody of the Information Bureau and was forced to sign a confession. Mr. Al-Dika was allegedly arrested and detained on accusations of facilitating the passage of a large amount of drugs through the port of Beirut, where he worked as a customs broker.

11. The source states that the authorities denied afterwards that Mr. Al-Dika had been held incommunicado during that period and had been arbitrarily arrested and tortured.

12. Moreover, the source explains that forensic reports dated 21 November 2018, 6 April 2019 and 4 May 2019, on examinations conducted at the request of Mr. Al-Dika's lawyer, indicated severe bruising on Mr. Al-Dika's body, implying that torture and ill-treatment did take place during his detention by the Information Bureau. In the first report, severe bruising and back pain were indicated and a magnetic resonance imaging scan was requested. The scan, conducted in April 2019, showed severe back problems and alteration of the nerves in the left leg. This diagnosis was confirmed by physicians at Al-Hayat Hospital, who added that a problem with a disc in the patient's back had caused the partial paralysis of his left leg

and that he was in urgent need of surgery, and warned that deterioration was imminent and the damage would be irreversible if action was not taken.

13. The source explains that Mr. Al-Dika did not suffer from any disc or back pain before his arrest. The surgery was delayed as Al-Hayat hospital prison was not equipped for such a procedure and the conditional release requests filed by Mr. Al-Dika's lawyer were repeatedly rejected.

14. It is reported that on 9 November 2018, Mr. Al-Dika was transferred to the detention centre of the Palace of Justice in B'abda. It was only then that his family was informed of his whereabouts and the charges were brought against him. The source specifies that no legal proceedings were initiated until 14 November 2018, and no time frame was set for the start of the trial. The source adds that the authorities claimed that Mr. Al-Dika was transferred on 5 November 2018.

15. On 14 November 2018, the public prosecutor referred Mr. Al-Dika's case to the investigating judge. On 16 November 2018, Mr. Al-Dika appeared for the first time before the investigating judge, and without being able to inform his lawyer. The source states that the investigating judge in Mount Lebanon, with the approval of the Office of the Public Prosecutor in Mount Lebanon, issued a valid arrest warrant against Mr. Al-Dika on that date.

16. The source explains that Mr. Al-Dika informed the investigating judge that he had suffered the acts of torture and that he had been unable to contact his family and lawyer. The judge reportedly took no action to investigate and address the allegations of torture, as required under Act No. 65/2017 on the Criminalization of Torture, enacted in October 2017. The source also flags the subsequent denial by the authorities of the allegation that Mr. Al-Dika had complained of acts of torture against him.

17. The source also reports that, on 21 November 2018, Mr. Al-Dika's lawyer filed a lawsuit with the Office of the Public Prosecutor in Mount Lebanon against the Information Bureau, alleging arbitrary arrest and torture and ill-treatment. No action was taken in follow-up to the lawsuit. On 20 March 2019, his lawyer allegedly withdrew the lawsuit owing to threats and pressure from the Internal Security Forces. Between those two dates, no investigation was launched, despite being required under article 5 of Act No. 65/2017 on the Criminalization of Torture. Under that article, when the public prosecution receives a complaint or notification regarding crimes listed in article 401 of the Criminal Code, the public prosecution must decide within 48 hours whether to close the case or launch an investigation before an investigating judge, and must hold exclusive authority for the investigation, except for the purposes of preserving evidence or nominating a forensic doctor. The article emphasizes the need for urgency and for protection of the defendant and witnesses, and requires that no action be taken by the party to the case (in this case, the Internal Security Forces). The source notes with concern that the Office of the Public Prosecutor in Mount Lebanon sent the lawsuit back to the Internal Security Forces for consideration and took no action, in flagrant violation of the applicable Lebanese legislation.

18. According to the source, the investigating judge rejected a second lawsuit regarding torture filed on 10 December 2018, again in violation of legislation to combat and criminalize torture in Lebanon.

b. Sickness and death of Mr. Al-Dika

19. The source reports that Mr. Al-Dika was also held at Roumieh Central Prison for a period of approximately two weeks. Following that period, on 2 April 2019, Mr. Al-Dika was taken to Al-Hayat Hospital prison, as his health condition was deteriorating to a dangerous extent, resulting in paralysis in his left leg and leaving him unable to walk or stand. The source explains that the magnetic resonance imaging scan that had led to the preparation of medical reports by two different medical centres indicated that back surgery should be performed urgently. Instead, Mr. Al-Dika received only analgesics at the hospital.

20. The source states that on the night of 12 May 2019, Mr. Al-Dika died in Al-Hayat Hospital. Mr. Al-Dika's family refused to conduct an autopsy. The cause of death was allegedly related to a heart attack, although the credibility of the doctor who provided the medical report has been challenged.

c. Legal analysis

21. The source argues that Mr. Al-Dika's detention was arbitrary, falling within categories I and III of those applied by the Working Group.

i. Category I

22. The source alleges that Mr. Al-Dika's detention was arbitrary because he was arrested without any official written order or decision issued by an official body, in violation of the Criminal Procedure Act. A valid arrest warrant against Mr. Al-Dika was issued by the investigating judge only on 16 November 2018.

23. Furthermore, the source claims that Mr. Al-Dika was not informed of the reasons for the arrest, as the raid was carried out by the armed forces. According to the source, Mr. Al-Dika was allegedly held incommunicado by the Information Bureau from 1 to 9 November 2018 at the headquarters of the General Directorate of the Internal Security Forces, in Ashrafiyah. During that period, neither Mr. Al-Dika's family nor his lawyer was informed of his whereabouts.

24. The source claims that Mr. Al-Dika's arrest and detention were arbitrary owing to non-observance of the international norms relating to pretrial detention, designed to secure the right to a fair trial in this case. Mr. Al-Dika regrettably died before his trial could commence.

25. The source specifies that Mr. Al-Dika was also held at Roumieh Central Prison for a period of approximately two weeks, in violation of articles 9 (3) and 9 (4) of the Covenant.

26. The source also submits that Mr. Al-Dika was subjected to torture and inhuman treatment during his detention at Roumieh Central Prison, in violation of articles 7, 10 and 14 of the Covenant, articles 1, 4 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 5 of the Universal Declaration of Human Rights, principles 1, 6 and 21 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and rules 1 and 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

27. The source further claims that the Government failed to provide Mr. Al-Dika with the medical care that he needed, in violation of principle 24 of the Body of Principles and rules 22 (1) and 27 (1) of the Mandela Rules. More specifically, he was not allowed to undergo back surgery, which he urgently required.

ii. Category III

28. The source considers that the circumstances under which Mr. Al-Dika's arrest and detention took place show a violation of the Universal Declaration of Human Rights, especially articles 5 and 11.

29. The source states that Mr. Al-Dika was incarcerated for an unreasonable amount of time by the Information Bureau, under the judicial authority and in unknown circumstances. Neither his family nor his lawyer was permitted to see him.

30. The source also states that the trial was delayed, and Mr. Al-Dika remained detained for more than two weeks until a new session was scheduled before the competent judicial authority.

31. Additionally, the basic human and legal obligations during the investigations, as the authorities conducting the initial investigation resorted to methods of physical and mental torture. For example, the source reports that the authorities made Mr. Al-Dika believe that his family members had been detained, that his family members' telephones had been hacked and that they possessed information about his family member, including photographs, audio recordings and more. Mr. Al-Dika was stripped naked, beaten in multiple ways and electrocuted. He was also allegedly subjected to a form of torture known as *farouj*, which implies that he was hanged by his feet and subjected to all kinds of violence.

32. The source alleges that, under these circumstances, Mr. Al-Dika had a total psychological collapse and submitted completely to the demands of the authorities, including

by signing statements and declarations against his will. The source explains that Mr. Al-Dika's rights to be examined by a forensic doctor and a psychiatrist were denied following his arrest until 23 and 29 November 2018 respectively. Such examinations would have proven that he had been subjected to violence and physical and psychological torture and that he was not in a proper mental and physical condition to sign documents.

33. The source further states that, in violation of the Convention against Torture, to which Lebanon acceded in 2000, the authorities exerted pressure with a view to preventing the application of Act No. 65/2017 on the Criminalization of Torture, which requires the nullification of investigations during which torture and violence have been used and the victim of the torture has not received due protection.

34. Moreover, the source states that Mr. Al-Dika was not informed at the time of his arrest of the reason for his arrest. The source also notes the harsh conditions that followed his arrest, and the preliminary investigations that presented Mr. Al-Dika as a dangerous person before the competent judicial authorities without taking into consideration the oppression exerted over him.

35. A joint urgent appeal (LBN 1/2019) was issued on 25 January 2019 by several special procedure mandate holders concerning Mr. Al-Dika's case. The Government responded to the letter on 24 June and 7 August 2019.

Response from the Government

36. On 14 July 2020, the Working Group transmitted the source's allegations to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 14 September 2020, detailed information about Mr. Al-Dika's situation and to clarify the legal provisions justifying his detention, as well as its compatibility with the obligations of Lebanon under international human rights law, and, in particular, with regard to the treaties ratified by the State.

37. The Working Group regrets that it did not receive a response from the Government. The Government did not request an extension of the time limit for its reply, as provided for in paragraph 16 of the Working Group's methods of work.

Discussion

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

39. As a preliminary issue, the Working Group notes that Mr. Al-Dika died while in custody and is therefore no longer in detention. However, given that Mr. Al-Dika was allegedly subjected to serious human rights violations, the Working Group considers that it is important to render an opinion on his case.

40. In determining whether Mr. Al-Dika's detention was arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (A/HRC/19/57, para. 68). In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

41. The source has argued that Mr. Al-Dika's detention is arbitrary and falls under categories I and III. The Working Group shall proceed to examine the allegations in turn.

Category I

42. The Working Group notes the allegation that Mr. Al-Dika was arrested on 1 November 2018 after a raid and search of his house that started at approximately 9.30 p.m. and continued until 3 a.m. A valid arrest warrant against Mr. Al-Dika was issued by the investigating judge only on 16 November 2018. Regrettably, the Government has not responded to the allegations that the arrest was executed by dozens of members of the Investigation Office, heavily equipped with military gear and some of them masked, who

broke into Mr. Al-Dika's residence during the night. There is no evidence or any suggestion whatsoever that Mr. Al-Dika had attempted to evade the authorities or in any way to obstruct the execution of an arrest, and the manner in which the arrest was executed is therefore clearly disproportionate. This situation is exacerbated by the fact that, according to the available information from the source, there was no order authorizing the arrest, with the arrest warrant having been issued only on 16 November 2018.

43. The Working Group recalls that article 9 (2) of the Covenant requires that anyone who is arrested is not only informed, at the time of arrest, of the reasons for the arrest, but also promptly informed of any charges. As explained by the Human Rights Committee, the obligation encapsulated in article 9 (2) has two elements: the person must be informed of the reasons for the arrest immediately upon the arrest, and of the charges promptly thereafter.¹

44. The requirement is to be informed promptly of the charges, not necessarily at the time of arrest.² However, in the present case, the Working Group notes that, following Mr. Al-Dika's arrest on 1 November 2018, the formal accusations – that, as a customs broker, he had facilitated the passage of a large quantity of drugs through the port of Beirut – were not made until after he had been subjected to heavy beatings and electric shocks while in the custody of the Information Bureau and had been forced to sign a confession.

45. The Government has not furnished any reasons to explain the delay in informing Mr. Al-Dika of the reasons for his arrest, which should have been immediately provided. Failure to do so constitutes a breach of article 9 (2) of the Covenant, and the detention is thus arbitrary.³

46. Furthermore, the Working Group notes the allegation by the source that following his arrest on 1 November 2018 and until 9 November 2018, Mr. Al-Dika was held incommunicado. The Working Group considers this to be a grave allegation and, in the absence of any response from the Government, finds that Mr. Al-Dika was subjected to enforced disappearance following his arrest on 1 November 2018 until 9 November 2018. In so finding, the Working Group has noted the criteria used for determining whether an enforced disappearance has occurred as set out in the Declaration on the Protection of All Persons from Enforced Disappearance and in the report of the Working Group on Enforced or Involuntary Disappearances on best practices on enforced disappearances in domestic criminal legislation (A/HRC/16/48/Add.3 and Corr.1, para. 21).

47. The Working Group notes that enforced disappearance is prohibited by international law and constitutes a particularly aggravated form of arbitrary detention.⁴ The Working Group therefore finds a breach of article 9 (1) of the Covenant, and refers the matter to the Working Group on Enforced or Involuntary Disappearances.

48. Moreover, article 9 (3) of the Covenant requires that anyone arrested or detained on a criminal charge be brought promptly before a judge or other officer authorized by law to exercise judicial power. As the Human Rights Committee has noted, 48 hours following arrest is ordinarily sufficient to transport the individual and to prepare for a judicial hearing, and any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.⁵ The Working Group notes that Mr. Al-Dika was not brought promptly before a judge and the Government has presented no exceptional circumstances justifying the delay. The Working Group therefore finds that article 9 (3) of the Covenant has been violated in the present case.

49. The source has submitted that, following Mr. Al-Dika's arrest on 1 November 2018, there were no legal proceedings until 16 November 2018, when he was brought before the investigating judge.

¹ General comment No. 35 (2014), para 24.

² *Ibid.*, para. 30.

³ For example, opinions No. 10/2015, para. 34, and No. 46/2019, para. 51.

⁴ See opinions No. 5/2020, No. 6/2020, No. 11/2020 and No. 13/2020. See also Human Rights Committee, general comment No. 35 (2014), para. 17.

⁵ Human Rights Committee, general comment No. 35 (2014), paras. 32–33.

50. As the Working Group has consistently held, in order to establish that a detention is indeed legal, anyone detained has the right to challenge the legality of his or her detention before a court, as envisaged by article 9 (4) of the Covenant.⁶ The Working Group wishes to recall that, according to the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Rights of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, the right to challenge the lawfulness of detention before a court is a self-standing human right, which is essential to preserve legality in a democratic society.⁷ This right, which is in fact a peremptory norm of international law, applies to all forms of deprivation of liberty,⁸ and to all situations of deprivation of liberty, including not only to detention for purposes of criminal proceedings but also to situations of detention under administrative and other fields of law, including military detention, security detention and detention under counter-terrorism measures.⁹ Mr. Al-Dika was denied this right while in incommunicado detention, in breach of article 9 (4) of the Covenant.

51. The Working Group further considers that judicial oversight of detention is a fundamental safeguard of personal liberty,¹⁰ and is essential in ensuring that detention has a legal basis. Given that Mr. Al-Dika was not able to challenge his continued detention, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was also violated.

52. The Working Group concludes that the detention of Mr. Al-Dika lacked legal basis and was therefore arbitrary, falling under category I.

Category III

53. The source has argued that Mr. Al-Dika was detained incommunicado from 1 to 9 November 2018. According to the source, Mr. Al-Dika had no access to either his family or a lawyer. In effect, he was denied legal assistance when he was interrogated following his arrest. He was thus placed outside the protection of the law during this period, in violation of article 6 of the Universal Declaration on Human Rights and article 16 of the Covenant.

54. The Working Group also finds a breach of article 14 (3) (b) of the Covenant, and emphasizes that legal assistance should be available at all stages of criminal proceedings, namely, during pretrial, trial, retrial and appellate stages, to ensure compliance with fair trial guarantees.¹¹ Moreover, the initial interrogation of Mr. Al-Dika in the absence of his lawyer also violated his right not to be compelled to testify against himself, as stipulated in article 14 (3) (g) of the Covenant.

55. The Working Group notes failure of the prosecutor¹² and of the judge to act on the allegations of torture in this case. The Working Group considers that the courts in this case should have, but did not, order the immediate exclusion of the confessions made by Mr. Al-Dika, as well as a further separate and independent investigation into the alleged torture and ill-treatment. The failure by a judge to intervene when torture or ill-treatment is alleged amounts to a violation of the right to be tried by an independent and impartial tribunal under article 10 of the Universal Declaration of Human Rights, of articles 12, 13 and 14 of the Convention against Torture and of article 14 (1) of the Covenant. The Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

56. Lastly, the Working Group observes that Mr. Al-Dika was in pretrial detention between his arrest on 1 November 2018 and his passing on 12 May 2019. Mindful of its finding that Mr. Al-Dika's detention was arbitrary under category I, the Working Group also

⁶ See, for example, opinions No. 1/2017, No. 6/2017, No. 8/2017, No. 30/2017, No. 2/2018, No. 4/2018, No. 42/2018, No. 43/2018, No. 79/2018 and No. 49/2019.

⁷ A/HRC/30/37, paras. 2–3.

⁸ *Ibid.*, para. 11.

⁹ *Ibid.*, annex, para. 47 (a).

¹⁰ *Ibid.*, para. 3.

¹¹ A/HRC/45/16, para. 53. See also A/HRC/42/39/Add.1, para. 54, and Basic Principles and Guidelines, principle 9 and guideline 8.

¹² See Guidelines on the Role of Prosecutors, para. 16, and opinion No. 47/2017, para. 29.

finds a violation of his right to an expeditious trial, under articles 9 (3) and 14 (3) (c) of the Covenant.

57. Given its finding that Mr. Al-Dika's detention was arbitrary under category I, the Working Group considers that there was failure to observe 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 State. The Working Group is aware that no trial took place, as Mr. Al-Dika died before its commencement. However, the Working Group notes that all fair trial rights, including pretrial rights, are fundamental as they affect the essential right to personal liberty. Their breach would negate any claim that a trial was compliant with international human rights law.

58. Consequently, noting all the above, the Working Group considers that Mr. Al-Dika's detention entailed the denial of his fair trial rights, rendering his detention arbitrary under category III.

Concluding remarks

59. The Working Group expresses its grave concern at the death of Mr. Al-Dika in May 2019, at Al-Hayat Hospital prison, before the commencement of his trial. According to the source, his health condition deteriorated to a dangerous extent, resulting in paralysis in his left leg and leaving him unable to walk or stand. The source explains that the magnetic resonance imaging scan that had led to the preparation of medical reports by two different medical centres indicated that back surgery should be performed urgently. Instead, Mr. Al-Dika received only analgesics at the hospital. The Government has not rebutted these allegations.

60. The Working Group urges the Government to urgently conduct a thorough, effective and independent investigation into the circumstances that led to the death of Mr. Al-Dika while in custody. The investigation must include a detailed report of the medical and other care provided to Mr. Al-Dika since his arrest, and must be conducted in a transparent manner with the full involvement of Mr. Al-Dika's family and their legal and medical representatives.¹³ Given the uncertainty surrounding Mr. Al-Dika's death, the Working Group refers the matter to the Special Rapporteur on extrajudicial, summary or arbitrary executions.¹⁴

61. The Working Group would welcome the opportunity to work constructively with the Government to address the arbitrary deprivation of liberty.

Disposition

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

The deprivation of liberty of Hassan al-Dika, being in contravention of articles 3, 6, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2 (3), 9, 14 and 16 of the International Covenant on Civil and Political Rights, was arbitrary and fell within categories I and III.

63. The Working Group requests the Government of Lebanon to take the steps necessary to remedy the situation of Mr. Al-Dika 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.

64. The Working Group considers that, taking into account all the circumstances of the case, in particular the death of Mr. Al-Dika in custody, the appropriate remedy would be to accord his family an enforceable right to compensation and other reparations, in accordance with international law.

¹³ Body of Principles, principle 34.

¹⁴ See opinions No. 24/2020 and No. 36/2020.

65. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary detention and death of Mr. Al-Dika and to take appropriate measures against those responsible for the violation of his rights.

66. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on extrajudicial, summary or arbitrary executions, for appropriate action.

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

Follow-up procedure

68. 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 compensation or other reparations have been made to Mr. Al-Dika's family;

(b) Whether an investigation has been conducted into the violation of Mr. Al-Dika's rights and his death in custody, and if so, the outcome of the investigation;

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

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

69. 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.

70. 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 any failure to take action.

71. 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.¹⁵

[Adopted on 27 November 2020]

¹⁵ Human Rights Council resolution 42/22, paras. 3 and 7.