



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fourth session, 24 April–3 May 2019****Opinion No. 6/2019 concerning Jordi Cuixart I Navarro, Jordi Sánchez I Picanyol and Oriol Junqueras I Vies (Spain)**

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 33/30.
2. In accordance with its methods of work (A/HRC/36/38), on 8 August 2018 the Working Group transmitted to the Government of Spain a communication concerning Jordi Cuixart I Navarro, Jordi Sánchez I Picanyol and Oriol Junqueras I Vies. After requesting an extension of the deadline for submitting a response, the Government responded to the allegations on 8 November 2018. 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. Jordi Cuixart I Navarro is a member and the president of Òmnium Cultural, an association that seeks to protect the culture and language of Catalonia.
5. Jordi Sánchez I Picanyol was president of the Catalan National Assembly, an organization dedicated to achieving the independence of Catalonia through democratic and peaceful means; he organized two major protests that took place on 11 September 2012 and 11 September 2013. Mr. Sánchez was elected as a member of the parliament of Catalonia for the term starting in 2018. He led a movement dedicated to the defence of the Catalan language, culture and nation between 1983 and 1994.
6. Oriol Junqueras I Vies was Vice-President of the Government of Catalonia and the Minister of Economic Affairs and Finance. He was Mayor of San Vicente dels Horts between 2011 and 2015 and a member of the European Parliament between 2009 and 2012. He was elected as President of the Esquerra Republicana party in 2011 and as a member of the parliament of Catalonia in 2012; he was re-elected in December 2017.
7. According to the information received, on 20 and 21 September 2017, there was a public demonstration in Barcelona in support of a referendum on the issue of Catalan independence.
8. On 22 September 2017, the Attorney General's Office filed a complaint for sedition in view of the events that had occurred during the demonstration. On 27 September, the National High Court in Madrid declared its jurisdiction over the case. On 3 October, it summoned Mr. Cuixart and Mr. Sánchez to give evidence, as persons under investigation, at a hearing on 6 October 2017.
9. On 16 October 2017, the court of investigation of the National High Court in Madrid, after having taken their statements, ordered the provisional detention of Mr. Cuixart and Mr. Sánchez, who appealed against the decision. In the order, the judge confirmed his jurisdiction and ruled in favour of detention, on the basis of the severity of the penalty that would be applicable in their case.
10. On 6 November 2017, the appeal was dismissed. The source points out that the ruling of the appeal court was not unanimous. One judge considered the detention to be disproportionate on the grounds that the allegations and their legal classification were so vague as to fall short of minimum standards of legal certainty.
11. On 27 October 2017, the parliament of Catalonia approved a unilateral declaration of independence. In response, on the same day, the Government of Spain invoked article 155 of the Constitution and decided to suspend all members of the parliament of Catalonia and to dissolve this body.
12. On 30 October 2017, the Attorney General's Office filed a complaint for rebellion, sedition and misappropriation of funds against the newly removed members of the Government of Catalonia, including Mr. Junqueras. The source alleges that the complaint did not specify the facts that constituted offences.
13. According to the information received, on 31 October 2017, the National High Court declared its jurisdiction over the case of Mr. Junqueras and summoned him to give evidence two days later. On 2 November 2017, Mr. Junqueras testified before the court and was placed in detention by order of the central court of investigation.
14. The source points out that, in its decision to impose provisional detention, the court considered that Mr. Junqueras had had the time and facilities to prepare his defence, even though his lawyer was absent and the acts with which he was charged were not specified.
15. The cases of Mr. Cuixart and Mr. Sánchez were joined with that of Mr. Junqueras and brought before the Supreme Court, because of Mr. Sanchez' status as a member of the

Government of Catalonia. On 22 November 2017, the court of investigation submitted information to the Supreme Court. According to the source, the judge described a complex organization, whose aim was to bring about the secession of Catalonia and to change the political structure of the State.

16. The source notes that, far from being limited to the charges that concerned the events of 20 and 21 September 2017, the information that was submitted to the Supreme Court went back to 2015. However, there was no allegation that specific, concrete acts had been committed, other than acts that did not constitute damage or offence.

17. The Supreme Court ruled in favour of joining the cases on 24 November 2017 and confirmed the decision to impose detention on 4 December 2017.

18. Following the dissolution of the parliament of Catalonia, elections were held on 21 December 2017, in which Mr. Sánchez and Mr. Junqueras were elected.

19. On 9 January 2018, Mr. Junqueras requested to be transferred to a place of detention closer to Barcelona and to be released temporarily so as to be able to attend the opening session of parliament on 17 January. On 12 January, his request was denied on the grounds that there was a risk of a public confrontation.

20. The source notes that, on 24 January 2018, another detainee and co-defendant in the trial who had been elected as a member of parliament resigned from his post and undertook not to engage in political activities or to form part of the Government of Catalonia. It is alleged that he did this in order to secure his release.

21. On 5 March 2018, Mr. Sánchez accepted the nomination to be sworn in as President of the Government of Catalonia. He therefore requested to be released to attend the ceremony, but his request was denied on 9 March 2018. He therefore had to turn down the nomination.

22. On 21 March 2018, Mr. Sánchez submitted a request for interim measures to the Human Rights Committee, which were granted on 23 March 2018. The Committee asked the Government to take the measures necessary to enable Mr. Sánchez to exercise his political rights. According to the source, the Government did not comply with this request.

23. On 21 March 2018, the Supreme Court issued an indictment for rebellion in respect of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras, confirming their detention.

24. According to the source, the detainees' defence counsel has filed several petitions for *amparo*, which have been rejected or ignored. All applications for release have been refused in general terms, without reference to individual cases and simply on the grounds that the desire for independence generates a risk of recidivism.

25. The source argues that the detainees could not have been accused of committing, planning or instigating violence. In the indictment of 21 March 2018, it is acknowledged that the defendants' actions consisted of participating in public demonstrations. The violence of a few individuals unconnected with the accused cannot be attributed to them.

26. The source puts forward a decision handed down by a high court in Germany, which, in considering a request for the extradition of a co-defendant, the former President of the Government of Catalonia found that no violence of the kind that constitutes the offence of rebellion had been committed. It was noted that the accused had not planned to use or actually used violence or force, but rather had opted for the use of democratic means, such as the referendum.

27. The source claims that the detention results from the exercise of rights and freedoms enshrined in articles 18–21 of the Universal Declaration of Human Rights and articles 19, 21, 22 and 25 of the Covenant.

28. Regarding the order of 16 October 2017, which imposed detention for the offence of sedition, the source claims that the charges brought by the Public Prosecution Service were based solely on the events of 20 and 21 September 2017. The detention order, however, refers to a wide range of events that occurred before, during and after those days.

29. According to the source, as regards the participation of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras in the events of 20 and 21 September 2017, the investigation revealed only that they had freely exercised their right to protest. The source considers that such acts do not constitute a legal basis for detention but are, on the contrary, protected by human rights law.

30. According to the source, the demonstrations were organized by many individuals and organizations, trade unions, universities, political parties and associations, none of whom are facing criminal prosecution or detention. The demonstrations were in support of exercising the right to self-determination through a referendum.

31. The source notes that Mr. Cuixart called for the demonstrations to be peaceful. Mr. Cuixart and Mr. Sánchez are known for promoting non-violence. None of the protests organized by the Òmnium Cultural association in its 56 years of existence have been violent. According to the source, the National High Court acknowledged that Òmnium Cultural had legitimate objectives.

32. It is noted that one National High Court judge considered that the events of 20 and 21 September 2017 reflected the legitimate exercise of the right to peaceful demonstration, in accordance with the law. Citizens were called to mobilize in order to protest against a situation that had arisen and that they did not agree with. The aim of the demonstration was not to defy and violate court orders but to exercise the right to protest. It was therefore a matter of individuals and their organizations exercising a legitimate right within the framework of the law.

33. The source mentions that the indictment included, as part of the criminal proceedings, other actions that are not punishable and that are protected by articles 21 and 22 of the Covenant, such as organizing massive, peaceful, one-off, mobile and spectacular gatherings, calling for a strike, and participating in rallies and demonstrations. In other words, the legitimate exercise of a political activity, which does not justify detention.

34. In addition, the source argues that the detention resulted from the exercise of their right to freedom of opinion and expression, which was allegedly treated as a criminal offence. The detention was the result of giving public and peaceful expression to a desire for independence.

35. The source notes that calling for support for a referendum was decriminalized in Spain through Organic Act 2/2015 on the basis that it is a legitimate means of exercising freedom of expression, in accordance with articles 20 and 21 of the Constitution.

36. Mr. Cuixart, Mr. Sánchez and Mr. Junqueras have repeatedly expressed their political opinion on the situation in Catalonia in a peaceful manner. There is no evidence that their actions were violent, that they incited violence or that they actually caused violence. The only acts of violence mentioned in the indictment are those of the Spanish police, which cannot be attributed to the accused.

37. It is noted that the political opinion of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras is the basis for their detention, as implied in the order of 5 January 2018. The judge stated that the detention of Mr. Junqueras was justified not by the danger that he posed but by the likelihood that he would continue to engage in the same political activities. This is tantamount to detaining a person because of his or her opinions and beliefs.

38. It is claimed that the detention results from the exercise of the right to participate in political affairs. According to the source, there is a broad consensus that the defendants, and citizens in general, had the right to vote in the referendum of 1 October 2017. The aim and effect of the detention is to restrict the right to transmit ideas, including the call to vote, and to prevent the defendants from standing as candidates and from taking office, if elected.

39. The source notes that, in various decisions, the judges have concluded that the risk of criminal activity is linked to political responsibilities and that the practical purpose of the detention is to prevent the defendants from taking part in public affairs.

40. Mr. Sánchez was a candidate in the parliamentary elections of 21 December 2017, yet he was unable to participate in the campaign or to vote, despite the role he played and his subsequent victory. He was then prevented from taking office as a member of

parliament. The aim and consequence of his detention is to deprive him of his right to political participation.

41. According to the source, Mr. Junqueras was also deprived of his right to take part in the campaign and to be elected. He was prevented from taking office as a member of parliament and from attending the opening session of parliament.

42. The source refers to the case of another Catalan leader, who was also detained and prosecuted, and who gave up his role in politics in exchange for a promise of release. It is alleged that, by being placed in detention, he was forced to give up his rights in the hope of regaining his freedom.

43. The source argues that the Government's objective is clear from statements made by the then Deputy Prime Minister of Spain, in which she congratulated the Prime Minister for successfully decapitating and eliminating the leaders of the independence movement. The source also draws attention to statements made by the Minister of the Interior, in which he threatened to prosecute and detain two other politicians for preparing lists for the elections of December 2017.

44. The source alleges that the detention is arbitrary because it violates the international standards set forth in articles 9–11 of the Universal Declaration of Human Rights, articles 9 and 14 of the Covenant, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

45. The source also argues that the National High Court has no jurisdiction over the case, since it claimed to have jurisdiction on the basis that the offence of sedition, when committed with the aim of changing the territorial organization of the State, should be considered an offence against the form of government in place. The source argues that this is an erroneous interpretation of the law, which is being used to give the National High Court jurisdiction over the case in accordance with article 65 (1) of the Organic Act on the Judiciary.

46. The source argues that the offence over which the National High Court has jurisdiction has, in the past, been applied only to attacks on the form of government established in the Constitution, namely a parliamentary monarchy, and is not applicable to situations involving structural change and reorganization at the regional level. It is unprecedented and unjustifiable to extend the scope of the offence to cover the allegations made against the detainees.

47. According to the source, the National High Court has jurisdiction only over certain specific offences, which do not include sedition. In a ruling handed down on 2 December 2008, the Court established that rebellion had never fallen within its jurisdiction. The Court has not provided any justification for its change of approach in this regard.

48. The source argues that transferring the case to the Supreme Court does not compensate for these irregularities, because it was the National High Court that issued the detention order and because, in any event, the Supreme Court does not have jurisdiction over the case either. The source claims that the competent court is the High Court of Catalonia, since the territory of Catalonia is where the alleged offence was committed.

49. According to the source, the events described show that the courts that are keeping Mr. Cuixart, Mr. Sánchez and Mr. Junqueras in detention are not competent, independent or impartial. The source claims that the statement made by the Deputy Prime Minister clearly indicates that the trial is not being conducted independently, not only because she referred to the decapitation of political leaders but also because she described this act as an achievement by the Prime Minister.

50. The source considers that the courts' lack of jurisdiction over these matters and their lack of independence and impartiality affected their decisions, including the decision to place Mr. Cuixart, Mr. Sánchez and Mr. Junqueras in detention. This deprivation of liberty would therefore constitute a violation of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant.

51. As regards Mr. Cuixart and Mr. Sánchez, the judge ordered their detention on the basis of the sedition charges brought in connection with the events of 20 and 21 September

2017; however, he also referred to a series of events that had occurred before and after those dates and to places where the accused had not been present. In a hearing on 11 January 2018, Mr. Cuixart's defence counsel asked the judge to provide details of the specific acts and offences with which he was being charged, as there was some uncertainty on this point. No response was given to this request.

52. The source claims that sedition requires a riotous public uprising, which is different from a declaration of independence and demonstrations in favour of a referendum. Spanish doctrine has established that it is impossible for the legislator to have criminalized peaceful collective opposition to the actions of law enforcement officers or public servants. Supporting self-determination is not a crime but a right, protected by articles 16 and 22 of the Constitution.

53. According to the source, Mr. Cuixart and Mr. Sánchez called for a civic and peaceful demonstration and insisted that there should be no violence of any kind. The damage to vehicles that has been attributed to them was caused by unidentified individuals with whom they have no connection. The Civil Guard has acknowledged that other participants in the demonstration tried to protect vehicles from damage.

54. The source notes that, in a dissenting opinion, one of the National High Court judges urged his colleagues to take care to establish the facts from an objective, criminal justice perspective and not to stray from the facts as a result of supposition, subjectivity and prejudice. When the facts are analysed, it is not possible to identify any offence.

55. According to the source, Mr. Junqueras was detained for rebellion, another offence for which there is no evidence. Article 472 of the Criminal Code defines rebellion as a violent public uprising staged for various purposes, such as declaring the independence of a part of national territory. In order to constitute rebellion, the act must have been committed in the context of an armed, or at least violent, confrontation.

56. The source reports that the former chief prosecutor of the High Court of Catalonia stressed that the democratic behaviour of more than 1 million citizens who were exercising their right to demonstrate peacefully could not be considered to constitute violence, let alone rebellion.

57. According to the source, declaring the independence of a part of national territory cannot be classed as rebellion. An act cannot be considered to constitute rebellion unless it involves violence. The source claims that there was no violence at any stage of the process, except that of the national police, for which the detainees cannot be held responsible.

58. Sedition, meanwhile, is an offence that is defined in article 544 of the Criminal Code, that requires a violent collective uprising aimed at the repeal of legislation. The source argues that a peaceful protest cannot be classed as sedition. The acts of calling and participating in a referendum were decriminalized in 2005.

59. The source reports that the courts of Catalonia have been receiving complaints of sedition relating to pro-independence acts for years (for example, the decisions of 24 March 2014 and 8 January 2015). Since 2014, the courts have been rejecting these complaints (over which they have exclusive territorial jurisdiction), on the grounds that they do not involve violence and the persons concerned cannot be held responsible for specific acts.

60. According to the source, the judge deemed that Mr. Junqueras was responsible for the violence but that he did not take part in, anticipate or cause the violence. The detention order did not specify the acts allegedly committed by Mr. Junqueras and failed to establish whether his conduct warranted deprivation of liberty.

61. The source draws attention to the principle that the presumption of innocence is considered to have been violated if an official statement about an accused person suggests that he or she is guilty when no such verdict has been reached by a court. It claims that such a violation occurred when the Prime Minister described the independence movement and its leaders as reckless, and even dangerous, rebels, and when the Deputy Prime Minister announced that the Government had successfully decapitated the movement's leaders.

62. The source adds that, contrary to the presumption of innocence, the court of appeal of the National High Court declared that some facts are common knowledge and do not

need to be proved. It stated, for example, that it was a known fact that Mr. Cuixart stood on top of a national police vehicle. However, this fact must be interpreted in context, as it is a source of disagreement: while standing on the vehicle, Mr. Cuixart called on the crowd to stop the demonstration, so this act cannot be used against him without any explanation of the context.

63. According to the source, the detention clearly violates the principle of the presumption of innocence, which is enshrined in article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant.

64. The source also alleges a violation of the right of defence, which implies that the individual should have the time and means to prepare arguments and evidence in his or her favour. Mr. Cuixart and Mr. Sánchez were summoned on 3 October 2017 to appear at a hearing on 6 October. Mr. Junqueras was given even less time, as he was summoned on 1 November 2017 to make a statement on 2 November 2017, after which he was placed in detention. Nevertheless, the order of 2 November 2017 stated that the accused had had sufficient time to prepare his defence, despite the fact that his lawyer was not present.

65. The source explains that the court received the complaint from the Public Prosecution Service on 31 October. The following day (1 November, a public holiday), Mr. Junqueras received a summons, which meant that he and his lawyer had to set off immediately in order to arrive in time for the hearing, as Madrid is 630 km away from Barcelona. This did not give the defence lawyer enough time to read, process and respond to the 117-page indictment, let alone the whole case file.

66. Mr. Junqueras' lawyer could not attend the hearing because he was also serving as the defence lawyer for other members of parliament who had been summoned before the Supreme Court the same day, a fact that the National High Court ignored. Far from postponing the hearing, the judge decided to proceed in the absence of the defence lawyer. That day, all the defendants raised the fact that they had been unable to prepare their defence in the time available.

67. Lastly, the source claims that the detention constitutes discrimination based on political opinion, since it results from efforts to defend the right of Catalans to self-determination. The source emphasizes the link between the detainees and the political situation. The detainees are publicly associated with the independence movement. Furthermore, the events in question and their arrest took place in Catalonia. These facts provide further grounds for declaring that the detention of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras is arbitrary and violates their fundamental rights.

68. The source concludes by requesting that the detention be declared arbitrary under categories II, III and V.

Response from the Government

69. On 8 August 2018, the Working Group transmitted to the Government the allegations made by the source and requested that it provide detailed information, by 8 October 2018, on the factual and legal basis for the detention, as well as its compatibility with the international human rights obligations of Spain. In response to a request from the Government, the deadline for its response was extended to 8 November 2018.

70. In its response, the Government notes that the detention of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras was ordered in a criminal case that has been brought before the Supreme Court, joined with a case that was initially brought before the National High Court. The detention was ordered by the investigating judge, and confirmed by the Criminal Division of the Supreme Court, for the duration of the proceedings, in which no verdict has yet been reached.

71. The Government notes that article 17 of the Constitution provides for the possibility of imposing provisional detention and that the Criminal Procedure Act gives judges the power to impose such detention as a precautionary measure on the grounds set forth in articles 503 and 504 of the Act.

72. The Government notes that Spain is subject to the rule of law and the principle of the separation of powers, which means that neither the legislative branch nor the executive branch have intervened in the decisions of the judicial branch (in this case, the Supreme Court).

73. According to the Government, the observations that have been submitted are based on the decisions made in the criminal case, that are a manifestation of the power of the judicial branch of the State, which ordered the detentions. Comments made by members of the executive branch or members of political parties are therefore according to the Government irrelevant, since the decision to impose detention was not made by those entities, nor is there any indication that they influenced the decisions of the judiciary.

74. The Government specifies that it did not take over the responsibilities of the parliament of Catalonia, since once the dissolution of the parliament had been agreed upon and elections had been called, the parliament's functions continued to be performed by its Standing Committee. It notes that the Human Rights Committee dismissed the request for interim measures in favour of Mr. Sánchez under rule 92 of its rules of procedure. It also notes that a German high court previously considered that in Spain there is no persecution on political grounds and there are no prisoners of conscience. Furthermore, the *amparo* applications that have been submitted have been declared admissible and are still being processed, in accordance with the criteria of the Human Rights Committee.¹

75. The Government emphasizes that the Constitution, which is not based on the principle of "militant democracy", allows for complete constitutional reform and establishes a specific procedure for that purpose in its article 168.

76. The Government adds that political parties that promote the separation of Catalonia from the rest of Spain are therefore legal in Spain and the Constitution provides for mechanisms that may be used to bring about such a situation, in accordance with the rule of law. This was reaffirmed by Constitutional Court ruling No. 42/2014, which states that "the right to decide of the citizens of Catalonia" should be exercised with due regard for the principles of democratic legitimacy, dialogue and legality, within the framework of the Constitution and the reform procedures established therein.

77. According to the Government, as the independence movement did not have the majorities it needed, it chose to flout the rule of law and to act unilaterally. According to the Constitutional Court:

Such a serious offence against the rule of law is an equally grave violation of the principle of democracy, as the parliament has ignored the fact that the submission of all citizens to the Constitution is another form of submission to the will of the people, expressed, this time, as constituent power held by the Spanish people, and not by any fraction thereof.

78. The Government argues that, in addition, the movement did not have the majority needed to amend the Statute of Autonomy of Catalonia, as any such amendment must be approved by at least two thirds of the parliament of Catalonia.

79. According to the Government, the independence movement, taking advantage of its control over the presidency, and with the support of the institutions headed by Mr. Sánchez and Mr. Cuixart, called an unconstitutional referendum and passed unconstitutional laws, that were leading ultimately to a declaration of independence, even though it had neither the support of the majority of voters nor the necessary majority of seats in the parliament of Catalonia.

80. According to the Government, in the referendum of 6 December 1978 on the Spanish Constitution, 90.46 per cent of voters in Catalonia voted in favour of the Constitution, with a participation rate of 68 per cent of the electoral roll, which means that 62 per cent of Catalans with the right to vote were in favour of it. The independence movement, on the other hand, has never enjoyed majority support in Catalonia.

¹ The Government refers to the case of *Zundel v. Canada* (CCPR/C/89/D/1341/2005).

81. The Government points out that, since Spain regained the status of a full democracy in 1977, it has established itself as a strongly democratic country, where the rights and freedoms of all inhabitants are guaranteed, in accordance with the standards set by the most prestigious international institutions. It is a well-known fact that the country's democratic transition, which was based on the 1978 Constitution, received international recognition.

82. According to the Government, the legal action taken in this case cannot be viewed as a reaction to a legitimate political desire for Catalan independence, but rather as nothing other than a judicial measure imposed in response to specific acts performed outside the rule of law.

83. According to the Government, after the detention orders had been handed down and various requests and appeals had been filed by the persons concerned, the decision to impose detention was confirmed by further judicial decisions on the grounds that there was a risk of recidivism.

84. The Government notes that the detention of Mr. Sánchez and Mr. Cuixart was initially ordered by the investigating judge of the National High Court on 16 October 2017, while the detention of Mr. Junqueras was ordered on 2 November 2017. These detention orders were subsequently confirmed by the Criminal Division of the National High Court, the Criminal Division of the Supreme Court and decisions handed down by the investigating judge, in response to requests for release and/or leave of absence.

85. As far as the facts are concerned, the Government refers to those established by the investigating judge on 21 March 2018 and taken up by the Criminal Division of the Supreme Court, on the basis of which Mr. Cuixart, Mr. Sánchez and Mr. Junqueras are being prosecuted for rebellion, embezzlement and disobedience and are being kept in detention, since there is still a risk of recidivism, besides a risk of flight.

86. The Government notes that the investigating judge set out the factual background to the case in his decision of 21 March 2018, describing the acts that are relevant to this communication as the offence of rebellion. The Government specifies that these acts were initially classed as sedition but that, as the investigation progressed, the investigating judge concluded that, in view of the circumstances, they fell within the category of rebellion.

87. The Government notes that the judiciary considered that the conditions governing detention and its continuation, which are set forth in article 503 of the Criminal Procedure Act, had been met inasmuch as: (a) the facts appear to constitute an offence for which the penalty is greater than two years' imprisonment; (b) there are sufficient grounds for holding a particular person criminally responsible; and (c) there is deemed to be a risk of flight and recidivism.

88. According to the Government, pretrial detention in Spain is legitimate provided that it is imposed in accordance with the rule of law and the Covenant. In the present case, these measures have been taken not in order to restrict the rights of the persons concerned but as a consequence of their actions, which the competent judge believes may constitute very serious offences that are contrary to the rule of law.

89. As regards the allegation that the National High Court and the Supreme Court do not have jurisdiction over the case because the acts in question were committed in Catalonia, the Government points out that, as noted by the Supreme Court, some of the activities took place outside this territory, as illustrated by the notebook seized from José María Jové, the white paper for the independence of Catalonia and the purchase of ballot boxes and the printing of ballot papers for the referendum abroad (in France).

90. The Government draws attention to the above in connection with the Supreme Court's classification of the acts attributed to Mr. Cuixart, Mr. Sánchez and Mr. Junqueras.

91. As regards the alleged violation of the presumption of innocence, the Government notes that this principle may be violated only by the judiciary, not as a result of statements made by members of the executive branch.

92. Regarding the allegation that the accused were not given enough time to prepare their defence, the Government notes that Mr. Junqueras did not request a suspension at the beginning of his statement but merely filed a request for suspension through the general

registry, which did not reach the investigating judge until after the statements had been given, not before.

93. As regards Mr. Cuixart and Mr. Sánchez, the detention order handed down by the investigating judge on 16 October 2017 makes no mention of a complaint or a request for suspension on the grounds that they had not had time to prepare their defence. Lack of time for preparing a defence was not stated as grounds for the appeal that was ruled upon by the Criminal Division of the National High Court on 6 November. The Government further notes that, in the successive requests for release and appeals that were submitted, the defendants did not claim that their right of defence had been restricted.

94. The Government declares that there has been no discrimination in this case and draws attention to the arguments presented by the Criminal Division of the Supreme Court in its decision of 5 January 2018, denying a request for release submitted by Mr. Junqueras, in which the Criminal Division noted that the trial was not aimed at prosecuting political dissidents.

Further information from the source

95. The source submitted additional comments on the non-violent manner in which Mr. Cuixart, Mr. Sánchez and Mr. Junqueras expressed their political opinions. It claimed that the detention was arbitrary since it resulted from their exercise of the rights to freedom of association, freedom of assembly and participation in the public affairs of their country. It also supplied further information concerning violations of the detainees' right to due process.

Discussion

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

97. The Working Group is mandated to investigate all cases of deprivation of liberty imposed arbitrarily that are brought to its attention. In the discharge of its mandate, it refers to the relevant international norms set forth in the Universal Declaration of Human Rights and the Covenant.

98. The Government requested, on the basis of paragraph 33 of the methods of work, that part of the present complaint be referred to the Human Rights Committee, which, it argues, is currently considering the same case. It claims that the Committee is considering elements relating to political participation, the rights of association and assembly and the right to freedom of opinion and expression, and that the same facts and persons are concerned.

99. In this regard, the Working Group wishes to recall that the purpose of paragraph 33 (a) and (d) (iii) is to strengthen the good coordination between the various human rights bodies, including the special procedures and the treaty bodies.

100. In the present case, the Working Group received information from the parties regarding the facts and the law in order to determine whether there has been a violation of the right not to be arbitrarily deprived of liberty; this information includes some elements relating to the right to political participation, to the rights of association and assembly and to freedom of opinion and expression. The Government has not demonstrated that the claim submitted to the Human Rights Committee relates to the right to personal liberty and the right not to be subjected to arbitrary detention. In the light of the foregoing, the Working Group considers that in the present case the conditions set out in paragraph 33 (a) and (d) (ii) have not been met, since the facts and the rights allegedly violated are not the same.

101. Having established its position on this procedural matter in accordance with its methods of work and practice,² the Working Group reaffirms that it is competent to consider the present case.

² Opinion No. 89/2018, paras. 64–67.

102. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of the international law governing personal liberty, constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.³

103. The Working Group noted that Mr. Cuixart, Mr. Sánchez and Mr. Junqueras are public figures, who are known for their work in support of Catalan independence and who have held positions in associations, political parties and public office.

104. It was also able to confirm that Mr. Cuixart and Mr. Sánchez were summoned to appear in court on 6 October 2017 and were subsequently placed in pretrial detention by order of the court of investigation of the National High Court. Mr. Junqueras was detained after giving testimony, by order of the court of investigation, on 2 November 2017.

Category II

105. The source claims that the detention of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras results from the exercise of rights and freedoms enshrined in articles 19–21 of the Universal Declaration of Human Rights and articles 19, 21, 22 and 25 of the Covenant.

106. The Working Group emphasizes that everyone has the right to freedom of expression, which includes the right to impart information and ideas of all kinds, whether orally or in any other form. In addition, the Working Group reiterates that the exercise of this right may be subject to restrictions that are expressly provided for by law and are necessary to ensure respect for the rights or reputation of others, or for the protection of national security, public order, public health or morals.⁴

107. The Working Group agrees with the Human Rights Committee that freedom of opinion and freedom of expression are indispensable for the full development of the person and constitute the cornerstone of free and democratic societies.⁵ The two freedoms form a basis for the full enjoyment of other human rights, for instance the enjoyment of freedom of assembly and association and the exercise of the right to political participation.⁶

108. The importance of the right to freedom of opinion is such that no government may restrict other human rights on the basis of a person's actual or perceived opinions, whether they be of a political, scientific, historic, moral or religious nature. It is incompatible with the Universal Declaration of Human Rights and the Covenant to criminalize the holding of an opinion, which implies that the harassment, intimidation or stigmatization of a person – including detention, pretrial detention, trial or imprisonment – for reasons of the opinions he or she may hold – are not permitted.⁷

109. It is also important to note that freedom of opinion and expression includes the opportunity to express the way in which peoples may freely choose their political system, constitution or government, which points to the link with other human rights. The Human Rights Committee has stated that:

“The rights under article 25 are related to, but distinct from, the right of peoples to self-determination. By virtue of the rights covered by article 1 (1), peoples have the right to freely determine their political status and to enjoy the right to choose the form of their constitution or government. Article 25 deals with the right of individuals to participate in those processes which constitute the conduct of public affairs.”⁸

³ A/HRC/19/57, para. 68.

⁴ Opinion No. 58/2017, para. 42.

⁵ General comment No. 34 (2011) on freedoms of opinion and expression, para. 2.

⁶ *Ibid.*, para. 4.

⁷ *Ibid.*, paras. 9 and 10.

⁸ General comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service, para. 2.

110. The Working Group, noting that referendums are permitted in Spain on a wide range of topics, including the topic at issue in the present case, considers that calls for the organization of processes that promote public participation, whether they be made by an individual or through organizations, are legitimate expressions of the exercise of freedom of opinion and expression.

111. The Working Group observed that on 20 and 21 September 2017 public demonstrations were held in support of the organization of a referendum on Catalan independence. During the demonstrations, there were incidents or conflicts between demonstrators and the police. It was also noted that these specific events could not be attributed to Mr. Cuixart, Mr. Sánchez and Mr. Junqueras.

112. Mr. Cuixart, Mr. Sánchez and Mr. Junqueras were accused of sedition in relation to the peaceful social protest that took place on 20 and 21 September 2017, in which they participated alongside thousands of others. The indictment was later changed to the offence of rebellion.

113. The Working Group verified that violence is an essential component of the legal classifications of the alleged offences. In its response, the Government provided information on the independence process, but it did not put forward information relating to any specific actions taken by the accused that might have involved violence and could therefore be said to constitute an offence under applicable law, including international law.

114. The Working Group observed that the actions of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras, both before and after the social protest of 20 and 21 September 2017, were not violent, nor did they incite violence, nor did their conduct result in any violent events or acts. On the contrary, their conduct consisted in the peaceful exercise of the rights to freedom of opinion, expression, association, assembly and participation. The Working Group even received information relating to the opinion of one judge who stated that the events attributable to the accused were expressions of the legitimate exercise of the right to peaceful protest.⁹

115. In this respect, the Special Rapporteur on the right to freedom of opinion and expression has raised his concern regarding these arrests, insofar as they “were directly related to calls for mobilization and public participation made in the context of the referendum”. He also expressed his concern that “the accusation of the offence of rebellion could be considered excessive and therefore incompatible with the obligations of Spain under international human rights law”.¹⁰

116. The Working Group also takes notes of the decision handed down by a German court regarding the extradition of Mr. Carles Puigdemont (co-defendant), in which it found that the acts attributed to Mr. Puigdemont did not involve violence, which is a necessary component of the offence of rebellion, and that his actions cannot be considered to amount to a violent political attempt to overthrow the Government. It stated that the defendants were seeking independence by democratic means.¹¹

117. The Working Group received credible information, which was not refuted by the Government, regarding the situation of Mr. Forn, who was detained and charged in relation to this case, and who was persuaded to give up his activism in support of independence in exchange for his release.

118. A criminal trial such as that being held in the present case loses credibility when one considers the turbulent political context in which the charges have been brought and the proximity of the trial to the possible holding of a referendum, given that Mr. Cuixart, Mr. Sánchez and Mr. Junqueras have dedicated years of their respective political careers to the cause of Catalan independence. Account should also be taken of the statements made by high-ranking Government officials, which will be addressed in further detail in the next section, referring to the decapitation of the leaders of the independence movement and

⁹ Separate opinion of Judge José Ricardo de Parada Solaesa of 7 November 2017.

¹⁰ AL ESP 1/2018.

¹¹ Decision of the Regional High Court of Schleswig-Holstein, 12 July 2018.

attempting to qualify the conduct of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras in the context of a social protest as violent.

119. The absence of the factor of violence and of credible information regarding any acts attributable to Mr. Cuixart, Mr. Sánchez and Mr. Junqueras that would link them to the sort of conduct that constitutes the offences of which they stand accused have led the Working Group to believe that the purpose of the criminal charges brought against them is to intimidate them because of their political views regarding the independence of Catalonia and to prevent them from pursuing that cause in the political sphere.

120. The Working Group has been persuaded that the criminal charges brought against Mr. Cuixart, Mr. Sánchez and Mr. Junqueras were brought in order to justify the fact that they have been placed in detention for exercising their rights to freedom of opinion, expression, association, assembly and political participation, in violation of articles 18–21 of the Universal Declaration of Human Rights and articles 19, 21, 22 and 25 of the Covenant; their detention is therefore arbitrary under category II.

Category III

121. In the light of the findings in relation to category II, the Working Group considers that there was no basis for pretrial detention or a trial. Nevertheless, since a trial is taking place, and in view of the claims made by the source, the Working Group will analyse whether, during the course of the judicial proceedings, the fundamental components of a fair, independent and impartial trial have been respected.

Presumption of innocence

122. Article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant recognize the right of all persons charged with a criminal offence to be presumed innocent. This right places an obligation on State institutions to treat the accused person as innocent until the charge has been proved beyond any reasonable doubt. The right requires that the public authorities refrain from prejudging the outcome of a trial, which entails abstaining from making public statements affirming the guilt of the accused person.¹²

123. The Working Group has determined that statements publicly condemning the accused person before a sentence has been passed violate the presumption of innocence and constitute undue interference that undermines the independence and impartiality of the court.¹³

124. Similarly, the European Court of Human Rights has stated that the public statements of high-ranking officials violate the right to presumption of innocence if such statements declare persons guilty of an offence for which they have not yet been tried, thereby attempting to convince the public to believe them guilty and prejudging the assessment of the facts by the competent judicial authority.¹⁴

125. In response to the source's claims regarding the violation of the presumption of innocence, the Government posited that the statements made by the executive branch were irrelevant, since, in its view, there is no evidence that those statements have had an influence on the decisions taken by the judicial branch.

126. In the present case, credible information was received regarding statements made by the Deputy Prime Minister of Spain, in which she congratulated the Prime Minister for successfully decapitating the Catalan pro-independence parties by arresting their leaders. Further statements were made by the Minister of the Interior, in which he referred to the leaders of the independence movement as reckless, dangerous rebels.

¹² General comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 30.

¹³ Opinions Nos. 90/2017 and 76/2018.

¹⁴ European Court of Human Rights, *Allenet de Ribemont v. France*, para. 41; *Daktaras v. Lithuania*, para. 42; *Petyo Petkov v. Bulgaria*, para. 91; *Peša v. Croatia*, para. 149; *Gutsanovi v. Bulgaria*, paras. 194–198; *Konstas v. Greece*, paras. 43 and 45; *Butkevičius v. Lithuania*, para. 53; *Khuzhin v. Russia*, para. 96; *Ismoilov and Others v. Russia*, para. 161.

127. Furthermore, the court of appeal of the National High Court stated that some facts ascribed to the defendants are common knowledge and do not need to be proved. For example, in the view of the court of appeal, it is a known fact that Mr. Cuixart stood on top of a national police vehicle on 20 September 2017. However, the Working Group received credible information according to which at that moment Mr. Cuixart and Mr. Sánchez were calling for the demonstration to come to a peaceful conclusion.

128. In the light of the statements made by high-ranking State officials publically implying that the detainees should be presumed guilty, which could influence how they are viewed by the courts, the Working Group has been persuaded that the right to presumption of innocence of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras has been violated, in breach of article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant.

Pretrial detention

129. It is an established norm of international law that pretrial detention should be the exception, rather than the rule, and should be ordered for the shortest possible time. Article 9 (3) of the Covenant requires that the justification for pretrial detention should be analysed in a reasoned judicial decision in every case. This provision also establishes that “release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement”. It follows that detention should be an exception made in the interests of justice. The provisions of article 9 (3) of the Covenant can be summarized as follows: any detention should be exceptional and short-term; the accused person should be released if there are measures in place to guarantee that he or she will appear for trial and for execution of the judgment; and if the period of pretrial detention is prolonged, the presumption in favour of bail should preferably be applied.

130. In the present case, the accused were detained in October and November 2017 and have remained in pretrial detention during the trial, which is still under way. The source has indicated that conditional release has been denied on the basis of the alleged risk that they might repeat their call for independence, since this could lead to new public demonstrations. The Working Group concluded that the detention is arbitrary, since it stems from the exercise of the right to freedom of opinion, expression, association, assembly and participation. Furthermore, it has not been established that either the judiciary or the Government carried out an analysis and determined, as required by the Covenant, that there are legitimate, necessary and proportional grounds for restricting these human rights through the deprivation of liberty since October and November 2017 and during the trial. Consequently, the Working Group can only conclude that this application of pretrial detention violates article 9 (3) of the Covenant.

Right to a hearing before a competent and impartial tribunal

131. According to article 14 (1) of the Covenant, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of any criminal charge against him or her. The Working Group agrees that judges must not allow their judgment to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them, nor act in ways that improperly promote the interests of the parties.¹⁵

132. The Working Group was not convinced that the acts attributed to Mr. Cuixart, Mr. Sánchez and Mr. Junqueras were violent in nature. On the contrary, it found that these acts were carried out in the exercise of freedom of opinion, expression, assembly, association and political participation, over the course of several years.

133. Moreover, the Working Group found evidence to suggest that judges with prior knowledge of the case harboured preconceptions about it. This is clear, for example, from statements made during the proceedings before the court of appeals of the National High

¹⁵ General comment No. 32, para. 21.

Court, during which it was stated that some facts are common knowledge and do not need to be proved.

134. Furthermore, the Working Group has found that the criminal prosecution of individuals accused of offences committed in a particular territory by courts located in another jurisdiction constitutes a violation of the right to a hearing before a competent court if national legislation expressly attributes competency to the jurisdiction that corresponds to the place in which the offence is alleged to have been committed.¹⁶

135. In the present case, the Working Group was convinced that the territorial, personal and material jurisdiction to investigate and adjudicate on possible criminal acts fell to the Catalan courts, since the offences were allegedly committed in Catalan territory by officials of the Catalan government and parliament. In addition, the Working Group received credible information according to which the Catalan courts have heard complaints relating to the movement in favour of independence from Spain. Moreover, the Working Group was not convinced that the natural judge of the alleged offences referred to in the present case is the courts currently hearing them.

136. For the reasons given above, the Working Group considers that the right of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras to a hearing by a competent and impartial tribunal, as recognized in article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant, was not observed.

Right to adequate time and facilities for the preparation of a defence

137. Article 14 (3) (b) of the Covenant recognizes the right of every person to “have adequate time and facilities for the preparation of his defence”, which is an important guarantee for a fair trial and for the equality of arms principle.¹⁷ Adequate resources for a defence include, inter alia, early access to all materials, documents and other evidence that the prosecution plans to offer in court.¹⁸

138. The Working Group shares the view that if the defendant’s counsel feels that the time offered for the preparation of a defence is not reasonably sufficient, he or she may request the adjournment of the trial, and the authorities are, in principle, obliged to grant such requests. It is important to note that: “There is an obligation to grant reasonable requests for adjournment, in particular, when the accused is charged with a serious criminal offence and additional time for preparation of the defence is needed.”¹⁹

139. In the present case, the Working Group has been persuaded that Mr. Cuixart, Mr. Sánchez and Mr. Junqueras did not have adequate time to prepare their defence, in view of the very short period of time between their being summoned to appear in court and the hearing, and given the size of the case file and the distances involved. In addition, it was found that the defendants were not allowed additional time to prepare their defence and that this limited their access to the facilities necessary for their legal protection. The foregoing amounts to a violation of the right recognized in article 11 (1) of the Universal Declaration of Human Rights and article 14 (3) (b) of the Covenant.

140. In the light of the foregoing, the Working Group was convinced that the deprivation of liberty of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras undermined the fundamental safeguards of due process and a fair trial, in particular, the presumption of innocence, the right to a hearing by a competent and impartial tribunal and the right to an adequate defence, in violation of the provisions of articles 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant, and is of such gravity as to give the deprivation of liberty an arbitrary character under category III.

¹⁶ Opinion No. 30/2014.

¹⁷ General comment No. 32, para. 32.

¹⁸ Ibid., para. 33.

¹⁹ Ibid., para. 32.

Category V

141. The source claims that the detention of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras was discriminatory, since it resulted from their defence of the right to self-determination. The Working Group has found that deprivation of liberty is arbitrary when it is intended to punish members of political groups as a means of silencing their calls for self-determination.²⁰

142. In the present case, the detention of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras was carried out as a result of a concerted effort by the national apparatus for the enforcement and administration of justice against certain leaders of the Catalan independence movement, which enjoyed the public political backing of high-ranking officials within the Spanish Government, including expressions of support for the beheading of the movement. The detention of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras undermined the principle of the equality of human beings because it was motivated by their political opinion, in violation of the provisions of article 2 of the Universal Declaration of Human Rights and article 3 of the Covenant, and is therefore arbitrary under category V.

143. The Working Group, in accordance with paragraph 33 (a) of its methods of work, has decided to refer information relating to the rights of freedom of opinion, expression, assembly and association received in the context of the present case to the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to freedom of opinion and expression.

Disposition

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

The deprivation of liberty of Jordi Cuixart, Jordi Sánchez and Oriol Junqueras, being in contravention of articles 2, 9–11 and 18–21 of the Universal Declaration of Human Rights and of articles 3, 14, 19, 21, 22 and 25 of the Covenant, is arbitrary and falls within categories II, III and V.

145. The Working Group requests the Government to take the necessary steps to remedy the situation of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras 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 Covenant.

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

147. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Cuixart, Mr. Sánchez and Mr. Junqueras and to take appropriate measures against those responsible for the violation of their rights.

148. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to freedom of opinion and expression.

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

Follow-up procedure

150. 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:

²⁰ Opinion No. 11/2017.

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

151. 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.

152. 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.

153. 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.²¹

[Adopted on 25 April 2019]

²¹ Human Rights Council resolution 33/30, paras. 3 and 7.