

Opinion No. 58/2018

concerning Ahmed Aliouat (Morocco)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The mandate of the Working Group was most recently extended for a three-year period in Council resolution 33/30.
2. In accordance with its methods of work (A/HRC/36/38), on 24 January 2018, the Working Group transmitted to the Government of Morocco a communication concerning Ahmed Aliouat. The Government replied to the communication on 9 April 2018, after it had been granted an extension of the deadline. 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. Ahmed Aliouat is a 23-year-old Moroccan national. He is a soldier.

(a) Arrest and detention

5. The source explains that, in March 2017, Mr. Aliouat was approached by his commander while he was on duty. The commander insulted him, accused him of being an enemy of his own country and called him a "Polisario enemy". The source states that the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente POLISARIO) is a liberationist group made up of recognized representatives of the people of Western Sahara. The commander then gave him a shove and threatened to imprison him for not doing his regular chores as a soldier. According to the source, the commander told Mr. Aliouat that, as commander, he could have Mr. Aliouat thrown into prison if he wanted and that Mr. Aliouat could not stop him.

6. The source reports that, after that incident, the commander often discriminated against Mr. Aliouat on account of his Saharan identity. The source states that Mr. Aliouat was also threatened with rape if he did not follow his commander's orders. The commander also threatened to make false accusations against him so as to ensure that he would be sent to prison. After being threatened in that way, Mr. Aliouat requested a transfer. He was told that if he wanted to be transferred to other

barracks, he would have to spend two weeks in solitary confinement and pay a fine of 2,500 dirhams (DH) (US\$ 260), which would be deducted from his salary of DH 4,000 (US\$ 416).

7. According to the source, Mr. Aliouat was arrested on 4 March 2017 in Bir Gandouz in Western Sahara by the military police and the gendarmerie. Those who arrested him did not show an arrest warrant. Mr. Aliouat spent 4 days in Bir Gandouz and was then detained in a military police station in Agadir for 10 days. On 18 March 2017, he was moved to the section of Sale prison that was reserved for members of the military. In September 2017, he was transferred to Alagat prison, where he is still being held.

8. The source reports that, during the first two periods of imprisonment, Mr. Aliouat was tortured and was forced to sign confessions that had been drafted by the Moroccan authorities.

9. During that time, his family was not told where he was being held and he was prevented from communicating with anyone. Since Mr. Aliouat's telephone was switched off, his family launched a missing person appeal and contacted the Moroccan authorities and the general military barracks in Western Sahara.

10. The source also notes that, on 6 March 2017, two days after Mr. Aliouat's arrest, a man from the barracks where Mr. Aliouat had been arrested telephoned Mr. Aliouat's family to inform them that Mr. Aliouat had been detained because he had been discussing political problems on Facebook with Saharan friends and their families who were in refugee camps in Tindouf and because of the videos and news that had been shared on his Facebook page.

11. According to the source, Mr. Aliouat's family continued to look for him. On 17 March 2017, Mr. Aliouat's father travelled to Dakhla, a town in the south of Western Sahara, in order to obtain information about his son. There, the police informed him that his son was settling some administrative matters in Agadir, 1,200 km away. On his way to Agadir, Mr. Aliouat's father received a telephone call from the police, who told him that his son was actually in Rabat, some 1,600 km from there, and that he would stand trial the following morning. When he arrived in Rabat, Mr. Aliouat's father was refused access to the courtroom on the grounds that the trial was private. However, he was able to see his son through the door of the courtroom. Mr. Aliouat's family was subsequently informed that the trial had been postponed to 20 March 2017, the same day as the trial of the Gdeim Izik group, which would be closely followed by Saharan society. The source believes that this was an attempt to ensure that Mr. Aliouat's case did not attract much attention.

12. The source then explains that, on 20 March 2017, Mr. Aliouat's family and international media were denied access to his trial. They were reportedly informed by a court guard that Mr. Aliouat had already been convicted by the court. However, according to the source, the trial had not taken place because it had been postponed for a second time, to 4 July 2017.

13. The source reports that, on 4 July 2017, the press and Mr. Aliouat's family, with the exception of his father, were once again refused access to his trial. At the trial before the military court in Rabat, the prosecution presented conversations on the social network Facebook Messenger as evidence that Mr. Aliouat had discussed political issues with Saharans in refugee camps and had sent pictures of Saharan flags. The defence argued that Facebook conversations were not admissible evidence and that the prosecution had not been able to verify the usernames. These arguments were ignored by the judge. According to the source, the judge concluded that the prosecution had proven that Mr. Aliouat had sent messages to Saharan refugee camps. Mr. Aliouat was therefore convicted of inciting civilians and military personnel to defect and "join the enemy", in reference to the Frente POLISARIO.

(b) Deprivation of liberty under category II

14. The source argues that Mr. Aliouat was targeted because he belongs to the Saharan minority, whose leaders are claiming the right to self-determination.

15. The source states that Mr. Aliouat has been deprived of his liberty on account of the messages that he exchanged with other Saharans and the political opinions that he expressed on social media. The source claims that this constitutes a violation of articles 7, 18 and 19 of the Universal Declaration of Human Rights and articles 18, 19, 22, 26 and 27 of the International Covenant on Civil and Political Rights (the "Covenant").

16. In view of the above, the source concludes that the detention of Mr. Aliouat should be considered arbitrary under category II.

(c) Deprivation of liberty under category III

17. According to the source, the proceedings brought against Mr. Aliouat were flawed in the light of international fair trial standards. The source maintains that the violations committed are of such gravity as to render the detention of Mr. Aliouat arbitrary under category III.

18. The source claims that Mr. Aliouat was not informed of the reasons for his arrest until 17 March 2017. The source considers that the Government of Morocco violated Mr. Aliouat's right not to be subjected to arbitrary arrest, in contravention of article 9 (1) of the Covenant, article 9 of the Universal Declaration of Human Rights, article 6 of the African Charter on Human and Peoples' Rights and principle 36 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

19. In addition, the source considers that Mr. Aliouat suffered inhuman treatment that was intended to weaken him and to force him to make a confession, in violation of articles 7, 10 (1) and 14 (3) of the Covenant, articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 5 of the Universal Declaration of Human Rights, article 5 of the African Charter on Human and Peoples' Rights and principles 6 and 21 (2) of the Body of Principles. According to the source, under duress, Mr. Aliouat eventually signed confessions that later served as the sole basis for his conviction. This constitutes a violation of article 14 (3) (g) of the Covenant, which prohibits self-incrimination.

20. The source also states that Mr. Aliouat was not permitted to contact his lawyers at any stage of the proceedings. On 20 March 2017, his family received false information about his trial from a military court guard and they were unable to attend the trial, with the exception of his father, who attended a hearing. His trial was postponed twice and his case was therefore not handled swiftly, contrary to article 9 (3) of the Covenant, which stipulates that anyone arrested or detained should be brought promptly before a judge.

21. Lastly, the source reiterates that the charge brought against Mr. Aliouat was based on his Saharan identity and his perceived political affiliation.

22. Consequently, the source concludes that the detention of Mr. Aliouat should be considered arbitrary under category III.

(d) Deprivation of liberty under category V

23. The source claims that Mr. Aliouat was detained specifically because of his Saharan ethnicity and because the authorities believe him to be a member of the Frente POLISARIO.

24. This is illustrated by the charges of incitement to defection that were brought against Mr. Aliouat. The source adds that many Saharans in Western Sahara and Morocco, especially those who support or are perceived to support the Saharan people's right to self-determination, have been subjected to intimidation, discrimination and violence on the basis of their ethnic and social origin. In addition, the source claims that the prosecution's submission of private messages sent via social networks as evidence constitutes a violation of privacy.

25. The source maintains that Mr. Aliouat was arrested and detained because he had spoken out in favour of the Saharan people's right to self-determination. His arrest and detention constitute discrimination based on political opinion and therefore fall within category V.

Response from the Government

26. On 24 January 2018, the Working Group sent a communication to the Government of Morocco, giving the Government until 26 March 2018 to respond. The Government replied to the communication on 9 April 2018, having been granted a one-month extension of the deadline.

27. In its reply, the Government rejects the source's accusations, describing them as defamatory and false. As a preliminary remark, the Government states that the defence has lodged an appeal. The available domestic remedies have not been exhausted and the communication sent by the source to the Working Group is therefore not in accordance with international standards.

28. The Government then confirms that criminal proceedings are being brought against Mr. Aliouat, a soldier in the Royal Armed Forces, for the offence of treason. However, it denies all allegations of discrimination, ill-treatment and abuse relating to those proceedings.

29. The Government explains that, on 3 March 2017, an investigation was opened under the supervision of the Crown Prosecutor-General, in accordance with the Code of Criminal Procedure and the Code of Judicial Procedure. Mr. Aliouat was not initially placed in detention, but was immediately brought before the military court, on 18 March 2017. After examining his case file, which contained documents and information showing that the act committed was a serious offence, the District Prosecutor decided to refer the case to the President, in accordance with the law. The same day, after an initial interrogation, Mr. Aliouat was placed in pretrial detention, in accordance with articles 175 and 177 of the Criminal Code. On 4 June 2017, the court sentenced him to life imprisonment. He lodged an appeal against this decision on 12 July 2017 and appeared before the court of appeal on 20 March 2018.

30. The Government also asserts that, throughout the proceedings, Mr. Aliouat never mentioned that he had been assaulted by his superiors or filed a complaint of that nature, personally or through his lawyers, against his commander, his unit or anyone else.

31. With respect to the allegation of discrimination against Mr. Aliouat, the Government notes that Mr. Aliouat is a soldier in the Royal Armed Forces and a Moroccan national; he enjoys all his rights as a soldier, subject to certain legal conditions. The allegations that his detention is linked to his Saharan origin are unacceptable inasmuch as Mr. Aliouat is treated as military personnel, without distinction as to ethnicity, race or tribe, like all other Moroccans. In this regard, the Government notes that hundreds of members of the military from the southern provinces (Western Sahara) behave in an exemplary manner and perform their duties like everyone else in the rest of Moroccan territory, without facing any kind of discrimination. Moreover, another soldier, who does not come from Western Sahara, was charged in the same case and received the same sentence for committing the same offence with his colleague.

32. The Government also states that the judge received no evidence of violence or torture. Mr. Aliouat did not, either personally or through his legal representative, file a complaint or request to be examined by a doctor or to go to a hospital where injuries could be detected. No such request was made because he was in good health.

33. The Government denies that the trial was held in camera, claiming that it was attended by the press.

34. Regarding the allegation that Mr. Aliouat was denied the freedom to express his political opinions on social media, the Government notes that Mr. Aliouat is a soldier and is therefore subject to the requirements of the law of military discipline, which imposes restrictions on various areas of life, for example by prohibiting soldiers from participating in any political activity or employing any means of communication without prior, direct authorization from their superiors. Furthermore, in this particular case, social media was used to abuse the army and the country in general. The Government also notes that the findings of the criminal investigation with respect to Mr. Aliouat's mobile telephones and his Facebook account clearly show that he deliberately committed an act of treason by siding with the enemy. Under article 205 of the Military Justice Act, this offence is punishable by life imprisonment.

35. Lastly, in response to the allegation that Mr. Aliouat was not represented by a lawyer and was unable to communicate with his family, the Government confirms that Mr. Aliouat was granted all fair trial guarantees, including the right to be assisted by a lawyer and the right to be tried without undue delay. The Government provides the names of the lawyers who represented Mr. Aliouat. At the request of his lawyers, the court decided to postpone the trial twice. It was postponed for the first time on 19 June 2017, after his lawyers requested time to prepare the case, then for a second time on 29 June 2017, after his lawyers requested a deferral because one of them was out of the country at the time.

36. Moreover, according to the Government, on 20 March 2017, the mother and father of the accused were granted a permit (No. 05/2017) to visit their son and to verify the conditions of detention whenever they wanted.

37. In conclusion, the Government argues that national legislation is in accordance with all fair trial guarantees. The allegations made by the source are false and unverified, considering that all the rights of the person concerned were respected, from his arrest until the ruling on the case in

question. His trial met all of the fair trial requirements set forth in articles 9, 10 and 14 of the Covenant.

Further comments from the source

38. On 11 April 2018, the Working Group transmitted the Government's response to the source, which submitted the following additional comments, in which it confirms and reiterates its initial allegations.

39. The source contests the Government's argument that the communication violates international standards because the available domestic remedies have not been exhausted. The source argues that the Working Group has the power to investigate individual complaints even if the available domestic remedies have not been exhausted, in accordance with its methods of work. Moreover, the source claims that appeals against a verdict handed down by the military court are referred to the Moroccan Court of Cassation. Pursuant to articles 568 and 586 of the Code of Criminal Procedure, while the Court decides whether the military court complied with the law, it does not examine the facts of the case. Therefore, the Court of Cassation does not constitute a court of third instance and does not examine the merits of the case. Given the background to this case, there are reasons to believe that a domestic remedy would not be effective. The factual circumstances of the case — for example, the fact that Mr. Aliouat was kept in secret detention for around 10 days before he was brought before a judge, the false information given to the family, the reports of torture, the use of confessions obtained through torture as evidence, the trial before a military court without access to a lawyer — illustrate the State's refusal to respect the complainant's right to a fair trial.

Discussion

40. The Working Group thanks the parties for their cooperation and will now examine their allegations with a view to rendering an opinion.

41. 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 international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (see A/HRC/19/57, para. 68). As the Working Group has often pointed out, including in cases concerning Morocco,¹ it is not enough to make a formal objection to the allegations: the State is in possession of all the material relating to the proceedings and should be able to provide any evidence that it deems necessary to support each of its counterarguments.² In the present case, the Government attached three documents to its response: extracts of the Military Code, a document regarding penalties and the visit form of Mr. Aliouat's parents.

42. As a preliminary remark, the Working Group recalls that “the public procedures established by the Commission on Human Rights in accordance with Economic and Social Council resolution 1235 (XLII) of 1967, like the procedure governed by the Commission on Human Rights resolutions 1991/42 and 1997/50, are not subject to exhaustion of domestic remedies as a requirement for admissibility”.³ The Working Group has confirmed this several times in its jurisprudence⁴ and therefore rejects the claim that the present communication is inadmissible.

43. First of all, the source claims that Mr. Aliouat was arrested on 4 March 2017 without an arrest warrant, was not informed of the reasons for his arrest, was detained incommunicado during that period and was not brought before a judge until 17 March 2017. The Government denies this allegation, claiming that Mr. Aliouat was not placed in detention on 4 March 2017 but was brought directly before the military court on 18 March 2017 and that he was then detained on the basis of a pretrial detention order. The Working Group notes that the Government has not provided any documentary evidence to support this claim, even though it is under an obligation to do so. Consequently, the Working Group is not convinced by the Government's response and believes that Mr. Aliouat was arrested without an arrest warrant, was not promptly informed of the reasons for his arrest and detention, and was detained incommunicado during that period, in violation of article 9 of the Covenant. Under these circumstances, his arrest and detention are without legal basis and therefore arbitrary under category I.

44. The source also states that Mr. Aliouat is Saharan and is suffering reprisals for having exercised his freedom of expression in favour of the Saharan people. The Government does not dispute the

fact that he is Saharan and the Working Group has no reason to doubt it. The Government states that the proceedings brought against Mr. Aliouat, a member of the Royal Armed Forces, were not linked in any way to his Saharan origin but that he committed treason by inciting others to support the enemy. The Government does, therefore, set this case in the context of the crisis that has gripped Western Sahara for decades. The Working Group considers this to be partial corroboration, for the Government does not deny that Mr. Aliouat is Saharan, yet it provides no information on the specific content of the charge brought against him and the acts that constituted treason. The Working Group was able to see for itself the consequences of the tension in this region during its visit to Morocco in 2013. It observed that members of the Saharan population, specifically, are subjected to violence and human rights violations in order to stifle their calls for self-determination.⁵

45. Moreover, the Government provides no evidence to support its claim and merely states that another soldier, who is not Saharan, was convicted on the same charge, even though it bears the burden of proof and is therefore responsible for providing all relevant evidence, such as, in this instance, the case file. The Working Group must therefore accept the source's allegation that Mr. Aliouat's expression of political views on social networks was the cause of his indictment, arrest and detention. In this regard, the Government points out that Mr. Aliouat's freedom of expression, as provided for in article 19 of the Covenant, is restricted because he is a member of the Royal Armed Forces. The Working Group recalls general comment No. 10 (1983) of the Human Rights Committee on article 19 of the Covenant (Freedom of opinion), which reads: "Paragraph 3 [on the restriction of freedom of expression] expressly stresses that the exercise of the right to freedom of expression carries with it special duties and responsibilities and for this reason certain restrictions on the right are permitted which may relate either to the interests of other persons or to those of the community as a whole. However, when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself. Paragraph 3 lays down conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be "provided by law"; they may only be imposed for one of the purposes set out in subparagraphs (a) and (b) of paragraph 3; and they must be justified as being "necessary" for that State party for one of those purposes." In this case, the Government has not provided the texts that serve as the basis for the restriction of soldiers' freedom of expression, nor any justification as to the purpose and necessity of restricting Mr. Aliouat's freedom of expression. The Working Group therefore considers his arrest and detention to be arbitrary under category II.

46. Given that Mr. Aliouat's detention falls within category II, he should not be tried. However, since the trial has taken place and the source has submitted arguments in that regard, the Working Group will assess those arguments as an additional consideration.

47. The source claims that Mr. Aliouat was subjected to ill-treatment that led him to confess to the charges against him while he was being detained incommunicado. The Government simply denies the ill-treatment, adding that the judge did not note any signs of ill-treatment and that the accused did not report any such acts, a claim that is contested in the additional comments from the source. The Government does not mention the confessions. The Working Group recalls that a formal objection without supporting evidence is not convincing, especially as it is up to the State to prove that no abuse took place, for example by providing a document attesting to Mr. Aliouat's good state of health or a document showing that allegations of this kind have been investigated by the authorities. However, during its visit to Morocco, the Working Group noted that "torture and ill-treatment were used to extract confessions and that protestors were subjected to excessive use of force by law enforcement officials".⁶ The facts submitted by the source are consistent with that observation and the use of incommunicado detention makes the allegation of ill-treatment even more credible. The Working Group is therefore convinced by the source's claims and concludes that Mr. Aliouat's trial was affected by the abuse that he suffered in violation of his right to a fair trial. Furthermore, article 14 (3) (g) of the Covenant prohibits forced self-incrimination. Confessions obtained through the use of violence are the perfect example of what is prohibited by this provision. Mr. Aliouat's right not to be compelled to incriminate himself was therefore violated. The Government has not provided any evidence to refute this allegation.

48. The source also states that Mr. Aliouat was not permitted to contact his lawyers at any stage of the proceedings. The Government counters this allegation by giving the names of his lawyers and mentioning their applications. What is at stake, however, is not the lack of lawyers but the fact that Mr. Aliouat was unable to communicate with them at any stage of the proceedings. The Working Group considers this to be a violation of the right enshrined in article 14 (3) (b) of the Covenant, which states that the accused is entitled “to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing”.

49. The Working Group notes that, on 20 March 2017, Mr. Aliouat's family received false information about his trial from a military court guard and that they were unable to attend his trial, with the exception of his father, who attended a hearing. The Government counters these allegations by saying that the trial was public because it was open to the press, without providing any further evidence. The Working Group is not convinced by this response. It considers the source's allegation to be credible and proven, and thus concludes that Mr. Aliouat's right to a fair trial under article 14 has been violated.

50. Each of these violations is serious enough to invalidate the entire trial. Consequently, the Working Group considers that Mr. Aliouat's detention constitutes arbitrary deprivation of liberty under category III.

51. Furthermore, the Working Group notes that there is a widespread practice of abuse against persons who, like Mr. Aliouat, are either of Saharan origin or campaign for the self-determination of the Saharan people. The Working Group has noted the abuses committed against this community on several occasions.⁷ It must therefore conclude, in favour of the source, that this situation constitutes discrimination in violation of international law, in particular articles 1, 2 and 26 of the Covenant. On that basis, the Working Group considers that Mr. Aliouat's detention is also arbitrary under category V.

52. Lastly, in line with its practice, the Working Group decides to refer the allegation of torture in this case to the relevant special procedure mandate holder.

Disposition

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

The deprivation of liberty of Ahmed Aliouat, being in contravention of articles 9, 14, 19 and 27 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

54. The Working Group requests the Government of Morocco to take the steps necessary to remedy the situation of Mr. Aliouat without delay and bring it into conformity with the relevant international norms, including those set out in the International Covenant on Civil and Political Rights.

55. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Aliouat immediately and accord him an enforceable right to reparation, including compensation and a guarantee of non-repetition, in accordance with international law, and to provide him with medical care as needed and appropriate for his condition.

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

57. The Government should disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

58. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Aliouat has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Aliouat;
- (c) Whether an investigation has been conducted into the violation of Mr. Aliouat's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Morocco with its international obligations in line with the present opinion;

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

59. 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.

60. 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 of any failure to take action.

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

[Adopted on 24 August 2018]

¹See, in particular, opinions Nos. 11/2017 and 27/2016.

²See paras. 27–28 of opinion No. 41/2013, in which the Working Group noted that the source of a communication and the Government do not always have equal access to the evidence and frequently the Government alone possesses the relevant information. See also *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010*, para. 55.

³See opinion No. 11/2000.

⁴See opinions Nos. 19/2013 and 22/2017.

⁵A/HRC/27/48/Add.5, paras. 63–65.

⁶*Ibid.*, para. 63.

⁷In opinion No. 11/2017 (para. 53), the Working Group had already described discrimination against Saharans as widespread.

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