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Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its ninety-fourth session, 29 August–2 September 2022

Opinion No. 54/2022 concerning Nahid Taghavi (Islamic Republic of Iran)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.
2. In accordance with its methods of work,¹ on 22 March 2022, the Working Group transmitted to the Government of the Islamic Republic of Iran a communication concerning Nahid Taghavi. The Government submitted a late response on 29 July 2022. 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

¹ [A/HRC/36/38](#).

other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Nahid Taghavi is a dual citizen of Germany and Iran (Islamic Republic of), born in 1954 in Tehran. She studied architecture in Italy in the 1970s, later working as a freelance architect. As a student, she was part of the activist organization “Confederation of Iranian Students”, an organization formed by sympathizers of the opposition to the Shah. Since 1979, however, she has never acted or spoken as an activist and was not politically engaged in the Islamic Republic of Iran. She was not involved in organizing an opposition movement or public protests, nor did she participate in such activities.

5. In 1982, Ms. Taghavi immigrated to Germany. Since 2005, she travelled on a yearly basis to Tehran to visit her family. Over the years, Ms. Taghavi’s strong family connections resulted in her spending about half of the year in Germany and half in the Islamic Republic of Iran.

6. In October 2019, Ms. Taghavi travelled to the Islamic Republic of Iran for a family visit. Due to the coronavirus disease (COVID-19) pandemic, she postponed her flight to Germany, which had been planned for March 2020, and stayed in the country for several more months. During this stay, in October 2020, she was arrested in Tehran.

7. On the evening of 16 October 2020, Ms. Taghavi was approached on the street by 12 men, who did not identify themselves and started searching her. Ms. Taghavi assumed that she was being robbed and started fighting the men. One of the men then held a gun to her head and threatened to kill her if she did not obey. He added that they could make her death look like an accident and no one would ever ask about her. She was then blindfolded, put in a vehicle, and brought to her apartment. The men searched the apartment and took several personal belongings, including Ms. Taghavi’s computer. She was then blindfolded again and brought to an unknown destination where she spent the first night of her detention. At no time did the men disclose their identity, show a warrant or provide a reason for the arrest.

8. On 17 October 2020, Ms. Taghavi was brought to Isolation Ward 2-A of Evin Prison, where she was held in solitary confinement for five months. During this time, Ms. Taghavi was told that she had been detained for being a “threat to national security”.

9. On 16 March 2021, Ms. Taghavi was transferred to the women’s ward of Evin Prison. After 20 days in this ward, she was asked to leave her cell under the pretext of a medical appointment. She was then brought back to the isolation ward and put into solitary confinement again where she was kept until 16 May 2021. On 16 May 2021, she was transferred back to the women’s ward of Evin Prison. The opportunity to post bail or obtain parole or any other form of conditional leave was never granted.

10. After her arrest and during her detention, over the course of 80 days, Ms. Taghavi faced interrogations that lasted about 13 hours per day, amounting to about 1,000 hours of interrogation. During these interrogations, Ms. Taghavi was usually blindfolded and faced a wall. These circumstances led to a decline of her physical and mental health.

11. The conditions Ms. Taghavi endured in pretrial detention, particularly during 194 days in the isolation ward, were inhumane and designed to wear her down psychologically. There was no daylight in her cell. She was brought outside for 20 minutes a day during which she was usually blindfolded, meaning she did not see any natural light for 150 days of the first period in isolation. Ms. Taghavi slept on a stone floor without heating. Ms. Taghavi is a diabetic and suffers from high blood pressure, but she did not receive any medication. Ms. Taghavi’s malnourishment in solitary confinement caused her to lose about 17 kilograms.

12. For the first 12 days of her imprisonment, Ms. Taghavi was not allowed to contact anyone outside the prison. Her family went to the prison on 19 October 2020 and learned that she was held in solitary confinement and was considered a threat to national security. On 28 October 2020, Ms. Taghavi was given the first opportunity to call her family to say that she was alive. Ms. Taghavi was not allowed to call her family again until the beginning of

December 2020, while an interrogator of the intelligence service of the Revolutionary Guards Corps listened in. Only after Ms. Taghavi's family members consistently went to the prison and personally approached the prosecutor responsible were they allowed a personal visit. On the 100th day of her imprisonment, Ms. Taghavi was able to see her family during a short, monitored visit. Ms. Taghavi was thereafter allowed to make supervised calls to her family twice a week for four minutes.

13. On 19 March 2021, Ms. Taghavi was able to talk to her family in Germany. During her second term in solitary confinement, she was allowed to call her family members in the Islamic Republic of Iran three times per week for four minutes. In the women's ward, Ms. Taghavi is permitted to call her family three times per week for 10 minutes.

14. Ms. Taghavi's pretrial detention lasted until 29 June 2021. Since 29 June 2021, she has been serving her sentence in Evin Prison. Her conditions of detention have recently worsened.

15. Due to the circumstances that Ms. Taghavi endured during her pretrial detention and time in solitary confinement, and due also to her medical preconditions and her age, she is at risk of experiencing a severe case of COVID-19. However, there are no precautionary measures in place in Evin Prison, and tests for COVID-19 and vaccinations against it are lacking. In mid-July 2021, there was a surge in COVID-19 cases in Evin Prison. Ms. Taghavi developed severe symptoms of COVID-19 but was not tested until 20 July 2021, when she tested positive for COVID-19. She was placed at the quarantine station in an extremely poor condition. Ms. Taghavi's pre-existing health conditions worsened, requiring urgent treatment.

16. Ms. Taghavi requires medical treatment that reportedly cannot be administered in Evin Prison. The seriousness of her condition has been confirmed by the prison doctor, whose recommendation was to grant conditional prison leave immediately. Unlike all other prisoners in Evin Prison who have contracted COVID-19, Ms. Taghavi has not been granted conditional prison leave on medical grounds.

17. Ms. Taghavi also suffers from severe back pain. In June 2021, she was brought to a hospital for an examination. In September 2021, the neurological surgeon confirmed that she urgently needed back surgery. He also informed the prison authorities that a rehabilitation period would be needed. Ms. Taghavi's chronic back problems have worsened considerably in solitary confinement. Although her family has paid the bail of 2 billion tomans (approximately 70,000 euros) that was required for the furlough, Ms. Taghavi has not been given access to medical furlough.

18. Ms. Taghavi was brought to a medical commission under the control of the judiciary. The medical commission confirmed that she needed surgery. According to the authorities, however, Ms. Taghavi can only have surgery while in prison, without furlough.

19. Ms. Taghavi had been denied access to a lawyer of her choice for about six months. No lawyer was present during interrogations. When her family found a private lawyer in January 2021, Ms. Taghavi was told that she could not retain him but was to choose a lawyer from a list of lawyers proposed by the authorities. When Ms. Taghavi refused to do so, she was left without any legal counsel.

20. In February 2021, Ms. Taghavi was forced to prepare her own defence and has been informed by the prosecutor of the charges against her. On 13 April 2021, about six months after her arrest, Ms. Taghavi saw a judge for the first time. She was therefore never given a chance to challenge her arrest and detention. On that day, Ms. Taghavi, unaccompanied by a lawyer, was brought before the Revolution Court and told that a trial date had been set for 28 April 2021, in front of Branch 26 of the Islamic Revolution Court. As soon as that date was set, Ms. Taghavi's lawyer tried to access the files, but he was denied access until 24 April 2021. Even then, he was not allowed to take the files or copy them. At no point before the hearing on 28 April 2021 was Ms. Taghavi allowed to talk to her lawyer.

21. During the hearing on 28 April 2021, Ms. Taghavi and her lawyer were present but were told that the main trial had been postponed to an unknown date. The hearing was not public. Ms. Taghavi's family members were allowed to enter the building, but not the courtroom itself.

22. Ms. Taghavi's actual trial, at which she appeared with five other detainees, only lasted about one and a half hours. The trial consisted of the judge reading charges against her and allowing her lawyer, who had no access to any file until hours before the trial, to speak for 10 minutes. Her personal trial therefore lasted only about 20 minutes. There was no evidence presented, no testimony of witnesses and no cross-examination of witnesses.

23. The initial broad accusation of being a threat to national security was changed in the indictment to: founding and managing an opposition group aimed at conspiring against the Government and overthrowing the Islamic Republic of Iran; and propaganda against the State. When asking for the specific facts upon which the allegation was based, Ms. Taghavi was told that she had expressed criticism while talking to her friends, in particular, reference was made to her liberal opinion concerning the wearing of a hijab. According to the prosecutor, such action was a sufficient basis for the propaganda and conspiracy charge as a word among friends could be multiplied in further discussions with others, which could eventually lead to a revolution against the Government.

24. On the basis of these two charges, on 29 June 2021, Ms. Taghavi was sentenced to 10 years for conspiring against the Government and to overthrow the Islamic Republic of Iran. She was also sentenced to eight months' imprisonment for propaganda against the State. The longer sentence of 10 years will have to be served. The judgment itself contained no reasoning, only information about the length of her sentence.

25. Ms. Taghavi decided to accept the judgment as the final verdict since appeal procedures had not led to more favourable results in cases involving dual nationals. Furthermore, under Iranian law, one quarter of the prison sentence is waived if the verdict is accepted. The first instance verdict became final on 4 August 2021.

26. Ms. Taghavi has had no access to a lawyer from the date of her arrest until 28 April 2021 – the day of the trial. The first visit of the lawyer to the prison was permitted on 1 June 2021. While Ms. Taghavi communicated with her lawyer, guards listened in. Furthermore, the authorities have not allowed her to receive visits from German consular officials.

27. The source submits that the deprivation of liberty of Ms. Taghavi is arbitrary, falling under categories I, II, III and V of the Working Group.

28. The source specifies that it is inherent to one's right to liberty and security of the person and essential for the prohibition of arbitrary detention to be presented with an arrest warrant to ensure effective control by a competent, independent, and impartial judicial authority.² An exception may only apply under special circumstances, for example, an arrest in flagrante delicto,³ where the arrested person is informed about both the general legal basis and the specific factual circumstances.⁴

29. It is argued that Ms. Taghavi was neither presented with an arrest warrant at the time of her arrest, nor at a later stage, and there is no indication in the facts of the case that could possibly justify an exception. The arrest without a warrant, therefore, violated her rights under articles 3 and 9 of the Universal Declaration of Human Rights, article 9 (1) of the Covenant and principles 2 and 4 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

30. There was no legal basis for searching Ms. Taghavi's apartment on the night of her arrest and taking several of her personal belongings, which is why the circumstances of the case also show a violation of Ms. Taghavi's right to privacy under article 17 of the Covenant.

31. Further, in order to ascertain the legal basis of an arrest, a person arrested for the purpose of investigating crimes must be promptly presented with the specific charges. Whereas "promptly" may not require detailed information about the charges at the exact moment of the arrest, the time frame discussed as being acceptable lies within hours or few days. That obligation applies regardless of the specific crime that may be under investigation

² Opinion No. 51/2019, para. 56.

³ Human Rights Committee, general comment No. 35 (2014), para. 24; and opinion No. 33/2019, para. 48.

⁴ Human Rights Committee, general comment No. 35, para. 25.

– the right to be informed exists in connection with ordinary criminal prosecutions as well as with military prosecutions or other special regimes directed at criminal punishment.⁵

32. Charges against Ms. Taghavi were not formulated until the official indictment was brought against her about six months after the arrest. Ms. Taghavi's rights under article 9 (2) of the Covenant, article 9 of the Universal Declaration of Human Rights and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment were therefore violated.

33. Moreover, it is impossible to invoke a legal basis for Ms. Taghavi's deprivation of liberty as the reasons that were brought for her arrest and detention are too vague and were changed before the indictment.

34. When charges are brought against a detainee, they must be sufficiently specific to serve as a legal basis for the detention and allow the detainee to access and understand the applied law.⁶ For months, Ms. Taghavi was only orally presented with the overly broad allegation that she presented a threat to national security. The allegation was later changed, as the accusation in the indictment was: founding and managing an opposition group aimed at conspiring against the Government and at overthrowing the Islamic Republic of Iran; and propaganda against the State. Ms. Taghavi's mindset was further mentioned to be incompatible with sharia law.

35. Ms. Taghavi was denied information regarding the legal basis and the specific factual circumstances of her arrest and detention before the first trial date. Hence, the vague basis of laws considered relevant by the Government can only be extrapolated from the wording of the allegation and the previous patterns of arrests. The allegations are presumably linked to, or resemble, provisions that have previously been found to be overly vague by the Working Group.⁷

36. The source also recalls that the Working Group has considered similar instances of arrests and detention of dual nationals and the denial of access to consular services under general charges of threat to national security to be unlawful.⁸

37. As the charges against Ms. Taghavi are merely based on the fact that she expressed her opinion about wearing a hijab in private conversations, exactly such a situation as described by the Working Group becomes obvious. Allegations expressed orally to Ms. Taghavi as well as the charges raised later in the indictment are too vague to allow her to understand the legal basis of her arrest and detention. They provide no grounds to accordingly assess appropriate measures in order to prepare Ms. Taghavi's defence. Thus, the charges brought later do not serve nor fulfil the actual purpose of specific charges within a legitimate proceeding.

38. The fact that charges were added later and did not match the initial statements that Ms. Taghavi was a threat to national security implies that the charges were changed at an unknown point in time after her arrest. This itself is a violation of article 9 (2) of the Covenant, notwithstanding that these later charges are still far too vague to fulfil the actual purpose of stating specific charges.

39. Neglecting the principle of legality, this overall treatment of Ms. Taghavi constitutes arbitrary arrest and detention and violates her rights under article 9 of the Universal Declaration of Human Rights and article 9 (1) and (2) of the Covenant.

40. Ms. Taghavi's rights were further violated because she was not promptly brought before a judge to challenge the legality of her detention. In this context, the Human Rights Committee considers no more than 48 hours to be an appropriate time frame. Any delay may only occur in exceptional circumstances as it unnecessarily increases the risk of ill-treatment

⁵ Ibid., paras. 29–30.

⁶ Opinion No. 33/2019, para. 51.

⁷ Opinion No. 52/2018, para. 78.

⁸ Opinion No. 56/2015, para. 4.

of the detainee.⁹ Closely linked to this right to be brought before a judge is the self-standing human right to initiate proceedings to challenge the lawfulness of the detention.¹⁰

41. Ms. Taghavi did not see a judge before her trial date was set, six months after her arrest, so that she was not able to challenge the legality of her detention. There was therefore no sufficient judicial oversight over the deprivation. This constitutes a violation of her rights under article 9 (3) and (4) of the Covenant.

42. Moreover, the arrest and detention of Ms. Taghavi fall under category II, given that Ms. Taghavi was exercising fundamental rights and freedoms guaranteed by article 19 of the Universal Declaration and article 19 of the Covenant.

43. According to the reasons stated for charges against Ms. Taghavi, she is detained because she expressed her opinion about wearing a hijab in private conversations. Freely expressing one's opinion is a human right guaranteed by international law in article 19 of the Universal Declaration and article 19 (1) of the Covenant.

44. Furthermore, Ms. Taghavi's case shows procedural irregularities recognized as category III violations. The arrest of Ms. Taghavi without a warrant, the failure to inform her family about her arrest, the use of prolonged pretrial detention, the use of solitary confinement, the denial of consular contact and of legal representation and the holding of the trial behind closed doors all reveal systematic due process violations.

45. After the arrest, the authorities did not allow Ms. Taghavi to contact anyone and did not inform her family about her whereabouts. Ms. Taghavi was not allowed to talk to anyone outside the prison for a period of 12 days. The first visit was allowed after more than three months of detention. These conditions, effectively amounting to incommunicado detention, constitute violations of Ms. Taghavi's rights under principles 15, 16 (1) and (2) and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

46. Ms. Taghavi also endured prolonged pretrial detention. Under article 9 (3) of the Covenant, pretrial detention is to be considered an exception and not the rule. The reasonableness and the necessity of a detention pending trial must be determined on an individual basis. The relevant factors should be specified in law and should not include vague and expansive standards such as public security.¹¹ Even if exceptional circumstances justify pretrial detention in the first place, it should be kept as short as possible, and alternatives have to be considered on a regular basis.¹²

47. The decision to hold her in pretrial detention was not the result of careful consideration of the specific circumstances, but an automatism based on the broad allegation that she was a threat to national security. No alternative measures – e.g. the possibility of posting bail, of conditional prison leave under the obligation to stay in the country until the trial date, or of regularly reporting to the authorities – were ever considered. It is submitted that such unreasonable and prolonged pretrial detention violated article 9 (3) of the Covenant.

48. Ms. Taghavi was kept in solitary confinement for 194 days. According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),¹³ solitary confinement means confinement without meaningful human contact for 22 hours or more a day. Such solitary confinement can only serve as a disciplinary measure in extreme circumstances and as a last resort. It must be kept as short as possible. Solitary confinement for more than 15 consecutive days is considered prolonged and amounts to cruel or inhumane treatment under rules 43, 44 and 45 (1) of the Nelson Mandela Rules.

49. Further, the rules of due process were disregarded in relation to consular contact. As Ms. Taghavi holds German nationality, the authorities had to inform her without delay of her right to inform consular offices under article 36 (1) (a) of the Vienna Convention on Consular Relations to which the Islamic Republic of Iran is a party. Further, consular officers are to be

⁹ Human Rights Committee, general comment No. 35, para. 33.

¹⁰ [A/HRC/30/37](#), para. 2.

¹¹ Human Rights Committee, general comment No. 35, para. 38.

¹² Opinion No. 52/2018, para. 79 (c).

¹³ See rules 43 et seq of the Nelson Mandela Rules, especially rule 44.

informed about the detention and are to be allowed regular communication with the detainee as stated in article 36 (1) (b) of the Vienna Convention, principle 16 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 62 (1) of the Nelson Mandela Rules. Providing such consular assistance is an invaluable guarantee in the interest of both the detainee and the international community as a whole.¹⁴

50. The authorities did not comply with these necessary procedures in the case of Ms. Taghavi as her German nationality was not acknowledged. Diplomatic efforts to get in touch with Ms. Taghavi were thus unsuccessful. Ms. Taghavi's rights pursuant to article 36 (1) (b) of the Vienna Convention on Consular Relations, principle 16 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 62 (1) of the Nelson Mandela Rules are being violated.

51. Ms. Taghavi's rights are further being violated as she is effectively being denied her right to adequate legal assistance. Since she was not provided with reasons as to why the authorities were withholding her right to legal counsel, the source assumes the legal basis to be article 48 of the Iranian Penal Code. This rule requires that during the investigation period, individuals accused of crimes against national security can only choose a lawyer from a list with legal representatives approved by the Head of the Judiciary. This is in breach of the right to legal assistance of the defendant's choosing under international law. This practice also violates article 35 of the Constitution.

52. Ms. Taghavi was not allowed to freely choose her lawyer during the time of the investigation. She had no legal representation for six months until her trial date was set. During this time, she was also interrogated over the course of weeks without a lawyer present. This constitutes a breach of article 14 (3) (b) of the Covenant and of principles 17 (1) and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

53. Ms. Taghavi's right to fair trial is further violated as her means to prepare her defence were deliberately restricted. Pursuant to article 14 (3) (b) of the Covenant, any detainee must be given sufficient time and adequate facilities to prepare a defence. Facilities are only adequate if they include access to documents and other evidence.¹⁵ This right was found to be violated especially where detainees were forced to prepare their own defence.¹⁶

54. Ms. Taghavi was forced to prepare her own defence when she was not given access to any files detailing the charges against her. Even after she was allowed to choose her legal counsel and gave him a written power of attorney, her lawyer was not granted access to the file until four days before the trial. Even then, the lawyer was not allowed to take the files with him or make a copy of the documents. At no point before the hearing on 28 April 2021 was Ms. Taghavi allowed to talk to her lawyer. These conditions cannot be considered sufficient in the sense of article 14 (3) (b) of the Covenant.

55. Ms. Taghavi's right of due process is further affected by the inhumane treatment. Conditions of detention and the treatment of prisoners as such must be considered insofar as they impact the detainee's ability to prepare a defence and jeopardize the detainee's right to fair trial.¹⁷

56. Ms. Taghavi was and continues to be partly held under conditions that are designed to impact her physical and mental state and impact her ability to defend herself. During solitary confinement the conditions she had to live under directly violate the standards set out in rules 1, 13, 21, 22 (1) and 23 (1) of the Nelson Mandela Rules.

57. Another violation of Ms. Taghavi's right to fair trial is the proceeding before the Revolution Court, in contravention to article 14 (1) of the Covenant. Independence of the tribunal requires that it is independent of the executive and legislative branches of the Government or enjoys, in specific cases, judicial independence in deciding legal matters in

¹⁴ Opinion No. 51/2019, para. 72.

¹⁵ Human Rights Committee, general comment No. 32 (2007), paras. 32 et seq.

¹⁶ Opinion No. 51/2019, para. 64.

¹⁷ Opinion No. 92/2017, para. 56.

proceedings that are judicial in nature. This constitutes an absolute right that cannot be subject to any exceptions.¹⁸

58. The Working Group has repeatedly found that the Revolution Court does not meet the standards of an independent and impartial tribunal.¹⁹ Due to its strict jurisprudence, especially regarding freedom of opinion, it has previously been found responsible for many human rights violations concerning fair trial and due process by the Working Group.²⁰

59. The source recalls the lack of transparency and public oversight of Ms. Taghavi's trial, which is contrary to article 14 (1) of the Covenant. Such publicity provides an important safeguard for the interest of the individual and of society at large. Exceptions may only be made under exceptional circumstances.²¹

60. Ms. Taghavi's trial, held on 28 April 2021, lasted only about 90 minutes and was not held publicly, allegedly because of a COVID-19 protocol. The general opacity with which Ms. Taghavi's case is treated underlines the systematic neglect of her rights under article 14 (1) of the Covenant.

61. The detention of Ms. Taghavi also falls under category V of the Working Group, as it stems from discrimination based on her German nationality, her atheism and her political opinions.

62. The Working Group has consistently found discrimination when it is apparent that persons have been deprived of their liberty specifically on the basis of their own or perceived distinguishing characteristics or because of their real or suspected membership of a distinct (and often minority) group.²² In the case of Ms. Taghavi, the authorities made statements indicating discrimination based on her mindset as an atheist and her critical political opinions.

63. Ms. Taghavi's German nationality, her atheism or her political opinions were never formally mentioned as the reasons for her arrest and detention. Against the background of the pattern in the Islamic Republic of Iran in recent years to accuse dual nationals, non-Muslims, and persons with a critical political viewpoint of conspiracy or propaganda against the State, discrimination based on bias is the only plausible reason for Ms. Taghavi's arrest. Therefore, Ms. Taghavi's arrest and detention are discriminatory on protected grounds under articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant.

Response from the Government

64. On 22 March 2022, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure. The Working Group requested the Government to provide detailed information by 23 May 2022 about the current situation of Ms. Taghavi. The Working Group also requested the Government to clarify the legal provisions justifying her detention, as well as their compatibility with the obligations of the Islamic Republic of Iran under international human rights law, and in particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government to ensure Ms. Taghavi's physical and mental integrity.

65. The Government submitted its response on 29 July 2022, which was after the set deadline. The Government did not request an extension of the time limit for its reply, as provided for in the Working Group's methods of work. Consequently, the Working Group cannot accept the reply as if it were presented within the time limit.

¹⁸ Human Rights Committee, general comment No. 32, paras. 18–19.

¹⁹ Opinions No. 52/2018, para. 79 (f); and No. 33/2019, para. 67.

²⁰ E/CN.4/2004/3/Add.2, para. 65.

²¹ Human Rights Committee, general comment No. 32, paras. 28–29.

²² A/HRC/36/37, para. 48.

Discussion

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

67. In determining whether the detention of Ms. Taghavi is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a *prima facie* case of breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.²³ In the present case, the Government has chosen not to challenge the *prima facie* credible allegations made by the source.

Category I

68. The Working Group finds that the source has provided credible information, which was not rebutted by the Government, in its late reply, that on 16 October 2020, Ms. Taghavi was arrested without an arrest warrant. This is in violation of article 9 (1) of the Covenant, articles 3 and 9 of the Universal Declaration of Human Rights and principles 2 and 4 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. For a deprivation of liberty to have a legal basis, it is not sufficient for there to be a law that might authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case through an arrest warrant.²⁴ The Working Group observes that the factual circumstances of Ms. Taghavi's arrest serve to strengthen the conclusion that her arrest was without legal basis.

69. The Working Group also finds credible the source's unrefuted submissions that Ms. Taghavi was not informed about the reasons for the arrest nor about the charges against her until after nearly six months of detention. Therefore, it finds that Ms. Taghavi's rights deriving from article 9 (2) of the Covenant, article 9 of the Universal Declaration of Human Rights and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment were violated. Article 9 (2) of the Covenant provides that anyone who is arrested is to be informed, at the time of arrest, of the reasons for the arrest and is to be promptly informed of the charges against them.

70. The Working Group finds credible the source's unrefuted submission that Ms. Taghavi only saw a judge six months after her arrest, which was after her trial date had been set. As the Working Group has reiterated in its jurisprudence, and the Human Rights Committee has specified, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee promptly before a judge; any longer delay must remain absolutely exceptional and be justified under the circumstances.²⁵ The Working Group considers this to be a clear violation of article 9 (3) of the Covenant, as Ms. Taghavi was not brought promptly before a judge.

71. Ms. Taghavi first saw a judge six months after her arrest so that she was not able to challenge the legality of her detention, in violation of article 9 (4) of the Covenant; articles 3, 8 and 9 of the Universal Declaration of Human Rights; and principles 11, 32 and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Judicial oversight of deprivation of liberty is a fundamental safeguard of personal liberty and is essential in ensuring that detention has a legal basis.²⁶ Ms. Taghavi's detention also violated her rights under article 2 (3) of the Covenant and article 8 of the Universal Declaration, as she was denied an effective remedy.

72. The source also submits that there was no legal basis for searching Ms. Taghavi's apartment on the night of her arrest and confiscating several personal belongings, which was

²³ A/HRC/19/57, para. 68.

²⁴ Opinions No. 46/2017; No. 66/2017; No. 75/2017; No. 35/2018; No. 79/2018; and No. 15/2021, para. 50.

²⁵ Opinions No. 6/2017; No. 30/2017; 49/2019; 60/2020; and 66/2020. See also Human Rights Committee, general comment No. 35, para. 33.

²⁶ Opinions No. 35/2018, para. 27; No. 83/2018, para. 47; No. 32/2019, para. 30; No. 33/2019, para. 50; No. 44/2019, para. 54; No. 45/2019, para. 53; No. 59/2019, para. 51; and No. 65/2019, para. 64.

a violation of Ms. Taghavi's right to privacy. Regarding searches conducted without a legal basis, namely in the form of a search warrant and a seizure order, the Working Group has established that detention is arbitrary when evidence improperly obtained is used in judicial proceedings.²⁷ While it is unclear if any material seized during the illegal search was used against Ms. Taghavi in the course of the legal proceedings, such conduct further demonstrates the authorities' failure to follow proper procedures to ensure that Ms. Taghavi's detention had a legal basis, and compounds the arbitrary nature of her detention.

73. The source has submitted that Ms. Taghavi spent eight months in pretrial detention following her arrest.

74. Article 9 (3) of the Covenant states that it is not to be the general rule that persons awaiting trial are to be detained in custody. The Working Group recalls the view of the Human Rights Committee, as well as its own recurrent findings, that pretrial detention must be the exception and not the rule; should be ordered for as short a time as possible;²⁸ and must be based on an individualized determination that it is reasonable and necessary, taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime. Courts must examine whether alternatives to pretrial detention, such as bail, electronic bracelets or other conditions, would render detention unnecessary in the case in question.²⁹ Moreover, pretrial detention should not be mandatory for all defendants charged with a particular crime, without regard to individual circumstances.³⁰

75. In the present case, considering Ms. Taghavi's age and health issues, the Working Group concludes that an individualized determination of her circumstances was absent, and as a result, her detention lacked a legal basis and was ordered in violation of article 9 (3) of the Covenant. In reaching this conclusion, the Working Group notes that the Government did not submit any information to suggest that such a determination took place or to rebut the source's submissions. Other international standards also require that non-custodial measures be prioritized for women.³¹

76. The source credibly submits that Ms. Taghavi was held incommunicado for 12 days upon her arrest, and then was restricted to only one extremely short phone call before being isolated from the world outside the prison for more than one month again. The Working Group finds a violation of Ms. Taghavi's right to contact with the outside world under rules 43 (3) and 58 (1) of the Nelson Mandela Rules and principles 15, 16 (1)–(2) and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group recalls that holding persons incommunicado prevents prompt presentation before a judge under article 9 (3)³² and violates the right to challenge the lawfulness of their detention before a court under article 9 (4) of the Covenant.³³

77. Finally, the source asserts that the charges brought later against Ms. Taghavi are overly broad and were changed without explanation before the indictment. According to the source, Ms. Taghavi was denied information regarding the legal basis and the specific factual circumstances of her arrest and detention before the first trial date, which was not until six months after her arrest. The Working Group finds this un rebutted submission credible.

²⁷ Opinions No. 36/2018; No. 78/2018; No. 79/2018; No. 83/2018; No. 31/2019; No. 33/2019; No. 83/2019, para. 51; No. 86/2020; and No. 37/2021, para. 69.

²⁸ Opinions No. 57/2014, para. 26; No. 8/2020, para. 54; No. 5/2021, para. 43; and No. 6/2021, para. 50. See also Human Rights Committee, general comment No. 35, para. 38; and [A/HRC/19/57](#), paras. 48–58.

²⁹ [A/HRC/19/57](#), paras. 48–58.

³⁰ Human Rights Committee, general comment No. 35, para. 38.

³¹ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), sect. III. See also [A/HRC/48/55](#), annex, paras. 7–9; and opinion No. 40/2021, para. 82.

³² Human Rights Committee, general comment No. 35, para. 35.

³³ Opinions No. 45/2017, No. 46/2017, No. 69/2017, No. 35/2018, No. 9/2019, No. 44/2019, No. 45/2019 and No. 25/2021.

78. The Working Group has raised the issue of prosecution under vague and overly broad penal laws with the Government on several occasions,³⁴ including general charges of threat to national security.³⁵ In addition, as the Working Group has previously stated, the principle of legality requires that laws be formulated with sufficient precision so that the individual can access and understand the law and regulate his or her conduct accordingly.³⁶ Ms. Taghavi could not have foreseen the charges against her, which appear to be based on her private views on political topics, alleged corruption and mismanagement, or on wearing a hijab.

79. The Working Group finds that the allegations expressed orally to Ms. Taghavi and the charges raised later in the indictment are vague and overly broad, such that it is impossible to invoke a legal basis for her deprivation of liberty. Her detention and prosecution under these vague provisions are incompatible with article 11 (2) of the Universal Declaration of Human Rights and articles 9 (1) and 15 (1) of the Covenant. Vague laws may have a deterrent effect on the exercise of fundamental freedoms as they have the potential for abuse, including the arbitrary deprivation of liberty as discussed below.³⁷

80. For these reasons, the Working Group considers that the deprivation of liberty of Ms. Taghavi lacks legal basis and is thus arbitrary, falling under category I.

Category II

81. The source further argues that the arrest and detention of Ms. Taghavi fall under category II because they stem from her allegedly expressing her opinion about wearing a hijab to friends in private conversations. The Government, in its late reply, submits that Ms. Taghavi was convicted for her participation in founding and running an illegal group with the aim of undermining national security.

82. Vague and overly broad charges related to national security that do not meet the principle of legality have been consistently used in the Islamic Republic of Iran to criminalize the exercise of fundamental rights in that country, including the right to freedom of expression and opinion. The Working Group has found that social media posts criticizing government policy, such as the compulsory hijab, fall within the right to freedom of expression.³⁸ In the case of Ms. Taghavi, this finding is compounded as she reportedly exercised her rights in private settings, expressing her views to friends.

83. The permitted restrictions on these rights may relate either to respect of the rights or reputations of others or to the protection of national security or of public order (*ordre public*) or of public health or morals, none of which arise here. The Government, in its late reply, did not demonstrate why bringing charges against Ms. Taghavi was a legitimate, necessary and proportionate response to her peaceful expression of opinion in private. According to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, the Iranian judiciary imposed heavy sentences on individuals who peacefully exercised their freedom of expression.³⁹ This case indicates that the situation continues. The Working Group consequently finds that the detention of Ms. Taghavi resulted from her legitimate exercise of freedom of opinion and expression, protected by article 19 of the Covenant and article 19 of the Universal Declaration, and is therefore arbitrary, falling under category II. The Working Group refers the case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

³⁴ See e.g. opinions No. 55/2013, para. 14; No. 19/2018, para. 33; No. 52/2018, para. 78; and No. 83/2018, para. 58.

³⁵ Opinion No. 29/2021, para. 52.

³⁶ See e.g. opinion No. 41/2017, paras. 98–101. See also opinions No. 62/2018, paras. 57–59; and No. 33/2019, para. 51. See further Human Rights Committee, general comment No. 35, para. 22.

³⁷ Opinions No. 10/2018, para. 55; and No. 15/2021, para. 65.

³⁸ Opinions No. 83/2018, paras. 33, 45 and 52–55; and No. 33/2019, para. 21. See also opinion No. 15/2021, para. 60.

³⁹ A/70/411, para. 23.

Category III

84. Given its finding that the deprivation of liberty of Ms. Taghavi is arbitrary under category II, the Working Group wishes to emphasize that no trial should have taken place. However, she has been tried and convicted through a legal proceeding, which the source submits was rife with systematic due process violations. The Government, in its late reply, denies this and submits that she was convicted by a competent authority according to the law and due process.

85. The source submits that as Ms. Taghavi was not allowed to freely choose her lawyer during the time of the investigation, she had no legal representation for six months, until her trial date was set, during which she was also interrogated over weeks without a lawyer present. Her means of preparing her defence were deliberately restricted. While Ms. Taghavi was left without legal representation, she was forced to prepare her own defence, despite the fact that she had no access to any files detailing the charges against her. Even after she was allowed to choose her legal counsel, representation was obstructed as the lawyer was not granted access to the files until four days before the trial and even then was not allowed to take the files with him or make a copy of the documents. Ms. Taghavi was not allowed to talk to or see her lawyer before the hearing on 28 April 2021.

86. All persons deprived of their liberty have the right to legal assistance by counsel of their choice, at any time during their detention, including immediately after the moment of apprehension, and such access must be provided without delay.⁴⁰ The Working Group considers that the failure to provide Ms. Taghavi with access to her lawyer from the outset, and the allegation that her lawyer was not present during any of her interrogations, seriously affected her ability to prepare a defence. The fact that Ms. Taghavi was facing serious national security charges made these violations of due process all the more egregious.

87. In these circumstances, the Working Group finds that Ms. Taghavi's right to adequate time and facilities for the preparation of her defence and to communicate with counsel of her choosing under article 14 (3) (b) of the Covenant, and principles 17 (1) and 18 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment was violated, as was her right to present an effective defence through counsel of her choosing under article 14 (3) (d) of the Covenant. The Working Group notes that this case is another example of instances when legal representation was denied or limited for individuals facing serious charges, suggesting that there is a systemic failure to provide access to counsel during criminal proceedings in the Islamic Republic of Iran, especially where foreign and dual nationals are concerned.⁴¹

88. The source also submits that the rules of due process on consular contact were disregarded as Ms. Taghavi's German nationality has not been acknowledged. Diplomatic efforts to get in touch with Ms. Taghavi were thus unsuccessful. In its late reply, the Government confirms that it does not recognize dual citizenship. International law entitles dual nationals to consular assistance.⁴² The Working Group observes that consular assistance provides detainees and consular officials of the detainee's nationality with certain rights, including for the latter to communicate freely with and have access to their detained nationals and to be informed about an arrest without delay. These rights are embodied in article 36 of the Vienna Convention on Consular Relations, to which the Islamic Republic of Iran is a party; articles 9, 10 and 11 (1) of the Universal Declaration of Human Rights; articles 9 (1) and 14 (1) of the Covenant; rule 62 (1) of the Nelson Mandela Rules; and principle 16 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. These rights were violated in Ms. Taghavi's case.⁴³

⁴⁰ [A/HRC/30/37](#), annex, principle 9 and guideline 8; and Human Rights Committee, general comment No. 35, para. 35. See also General Assembly resolution 73/181; [CCPR/C/IRN/CO/3](#), para. 21; and [A/HRC/45/16](#), para. 51.

⁴¹ [A/HRC/40/24](#), para. 13.

⁴² Opinion No. 51/2019, para. 68.

⁴³ Opinions No. 30/2018, para. 51; No. 51/2019, para. 68; and No. 81/2021, para. 82. See also General Assembly resolutions 72/179 and 73/180; Human Rights Council resolution 40/20; and

89. The source also submits that the proceedings before the Revolution Court constitute a violation of Ms. Taghavi's fair trial rights. Reportedly, when Ms. Taghavi saw a judge for the first time on 13 April 2021, six months after her arrest, before the Revolution Court, she was unaccompanied by a lawyer. As the Working Group has previously stated, the revolution courts do not meet international standards of independence or impartiality.⁴⁴ The Working Group therefore finds a violation of article 14 (1) of the Covenant, as any person facing criminal charges has a right to a hearing before a competent, independent and impartial tribunal established by law. Recalling the source's submission, in which it was noted that Ms. Taghavi was not allowed witnesses during her trial and was not allowed to cross-examine any witnesses, the Working Group also finds violations of her right to equality before courts and tribunals and to a fair trial, contrary to article 14 (3) (e) of the Covenant.⁴⁵ The right to equality before courts and tribunals and to a fair trial entails a strict obligation to respect the right of accused persons to have witnesses admitted that are relevant for the defence and to be given a proper opportunity to question and challenge witnesses against them at some stage of the proceedings.⁴⁶ The Working Group refers this case to the Special Rapporteur on the independence of judges and lawyers.

90. The source makes an uncontested submission that Ms. Taghavi was kept in prolonged solitary confinement for 194 days during her detention.

91. The Working Group notes that according to rule 45 of the Nelson Mandela Rules, the imposition of solitary confinement must be accompanied by certain safeguards. Solitary confinement must only be used in exceptional cases as a last resort, for as short a time as possible, and must be subject to independent review and authorized by a competent authority. Prolonged solitary confinement in excess of 15 consecutive days is prohibited under rules 43 (1) (b), 44 and 45 of the Nelson Mandela Rules. The Working Group recalls that the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment has deemed that prolonged solitary confinement in excess of 15 days, at which point some of the harmful psychological effects of isolation can become irreversible, may amount to torture as described in article 1 of the Convention against Torture.⁴⁷ Referring to the source's submission, the Working Group recalls that the denial of medical care can constitute a form of torture.⁴⁸ Given the alleged denial of medical care, the Working Group also refers the present case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

92. The Working Group considers that these violations substantially undermined Ms. Taghavi's capacity to defend herself in the judicial proceedings.⁴⁹ The Working Group finds such treatment and conditions of detention violated rules 1, 13, 21, 22 (1) and 23 (1) of the Nelson Mandela Rules, impacted Ms. Taghavi's ability to prepare a defence, jeopardized the principle of equality of both parties and violated her right to a fair trial.⁵⁰

93. The source submits, and the Government does not refute, in its late reply, that Ms. Taghavi's trial on 28 April 2021 was not held publicly. In addition, it was held together with five other defendants, but only lasted about 90 minutes, with her part of the trial lasting only 20 minutes.

[A/HRC/48/55](#), paras. 55–63. See also communication AL IRN 12/2021, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26375>.

⁴⁴ [E/CN.4/2004/3/Add.2](#), para. 65 (1). The Working Group considers that this finding remains current: see opinions No. 19/2018, para. 34; No. 52/2018, para. 79 (f); No. 32/2019, para. 44; No. 33/2019, para. 67; No. 51/2019, para. 65; and No. 85/2021, para. 87. See also [CCPR/C/IRN/CO/3](#), paras. 21–22.

⁴⁵ Opinion No. 4/2021, para. 101.

⁴⁶ Human Rights Committee, general comment No. 32, para. 39.

⁵⁴ [A/63/175](#), para. 56; [A/66/268](#), para. 61; General Assembly resolution 68/156; [A/56/156](#), paras. 14 and 39 (f); and Human Rights Committee, general comment No. 35, para. 35.

⁴⁸ [A/HRC/38/36](#), para. 18.

⁴⁹ [A/HRC/30/37](#), paras. 12, 15, 67 and 71.

⁵⁰ Opinions No. 92/2017, para. 56; and No. 32/2019, para. 42. See also opinions No. 47/2017, para. 28; No. 52/2018, para. 79 (j); and No. 53/2018, para. 77 (c). See further [E/CN.4/2004/3/Add.3](#), para. 33.

94. As the Working Group has previously noted, a short trial for a criminal offence, which by the Government's own admission was intended to jeopardize national security, indicates that her guilt had been determined prior to the trial.⁵¹ The brief duration of the trial, together with the lack of access to the evidence and the allegations relating to the behaviour of the trial judge in refusing Ms. Taghavi's choice of legal counsel, resulted in the denial of her right to the presumption of innocence under article 11 (1) of the Universal Declaration and article 14 (2) of the Covenant.⁵²

95. For the reasons above, the Working Group concludes that the breaches of the fair trial and due process rights of Ms. Taghavi are of such gravity as to give her deprivation of liberty an arbitrary character, falling within category III.

Category V

96. The source submits that the detention of Ms. Taghavi falls under category V as it stems from discrimination based on her national or social origin (her German nationality), her atheism and her political opinions. While the source accepts that Ms. Taghavi's German nationality or lawful permanent residency in Germany, her atheism or her political opinions were never formally mentioned as the reasons for her arrest and detention, the Working Group is convinced that these factors led to Ms. Taghavi's detention. In reaching this conclusion, the Working Group recalls the source's submissions indicating that the representatives of the authorities had made discriminatory statements to Ms. Taghavi, about her mindset as an atheist being incompatible with sharia law and on her critical political opinions. The source also argues that Ms. Taghavi is therefore clearly associated with Western influence, a phenomenon that the Islamic Revolutionary Guard Corps appears to be against.

97. In its jurisprudence the Working Group has identified a practice in the Islamic Republic of Iran of arbitrarily detaining persons who are foreign nationals, dual nationals and Iranian nationals with permanent residence in another country.⁵³ The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran also recognized this pattern, noting that current estimates suggested that at least 30 foreign and dual nationals, as well as Iranians with permanent residency in another country, had been imprisoned since 2015.⁵⁴ The present case is consistent with this pattern.

98. The Working Group thus finds that Ms. Taghavi was deprived of her liberty on discriminatory grounds, on the basis of her national or social origin as a dual national – that is, on the basis of her German citizenship – and also because of her atheism (religion) and her political opinions. The Working Group notes a pattern in the Islamic Republic of Iran in recent years of accusing dual nationals, non-Muslims and persons with critical political viewpoints of conspiracy or propaganda against the State – the discriminatory grounds that are identified above as reasons for Ms. Taghavi's arrest.⁵⁵ As a result, it finds that Ms. Taghavi's rights under articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant have been violated and that her deprivation of liberty is arbitrary according to category V.⁵⁶

Concluding remarks

99. The Working Group notes with grave concern Ms. Taghavi's age and health issues, some of which were exacerbated or caused by her conditions of detention. According to article 10 (1) of the Covenant, all persons deprived of their liberty must be treated with

⁵¹ Opinions No. 75/2017 and No. 36/2018.

⁵² Opinion No. 85/2021, para. 88.

⁵³ Opinions No. 18/2013, No. 28/2013, No. 44/2015, No. 28/2016, No. 50/2016, No. 7/2017, No. 49/2017 and No. 52/2018. See also opinions No. 28/2016, paras. 47–49; No. 92/2017; No. 32/2019, para. 49; No. 51/2019; No. 83/2020; No. 29/2021, para. 71; and No. 85/2021.

⁵⁴ A/HRC/37/68, paras. 51–57; A/HRC/40/24, para. 13; and A/HRC/43/61, para. 27. See also A/HRC/37/24, paras. 56–57.

⁵⁵ Opinions No. 28/2016, paras. 47–49; No. 9/2017; No. 33/2019; and No. 83/2020.

⁵⁶ Opinions No. 75/2017, No. 79/2017, No. 35/2018, No. 36/2018, No. 45/2018, No. 46/2018, No. 9/2019, No. 44/2019 and No. 45/2019.

humanity and dignity, including receiving appropriate medical care.⁵⁷ States should treat detainees over 60 years of age and those with underlying health conditions as vulnerable to COVID-19, refraining from holding them in facilities where the risk to their life is heightened and implementing early release schemes whenever possible.⁵⁸ The Working Group refers the present case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Independent Expert on the enjoyment of all human rights by older persons.

100. This case is one of a number of cases brought before the Working Group in recent years concerning arbitrary deprivation of liberty in the Islamic Republic of Iran.⁵⁹ The Working Group is concerned that this indicates widespread or systemic arbitrary detention in the country, which amounts to a serious violation of international law. The duty to comply with international human rights standards rests with all State organs, officers and agents. The Working Group recalls that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.⁶⁰ The Working Group refers the present case to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, for appropriate action.

101. The Working Group would welcome the opportunity to work constructively with the Government to address arbitrary deprivation of liberty in the Islamic Republic of Iran. Given that a significant period of time has passed since its most recent country visit to the Islamic Republic of Iran, in February 2003, the Working Group considers that it is now an appropriate time to conduct another visit. The Working Group made a request to the Government on 19 July 2019 to conduct a country visit. The Working Group recalls that the Government issued a standing invitation on 24 July 2002 to all thematic special procedure mandate holders and awaits a positive response to its request to visit.

Disposition

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

The deprivation of liberty of Nahid Taghavi, being in contravention of articles 2, 3, 7, 8 and 9 of the Universal Declaration of Human Rights and articles 2, 9, 14, 15, 19 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

103. The Working Group requests the Government of the Islamic Republic of Iran to take the steps necessary to remedy the situation of Ms. Taghavi without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

104. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Ms. Taghavi immediately and accord Ms. Taghavi an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global COVID-19 pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure the immediate unconditional release of Ms. Taghavi.

⁵⁷ Opinion No. 26/2017, para. 66.

⁵⁸ A/HRC/45/16, annex II, paras. 15–16.

⁵⁹ Opinions No. 18/2013, No. 28/2013, No. 52/2013, No. 55/2013, No. 16/2015, No. 44/2015, No. 1/2016, No. 2/2016, No. 25/2016, No. 28/2016, No. 50/2016, No. 7/2017, No. 9/2017, No. 48/2017, No. 49/2017, No. 92/2017, No. 19/2018, No. 52/2018, No. 83/2018, No. 32/2019 and No. 33/2019.

⁶⁰ A/HRC/13/42, para. 30. See also opinions No. 1/2011, para. 21; No. 37/2011, para. 15; No. 38/2011, para. 16; No. 39/2011, para. 17; No. 4/2012, para. 26; No. 38/2012, para. 33; No. 47/2012, paras. 19 and 22; No. 50/2012, para. 27; No. 60/2012, para. 21; No. 9/2013, para. 40; No. 34/2013, paras. 31, 33 and 35; No. 35/2013, paras. 33, 35 and 37; No. 36/2013, paras. 32, 34 and 36; No. 48/2013, para. 14; No. 22/2014, para. 25; No. 27/2014, para. 32; No. 34/2014, para. 34; No. 35/2014, para. 19; No. 36/2014, para. 21; No. 44/2016, para. 37; No. 60/2016, para. 27; No. 32/2017, para. 40; No. 33/2017, para. 102; No. 36/2017, para. 110; No. 51/2017, para. 57; and No. 56/2017, para. 72.

105. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Ms. Taghavi and to take appropriate measures against those responsible for the violation of her rights.

106. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to: the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Independent Expert on the enjoyment of all human rights by older persons; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, for appropriate action.

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

Follow-up procedure

108. 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 Ms. Taghavi has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Ms. Taghavi;
- (c) Whether an investigation has been conducted into the violation of Ms. Taghavi's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Islamic Republic of Iran with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

109. 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.

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

111. 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.⁶¹

[Adopted on 1 September 2022]

⁶¹ Human Rights Council resolution 42/22, paras. 3 and 7.