

Human Rights Council

Working Group on Arbitrary Detention

Views adopted by the Working Group on Arbitrary Detention at its eighty-third session, November 19 to 23, 2018

Opinion no. 66/2018, concerning Eduardo Cardet Concepción (Cuba)

1. The Working Group on Arbitrary Detention was established by 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. In accordance with the provisions of General Assembly resolution 60/251 and decision 1/102 of the Human Rights Council, the Council assumed the mandate of the Commission. The last time the Council extended the mandate of the Working Group for three years was in its resolution 33/30.
2. In accordance with its methods of work (A/HRC/36/38), the Working Group transmitted on August 2, 2018, to the Government of Cuba a communication concerning Mr. Eduardo Cardet Concepción. The Government responded late to the communication, on October 12, 2018. The State is not a party to the International Covenant on Civil and Political Rights.
3. The Working Group considers arbitrary deprivation of liberty in the following cases:
 - a) When it is manifestly impossible to invoke any legal basis that justifies it (such as the maintenance in custody of a person after serving his sentence or despite an amnesty law that is applicable) (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, with respect to the States Parties, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - c) When the total or partial non-observance of the international norms related 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 that it confers deprivation of liberty arbitrary character (category III);
 - d) When asylum-seekers, immigrants or refugees are subject to prolonged administrative detention without the possibility of administrative or judicial review or appeal (category IV);
 - e) When the deprivation of liberty constitutes a violation of international law because it is discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or another condition, which leads or may lead to ignoring the principle of equality of human beings (category V).

Information received

Communication from the source

4. Mr. Eduardo Cardet Concepción is a Cuban citizen, born in October 1968. His habitual residence is in the province of Holguín, Cuba, where he works as a family doctor in the health center in Velasco. He is married and has two small children. Mr. Cardet is also a member and national coordinator of the Christian Liberation Movement, an association that proposes a political, democratic and peaceful change in Cuba. Mr. Cardet has been arrested several times for his political activism.

5. According to the information received, Mr. Cardet was arrested on November 30, 2016, at approximately 7:00 p.m., outside his home. It is reported that four officers of the state security forces, dressed in civilian clothes, without identifying themselves, captured him violently, without any explanation, without showing an arrest warrant and without informing him of the existence of criminal charges against him. He was taken to a local police station, where he was beaten again.

6. The source reports that the arrest took place two days after Mr. Cardet gave public statements, in an interview to an international media outlet, abroad, in which he criticized the former president of Cuba, Fidel Castro, who had died a few days before. Prior to the return of Mr. Cardet to Cuba, members of his family were threatened and detained briefly, while they were told that the Cuban authorities would arrest Mr. Cardet when he returned, due to his political activism and his participation in the campaign Un Cubano, Un Voto. Mr. Cardet returned to Cuba on November 29, 2017.

7. When Mr. Cardet's family questioned the authorities about the reason for his arrest, they were told that it was because "he is counterrevolutionary." The next day, security forces came to his house and informed his family that he was being accused of attacking a state official, under Article 142 of the Criminal Code.

8. It is reported that the "official" reason for Mr. Cardet's arrest is that he attacked a police officer during the course of the arrest, a crime for which he has been prosecuted and sentenced. However, the source alleges that this cannot serve as a basis for the arrest itself, since that alleged crime only took place after the arrest was in the process of being executed. In addition, because the Cuban State Security warned Mr. Cardet's family before the arrest that they intended to arrest him for his political activity, the source considers that the criminal accusation is nothing more than an after-the-fact justification for the prosecution and the continued holding of Mr. Cardet in custody to avoid his activism.

9. According to the source, Mr. Cardet remained incommunicado for nine days and was beaten in custody. He was denied visits and phone calls, his family was unaware of his whereabouts. Despite the severe beatings he was subjected to during his arrest, while he was already handcuffed and after arriving at the police station, Mr. Cardet, who suffers from asthma, was also denied medical attention for the first seven days of his arrest.

10. After seven days, Mr. Cardet was examined by specialists in Surgery, General Medicine and Orthopedics. The medical records describe ocular, thoracic, abdominal, arm and leg injuries, and ecchymosis in the neck. When his family could see him, more than a week after the arrest, his eyes were still swollen. The family filed a complaint about the violence. After the family visit, Mr. Cardet was beaten again and placed in a punishment cell. State security forces also harassed and threatened his family and forbade Mr. Cardet's wife to leave the country.

11. After nine days, Mr. Cardet was transferred to the Provisional Prison of Holguín. The Cuban authorities decided to keep him in preventive detention until the trial. His requests for bail were denied three times and the State Prosecutor requested a three-year prison sentence.

12. According to the information provided, while in the Provisional Prison of Holguín, the State Security Officer who hit Mr. Cardet continued to verbally harass him, telling him that if he abandons his ideas, he will be released immediately. A fellow inmate also assaulted Mr. Cardet. The request for a visit from a priest was denied. In March 2017, close to his trial date, Mr. Cardet contracted bronchitis, requiring necessary medications and an inhaler.

13. The trial was held on March 3, 2017. According to the source, the trial was not carried out in a fair and impartial manner. The Prosecutor's Office presented six witnesses, three of whom were State Security agents, who participated in the arrest and three of whom were not present at the time of the arrest. The defense attorney pointed out that the testimony of the witnesses who had not been present at the scene was not credible. For example, they could not describe how Mr. Cardet was dressed, nor the appearance of his bicycle, and claimed that the incident occurred during the day, even though it was already dark. In addition, the court allowed only three of the witnesses proposed by the defense to testify. Mr. Cardet was sentenced on March 20, 2017, to three years in prison, as requested by the prosecutor.

14. The source indicates that Mr. Cardet's family filed an appeal with the Provincial Court, but this was denied on May 18, 2017. Additionally, an application for parole was attempted, which was also denied, because Mr. Cardet allegedly does not fulfill the condition of being able to reintegrate into society, as he has not yet understood the seriousness of the consequences of his actions.

15. According to the source, after the conviction, State Security forces continued to threaten and harass Mr. Cardet: telling him that his appeals were in vain, that his sentence would be extended, that he would be sent to another province far from his family; he was threatened to be sent to solitary confinement and pressured to renounce his convictions.

16. On December 19, 2017, Mr. Cardet was transferred to the maximum-security prison of "Cuba Sí", where he is currently being held. His family was only notified about the transfer the day it happened and was allowed to visit him only for a few minutes. On the day of the transfer, three prisoners from the detention center physically assaulted Mr. Cardet on his arrival. His family was not allowed to visit him until almost a month later, on January 15, 2018, when two circular scars were observed on his abdomen. Mr. Cardet affirmed that he had not received medical attention since the attack, and also indicated that he suffered from headaches and dizziness. The family filed a complaint regarding the attack, but received no response.

17. On February 24, 2018, the Inter-American Commission on Human Rights issued a Resolution (No. 16/2018) in which it determined that Mr. Cardet is at risk of irreparable damage to his life and personal integrity in prison due to the lack of protection against the attacks, and the harassment he has suffered. The Inter-American Commission asked the State to adopt the necessary measures to protect the life and personal integrity of Mr. Cardet and to ensure that he has access to adequate medical treatment, according to his needs. Nonetheless, the source reports that Mr. Cardet's health, since he was transferred to the "Cuba Sí" prison, has deteriorated further, suffering a series of intense attacks of asthma and other health problems, including the flu. On May 18, 2018, Mr. Cardet underwent a biopsy, but had not yet been informed of the result.

18. The source indicates that on May 26, 2018, the head of the "Cuba Sí" prison informed Mr. Cardet's family that the rights to family visits had been suspended for six months, in retaliation for the efforts of lobbying and family activism with international human rights mechanisms and before the international press.

19. Since the arrest of Mr. Cardet, his family home has been under constant surveillance and was even attacked with stones. The arrest and continued harassment have had a psychological effect on Mr. Cardet's family, particularly his two young children.

20. The source alleges that Mr. Cardet's detention constitutes an arbitrary deprivation of his liberty under categories II and III of the Working Group, as it is the result of the exercise of his human rights and because it violates international standards relating to a fair trial.

Allegations on Category II

21. The source alleges that the arrest and detention of Mr. Cardet falls under category II because it is related to the exercise of his right to freedom of opinion and expression, as well as his right to freedom of peaceful assembly and association, protected by Articles 19 and 20 of the Universal Declaration of Human Rights, respectively.

22. According to the source, Mr. Cardet's arrest, continued detention and conviction are based solely on his political activism as a leading member of the Christian Liberation Movement in Cuba, a nongovernmental human rights organization that seeks peaceful democratic change in the country. Activists of this organization (banned by government authorities), have been subject to harassment, intimidation, violence and arbitrary detention in the past. Mr. Cardet himself has been arrested previously for his activism.

23. Prior to his current arrest, the State security forces informed Mr. Cardet's family that they planned to subject him to prolonged detention for his activism. A day after his return to Cuba, the State Security Forces violently arrested Mr. Cardet and subsequently informed the family that he was being detained because he was a "counterrevolutionary."

24. The source also asserts that the purpose of Mr. Cardet's arrest was, in part, to prevent him from carrying out political activities of the Christian Liberation Movement, and to prevent him from speaking in public, in the context of the nine days of obligatory mourning imposed by the State following the death of former President Fidel Castro.

25. According to the source, the Cuban authorities elaborated an after-the-fact legal justification to continue holding Mr. Cardet, accusing him of attacking a state official during the course of his arrest. This, despite the testimony of an eyewitness, according to which Mr. Cardet was attacked. The witness indicated that the detainee was immobilized so quickly and violently that he had no opportunity to do anything to defend himself.

26. The source indicates that, despite the criminal accusations, the State Security forces have repeatedly threatened and harassed Mr. Cardet during his detention, both before and after his conviction, telling him that if he renounces his beliefs he will be released, along with threats to extend his prison sentence. For the source, this leads to the conclusion that the criminal charges were fabricated to try to provide a legal basis for arbitrary detention. It is alleged that this act is consistent with the authorities' documented practice of criminally charging the critics of the regime, using various crimes, to keep them in prison.

27. The source concludes that, therefore, Mr. Cardet is being arbitrarily deprived of his liberty for peacefully exercising his rights to freedom of opinion and expression and freedom of association, guaranteed by international human rights law.

Allegations on Category III

28. The source alleges that Mr. Cardet's detention constitutes an arbitrary deprivation of liberty, which falls under category III, because it did not comply with the minimum international standards of due process, guaranteed by the Universal Declaration and the Set of Principles for Protection of all persons subjected to any form of detention or imprisonment. It is argued that Cuba has denied Mr. Cardet the right to humane treatment and a fair and impartial trial.

29. The source refers to the provisions of Article 5 of the Universal Declaration, which states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment," as well as to Principles 1, 6, 10, 11, 12, 13, 15, 19, 24 and 38 of the Body of Principles.

30. The source indicated that Mr. Cardet was detained at his place of residence by State Security Agents dressed in civilian clothes, without showing an arrest warrant or official identification, in violation of Principles 10 to 13 of the Body of Principles.

31. It is alleged that Mr. Cardet was severely beaten during the arrest and again upon arrival at the police station. Despite the severity of the beatings, the authorities did not give Mr. Cardet medical attention until seven days after his arrest. According to the source, the medical evaluation describes serious injuries to the eyes, neck, abdomen, arms and legs. Mr. Cardet was held incommunicado for the first nine days of his detention. His family claimed that the injuries were still visible when they saw him for the first time, more than a week after the arrest. After the visit, Mr. Cardet was beaten again and placed in a punishment cell. In addition, he was subjected to prolonged pretrial detention and his bail applications were denied.

32. The source alleges that, during his continued detention, the State security forces continued to psychologically abuse Mr. Cardet, with threats and harassment to persuade him to renounce his views. Mr. Cardet was physically assaulted at least twice by other inmates during his incarceration. After the second of these beatings in the "Cuba Sí" prison, on December 19, 2017,

Mr. Cardet was also denied access to his family for almost a month. His family has indicated that when they finally saw Mr. Cardet on January 15, 2018, scars were seen on his abdomen, he suffered from headaches and dizziness, and he had not received medical attention since the attack. He has also been denied a request for a visit from a priest. Based on these facts, the Inter-American Commission on Human Rights considered that Mr. Cardet faces a serious threat to his well-being and requested his urgent protection. In addition, on May 26, 2018, family visits were suspended for six months.

33. For the source, the treatment to which Mr. Cardet has been subjected during his arrest and detention violates Article 5 of the Universal Declaration and Principles 1 and 6 of the Body of Principles. The denial of medical care also violates Principle 24. The denial of family visits during the first nine days of detention, after the beating on December 19, 2017, and currently for six months, violates Principles 15 and 19. The denial of bail pending trial violates Principle 38. It is added that the Committee against Torture has expressed concern, among other things, about the denial of family visits, physical and verbal abuse of prisoners, incommunicado detention and preventive detention in Cuba.

34. On the other hand, the source argues that the basic guarantees of the right to a fair trial have been violated, a right protected by Article 10 of the Universal Declaration, establishing that: “every person has the right, under conditions of full equality, to be heard publicly and fairly by an independent and impartial tribunal, for the determination of their rights and obligations or for the examination of any accusation against them in criminal matters.”

35. The source emphasizes that the right to be tried by an independent and impartial tribunal is absolute and is not subject to any exception. This independence requirement includes the “independence of the judiciary from political interference by the executive branch and the legislature.” Article 11 of the Universal Declaration states that: “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

36. The source alleges that in Cuba the courts are subordinated to the executive and legislative branches, which are controlled by the Communist Party. The source refers to the findings of two treaty bodies of the United Nations on the situation of judicial independence in Cuba, as well as the pronouncements of several Special Rapporteurs on the matter.

37. The source notes that: (1) Mr. Cardet was not presented with an arrest warrant; (2) after his arrest, he was not informed of the charges against him and was held incommunicado for nine days; (3) during the trial, Mr. Cardet's attorney did not have the opportunity to present all the evidence in defense of his client, since several defense witnesses could not testify; (4) at the same time, the court accepted unreliable testimony from three prosecution witnesses who had not been present at the scene and whose testimony was discredited on interrogation by a defense attorney.

38. It is alleged that the outcome of the trial against Mr. Cardet was predetermined from the beginning. State security forces threatened Mr. Cardet's family with that he would be imprisoned even before he was arrested, and before the alleged crime was committed.

39. The source provides additional background information concerning judicial independence, due process, and the exercise of the right to personal liberty in this case.

40. It is indicated that the Communist Party of Cuba, the only one legally recognized by the Constitution, controls all government agencies and civil institutions. This includes the National Assembly and the Council of State, through which the Communist Party and its hierarchies control the Judicial Power. It is alleged that Cubans are not free to express their critical or dissident opinions without fear of government repression, including the deprivation of personal liberty. The source points out that political groups are forbidden and that legal recognition (registration) is systematically denied to civil society organizations, which are subject to intimidation, raids, confiscations, physical attacks, arbitrary arrests, unfair trials and forced exile of members.

41. The source provides statistics according to which 9,940 cases of alleged arbitrary arrests were reported in 2016, which added an additional 4,800 cases between January and November of 2017. It is alleged that the authorities fail to comply with the procedural laws, for example, with the legal timelines to present the criminal complaint. According to the source, the authorities often use preventive detention, for up to two years, as a tool to control dissent. In addition, the authorities do not comply with the obligation to inform the detainees about the reasons for the arrest and to provide them with legal assistance, nor do they comply with the duty to provide a report of the detention, duly signed.

42. The source notes that, in addition to overcrowding and lack of sanitary conditions, political prisoners are subjected to ill-treatment, physical attacks, abuse, isolation, extended solitary confinement and denial of visits and calls. On the other hand, it is alleged that in this type of case the presumption of innocence is not respected, the trials are secret or closed to the public and only the State attorneys are licensed to represent defendants in criminal proceedings. Finally, it is argued that equality between the prosecution and the defense is not respected in the trial.

Deliberations

43. The Working Group has established in its jurisprudence its way of proceeding in relation to evidentiary matters. If the source has presented prima facie evidence of an infringement of the international requirements constituting arbitrary detention, it must be understood that the burden of proof rests with the Government, should it wish to rebut the allegations (see A/HRC/19/57, paragraph 68). In the present case, the Government presented its response to the arguments of the source belatedly. Although the Working Group did not receive a timely response from the Government at the expiration of the term, based on rule 16 of its Methods of Work, it will issue the present opinion on the basis of all the information available to it.

Category I

44. The Working Group will consider, first, whether there was a legal basis for the arrest of Mr. Cardet Concepción. The Working Group has repeatedly indicated in its jurisprudence that, even when the detention of a person is carried out in accordance with national law, this international protection mechanism must ensure that the detention is also compatible with the relevant

provisions of international law.¹ It is not enough to invoke a legal norm when the case is under consideration by an international mechanism, since such a legal basis must exist and be evident at the moment of executing the arrest.

45. Under international human rights law, no one may be deprived of his or her liberty except for the causes set forth in the law and following due process of procedure. In the opinion of the Working Group, this obligation requires States to inform the person about the legal basis of their detention at the time it occurs. In addition, international standards for the protection of human rights require that anyone arrested or detained on a criminal charge be brought promptly before a judicial authority. Although the elapsed time may vary, said “delay” is considered acceptable as long as the period is not greater than 48 hours, since it is understood that this amount of time is sufficient to transport the individual and prepare the judicial hearing. A delay of more than 48 hours must be absolutely exceptional and justified by the particular circumstances.²

46. The Working Group also considers that international standards that protect the right to liberty and personal security require the physical presence of the detainee before a judicial authority. In this regard, the Working Group has indicated on several occasions that the incommunicado detention of persons is not compatible with international human rights law, because it violates the right to challenge the legality of detention before a court or judicial tribunal.³

47. In the present case, State Security officials, without identifying themselves, arrested Mr. Cardet Concepción in a violent manner, without explanation. They did not show an arrest warrant, nor did they inform him of the existence of criminal charges against him

48. In addition, Mr. Cardet Concepción was not brought promptly before a judge. There was no independent judicial control of the detention. On the contrary, he was taken to a local police station, where he was beaten again and held incommunicado for nine days. He did not have access to a lawyer. He was denied visits and phone calls, his family was unaware of his whereabouts. Despite the beatings received during his arrest, he was also denied medical attention during the first seven days of his arrest. In these circumstances, it is evident that Mr. Cardet Concepción could not, in any way, exercise his right to question the legal basis of the detention.⁴

49. In view of these considerations, in the absence of a warrant of arrest and subsequent incommunicado detention, lack of judicial control, legal, medical and family contact, the Working Group must conclude that there was no legal basis for the arrest, so that the detention is considered arbitrary under category I, being contrary to Articles 9 and 10 of the Universal Declaration of Human Rights.

¹ For example, Opinion Nos. 59/2018, 1/2018, 79/2017 and 42/2012.

² Opinion Nos. 59/2018, pars. 80-83 and No. 48/2018, par. 63.

³ A/HRC/30/37, pars. 18, 75 and 93(c).

⁴ A/HRC/30/37.

Category II

50. Regarding category II, and based on the information available to it, the Working Group notes that Mr. Cardet Concepción is a well-known democratic activist of Cuban society. In addition to being a family doctor, Mr. Cardet Concepción is a member and national coordinator of the Christian Liberation Movement, an association that proposes a political, democratic and peaceful change in Cuba. Mr. Cardet has been arrested several times in connection with his political activism.

51. The Working Group emphasizes that activities of political activism, calls to society for more openness on democratic and legal issues, as well as membership in civil society organizations, are activities protected by international human rights law. In particular, by Articles 19, 20 and 21 of the Universal Declaration of Human Rights.

52. In the present case, two days after Mr. Cardet Concepción made public statements against the former President of the Republic, in the peaceful exercise of his human rights, he was arrested on the street by officers of the State Security forces. Likewise, this detention was preceded by threats and harassment by official agents to the family of Mr. Cardet Concepción, who were told the authorities would arrest him for being counterrevolutionary. In addition, agents of the State Security forces have repeatedly threatened and harassed Mr. Cardet during his detention, both before and after his conviction, telling him that if he gives up his beliefs and opinions he will be released.

53. The Working Group was convinced that the arrest of Mr. Cardet Concepcion was a result of his political and social activities in the promotion of the vote and democratic participation, individually, and through the association Movimiento Cristiano de Liberación.

54. In view of the foregoing, the Working Group considers that the Cuban authorities deprived Mr. Cardet Concepción of his freedom to exercise his rights of freedom of thought, conscience, opinion, expression, association and participation, recognized in Articles 18, 19, 20 and 21 of the Universal Declaration of Human Rights, which makes the detention arbitrary according to category II.

Category III

55. In view of the findings under categories I and II, where it was concluded that the arrest of Mr. Cardet Concepción is the result of the exercise of his human rights, the Working Group considers that there were no grounds for trial. However, in view of the fact that the trial was carried out, this international mechanism will proceed to analyze whether during the course of said judicial procedure fundamental elements of a fair, independent and impartial trial were respected.

56. International human rights law recognizes that every person has the right not to be arbitrarily deprived of liberty and to be presumed innocent until proved guilty. For this, the person has the

right to be heard publicly in court, in a procedure in which the guarantees for his defense are respected and to be judged by an independent criminal court.⁵

57. The Working Group received convincing information about the vexatious treatment that Mr. Cardet Concepción received from the Cuban authorities, including threats, beatings, insults, refusal to provide immediate medical attention, incommunicado detention, among others. In addition, this vexatious treatment was not an isolated incident, but was repeated at different times, during the initial arrest, the transfer, in the police station, during pretrial detention and in prison. In view of this, the Working Group cannot but conclude that Mr. Cardet Concepción was a victim of cruel, inhuman or degrading treatment. That treatment offered at different times by the Cuban authorities to Mr. Cardet Concepción contravenes international obligations related to a fair and impartial trial, including the presumption of innocence.

58. It is difficult to accept that a person subjected to cruel, inhuman and degrading treatment during his detention and prosecution may have adequate means and tools to prepare a judicial defense. In the opinion of the Working Group, the lack of communication during the first days of the arrest and the beginning of the trial, the lack of access to a lawyer, the ill-treatment and the inhuman conditions of detention, indicate that Mr. Cardet Concepción did not receive a fair trial with the guarantees of due process.

59. The source also established that in Cuba the courts are subordinated to the executive and legislative branches, which are controlled by the Communist Party. The Working Group is aware that treaty bodies, of which Cuba is a party, have expressed concern about the lack of independence of the judiciary. For example, the Committee against Forced Disappearance “[...] is concerned that the subordination of the courts to other organs of the State may affect the guarantee of independence of the courts [...]” and recommended to the Republic of Cuba to adopt “[...] the measures necessary to guarantee the full independence of the Judiciary and other branches of government.”⁶ In this regard, the Committee against Torture “[...] considers it essential that legislative measures be adopted to guarantee the independence of the judiciary.”

60. The Working Group was convinced that the Cuban authorities seriously failed to observe international norms regarding the right to a fair, independent and impartial trial, which contravenes the provisions of Articles 9, 10 and 11 of the Universal Declaration of Rights Human, and makes the detention arbitrary according to Category III of the Methods of Work.

61. For the allegations of cruel, inhuman or degrading treatment or punishment, to which Mr. Cardet was exposed from the moment he was arrested, the Working Group refers the information to the Rapporteur on Torture for possible action. Likewise, in view of the allegations made by the source, the Working Group refers the present case to the Special Rapporteur on the right of everyone to the enjoyment of the highest possible level of physical and mental health.

⁵ Articles 9, 10, and 11 of the Universal Declaration of Human Rights.

⁶ CED/C/CUB/CO/1, paras. 17-8.

Decision

62. In view of the foregoing, the Working Group issues the following opinion:

The deprivation of liberty of Mr. Eduardo Cardet Concepción is arbitrary, inasmuch as it contravenes articles 9, 10, 11, 18, 19 and 20 of the Universal Declaration of Human Rights, and is registered in categories I, II and III.

63. The Working Group requests the Government of Cuba to adopt the necessary measures to remedy the situation of Mr. Eduardo Cardet Concepción without delay and bring it into conformity with the relevant international standards, including those set forth in the Universal Declaration of Human Rights.

64. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to immediately release Mr. Eduardo Cardet Concepción and grant him the effective right to obtain compensation and other types of reparation, in accordance with his international rights.

65. The Working Group urges the Government to carry out a thorough and independent investigation into the circumstances surrounding the arbitrary deprivation of liberty of Mr. Eduardo Cardet Concepción and to take appropriate measures against those responsible for the violation of his rights.

66. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and to the Special Rapporteur on the right of everyone to the enjoyment of the highest possible level of physical and mental health, so that it takes the corresponding measures.

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

Follow-up procedure

68. In accordance with paragraph 20 of its working methods, the Working Group requests the source and the Government to provide information on the follow-up measures taken with respect to the recommendations made in this opinion, in particular:

- a) If Mr. Eduardo Cardet Concepción has been released and, if so, on what date;
- b) If compensation or other reparations have been granted to Mr. Eduardo Cardet Concepción;
- c) If the violation of the rights of Mr. Eduardo Cardet Concepción has been investigated and, if so, the result of the investigation;
- d) If legislative amendments have been approved or modifications have been made in practice to harmonize the laws and practices of Cuba with its international obligations in accordance with this opinion;
- e) If any other measure has been adopted to apply this opinion.

69. The Government is invited to inform the Working Group of the difficulties it may have encountered in the implementation of the recommendations made in this opinion and to indicate whether it needs additional technical assistance, for example through a visit by the Working Group.

70. The Working Group requests the source and the Government to provide the above information within a period of six months from the date of transmission of this opinion. However, the Working Group reserves the right to undertake its own follow-up of the opinion if new concerns are brought to its attention in relation to the case. This follow-up procedure will allow the Working Group to keep the Human Rights Council informed of the progress made in implementing its recommendations, as well as, where appropriate, of the deficiencies observed.

71. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group, and has asked them to take its views into account and, if necessary, to take appropriate measures to remedy the situation of persons arbitrarily deprived of freedom, and to inform the Working Group of the measures they have adopted.

[Approved on November 19, 2018]