



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its eighty-third session, 19–23 November 2018****Opinion No. 72/2018 concerning 59 Colombian citizens (Bolivarian Republic of Venezuela)**

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 mandate of the Working Group was most recently extended for a three-year period in Council resolution 33/30.

2. In accordance with its methods of work (A/HRC/36/38), on 8 August 2018 the Working Group transmitted to the Government of the Bolivarian Republic of Venezuela a communication concerning Alexi José Álvarez Martínez, Juan Carlos Arellano de la Horta, Diego Binel Artunduaga Pineda, Januel Barrios Hernández, Pedro Nelson Berrío, Eduardo Blanco Castilla, Israel Cáceres Esteban, David Canencia Calderón, Arley Castaño del Toro, Joaquín Contreras Berrío, Deivis Manuel Crespop Constante, Glisel D'Arcos Ramos, Alver Enrique De León, Martín José Escorcía Cassiani, Helder Escorcía, Luis Espita Ávila, German Espita, William Estemor Ruiz, Juan David Fernández Viloría, Marlon Ernesto Fuentes Oviedo, Iván Antonio Galán Ramos, Paterson García Julio, Emerson González Barrios, Helen Katherine Hincapié Brochero, Ever José Julio Agresoth, Deivis Julio Agresoth, Héctor José Machado, Víctor Alfonso Márquez Chiquillo, Norbeys Martínez Torres, José Abigaíl Miranda Zúñiga, Enoc Montemiranda Molinares, Blas Elías Moreno Ochoa, José Stalin Moreno, Isaac Núñez Padilla, Edilberto Ortega Silgado, Nerio Ortiz Aujebet, Sahadys Palomino Vanegas, Jader Pardo, Franklin Víctor Pérez, Luis Alberto Pérez Díaz, Darwin Quiroz, Edelberto Ramos Terán, Jorge Rodríguez Vitola, Carlos Alberto Rodríguez, Luis Fernando Rodríguez, Daniel Rojano Villa, Deison Sandoval Marimon, William Enrique Sarabia Ospino, José Calazán Sarmiento Martelo, Ronald Soto Llerena, Luis Suarez, Pedro Suarez, Yair Tapias Valdez, Wilfredo Teherán, Jesús Alberto Terán Munzón, José Luis Torres, Fernando Valencia, Luis Gabriel Villa and Doiler Yépez Carrillo. On 2 October 2018, the Government requested an extension of the deadline for submitting its reply, which was granted and the Government was so informed by the secretariat. The Government failed to reply to the Working Group by the new deadline. The State is a party to the International Covenant on Civil and Political Rights.

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

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



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

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

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

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Alexi José Álvarez Martínez, Juan Carlos Arellano de la Horta, Diego Binel Artunduaga Pineda, Januel Barrios Hernández, Pedro Nelson Berrío, Eduardo Blanco Castilla, Israel Cáceres Esteban, David Canencia Calderón, Arley Castaño del Toro, Joaquín Contreras Berrío, Deivis Manuel Crespop Constante, Glisel D’Arcos Ramos, Alver Enrique De León, Martín José Escorcía Cassiani, Helder Escorcía, Luis Espita Ávila, German Espita, William Estemor Ruiz, Juan David Fernández Viloría, Marlon Ernesto Fuentes Oviedo, Iván Antonio Galán Ramos, Paterson García Julio, Emerson González Barrios, Helen Katherine Hincapié Brochero, Ever José Julio Agresoth, Deivis Julio Agresoth, Héctor José Machado, Víctor Alfonso Márquez Chiquillo, Norbeys Martínez Torres, José Abigaíl Miranda Zúñiga, Enoc Montemiranda Molinares, Blas Elías Moreno Ochoa, José Stalin Moreno, Isaac Núñez Padilla, Edilberto Ortega Silgado, Nerio Ortiz Aujebet, Sahadys Palomino Vanegas, Jader Pardo, Franklin Víctor Pérez, Luis Alberto Pérez Díaz, Darwin Quiroz, Edelberto Ramos Terán, Jorge Rodríguez Vitola, Carlos Alberto Rodríguez, Luis Fernando Rodríguez, Daniel Rojano Villa, Deison Sandoval Marimon, William Enrique Sarabia Ospino, José Calazán Sarmiento Martelo, Ronald Soto Llerena, Luis Suarez, Pedro Suarez, Yair Tapias Valdez, Wilfredo Teherán, Jesús Alberto Terán Munzón, José Luis Torres, Fernando Valencia, Luis Gabriel Villa and Doiler Yépez Carrillo are 59 Colombian citizens who are reportedly being held at the National Police Coordination Centre in La Yaguara, in the municipality of Libertador in the Capital District.

5. According to the information received, the above-mentioned persons were arrested around the end of August 2016 in various working-class neighbourhoods in the city of Caracas, in the context of the so-called Operation People’s Liberation. The arrests were reportedly carried out by police and military officials. At the time of the arrests, no arrest warrants or other detention orders issued by a public official or judicial authority were produced, nor were any of the individuals apprehended in flagrante delicto. According to the source, the authorities indicated that the individuals had been arrested for failing to regularize their immigration status in the Bolivarian Republic of Venezuela. In addition to the above-mentioned persons, a number of other Colombian citizens were deprived of their liberty in the context of the operation, but they were subsequently released.

6. On 1 September 2016, according to the source, the President of the Republic, Nicolás Maduro, stated to the media: “We have been capturing mercenaries through Operation People’s Liberation. In the northern part of Caracas, in the El Manicomio district, we captured 92 individuals at a Colombian paramilitary camp within 500 metres of Miraflores Palace.”

7. The source states that after the arrest, the detainees were transferred to the Directorate on Organized Crime in Maripérez and subsequently to the National Police

Coordination Centre in La Yaguara. The detained persons are reportedly not being provided with adequate food or necessary medical care. In addition, consular officials have reportedly found that the Venezuelan authorities have not permitted visits from the detainees' family members or legal counsel. From the date of their arrest to date, the above-mentioned individuals have allegedly been kept in detention under conditions that have seriously harmed their health.

8. On 5 September 2016, relatives of several detainees reportedly went to the Colombian Consulate in Caracas to request that the Government of Colombia provide consular protection for those individuals. They indicated that they had not been able to visit the detainees and that they had no information on their legal situation or their immigration status.

9. On 6 September 2016, the source notes that Colombian consular officials in Caracas went to the place of detention (at the time, the National Police Directorate on Organized Crime in Maripérez) and found that the detainees were being held on a terrace, without protection from the sun or the elements. They found that there were 92 individuals deprived of their liberty, 83 of them Colombians (81 men and 2 women). The Consulate received information indicating that these individuals were being held for not possessing documents attesting to their immigration status in the Bolivarian Republic of Venezuela and confirmed that they were not the subject of any criminal investigation. The officials were told that the detainees' immigration status was being reviewed and that the possibility of deporting them was being considered. They were also told that visits were not being permitted owing to a lack of infrastructure.

10. The source lists a number of additional efforts made by the Consulate of Colombia in Caracas to safeguard the rights of its nationals in detention. For example, on 14 September 2016, the Consul-General went to the National Police station in Maripérez and expressed concern about the situation of the Colombian detainees, in particular the complaints of physical ill-treatment and lack of food. The Chief Commissioner denied the allegations of ill-treatment and indicated that family members had been providing food for the detainees.

11. On 19 September 2016, the detainees were reportedly transported to the border, but they were not deported; rather, they were detained at the police station in San Cristóbal, in Táchira State. They were returned to the National Police station in La Yaguara, in Caracas, on 29 September 2016.

12. On 30 September 2016, the source reports that officials from the Colombian Consulate in Caracas visited the place of detention and interviewed four of the detainees. On behalf of the group, those individuals all reported that they had been arrested at the end of August in various working-class areas of Caracas. They provided details on their detention at the National Police facility at Maripérez, indicating that conditions had been harsh, as they had been obliged to spend all day on a terrace and at night had slept on the floor of an overcrowded dining hall. They reported that their main problem was the lack of adequate food. The detainees confirmed that they had been held for 10 days in San Cristóbal, from 19 to 29 September. A number of detainees have become ill as a result of the detention conditions.

13. In October and early November 2016, and in subsequent months, the Colombian Consulate in Caracas conducted several visits to the detainees, held meetings with Venezuelan authorities and sent several communications to government institutions in an effort to clarify and resolve the detainees' situation.

14. The source states that on 13 November 2016 an internal disturbance occurred at the National Police Headquarters in La Yaguara, which required the intervention of an anti-riot team. According to information received, the National Police reacted with excessive force, beating detainees and causing visible injuries to four of them, including two women. In addition, they reportedly stole personal items from the detainees.

15. On 16 November 2016, one of the detainees, who was suffering from glaucoma, was released. On 20 November 2016, the Colombian Consulate in Caracas was informed that seven of the detained Colombian citizens had escaped. On 19 December 2016, the

Consulate was informed that detainees who had illnesses, a total of six individuals, had been set free.

16. On 5 January 2017, Colombian consular officials in Caracas were informed by the chief migration official that the possibility of deporting the detained Colombian citizens had been rejected by the President of the Republic.

17. The source indicates that, in 2017 and in the first half of 2018, authorities from the Ministry of Foreign Affairs of Colombia in Caracas undertook various measures, including the issuance of official letters, memorandums and notes verbales, as well as consular visits and official meetings. The aim of these actions was to clarify the legal situation of the detainees, provide them with consular assistance, improve their detention conditions and, in general, ensure respect for their human rights. In particular, the Colombian officials sought to ensure that the detainees had access to health care, medical attention, family visits and adequate food. In some cases, necessary medical care and food were provided directly by the Colombian Consulate in Caracas.

18. On 14 August 2017, the detainees participated in the review and signing of a letter addressed to the President of the Republic, which detailed the ongoing violations of their human rights, in particular their right to liberty of person.

19. On 1 September 2017, the legal counsel for the detained Colombian citizens held a meeting with consular officials at the Embassy of Colombia to discuss the plight of the detainees and the lack of response to the writs of *amparo* filed.

20. On 3 November 2017, the Colombian Consulate in Caracas sent an official letter to the Venezuelan National Police requesting urgent humanitarian assistance for one of the detainees, who had suffered a stroke. Following efforts by the Embassy and the Consulate in Caracas, the individual was expelled to Colombia on humanitarian grounds.

21. On 21 November 2017, Court No. 27, a supervising court of first instance for the criminal justice circuit of the Caracas metropolitan area, reportedly issued Order No. 1725-17, a release order for the detainees. The order stated that the detainees “were not apprehended in flagrante delicto and no warrant has been issued for their arrest”. However, the source reports that the National Director of the Venezuelan National Police has not complied with the release order.

22. Following the issuance of Order No. 1725-17 on 21 November 2017 by Court No. 27 of Caracas, the consular representatives of the Colombian Government in Caracas continued their efforts, including demanding the immediate release of the detainees pursuant to the aforementioned judicial decision.

23. On 15 December 2017, the detainees’ legal counsel complained that they had gone more than 11 days without any family visits. The legal counsel also noted that “most of the detainees’ food comes from their families. This morning, I learned that for 10 days they had consumed only water flavoured with a chicken bouillon cube once per day.”

24. On 8 January 2018, the detainees staged a hunger strike with a view to securing their release. By that time, according to a forensic medical opinion, the Colombian citizens were showing signs of undernutrition.

25. On 12 January 2018, the legal counsel reported that there had allegedly been reprisals against the persons deprived of their liberty for their hunger strike and that two detainees had been moved to El Helicoide, another detention centre in Caracas.

26. The source indicates that the Government of Colombia submitted at least 18 notes verbales between 8 September 2016 and 27 September 2017, as well as an official letter, on 5 October 2017, all addressed to the Venezuelan authorities, seeking to provide consular assistance to the detainees. In those documents, information was repeatedly requested about the cases and the conditions of the persons deprived of their liberty; clarification of their legal status was also requested, as they had not appeared in any judicial proceedings. It was suggested that they should be handed over to the Colombian authorities. The Government of Colombia also protested the ill-treatment to which the detainees had reportedly been subjected and requested medical care for them; it further requested access to consular visits

and a meeting with the Minister of Foreign Affairs, the Minister of the Interior and Justice and the Human Rights Ombudsman.

27. The source contends that the detention is arbitrary, as it contravenes the Universal Declaration of Human Rights and the Covenant. Taking into account that, at the time of the arrest, no warrant authorizing the arrest had been issued, the Colombian nationals were not apprehended in flagrante delicto and, according to the Venezuelan authorities, they were arrested for failing to regularize their immigration status, the source asserts that the detention is arbitrary under categories I and IV.

28. The source further argues that the Venezuelan authorities' refusal to comply with the judicial ruling issued under Order No. 1725-17 on 21 November 2017 by Court No. 27 of Caracas constitutes a grave violation of the detainees' right to due process.

29. The source also notes that the detention violates the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The source further maintains that the detainees' human rights have been violated, as they have been subjected to physical ill-treatment, unhealthy conditions in the place of detention and an inadequate supply of proper food. The source adds that the refusal to allow the detainees to receive visits from their families, consular officials and lawyers on a number of occasions and the denial of necessary medical care constitute additional contraventions of the aforementioned standards.

Response from the Government

30. The Working Group transmitted the allegations set out in the preceding paragraphs to the Government on 8 August 2018. In accordance with paragraph 15 of its methods of work, the Working Group requested the Government to respond within 60 days from the date of transmission of the communication. However, in accordance with paragraph 16, if the Government wishes an extension of the time limit, it may request a further period of a maximum of one month.

31. On 2 October 2018, the Working Group received a request from the Government for an extension of the time limit for submitting a response to the allegations transmitted. The request indicated that, in light of the characteristics of the case and the allegations made, the relevant administrative steps were being taken to verify the facts and official information had been requested from the competent national bodies.

32. The extension was granted, and the State was so informed by the secretariat; the Government failed to respond by the new deadline.

Discussion

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

34. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (see A/HRC/19/57, para. 68). In the present matter, the Government has chosen not to challenge the allegations from the source.

35. The Working Group received credible information concerning the arrest of 59 persons in various working-class neighbourhoods of Caracas near the end of August 2016. It also learned that on 19 December 2016 six of those individuals had been released for health reasons. In accordance with paragraph 17 (a) of its methods of work, the Working Group will proceed to examine collectively the detention of all the persons deprived of their liberty, despite the fact that some of them have already been released for health reasons.

Category I

36. The Working Group notes that the 59 persons were deprived of their liberty for alleged non-compliance with immigration laws and for the alleged commission of offences.

37. With regard to the detainees' possible non-compliance with immigration laws, the Working Group observes that no orders were issued nor were the detainees shown any orders emanating from a legal proceeding that would have justified depriving them of their liberty. Furthermore, more than two years after their arrest, the detainees have apparently still not been brought before a competent court and informed of their status, nor have they been able to challenge the lawfulness of their detention for immigration-related reasons.

38. With regard to the allegations of possible criminal acts, the President of the Republic, Nicolás Maduro, characterized the arrest of August 2016 as the capture of a group of "mercenaries" in the context of Operation People's Liberation. The Working Group notes in that regard that on 21 November 2017 Court No. 27 of the criminal justice circuit of the Caracas metropolitan area ordered the release of the detainees on the grounds that they had not been apprehended in flagrante delicto nor had any warrant for their arrest been issued.

39. In light of the foregoing, the Working Group concludes that it is clearly impossible for the Government to invoke any legal basis justifying the detention of the 59 individuals, and the detention therefore contravenes article 9 of the Covenant and is arbitrary under category I.

Category IV

40. The Working Group notes that the individuals who were arrested by Venezuelan authorities in August 2016 are Colombian nationals.

41. As migrants, they have the right not to be arbitrarily deprived of their liberty. In its Revised Deliberation No. 5, the Working Group reaffirmed that the right to personal liberty is fundamental and extends to all persons at all times and in all circumstances, including migrants and asylum seekers, irrespective of their citizenship, nationality or migratory status.¹ The Working Group recalls that the prohibition of arbitrary detention is absolute, meaning that it is a non-derogable norm of customary international law or *jus cogens*.²

42. The Venezuelan authorities should have upheld the right of migrants – the Colombian nationals in this case – to have access to a court empowered to order immediate release or able to vary the conditions of release.³ The Working Group has recognized that detainees should be able to exercise this right before a court without delay by bringing proceedings to challenge the lawfulness of their detention.⁴

43. In the present case, as the Colombian migrants have not been able to lodge any challenge against their prolonged detention, the Working Group considers that the detention is arbitrary under category IV.

44. In view of the allegations of insufficient food, dire health conditions and ill-treatment of the detainees by the authorities during their detention, the Working Group refers the present case to the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, the Special Rapporteur on the right to food and the Special Rapporteur on torture, for their consideration and possible action.

45. In light of the recurrent pattern of arbitrary detention identified by this international human rights mechanism in recent years, the Government is urged to consider inviting the Working Group to make an official country visit. Such visits are an opportunity for the Working Group to engage in direct constructive dialogue with the Government and with representatives of civil society, with the aim of better understanding the situation of deprivation of liberty in the country and the underlying reasons for arbitrary detention.

¹ A/HRC/39/45, Annex: Revised Deliberation No. 5 on deprivation of liberty of migrants, para. 7.

² *Ibid.*, para. 8.

³ *Ibid.*, para. 15.

⁴ A/HRC/30/37, para. 29.

Disposition

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

The deprivation of liberty of Alexi José Álvarez Martínez, Juan Carlos Arellano de la Horta, Diego Binel Artunduaga Pineda, Januel Barrios Hernández, Pedro Nelson Berrío, Eduardo Blanco Castilla, Israel Cáceres Esteban, David Canencia Calderón, Arley Castaño del Toro, Joaquín Contreras Berrío, Deivis Manuel Crespop Constante, Glisel D'Arcos Ramos, Alver Enrique De León, Martín José Escorcía Cassiani, Helder Escorcía, Luis Espita Ávila, German Espita, William Estemor Ruiz, Juan David Fernández Viloría, Marlon Ernesto Fuentes Oviedo, Iván Antonio Galán Ramos, Paterson García Julio, Emerson González Barrios, Helen Katherine Hincapié Brochero, Ever José Julio Agresoth, Deivis Julio Agresoth, Héctor José Machado, Víctor Alfonso Márquez Chiquillo, Norbeys Martínez Torres, José Abigaíl Miranda Zúñiga, Enoc Montemiranda Molinares, Blas Elías Moreno Ochoa, José Stalin Moreno, Isaac Núñez Padilla, Edilberto Ortega Silgado, Nerio Ortiz Aujebet, Sahadys Palomino Vanegas, Jader Pardo, Franklin Víctor Pérez, Luis Alberto Pérez Díaz, Darwin Quiroz, Edelberto Ramos Terán, Jorge Rodríguez Vitola, Carlos Alberto Rodríguez, Luis Fernando Rodríguez, Daniel Rojano Villa, Deison Sandoval Marimon, William Enrique Sarabia Ospino, José Calazán Sarmiento Martelo, Ronald Soto Llerena, Luis Suarez, Pedro Suarez, Yair Tapias Valdez, Wilfredo Teherán, Jesús Alberto Terán Munzón, José Luis Torres, Fernando Valencia, Luis Gabriel Villa and Doiler Yépez Carrillo contravenes articles 7, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant and is arbitrary under categories I and IV.

47. The Working Group requests the Government to take the steps necessary to remedy without delay the situation of the 59 detainees identified in the preceding paragraph and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the Covenant.

48. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to immediately release Alexi José Álvarez Martínez, Juan Carlos Arellano de la Horta, Diego Binel Artunduaga Pineda, Januel Barrios Hernández, Pedro Nelson Berrío, Eduardo Blanco Castilla, Israel Cáceres Esteban, David Canencia Calderón, Arley Castaño del Toro, Joaquín Contreras Berrío, Deivis Manuel Crespop Constante, Glisel D'Arcos Ramos, Alver Enrique De León, Martín José Escorcía Cassiani, Helder Escorcía, Luis Espita Ávila, German Espita, William Estemor Ruiz, Juan David Fernández Viloría, Marlon Ernesto Fuentes Oviedo, Iván Antonio Galán Ramos, Paterson García Julio, Emerson González Barrios, Helen Katherine Hincapié Brochero, Ever José Julio Agresoth, Deivis Julio Agresoth, Héctor José Machado, Víctor Alfonso Márquez Chiquillo, Norbeys Martínez Torres, José Abigaíl Miranda Zúñiga, Enoc Montemiranda Molinares, Blas Elías Moreno Ochoa, José Stalin Moreno, Isaac Núñez Padilla, Edilberto Ortega Silgado, Nerio Ortiz Aujebet, Sahadys Palomino Vanegas, Jader Pardo, Franklin Víctor Pérez, Luis Alberto Pérez Díaz, Darwin Quiroz, Edelberto Ramos Terán, Jorge Rodríguez Vitola, Carlos Alberto Rodríguez, Luis Fernando Rodríguez, Daniel Rojano Villa, Deison Sandoval Marimon, William Enrique Sarabia Ospino, José Calazán Sarmiento Martelo, Ronald Soto Llerena, Luis Suarez, Pedro Suarez, Yair Tapias Valdez, Wilfredo Teherán, Jesús Alberto Terán Munzón, José Luis Torres, Fernando Valencia, Luis Gabriel Villa and Doiler Yépez Carrillo and accord them an enforceable right to compensation and other reparations, in accordance with international law.

49. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of the 59 detainees and to take appropriate measures against those responsible for the violation of their rights.

50. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the case to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the right to food and the Special Rapporteur on torture for appropriate action.

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

Follow-up procedure

52. 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 Alexi José Álvarez Martínez, Juan Carlos Arellano de la Horta, Diego Binel Artunduaga Pineda, Januel Barrios Hernández, Pedro Nelson Berrío, Eduardo Blanco Castilla, Israel Cáceres Esteban, David Canencia Calderón, Arley Castaño del Toro, Joaquín Contreras Berrío, Deivis Manuel Crespop Constante, Glisel D'Arcos Ramos, Alver Enrique De León, Martín José Escorcía Cassiani, Helder Escorcía, Luis Espita Ávila, German Espita, William Estemor Ruiz, Juan David Fernández Viloría, Marlon Ernesto Fuentes Oviedo, Iván Antonio Galán Ramos, Paterson García Julio, Emerson González Barrios, Helen Katherine Hincapié Brochero, Ever José Julio Agresoth, Deivis Julio Agresoth, Héctor José Machado, Víctor Alfonso Márquez Chiquillo, Norbeys Martínez Torres, José Abigaíl Miranda Zúñiga, Enoc Montemiranda Molinares, Blas Elías Moreno Ochoa, José Stalin Moreno, Isaac Núñez Padilla, Edilberto Ortega Silgado, Nerio Ortiz Aujebet, Sahadys Palomino Vanegas, Jader Pardo, Franklin Víctor Pérez, Luis Alberto Pérez Díaz, Darwin Quiroz, Edelberto Ramos Terán, Jorge Rodríguez Vitola, Carlos Alberto Rodríguez, Luis Fernando Rodríguez, Daniel Rojano Villa, Deison Sandoval Marimon, William Enrique Sarabia Ospino, José Calazán Sarmiento Martelo, Ronald Soto Llerena, Luis Suarez, Pedro Suarez, Yair Tapias Valdez, Wilfredo Teherán, Jesús Alberto Terán Munzón, José Luis Torres, Fernando Valencia, Luis Gabriel Villa and Doiler Yépez Carrillo have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Alexi José Álvarez Martínez, Juan Carlos Arellano de la Horta, Diego Binel Artunduaga Pineda, Januel Barrios Hernández, Pedro Nelson Berrío, Eduardo Blanco Castilla, Israel Cáceres Esteban, David Canencia Calderón, Arley Castaño del Toro, Joaquín Contreras Berrío, Deivis Manuel Crespop Constante, Glisel D'Arcos Ramos, Alver Enrique De León, Martín José Escorcía Cassiani, Helder Escorcía, Luis Espita Ávila, German Espita, William Estemor Ruiz, Juan David Fernández Viloría, Marlon Ernesto Fuentes Oviedo, Iván Antonio Galán Ramos, Paterson García Julio, Emerson González Barrios, Helen Katherine Hincapié Brochero, Ever José Julio Agresoth, Deivis Julio Agresoth, Héctor José Machado, Víctor Alfonso Márquez Chiquillo, Norbeys Martínez Torres, José Abigaíl Miranda Zúñiga, Enoc Montemiranda Molinares, Blas Elías Moreno Ochoa, José Stalin Moreno, Isaac Núñez Padilla, Edilberto Ortega Silgado, Nerio Ortiz Aujebet, Sahadys Palomino Vanegas, Jader Pardo, Franklin Víctor Pérez, Luis Alberto Pérez Díaz, Darwin Quiroz, Edelberto Ramos Terán, Jorge Rodríguez Vitola, Carlos Alberto Rodríguez, Luis Fernando Rodríguez, Daniel Rojano Villa, Deison Sandoval Marimon, William Enrique Sarabia Ospino, José Calazán Sarmiento Martelo, Ronald Soto Llerena, Luis Suarez, Pedro Suarez, Yair Tapias Valdez, Wilfredo Teherán, Jesús Alberto Terán Munzón, José Luis Torres, Fernando Valencia, Luis Gabriel Villa and Doiler Yépez Carrillo;

(c) Whether an investigation has been conducted into the violation of the rights of Alexi José Álvarez Martínez, Juan Carlos Arellano de la Horta, Diego Binel Artunduaga Pineda, Januel Barrios Hernández, Pedro Nelson Berrío, Eduardo Blanco Castilla, Israel Cáceres Esteban, David Canencia Calderón, Arley Castaño del Toro, Joaquín Contreras Berrío, Deivis Manuel Crespop Constante, Glisel D'Arcos Ramos, Alver Enrique De León, Martín José Escorcía Cassiani, Helder Escorcía, Luis Espita Ávila, German Espita, William Estemor Ruiz, Juan David Fernández Viloría, Marlon Ernesto Fuentes Oviedo, Iván Antonio Galán Ramos, Paterson García Julio, Emerson González Barrios, Helen Katherine Hincapié Brochero, Ever José Julio Agresoth, Deivis Julio Agresoth, Héctor José Machado, Víctor Alfonso Márquez Chiquillo, Norbeys Martínez Torres, José Abigaíl Miranda Zúñiga, Enoc Montemiranda Molinares, Blas Elías Moreno Ochoa, José Stalin Moreno, Isaac Núñez Padilla, Edilberto Ortega Silgado, Nerio Ortiz Aujebet, Sahadys Palomino Vanegas, Jader Pardo, Franklin Víctor Pérez, Luis Alberto Pérez Díaz, Darwin Quiroz, Edelberto Ramos Terán, Jorge Rodríguez Vitola, Carlos Alberto Rodríguez, Luis Fernando Rodríguez,

Daniel Rojano Villa, Deison Sandoval Marimon, William Enrique Sarabia Ospino, José Calazán Sarmiento Martelo, Ronald Soto Llerena, Luis Suarez, Pedro Suarez, Yair Tapias Valdez, Wilfredo Teherán, Jesús Alberto Terán Munzón, José Luis Torres, Fernando Valencia, Luis Gabriel Villa and Doiler Yépez Carrillo and, if so, what the outcome of the investigation was;

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

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

53. 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.

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

55. The Working Group notes that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.⁵

[Adopted on 20 November 2018]

⁵ Human Rights Council resolution 33/30, paras. 3 and 7.