(Translated from Arabic)

In the name of God the Merciful, the Compassionate

**Questionnaire on the rights of anyone deprived of his or her liberty**

In the framework of preparing draft basic principles and guidelines on remedies and procedures on the rights of anyone deprived of his or her liberty, the Working Group on Arbitrary Detention has the honour to submit a questionnaire related to the rights of anyone deprived of his or her liberty by arrest of detention.

(1) (a) If your State *is* a party to the International Covenant on Civil and Political Rights, how is article 9 (4) of the Covenant incorporated into your domestic legislation?

(b) If your State *is not* a party to the International Covenant on Civil and Political Rights, is the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention incorporated into your country’s domestic legislation?

✔ Yes

☐ No

*If yes*, please provide the legislation, their wording and year of adoption.

The Basic Law of the State, promulgated by Royal Decree No. 101/96 of 2 November 1996, guarantees the rights and freedoms of individuals, pursuant to articles 17 to 21 thereof. It also guarantees the right to seek legal redress, under the terms of articles 22 to 25. All of the articles mentioned are annexed hereto.

(2) Does this mechanism apply to all forms of deprivation of liberty, such as administrative detention, including detention for security reasons, involuntary hospitalization, immigration detention, or any other reason?

✔ Yes

☐ No

*If yes*, please provide the list of the forms of detention to which the mechanism is applicable.

The text of article 24 of the above-mentioned Basic Law of the State is annexed hereto.

(3) Is the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court available for individuals subjected to preventive detention measures?

✔ Yes

☐ No

*If not*, please explain in which case(s) your country’s laws do not provide remedies and cite relevant legislation.

(4) Does this mechanism provide for any particular remedies? In particular, does the mechanism provide for release and compensation for unlawful detention?

☐ Yes

✔ No

*If yes*, please state and explain the relevant remedies.

(5) Are there persons other than the detainee who can initiate the procedure on behalf of the detainee under your country’s domestic law?

✔ Yes

☐ No

*If yes*, please state who?

The detainee’s relatives or legal representative.

(6) What are the formal requirements and procedures for a detainee to invoke the right to bring proceedings before court, in order that the court may decide without delay on the lawfulness of the detention?

Article 59 of the Code of Criminal Procedure, promulgated by Royal Decree No. 97/99, provides that “A suspect or his representative may challenge an order for his preventive detention before the magistrates’ court. The challenge shall be heard in the counsel chamber and must be settled by the court within a maximum of three days. If the court finds that the order is unwarranted, it shall order the immediate release of the suspect.”

Article 63 of the same Code provides that “A member of the public prosecution may at any time issue an order for the release of a suspect if his detention is found to be unwarranted or if the investigation will not be harmed by his release and there are no fears that he will abscond.”

If a suspect has been handed over to a competent court, the matter of his release falls under the jurisdiction of that court.

(7) Does the legislation provide for a time limit for submitting such application to the court? If so, please indicate what is the maximum time in the number of:

☐ Days (How many?)

☐ Months (How many?)

☐ Years (How many?)

Article 5 of the Code of Criminal Procedure, promulgated by Royal Decree No. 97/99, provides that:

“No proceedings shall be brought except:

1. On the basis of a verbal or written complaint by the aggrieved party or his private counsel in offences where the law so requires. Complaints shall not be admitted once three months have passed since the aggrieved party had knowledge of the offence and its perpetrator, unless otherwise prescribed by law;

2. On the basis of a written application or after written permission has been obtained from the competent entity in offences where the law so requires.”

(8) Are there any major decisions of your country’s Constitutional or Supreme Courts concerning the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court?

☐ Yes

✔ No

*If yes*, please provide the date and number of the decision(s) and, if possible, a copy of the decision(s).