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Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its ninety-ninth session, 18–27 March 2024

Opinion No. 8/2024 concerning Moaaz Nagah Mansour Mansour El-Sharqaoui (Egypt)*

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 51/8.
2. In accordance with its methods of work,¹ 27 October 2023 the Working Group transmitted to the Government of Egypt a communication concerning Moaaz Nagah Mansour Mansour El-Sharqaoui. The Government submitted a late reply on 12 January 2024. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
 - (d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

* Miriam Estrada Castillo did not participate in the discussion of the case.

¹ [A/HRC/36/38](#).

1. Submissions

(a) Communication from the source

4. Moaaz Nagah Mansour Mansour El-Sharqaoui is a citizen of Egypt, born on 20 July 1993. He is a student, an activist and a human rights defender. He was the Vice-President of the Student Union at Tanta University for the year 2015. At the time of the arrest, he was living in Maadi, Cairo Governate.

(i) Context

5. The source submits that Mr. El-Sharqaoui's arrest represents a pattern of detaining individuals in order to silence opinions critical of the Government. It is reported that, since the amendment to the Anti-Terrorism Law (No. 94 of 2015), which has broadened definitions of "terrorist entity" and "terrorist act", there has been an increase of instances of arbitrary arrests and enforced disappearances.

6. The source argues that the terrorism charges brought against Mr. El-Sharqaoui are not based on empirical or evidential grounds and are similar to those used against other detainees to exercise societal control.

(ii) Arrest and detention

7. The source submits that Mr. El-Sharqaoui was arrested at a security checkpoint in Dahab in October 2018. He was then forcibly disappeared from 19 September to 13 October 2018, following his arrest, during which he was subjected to torture.

8. Mr. El-Sharqaoui then appeared before the Supreme State Security Prosecution under Case No. 440 of 2018 on charges of "joining and financing a terrorist group". He was allegedly imprisoned in Tora Prison for investigation and released in March 2020 with precautionary measures. In April 2020, the measures were cancelled.

9. In 2021, while Mr. El-Sharqaoui was at liberty, his case was referred to the Emergency State Security Criminal Court. The source submits that the Court did not require Mr. El-Sharqaoui's presence, only that of his lawyer, and, on 29 May 2022, Mr. El-Sharqaoui was sentenced in absentia to 10 years in prison and five years of probation. However, his verdict was not ratified, and Mr. El-Sharqaoui remained at liberty.

10. On 11 May 2023, at 2:00 p.m., Mr. El-Sharqaoui was arrested for the second time by State Security agents at his house in Maadi. The agents, dressed in civilian clothes, reportedly beat Mr. El-Sharqaoui during the arrest. The house was searched, and money was reportedly stolen. The authorities carrying out the arrest did not present a warrant or any legal documentation.

11. Mr. El-Sharqaoui was then subjected to enforced disappearance from the time of his arrest on 11 May to 3 June 2023. During his enforced disappearance, Mr. El-Sharqaoui was subjected to torture through beatings and remained blindfolded during the entire period.

12. The source submits that, during Mr. El-Sharqaoui's enforced disappearance, his defence team submitted a number of complaints to the Attorney General inquiring about his whereabouts, which were left unanswered. Mr. El-Sharqaoui's lawyer also asked about his client at the Mokattam Police station, but the authorities reportedly denied his presence there.

13. On 3 June 2023, Mr. El-Sharqaoui appeared before the Supreme State Security Prosecution pending Supreme State Security Case No. 540 for 2023 on charges of joining and financing a terrorist organization. Allegedly, the court did not take into consideration Mr. El-Sharqaoui's claims of torture.

14. Furthermore, it is reported that, while attending the investigation session, Mr. El-Sharqaoui's defence team learned that the Office of the Public Prosecution had issued a decision to detain Mr. El-Sharqaoui under charges under the Anti-Terrorism Law for a period of 14 days, to be renewed once, on the grounds that he had committed a terrorist crime.

15. On 22 October 2023, the Military Governor ratified the ruling of the Emergency State Security Criminal Court of 29 May 2022, sentencing Mr. El-Sharqaoui to 10 years in prison

and five years of probation under the charges of joining a terrorist organization. The source notes that the ruling is considered final and not subject to appeal. Mr. El-Sharqaoui is currently held in Badr Prison No. 3.

16. The source asserts that Mr. El-Sharqaoui's arrests and sentencing are representative of the authorities' systematic targeting of human rights defenders, activists, including student activists, and political opponents. According to the source, the Anti-Terrorism Law is being used to silence civil society and curtail freedom of expression.

17. The prosecution has allegedly failed to provide sufficient evidence to support terrorism-related charges against Mr. El-Sharqaoui. Moreover, since March 2018, Mr. El-Sharqaoui has been placed on the terrorist list, which is automatically renewed every five years.

18. According to the source, following Mr. El-Sharqaoui's first arrest and prior to his second arrest on 11 May 2023, he was diagnosed with severe depression, and he suffers from acute suicidal tendencies. It is also reported that, since Mr. El-Sharqaoui's reappearance on 3 June 2023, family visits have been banned and, since his transfer to Badr Prison No. 3 on 23 June 2023, Mr. El-Sharqaoui has been held in solitary confinement. Moreover, Mr. El-Sharqaoui has reportedly faced retaliation and violence while in detention.

(iii) *Legal analysis*

19. The source argues that Mr. El-Sharqaoui's arrest and detention are arbitrary and fall under categories I and III of the of the arbitrary detention categories referred to by the Working Group when considering cases submitted to it.

a. Category I

i. Lack of legal basis for the arrest

20. The source argues that the arrest of Mr. El-Sharqaoui is arbitrary under category I, as there is no legal basis or justification for the deprivation of his liberty. The source notes that State security agents were the responsible authorities for the arrest of Mr. El-Sharqaoui.

21. The source recalls that arbitrary arrests are prohibited under article 9 of the Universal Declaration of Human Rights, as they violate the right to life and liberty safeguarded by article 3 thereof. The source also recalls general comment No. 35 (2014) on liberty and security of person of the Human Rights Committee, in which it stated that any person is to be informed, at the time of arrest, of the reasons for the arrest and that that requirement applied broadly to the reasons for any deprivation of liberty.

22. In addition, it is recalled that principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment clearly states that anyone who is arrested is to be informed at the time of their arrest of the reason for their arrest and is to be promptly informed of any charges against them.

23. The source notes that article 6 of the African Charter on Human and Peoples' Rights, ratified by Egypt on 21 October 1986, reaffirms that every individual is to have the right to liberty and security of person. The source asserts that no one may be deprived of their freedom except for reasons and conditions previously laid down by law and that no one may be arbitrarily arrested or detained.

24. As a result, the source concludes that Mr. El-Sharqaoui's right to liberty has been violated through his arbitrary arrests, which were conducted without an arrest warrant or any justificatory legal explanation.

ii. Enforced disappearance

25. The source submits that Mr. El-Sharqaoui was subjected to enforced disappearance on two different occasions, for 24 days from 19 September to 13 October 2018 and for 23 days from 11 May to 3 June 2023.

26. The source notes that the right of persons not to be subjected to enforced disappearance is considered to be one of the fundamental guarantees under customary international law and non-derogable rights, even in a state of emergency.

27. The source recalls that people deprived of liberty must be held only in an officially recognized place of detention. In addition, the source asserts that States are obligated to ensure that no one is held secretly in detention and must provide the detainee's family and lawyer with accurate information on the detention.

b. Category III

28. The source argues that Mr. El-Sharqaoui's detention is arbitrary under category III, as he has been denied the right to due process.

i. Violation of the right to effective legal counsel

29. The source recalls principle 2 of the Basic Principles on the Role of Lawyers, whereby a detainee should have access to an effective counsel, defined as the duty of the competent authorities to ensure lawyers' access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance and that such access should be provided at the earliest appropriate time.

30. The source asserts that the effectiveness of a legal counsel is fundamentally related to the principle of equality of arms, enshrined in article 11 of the Universal Declaration of Human Rights, which draws on the right of detainees to be given the time and facilities necessary to prepare and present their defence with the counsel in time for the trial.

31. According to the source, Mr. El-Sharqaoui's lawyer was not informed in a timely manner of the decision by the Office of the Public Prosecution to detain Mr. El-Sharqaoui on charges of terrorism. In this context, the source recalls that Mr. El-Sharqaoui was arrested at his home on 11 May 2023 without a warrant and then forcibly disappeared for 23 days. The source notes that, by omitting and delaying access to appropriate information, the Office of the Public Prosecution has hampered the possibility of effective counsel and violated the principle of equality of arms.

32. In addition, the source informs the Working Group that, whereas Mr. El-Sharqaoui's lawyer was present during all of Mr. El-Sharqaoui's appearances before the Office of the Public Prosecution, he has not been able to visit his client in detention, which the source considers represents a violation of the right to unrestricted legal counsel, which entails the right to have private communication and meetings with the detainee.

ii. Violation of the prohibition of torture and cruel and inhuman treatment

33. The source submits that Mr. El-Sharqaoui was subjected to torture by State security agents during the period of his enforced disappearance, which is in violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

34. The source recalls that the prohibition of torture and other ill-treatment or punishment is absolute, applies in all circumstances and may never be restricted, including during times of war or states of emergency. The source argues that no exceptional circumstances, including threats of terrorism or other violent crime, may be invoked to justify torture or other ill-treatment. Such prohibition applies irrespective of the offence allegedly committed by the accused person.

iii. Violation of the right to family visits

35. The source submits that Mr. El-Sharqaoui has been denied the right to family visitation since his arrest and recalls that detained and imprisoned people have the right to communicate and be visited by their families.

36. The source notes that the right to receive visits applies to all detainees, regardless of the offence of which they are suspected or accused. Furthermore, the source adds that the right of any detainee to communicate with the outside world and be visited by their family

are fundamental safeguards against any attempts by the authorities to perpetrate human rights violations, including torture or another ill-treatment and enforced disappearance, on the detainee.

(b) Response from the Government

37. On 27 October 2023, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 26 December 2023, detailed information about the current situation of Mr. El-Sharqaoui and to clarify the legal provisions justifying his continued detention, as well as its compatibility with the Government's obligations under international human rights law, in particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government of Egypt to ensure his physical and mental integrity.

38. The Government submitted its response on 12 January 2024, which was after the 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.

2. Discussion

39. In determining whether Mr. El-Sharqaoui's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for 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.² In the present case, the Government has chosen not to challenge in a timely fashion the prima facie credible allegations made by the source.

(a) Category I

40. The Working Group recalls that it considers detention to be arbitrary and to fall under category I if such a detention lacks a legal basis. In the present case, the Working Group must examine the circumstances of Mr. El-Sharqaoui's arrest on 11 May 2023.

41. According to the information provided by the source, the security agents who arrested Mr. El-Sharqaoui did not present a warrant or any legal documentation that might justify their forcible actions. While, in its late reply, the Government argued that Mr. El-Sharqaoui's arrest was legal considering that the investigating authority had issued a reasoned arrest warrant against him on 19 April 2023, it offered no further information to confirm that the warrant was invoked at the time of arrest or in the subsequent proceedings.

42. 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 any charges. The Working Group has previously stated that, for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.³ This is typically done through an arrest warrant or arrest order (or equivalent document).⁴ The reasons for the arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint, such as the wrongful act and the identity of the alleged victim.⁵ Lacking any proof from the Government to the contrary, the Working Group finds that this legal protection was denied to Mr. El-Sharqaoui, in violation of articles 3 and 9 of the Universal Declaration of Human Rights and article 9 (1) and (2) of the Covenant.

² A/HRC/19/57, para. 68.

³ Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

⁴ Opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in flagrante delicto, the opportunity to obtain a warrant will not be typically available.

⁵ Opinion No. 2021/85, para. 69.

43. The Working Group notes that Mr. El-Sharqaoui was not brought promptly before a judge, i.e. within 48 hours of his arrest, in accordance with the international standard.⁶ This was not denied by the Government in its late reply. As the Working Group has previously stated, a prosecutorial body cannot be considered a judicial authority for the purposes of article 9 (3) of the Covenant, and it therefore finds that this provision was violated in the present case.⁷

44. Moreover, it appears that, following his arrest, Mr. El-Sharqaoui was then forcibly disappeared for 23 days, before he appeared on 3 June 2023 before the Supreme State Security Prosecution. According to the Government in its late reply, under article 40 of the Anti-Terrorism Law, the alleged forced disappearance of Mr. El-Sharqaoui was authorized and permitted for a precautionary period of 14 days, which was renewed once, as allowed for by the law, to gather final information about his activities. The Government, however, has not put forward any further information to substantiate the claim that this extension was necessary other than in reference to the law in question. The Government recalls that “the custody period shall be calculated as part of the precautionary detention, and the accused shall be kept in a legally designated area”, yet it failed to mention where Mr. El-Sharqaoui was held during the 23-day period.

45. In addition, the source claims that Mr. El-Sharqaoui’s legal team and family were never informed of his whereabouts during this period, despite asking numerous times in all police stations near his residence. Personnel there all denied that he was there. Mr. El-Sharqaoui’s legal team and family also submitted several complaints to the Attorney General inquiring about Mr. El-Sharqaoui’s whereabouts, but they were not answered. In its late reply, the Government asserted that Mr. El-Sharqaoui was being held in pretrial detention at the Badr Reform and Rehabilitation Centre No. 3 but did not specify where he was during the alleged period of his enforced disappearance.

46. Enforced disappearance is prohibited by international law and constitutes a particularly aggravated form of arbitrary detention.⁸ Mr. El-Sharqaoui was also placed outside the protection of the law, in violation of his right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant.

47. Noting the foregoing, the Working Group considers that, in the arrest and pretrial detention of Mr. El-Sharqaoui, the Government acted contrary to article 9 of the Universal Declaration of Human Rights, article 9 of the Covenant and principles 11, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

48. The Working Group concludes that the arrest and detention of Mr. El-Sharqaoui are arbitrary under category I. The Working Group finds that Mr. El-Sharqaoui’s deprivation of liberty is disproportionate to the strict exigencies of the situation and that the Government failed to submit sufficient proof to the contrary.

(b) Category III

49. The source contends that there were three violations of Mr. El-Sharqaoui’s rights to a fair trial that would qualify under category III. The Working Group will now consider whether these alleged violations were grave enough so as to render his deprivation of liberty as arbitrary under category III.

⁶ See, e.g. opinion No. 57/2016, paras. 110 and 111; No. 1/2018, para. 60; No. 2/2018, para. 49; No. 20/2018, paras. 64 and 69; No. 83/2018, para. 47; No. 11/2019, para. 66; No. 26/2019, para. 89; No. 30/2019, para. 30; No. 36/2019, para. 36; No. 42/2019, para. 49; No. 51/2019, para. 59; No. 56/2019, para. 80; No. 76/2019, para. 38; and No. 82/2019, para. 76. See also Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 33.

⁷ See opinions No. 14/2015, para. 28; No. 5/2020, para. 72; No. 41/2020, para. 60; and No. 52/2023, para. 60; and [A/HRC/45/16/Add.1](#), para. 35.

⁸ Human Rights Committee, general comment No. 35 (2014), para. 17. See also opinions No. 5/2020, No. 6/2020, No. 11/2020, No. 13/2020, No. 77/2020, No. 25/2021, No. 38/2021, No. 20/2023 and No. 36/2023.

(i) *Violation of the right to effective legal counsel*

50. The Working Group notes that, the source contends that Mr. El-Sharqaoui was held under enforced disappearance for 23 days, from 11 May to 3 June 2023. The source notes that Mr. El-Sharqaoui's lawyer was not informed in a timely manner of the decision to detain Mr. El-Sharqaoui. In addition, while Mr. El-Sharqaoui's lawyer was present during all appearances before the prosecution, it is asserted that his lawyer was not able to visit him in detention. The Working Group recalls that article 14 (3) (b) of the Covenant guarantees the right to adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's choosing. Principle 9 and guideline 8 of 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 provide that 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 apprehension, that they must be promptly informed of this right upon apprehension and that access to legal counsel should not be unlawfully or unreasonably restricted.⁹

51. In its late reply, the Government argued that Mr. El-Sharqaoui and his lawyer were allowed to present oral argument, submit requests and express objections in a manner consistent with international standards. In addition, while the Government contends that Mr. El-Sharqaoui's lawyer was present during the investigation, it did not specifically address whether the lawyer was able to actually visit Mr. El-Sharqaoui in detention.

52. According to principle 2 of the Basic Principles on the Role of Lawyers, the detainee should have access to an effective counsel at the earliest appropriate time. The Working Group is of the view that this principle is fundamentally related to the principle of equality of arms, as enshrined in article 2 of the Universal Declaration of Human Rights. The Working Group is therefore concerned that no confidential meetings with a lawyer were guaranteed to Mr. El-Sharqaoui. It reiterates that respect for lawyer-client confidentiality is an important part of defence rights. The right of a defendant to have private discussions with his or her legal counsel, without surveillance, constitutes one of the fundamental aspects of a fair trial. If a lawyer is incapable of conferring with his or her client and obtaining confidential instructions, the legal assistance significantly loses its purpose. In this respect, the Human Rights Committee has stressed that counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. Furthermore, lawyers should be able to advise persons charged with a criminal offence without restrictions, influence, pressure or undue interference from any quarter.¹⁰

53. Lacking any information to the contrary, the Working Group concludes that Mr. El-Sharqaoui was denied his right to effective legal counsel.

(ii) *Violation of the right to be free from torture and cruel and inhuman treatment*

54. The Working Group expresses its gravest concern at the allegations of torture of Mr. El-Sharqaoui, which appear to constitute violations of articles 5 and 25 (1) of the Universal Declaration of Human Rights and article 7 and 10 (1) of the Covenant. Not only is torture a grave violation of human rights per se, but it also undermines the ability of persons to defend themselves and hinders their exercise of the right to a fair trial, especially in the light of the right to be presumed innocent under article 14 (2) of the Covenant. The Working Group notes that the use of confessions extracted through ill-treatment that is tantamount if not equivalent to torture is a breach of article 14 (3) (g) of the Covenant and may also constitute a violation of the State's obligations under article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹¹ Furthermore, the Body of Principles specifically prohibits taking undue advantage of the situation of detention to compel confession or incriminating statements.

⁹ A/HRC/30/37, annex, paras. 12–15 and 67–71.

¹⁰ Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 34.

¹¹ Human Rights Committee, general comment No. 32 (2007), para. 49.

55. The source submits that Mr. El-Sharqaoui was subjected to torture during the period of his enforced disappearance. The Government failed to respond to these allegations directly, despite having the opportunity to do so. Instead, the Government submitted, in its late reply, that Mr. El-Sharqaoui was examined at the prison hospital on three separate occasions, on 13 June 2023, more than a month after the first alleged instance of torture, on 11 July 2023 and on 25 July 2023, and deemed his vital signs to be within normal ranges. According to the source, however, a doctor has never examined Mr. El-Sharqaoui since his arrest. In any case, the Government failed to explain the significant delay in addressing the complaint of ill-treatment, as, according to the Government, a doctor had seen Mr. El-Sharqaoui a month after the first alleged instance of torture, when the signs of torture might have disappeared. As such, the Working Group concludes that the treatment described may constitute a breach of the absolute prohibition of torture.¹²

(iii) *Violation of the right to family visits*

56. The source claims that Mr. El-Sharqaoui's family has been unable to visit him since his arrest on 11 May 2023. Detained and imprisoned people have the right to communicate and be visited by their families regardless of the offence of which they are suspected or accused. In a direct contradiction, in its late reply, the Government contested that point, asserting that Mr. El-Sharqaoui regularly received visits from his family, with the latest visit being on 11 December 2023. In the further comments from the source, there was no response to the Government's claim. The Working Group is thus unable to conclude that the right to family visits has been denied to Mr. El-Sharqaoui.

57. In view of the above, the Working Group concludes that the violations of Mr. El-Sharqaoui's right to a fair trial are of such a gravity as to deem his deprivation of liberty as arbitrary under category III.

(c) **Concluding remarks**

58. The Working Group notes that the present opinion is only one of many opinions in recent years in which it has found the Government of Egypt to be in violation of its international human rights obligations.¹³ It remains concerned that this indicates a systemic problem with arbitrary detention in Egypt, which, if it continues, may amount to a serious violation of international law.¹⁴ The duty to comply with international human rights standards rests with all State organs, officers and agents, as well as with all other natural and legal persons. 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.¹⁵ The Working Group has alluded to this possibility in its past cases concerning Egypt.¹⁶

3. Disposition

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

The deprivation of liberty of Moaaz Nagah Mansour Mansour El-Sharqaoui, being in contravention of article 3, 6 and 9 of the Universal Declaration of Human Rights and

¹² See, for example, opinions No. 83/2018; and No. 3/2023, para. 84.

¹³ See, for example, opinions No. 6/2016, No. 7/2016, No. 41/2016, No. 42/2016, No. 54/2016, No. 60/2016, No. 30/2017, No. 78/2017, No. 83/2017, No. 26/2018, No. 27/2018, No. 47/2018, No. 63/2018, No. 82/2018, No. 87/2018, No. 21/2019, No. 29/2019, No. 41/2019, No. 42/2019, No. 65/2019, No. 77/2019, No. 6/2020, No. 14/2020, No. 80/2020, No. 45/2021, No. 79/2021, No. 83/2021, No. 23/2022, No. 34/2022, No. 53/2022, No. 60/2022, No. 12/2023, No. 20/2023, No. 31/2023, No. 36/2023 and No. 40/2023.

¹⁴ Opinions No. 47/2018, para. 85; and No. 14/2020, para. 74.

¹⁵ [A/HRC/13/42](#), para. 30. See also, for example, opinions No. 1/2011, para. 21; No. 51/2017, para. 57; No. 56/2017, para. 72; No. 66/2020, para. 67; No. 67/2020, para. 96; and No. 84/2020, para. 76.

¹⁶ See, for example, opinions No. 60/2016, para. 27; No. 26/2018, para. 81; No. 27/2018, para. 83; No. 29/2019, para. 69; No. 65/2019, para. 87; No. 79/2020, para. 49; No. 53/2022, para. 95; No. 12/2023, para. 107; No. 20/2023, para. 85; No. 26/2023, para. 94; and No. 70/2023, para. 102.

articles 9, 14 and 16 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I and III.

60. The Working Group requests that the Government of Egypt to take the steps necessary to remedy the situation of Mr. El-Sharqaoui without delay and bring 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.

61. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. El-Sharqaoui immediately and accord him an enforcement right to compensation and other reparations, in accordance with international law.

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

63. 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, for appropriate action.

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

4. Follow-up procedure

65. 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 actions taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. El-Sharqaoui has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to him;
- (c) Whether an investigation has been conducted into the violation of his 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 Egypt with its international obligations in line with the present opinion;
- (e) Whether any action has been taken to implement the present opinion.

66. 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.

67. 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 of any failure to act.

68. 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.¹⁷

[Adopted on 19 March 2024]

¹⁷ Human Rights Council resolution 51/8, paras. 6 and 9.