



# General Assembly

Distr.: General  
22 May 2020

Original: English

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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its eighty-seventh session, 27 April–1 May 2020

#### Opinion No. 12/2020 concerning Mustafa Hassanat (Israel)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.

2. In accordance with its methods of work (A/HRC/36/38), on 6 January 2020 the Working Group transmitted to the Government of Israel a communication concerning Mustafa Hassanat. The Government has not replied to the communication. 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).



## Submissions

### *Communication from the source*

4. Mustafa Hassanat is a high school student who holds identity documents issued by the Palestinian Authority. He usually resides in a refugee camp in Bethlehem. He was 20 years old at the time of his arrest.

### Context

5. The source reports that Mr. Hassanat was arrested by the Israel Defense Forces on 5 June 2018. A group of approximately 20 soldiers came to his house in the refugee camp during the night. After searching the house and Mr. Hassanat himself, the soldiers handcuffed and blindfolded him before taking him to a military jeep. The source alleges that Mr. Hassanat was then abused and beaten by the soldiers, who used their hands and guns to beat him on his head, face and chest during the transfer to Ofer Prison. The source states that no reason was given for the arrest and no arrest warrant was shown. The arrest was solely based on military orders undisclosed to Mr. Hassanat at the time of the arrest.

6. Mr. Hassanat has been detained since 5 June 2018 in the custody of the Israel Defense Forces on an order from the West Bank Military Commander. He was first detained in Ofer Prison, before being transferred to Al-Naqab Prison shortly after his arrest. The source alleges that Mr. Hassanat was placed in solitary confinement when he started a hunger strike on 1 July 2019. On 17 July 2019, he was transferred to solitary confinement in Nitzan Prison. He is currently detained in Al-Naqab Prison, following a short week-long stay at the Al-Ramleh Prison clinic when he ended his hunger strike on 5 August 2019.

7. The source states that Mr. Hassanat is in administrative detention pursuant to article 285 of Israeli Military Order No. 1651, which empowers military commanders to detain an individual for up to six months if they have reasonable grounds to consider that the security of the area or public security requires the detention. According to the source, the detention is renewable. However, in practice, renewal of detention is carried out indefinitely, and is subject to the sole discretionary power of the commander.

8. The source reports that Mr. Hassanat's first detention order for six months was issued a few days after his arrest, and was scheduled to end on 4 January 2019. However, the detention was renewed for another six months just before the first order expired, with the detention extended until 3 June 2019. Shortly before that date, Mr. Hassanat received a third order, for the renewal of his detention until 2 January 2020.

9. Mr. Hassanat has been boycotting the Israeli military court since he was issued an administrative detention order. He refuses to attend any confirmation of detention order hearings and any appeals. The source claims that Mr. Hassanat went on a hunger strike from 1 July 2019 as a form of protest following the third renewal of his detention order and to demand his release. He ended his hunger strike on 5 August 2019 after being told that there would be only one more renewal of the detention order.

10. According to the source, the most recent renewal hearing was held on 2 December 2019 and a new detention order valid for a further six months was issued, expiring on 1 June 2020. Mr. Hassanat boycotted the hearing again and his lawyer filed an appeal, which is yet to be scheduled by the military court. Mr. Hassanat is seeking release by early May 2020 in order to be able to prepare for university admission exams.

### Analysis of violations

11. The source submits that the Israeli authorities have resorted to the policy of administrative detention as an alternative to a fair trial, given that it is often used when the authorities fail to conduct an investigation or prove the charges against a detainee.

12. The detention of persons on the basis of confidential material and information (to which neither the detainee nor their lawyer has access) constitutes a fundamental breach of the right to a fair trial under article 14 of the Covenant. In such circumstances, detainees are not afforded a fair opportunity to defend themselves, with or without the support of a lawyer.

13. The source emphasizes that Mr. Hassanat was at no point informed of the nature of and reasons for his detention and of the charges against him, since administrative detention does not involve charges. Furthermore, detention under article 285 of Military Order No. 1651 lasts for long periods of time. Such detention is subject to the discretion of the military commander concerned and is effectively without limit, regardless of the charges and evidence gathered in the case.

14. The source submits that Mr. Hassanat was not given the right to defend himself, in common with all administrative detainees, who do not know why they are in detention and have not been informed of the charges against them and thus have no means to defend themselves.

15. In addition, the source claims that Mr. Hassanat was not presumed innocent until proven guilty. According to the source, the military court has presumed that Mr. Hassanat is guilty merely by reason of having had an administrative detention order filed against him by the West Bank Military Commander.

16. Furthermore, the source argues that administrative detention hearings are not fair and public, but rather are held in closed sessions that include the military judge, the military prosecution, the detainee and his or her lawyer. In Mr. Hassanat's case, the secret file which is the basis of his detention has been discussed in a closed hearing that only includes the military judge and the military prosecution.

17. For these reasons, the source concludes that the detention of Mr. Hassanat is arbitrary, in particular under category III.

#### *Response from the Government*

18. On 6 January 2020, the Working Group transmitted the source's allegations to the Government under its regular communication procedure, requesting the Government to provide detailed information by 6 March 2020 about the current situation of Mr. Hassanat. The Working Group also requested the Government to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of Israel under international human rights law. Moreover, the Working Group called upon the Government to ensure Mr. Hassanat's physical and mental integrity.

19. The Working Group regrets that it did not receive a response from the Government to its communication. The Government did not request an extension of the time limit for its reply, as is provided for in the Working Group's methods of work.

20. The Working Group notes with concern the silence of the Government in not availing itself of the opportunity to respond to the allegations made in the present case and in other communications.<sup>1</sup> Indeed, the Government has not provided a substantive response to the Working Group's communications for over 10 years, since 2007.<sup>2</sup> The Working Group urges the Government to engage constructively with it on all allegations relating to the arbitrary deprivation of liberty.

#### **Discussion**

21. 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.

<sup>1</sup> Opinions Nos. 84/2019, 73/2018, 34/2018, 86/2017, 44/2017, 31/2017, 3/2017, 24/2016, 15/2016, 13/2016, 43/2014, 58/2012, 20/2012, 3/2012, 9/2010, 5/2010, 23/2001, 31/2000, 18/2000, 17/2000, 16/2000, 4/1999, 11/1998, 10/1998, 9/1998, 8/1998, 24/1996, 18/1996, 17/1996, 16/1996, 26/1993, 18/1993, 17/1993 and 36/1992. The Government submitted responses to the Working Group's communications in relation to opinions Nos. 26/2007, 3/2004, 24/2003 and 16/1994.

<sup>2</sup> In relation to opinion No. 86/2017, the Government requested and received an extension of time in which to respond to the Working Group's communication, but did not submit any substantive response.

22. 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 the international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (A/HRC/19/57, para. 68). In the present case, the Government has chosen not to challenge the *prima facie* credible allegations made by the source.

23. The Working Group received credible allegations that Mr. Hassanat had been arrested on 5 June 2018, that no arrest warrant had been shown to him and that he had not been given a reason for the arrest. Furthermore, the arrest had been solely based on military orders undisclosed to Mr. Hassanat at the time of the arrest. In addition, the Working Group was notified that Mr. Hassanat had not been informed of the charges against him and therefore had no means of defending himself. In recent cases, the Working Group has found that similar violations of arrest procedures have been committed by the Israeli authorities, suggesting that the source's claims are credible,<sup>3</sup> and the Working Group notes a pattern. Accordingly, the Working Group finds that the Government has violated article 9 (2) of the Covenant, which provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for the arrest and shall be promptly informed of any charges.

24. In addition, the Working Group is aware that when a group of approximately 20 soldiers came to Mr. Hassanat's house in the refugee camp during the night, they conducted a search of the house, as well as a search of Mr. Hassanat himself. In the present case, the evidence against Mr. Hassanat has not been disclosed and it is not clear whether the searches yielded any evidence used to justify his administrative detention.

25. The Working Group is conscious that the Israeli military court has denied Mr. Hassanat and his lawyer access to information relied upon in issuing four administrative detention orders against Mr. Hassanat, and that the secret file that is the basis of Mr. Hassanat's detention has only been discussed in a closed hearing between the military judge and the military prosecution.

26. As the Human Rights Committee has stated, disclosure to the detainee of at least the essence of the evidence on which the decision is taken to issue an administrative detention order is necessary in order to ensure that the requirements of article 9 of the Covenant are met.<sup>4</sup> The Working Group considers that Mr. Hassanat has not been informed of the nature and cause of his detention in sufficient detail to be able to challenge the lawfulness of his detention. He has been held for nearly two years, since 5 June 2018, without the ability to exercise his rights under article 9 (4) of the Covenant.<sup>5</sup> The fact that Mr. Hassanat has boycotted the Israeli military court since he was issued with an administrative detention order does not change this conclusion. Even if he had attended the hearings to confirm his detention order and any appeals, he still would not have the necessary information to challenge his detention.

27. Judicial oversight of detention is a fundamental safeguard of personal liberty<sup>6</sup> and is essential in ensuring that detention has a legal basis. Given that Mr. Hassanat has effectively been unable to challenge his detention, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant has also been violated.

<sup>3</sup> Opinions Nos. 73/2018, 34/2018, 86/2017, 44/2017, 31/2017, 3/2017, 15/2016 and 13/2016.

<sup>4</sup> Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 15. The Human Rights Committee has also expressed concern specifically in relation to the use by Israel of administrative detention based on secret evidence (see CCPR/C/ISR/CO/4, para. 10).

<sup>5</sup> The Working Group has made similar findings in recent cases involving Israel concerning detention based on evidence not made available to the detainee (see opinions Nos. 73/2018, 34/2018, 86/2017 and 44/2017).

<sup>6</sup> 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, para. 3.

28. It is also essential that the review of the lawfulness of detention be carried out by an independent and impartial authority.<sup>7</sup> In the present case, Mr. Hassanat's detention orders were reviewed, approved and extended four times by a military court even though Mr. Hassanat is a civilian. In previous cases concerning Israel, the Working Group has emphasized that military courts and tribunals are not independent or impartial because they are composed of military personnel who are subject to military discipline and dependent on superiors for promotion.<sup>8</sup> The Working Group has also set out minimum guarantees pertaining to military justice, including that military tribunals should only be competent to try military personnel for military offences, and not civilians.<sup>9</sup> The Working Group considers that the right to an independent review should be given greater weight in the Occupied Palestinian Territory, which has been under military occupation, and in which military law has been applied to Palestinians, over the last 53 years – since 1967.<sup>10</sup>

29. Furthermore, Mr. Hassanat has been subjected to four successive administrative detention orders pursuant to Military Order No. 1651, and was placed in detention following his arrest on 5 June 2018 without charge or trial. The Working Group concurs with the Human Rights Committee that security detention (also known as administrative detention or internment) not in contemplation of prosecution on a criminal charge presents severe risks of arbitrary deprivation of liberty. Such detention would normally amount to arbitrary detention, as other effective measures of addressing the threat, including the criminal justice system, would be available. Administrative detention must therefore be exceptional. As the Human Rights Committee has pointed out:

If, under the most exceptional circumstances, a present, direct and imperative threat is invoked to justify the detention of persons considered to present such a threat, the burden of proof lies on States parties to show that the individual poses such a threat and that it cannot be addressed by alternative measures, and that burden increases with the length of the detention. States parties also need to show that detention does not last longer than absolutely necessary, that the overall length of possible detention is limited and that they fully respect the guarantees provided for by article 9 in all cases.<sup>11</sup>

30. In the present case, the Government had an opportunity, but has failed to provide any information or evidence to demonstrate that Mr. Hassanat posed a present, direct and imperative threat to state security, and how this threat has persisted during his ongoing detention for nearly two years. In these circumstances, the Working Group concludes that the Government has not demonstrated that Mr. Hassanat poses a threat to security, and his detention therefore lacks legal basis.

31. For these reasons, the Working Group finds that the Government has failed to establish a legal basis for Mr. Hassanat's arrest and detention. His detention is arbitrary under category I.

32. The source further alleges that the Government violated Mr. Hassanat's right to a fair trial. The Working Group notes that this is a case of administrative detention, which does not involve charges or trial within the criminal justice system, and that the fair trial guarantees in article 14 of the Covenant would not normally apply. However, as the Human Rights Committee has stated, the nature of the sanction must be considered, regardless of its classification under domestic law, in determining whether the fair trial guarantees in article 14 apply in each case:

<sup>7</sup> Ibid., guideline 4, para. 55; and opinion No. 46/2019, para. 54. See also International Committee of the Red Cross, "Internment in armed conflict: basic rules and challenges" (Geneva, November 2014), p. 9.

<sup>8</sup> Opinions Nos. 73/2018, 24/2016, 58/2012 and 3/2012.

<sup>9</sup> A/HRC/27/48, para. 69.

<sup>10</sup> Opinion No. 31/2017, para. 31. See also opinion No. 3/2012, para. 23.

<sup>11</sup> Human Rights Committee, general comment No. 35, para. 15. See also A/HRC/38/15, paras. 118.77–118.83 (in which States expressed concern during the most recent universal periodic review of Israel about the practice of administrative detention).

Criminal charges relate in principle to acts declared to be punishable under domestic criminal law. The notion may also extend to acts that are criminal in nature with sanctions that, regardless of their qualification in domestic law, must be regarded as penal because of their purpose, character or severity.<sup>12</sup>

33. The Working Group has adopted this reasoning in its jurisprudence, noting that the provisions of article 14 of the Covenant on the right to a fair trial are applicable where the sanctions imposed, because of their purpose, character or severity, must be regarded as penal, even if, under national law, the detention is qualified as administrative.<sup>13</sup> Without such an enquiry into the nature of the sanction imposed, States could effectively circumvent their obligations under the Covenant simply by characterizing their detention regime as administrative under domestic law. This is particularly significant in the context of administrative detention orders imposed in Israel, which appear to be used as a substitute for criminal proceedings, rather than to prevent an imminent threat, when there is not enough evidence to charge and prosecute an individual.<sup>14</sup>

34. In its jurisprudence, the Working Group has found that in cases involving excessive length of detention, the individual shall enjoy the same guarantees as in criminal cases, including those under article 14 of the Covenant, even if the detention is qualified as administrative under national law.<sup>15</sup> In the present case, Mr. Hassanat appears to have been held for nearly two years in prison in similar conditions to those serving a criminal sentence. As a result, his detention must be regarded as penal in nature, and the Working Group will therefore consider whether his detention met the requirements of article 14 of the Covenant and other relevant provisions. In doing so, the Working Group reiterates that the Government did not challenge any of the allegations made by the source.

35. The Israeli military court issued and confirmed four administrative detention orders against Mr. Hassanat. As noted earlier, the Working Group does not consider that Israeli military courts meet the standards of an independent and impartial tribunal for the purposes of considering matters involving civilians. Moreover, the Working Group has consistently held the view that civilians must never be brought before military courts, and that to do so violates the Covenant and customary international law.<sup>16</sup> Accordingly, the Working Group finds that Mr. Hassanat was deprived of the right to have his matter determined in a fair hearing by a competent, independent and impartial tribunal under article 14 (1) of the Covenant. Furthermore, the Working Group is convinced on the basis of the information submitted by the source, which was not addressed by the Government, that the proceedings against Mr. Hassanat have been held in closed sessions, contrary to his right to a public hearing under article 14 (1) of the Covenant. There is no indication that any of the exceptions to the right to a public hearing apply in the present case.

36. In addition, Mr. Hassanat remains in detention nearly two years after his arrest, without charge or trial, and appears to be detained indefinitely under successive detention orders. By detaining Mr. Hassanat for such a lengthy period with no real opportunity of release, the military court and prosecution have effectively denied Mr. Hassanat his right to the presumption of innocence under article 14 (2) of the Covenant. His rights to be promptly informed of any charges against him and to be tried without undue delay under article 14 (3) (a) and (c) of the Covenant have also been violated.

<sup>12</sup> Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 15. See also *Pertterer v. Austria* (CCPR/C/81/D/1015/2001), para. 9.2.

<sup>13</sup> Opinions Nos. 73/2018, 31/2017, 43/2014, 58/2012, 45/2012, 20/2012 and 3/2012. See also A/HRC/37/42, para. 17; and Working Group on Arbitrary Detention, deliberation No. 9, A/HRC/22/44, paras. 68–69.

<sup>14</sup> A/HRC/37/42, para. 21.

<sup>15</sup> Opinions Nos. 73/2018, para. 60 (administrative detention for nearly one year); and 31/2017, para. 30 (administrative detention for 10 months).

<sup>16</sup> A/HRC/27/48, paras. 66–71.

37. Furthermore, as noted earlier, the source alleges that the military court has denied Mr. Hassanat access to information in a secret file relied upon in issuing four administrative detention orders against him, in violation of the principle of equality of arms. The Working Group recalls that every individual deprived of liberty has the right to access material related to their detention, including information that may assist the detainee in arguing that the detention is not lawful or that the reasons for the detention no longer apply.<sup>17</sup> However, that right is not absolute, and the disclosure of information may be restricted if such a restriction is necessary and proportionate in pursuing a legitimate aim, such as protecting national security, and if the State has demonstrated that less restrictive measures would be unable to achieve the same result, such as providing redacted summaries that clearly point to the factual basis for the detention.<sup>18</sup> In the present case, the Government did not provide any justification as to why Mr. Hassanat could not access all of the information in his case. This violated his rights under article 14 (1) and (3) (b) of the Covenant to a fair hearing and to have adequate time and facilities for the preparation of a defence “in full equality”.<sup>19</sup>

38. The Working Group concludes that these violations of the right to a fair trial were of such gravity as to render Mr. Hassanat’s deprivation of liberty arbitrary under category III.

39. In addition, in its jurisprudence, the Working Group has noted a pattern by the Israeli authorities of using administrative detention to detain Palestinians on an indefinite basis without charge or trial.<sup>20</sup> In the absence of an explanation from the Government, the Working Group concludes that Mr. Hassanat, who is Palestinian, was detained on a discriminatory basis, namely his national, ethnic and social origin. The Working Group considers that he was also detained on the basis of his gender, as there is a clear pattern of targeting young males for detention. In these circumstances, the Working Group finds that the Government has violated articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant, and that Mr. Hassanat’s deprivation of liberty was arbitrary under category V.

40. The Working Group wishes to express its serious concern about the alleged treatment of Mr. Hassanat during his arrest and detention. According to the source, Mr. Hassanat was arrested by the Israel Defense Forces during the night, searched, handcuffed, blindfolded, abused, and beaten by the soldiers with their hands and guns. He was subsequently subjected to multiple transfers between prisons, as well as placement in solitary confinement when he commenced a hunger strike.<sup>21</sup> The hunger strike reportedly lasted for over one month. The ongoing detention of Mr. Hassanat has clearly interrupted his education, as he is seeking release in order to prepare for university admission exams. Moreover, the prolonged administrative detention of Mr. Hassanat in the absence of any charges, known evidence or trial may itself amount to ill-treatment.<sup>22</sup> The Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

41. The present case is one of several cases brought before the Working Group in recent years concerning the arbitrary deprivation of liberty in Israel. The Working Group notes that many of the cases involving administrative detention in Israel and the Occupied Palestinian Territory follow a familiar pattern of indefinite detention through consecutive administrative detention orders without charges or trial (often based on secret evidence and

<sup>17</sup> 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, principle 12 and guidelines 11 and 13.

<sup>18</sup> *Ibid.*, guideline 13, paras. 80–81.

<sup>19</sup> Opinions Nos. 78/2018, paras. 78–79; 18/2018, para. 53; 89/2017, para. 56; 50/2014, para. 77; and 19/2005, para. 28 (b). See also opinion No. 70/2019.

<sup>20</sup> Opinions Nos. 73/2018, 34/2018, 86/2017, 44/2017, 31/2017 and 24/2016. See also A/HRC/38/15, paras. 118.159, 118.162, 118.164 and 119.4.

<sup>21</sup> See CAT/C/ISR/CO/5, para. 27 (noting that persons deprived of liberty who engage in hunger strikes should never be subjected to ill-treatment or punished for the hunger strike and must be provided with necessary medical care in accordance with their wishes).

<sup>22</sup> A/HRC/37/42, para. 17.

often under military jurisdiction), and with limited or no judicial recourse to review the lawfulness of the detention.<sup>23</sup> 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.<sup>24</sup>

42. Given the serious allegations made in the present case, as well as the pattern of arbitrary administrative detention found in other cases brought to the Working Group, the Working Group has decided to refer the matter to the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.

43. Finally, the Working Group would welcome the opportunity to work constructively with the Government in addressing the arbitrary deprivation of liberty. On 7 August 2017, the Working Group sent a request to the Government to undertake a country visit, including to the Occupied Palestinian Territory, and awaits a positive response. In this context, the Working Group recalls the invitation dated 12 September 2014 extended to it by the Permanent Observer Mission of the State of Palestine to the United Nations Office and other international organizations in Geneva to conduct an official visit to the Occupied Palestinian Territory.

### **Disposition**

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

The deprivation of liberty of Mustafa Hassanat, being in contravention of articles 2, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2 (1) and (3), 9, 14 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, III and V.

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

46. The Working Group considers that, taking into account all the circumstances of the case, in particular the risk of harm to Mr. Hassanat's health, the appropriate remedy would be to release Mr. Hassanat immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global coronavirus disease (COVID-19) pandemic and the threat that it poses in places of detention, the Working Group calls on the Government to take urgent action to ensure the immediate release of Mr. Hassanat.

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

48. The Working Group requests the Government to bring its laws, particularly Military Order No. 1651, into conformity with the recommendations made in the present opinion and with the commitments made by Israel under international human rights law.

49. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to: (a) the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and (b) the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, for appropriate action.

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

<sup>23</sup> Opinions Nos. 73/2018, 34/2018, 86/2017, 44/2017, 31/2017, 24/2016, 43/2014, 58/2012, 20/2012, 3/2012, 9/2010, 5/2010, 26/2007, 3/2004, 23/2001, 17/2000, 16/2000, 11/1998, 10/1998, 9/1998, 8/1998, 24/1996, 18/1996, 17/1996, 16/1996, 16/1994, 18/1993, 17/1993 and 36/1992.

<sup>24</sup> Opinion No. 47/2012, para. 22.

### Follow-up procedure

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

52. 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.

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

54. 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.<sup>25</sup>

[Adopted on 1 May 2020]

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<sup>25</sup> Human Rights Council resolution 42/22, paras. 3 and 7.