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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its eightieth session, 20–24 November 2017

Opinion No. 73/2017 concerning María Laura Pace and Jorge Oscar Petrone (Argentina)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. 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 of 30 September 2016.

2. In accordance with its methods of work (A/HRC/33/66), on 2 March 2017 the Working Group transmitted to the Government of Argentina a communication concerning María Laura Pace and Jorge Oscar Petrone. The Government replied to the communication on 2 May 2017; its response was transmitted to the source on 7 July 2017 for additional comments, which were received on 21 July 2017. 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 International Covenant on Civil and Political Rights (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. María Laura Pace, an Argentine notary public, has been detained since 24 May 2016. Jorge Oscar Petrone is an Argentine national. Both are detained in Bouwer prison in Córdoba Province, and both were sentenced to deprivation of liberty during the so-called Land Registry Megatrial, which consisted of several criminal trials and proceedings relating to events recorded between 2003 and 2006.

5. The source reports that the Office of the Attorney General of Córdoba Province decided as of 2006, through administrative acts Nos. 30/2006, 31/2008, 67/2008 and 04/2009, that all complaints relating to the Córdoba Land Registry should be referred only to the Fifth Rota Prosecutor's Office of Judicial District No. 1. In addition, Córdoba Criminal Court No. 10 issued ruling No. 26 of 21 May 2008, establishing that cases relating to the Land Registry should not be allocated by rota or by drawing lots, and granting itself exclusive jurisdiction to deal with such cases. The source claims that this reservation of jurisdiction through administrative acts and a judicial ruling, whereby a special or ad hoc court was established, constitutes a violation of the right of Ms. Pace and Mr. Petrone to be tried by a competent court (natural judge), in accordance with the Córdoba Code of Criminal Procedure, domestic legislation and international treaties.

6. According to the information received, Ms. Pace was tried and convicted on four occasions by the same court (Córdoba Criminal Court No. 10) of the same offence (ideological forgery), without recidivism. The sentences were handed down on 8 April 2009, 17 August 2010, 25 September 2012 and 10 January 2014. Prior to that, Ms. Pace had lodged a criminal complaint against certain members of the court in question, which would have required them to recuse themselves from the case, pursuant to article 60 of the Code of Criminal Procedure. However, the judges concerned did not recuse themselves; instead, they proceeded to try Ms. Pace and to impose the four sentences.

7. The source claims that the denial of the right to disqualify a judge from the proceedings constituted a violation of the right to be tried by an impartial court. Furthermore, the fact that the defendant was tried on successive occasions by the same court allegedly indicates the existence of bias against her. At the time when the submissions were received, a fifth case against Ms. Pace remained pending before the same court.

8. Mr. Petrone was convicted, for his part, of appropriation of property and ideological forgery by Córdoba Criminal Court No. 10 and sentenced to 5 years and 6 months' imprisonment on 10 January 2014. Subsequently, on 14 March 2014, the High Court of Justice of Córdoba ordered his release on the grounds that the sentence was not final and that the preventive detention order failed to meet the relevant legal requirements. Mr. Petrone was required instead to post bail, appear in court every fortnight and remain in the province.

9. According to the source, on 19 August 2015 the High Court of Justice dismissed an extraordinary appeal lodged on behalf of Mr. Petrone. As a consequence, Court No. 10 ordered his arrest on the following day, 20 August 2015. He was arrested on that day after appearing in court (in compliance with the requirement that he appear in court every fortnight).

10. The source claims that Court No. 10 then issued another preventive detention order, instead of referring the case to the enforcement judge for execution of the sentence. As a result, Mr. Petrone's case remained at the stage of preventive detention, subject to the jurisdiction of Court No. 10, instead of progressing to the stage of sentence enforcement, under the supervision of the competent courts. The source alleges that if Mr. Petrone's case had been referred to the court responsible for sentence enforcement, he would have had access to procedural benefits such as commutation of the sentence, probation, the trust phase and semi-imprisonment. In light of the foregoing, the source asserts that there is no legal basis for imposing preventive detention on Mr. Petrone, since he has already been

sentenced. The enforcement of his sentence should therefore be initiated in accordance with the standard proceedings.

11. In addition, after the High Court of Justice dismissed the extraordinary appeals, Court No. 10 imposed preventive detention on Mr. Petrone but allowed the other individuals who had been sentenced in the same case to remain on conditional release. Court No. 10 subsequently referred their cases to the enforcement court for execution of the sentence without imposing preventive detention. According to the source, this constitutes discriminatory treatment, inasmuch as the decision to deprive Mr. Petrone of his liberty was based on his economic condition and resulted in unequal treatment, restricting his right to personal liberty, while the other persons convicted during the Land Registry Megatrial received more favourable treatment.

12. The source emphasizes that Mr. Petrone never made plans to flee and had no criminal record, but rather complied with his obligations by remaining in the province, posting bail (a larger amount than the others) and attending court twice monthly during the period when he was on conditional release. In spite of that, he received a harsher sentence, was not granted conditional release while the extraordinary appeals were being considered (unlike the other convicted persons), and was not allowed to start serving his prison sentence under the jurisdiction of an enforcement court (the other convicted persons were allowed to do so when their appeals were eventually dismissed). According to the source, this was all due to Mr. Petrone's economic condition and therefore constitutes discrimination.

13. Based on the source's allegations, the situation could be deemed to constitute arbitrary detention under category I, on the grounds that there is no legal basis for the preventive detention of Mr. Petrone. In addition, with regard to the right to be tried in accordance with due process by a competent and impartial court, the allegations made by the source could indicate partial non-observance of due process norms to the detriment of Ms. Pace and Mr. Petrone, under category III. Lastly, the detention of Mr. Petrone could be considered discriminatory and therefore arbitrary under category V, on the grounds that he suffered a more burdensome restriction of his right to personal liberty than other convicted persons on account of his economic condition.

Response from the Government

14. On 2 March 2017, the Working Group transmitted the communication to the Government of Argentina through its regular procedure. The Working Group requested that the Government respond to the communication by presenting its arguments and the details of the case. The Government submitted its response on 2 May 2017.

Judicial proceedings

A. Jorge Oscar Petrone

15. The Government states that Mr. Petrone was detained on 8 January 2014 in connection with cases Nos. 230527 and 1015074, *Enz Alfredo Miguel and others on charges of ideological forgery, etc.*, which formed part of the so-called Land Registry Megatrial. In ruling No. 1 of 14 February 2014, Córdoba Criminal Court No. 10 declared Mr. Petrone a criminally responsible key participant in the offences of continuing ideological forgery and appropriation of property, committed as a series of offences, and sentenced him to 5 years and 6 months' imprisonment and a fine of 80,000 Argentine pesos (Arg\$) plus legal fees and costs, converting his detention into preventive detention and ordering that he continue to be held in Reverend Luchesse Prison Complex No. 1, at the disposal of the court. In that ruling, Court No. 10 also acquitted Mr. Petrone of a second charge of appropriation of property, since the statute of limitations for criminal proceedings had expired.

16. The Government states that Mr. Petrone's defence counsel lodged an appeal in cassation against this ruling based on the civil and criminal verdict. The appeal was dismissed by the Criminal Chamber of the High Court of Justice in a ruling of 30 December 2014. Mr. Petrone's counsel then filed an extraordinary federal appeal, which was declared

formally inadmissible on 19 August 2015, leading him to file a complaint with the Supreme Court. The case is currently pending before the Supreme Court, which means that the sentence is not yet final.

17. On the other hand, on 14 March 2014 the Criminal Chamber of the High Court of Justice upheld the appeal in cassation filed by Mr. Petrone's counsel against the preventive detention order handed down by Court No. 10 and extended its decision in that regard to his co-defendants, including Ms. Pace. On 17 March 2014 Mr. Petrone was released, pursuant to an order by Enforcement Court No. 3, after having posted bail as required by the High Court of Justice. He had thus been deprived of his liberty for a period of two months and nine days.

18. According to the Government, after the sentence handed down by Court No. 10 was upheld by the Criminal Chamber and the extraordinary federal appeal was declared inadmissible, Court No. 10 overturned the decision to release Mr. Petrone on 19 August 2015, and he was returned to preventive detention on 20 August 2015. In response, Mr. Petrone's defence counsel lodged an appeal in cassation, which was dismissed by the Criminal Chamber of the High Court of Justice on 25 February 2016. His counsel then filed an extraordinary federal appeal, which was declared formally inadmissible on 16 May 2016. There is no record of a direct appeal being filed with the Supreme Court.

19. On 19 February 2016, Court No. 10 dismissed the request that Mr. Petrone's preventive detention be converted to house arrest, on the grounds that the complaint filed with the Supreme Court by his defence counsel was still pending. In response, his defence counsel lodged an appeal in cassation, which was dismissed on 15 September 2016 by the Criminal Chamber of the High Court of Justice. His counsel then filed an extraordinary federal appeal, which was declared inadmissible by the Criminal Chamber on 7 December 2016. There is no record of complaint proceedings being brought before the Supreme Court.

20. On the other hand, the Government states that, on 8 March 2017, Court No. 10 requested the competent enforcement court to rescind order No. 860 of 23 September 2014, in view of the fact that Mr. Petrone had been deprived of his liberty. Consequently, in an order handed down the same day, Enforcement Court No. 3 cancelled the bail that had been posted by Mr. Petrone.

21. Subsequently, on 24 April 2017, Court No. 10 set 11 December 2020 as the provisional date for completion of the prison sentence imposed on Mr. Petrone. This information was passed on to the Enforcement Court.

22. Lastly, Mr. Petrone's defence counsel appeared before Court No. 10 and requested that the criminal proceedings be terminated on the basis of article 59 (6) of the Criminal Code; that request was rejected on 19 February 2016. His counsel then filed an appeal in cassation, which was declared formally inadmissible by the Criminal Chamber of the High Court of Justice on 14 December 2016. In response to that decision, his counsel first lodged an appeal for annulment, which was declared formally inadmissible by the Criminal Chamber on 21 March 2017, and then an extraordinary appeal, which was declared inadmissible on 18 April 2017. As far as the Government is aware, defence counsel has not filed a direct appeal with the Supreme Court.

23. The appeal in cassation filed by Mr. Petrone's defence counsel against the decision of 15 December 2016 to dismiss the request to ease the terms of his preventive detention remains pending before the Criminal Chamber of the High Court of Justice.

B. María Laura Pace

24. According to the Government, several sentences have been imposed on Ms. Pace by Córdoba Criminal Court No. 10 in the domestic proceedings brought against her.

25. In sentence No. 3 of 3 August 2009, Ms. Pace was convicted as a co-perpetrator of ideological forgery (articles 45 and 293 of the Criminal Code) and sentenced to 3 years and 10 months' imprisonment, a fine of Arg\$ 10,000 and disqualification for seven years (cases Nos. 154418 and 139110). Her defence counsel filed an appeal in cassation against this sentence, objecting only to the penalty imposed; the appeal was dismissed and the sentence

upheld by the Criminal Chamber of the High Court of Justice in ruling No. 154 of 10 June 2010. Her counsel then filed an extraordinary federal appeal, which was withdrawn by Ms. Pace. The sentence is therefore final.

26. On 26 July 2010, Ms. Pace was convicted of ideological forgery committed as a series of offences (articles 45, 193 and 55 of the Criminal Code) and sentenced to 3 years and 6 months' imprisonment and specific disqualification for seven years (case No. 95069). This penalty was combined with the previous one, entailing a single penalty of 5 years and 6 months' imprisonment, a fine of Arg\$ 10,000 and disqualification for ten years. The sentence was not appealed in cassation and is therefore final.

27. The Government also states that, on 17 August 2010, Ms. Pace was convicted of ideological forgery committed as a series of offences (articles 45, 293 and 55 of the Criminal Code) and sentenced to 3 years' imprisonment, a fine of Arg\$ 7,000 and disqualification for six years (cases Nos. 91972 and 167157). Her defence counsel filed an appeal in cassation against this sentence, objecting only to the combined penalties. The appeal was dismissed by the Criminal Chamber of the High Court of Justice in ruling No. 111 of 24 May 2011. No extraordinary federal appeal was lodged, which means that the sentence is final.

28. On 25 September 2012, Ms. Pace was convicted of continuing ideological forgery (articles 45 and 293 of the Criminal Code) and sentenced to 3 years' imprisonment, a fine of Arg\$ 15,000 and disqualification for seven years (case No. 161070). Her defence counsel filed an appeal in cassation against this sentence, objecting to the verdict concerning the criminal involvement of Ms. Pace. The appeal was dismissed on 30 December 2014 by the Criminal Chamber of the High Court of Justice. The extraordinary federal appeal that was subsequently filed was also dismissed by the Criminal Chamber on 29 August 2015. As far as the Government is aware, a direct appeal has not been filed with the Supreme Court.

29. In sentence No. 1 of 14 February 2014, Ms. Pace was convicted as a co-perpetrator of ideological forgery (articles 45 and 293 of the Criminal Code) and sentenced to 3 years and 6 months' imprisonment, a fine of Arg\$ 20,000 and disqualification for ten years (cases Nos. 235252, 230527 and 1015074), resulting in a combined penalty of 8 years' imprisonment, a fine of Arg\$ 28,000 and specific disqualification for ten years. Her defence counsel lodged an appeal in cassation against this sentence, objecting to the evidentiary basis for the verdict concerning her involvement in the offence, and to the penalty, the combined penalties and the imposition of preventive detention. The Criminal Chamber of the High Court of Justice upheld the appeal relating to preventive detention (ruling No. 36) on 14 March 2014, but dismissed the appeal relating to the criminal conviction (ruling No. 516) on 30 December 2014. Ms. Pace's counsel filed an extraordinary federal appeal against the second ruling, which was declared inadmissible by the Criminal Chamber on 19 August 2015. Her counsel then filed a complaint with the Supreme Court, which was dismissed on 24 May 2016. All domestic remedies have thus been exhausted, which means that the sentence is final.

30. Lastly, on 27 March 2017 Ms. Pace was convicted, in connection with case No. 954262, *Gabarro*, of continuing and repeated ideological forgery (articles 45, 293, 55 *a contrario sensu* and 55 of the Criminal Code) and sentenced to 3 years' imprisonment and specific disqualification for double the term of imprisonment. This sentence was combined with the previous ones, entailing a sentence of 10 years and 6 months' imprisonment, a fine of Arg\$ 38,000 and specific disqualification from the notarial profession for ten years.

Analysis of the issues raised

31. The National Secretariat for Human Rights and Cultural Pluralism notes on behalf of the Government that on 20 March 2017, in the proceedings entitled *Pace, María Laura – Execution of custodial sentence*, Enforcement Court No. 2 granted Ms. Pace conditional release for the remainder of her sentence, which will end on 9 December 2019. Hence Ms. Pace is not currently deprived of her personal liberty.

32. The National Secretariat for Human Rights and Cultural Pluralism nonetheless draws attention to the observations of the High Court of Justice regarding the alleged

violation of the right to be heard by an impartial court in the judicial proceedings against Ms. Pace described above. The High Court notes that Ms. Pace never objected to the involvement of Córdoba Criminal Court No. 10 and that the appeals filed in the various cases referred to other grievances.

33. In that regard, the High Court of Justice further notes that, in case No. 161070, which concerned Ms. Pace, some of the other defendants challenged the involvement of Court No. 10, using similar arguments to those submitted by the source (violation of the natural judge principle). That complaint was dismissed by the Criminal Chamber of the High Court of Justice in ruling No. 514 of 30 December 2014, on the grounds that the involvement of Court No. 10 was consistent with the rules of linkage based on the perpetrator of the offence, consolidation and severance of proceedings. According to the Government's response, the High Court of Justice also states that Court No. 10 is a trial court in all proceedings relating to the so-called Land Registry Megatrial because it was selected at random through a computerized process, in accordance with regulatory decision No. 668/2003, which was handed down by the High Court of Justice pursuant to its legal and constitutional authority to oversee the regulation of case allocation among courts with the same territorial and material jurisdiction (arts. 166 (2) and 12 of the Constitution of Córdoba Province and article 25 of the Organic Act on the Judiciary). Moreover, based on the principle of jurisdiction by connection, given that other proceedings had previously been brought against the defendant María Laura Pace (starting with case No. 139110, *Cardarelli, Angélica and others*), the Court undertook to hear these cases, which should follow a similar course, through consolidation of proceedings (art. 47 (3) of the Code of Criminal Procedure), without prejudice to the later severance of proceedings based on article 368 of the Code of Criminal Procedure (High Court of Justice, *Arcana*, decision No. 425 of 20 December 2013).

34. The High Court of Justice also states that the co-defendant who submitted a motion challenging the court maintained this grievance (violation of the natural judge principle) in an extraordinary federal appeal that was declared inadmissible (A.I. No. 415 of 19 August 2015) and that the verdict in question was final, as the complaint lodged with the Supreme Court was declared inadmissible on 19 April 2016.

35. For these reasons, the Government asserts that the alleged violation of the right to the natural judge was not a point of contention in the domestic appeal proceedings brought by Ms. Pace.

36. In addition, the motion challenging two members of Court No. 10 submitted by Ms. Pace's defence counsel in case No. 954262 was declared time-barred and inadmissible by Court No. 10 on 8 April 2015. Her counsel lodged an appeal in cassation against that decision before the Criminal Chamber of the High Court of Justice. The appeal was dismissed on 9 June 2015, inter alia on the following grounds: (a) the motion should have been submitted to the court during the summons period, unless it was based on facts that took place or came to light at a later date (article 67 of the Code of Criminal Procedure); (b) the motion was quite clearly time-barred, since it was submitted almost 10 months after the facts on which it was based took place; and (c) the judges' prior involvement, in the performance of their duties, including as a result of the consolidation of proceedings, and the existence of verdicts that conflict with the defendant's interests are not sufficient grounds to suspect a lack of impartiality on the part of the judge, if no other circumstances giving serious reason to infer or suspect a lack of impartiality are invoked.

37. The Government states that Ms. Pace's defence counsel filed an extraordinary federal appeal against the Criminal Chamber's decision. The appeal was declared formally inadmissible on 4 September 2015. Her counsel then lodged a complaint with the Supreme Court, which was dismissed on 29 March 2016.

38. According to the Government, this shows that, in the legal proceedings in question, the judge was duly appointed and impartial, fair trial guarantees were fully respected and the defendant could exercise her right of defence effectively before the competent courts, which dealt with her claims within a reasonable period of time.

39. With respect to Mr. Petrone's alleged situation, the Government states, first of all, that he has been under the jurisdiction of Enforcement Court No. 3 since 14 March 2014

(the date on which Court No. 10 transmitted his file), while Court No. 10 retains the power to change or put an end to the coercive measures imposed. With a view to providing further details, the Government attached a report on Mr. Petrone's state of health and access to private services, as well as his access to educational activities and business communications.

40. With regard to the alleged unequal treatment of Mr. Petrone, the Government states that the High Court of Justice gave a detailed description of the situation of the other co-defendants in the case involving Mr. Petrone, which is outlined above. The Court then noted that the alleged discrimination was not mentioned in the numerous appeals filed by his defence counsel regarding his detention. The Court further noted that preventive detention had been imposed on other co-defendants, including before the verdict was reached, and that there were special grounds for the release of the other defendants. It is therefore clear, according to the Court, that there has been no unequal treatment of Mr. Petrone on the basis of his economic condition or on any other grounds.

41. The Court maintains that the sentence handed down to Mr. Petrone is not final because the direct appeal lodged with the Supreme Court is pending, which means that his deprivation of liberty is a coercive measure.

42. With regard to the procedural risks that warrant the use of a preventive coercive measure, the Government notes that the judicial decisions of both Court No. 10 and the High Court of Justice reaffirm the risks of release, but that an appeal in cassation against the refusal of Court No. 10 to ease the terms of his detention or to terminate it remains pending.

43. The Government also states that the complaints submitted to the Working Group were not submitted to the domestic courts. This means that the State was not given the opportunity to deal with the complaints through its domestic courts and provide a remedy where appropriate.

44. Lastly, with respect to Mr. Petrone, the Government reiterates that the Supreme Court is still considering the complaint filed following the dismissal of the extraordinary federal appeal against his conviction, as well as a claim that the statute of limitations for proceedings brought by provincial courts has expired.

45. For all the above reasons, the Government maintains that, in the domestic proceedings brought against Ms. Pace and Mr. Petrone, the judge was duly appointed and impartial, fair trial guarantees were duly respected, the defendants were able to exercise their right of defence effectively by seeking available domestic remedies, and their claims were being addressed by the various competent courts within a reasonable time frame.

46. The Government concludes that the situation concerning Ms. Pace and Mr. Petrone that has been brought to the attention of the Working Group does not constitute any category of arbitrary detention and therefore requests a declaration to that effect.

Further comments from the source

47. The source transmitted its comments and observations concerning the Government's response on 21 July 2017. The comments include extensive references to a previous opinion of the Working Group regarding a case of deprivation of liberty in Argentina. According to the source, since the Land Registry Megatrial was viewed as a single case by the court concerned, the right to challenge the court could be exercised only once. However, the disqualified judge subsequently handed down multiple decisions, which is clearly irregular, because judges cannot decide on a case from which they have recused themselves. According to the source, this made it possible for Ms. Pace to be convicted repeatedly by the same court.

48. The source adds that Ms. Pace was sentenced, in one of the cases brought against her, to a second term of preventive detention following her completion of the first three-year term. However, when the maximum legal period of preventive detention had elapsed, she was denied release on the grounds that her situation, as a convicted person without a final sentence, was not covered by law.

49. The source notes that if Ms. Pace had been tried only once for all the charges laid against her, she would have received a maximum sentence of 6 years, but as she was tried separately for each offence, she has already been sentenced to more than 10 years' imprisonment and to far more than the maximum disqualification period of 10 years.

50. The source further notes that a member of the High Court of Justice who has dealt with many cases was formerly a member of the Attorney General's Office and, in that capacity, appointed the public prosecutor as an additional party representing the Court Prosecution Office. The member in question is also a sister of the complainant (the director of the Land Registry) but nonetheless failed to recuse herself.

51. The source states that, before the second period of preventive detention, a complaint was lodged against the three members of Court No. 10 for aggravated illegal deprivation of liberty. The complaint was dismissed by the Prosecution Office without further comment and two of the three members were appointed to try Ms. Pace again in the last case brought against her.

52. According to the source, the fact that Ms. Pace is now on conditional release and at risk of being convicted once again does not mean that the Working Group cannot be requested to determine whether the criminal proceedings brought against her are in line with international human rights standards, given that she faces an imminent threat of renewed detention.

53. In its comments, the source notes that Mr. Petrone was sentenced to a second term of preventive detention on the ground that he posed a flight risk, even though the decision to release him from preventive detention had not been revoked, and that he was arrested at the court in a scandalous and humiliating manner when he made his fortnightly court appearance. The restriction on his liberty included a large bail sum, which remained payable, and a ban on leaving Córdoba Province. The second period of preventive detention was imposed on the ground of flight risk, but no evidence that he was preparing to flee was provided, even though evidence of that kind is required by law when preventive detention is imposed. The source maintains that a convicted person who is appealing against a verdict cannot be subjected to a second preventive detention order in connection with the same case.

54. The source reiterates that Mr. Petrone was detained while four other defendants who were in the same situation (their extraordinary appeals had been dismissed on the same day) were allowed to remain at liberty, subject to another bail payment.

55. The source asserts that the preventive detention of Mr. Petrone is unjustifiable, since he was fulfilling all the precautionary obligations imposed on him while his appeal was being processed.

Discussion

56. The Working Group is mandated to investigate cases of deprivation of liberty imposed arbitrarily that are brought to its attention. In the discharge of its mandate, it refers to the relevant international standards set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as to other relevant international legal instruments, in accordance with its methods of work.

57. The Working Group is not convinced that Ms. Pace and Mr. Petrone have been detained arbitrarily under the applicable international law, including the rules for processing communications through the regular procedure.

Disposition

58. In light of the foregoing, the Working Group is of the view that, based on the information provided, María Laura Pace and Jorge Oscar Petrone cannot be considered to be detained arbitrarily, under the applicable international legal norms and the rules contained in its methods of work.

[Adopted on 21 November 2017]