



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its 104th session, 10–14 November 2025****Opinion No. 71/2025 concerning Mr. E. (whose name is known to the Working Group), Farhat Fathi Abdel Maksoud Abu al-Saud and Mohamed Kamel Salah Kamel (Saudi Arabia)***

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 60/8.
2. In accordance with its methods of work,¹ on 22 July 2025 the Working Group transmitted to the Government of Saudi Arabia a communication concerning Mr. E., Farhat Fathi Abdel Maksoud Abu al-Saud and Mohamed Kamel Salah Kamel. The Government replied to the communication on 19 September 2025. The State is not 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

* Mumba Malila did not participate in the discussion of the case.

¹ [A/HRC/36/38](#).



or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

1. Submissions

(a) Communication from the source

4. Mr. E., born in 1997, is an Egyptian national who worked as a fisherman.
5. Farhat Fathi Abdel Maksoud Abu al-Saud, born in 1975, is an Egyptian national who worked as a driver and lived in Kfar Hakim al-Jeeza, Egypt.
6. Mohamed Kamel Salah Kamel, born in 1988, is an Egyptian national who worked as a carpenter and lived in Jeddah, Saudi Arabia.
7. Messrs. E., Al-Saud and Kamel were arrested and detained in Saudi Arabia on drug-related charges and subsequently sentenced to death.

(i) Context

8. Over the past few years, Saudi Arabia has seen a sharp increase in the number of executions, especially of foreigners and for drug-related offences. In 2024, 345 individuals, including 138 foreign nationals, were executed – 122 of them solely on the basis of drug-related charges. In the first two months of 2025, there were 65 executions. In 2022, Saudi Arabia lifted its three-year moratorium² on the use of the death penalty for drug-related offences.³ Approximately 75 per cent of those executed for drug offences in November and December 2022 were foreign nationals.

9. The source notes that Saudi Arabia has no written penal code. Judges have wide-ranging power to determine criminal offences and the corresponding punishment. There are three categories of crime and punishment under Islamic law: *qisas*, *hudud* and *ta'zir*. *Qisas* applies in cases of bodily harm or death, such as murder or manslaughter, where the victim's family has a role in determining the punishment. *Hudud* crimes refer to a fixed set of offences – such as adultery, theft and apostasy – that have punishments explicitly prescribed in Islamic texts with strict evidentiary and legal thresholds. Drug offences fall within *ta'zir*, a category which encompasses all crimes not specified under *hudud* or *qisas*. *Ta'zir* offences are left to the discretion of judges and can include a wide range of penalties, from imprisonment and flogging to the death penalty.

(ii) Arrest and detention

a. Mr. E.

10. Mr. E. was arrested by the border patrol of Haql Governorate on 16 December 2021 while swimming in the sea after being dropped off a boat by an Egyptian drug smuggler near the Egypt-Saudi Arabia maritime border. He was allegedly found with 334,000 illegal pills, 278 grams of opium and 1.8 grams of heroin, along with cash and two mobile phones. Upon his arrest, he was immediately transferred to Tabuk Prison.

11. Mr. E. was placed in solitary confinement. He was not allowed to speak to his family or anyone outside the prison and was subjected to torture, mainly through beatings and acts of humiliation.

12. Mr. E. was reportedly first brought before Tabuk Criminal Court (the court of first instance) at an initial trial hearing on 16 October 2022, when his family appointed a lawyer for him. On 30 November 2022, the Court sentenced him to death pursuant to article 37 (1)

² See the statement by the Human Rights Commission of Saudi Arabia entitled “Saudi Arabia drastically decreases application of death penalty in 2020”, posted on 18 January 2021 at https://x.com/HRCSaudi_EN/status/1351087958565281793.

³ Office of the United Nations High Commissioner for Human Rights, “Saudi Arabia: resumption of executions for drug-related offences”, 22 November 2022, available at <https://www.ohchr.org/en/press-briefing-notes/2022/11/saudi-arabia-resumption-executions-drug-related-offences>.

of the act on the control of narcotics and psychotropic substances. His lawyer appealed against the sentence, but this appeal was flawed – a sign that the lawyer was not working in the full interests of his client.

13. The source reports that Mr. E.'s death sentence was upheld by Tabuk Appellate Court and the Supreme Court and is therefore final. He is currently awaiting his execution.

b. Mr. Al-Saud

14. Mr. Al-Saud was arrested on 28 January 2018 in the port of Duba, Saudi Arabia, after the authorities discovered 327,856 fenetylline pills in the truck he was driving, which was registered under the name of the Mansour Saeed Al-Qahtani Establishment. He claimed that, in Egypt, after loading onions for delivery to Riyadh, he had gone to the truck owner's residence, where additional bags containing the pills had been placed in the truck without his knowledge.

15. Mr. Al-Saud was immediately transferred to Tabuk Prison upon his arrest. A copy of the list of charges against him was not made available. He was held in solitary confinement and forcibly disappeared for four months. During this time, his family was not informed of his detention or whereabouts. Moreover, he was reportedly subjected to severe acts of torture.

16. Mr. Al-Saud's family had no money to hire a lawyer, and he was never informed of his right to be assisted by a State-appointed lawyer, which forced him to represent himself in all court proceedings. He was first brought before Tabuk Criminal Court on 28 November 2018 for an initial trial hearing. On 14 May 2019, he was sentenced to death pursuant to article 37 (1) of the act on the control of narcotics and psychotropic substances. Tabuk Appellate Court heard his appeal on 1 October 2019 and confirmed the death sentence on 2 October 2019.

17. After the Supreme Court upheld Mr. Al-Saud's death sentence, he was executed, which was reportedly made public by the Ministry of the Interior on 25 May 2025. His family was not informed of the execution in advance and has not been able to obtain his body.

c. Mr. Kamel

18. Mr. Kamel was arrested on 5 April 2014 at a hotel in the city of Duba. He was found with 111,523 narcotic pills in his possession, but claimed that he was unaware of these pills and that he had been instructed by an individual in Egypt to transport bags of clothing to Jeddah, Saudi Arabia.

19. Mr. Kamel was reportedly detained in the Duba police station and later transferred to Tabuk Prison. His family was not informed of his detention or whereabouts for a long time. He was prevented from communicating with his family from the moment of his arrest until the beginning of his trial.

20. The date on which Mr. Kamel was first brought before a judge is unknown. He was appointed a lawyer by his family only at the beginning of his trial before Tabuk Criminal Court. On 10 August 2017, the Court sentenced him to death pursuant to article 37 (1) of the act on the control of narcotics and psychotropic substances. His lawyer appealed against the sentence, but this appeal was flawed – a sign that the lawyer was not working in the full interests of his client.

21. Mr. Kamel was allegedly sentenced on the basis of a signed confession, which had been obtained under duress, including psychological and physical torture. The investigators used threats, intimidation, coercion and a promise of release to force him to sign the documents presented to him. The Court did not investigate his claims of torture.

22. The source reports that Mr. Kamel's death sentence was upheld by Tabuk Appellate Court and the Supreme Court and is therefore final. He is currently awaiting his execution.

(iii) *Legal analysis*

23. The source submits that the cases of Messrs. E., Al-Saud and Kamel (hereinafter "the three Egyptian death-row inmates") fall under categories I, III and V of the Working Group.

24. In relation to category I, it is argued that Mr. Kamel was arrested on 5 April 2014 in his hotel room by officials who did not invoke a legal basis or present an arrest warrant and searched his hotel room without a warrant in violation of articles 3 and 9 of the Universal Declaration of Human Rights, principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 14 (1) and (3) of the Arab Charter on Human Rights.

25. The three Egyptian death-row inmates were held incommunicado. Their exclusion from the protection of the law and inability to challenge the legality of their detention violated articles 6 and 8 of the Universal Declaration of Human Rights. The lack of communication with their families and of visits infringed principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rules 43 (3) and 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

26. Saudi law allegedly provides no right or procedure to challenge the legality of detention before the courts (habeas corpus), which violates articles 8 and 9 of the Universal Declaration of Human Rights and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Messrs. E. and Kamel were reportedly brought before the public prosecution service. However, according to its founding decree, the public prosecution service, established by the King on 17 June 2017 to replace the former Bureau of Investigation and Public Prosecution, which was under the control of the Minister of the Interior, is “directly linked to the King”.

27. The source submits that Mr. E. was arrested on 16 December 2021 and first brought before the court on 16 October 2022, 10 months after his arrest, that Mr. Al-Saud was arrested on 28 January 2018 and first brought before the court on 28 November 2018, also 10 months after his arrest, and that Mr. Kamel was arrested on 5 April 2014, but the date on which he was first brought before a judge is unknown. None of them appeared before a judge within 48 hours. Their detention violated articles 3 and 9 of the Universal Declaration of Human Rights and principles 11, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

28. In the source’s view, the alleged drug trafficking for which the death sentences were imposed does not reach the threshold of “the most serious crimes” under international law. The alleged offence also falls under the moratorium on death penalties for drug-related offences announced by the Human Rights Commission of Saudi Arabia, a governmental body, on 18 January 2021.

29. In relation to category III, the source claims that the right to legal counsel during all stages of criminal procedure, which is inherent in the right to liberty and security of person, and the right to a fair trial, were violated, contrary to articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights, principles 15, 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principles 1, 5, 7 and 8 of the Basic Principles on the Role of Lawyers, principle 9 and guideline 8 of the Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, and articles 4 and 70 of the Law of Criminal Procedure.

30. The three Egyptian death-row inmates were allegedly subjected to torture, including beating, kicking and psychological torture, so that they would sign confessions, which were later admitted in court as the sole evidence for their conviction.

31. The King reportedly appoints most members of the Supreme Judicial Council, which administers the court system, and the head of the public prosecution service is a member of the Council. Tabuk Criminal Court also has a long history of handing down death sentences in violation of international human rights law.

32. Finally, in relation to category V, the source argues that the three Egyptian death-row inmates were deprived of their liberty because of their nationality. A further 19 Egyptian nationals, arrested mostly between late 2014 and 2017, are currently on death row in Tabuk Prison. They were coerced through torture into signing documents that they were unable to read or understand.

(b) Response from the Government

33. On 22 July 2025, the Working Group transmitted the allegations made by the source to the Government through its regular communication procedure. The Working Group requested the Government to provide, by 22 September 2025, detailed information about the situation of Messrs. E., Al-Saud and Kamel and any comments on the source's allegations. The Working Group also requested the Government to clarify the factual and legal grounds invoked by the authorities to justify their arrest and continued detention, and to provide details regarding the conformity of the relevant legal provisions and proceedings with international law, in particular with the human rights treaties that it has ratified. Moreover, the Working Group called upon the Government to ensure the physical and mental integrity of Messrs. E., Al-Saud and Kamel.

34. In its response of 18 September 2025, the Government submitted that Mr. E. had been arrested in flagrante delicto while Messrs. Al-Saud and Kamel had been arrested pursuant to arrest warrants issued by the public prosecution service. They were made aware of their legal rights, including the right to seek the assistance of an agent or attorney to defend them during the investigation and trial, in accordance with article 4 (1) and (2) of the Law of Criminal Procedure, and the right to request the court to appoint a defence attorney at the expense of the State if they could not afford to appoint one, in accordance with article 139 of the Law. They were notified of the grounds for their arrest and their right to contact any person of their choice in line with article 116 of the Law. The Egyptian Embassy in Riyadh was notified, in accordance with the Vienna Convention on Consular Relations. The arrests therefore were consistent with articles 3 and 9 of the Universal Declaration of Human Rights, principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and article 14 (1) and (3) of the Arab Charter on Human Rights.

35. The Government further submitted that the three Egyptian death-row inmates were allowed regular visits and communication, including telephone calls. Article 119 of the Law of Criminal Procedure provides that the investigator may order the incommunicado detention of the accused for a period not exceeding 60 days if the interest of the investigation so requires, without prejudice to the right of the accused to contact his or her agent or attorney – a provision in line with the Nelson Mandela Rules and principle 16 (4) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In such cases, the prisoner or detainee may submit a written or oral complaint to the public prosecution service under article 39 of the Law of Criminal Procedure. There was no violation of articles 6 and 8 of the Universal Declaration of Human Rights, principles 15 and 19 of the Body of Principles or rules 43 (3) and 58 of the Nelson Mandela Rules.

36. The Government adds that article 115 of the Law of Criminal Procedure guarantees the right to challenge the legality of detention by providing that provisional detainees may appeal against their detention order and that such appeals are to be decided within five days, and is therefore in conformity with articles 8 and 9 of the Universal Declaration of Human Rights and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The three Egyptian death-row inmates were brought before the public prosecution service, which is an independent judicial body, within 48 hours for individualized determination, in accordance with articles 3 and 9 of the Universal Declaration of Human Rights and principles 11, 37 and 38 of the Body of Principles.

37. Saudi criminal law contains clear and precise legal provisions that define criminal acts and penalties, and the authorities respect the principle of legality in compliance with articles 2 and 7 of the Universal Declaration of Human Rights. The three Egyptian nationals were sentenced to death as a discretionary punishment pursuant to article 37 (1) of the act on the control of narcotics and psychotropic substances.

38. The Government submits that international law does not require abolition of the death penalty but sets out rules and standards for its application. Saudi law imposes the death penalty only for the most serious crimes, based on the belief that the right to life is the most fundamental of rights and in line with the safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the Economic and Social Council in its resolution 1984/50 of 25 May 1984, to deter crimes and to protect society. The Government's

efforts to combat the scourge of drug trafficking are in line with the objectives of the United Nations Office on Drugs and Crime. The act on the control of narcotics and psychotropic substances imposes capital punishment only for drug crimes that are no less serious than premeditated murder. In accordance with the law, after executions the bodies are buried without delay with full respect for the dignity of the executed persons and their families. If the executed persons are not Saudi nationals, their bodies are immediately handed over to their country's embassy, upon request, for repatriation.

39. The Government also submits that the three Egyptian death-row inmates had a fair and public hearing by an independent and impartial tribunal, which was established by the Supreme Judicial Council in line with Saudi law and international fair trial standards. Tabuk Criminal Court is part of the general judicial system.

40. According to the Government, Messrs. E. and Kamel hired lawyers, while Mr. Al-Saud chose to defend himself. The lawyers had adequate time and facilities for their clients' defence. The Court informed the accused of the offences of which they were charged, read and explained the indictment and provided them with a copy of it, as required by article 160 of the Law of Criminal Procedure.

41. The Government adds that death sentences are automatically reviewed by the higher courts under articles 194 and 199 of the Law of Criminal Procedure. Tabuk Appellate Court and the Supreme Court upheld the death sentences. Mr. Al-Saud was executed on 25 May 2025 and Mr. Kamel on 25 June 2025, while Mr. E. awaits his execution.

42. The Government denies that the three Egyptian death-row inmates were subjected to any form of torture or ill-treatment; rather, they were treated with dignity and received the necessary medical care. The Law of Criminal Procedure provides that persons under arrest may not be subjected to any bodily or moral harm, nor torture or degrading treatment (art. 2); that detainees are to be treated with dignity and may not be subjected to any bodily or moral harm (art. 36 (1)); that interrogation must be conducted in a manner not affecting the will of the accused in making his or her statements and the accused may not be asked to take an oath nor be subjected to any duress measures (art. 102); and that any proceedings contrary to sharia or laws derived therefrom will be invalid (art. 187).

43. The Government submits that the three Egyptian death-row inmates were arrested and tried for drug-related offences, which were unrelated to their foreign nationality, and that it combats all forms of discrimination, including any exclusion, restriction or distinction based on race, colour, descent or national or ethnic origin.

(c) Additional comments from the source

44. The Government's response of 18 September 2025 was transmitted to the source on 22 September 2025 for further comments. In its reply of 7 October 2025, the source submitted that the Government simply recited its domestic laws without substantiating their application and that its factual claims lacked tangible proof. The establishment of the public prosecution service under direct royal control enabled a wave of arrests of dissidents. The restriction on the application of the death penalty to "the most serious crimes" under article 6 (2) of the Covenant has attained the status of customary international law. The fundamental distinction between drug offences and murder lies in the element of intentional killing. There is also no persuasive evidence showing that the use of the death penalty contributes to eradicating drug-related crimes.⁴

2. Discussion

45. The Working Group thanks the source and the Government for their submissions.

46. In determining whether the detention of the three Egyptian death-row inmates 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

⁴ Harm Reduction International, Human Rights Watch and Penal Reform International, "The death penalty for drug offences and international support for drug enforcement" (2010), available at https://www.hrw.org/sites/default/files/related_material/ComplicityDeathPenaltyBriefing_0.pdf.

international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.⁵

47. The Working Group notes that Messrs. Al-Saud and Kamel have been executed, on 25 May and 25 June 2025, respectively, while Mr. E. remains on death row. As Messrs. Al-Saud and Kamel's executions were carried out before the Working Group's transmission of a communication on 22 July 2025, the Working Group regrets that their deaths deprive them of any chance of seeking appropriate remedies, such as immediate release, compensation and other reparations, if it finds their deprivation of liberty to be arbitrary. The Working Group considers that the present case highlights the risk of the death penalty to the enjoyment of the human rights, arising from its irreversibility.

48. Following the executions of Messrs. Al-Saud and Kamel on 25 May and 25 June 2025, respectively, the Working Group has the option of either filing their cases or rendering an opinion as to the arbitrariness of their detention, in conformity with paragraph 17 (a) of its methods of work. The Working Group has decided to render the present opinion in respect of all three Egyptian death-row inmates, including the late Messrs. Al-Saud and Kamel, in conformity with paragraph 15 of its methods of work. In making this decision, the Working Group gives particular weight to the fact that: (a) the late Messrs. Al-Saud and Kamel's cases raise grave concerns about the pattern of deprivation of the liberty and life of foreign nationals accused of drug-related crimes, numbering in the hundreds, in the criminal justice system of Saudi Arabia; (b) there is a pressing need for the factual and legal findings of the Working Group concerning the late Messrs. Al-Saud and Kamel's cases, given their extreme gravity; (c) the bereaved families of the late Messrs. Al-Saud and Kamel may be entitled to certain remedies and reparations, including the repatriation of their remains, which reportedly has not occurred, despite assertions to the contrary by the Government; (d) the Government has submitted its response, which merits the Working Group's appraisal; and (e) Mr. E. remains on death row, having been deprived of liberty for almost four years.

49. While the Working Group will determine the arbitrariness of the three Egyptian death-row inmates' deprivation of liberty in the present case, nothing in this opinion is intended to indicate its view on their guilt or innocence with respect to the crimes for which they were tried and convicted.

(a) Category I

50. The Working Group will first consider whether there have been violations under category I, which concerns deprivation of liberty without any legal basis being invoked.

51. Regarding the arrest process, the Government's submission that Messrs. Al-Saud and Kamel were arrested pursuant to arrest warrants issued by the public prosecution service does not appear convincing, as it fails to mention key details such as the arrest warrants' date of issuance or the case number. Moreover, the public prosecution service cannot be considered an independent judicial body that has the competence to provide effective judicial control over deprivation of liberty through the issuance of arrest warrants. Other than citing legal provisions on judicial independence, the Government did not provide a credible rebuttal to the source's allegation that the public prosecution service is directly linked to the King. The Working Group therefore finds a violation of articles 3 and 9 of the Universal Declaration of Human Rights and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

52. The source submits that the three Egyptian death-row inmates were held *incommunicado*, excluding them from the protection of the law and preventing them from challenging the legality of their detention. The Government claims that the law ensures the detainees' visits and communication with their families and legal representatives, but it has failed to share evidence of the actual application of the law in the present case, such as a list of dates and times of visits or telephone calls. The Working Group considers that the Government has failed to meet the burden of proof and finds a violation of articles 6 and 8

⁵ [A/HRC/19/57](#), para. 68.

of the Universal Declaration of Human Rights, principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rules 43 (3), 58 (1) and 68 of the Nelson Mandela Rules.

53. Moreover, Messrs. Al-Saud and Kamel were disappeared for months in violation of the customary international law prohibition of enforced disappearance, which is authoritatively defined in the third preambular paragraph of the Declaration on the Protection of All Persons from Enforced Disappearance and article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance. The Working Group recalls that a number of international, regional and domestic courts and human rights bodies, including the Inter-American Court of Human Rights, the Working Group on Enforced or Involuntary Disappearances, the Committee on Enforced Disappearances and the African Commission on Human and Peoples' Rights, have recognized that the prohibition of enforced disappearance is a peremptory norm of international law (*jus cogens*).⁶

54. According to the source, Mr. E. was arrested on 16 December 2021 and first brought before the court on 16 October 2022, 10 months after his arrest; Mr. Al-Saud was arrested on 28 January 2018 and first brought before the court on 28 November 2018, also 10 months after his arrest; and Mr. Kamel was arrested on 5 April 2014, but the date of his first hearing in court is unknown. Again, the Government failed to provide any information to the contrary, other than generic claims that domestic laws are in line with international standards. The Working Group therefore finds a violation of articles 3, 8 and 9 of the Universal Declaration of Human Rights and principles 11, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

55. The Government submitted that the public prosecution service had reviewed and extended the pretrial detention of the three Egyptian death-row inmates. However, for the reasons discussed above, the public prosecution service cannot provide meaningful judicial review of the legality of detention. Nor did the Government provide any evidence that measures less intrusive than pretrial detention had been considered. This violated articles 3, 8 and 9 of the Universal Declaration of Human Rights and principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

56. The Working Group will elaborate further on the propriety of deprivation of liberty and of life under article 37 of the act on the control of narcotics and psychotropic substances with respect to the principle of legality or *nullum crimen, nulla poena sine lege*. This principle, which is one of the fundamental guarantees of due process, includes: (a) the principle of non-retroactivity; (b) the prohibition against analogy; (c) the principle of certainty; and (d) the prohibition against uncodified, that is, unwritten, or judge-made criminal provisions. This means that an act can be punished only if, at the time of its commission, it was the object of a valid, sufficiently precise, written criminal law to which a sufficiently certain sanction was attached.⁷

57. Article 37 of the act on the control of narcotics and psychotropic substances provides that:

Subject to the provisions of the second clause of this article, anyone found guilty of the following acts shall be punished by death as a discretionary punishment (*ta'zir*):

- (1) Smuggling narcotic drugs or psychotropic substances;
- (2) Receiving narcotic drugs or psychotropic substances from a smuggler;

⁶ Inter-American Court of Human Rights, *Goiburú et al. v. Paraguay*, judgment of 22 September 2006 (Merits, Reparations and Costs), Series C, No. 153, paras. 84, 93 and 128, and many subsequent decisions; the report of the Working Group on Enforced or Involuntary Disappearances on standards and public policies for an effective investigation of enforced disappearances (A/HRC/45/13/Add.3), para. 9 and annex, para. 7; Committee on Enforced Disappearances, joint statement on so-called "short-term enforced disappearances" (CED/C/11), fourth preambular paragraph; and African Commission on Human and Peoples' Rights, Guidelines on the Protection of All Persons from Enforced Disappearances in Africa, tenth preambular paragraph.

⁷ Opinions No. 10/2018, para. 50; and No. 36/2019, para. 40.

(3) Bringing, importing, exporting, manufacturing, producing, converting, extracting, cultivating or receiving narcotic drugs or psychotropic substances with the intent to promote them in circumstances not permitted by this act;

(4) Participating in an agreement to commit any of the acts stipulated in the preceding paragraphs;

(5) Promoting narcotic drugs or psychotropic substances, for the second time, by sale, gift, distribution, delivery, receipt or transport, when the offender has already been convicted of such promotion in a previous judgment;

(6) Promoting narcotic drugs or psychotropic substances for the first time, when the offender has previously been convicted of one of the acts described under (1)–(3) above.

The court may, for reasons it deems appropriate, reduce the death penalty to imprisonment of not less than 15 years, flogging of up to 50 lashes and a fine of not less than 100,000 riyals.

If the offender falls under one of the following circumstances and has not been sentenced to death under the first clause of this article, he shall be punished with imprisonment of not less than 25 years, flogging of up to 50 lashes and a fine of not less than 150,000 riyals. These circumstances are:

(1) If the offender commits one of these crimes again, having been previously convicted and punished under this article;

(2) If the offender is a public official or employee, is tasked with implementing the provisions of this act, or is responsible for combating narcotic drugs or psychotropic substances or monitoring their circulation or possession;

(3) If the offender is a member of an organized gang whose purpose is to smuggle or traffic narcotic drugs or psychotropic substances into Saudi Arabia or distribute them therein, or if the offence is linked to an international crime such as arms smuggling, counterfeiting of currency or terrorism;

(4) If the offender is armed and uses a weapon while committing the offence.

58. While, in its jurisprudence, the Working Group interprets and applies the principle of legality, codified in article 11 (2) of the Universal Declaration of Human Rights, mostly in the context of deprivation of liberty in criminal procedure, the principle is applicable, a fortiori, to deprivation of life for capital crimes. In this regard, the Working Group notes that many death sentences in Saudi Arabia are imposed by judges relying on their interpretations of Islamic law to determine what constitutes a crime and what the appropriate punishment is in the absence of a penal code. Deprivation of liberty prior to and for the purpose of the eventual imposition of the death penalty, when the legal system provides no clear legal basis, must be considered arbitrary under category I.

59. Moreover, the principle of legality must encompass or entail the principle of proportionality of criminal offences and penalties, as exemplified in article 49 (3) of the Charter of Fundamental Rights of the European Union, which provides that the severity of penalties must not be disproportionate to the criminal offence. The Working Group, too, has held that the provisions of the Penal Law for Crimes of Terrorism and its Financing, which allow a 15-year prison term and a 15-year overseas travel ban for harmless online and offline comments, are neither necessary to protect public or private interests against injury, nor are they proportionate.⁸ By the same standard, death by beheading cannot be considered a proportionate punishment for non-violent drug offences and fails to satisfy the principles of legality and proportionality of criminal offences and penalties.

60. In the light of the above, the Working Group concludes that the deprivation of liberty of Messrs. E., Al-Saud and Kamel lacks a legal basis and is thus arbitrary under category I.

⁸ Opinion No. 10/2018, para. 54.

(b) Category III

61. The Working Group will now consider whether the alleged violations of the right to a fair trial and due process were of such gravity as to give the deprivation of liberty an arbitrary character, such that it falls within category III.

62. In the source's view, the courts in Saudi Arabia cannot be considered independent, as the Supreme Judicial Council, which administers the court system, is controlled by the King. In response, the Government simply recited the guarantee of judicial independence in the law, without explaining how the courts may be able to maintain their independence and impartiality in practice.

63. The Working Group also notes that the appointment of the Chairman and 10 members of the Supreme Judicial Council, as codified in article 5 of the Judiciary Act (Royal Decree No. M/78 of 1 October 2007) below, remains largely under royal control, either explicitly or by the ex officio appointment to the Council of officials serving the monarchy:

The Supreme Judicial Council shall be composed of a Chairman to be appointed by royal order and 10 members as follows:

- (a) The President of the Supreme Court.
- (b) Four full-time judges with the rank of president of a court of appeal, to be appointed by royal order.
- (c) The Deputy Minister of Justice.
- (d) The Chairman of the Bureau of Investigation and Public Prosecution.
- (e) Three members satisfying the conditions required for an appeals judge, to be appointed by royal order.

The term of the Chairman of the Council and the members provided for in paragraphs (b) and (e) shall be four renewable years.

64. The source submits that the three Egyptian death-row inmates did not have access to legal counsel at all stages of their detention and were not promptly informed of their rights when arrested. Mr. Al-Saud reportedly received no legal assistance at any time, even during his trial, because he was not informed of his right to request a State-appointed lawyer. Although the Government asserts that the law guarantees the right to legal counsel, including the appointment of a lawyer for defendants of limited financial means, it has not provided any evidence of this being applied in the present cases, such as the number of lawyers or the date of their appointment. The Working Group therefore finds a violation of articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights, principles 15, 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principles 1, 5, 7 and 8 of the Basic Principles on the Role of Lawyers, and principle 9 and guideline 8 of the Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court. Furthermore, safeguard 5 of the safeguards guaranteeing protection of the rights of those facing the death penalty requires adequate legal assistance at all stages of the criminal proceedings.

65. The source adds, and the Government has not rebutted with credible evidence, that Messrs. E. and Kamel's appeals following their convictions by the courts of first instance were flawed, in a sign that the lawyers were not working in the full interests of their clients. Moreover, Tabuk Appellate Court reportedly heard Mr. Al-Saud's appeal on 1 October 2019 and issued its verdict confirming the death sentence a day later on 2 October 2019. In this regard, the Working Group notes that, prior to the judicial reform in 2021, appellate courts considered appeals against first instance judgments purely through written submissions, with limited or no scope for verbal representations.⁹ The Working Group expresses grave concern

⁹ Saudi Arabia, Ministry of Justice, "Saudi Justice Minister activates appellate pleading; announces Jeddah appellate court" (10 December 2018), available at <https://www.moj.gov.sa/English/MediaCenter/News/Pages/NewsDetails.aspx?itemId=264>; and

at the higher courts' lack of meaningful review, in oral hearings, of the convictions and death sentences and finds a violation of articles 10 and 11 (1) of the Universal Declaration of Human Rights. Moreover, safeguard 6 of the safeguards guaranteeing protection of the rights of those facing the death penalty explicitly provides that anyone sentenced to death has the right to appeal to a court of higher jurisdiction. Such appeals must ensure an effective remedy.

66. The source also makes the serious allegation that the three Egyptian death-row inmates were subjected to physical and psychological torture to extract confessions. Again, the Government describes the legal protection and safeguards against torture and forced confessions without explaining how they were applied in the present case. The authorities also failed to conduct a prompt and impartial investigation or examination and provide redress, even after they received complaints. The Working Group therefore concludes that articles 5, 10 and 11 (1) of the Universal Declaration of Human Rights and articles 2 (1), 12, 13, 14 (1), 15 and 16 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have been contravened.

67. Given the above observations, the Working Group concludes that the numerous violations of the right to a fair trial and due process are of such gravity as to give the deprivation of liberty of Messrs. E., Al-Saud and Kamel an arbitrary character that falls within category III.

(c) Category V

68. In the discussion above, the Working Group observed the systematic denial of procedural safeguards to the three Egyptian death-row inmates, which appears to be representative of the treatment faced by foreign nationals arrested and tried on drug-related charges in Saudi Arabia. The Government has not rebutted with convincing evidence the source's credible allegation that they were coerced through torture into signing documents that they were unable to read or understand.

69. The Working Group has established that the three Egyptian death-row inmates were not afforded the right to legal counsel during all stages of the criminal proceedings, even though they were legally entitled to this right under Saudi law, as the Government demonstrated. Mr. Al-Saud even had to defend himself when he was on trial literally for his life; it appears unlikely that he would have waived his right to have a State-appointed lawyer represent him had he been properly informed of his rights by the authorities.

70. The Working Group fears that such systematic denial of procedural safeguards experienced by foreign nationals, including Messrs. E., Al-Saud and Kamel, may account for the staggering overrepresentation of foreign nationals in the death-row inmate population, especially for drug-related offences – the proportion of foreign death-row inmates can be as high as 75 per cent.

71. Indeed, the Committee on the Elimination of Racial Discrimination has expressed concern about the disproportionate number of foreigners facing the death penalty and mentioned several cases of migrant workers who have not received legal assistance and have been sentenced to death.¹⁰ In December 2024, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a communication to the Government regarding the imminent executions of 29 foreign nationals, expressing concern that these cases “lead to presume a discriminatory application of the death penalty for drug offences on foreign nationals, previously raised in the context of Saudi Arabia”.¹¹

72. Moreover, the source alleges that Mr. Al-Saud's remains have not been returned to his family in Egypt and the Government has not provided detailed information such as the date of their transfer to the Egyptian Embassy or of their return to Egypt. The Working Group

“Saudi Ministry of Justice fully implements appeals through pleading and judicial review” (19 June 2021), available at

<https://www.moj.gov.sa/English/MediaCenter/News/Pages/NewsDetails.aspx?itemId=705>.

¹⁰ CERD/C/62/CO/8, para. 18.

¹¹ See communication SAU 5/2024, available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

notes that the Government reportedly does not return the remains of executed foreign nationals, despite its claims to the contrary. In the Working Group's view, the refusal to allow foreign death-row inmates to communicate with their families abroad during their detention, and the authorities' failure to communicate with the families after the executions, violates articles 12 and 16 (3) of the Universal Declaration of Human Rights and is another example of discriminatory treatment. The Working Group urges the Government to return the bodies of executed foreign nationals, including the late Messrs. Al-Saud and Kamel, to their families.

73. For these reasons, the Working Group finds that Messrs. E., Al-Saud and Kamel were deprived of their liberty on discriminatory grounds, on the basis of their foreign nationality. The deprivation of their liberty violated articles 2 and 7 of the Universal Declaration of Human Rights and was arbitrary under category V.

(d) Concluding remarks

74. Given its finding that Messrs. E., Al-Saud and Kamel were arbitrarily deprived of their liberty without legal basis and in violation of their rights to a fair trial and to non-discrimination, the Working Group considers that their death sentences are indefensible and the execution thereof inexcusable. The executions of Messrs. Al-Saud and Kamel amount to arbitrary deprivation of life in violation of article 3 of the Universal Declaration of Human Rights.¹²

75. Although Saudi Arabia is not a party to the International Covenant on Civil and Political Rights, the Government accepted in its submission that the right to life is the most fundamental of rights; that the safeguards guaranteeing protection of the rights of those facing the death penalty, as adopted by the Economic and Social Council in its resolution 1984/50 of 25 May 1984, must be observed; and that death sentences should be imposed only for "the most serious crimes" in accordance with the principle of legality – the standard of customary international law codified in article 6 (2) of the Covenant.

76. The Human Rights Council, in its resolutions 48/9 of 8 October 2021, 54/35 of 13 October 2023 and 60/17 of 7 October 2025, stressed that the term "the most serious crimes" has consistently been read restrictively and interpreted as pertaining only to "crimes of extreme gravity involving intentional killing" – which clearly exclude drug-related crimes that do not involve intentional homicide.¹³ The Working Group has also concluded that imposing the death penalty for drug-related offences is incompatible with international standards on the use of the death penalty.¹⁴

77. The Working Group therefore urges the Government to reissue a moratorium on the death penalty for drug-related offences, if not for all crimes; to review its criminal laws so as to ensure that the death penalty is not imposed for crimes that do not qualify as the most serious crimes under international law; and to revoke death sentences handed down for crimes not qualifying as the most serious crimes under international law and pursue the necessary legal procedures to resentence those convicted of such crimes, including Mr. E., who remains on death row.¹⁵

78. In its 34-year history, the Working Group has found Saudi Arabia in violation of its international human rights obligations in over 80 cases.¹⁶ The Working Group reiterates its

¹² Opinion No. 26/2019, para. 112. See also opinion No. 56/2019, para. 90.

¹³ [A/67/275](#), para. 35.

¹⁴ [A/HRC/47/40](#), paras. 41–43. See also opinions No. 72/2019, para. 51; and No. 36/2022, para. 109.

¹⁵ The Working Group notes that the Human Rights Committee, in its general comment No. 36 (2018) on the right to life (para. 35), recommended precisely this course of action for States that retain the death penalty, restating that the term "the most serious crimes" must appertain only to crimes of extreme gravity involving intentional killing and that crimes not resulting directly and intentionally in death, such as drug offences, although serious in nature, can never serve as the basis for the imposition of the death penalty.

¹⁶ See, for example, decisions No. 40/1992 and No. 48/1995; and opinions No. 8/2002, No. 25/2004, No. 34/2005, No. 9/2006, No. 4/2007, No. 6/2008, No. 21/2009, No. 11/2011, No. 8/2012, No. 32/2013, No. 32/2014, No. 52/2016, No. 10/2017, No. 68/2018, No. 56/2019, No. 33/2020, No. 34/2021, No. 29/2022, No. 17/2023, No. 10/2024, No. 71/2024, No. 1/2025, No. 26/2025, No. 31/2025 and No. 37/2025.

concern that this might indicate a widespread or systemic problem of arbitrary detention in Saudi Arabia, which amounts to a serious violation of international law. It underlines that States have the obligation not to engage in acts that could constitute crimes against humanity, and to prevent and punish them if they are committed.

79. In the light of the gravity of the findings of human rights violations in the present case, the Working Group once again avails itself of the opportunity to invite the Government of Saudi Arabia to ratify the International Covenant on Civil and Political Rights.

80. The Working Group lauds the expressed willingness of the Government to cooperate with the Council and its various mechanisms, including the special procedures. In this light, and recalling its request for a country visit, which was reiterated on 24 August 2021 and 4 February 2022, the Working Group would welcome the opportunity, at the Government's earliest convenience, to conduct a visit to Saudi Arabia in order to engage with the Government in a constructive manner and to offer its assistance in addressing its serious concerns regarding instances of arbitrary deprivation of liberty.

3. Disposition

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

The deprivation of liberty of Mr. E., Farhat Fathi Abdel Maksoud Abu al-Saud and Mohamed Kamel Salah Kamel, being in contravention of articles 2, 3, 5, 6, 7, 8, 9, 10, 11 (1) and (2), 12 and 16 (3) of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, III and V.

82. The Working Group requests the Government of Saudi Arabia to take the steps necessary to remedy the situation of Mr. E. and the late Messrs. Al-Saud and Kamel without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights.

83. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. E. immediately and accord him and the bereaved families of the late Messrs. Al-Saud and Kamel an enforceable right to compensation and other reparations, including the repatriation of the remains of the deceased, in accordance with international law.

84. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. E. and the late Messrs. Al-Saud and Kamel and to take appropriate measures against those responsible for the violation of their rights.

85. The Working Group recommends that the Government of Saudi Arabia ratify the International Covenant on Civil and Political Rights.

86. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture, for appropriate action.

87. The Working Group requests the Government to translate and publish the present opinion and disseminate it through all available means and as widely as possible.

4. Follow-up procedure

88. 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. E. has been released and, if so, on what date;
- (b) Whether compensation or other reparations, including the repatriation of the remains of the deceased, have been made to Mr. E. and the bereaved families of the late Messrs. Al-Saud and Kamel;
- (c) Whether an investigation has been conducted into the violation of the rights of Mr. E. and the late Messrs. Al-Saud and Kamel 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 Saudi Arabia with its international obligations in line with the present opinion;

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

89. 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.

90. 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 take action.

91. 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 14 November 2025]

¹⁷ Human Rights Council resolution 60/8, paras. 6 and 9.