

*(Translated from Arabic)*

**Permanent Mission of the Arab Republic of Egypt to the United Nations, the World Trade Organizations and Other International Organizations in Geneva**

**Reply to the complaint submitted by the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances**

A complaint was received from the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

**Our reply to the complaint will address the following subjects:**

- I. The jurisdiction and powers of the military judiciary;
- II. Trial guarantees before military courts and their conformity with international fair trial standards;
- III. Trials of civilians before the military courts and their consistency with international human rights standards;
- IV. The conformity of the military justice system with the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights and the Universal Declaration of Human Rights;
- V. Detention safeguards in Egypt and their conformity with international standards;
- VI. Allegations concerning perpetration of the crime of torture;
- VII. Safeguards regarding the death penalty under the Egyptian legal system;
- VIII. The measures taken against the accused.

**I. The jurisdiction and powers of the military judiciary**

The Constitution, which was adopted by an overwhelming majority of the people, who are the source of the State's authority, in a popular referendum that was witnessed throughout the world, determines, together with the legislation, the powers vested in the military judiciary. Pursuant to article 204 of the Constitution, it is authorized to consider all offences related to the armed forces, comprising officers, personnel and persons of equivalent status, as well as offences committed by members of the General Intelligence Directorate during and in connection with the performance of their duties. Civilians may be tried before military courts only for offences that constitute a direct assault on military installations, camps or other facilities falling under the authority of the armed forces, on specific military or border zones, or on equipment, vehicles, weapons, ammunition, documents, military secrets, public funds or military factories; for offences related to recruitment; or for offences that represent a direct assault on officers or personnel on account of the performance of their duties. The legislation defines such offences and specifies other powers of the military judiciary.

Article 1 of Act No. 25 of 1966 concerning the Code of Military Justice, as amended, stipulates that: "The military judiciary is an independent judicial entity composed of military courts, military prosecutors and other branches of the judiciary, in accordance with the laws and regulations of the armed forces. The military judiciary has exclusive competence to adjudicate cases concerning offences pertaining to its jurisdiction, in accordance with the provisions of this Act, as well as offences that fall within its competence pursuant to other legislation."

The military judiciary is administered by a body working under the auspices of the Ministry of Defence.



The military judiciary also has jurisdiction over offences committed against officers or members of the armed forces. Such jurisdiction is not applicable to all offences but only to those committed in connection with the performance of military duties.

Article 5 of Act No. 25 of 1966 concerning the Code of Military Justice is consistent with this provision and its scope has not been expanded in a manner that breaches the restrictive framework established by the Constitution for the jurisdiction of the military judiciary.

Accordingly, the criterion on which the jurisdiction of the military judiciary in the Egyptian legal system is based may be characterized as follows:

(a) It is an objective criterion that is not applicable to the perpetrators of offences but to the offences perpetrated;

(b) The underlying motivation is the vital and binding need for justice, self-preservation and security, and for the effective and equitable confrontation of perpetrators of certain types of offences;

(c) The ordinary courts may be unable to conduct proceedings concerning certain types of offences, either because of the location in which the offence occurred, the circumstances surrounding its commission or the judicial proceedings.

## **II. Trial guarantees before military courts and their conformity with international fair trial standards**

We find that the aforementioned safeguards, which are legally guaranteed before the military judiciary, are similar to those guaranteed before the civilian judiciary. Article 204 of the Constitution stipulates that:

“The military judiciary is an independent judiciary that is exclusively authorized to consider all offences related to the armed forces, comprising officers, personnel and persons of equivalent status, as well as offences committed by members of the General Intelligence Directorate during and in connection with the performance of their duties. Civilians may be tried before military courts only for offences that constitute a direct assault on military installations, camps or other facilities falling under the authority of the armed forces, on specific military or border zones, or on equipment, vehicles, weapons, ammunition, documents, military secrets, public funds or military factories; for offences related to recruitment; or for offences that represent a direct assault on officers or personnel on account of the performance of their duties. The legislation defines such offences and specifies other powers of the military judiciary. Members of the military judiciary are independent and cannot be dismissed. They share the guarantees, rights and duties prescribed for members of the legal profession.”

Article 60 of the Code of Military Justice prohibits judges from considering cases that fail to meet jurisdiction requirements. These are cases that are regulated by the Code of Civil and Commercial Procedure and the Code of Criminal Procedure, because judges' jurisdiction is based on the rules governing public order.

Article 67 of the Code stipulates that: “Litigants are entitled to review the documents pertaining to the case on being summoned to appear before the court. They may be prohibited from taking photocopies of confidential papers.”

Article 68 of the Code stipulates that: “The accused and witnesses shall be summoned to appear before the court by means of a summons issued at least 24 hours prior to the court session. Military witnesses or defendants may be summoned to appear before the court by means of a wired or wireless communication issued through their superiors. Non-military witnesses shall be summoned to appear before the court by means of a summons sent through the administrative authorities.”

Article 69 of the Code stipulates that: “If the witness fails to appear before the court on being summoned, he may be sentenced to the penalties prescribed by law.”

Article 70 of the Code stipulates that: “The court may occasionally, if necessary, postpone its session, at the request of the accused or a representative of the Military Prosecution Service, or if it considers that there is a ground for postponement.”

Article 71 of the Code stipulates that: "The session shall be held in public. The court may, however, in the interests of law and order or with a view to preserving military secrets or protecting public morals, order that all or part of the proceedings be held in camera. It may also bar certain individuals from attending a session or prohibit the publication of news concerning it."

Article 72 of the Code stipulates that: "A record of the proceedings shall be compiled and the presiding judge shall sign each page. The record shall specify the date of the session and indicate whether it was held in public or in camera. It shall contain the names of the judges, the clerk, the member of the Prosecution Service who attended the session, the names of litigants and lawyers, and a summary of the testimony of witnesses and of statements by the litigants. The record shall refer to papers that were read out, other procedures, applications filed during the proceedings and decisions taken on issues appealed against, the reasoning underlying the judgments handed down and any other relevant matters that arise during the session."

Article 74 of the Code stipulates that: "If an accused person charged with a felony or misdemeanour punishable with imprisonment fails to appoint a lawyer, the court shall appoint a lawyer to defend him."

Act No. 16 of 2007 amending Military Justice Code No. 25 of 1966 provided for the establishment of the Supreme Military Court of Appeal, which hears appeals filed by the Military Prosecution Service or by persons convicted in final judgments handed down by all military courts concerning offences committed against military officers and civilians. The rules and procedures for lodging an appeal in cassation set forth in Act No. 57 of 1959 are applicable and the Court is also competent to hear requests for the review of judgments handed down by military courts.

Act No. 12 of 2014 amending the Military Justice Code provides for the establishment of the Military Court of Appeal for Misdemeanours, which hears appeals filed by the Military Prosecution Service or persons convicted in final judgments handed down by the Military Court for Misdemeanours.

Moreover, the Military Court for Felonies may not impose a death penalty save by consensus of its members. Before handing down the judgment, the Court must seek the opinion of the Grand Mufti of the Republic. The case file must be sent to him, and if his opinion does not reach the court within 10 days of its dispatch, the court may rule on the case.

The military courts are required to apply the same laws as the civilian courts to all accused persons and to provide them with the guarantees that are enshrined in those laws.

**Accused persons thus enjoy the same guarantees before military courts as before ordinary courts: the right to defence counsel, the right to examine documents, the right to public hearings, the right to appeal against a sentence before a higher court, etc. Accordingly, all fair trial standards enshrined in international instruments are guaranteed in proceedings before the military courts.**

### **III. Trials of civilians before military courts and their consistency with international human rights standards**

#### **(a) The constitutional status of the Egyptian military judiciary:**

Article 204 of the 2014 Egyptian Constitution stipulates that:

"The military judiciary is an independent judiciary that is exclusively authorized to consider all offences related to the armed forces, comprising officers, personnel and persons of equivalent status, as well as offences committed by members of the General Intelligence Directorate during and in connection with the performance of their duties. Civilians may be tried before military courts only for offences that constitute a direct assault on military installations, camps or other facilities falling under the authority of the armed forces, on specific military or border zones, or on equipment, vehicles, weapons, ammunition, documents, military secrets, public funds or military factories; for offences related to recruitment; or for offences that represent a direct assault on officers or personnel on account of the performance of their duties. The legislation defines such offences and

specifies other powers of the military judiciary. Members of the military judiciary are independent and cannot be dismissed. They share the guarantees, rights and duties prescribed for members of the legal profession.”

Pursuant to this article of the Egyptian Constitution, the military judiciary is an independent judicial body mandated to adjudicate specific offences. The guarantees and safeguards applicable to the ordinary judiciary and the provisions governing the appointment of its members are also applicable to the military judiciary.

**(b) The legislative and legal status of the Egyptian military judiciary:**

Article 1 of Act No. 25 of 1966 concerning the Code of Military Justice, as amended, stipulates that: “The military judiciary is an independent judicial entity composed of military courts, military prosecutors and other branches of the judiciary, in accordance with the laws and regulations of the armed forces. The military judiciary has exclusive competence to adjudicate cases concerning offences pertaining to its jurisdiction, in accordance with the provisions of this Act, as well as offences that fall within its competence pursuant to other legislation.” The military judiciary is administered by a body working under the auspices of the Ministry of Defence.

Article 2 of the Act stipulates that: “The military judiciary shall be composed of a president and a sufficient number of members. It shall meet the conditions laid down in the Act concerning the conditions of service and promotion of officers of the armed forces promulgated by Act No. 232 of 1959 and those laid down in article 38 of the Act concerning the judiciary promulgated by Act No. 46 of 1972.”

Article 3 of the Act stipulates that: “Military judges are independent and are subject to no authority other than the law. Officers of the military judiciary other than members of the Military Prosecution Service at the rank of first lieutenant may be dismissed solely through the disciplinary procedures specified in Act No. 232 of 1959 concerning the conditions of service and promotion of officers of the armed forces. They shall perform the same duties as those specified in the Act concerning the judiciary for judges and public prosecutors. In cases of flagrante delicto, an officer of the military judiciary may be arrested and held in custody only after permission has been obtained from the Committee of the Military Judiciary.”

Article 25 of the Act stipulates that: “The Military Prosecution Service shall be headed by a prosecutor who holds the rank of at least brigadier general. He shall be assisted by a sufficient number of members, who hold the rank of at least first lieutenant and who meet the conditions laid down in articles 38 and 116 of Act No. 46 of 1972 concerning the judiciary and those laid down in Act No. 232 of 1959 concerning the conditions of service and promotion of officers of the armed forces.”

Article 28 of the Act stipulates that: “In addition to the powers vested in it under this Act, the Military Prosecution Service shall perform the functions and exercise the powers granted to the Public Prosecution Service, judges assigned to an investigation and referral judges under ordinary law.”

Article 43 of the Act stipulates that: “The military courts are: the Supreme Military Court of Appeal; the Supreme Military Court; the Central Military Court with Supreme Authority; and the Central Military Court. Each court shall have jurisdiction to hear cases brought before it in accordance with the law.”

Article 66 of the Act stipulates that: “After the case is registered, the President of the court shall instruct the Prosecution Service, the litigants and the witnesses to attend the trial session on a specific date.”

It is clear from the foregoing that the military judiciary enjoys the same guarantees and safeguards as the ordinary judiciary. The role of the Ministry of Defence is confined to administrative matters. The procedures for the appointment of military judges are the same as those applicable to the appointment of ordinary judges, and they enjoy the same guarantees and safeguards as members of the ordinary judiciary. They enjoy the same right to non-dismissal as their civilian counterparts. Legal proceedings are conducted in accordance with the Code of Criminal Procedure and the Code of Civil Procedure. All



guarantees of a fair trial and the rights of the defence are respected before the courts. Appeals may be filed with the Supreme Military Court against judgments handed down at all levels of jurisdiction, and the rules and procedures concerning appeals in cassation contained in Act No. 57 of 1959 are applicable thereto.

The military judiciary thus enjoys the same independence and impartiality as the ordinary judiciary.

**IV. The conformity of the military justice system with the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights and the Universal Declaration of Human Rights**

Article 14 of the International Covenant on Civil and Political Rights stipulates the following:

- “1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (c) to be tried without undue delay; (d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (f) to have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”

The military judiciary is a branch of the judiciary and is composed of judges who display the same independence, impartiality and legal expertise as ordinary judges. Military

courts were established and their jurisdiction was specified in a legal text before any case was brought before them. The Code of Criminal Procedure is applicable to their proceedings, and all rights and safeguards applicable to the ordinary courts are guaranteed before the military courts, in conformity with relevant international treaties.

The same rules are enshrined in the articles of the Universal Declaration of Human Rights. Article 10 stipulates that: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

The military judiciary is thus independent and impartial and all guarantees are respected before the courts.

#### **V. Detention safeguards in Egypt and their conformity with international standards**

The Egyptian Constitution seeks to ensure that the requisite guarantees for persons deprived of their liberty are respected, in accordance with article 9 of the International Covenant on Civil and Political Rights, and to ensure that they appear before an independent judiciary. No exceptions to these guarantees are permitted by the legislature except in cases that fall under counter-terrorism or emergency legislation. In this context, article 54 of the Egyptian Constitution stipulates that: "Personal freedom is a natural right that is safeguarded and may not be violated. Save in cases of flagrante delicto, citizens may only be apprehended, searched, detained or deprived of their liberty on the basis of a reasoned legal warrant necessitated by an investigation. All persons deprived of their liberty shall be immediately informed of the grounds therefor, notified of their rights in writing, permitted to contact their family and lawyer forthwith, and brought before the investigating authority within 24 hours of the time of deprivation of their liberty. Questioning may only begin once the person's lawyer is present. If he has no lawyer, a lawyer shall be appointed. Persons with disabilities shall be provided with all necessary assistance, in accordance with the procedures laid down by law. Persons who are deprived of their liberty and others are entitled to lodge a complaint with the judiciary. A ruling on the complaint must be handed down within a week. Otherwise the petitioner shall be immediately released."

Article 55 of the Constitution stipulates that: "All those who are apprehended, detained or deprived of their liberty shall be treated in a manner that preserves their dignity. They may not be tortured, terrorized, coerced or physically or mentally abused. They may not be detained or imprisoned save in designated locations that comply with humanitarian and health standards. The State shall provide means of access for persons with disabilities. Any violation of these provisions shall constitute a crime and the perpetrator shall be prosecuted. Accused persons have the right to remain silent. Any statement that is proven to have been made by the detainee under the forms of coercion listed above, or the threat of such coercion, shall be considered null and void."

Article 56 of the Constitution stipulates that: "Prisons are facilities aimed at reform and rehabilitation. Prisons and detention centres shall be subject to judicial oversight. Anything that undermines a person's dignity and or endangers his health is prohibited. The law shall specify the procedures for promoting the reform and rehabilitation of convicted persons, and for facilitating their return to a decent life upon release."

Domestic legislation also reflects all the safeguards enshrined in international instruments and the Egyptian Constitution concerning persons deprived of their liberty. The Public Prosecution Service, which is an impartial and independent branch of the judiciary that is entrusted with effective law enforcement, investigation and the institution of criminal proceedings, is tasked with monitoring the enforcement of judgments and with the inspection of prisons. It is fully aware of the importance of human rights and the international obligations of the Arab Republic of Egypt in this regard, stemming from binding international treaties that it has ratified, from its moral obligations under instruments in respect of which the ratification procedures have not yet been completed or from relevant declarations, regulations and guidelines adopted by the United Nations. It is therefore the most important means available to individuals for safeguarding their personal and public rights and freedoms.

Article 40 of the Code of Criminal Procedure stipulates that: "No one shall be arrested or detained except by order of the legally competent authorities. Any person who is arrested or detained shall be treated in a manner conducive to the preservation of his human dignity and shall not be subjected to physical or mental harm."

Article 41 of the Code stipulates that: "No one shall be detained except in prisons designated for the purpose, and no warden may admit any person into a prison save on the basis of an order signed by the competent authority, nor may he retain any person therein after the period specified in the said order has expired."

Article 42 of the Code authorizes prosecutors and judges, within their areas of jurisdiction, to undertake prison inspections. It stipulates that: "Members of the Public Prosecution Service and courts of appeal and presidents and vice-presidents of courts of first instance shall be authorized to inspect public and central prisons situated within their areas of jurisdiction in order to ascertain that no one is unlawfully detained. They shall have the right to examine prison records and arrest and detention orders, to take copies thereof, to contact any detainee and to hear any complaint that he may wish to submit. The prison governors and staff shall provide them with any assistance needed to obtain the information that they request."

With regard to judicial oversight of law enforcement officers, articles 85 and 86 of Act No. 396 of 1956 concerning the regulation of prisons stipulate that the Attorney General and his deputies, within their respective areas of jurisdiction, as well as representatives of the judiciary, namely presidents of appellate courts and courts of first instance and investigating judges, have the right of access at any time to prisons located within the areas of jurisdiction of the courts in which they are serving. In addition, the President and Vice-President of the Court of Cassation have the right of access to all prisons to ensure that no one is detained unlawfully therein. To that end, they are entitled to examine prison records and arrest and detention orders, to authorize representatives of the judiciary to contact detainees and hear their complaints, and to instruct the responsible prison officials to assist the representatives in obtaining any information that they request. As the judiciary is vested, by law, with the above-mentioned rights, it cannot be claimed that the situation of detainees is deteriorating or that they are not being provided with appropriate living and health conditions, since the judiciary is legally empowered to take any measure that it deems appropriate to meet the requirements of all forms of lawful detention.

Articles 5 and 6 of the Act stipulate that: "No person shall be incarcerated save on the basis of a written warrant signed by the legally competent authorities, and no person shall remain in prison beyond the period specified in the warrant. The prison director, his deputy or the official designated for the purpose shall, before admitting any person to prison, receive a copy of the detention warrant after having signed the original attesting its receipt, return the original to the person who brought the prisoner and keep a copy signed by the person who issued the incarceration order."

Article 39 of the aforementioned Act permits persons deprived of their liberty to contact their lawyers and meet them in private after obtaining permission from the competent judicial authorities. Legislators also took steps to provide education for persons deprived of their liberty, arranging for cooperation between the Minister of the Interior and the Minister of Education with a view to developing a curriculum for men and women, in accordance with articles 28 and 29 of the Act. Other legislative measures to promote the education of persons deprived of liberty included the creation of prison libraries with books on religious, scientific and ethical subjects and allowing persons deprived of their liberty to order their own books, newspapers and magazines, pursuant to article 30 of the Act. Prison authorities are also obliged, under article 13, to encourage and facilitate access to education for prisoners who may wish to continue their studies, and to allow them to sit for examinations.

Persons deprived of their liberty are entitled to send and receive letters, make telephone calls and receive visits from their relatives, including exceptional visits during religious holidays and whenever deemed necessary. They may also be granted temporary leaves of absence in emergencies or for compelling reasons and are allowed to visit their

relatives outside the prison for a period of 48 hours during the pre-release transitional period (arts. 64, 64 bis, 71 and 85 of the regulations governing prisons issued by the Ministry of the Interior in Decree No. 79 of 1961).

The right to health care for persons deprived of their liberty is enshrined in article 33 of Act No. 396 of 1956. It requires all prisons and penitentiaries to have one or more doctors, one of whom must be resident, who are responsible for prisoners' health. If the facilities for treating prisoners are not available in the prison hospital and the prison doctor considers that certain prisoners should be treated in another hospital, they must be transferred pursuant to an order issued by the Prison Service Medical Administration. In urgent or emergency cases, the prison doctor can take all measures he deems necessary to preserve the prisoners' health (art. 37 of the above-mentioned regulations).

## **VI. Allegations concerning perpetration of the crime of torture**

Egyptian legislators attach great importance to action to combat torture and all forms of inhuman and degrading treatment, and the Egyptian Constitution also accords top priority to such issues. Safeguards are guaranteed not only at the legal but also at the constitutional level. The Egyptian State assumed a vanguard position by signing the Convention against Torture by Presidential Decree No. 154 of 1986. The Convention thus became part of the State's domestic legislation and is applicable as such. The State is therefore obliged to implement the provisions of the Convention, and its Constitution and legislation clearly stipulate that all acts of torture are punishable offences.

Under the Egyptian Constitution, dignity is a human right that must not be violated; all forms of torture constitute offences that are not subject to a statute of limitations; anyone who is arrested, detained or deprived of his liberty must be treated in a manner that preserves his dignity; no one may be tortured, intimidated, coerced or subjected to physical or mental abuse; detention and imprisonment are permitted only in facilities which are designated for that purpose and which meet humanitarian and sanitary standards; the human body is inviolable and any assault thereon or disfigurement or mutilation thereof constitutes a legally punishable offence (arts. 51, 55 and 60). These rules and provisions are binding on all the State authorities and may not be infringed.

The Code of Criminal Procedure forms a legal shield for the protection of rights and freedoms and the prosecution of any violations. The offences prejudicial to personal freedoms and physical integrity defined in articles 117, 126, 127, 282, 309 bis and 309 bis (a) thereof, as well as the offences defined in Section I of Chapter II of Book III of the Criminal Code, are not subject to any statute of limitations.

The Criminal Code criminalizes all acts of torture perpetrated by public officials. The relevant provisions are contained in articles 126, 127 and 129 of Chapter VI of the Criminal Code, entitled "Coercion and ill-treatment of individuals by public officials", and in articles 280, 281 and 282. Article 126 of the Criminal Code prohibits the subjection of accused persons to torture to extract confessions. Article 127 provides for the prosecution of public officials and persons entrusted with public service who either order or inflict a penalty which is more severe than that imposed by law upon a convicted person, or which is not imposed by law.

It is important to note that the Public Prosecution Service investigates all reports it receives concerning torture and ill-treatment, and implements all the procedures required in any criminal investigation. Thus, as soon as a complaint is received and its validity is verified, a member of the Public Prosecution Service examines the corpse (in the case of death) or the injuries of the person claiming to have suffered torture or ill-treatment. The official likewise visits the scene of the incident and seizes all the instruments alleged to have been used to commit the offence. Moreover, a forensic medical examination of the corpse (in the case of death) or the person who suffered torture is conducted to determine the nature of any injuries, the date on which they were inflicted and the instruments used. Furthermore, witnesses to the incident and supervisors of the place of detention are questioned, all evidence linked to the offence is gathered, and the person or persons responsible for inflicting the injuries are interrogated and their statements compared with those of the victim and witnesses as well as with any other evidence that may emerge. Charges may then be formulated and action taken on the case file, depending upon the



outcome of the investigation, either by referral for trial or by suspension of the case for reasons enshrined in the law. The victim may complain and lodge an appeal against a decision to suspend.

In light of the foregoing, the content of the urgent joint communication from the mandate holders is clearly false and unsubstantiated, since the Arab Republic of Egypt has enacted legislation and adopted strict procedures for combating the crime of torture and punishing the perpetrators. Furthermore, the State authorities, primarily the Public Prosecution Service, investigate such offences with a view to identifying the perpetrators, instituting criminal proceedings and ensuring that they are sentenced to a penalty that will serve as a deterrent for others. It is thus totally unacceptable to accuse the Egyptian authorities of torture. Any offences that take place are individual cases, and all competent State bodies make every effort to prosecute and punish the perpetrators.

## **VII. Safeguards regarding the death penalty under the Egyptian legal system**

To begin with, we wish to reaffirm that the Arab Republic of Egypt is fully committed to all the international instruments that it has ratified and that its domestic legislation is in conformity with their provisions. Primary importance is attached to article 6 of the International Covenant on Civil and Political Rights, which stipulates that: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court."

Given that the right to life, as stated above, is one of the most fundamental human rights, any assault on the right to life is one of the most serious crimes defined by the Egyptian Criminal Code, and, under certain aggravating circumstances, the maximum penalty (the death penalty) may be imposed on the perpetrators of such crimes. Pursuant to the Constitution and the provisions of Egyptian legislation, the death penalty may be imposed for the most serious, flagrant and violent crimes. Deprivation of the right to life through the death penalty can only be carried out pursuant to a final judgment. The crime must have been punishable by the death penalty at the time of its commission, and the death penalty may not be imposed on persons who were under the age of 18 at the time of its commission. These legal guarantees are fully consistent with the international standards laid down in article 6 of the 1996 International Covenant on Civil and Political Rights and with the 1990 Convention on the Rights of the Child, which Egypt has ratified.

In view of the aforementioned international and constitutional obligations, a number of provisions concerning the safeguards applicable to the imposition of the death penalty and its implementation have been incorporated into Egyptian legislation:

The Public Prosecution Service or the Office of the Military Prosecutor is responsible for conducting investigations and instituting legal proceedings at various levels concerning all offences, in accordance with the rules, procedures and safeguards prescribed in the Code of Criminal Procedure. The Public Prosecution Service or the Office of the Military Prosecutor forms part of the judiciary and the military judiciary, in accordance with the Egyptian legal system. The members of the Public Prosecution Service and the Office of the Military Prosecutor enjoy judicial immunity, just like judges, and are not subject to dismissal. These provisions are consistent with relevant regulations adopted by United Nations Congresses on the Prevention of Crime and the Treatment of Offenders.

Criminal cases, which are cases involving offences entailing imprisonment as well as offences entailing the death penalty, are heard before criminal courts by the highest ranking judicial staff.

The Public Prosecution Service, the Office of the Military Prosecutor and the aforementioned criminal courts are competent to hear cases involving felonies. They follow all procedures aimed at guaranteeing a fair and equitable trial and ensuring compliance with the legal rules and regulations governing criminal investigations and prosecutions, in

accordance with the Constitution and the Code of Criminal Procedure. The Public Prosecution Service, the Office of the Military Prosecutor and the court are required to appoint defence counsel for accused persons who have no lawyer. Any violation of the right of defence is deemed to be a legal ground for annulment, cassation and a retrial.

A death penalty is imposed by a consensus of the chamber of judges and after seeking the opinion of the Grand Mufti of the Republic on the consistency of the judgment with the Islamic sharia. This measure is binding on the court and non-compliance renders the judgment null and void.

An appeal against the judgment may be filed with the Court of Cassation either by the Public Prosecution Service or by the convicted person (art. 46 of Act No. 57 of 1959 concerning cases and procedures for appeals before the Court of Cassation). A review before the court that handed down the sentence may be sought in the cases specified in articles 441 and ff. of the Code of Criminal Procedure.

The law requires the Public Prosecution Service and the Office of the Military Prosecutor to refer a death sentence handed down in the presence of the convicted person to the Court of Cassation, even if the person concerned has not filed an appeal, in order to ensure that the ruling is correct in legal terms and complies with the criteria for effective enforcement of safeguards of a fair and equitable trial. Cases are considered from the standpoint of the grounds established by law for an appeal in cassation, namely a breach of the law, erroneous application of the law, a violation of the right of defence or defective reasoning. If a breach is proven, the Court must quash the judgment and arrange for a retrial before a chamber other than the one that handed down the contested judgment.

If the Court of Cassation endorses the judgment, the case file containing the final judgment imposing the death penalty must be referred to the President of the Republic so that he may exercise his constitutional right to grant a pardon or to commute the penalty.

The death penalty may not be imposed on persons who were under the age of 18 years at the time of commission of the crime, in accordance with the Convention on the Rights of the Child and article 112 of the Children's Act No. 12 of 1998. Children who have perpetrated offences are tried before the special juvenile courts established under the Act, and the more lenient penalties prescribed in the Act are imposed.

Judgments convicting persons of a felony in absentia and imposing either the death penalty or other penalties prescribed by law are deemed to constitute default judgments based on the rule of law. They become null and void in the event that the person convicted in absentia is arrested or if he voluntarily hands himself in prior to the expiry of the term of the sentence, in accordance with article 395 of the Code of Criminal Procedure. He must then be retried and the court may not impose a harsher penalty than that imposed in absentia.

The above-mentioned safeguards demonstrate that the Egyptian legal system fully complies with all international standards governing criminal justice and a fair and equitable trial, in accordance with the Egyptian Constitution and the international human rights treaties that Egypt has ratified.

#### **VIII. The measures taken against the accused whose names are listed in the complaint**

##### **1. The case of Loutfy Ibrahim Ismael Khalil, Ahmed Abdel Moneim Salama, Ahmed Abdel Hady Mohammed al-Suhaimy and Sameh Abdallah Mohammed Youssef:**

They were convicted in Alexandria Felony Case No. 325/2015, registered as Tanta Court of First Instance Case No. 22/2015, and death sentences were handed down against:

1. [REDACTED] (defendant No. 10) (fugitive);
2. Loutfy Ibrahim Ismael Khalil (defendant No. 11) (the sentence was enforced);
3. Ahmed Abdel Moneim Salama Ali Salama (defendant No. 12) (the sentence was enforced);

4. [REDACTED] (defendant No. 13) (fugitive);
5. Ahmed Abdel Hady Mohammed al-Suhaimy (defendant No. 14) (the sentence was enforced);
6. Sameh Abdallah Mohammed Youssef (defendant No. 15) (the sentence was enforced);
7. [REDACTED] (defendant No. 16) (fugitive).

On 15 April 2015 and prior to that date, they committed intentional and premeditated homicide against the following Military College students: [REDACTED]; [REDACTED]; and [REDACTED].

They agreed to do so among themselves and were determined to perpetrate the crimes. Defendant No. 10 was tasked with forming special committees of the terrorist Brotherhood organization, supporting them with funds and information, and training them in monitoring and targeted assassinations with a view to carrying out acts of vandalism and targeting members of the armed forces, the civilian police and the judiciary. They launched the operations by targeting Military College students after monitoring their locations and times of assembly. Defendants Nos. 11 to 16 agreed on the procedure after being assigned the task and acquiring the explosive devices provided by defendant No. 10 and others, preparing for the explosion and sharing the roles among them. Defendants Nos. 14 and 15 entered Kafr el-Sheikh stadium from the side gate and placed the explosives at the entrance used by the Military College students next to the main stadium gate. They then returned in the same direction. When defendant No. 11 saw them from his hiding place in front of the stadium, having obtained the wireless detonator from defendant No. 16, he moved out of range of the explosion and awaited the passage of defendants Nos. 13 and 16 and the order to trigger the explosion. He then took out the detonator, pressed it, detonated the explosive device and departed, heading to a side road and meeting with defendant No. 12, to whom he handed over the explosive device. The latter had been monitoring the movements of the civilian police. The whole group then left the scene of the incident that led to the injuries and fatalities described in the documents concerning the aforementioned victims. The crime was based on incitement, agreement and support, and was associated with seven other previous and contemporaneous felonies at the same time and in the place mentioned above.

1. They took steps to commit intentional and premeditated homicide against the student [REDACTED] and the student [REDACTED], in the manner described in the case relating to the first charge. However, their crime failed to produce the planned outcome because of the prompt action taken to treat the victims.
2. They obtained the explosives mentioned in the report of the General Directorate for Criminal Evidence of the Ministry of the Interior without obtaining a licence for the purpose.
3. They used the explosives to perpetrate political killings, and to destroy public welfare buildings and facilities and places designed specifically for the general public.
4. They used explosives in a manner that endangered peoples' lives and that killed the aforementioned Military College students.
5. They used explosives in a manner that endangered people's property and that damaged vehicle No. LTA 6125 owned by [REDACTED].
6. They deliberately destroyed property belonging to the Ministry of Youth and Sports in a security room located at the gate of Kafr el-Sheikh sports stadium. They placed explosives in front of the room and detonated them, so that the room collapsed. Its value was estimated by the competent authorities at 67,000 pounds (LE). This terrorist act was motivated by the aim of spreading terror among the people and creating anarchy resulting in the death of the above-mentioned victims.
7. They were members of a prohibited body, the terrorist Muslim Brotherhood organization, which was established in breach of the law and the Constitution in

order to thwart the implementation of the Constitution and the law, and in order to overthrow the Government, using terrorism as the means to achieve their goals.

At its session on 1 February 2016, the Court unanimously decided to refer the case files of defendants Nos. 10 to 16 for a legal opinion to the Grand Mufti of Egypt. It set 2 March 2016 as the date on which the judgment would be handed down, and the accused remained in detention.

The Court ruled as follows at the session: first, to sentence defendants Nos. 11, 12, 14 and 15, in their presence, to death by hanging; secondly, to sentence defendants Nos. 10, 13 and 16, in absentia, to death by hanging.

On 26 April 2016, the judgment in respect of defendants Nos. 11, 12, 14 and 15 was confirmed and they were informed of its confirmation on 11 May 2016. On 4 July 2016, the defendants filed an appeal and at its session on 19 June 2016 the Court ruled as follows: first, to endorse the proposal by the Military Prosecution Service to approve the death sentence of the appellants; secondly, to accept their appeal in formal terms and to reject it in substantive terms. On 1 August 2017, their request for review was rejected on the ground that it failed to meet the conditions set forth in article 441 of the Code of Criminal Procedure, which specifies five cases in which a review may be requested. The death penalty was executed on 2 January 2018.

It should be noted that on 31 August 2015 the Prosecution Service decided to report that criminal proceedings were being instituted against defendants Nos. 17 to 63 based on the charges against them, except for the seventh charge, namely membership of a prohibited organization. It sent official copies of the documents containing the charges to the competent Public Prosecutor's Office so that it could take the requisite action.

The Prosecution Service also decided to report that no criminal proceedings should be instituted against defendant No. 64 because no offence had been committed.

This demonstrates clearly that the Military Prosecution Service, which is mandated to oversee the criminal proceedings, conducted the investigations impartially. If it considered that the facts reported and the charges levelled against some of the defendants were unfounded, it decided to suspend the criminal proceedings against them, and continued to conduct proceedings against persons who had been found, as a result of the investigations, to have committed offences in the case concerned.

We also wish to report that the case was discussed at a total of 26 sessions of the Military Court for Felonies and that all sessions were conducted in the manner prescribed and guaranteed by the Code of Criminal Procedure. The Court listened to the pleas presented by counsel for the defendants and provided a satisfactory and acceptable response to their arguments reflecting what had been established beyond a doubt by the Court in its examination of the case. The Court also responded to the requests of the defence to hear witnesses and heard them all, and responded to all other requests filed by the defence and the defendants.

## **2. The case of Abdulsalam Shoaib Abdulsalam Shoaib:**

The person concerned was sentenced to death in Qasr al-Nil Felony Case No. 7238 of 2013, registered as Central High Court Case No. 2238 of 2013 (United States Embassy incidents), on the charge of organizing a gathering of more than 15 people with a view to committing offences involving assaults on individuals and public property, intentional and premeditated homicide, intimidation, and intentional destruction of public welfare buildings. They used force and violence and carried firearms and edged weapons. In addition, the said person proceeded with other unknown persons to use force and violence against victims, using weapons to intimidate and control them. This was connected with the aforementioned felony of intentional and premeditated homicide. They also proceeded, together with others, to perpetrate intentional and premeditated homicide and to assault victims. They possessed and acquired to that effect unlicensed firearms, ammunition and edged weapons. The defendant Abdulsalam Shoaib Abdulsalam Shoaib is detained in Minya High Security Prison. He and another detainee were sentenced to death by hanging. The case was sent to the Appellate Prosecution Service for referral to the Court of Cassation on 9 April 2017 and no judgment has been handed down to date. According to a medical examination



undertaken and signed by the prison doctor when he was first detained on 20 April 2014, he was suffering from a number of [REDACTED] illnesses [REDACTED]. The detainee has been provided with the necessary treatment on a regular basis. His general condition is stable and he does not require special care.

Thus, an appeal has been lodged against his death sentence and it has not yet been executed.

### 3. The case of Samia Mohamed Dawood Shanan:

This person, whose real name is Samia Habib Mohamed Dawood Shanan, was sentenced to life imprisonment in Kardasa Felony Case No. 12749 of 2013 (Kardasa police station incidents). She was detained in Qanater Women's Prison from 28 September 2013. The case file, which was registered as No. 975, was referred to the Cassation Prosecution Service through the Cairo Appellate Prosecution Service on 21 December 2017.

A medical examination signed by the prison doctor found that all her vital signs were within normal limits. She does not suffer from any illnesses apart from slightly high blood pressure. She is provided with the necessary treatment. The results of a cardiogram performed on 6 May 2017 were within the normal limits.

It is clear from the foregoing that the allegation in the urgent communication that she may be facing a death penalty is unfounded, since she was sentenced to life imprisonment.

### 4. Ismailia High Court Public Felony Case No. 411/2013 registered as North Sinai Court of First Instance Public Felony Case No. 45/2013:

The following 15 defendants were sentenced to death:

1. [REDACTED] (defendant No. 1);
2. [REDACTED] (defendant No. 2);
3. [REDACTED] (defendant No. 3);
4. [REDACTED] (defendant No. 4);
5. [REDACTED] (defendant No. 8);
6. [REDACTED] (defendant No. 9);
7. [REDACTED] (defendant No. 10);
8. [REDACTED] (defendant No. 11);
9. [REDACTED] (defendant No. 12);
10. [REDACTED] (defendant No. 13);
11. [REDACTED] (defendant No. 14);
12. [REDACTED] (defendant No. 15);
13. [REDACTED] (defendant No. 16);
14. [REDACTED] (defendant No. 18);
15. [REDACTED] (defendant No. 19).

They were sentenced for committing the following crimes on and before 15 August 2013 and on 9 December 2013 in North Sinai Governorate:

#### I. Defendants Nos. 1 to 4 and Nos. 8 to 15:

1. They committed intentional and premeditated homicide against First Lieutenant [REDACTED] and Sergeant [REDACTED], and against the soldiers [REDACTED] and [REDACTED]. They were determined to kill all persons, without discrimination, who belonged to the armed forces. They prepared firearms for the purpose and headed to the assembly area in Al-Safa 3 security point. As soon

as their victims were in their line of fire, they targeted them with a barrage of live fire that claimed their lives. This crime was linked to the attempted murder in the same manner of the soldier [REDACTED]. However, they failed to achieve their criminal aim, because action was taken to treat the victim.

An additional crime was the use of force to steal equipment belonging to the armed forces, including a multi-barrel machine-gun, a sniper rifle equipped with a telescope, automatic rifles, magazines for automatic rifles, two bayonets, diverse ammunition, a vision device, a signalling device and seven bulletproof shields. These acts were motivated by terrorist aims and were undertaken to disrupt law and order and to jeopardize the safety and security of society.

2. They possessed and acquired fast-fire automatic rifles and ammunition, the possession or acquisition of which is prohibited. These acts were motivated by terrorist aims and were undertaken to disrupt law and order and to jeopardize the safety and security of society.

**Defendant No. 2:**

1. He sought to kill members of a patrol in the Abu Eita neighbourhood of El-Arish, deliberately throwing two hand grenades in their direction. However, he failed to achieve his aim. None of the targeted victims was hit because one of the grenades exploded outside the area of patrol and the other was damaged and hence failed to explode.
2. He violently resisted public service officials, including officers, non-commissioned officers and soldiers of the armed forces, who were patrolling in the Abu Eita neighbourhood of the city of El-Arish, throwing two hand grenades at them with a view to preventing them from performing their duties and from arresting him, in accordance with their mandate. But he failed to achieve his aim.
3. He possessed and acquired explosives (two grenades), without obtaining a licence, with a view to disrupting law and order and jeopardizing the safety and security of society.
4. He used the aforementioned explosives to endanger people's lives.

**Defendant No. 3:**

1. He sought to kill members of a patrol in the Dargham area of El-Arish, deliberately firing several shots at them. However, he failed to achieve his aim and none of the targeted victims was hit.
2. He violently resisted public service officials, including officers, non-commissioned officers and soldiers of the armed forces, who were patrolling in the Dargham areas of the city of El-Arish, firing several shots at them with a view to preventing them from performing their duties and from arresting him and some of his companions. But he failed to achieve his aim.
3. He possessed and acquired a fast-fire automatic rifle and ammunition, the possession or acquisition of which is prohibited. His aim was to disrupt law and order and to jeopardize the safety and security of society.

**Defendant No. 4:**

1. He sought to kill members of a patrol on the ring road of El-Arish, deliberately firing several shots at them. However, he failed to achieve his aim and none of the targeted victims was hit.
2. He violently resisted public service officials, including officers, non-commissioned officers and soldiers of the armed forces, who were patrolling on the ring road of El-Arish, firing several shots at them with a view to preventing them from performing their duties and from arresting him. But he failed to achieve his aim.
3. He possessed and acquired a fast-fire automatic rifle and firearms ammunition, the possession or acquisition of which is prohibited. His aim was to disrupt law and order and to jeopardize the safety and security of society.

**Defendants Nos. 2, 4 and 18:**

They illegally obtained access to a State defence secret with a view to monitoring movements of units of the armed forces in the Governorate of North Sinai. They did not plan to transfer or reveal it to a foreign State or to a person working on its behalf.

At its session on 16 June 2015, the Court unanimously decided to sentence all the above-mentioned defendants to death by hanging, and to require defendants Nos. 1 to 4, Nos. 8 to 16, No. 18, No. 19 and others operating in partnership with them to refund the value of the weapons, ammunition and vision devices and signalling equipment specified in the first charge. On 25 October 2015 the judgment was confirmed, and on 13 November 2017 the Supreme Military Court of Appeal decided to accept the appeal submitted by the appellants in formal terms and to reject it in substantive terms, and to accept in formal and substantive terms the proposal by the Military Prosecution Service to approve the death sentence against the appellants. The death penalty was executed on 26 December 2017.

**5. The death sentence imposed on civilians in military trials in East Cairo Felony Case No. 2 of 2016:**

The following accused persons were sentenced to death:

1. [REDACTED] (defendant No. 1);
2. [REDACTED] (defendant No. 2);
3. [REDACTED] (defendant No. 3);
4. [REDACTED] (defendant No. 4);
5. [REDACTED] (defendant No. 6);
6. [REDACTED] (defendant No. 7);
7. [REDACTED] (defendant No. 8);
8. [REDACTED] (defendant No. 9);
9. [REDACTED] (defendant No. 10);
10. [REDACTED] (defendant No. 35);
11. [REDACTED] (defendant No. 73). **He is the only defendant who was sentenced in his presence. All the others were sentenced in absentia.**

**They were sentenced for committing the following offences during the period from 2009 until 14 December 2015 in the Arab Republic of Egypt and elsewhere:**

**I. Defendants Nos. 1 to 4 and Nos. 6 to 9:**

They were leaders of an organization that was established in breach of the law with a view to thwarting the implementation of the Constitution and the law, preventing State institutions and the public authorities from performing their duties, suppressing citizens' personal liberty, and undermining national unity and social harmony. They established and managed the cells of the Ansar Bayt al-Maqdis organization in the Sinai region, which calls for the ruler to be charged with apostasy and deposed, promotes forcible regime change, assaults on judges, members of the armed force, the police and their installations, and supports the killing of Christians and the seizure of their funds, property and places of worship, and the targeting of public and foreign property and facilities with a view to disrupting law and order and jeopardizing the safety and security of society. The group used terrorism as a means of achieving its goals, managing its cells in the Sinai Peninsula and issuing orders to its members. It established a camp outside the country to train its members and prepare them physically and militarily for the achievement of its goals.

**II. Defendants Nos. 10, 35, 73 and others:**

They joined the aforementioned illegal organization in full awareness of its goals.

**III. Defendants Nos. 1 to 4, 9, 10, 35 and 73:**

They supplied an illegal organization with material and financial support, providing it with weapons, ammunition, explosives, equipment, machinery, funds and information in full awareness of the purpose that they would serve.

#### IV. Defendant No. 35:

He, together with others who are deceased, was responsible for the intentional and premeditated killing of police officer [REDACTED]. The group was fully determined to kill police officers and prepared firearms (automatic rifles and pistols) and two vehicles for the purpose. They then headed off in search of a police vehicle. As soon as they caught sight of the victim's vehicle, they followed it and, on catching up with it, fired a barrage of bullets at the victim and other occupants, forcing the driver to hit a fence by the side of the road. They then proceeded towards them, fired a further spray of bullets and set fire to the vehicle in order to be sure that they were dead. They caused the lethal injuries described in the autopsy report. The crime was motivated by terrorist aims and was associated with other felonies committed at the same time and in the place mentioned above.

(a) He, together with others who are deceased, was responsible for the intentional and premeditated killing of police officers [REDACTED], [REDACTED], and [REDACTED]. The group was fully determined to kill them and fired a barrage of bullets at them for the purpose. They caused the lethal injuries described in the autopsy reports and the crime was motivated by terrorist aims.

(b) He, together with others who are deceased, stole firearms (three automatic rifles and a pistol), ammunition and a wireless device belonging to the five victims mentioned above, as noted in the records of the investigations. The incident occurred on a public highway where they were carrying firearms.

(c) He, together with others who are deceased, deliberately destroyed public property used for governmental purposes, setting fire to the vehicle described in the records of the investigations, which was owned by the police. The crime was motivated by the terrorist aim of spreading terror among the people and creating anarchy.

#### V. Defendant No. 1:

He participated in incitement to homicide, attempted homicide, theft and vandalism (as described in section IV). He incited the persons concerned to perpetrate the acts and assigned them the task, and the crime was committed in response to his incitement.

#### VI. Defendant No. 4:

He and others deliberately killed police officer [REDACTED]. They drove a car along a desert road and when they saw the victim's police vehicle coming towards them, defendant No. 4 prepared his firearm (a pistol). When they came to a halt and the victim descended from the police vehicle, defendant No. 4 opened fire with the intention of killing him. The shots caused the lethal injuries described in the autopsy report. The crime was motivated by terrorist aims and was associated with other felonies committed at the same time and in the place mentioned above.

(a) They deliberately sought to kill [REDACTED] and [REDACTED], an officer and a police officer. Defendant No. 4 opened fire with a view to killing both of them. The injuries caused to the victim [REDACTED] are described in the medical report. The crime failed to achieve the planned outcome because he was provided with medical care and treatment, and the shot fired at [REDACTED] missed the target. The crime was motivated by terrorist aims.

(b) He, together with others who are deceased, stole firearms and ammunition that were police property belonging to the victim [REDACTED]. The incident occurred on a public highway where they were carrying firearms.

#### VII. Defendant No. 35:

He, together with others who are deceased, deliberately killed [REDACTED]. They drove two cars, armed with firearms (automatic rifles and pistols), with



a view to stealing a four-wheel-drive vehicle (to conduct hostile operations). When they saw the victim's vehicle, they compelled him to halt and opened fire in his direction in order to kill him. They caused the injuries described in the autopsy report, which claimed his life. The crime was motivated by terrorist aims and was associated with other felonies committed at the same time and in the place mentioned above. They stole the victim's vehicle, which belonged to his company. The incident occurred on a public highway where they were carrying firearms.

#### VIII. Defendant No. 73:

(a) He, together with another unknown person, committed intentional and premeditated homicide against [REDACTED]. They were fully determined to kill persons in the Italian Consulate building by blowing it up. With a view to implementing the plan, the late [REDACTED] specified the roles they should play. The deceased and an unknown person monitored the Consulate building, standing at the entrances and exits. When they found a position from which to target the building, defendant No. 4 provided them with a car loaded with metal containers filled with a 300-kilogram explosive consisting of ammonium nitrate, which was detonated by means of a remote electronic detonator. The defendant then drove the car and another person drove ahead of him to secure the route until they reached the vicinity of the building. Once they were confident of the safety of the route, the aforementioned car was driven to a vacant space in front of the building and the detonator was connected. As soon as they left, the other defendant, who was in a high location on the opposite side (October Bridge), detonated it remotely by means of a mobile detonation device. The aim of the explosion was to kill the victim. It caused the lethal injuries described in the autopsy reports and the crime was motivated by terrorist aims.

(b) He, together with another unknown person, sought to commit intentional and premeditated homicide against [REDACTED] and others (specified in the records of the investigations). They were fully determined to kill the persons present in the Italian Consulate by means of an explosion. They caused the injuries described in the medical report, but the crime failed to achieve the planned outcome because the victims were provided with medical care and treatment. The crime was motivated by terrorist aims.

(c) He, together with another person who is deceased, sought to commit intentional and premeditated homicide against the Attorney General of the State Security Prosecution Service, members of the Prosecution Service, and employees and lawyers of the Supreme State Security Prosecution Service. They were fully determined to kill the persons present in the Supreme State Security Prosecution Service. To that end, the above-mentioned deceased person mandated him to commit the crime after monitoring the Prosecution Service premises, standing at its entrances and exits, and monitoring staff on guard duty as well as the cars of Prosecution Service members. He watched the car assigned to the First Attorney General until the deceased person provided him with an explosive to kill him. On the day specified for the attack, he proceeded to the premises with the explosive. On entering the premises, he placed the explosive under the car. He then waited, at a short distance, for the departure of the First Attorney General in order to detonate the explosive using a remote control device. However, they were prevented from committing the crime thanks to the suspicion of one of the guards. The crime was motivated by terrorist aims.

(d) He, together with an unknown person, deliberately destroyed public buildings and property used for governmental purposes by blowing up a vehicle, in the manner described in section XIII (a), destroying the buildings of the Bar Association, the journalists' union, the Sadat Academy for Management Sciences, the Export Control Authority, the Entomological Society of Egypt, the Real Estate Registration and Documentation Authority, the Chemistry Authority, the Cairo Bank, the Suez Cement Company, and the South Cairo Electricity Distribution Company. The crime was motivated by the terrorist aim of spreading terror among the people and creating anarchy.

(e) He, together with an unknown person, used explosives to destroy buildings and places intended for public access. They blew up a car, in the manner described in section VIII (a), in order to destroy the Italian Consulate building.

(f) He, together with an unknown person, used explosives in a manner that could endanger people's lives. They blew up a car, in the manner described in section VIII (a), at the Italian Consulate and the explosion claimed the life of the victim named in the same section.

(g) He, together with an unknown person, used explosives in a manner that could endanger people's property. They blew up a car, in the manner described in section VIII (a), at the Italian Consulate and the explosion caused damage to movable and immovable property.

(h) He, together with an unknown person, deliberately destroyed and damaged movable and immovable property that they did not own. They destroyed and damaged movable and immovable property owned by the victims, whose names are specified in the records of the investigations, placing them and their security at risk. The crime was motivated by terrorist aims.

(i) He, together with an unknown person, damaged buildings intended for the celebration of religious rites and venerated by the members of a religious community. They damaged two Muslim youth mosques and the Sadat Academy for Management Sciences, which are intended for the celebration of Islamic rites and are venerated by Muslims. The crime was motivated by terrorist aims.

#### **IX. Defendants Nos. 4 and 10:**

They participated, together with unknown persons and others who are deceased, in inciting, aiding and abetting the commission of crimes of homicide, in attempting to perpetrate them, in using explosives and in wreaking damage and destruction, in the manner described in section VIII. They were incited by the late [REDACTED] to perpetrate the acts. He reached an agreement with them, specified their respective roles, helped them to monitor the building and accompanied them. Defendant No. 4 provided them with a car supplied by the late [REDACTED] and equipped by defendant No. 10, and other unknown persons, with explosive materials on a desert road in the Al-Wahat region. The crime was committed as a result of this incitement, consent and assistance.

#### **X. Defendant No. 73:**

(a) He and others sought to commit intentional and premeditated homicide against police officer [REDACTED] and others whose names are specified in the records of the investigations. They were fully determined to kill police officers in the National Security Department building in the city of Shubra el-Khaymah in Qalyubiya Governorate by detonating an explosive. To that end, they monitored the targeted building, stood at its entrances and exits, and observed the security procedures. Defendant No. 73 met defendant No. 4 and they were provided with a booby-trapped truck containing high-density explosives that could be detonated from a distance. It was driven by defendant No. 73 and was left next to the National Security Department Building. He then rode away on a motorbike from the scene of the explosion. The other individual detonated the explosive from afar and caused the explosion that was intended to claim the victims' lives. They suffered injuries, but the crime failed to achieve the planned outcome because the victims were provided with medical treatment.

(b) He and others deliberately destroyed public buildings and property used for governmental purposes by blowing up the vehicle mentioned in the previous paragraph. The buildings that they destroyed included the High Court and Public Prosecution Service building in South Banha, which also housed the Bar Association, the Faculty of Agriculture subway station building and the Mohamed Ali Palace. Movable property and antiquities were also destroyed. The crime was motivated by the terrorist aim of spreading terror among the people and creating anarchy.

(c) He and others used explosives to destroy public welfare buildings and facilities by blowing up the vehicle mentioned in paragraph (a) with a view to destroying the National Security Department building.

(d) He and another unknown person used explosives to in a manner that could endanger people's lives. They blew up the vehicle mentioned in paragraph (a) in the vicinity of the National Security Department in the manner described in the records of the investigations.

(e) He and others used explosives in a manner that could endanger people's property. They blew up the vehicle mentioned in paragraph (a) in the vicinity of the National Security Department and the explosion caused damage to movable and immovable property in the manner described in the records of the investigations.

(f) He and others destroyed and damaged movable and immovable property that they did not own. They destroyed and damaged movable and immovable property owned by the victims, whose names are specified in the records of the investigations, placing them and their security at risk. The crime was motivated by terrorist aims and perpetrated in the manner described in the records of the investigations.

#### **XI. Defendants Nos. 4 and 10:**

They participated, together with unknown persons and others who are deceased, in inciting, aiding and abetting the commission of crimes of attempted homicide, using explosives and wreaking damage and destruction, in the manner described in section X. They were incited by the late [REDACTED] to perpetrate the acts. He reached an agreement with them and specified their respective roles. Defendant No. 4 provided them with the vehicle used for the purpose, which had been equipped by defendant No. 10 with explosive materials on a desert road in the Al-Wahat region. The crime was committed as a result of this incitement, consent and assistance.

#### **XII. Defendant No. 35:**

(a) He, together with others who are deceased, stole the sum indicated in the investigations from the Western Union company in Maadi by coercing staff members [REDACTED], [REDACTED] and [REDACTED]. Having developed a plan to steal funds from the company's branch, they headed towards it in a vehicle, carrying firearms. On arriving at the branch, they stormed the building, aimed their weapons and fired shots at those present, while another remained outside to secure the premises. They terrorized the victims, thereby preventing any resistance, and seized the funds by coercive means. The victim [REDACTED] suffered injuries as a result of the coercion, as described in the records of the investigations.

(b) He, together with others who are deceased, deliberately destroyed and damaged movable and immovable property that they did not own. They destroyed and damaged the Western Union branch in Maadi and the movable property it contained, placing the persons concerned and their security at risk. The crime was motivated by terrorist aims, as stated in the records of the investigations.

#### **XIII. Defendants 7 and 10:**

They, together with others, produced explosives without obtaining a licence. They fabricated diverse and blended explosives for use in activities aimed at jeopardizing security, disrupting law and order, violating constitutional principles, and undermining national unity and social harmony, in the manner described in the records of the investigations.

#### **XIV. Defendants 1 to 4, 7, 8, 10, 35 and 73:**

They, together with unknown persons and others who are deceased, possessed and acquired explosives and associated materials without obtaining a licence. They possessed and acquired bombs, detonators, rocket-propelled grenades and explosives for use in activities aimed at jeopardizing security, disrupting law and order, violating constitutional principles, and undermining national unity and social harmony, in the manner described in the records of the investigations.

**XV. Defendants 1 to 4, 6 to 10, and 35:**

They, together with unknown persons and others who are deceased, possessed and acquired firearms (pistols and automatic rifles) and ammunition without obtaining a licence. Licences may not be issued for the possession or acquisition of articles that are to be used to jeopardize security, disrupt law and order, violate constitutional principles, and undermine national unity and social harmony, in the manner described in the records of the investigations.

---