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The Permanent Mission of the Arab Republic of Egypt to the United Nations, World Trade Organization, and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and with reference to the joint communication from special procedures Ref. AL EGY 11/2022 on 18 November 2022 regarding the case of Dr. Abdelmoniem Aboulfotouh, the Permanent Mission has the honor to attach herewith the reply of the Egyptian Government to the aforementioned communication.

The Permanent Mission of the Arab Republic of Egypt to the United Nations, World Trade Organization, and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Right, the assurances of its highest consideration.

Geneva, 19 January 2023



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(Translated from Arabic)

Permanent Mission of the Arab Republic of Egypt to the United Nations, the World Trade Organization and other international organizations in Geneva

Response of the Arab Republic of Egypt to the joint communication concerning Mr. Abdelmoniem Aboufotouh Abdelhadi Abousaad

The submission of this response by the Egyptian Government reflects its sincere desire to respond positively to the communications of United Nations rapporteurs and its commitment to compliance with its international human rights obligations. It also views the response as an opportunity to achieve transparency and to rectify concepts that may be based on politicized or unfounded information.

I. The facts and procedures relating to the trial of Mr. Abdelmoniem Aboufotouh

Following the outbreak of the revolution of 30 June 2013, which ended with the ousting of former President Mohamed Morsi, who was a member of the [REDACTED] Brotherhood, the group's leaders based abroad developed a general plan aimed at spreading chaos in the country, using force, violence, threats and intimidation at home and abroad in order to undermine law and order and jeopardize the safety and security of Egyptian society. The leaders of the [REDACTED] Brotherhood group assigned responsibility to Mr. Abdelmoniem Aboufotouh Abdelhadi Abousaad for implementing the plan and for promoting the escalation of hostilities against the State and its institutions by arranging for the storming and occupation of vital public institutions and security establishments, including Al-Ittihadiya Presidential Palace, Cairo Airport and Burj al-Arab port, the seizure and destruction of weapons in security facilities, the assassination of some public figures and a number of ministerial employees, and setting fire to the Office of the Prosecutor General, the Supreme State Security Prosecutor's Office and some of the main court buildings. Mr. Abdelmoniem Aboufotouh instructed a number of leaders and members of the [REDACTED] Brotherhood to provide the weapons, ammunition and tools that were required to implement the plan. He established groups of young people and university students who were known as "Strong Egypt Students". He also held a meeting with a number of leaders of the [REDACTED] Brotherhood in the British capital city, London, during which they agreed to disseminate false news through the media with a view to inciting citizens to organize gatherings against State institutions, and to use such gatherings as a screen for committing terrorist acts against individuals and police officers and for destroying public and private facilities. In line with the plan, [REDACTED] [REDACTED]. He also used one of his farms, located in plot 138, kilometer 101, in the Al-Mughtarbeen region, Wadi al-Natrun Centre, Al-Buhayrah Governorate, as a centre for the preparation and training of members of the [REDACTED] group in how to use all kinds of firearms to implement the plan. The same farm was used as a storehouse for the concealment and storage of a large number of weapons.

He was arrested on 14 February 2018 pursuant to a warrant issued by the Public Prosecution Service on 13 February 2018 in Case No. 440 of 2018 concerning his possession of Brotherhood publications containing concepts aimed at incitement of the use of violence and terrorism against the State and its institutions and plans to overthrow the country's regime. The Public Prosecution Service interrogated him and permitted him to present his defence pleas and statements in the presence of his lawyer for the purpose of the investigation. He admitted having joined the terrorist Brotherhood group. Article 12 (2) of the Counter-Terrorism Act criminalizes membership of and all forms of participation in terrorist organizations.¹ Participation includes all forms of material contributions,

¹ Article 12 (2) of Counter-Terrorism Act No. 94 of 2015 stipulates that: "Anyone who joins a terrorist group or who participates in the group while being aware of its objectives shall be punishable by rigorous imprisonment."

including information-based support and promotion of [REDACTED] objectives that involve direct or indirect incitement to violence in order to achieve the same goals, with full knowledge thereof. Such action by the Egyptian State is in line with its obligations pursuant to Security Council resolution 1373 (2001) to criminalize support for terrorist acts and recruitment of members of terrorist groups.

The investigations of the Public Prosecution Service also found that a number of defendants in the same case had participated in the gatherings of the [REDACTED] Brotherhood group and had subsequently sought shelter in the above-mentioned farm for fear of being arrested by the police.

Accordingly, Mr. Abdelmoniem Aboulfotouh offered them a place of residence on his farm as a safe haven, thereby committing one of the terrorist funding offences criminalized in articles 3 and 13 of the Counter-Terrorism Act. It is also listed as an offence in Security Council resolution 1373 (2001). The Public Prosecution Service issued a warrant to search the farm, and when it was searched on 21 August 2018 two automatic rifles, a shotgun and 120 rounds of ammunition for use in such weapons were found. They were examined by the Public Prosecution Service, which confirmed the authenticity and safety of the seizures. The Public Prosecution Service also examined the publications seized in the said person's residence and found that they were designed to agitate public opinion and to spread chaos in the country. In addition, it examined media interviews conducted with him abroad, which included the dissemination of fake news and rumours about the internal situation in the country.

On 25 August 2021, the Public Prosecution Service referred the person in question and other individuals for criminal proceedings in Supreme State Security Case No. 440 of 2018, which was registered as Serious Offences No. 1059 of 2021, Emergency State Security, Fifth Settlement. They were charged with: assuming leadership of a terrorist group that aims to use force, violence, threats and intimidation to undermine law and order and to jeopardize the safety, interests and security of society; with committing the offence of terrorist funding for the benefit of a terrorist group; with committing terrorist offences by preparing and training individuals to use conventional weapons and with providing a location for training purposes; with possessing and securing publications that promote the objectives of the terrorist group; with deliberately disseminating fake news and rumours about the country's internal affairs at home and abroad; with indirectly promoting the commission of terrorist crimes and promoting ideas and beliefs that advocate the use of violence; with possessing and acquiring two firearms (two loaded automatic rifles), for which a licence for possession or acquisition may not be issued if they are to be utilized for acts that undermine law and order and security and that violate the principles of the Constitution, national unity and social peace; and with the possession and acquisition of the ammunition used in the aforementioned firearms, for which a licence may not be issued if they are to be utilized for the same purposes.

II. Comments on the allegations contained in the communication

1. The communication alleges that Mr. Abdelmoniem Aboulfotouh was arrested without an arrest warrant and that he was arrested on account of his views that were critical of the Egyptian Government. This is a false and unfounded allegation that bears no relationship to the facts. The person in question is being tried for breaching the provisions of the Egyptian Criminal Code and Counter-Terrorism Act No. 194 of 2005. The Public Prosecution Service proved through its investigations that he had participated in the above-mentioned plan with a view to overthrowing the country's ruling regime and establishing groups of young people known as "Strong Egypt Students" to commit terrorist acts in the country. With that end in view, he held meetings abroad with leaders of the [REDACTED] group. In addition, the investigations by the Public Prosecution Service in Case No. 955 of 2017 proved that the said person had assumed leadership of the [REDACTED] Brotherhood group and was a member of the Guidance Bureau that manages its affairs. Furthermore, with a view to implementing the plan of the [REDACTED] group, he deliberately

disseminated [REDACTED] statements in the media in order to agitate public opinion and incite citizens against State institutions. [REDACTED], the Public Prosecution Service issued a reasoned arrest warrant pursuant to Supreme State Security Case No. 488 of 2018, in accordance with the provisions of the Egyptian Code of Criminal Procedure.² The procedures for his arrest were conducted in accordance with the warrant, and he was interrogated in the presence of his defence counsel during a period that did not exceed 24 hours from the date of his arrest, which is the legal period specified in article 36 (1) of the Code of Criminal Procedure. He was informed during his interrogation of all the charges filed against him, the prescribed penalties and the evidence that he had committed the acts in question. He was permitted to present a defence and to issue statements in the presence of his lawyer during the interrogation, and the Public Prosecution Service decided, following the interrogation, to place him in custody pending the legal proceedings. The pretrial detention procedures complied fully with the provisions of the Code of Criminal Procedure concerning the duration and the grounds warranting detention.

2. According to the informant, the said person's defence counsel requested the Public Prosecution Service on 5 April 2022 to undertake an investigation into the case, but the Service failed to respond to the counsel's request. This is a [REDACTED] allegation, since the counsel's request concerned a case that had been referred by the Public Prosecution Service to the competent court for criminal proceedings. Consequently, the Public Prosecution Service was unable to undertake an investigation into the case. The said person's defence counsel was required, as already clarified, to submit a request to the court to undertake the necessary measures. However, he deviated from the prescribed legal procedures by submitting a request to the Public Prosecution Service concerning the investigation of a case that had been referred to the competent court.

3. The allegation that Mr. Abdelmoniem Aboufotouh was denied a fair trial before the State Security Emergency Court is unfounded because the law permits the establishment of specialized courts to deal with cases involving terrorism referred to them by the criminal chambers of the Cairo Appeal Court. They are composed of normal judges and operate in accordance with all the procedures, without exception, that are prescribed in the Egyptian Code of Criminal Procedure. They guarantee the right of accused persons to a defence and all the conditions of a fair trial stipulated in the international treaties that have been ratified by the Egyptian State. The establishment of the special courts has had a positive impact, for instance by enhancing judges' capacity to understand the nature of terrorist crimes, the circumstances in which they are perpetrated, the underlying motives and the sources of funding. They are also familiarized with applicable legal provisions, means of securing evidence of the basic components of terrorist crimes, and means of distinguishing between them and other crimes in a manner that guarantees compliance with the principle of the rule of law.

The State Security Emergency Court is an ordinary court in terms of its formation, guarantees and applicable rules and regulations. Emergency Act No. 162 of 1958 does not provide for special procedures during sessions of State security emergency courts, and the provisions of the Code of Criminal Procedure are applicable to all proceedings. Convicted persons are entitled to file a complaint against the Court's judgments, and the admissibility of such appeals is ascertained by a group of judges.

² The arrest warrant was in line with the provisions of article 35 of the Egyptian Code of Criminal Procedure, which entitles the Public Prosecution Service to issue a reasoned arrest warrant if there is sufficient evidence to charge a person with having committed a serious offence. In addition, article 40 of the Code stipulates that the arrest or detention of a person shall be based on a warrant from the competent investigating authorities, and it requires the person who implements the arrest warrant to treat the arrested person in a manner that preserves his or her dignity. Article 46 of the Code permits the person implementing the arrest warrant to search the person concerned. This is consistent with the provisions of article 91 of the Code, which stipulates that house searches shall be based on a substantiated order issued by the investigating authority pursuant to the charge filed against a person residing in the house, or based on evidence indicating that the person possesses items of relevance to the crime.

4. With regard to the allegation that the said person was deliberately denied adequate medical treatment, it should be noted that the Public Prosecution Service initiated its investigations by examining the said person to ensure that his body was free of traces of injury. The Service also monitored his state of health and ascertained whether he was receiving the necessary medical care. It found that he receives all kinds of medical care from the physicians of the prison hospital and consultants contracted for their specialized medical skills. He is provided with the requisite medication for his illness, just like other inmates. It was found, on signing the document concerning the medical examination of Mr. Abdelmoniem Aboulfotouh in the presence of a consultant on internal medicine and problems of the heart, urinary tract and bones, and on reviewing his medical file, that he has a history of [REDACTED] [REDACTED] for which he receives medical treatment. His measurements are stable [REDACTED] [REDACTED]. He is treated for simple coronary artery insufficiency due to slow blood flow. His pulse is normal. A clinical examination of the heart, chest and abdomen found that they were within the normal limits. The treatment was changed from an Effox 25 mg capsule once a day to a Nitromak 2.5 mg capsule every 12 hours for further improvement. His vital rates were within the normal limits. He suffers from [REDACTED], the size of which is commensurate with his age. It was found on conducting the necessary tests and analyses that there is no urine left in his bladder after urination and that his condition is stable. He has a history of [REDACTED] that does not affect his movement. As his motor nervous system is healthy, his general condition is sound and stable, and his vital signs are at a normal level, he does not require medical treatment for the condition. He is offered all kinds of health care, just like other inmates.

5. The allegation that he was denied visits from his defence counsel and his family is unfounded. Mr. Abdelmoniem Aboulfotouh receives visits from his family, his relatives and his lawyer on a regular basis and occasionally on an exceptional basis or based on a permit from the Public Prosecution Service. He has received a total of 99 visits. He received 12 visits during the months of May, June and July 2019 (on 4, 8, 13, 19, 23 and 28 May, 1, 5, 11, 22 and 29 June, and 13 July). The last visit he received from his family was [REDACTED] on 7 December 2022.

6. With regard to the allegation of solitary confinement, it has been proven that he was placed in pretrial detention from 15 February 2018 in Badr (1) Reform and Rehabilitation Centre pending Supreme State Security Case No. 440 of 2018. He has not been subjected during his detention to any disciplinary measures or procedures, and he is permitted to exercise on a regular daily basis.

7. With regard to the legal basis for inclusion in a list of persons banned from travelling, the Egyptian State guarantees freedom of movement for its citizens and for persons resident on its territory. Freedom of movement is a right guaranteed to all persons by international treaties and national constitutions. Every person legally residing within a country's territory has the right to freedom of movement from one location to another, and to choose a place of residence within the territory. Persons are also free to leave the territory and they may not be deprived of that right.³ Article 62 of the Egyptian Constitution is consistent with article 13 of the Universal Declaration of Human Rights and article 12 (1) and (2) of the International Covenant on Civil and Political Rights. However, the right is not absolute and may be restricted on legal grounds in order to protect public interests, national security, public order, public health or morals or the rights and freedoms of others, in accordance with article 12 (3) of the International Covenant on Civil and Political Rights. This includes cases in which persons charged with committing a crime are the subject of criminal investigations which require them to remain in the territory of the State until the investigations have been completed.

³ Article 62 of the Constitution stipulates that: "Freedom of movement, residence and emigration is guaranteed. No citizen may be expelled from the State territory or prevented from returning thereto. No citizen may be prevented from leaving the State territory, placed under house arrest, or prevented from residing in a specific location except by a reasoned judicial order for a specified period of time and in the cases specified by law."

Article 1 of Decree No. 2214 of 1994 of the Minister of the Interior concerning the compilation of travel ban lists specifies the entities and authorities that are entitled to request the inclusion of natural persons in travel ban lists.⁴ Article 97 of section I of book II of the written, financial and administrative instructions of the Public Prosecution Service requires the establishment of a special register of accused persons who are subject to a travel ban. Article 407 of section I of book I of the legal instructions of the Public Prosecution Service requires the names of persons placed in travel ban lists to be included in the aforementioned register together with the reasons for their inclusion. The Public Prosecution Service decided, in line with its guaranteed right, to include the persons concerned in the travel ban lists in the interests of its investigations and to prevent their flight. Accordingly, the allegation that there was no legal basis for including the person in question in the travel ban list is unfounded, since the Public Prosecution Service exercised its right to submit a request pursuant to articles 2 and 3 of Act No. 8 of 2015 on the Compilation of Lists of Terrorist Entities and Terrorists, and pursuant to the decision issued by the competent court on 19 February 2018 to include the said person in the list of terrorists, a decision against which he lodged an appeal with the Court of Cassation. The Court decided on 1 February 2020 to annul the decision. He was included again in the list of terrorists pursuant to provisional ruling No. 1 of 2021, which was issued on 12 January 2021 and published in the Official Gazette on 24 January 2021, and which placed him in the list for a period of five years in connection with the charges filed against him in Supreme State Security Case No. 440 of 2018.

In conclusion, the Arab Republic of Egypt feels aggrieved by the false information and unsubstantiated allegations contained in the communication, which seek to undermine the reputation of the Egyptian State in the international community. Terrorist organizations systematically disseminate false allegations, distort facts and question the legal and judicial measures taken and their outcome. The Egyptian Government reiterates that it is committed to the promotion and protection of human rights and fundamental freedoms for all citizens without discrimination. According to the Constitution, it is responsible first and foremost to the vigilant Egyptian people. The independent Egyptian judiciary is the sole authority with competence to ascertain the veracity of allegations of human rights violations, to hold the perpetrators accountable and to guarantee redress for the victims.

⁴ Article 1 specifies the following authorities: “1. Courts whose judgments and orders are enforceable; 2. The Prosecutor General; 3. The Deputy Minister of Justice for Illicit Gain; 4. The Chief of General Intelligence; 5. The Chief of the Administrative Oversight Authority; 6. The Director of the Military Intelligence Department, the Director of the Personal Affairs and Social Services Department of the Armed Forces, and the Military Prosecutor; 7. The Deputy Minister of the Interior for the National Security Department; 8. The Deputy Minister of the Interior for the Public Security Department.