

*(Translated from Arabic)*

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

**Reply from the Government of Egypt  
to the joint communication from the Working Group on Arbitrary Detention  
and the Special Rapporteur on the right to freedom of opinion and expression  
regarding Mr. Hisham Fayez Abd al-Fadheel Kassem**

On 7 November 2023, a communication was received from the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression regarding Mr. Hisham Kassem, claiming that he had been subjected to violations including arbitrary detention and denial of the right of defence. The response of the Government of Egypt to the allegations in the aforementioned communication is provided below.

**Introduction**

The Government of Egypt is committed to respecting and guaranteeing the rights recognized in the international instruments that it has signed, for all individuals within its territory and under its jurisdiction without discrimination. The State takes all the legislative measures necessary to enforce those rights. The Constitution and the law provide for effective recourse for any individual whose recognized rights or freedoms have been violated.

**I. Information on the legal grounds for the detention of Mr. Hisham Kassem**

1. Mr. Hisham Kassem was arrested pursuant to a warrant issued by the Public Prosecution Service. Charges were brought against him in case No. 1327 of 2023 of the Cairo Economic Misdemeanours Court. The Public Prosecution Service initiated the investigation proceedings with the aforementioned individual, whereby the investigator informed him that this was the legal body competent to do so, as it was independent and impartial. He was interrogated and presented with the criminal charges brought against him. The subsequent statement that he made, in the presence of his

lawyer, was discussed with him in detail. When he was presented with all the charges against him, he was given the opportunity to make his defence. He was charged with the counts of public libel and slander of Kamal Abu Eita, the leader of the opposition civil movement; and verbal insult of public officials, including police officers and individuals at the police station in al-Sayeda Zeinab while they were carrying out their work. The Public Prosecution Service invited the accused person's lawyer to attend the investigation proceedings with him.

2. The information given above shows that the arrest warrant issued had a sound basis in law, thus disproving the suspicions of malice or abuse contained in the communication. The warrant was issued on the basis of criminal acts that the accused person was proven to have committed. In this regard, it should be highlighted that the procedures, reasons for and duration of the pretrial detention orders are in line with articles 134<sup>1</sup>, 142<sup>2</sup> and 143<sup>3</sup> of the Code of Criminal Procedure. The pretrial detention orders are based on objective considerations made at the discretion of the Public Prosecution Service.

3. Mr. Hisham Kassem attended periodic hearings before the competent judge. He and his lawyer were permitted to make oral pleadings and make requests and objections in accordance with national laws and international instruments, in particular articles 2 and 9 of the International Covenant on Civil and Political Rights and articles 2, 3 and 9 of the Universal Declaration of Human Rights. In addition, article 6 of the African Charter on Human and Peoples' Rights states: "Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained."

4. Further, it should be noted that the constitutional principles related to criminal trials include the requirement that hearings be held in public. This allows the general public to monitor the effectiveness of the administration of justice and to follow cases of interest. If there is no public

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1 According to article 134 of the Code of Criminal Procedure, the investigation authority, after interrogating a person accused of a crime or misdemeanour, for which there is evidence and which is punishable by no less than a year in prison, has the right to issue a detention order against that person for four reasons only: 1. If the crime was committed in flagrante delicto; 2. If it is feared that the accused person may flee; 3. If it is feared that the interests of the investigation will be harmed through the accused's influencing of victims or witnesses, tampering with evidence or conspiring with other criminals to distort or conceal certain aspects of the truth; 4. To prevent a serious breach of public security and order that may result from the gravity of the crime.

2 This article allows the competent judge, after hearing statements from the Public Prosecution Service and the accused person, to issue an order to extend the detention for up to 45 days. Otherwise, the accused person is referred to a higher court: the court of appeal for misdemeanours.

3 In terrorism cases, this article also permits the court of appeal for misdemeanours, after hearing statements from the Public Prosecution Service and the accused person, to extend pretrial detention for successive periods in the interests of the investigation. The total detention period can only exceed 5 months if, prior to the expiry of that period, an extension order is received from the relevant criminal court for a further period lasting up to 18 months. Otherwise, the accused person will be released immediately.

trial, the court proceedings are invalid,<sup>4</sup> as confirmed by article 18 of the Judicial Authority Act<sup>5</sup> and article 268 of the Code of Criminal Procedure.<sup>6</sup> Egyptian courts ensure both that this principle is applied and that the accused person may exercise his right to defence during criminal trials.

## **II. Judicial rulings issued against Mr. Hisham Kassem**

4. In the aforementioned case, Mr. Hisham Kassem was sentenced to 3 months in prison with hard labour and a fine of 20,000 Egyptian pounds for the public libel and slander of Mr. Kamal Abu Eita. He was also sentenced to 3 months in prison with hard labour for verbally insulting police officers and individuals at the police station in al-Sayeda Zeinab. Mr. Hisham Kassem is currently serving his sentence at the 10th of Ramadan Correction and Rehabilitation Centre.

## **III. Mr Hisham Kassem's health status and contact with family members**

5. Regarding Mr. Hisham Kassem's health status, it should be noted that all types of care have been offered to him. A medical examination has shown that his vital signs are normal and that he is in a generally stable condition. He is given daily opportunities to exercise in accordance with what is permitted in the prison regulations and on an equal footing with other prisoners.

6. Regarding the references in the communication to restrictions on Mr. Hisham Kassem's contact with his family, it should be noted that he receives regular family visits. The last of these was on 14 November 2023, with [REDACTED] and [REDACTED].

## **Conclusion**

7. In the light of the foregoing, we believe that the legal measures taken regarding Mr. Hisham Kassem were in line with national laws, international human rights covenants and instruments and the Government's international obligations. Those measures, culminating in a prison sentence, were a result of the crimes that he had committed, namely the public libel and slander of Mr. Kamal Abu Aita, the leader of the opposition civil movement, and the verbal insult of police officers and

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4 This principle was issued by Court of Cassation appeal No. 29653 of judicial year 67, sitting on 10 March 1998, technical office 49, part I, page 388.

5 Article 18 of the Judicial Authority Act states that trial proceedings will be public unless the court orders them to be held in secret, in order to safeguard morals or maintain order. In all cases, the verdict will be announced in a public hearing.

6 Articles 268 and 270 of the Egyptian Code of Criminal Procedure stipulate that hearings must be public, that the accused must attend the hearing without handcuffs or shackles, and that he may not be removed from the hearing while it is in progress unless he has committed an offence that requires it, in which case the proceedings shall continue and the court shall notify him of the proceedings conducted in his absence, all of which shall be recorded in the minutes of the hearing.

individuals at the police station in al-Sayeda Zeinab. Those measures were not in any way connected to Mr. Hisham Kassem's political activity or opinions about the Government of Egypt. All the proceedings of a fair trial were observed, in accordance with what has been mentioned about the legal basis for Mr. Hisham Kassem's detention and the judgment handed down against him.

8. It should be underlined that the rights and freedoms established in international and regional human rights mechanisms are not absolute rights that are exercised without limits or controls. Rather, they are exercised pursuant to the restrictions prescribed by law, for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of public order, general welfare and morality in a democratic society. This is in line with the second paragraph of article 29 of the Universal Declaration of Human Rights and article 6 of the African Charter on Human and Peoples' Rights.

9. In conclusion, the Government of Egypt reaffirms its willingness to continue to cooperate with the Working Group on Arbitrary Detention and other mandate holders to enable them to play the important role expected of them. The Government is also committed to continuing working towards promoting and protecting the human rights of all its citizens without discrimination, including prisoners and pretrial detainees. This is in the light of the Constitution and the independent Egyptian courts, which both act as human rights safeguards and possess the necessary mechanisms to confirm the veracity of any alleged human rights violations, hold perpetrators accountable and provide remedies to victims.