

PERMANENT MISSION OF EGYPT  
to the United Nations Office, the WTO  
and other International Organizations  
in Geneva



البعثة الدائمة لجمهورية مصر العربية  
لدى مكتب الأمم المتحدة ومنظمة التجارة  
العالمية والمنظمات الدولية الأخرى  
جنيف

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The Permanent Mission of the Arab Republic of Egypt to the United Nations Office, the World Trade Organization, and other International Organizations in Geneva, presents its compliments to the Office of the United Nations High Commissioner for Human Rights (Special Procedures Branch), and with reference to the joint communication from special procedures dated the 9 September 2024, with reference (AL EGY 3/2024) regarding **Mr. Ashraf Omar**;

The Permanent Mission of the Arab Republic of Egypt has the honor to attach the reply of the Egyptian Government (4 Pages) to the aforementioned joint communication.

The Permanent Mission of the Arab Republic of Egypt looks forward to bringing this clarification to the attention of the special procedures, with a view to clear this case.

The Permanent Mission of the Arab Republic of Egypt to the United Nations Office, the World Trade Organization, and other International Organizations in Geneva avails itself of this opportunity to renew the assurances of its highest consideration to the Office of the United Nations High Commissioner for Human Rights (Special Procedures Branch).

Geneva, 15 October 2024



Office of the United Nations High Commissioner for Human Rights (Special Procedures Branch).

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*(Translated from Arabic)*

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

**Response of the Government of the Arab Republic of Egypt to the joint communication concerning Mr. Ashraf Omar Mohamed Siddiqui**

The Government of Egypt submits the present reply to underscore its deep and sincere desire to interact positively with the communications it receives from the Special Rapporteurs of the Human Rights Council and to fulfil its international and constitutional human rights obligations. The reply also seeks to make information available to the public both internally and externally in order to achieve greater transparency and to correct views and understandings that might be based on erroneous information. The reply of the Government of Egypt to the allegations made in the communication in question is given below.

**Information concerning the legal status of Mr. Ashraf Omar**

Mr. Ashraf Omar was arrested on 22 July 2024, pursuant to a warrant issued by the Public Prosecution Service for his arrest and for the search of his person and his residence in connection with case No. 1568/2024 for tampering with online videos using software and broadcasting them on the Internet to spread false ideas, incite violence, and agitate public opinion. This is part of a terrorist plot by a terrorist group that finances and supports these activities.

On this basis, he was brought before the Public Prosecution Service, which is a neutral and independent judicial body that operates under the Public Prosecutor in line with the Constitution and the law. He was questioned on 23 July 2024; all legal guarantees of the right of defence were observed, most importantly the presence of the defendant's lawyer, [REDACTED], in accordance with the relevant provisions of the Code of Criminal Procedure and of the international treaties to which Egypt is a party, in particular article 9 (2) and (3) of the International Covenant on Civil and Political Rights.

Before the questioning began, he was informed of the charges against him and was given every opportunity to present his material defense, in accordance with article 124 of the Code of Criminal Procedure.<sup>1</sup> The charges include joining a

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1 Article 124 of the Code of Criminal Procedure states: "In a case involving a major or serious offence which carries a mandatory prison sentence, investigators may not interrogate an accused person or

terrorist organization or group while being aware of its purposes, financing terrorism, using a website for the purpose of promoting ideas and beliefs advocating the commission of terrorist acts, and deliberately broadcasting false news, statements and rumours at home and abroad liable to disturb public security, cause panic among the people and harm the public interest. Membership of terrorist organizations and participation in their activities in any way is criminalized under article 12 (2) of the Counter-Terrorism Act.<sup>2</sup> “Participation” covers all forms of material contribution, including cybersupport and the promotion of terrorist objectives through direct or indirect incitement to violence, in order to achieve those goals and with knowledge thereof. These criminal provisions are consistent with the obligation of the Egyptian State to criminalize support for terrorist acts.

The Public Prosecution Service ensured that the individual in question was able to exercise his right to make statements in his own defence in the course of the questioning, during which, as legally prescribed under the Code of Criminal Procedure, his lawyers were present. The Public Prosecution Service ordered that he be kept in pretrial detention pending investigation, and thereafter periodic sessions were held during which the order to extend his pretrial detention was reviewed by the competent judge. During those reviews, he and his defence team were allowed to make oral submissions, submit requests and file appeals, in

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confront him or her with other accused persons or witnesses unless a defence lawyer has been summoned to attend, save in cases of flagrante delicto or where urgency is imperative in order to avoid evidence being lost, as the investigator shall explain in the record. If the accused person has no lawyer or if the lawyer fails to attend after having been summoned, investigators must of their own accord assign a lawyer to the accused person. The lawyer may note in the record any defence arguments, requests or observations he or she wishes.”

- 2 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.”

accordance with articles 134,<sup>3</sup> 142,<sup>4</sup> and 143<sup>5</sup> of the Code of Criminal Procedure. The pretrial detention orders were issued based on objective assessments undertaken by the Public Prosecution Service using its own discretionary powers, in a manner consistent with international standards on criminal procedure and related safeguards applicable to terrorism investigations.

The information given above shows that the arrest warrant issued by the Public Prosecution Service against the individual in question had a sound basis in law. He was then brought before the Public Prosecution Service within the deadline stipulated in the Code of Criminal Procedure; i.e., 24 hours from the date of the arrest.<sup>6</sup> This effectively refutes the claim that he was subjected to enforced disappearance. Moreover, the order to place him in pretrial detention was issued in the presence of the accused person, accompanied by his lawyer, before the competent investigating body and after hearing his defence.

The orders to extend the pretrial detention of Mr. Ashraf Omar were issued by the competent judge using his discretionary powers, following legal deliberations with members of the competent bench, and after examining the evidence contained in the case file, the requests of the Public Prosecution Service and the defence of the party concerned. This is a judicial prerogative, to contest or ignore which would be to undermine the rule of law. Moreover, the need for States to take effective counter-terrorism measures and to ensure the protection of human

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- 3 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.
  - 4 This article authorizes the competent judge, after hearing the statements of the Public Prosecution Service and the accused person, to issue an order to extend detention for an additional period or periods that may not, in total, exceed 45 days. Otherwise, the case of the accused is to be referred to a higher court.
  - 5 Article 143 authorizes the misdemeanours court of appeal (sitting in chambers) in cases involving terrorism to extend pretrial detention, after hearing the statements of the Public Prosecution Service and the accused, if the interests of the investigation so require. The period of detention of the accused may not exceed five months unless, prior to the expiry of that period, an order is obtained from the competent criminal court for extension of detention for a further period that shall not exceed 18 months in cases involving serious offences. Otherwise the accused must be released forthwith.
  - 6 Article 36 of the Code of Criminal Procedure (Act No. 150 of 1950) states: "Law enforcement officers must immediately take the statement of an arrested suspect and, if nothing emerges to exonerate the person in question, he or she is to be referred within 24 hours to the competent prosecutor."

rights are not conflicting but rather complementary and mutually reinforcing goals.<sup>7</sup>

**As concerns Mr. Ashraf Omar's state of health**, reports by the competent authorities indicate that his general condition is good and stable and that his vital signs remain within normal ranges during his time in detention. All forms of healthcare are duly provided to him. Moreover, he is being held in 10th of Ramadan Correction and Rehabilitation Centre 6, which provides suitable living conditions, such as the ratio of cell space to number of inmates, new ventilation, sanitary facilities, healthy food and a prison library. During his detention, the inmate in question receives services to ensure his medical, social, cultural and religious welfare, and he is granted daily periods of exercise in the open air and sunlight, in line with current regulations, on an equal footing with other inmates.

He also receives regular visits from his family, the most recent of which was on 10 September 2024 by [REDACTED].

In the light of the foregoing, the Government of Egypt believes that all of the measures taken in respect of Mr. Ashraf Omar are in line with its international obligations. It should be underlined that the rights and freedoms established in international and regional human rights instruments 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.

Finally, the Egyptian Government welcomes continued cooperation with all parties to enable them to fulfil their role. However, this communication relates to a case that is still under judicial consideration and in respect of which a judgment has not yet been handed down. It should be noted that the said person continues to exercise his right to present a defence before the Egyptian courts, so that he has not yet exhausted all domestic remedies.

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7 Paragraph 4 of General Assembly resolution 60/288 of 8 September 2006.