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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Health (2002-7) G/SO 214 (3-3-16) G/SO 214 (53-24)
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20 May 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/2, 24/6, 17/2, and 25/13.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **the continued detention of Mr. Abdullah el-Shamy, a journalist for Al Jazeera who has been on hunger strike since January 2014, the alleged denial of medical care in detention and placement in solitary confinement.**

The arrest and detention of Mr. Abdullah el-Shamy and other journalists of Al Jazeera media group was the subject of a joint urgent appeal by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent to your Excellency's Government on 30 August 2013. We thank you for replies of your Excellency's Government on 4 and 26 October 2013.

According to the information received:

Mr. Abdullah el-Shamy is a 26-year-old journalist who has been working for Al Jazeera Arabic since 2010 as its West Africa correspondent and Bureau Chief in Nigeria. On 30 June 2013, Mr. el-Shamy arrived in Cairo for the purpose of reporting on the protests against the deposing of the former Egyptian President, Mohamed Morsi.

On 14 August 2013, Mr. el-Shamy was reporting from Raba'a Square in Cairo where the Egyptian security forces violently dispersed the protestors. At 6:30 p.m. on that day, Mr. el-Shamy was leaving Raba'a Square through the "safe exit", a street that the Government had designated for people to take in order to peacefully leave the site of the demonstration. On his way out, he was apprehended by military officers at a checkpoint and taken to the Cairo International Stadium along with others. He was later transferred to Al Shorouq police station and he and over 700 others were registered as Case No. [REDACTED]. On 18 August 2013, he was transferred to Abu Zaabal prison where he remained in detention until 25 January 2014. He was then transferred to the Istiqbal Tora prison located in Maadi, Cairo.

Mr. el-Shamy is accused of attempted murder, belonging to a terrorist organization, and harming national security. However, it is alleged that he has never been charged with any crime to date and the Public Prosecutor's office has not determined whether or not he will be prosecuted at all. For the first seven months of his detention, Mr. el-Shamy effectively did not have access to a lawyer, as the prison authorities allegedly denied his lawyer's requests to visit him.

Since the beginning of his detention, Mr. el-Shamy has been subject to bi-monthly court hearings which review the legality of his pre-trial detention. Following his apprehension, his detention was extended for 15 days and then for 45 days thereafter at each subsequent hearing. On 3 May 2014, the North Cairo Court extended his detention for a further 45 days on the basis of a hearing that only lasted for 15 minutes. The Court or the prosecutor allegedly did not provide any reasons for extending Mr. el-Shamy's detention, contrary to article 134 of the Egyptian Code of Criminal Procedure which prescribes conditions under which a person may be subject to pre-trial detention. On 16 May 2014, the Cairo Criminal Court reportedly rejected Mr. el-Shamy's appeal against the North Cairo Court's decision to extend his detention. While Mr. el-Shamy submitted two requests for bail in October 2013 and March 2014, both of them have been rejected.

Mr. el-Shamy is on hunger strike since 21 January 2014 to protest his long pre-trial detention. Mr. el-Shamy has lost 40 kilograms, which is over one-third of his body weight, and his health is in critical condition. Mr. el-Shamy's family member who visited him in prison described that he was pale and fragile, and unable to run or to walk without support. At the last court hearing on 3 May 2014, the prosecutor denied that Mr. el-Shamy was on hunger strike, although Mr. el-Shamy reportedly submitted to the prosecutor seven statements confirming that he

was. The authorities have denied him access to medical care, despite his condition and the repeated requests by his lawyer and family that Mr. el-Shamy be medically examined. Furthermore, Mr. el-Shamy is detained with 15 other detainees in a 12-meter cell and water is available for only 6 hours a day. On 4 May 2014, the Deputy Minister of Interior visited Mr. el-Shamy and ordered the prison hospital to conduct a medical examination on Mr. el-Shamy and to issue a medical report on his condition on a daily basis. According to the medical report dated 8 May 2014, Mr. el-Shamy is suffering from acute anemia, decreasing red blood cells and kidney dysfunction, and at risk of dying within a few days if he is not provided with full medical attention. Prison officers and guards reportedly threatened to put him in solitary confinement to make him stop the hunger strike.

On 12 May 2014, Mr. el-Shamy was taken out of his prison cell and placed in solitary confinement in Mazraet unit of Tora prison, reportedly after his lawyer requested the authorities to transfer him to a hospital within 48 hours and a video footage of Mr. el-Shamy speaking from his prison cell was leaked to the media.

Serious concern is expressed at the allegations that Mr. el-Shamy continues to be detained on the basis of the legitimate exercise of his freedom of opinions and expression and that he has not been charged or afforded a fair and public hearing by a competent, independent and impartial tribunal to determine any charges against him since his arrest in August 2013. We further express our grave concern at the allegation that he has been denied medical treatment, despite the medical report indicating that his health is in critical condition.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of Mr. el-Shamy is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of his liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR. The allegations regarding access to and communication with Mr. el-Shamy's lawyer further appear to be in contravention of the UN Basic Principles on the Role of Lawyers.

The above allegations also appear to be in contravention of the right to freedom of opinion and expression as established in article 19 of the UDHR and of the ICCPR, as well as the right of access to health facilities, goods and services on a non-discriminatory basis established in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Given the situation of Mr. el-Shamy, we would like to refer to the principle 7 and 9 of the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111, which states that efforts to abolish solitary confinement as a punishment, or to restrict its use, should be undertaken and encouraged and prisoners

shall have access to the health services available in the country without discrimination on the grounds of their legal situation. Where the physical conditions and the prison regime of solitary confinement fail to respect the inherent dignity of the human person and cause severe mental and physical pain or suffering, it amounts to cruel, inhuman or degrading treatment or punishment (A/66/268, para. 81).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. el-Shamy in compliance with the above international instruments. We would also welcome assurances that Mr. el-Shamy is afforded the medical attention and treatment that he may need while in detention.

As it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please confirm Mr. el-Shamy's whereabouts and provide information on the conditions of his detention.
3. Please provide information on the legal grounds for the arrest and continued detention of Mr. el-Shamy and explain how such measures are compatible with Egypt's legal obligations under the international instruments that it has ratified.
4. Please provide information on the grounds on which Mr. el-Shamy's requests for bail have been denied.
5. Please clarify whether or not Mr. el-Shamy has been charged with any crime. If he has been charged, please provide details of the charges and when he may be brought before a judicial authority to determine the charges against him. If he has not been charged, please provide reasons for the delay.
6. Please clarify whether Mr. el-Shamy has unhindered access to his lawyer and provide information on the measures taken to ensure that his right to communicate with a lawyer of his own choosing is respected.
7. Please provide details, and where available the results, of any investigation, medical examination, judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

8. Please provide details on the measures taken to ensure Mr. el-Shamy's enjoyment of the right to health, including access to adequate medical treatment.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment