

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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; and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 33/30, 27/1, 34/18, 33/9 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the prolonged pre-trial detention of Ms. Hanane Baderraddine Abdalhafez Othman of over nine months, as well as allegations concerning the denial of health care and medical attention while in prison.

Ms. Hanane Othman is a human rights defender and co-founder of the Families of the Forcibly Disappeared Association, which advocates for justice for victims of enforced disappearance and their families. She engaged in this type of advocacy after her husband, Mr. Khaled Mohamed Hafez Mohamed Azzedine, disappeared on 27 July 2013 following his arrest by state security forces during a demonstration in Nasr City, Cairo district. She has also worked on documenting cases of enforced disappearances for submission to the United Nations Working Group on Enforced and Involuntary Disappearances.

Ms. Hanane Othman was the subject of a previous communication sent on 6 July 2017 (EGY 9/2017), which concerned her arrest on 6 May 2017. We thank your Excellency's Government for the reply of 30 October 2017, which provided details on the reasons for her arrest. We remain concerned, however, that the response failed to explain why nearly six months after being detained, Ms. Hanane Othman remains in pre-trial detention, and has not been presented with criminal charges. We also remain concerned that her detention may be an act of reprisal for her cooperation with the United Nations Working Group on Enforced and Involuntary Disappearances.

According to the new information received:

Ms. Hanane Othman has been in pre-trial detention for over nine months, while awaiting for the National Security Agency (NSA) to investigate allegations of smuggling contraband into prison and membership of the Muslim Brotherhood female cells. This measure has been renewed every 45 days by a judge since her arrest.

During the last hearing, on 5 February 2018, the judge reviewing Ms. Hanane Othman's case ordered the renewal of her detention for 45 days more pending investigations. During the hearing, her lawyers were allegedly not permitted to present their defense or argue in favor of her release.

It is reported that Ms. Hanane Othman is being denied necessary medical care in detention. In particular, it is alleged that treatment for the Familial Mediterranean Fever, a hereditary inflammatory disorder which she suffers from, has been withheld from her.

Since her detention, Ms. Hanane Othman had been receiving her medication regularly through her family. However, according to the information available, prison authorities have recently decided to refuse the family from providing Ms. Othman with medication while at the same time not provide it to her themselves.

At the time of the present communication, the fate and whereabouts of Ms. Hanane Othman's husband - Mr. Khaled Mohamed Hafez Mohamed Azzedine – remains unknown.

We express grave concern at the pre-trial detention of over nine months, as well as at the denial of necessary medical treatment to Ms. Hanane Othman, which are measures that could amount to inhumane or ill-treatment. We express further concern at the basis of the criminal investigations against her, which seem insufficiently founded and could potentially constitute a reprisal for her advocacy in relation to justice for victims of enforced disappearance and their families.

Without expressing at this stage an opinion on the facts of the case, we would like to refer your Excellency's Government to articles 7, 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982, which establish the prohibition of torture and arbitrary detention, as well as the rights to fair-trial and freedom of opinion and expression. We would similarly like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and

other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt accessed on 25 June 1986.

With regard to the detention of Ms. Hanane Othman, we would like to refer your Excellency's Government to the Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court (A/HRC/30/37). These principles and guidelines, elaborated by the Working Group on Arbitrary Detention at the request of Member States of the Human Rights Council, provide universal guidance applicable to persons deprived of their liberty. In addition, the Human Rights Committee has established in its General Comment No. 35, article 9 (Liberty and security of person) (CCPR/C/GC/35), that procedures for carrying out legally authorized deprivation of liberty should be established by law and States should ensure compliance with such legally prescribed process.

We would also like to refer to the article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded by Egypt on 14 January 1982, which recognises the right to physical and mental health and establishes States' obligation to *respect* this right by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services. (CESCR, General Comment No. 14, para.34). Furthermore, the right to non-discrimination of any kind, including on political grounds, is a critical component of the right to health under article 2.2 of the ICESCR.

We would like to additionally refer to Principle 9 of the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, which indicates that all prisoners should have access to the health services available in the country. In this connection, the Standard Minimum Rules for the Treatment of Prisoners (the 'Nelson Mandela Rules'), which were first adopted in 1957, and further revised and unanimously adopted by the General Assembly in December 2015 (A/Res/70/175), establish that the provision of healthcare for prisoners is a State responsibility (Rules 22–26; 52; 62; and 71, para. 2). In particular, medical services should ensure continuity of treatment and care, including for drug dependence diseases (Rule 24); prisoners requiring specialized treatment shall be transferred to specialized institutions or to civil hospitals (Rule 27), and clinical decisions may only be taken by the responsible healthcare professionals and may not be overruled or ignored by non-medical prison staff. (Rule 27).

We would also like to remind your Excellency's Government of the Declaration on the Protection of all Persons from Enforced Disappearance, including article 13, which states in paragraph 3 that "steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal" and in paragraph 5 that "steps shall be taken to ensure that any ill-treatment, intimidation or

reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.” We would also like to highlight paragraph 1 of article 13 which states that “wherever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to the authority for such an investigations”, paragraph 4 of article 13 that “findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation” and to article 2 which states that no State shall practice, permit or tolerate enforced disappearance.

Finally, we would also like to highlight the fundamental principles set forth in articles 1 and 2 of the UN Declaration on Human Rights Defenders, which provide for the right to promote and to strive for the protection and realization of human rights and fundamental freedoms.

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 the above-mentioned person(s) in compliance with international instruments.

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 provide information on the legal basis for the decision to subject Ms. Hanane Othman to pre-trial detention since 6 May 2017, as well as on the basis of the investigations against her, and their compatibility with Egypt’s obligations under article 14 of the ICCPR.
3. Please indicate the basis for the decision to refuse to continue to take Ms. Hanane Othman’s needed medication from her family and the measures adopted to ensure the continuity of her medical treatment.
4. Kindly describe the current health status of Ms. Hanane Othman’s and provide details on the measures taken to ensure her physical and mental integrity , including any additional remedial measures to ensure his access to adequate healthcare.

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.

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

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Bernard Duhaime
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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

Michel Forst
Special Rapporteur on the situation of human rights defenders