

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA EGY 9/2021

11 August 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5, 42/22, 45/3 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged imminent execution of Mr. Mahmoud Ebada Abdelmaqsod Eid, who was sentenced to death following a trial, which did not meet due process guarantees including admitting a confession reportedly obtained through torture.

According to the information received:

On 22 January 2016, six masked gunmen on two motorcycles fired gunshots at a police checkpoint in Kafr Kishk village, Faqous district, Sharqia Governorate, killing two officers and a passer-by and injuring two other officers. The gunmen fled the scene with the guard's weapons and were not identified or arrested at the time.

On 5 February 2016, Mr. Mahmoud Ebada Abdelmaqsod Eid, born in 1996, previously residing in Abu Kabir center, Sharqia Governorate was arrested from Abu Kabir train station, while on the way to his university residence in Mansoura Governorate. He was arrested following an altercation with a security guard who would not allow Mr. Eid to board the train with a large home appliance. Mr. Eid was arrested alongside another person who was later released. It is presumed that Mr. Eid was kept in detention as a result of the altercation with the security guard. Mr. Eid was not subject to an arrest warrant or suspected in any case.

Shortly after his arrest, Mr. Eid was taken to an unknown location, which he later testified was the National Security Premises in Zagazig. He was forcibly disappeared for 46 days whilst held at the premises. During this period, he was reportedly subjected to torture and ill-treatment, including being suspended from the ceiling by his hands and suffering electric shocks until he fainted. He was also threatened with rape and death. He allegedly overheard security officers discussing their intention to torture him to death if he did not make self-incriminatory confessions. His torture caused him to have periodic seizures, which he continued to experience for several months after it ended.

His torture appears to have been aimed at coercing him into learning a pre-written narrative prepared by national security officers confessing to involvement in the 22 January 2016 attack on a police checkpoint and to later recite the confession to the Prosecution. Mr. Eid was apparently actually at his university premises on the 22 January 2016.

Reportedly, this incident follows a pattern, which appears to be common in the treatment of detainees by national security officers: whilst forcibly disappeared individuals are repeatedly tortured in cycles, asked the same questions and ordered to confess to a certain narrative. They are often promised the torture will stop if they repeat the narrative. They are later required to repeat the narrative to the Prosecutor, so that it can be formally recorded in their file.

On 24 March 2016, Mr. Eid re-appeared in the security forces camp in Zagazig and was interrogated by the Prosecutor in the absence of a lawyer. Mr. Eid was allegedly blindfolded during the interrogation. A national security officer reportedly informed Mr. Eid that he had been taken to a higher-ranking national security official to see whether Mr. Eid had learnt the pre-prepared narrative correctly, and that, if he recited the narrative incorrectly, he would continue to be tortured. Mr. Eid therefore understood that the confession would not be officially registered in his file. During the interrogation, Mr. Eid was able to remove part of his blindfold and saw that a Chief Prosecutor, Mr. [REDACTED], was present meaning that his confession would be formally registered in his file. Mr. Eid tried to call for help and was then reportedly beaten by the national security officers.

During subsequent interrogations, Mr. Eid informed the Prosecutor repeatedly that his confessions had been made under torture and that he had been forcibly disappeared. However, the Prosecutor disregarded his testimony.

In September 2016, Mr. Eid was transferred to Zagazig General Prison.

After two years of detention, the Prosecutor referred Mr. Eid for a medical examination. The resulting forensic report stated that he had been tortured, but that it was not possible to accurately provide the period of the torture as it had not occurred recently. The report was submitted to the court.

On 21 March 2018, after two years in pre-trial detention, the North Zagazig Prosecution referred Mr. Eid's case to the Emergency State Security Criminal Court under case No. 141/2018 Emergency State Security- North Zagazig. He was charged with joining a terrorist group that aims to commit terrorist acts, participating with other defendants in killing two police guards, participating with other defendants in proceeding to kill two policemen, as a result of which they were injured, participating with other defendants in using violence by firing bullets at policemen, possessing firearms and ammunition without an authorization, funding a terrorist group, participating with other defendants in demonstrations that aim to endanger the public and possession of publications urging disruption of the constitution. The case file alleges that Mr. Eid drove a

motorcycle for the masked gunmen who attacked the police station on 22 January 2016 and waited while they committed the crime. It does not allege that Mr. Eid was directly involved in the killing of the police officers and passer-by.

The official record of Mr. Eid's arrest states that he was arrested on 23 March 2016 from his place of residence. Mr. Eid's lawyer objected to this in court but the judge disregarded the allegation.

On 30 September 2020, the court sentenced Mr. Eid to death along with several other individuals who were all tried in absentia. The sentence was based on Mr. Eid's confession, which was reportedly obtained under torture, and unsubstantiated allegations by the National Security Agency officers. No witnesses or other evidence was presented regarding Mr. Eid's involvement in the 22 January 2016 incident and the forensic report confirming that he had suffered torture was not considered. As per Emergency Law no. 162/1958, decisions of the State Security Emergency Courts cannot be appealed and may only be overturned by the President.

On 9 March 2021, the judgement became final when the official petition for reconsideration to the President was rejected.

Mr. Eid is at risk of being executed at any time.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned by the alleged sentencing to death of Mr. Eid on the basis of testimony obtained through torture as well as the reported failure by the court to consider a forensic report which recognised that Mr. Eid had been tortured. We are further concerned by the failure to fully investigate Mr. Eid's reported enforced disappearance and torture and refusal of a request seeking evidence which could reportedly have proved Mr. Eid was not present at the location of the incident for which he has been sentenced. We are additionally alarmed by allegations of systematic use of torture and enforced disappearance by national security officers to extract forced confessions.

We note that, if confirmed, these allegations would amount to violations of the right to life, as set forth in article 6 of the International Covenant on Civil and Political Rights (ICCPR) which Egypt ratified in 2001, the right to liberty and security of the person, protected by article 9 of the ICCPR, the right to due process and fair trial (article 14 of the ICCPR) and the right to recognition as a person before the law (article 16 of the ICCPR) all of them read alone, and in conjunction with article 2(3) of the ICCPR (right to an effective remedy) as well as the absolute prohibition of enforced disappearance, as set forth in the Declaration on the Protection of all Persons from Enforced Disappearance; and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, established in article 7 of the ICCPR, and article 2 and 16 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT), which Egypt ratified in 1986, with regard to Mr. Eid as well as his relatives.

We note that the allegations in this case are similar to those raised in several previous communications addressed to Your Excellency's Government, including most recently AL EGY 4/2021 dated 12 May 2021 and AL 7/2021 dated 16 July 2021.

We reiterate references to Human Rights Committee, General Comment 36 which states *inter alia* that the death penalty may only be imposed following proceedings which strictly comply with due process guarantees. Violations of such guarantees, including the use of forced confessions, lack of effective representation involving confidential attorney client meetings during all stages of the criminal proceedings including interrogation and lack of an effective right of appeal render a sentence arbitrary in nature, and in violation of article 6 of the ICCPR. Furthermore, the death penalty may only be imposed for the "most serious crimes" involving intentional killing. A limited degree of involvement or of complicity in even the most serious crimes cannot justify the imposition of the death penalty.

We further reiterate references to the CAT, including article 12 which requires States ensure a prompt and impartial investigation is carried out wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction and article 15 which provides that statements which are established to have been made as a result of torture shall not be invoked as evidence in any proceedings.

We further note that the Committee against Torture (see, for example, conclusions and recommendations on the second periodic report of Algeria, A/52/44, para. 79, on the initial report of Namibia, A/52/44, para. 247 and on the initial report of Sri Lanka, A/53/44, paras. 249 and 251), and the UN Human Rights Committee (CCPR/C/50/D/440/1990 (24 March 1994), para. 5.4.) have repeatedly concluded that enforced disappearances may amount to torture and other forms of ill-treatment both with regard to the disappeared and with regard to their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved-ones.

Given the irreversible nature of the execution of a death penalty, we respectfully urge your Excellency's Government to ensure Mr. Eid is not executed; to take all the necessary steps to address any allegation of enforced disappearance, torture, arbitrary detention and violation of fair trial and due process guarantees that he may have suffered; and to ensure, at a minimum, that Mr. Eid is retried in full compliance with international legal standards.

We are issuing this appeal in order to safeguard the rights of the above individuals from irreparable harm and without prejudicing any eventual legal determination. It is relief *pendente lite*.

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 prompt response on the urgent steps taken, or to be taken, by your Excellency's Government to safeguard the rights of Mr. Eid in compliance with Egypt's human rights obligations

under the treaties it has ratified.

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 detailed information on the factual and legal grounds of the arrest, detention and trial of Mr. Eid and their compliance with Egypt's obligations under the international human rights treaties to which it is a party and under the Declaration on the Protection of All Persons from Enforced Disappearance;
3. Please provide updated information on any investigation undertaken, or being conducted, with regards to the allegations of enforced disappearance, torture and/or other cruel, inhuman or degrading treatment or punishment and arbitrary detention reportedly suffered by Mr. Eid, with a view to ensuring accountability of those responsible. If no investigation was or is being conducted, please explain why.
4. Please provide information on the steps taken to address reports of persistent and systematic use of confessions obtained through torture during a period of enforced disappearance in trials in Egypt.

We would like to inform your Excellency's Government that after having transmitted a joint communication 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 letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the joint communication and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to avoid possible irreparable damage to the life and personal integrity of Mr. Eid and 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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Tae-Ung Baik
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment