

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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12 November 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5, 43/4, 41/12, 42/16, 44/8, 40/16 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 **life-threatening health** status of Dr. **Abdel Moniem Aboul Fotouh Abdel Hadi** as a result of his conditions of detention.

According to the information received:

Dr. Abdelmoniem Aboufotouh Abdelhadi, also known as Abdel Moniem Aboufotouh, was born on 15 October 1951. He is the head of the "*Strong Egypt Party*", a former Presidential candidate, and the former Secretary-General of the *Arab Doctors Union*. He began his political activism early during the years at the medical school, and became president of the Cairo University Student Union. Due to his activities, he was reportedly arrested on different occasions. In 2012, Dr. Aboufotouh ran for the Presidency as an independent candidate and subsequently founded the "*Strong Egypt Party*".

Before the 2018 presidential elections, he repeatedly expressed his views on the situation in Egypt, critical of the Government, including through interviews with the media.

Between 12 and 14 February 2018, for instance, he held three media interviews where he called for boycotting the presidential elections and criticized the atmosphere of fear that, in his opinion, was surrounding the electoral process.

On 14 February 2018, around 8 pm, Dr. Aboulfotouh, along with six members of the *Strong Egypt Party* Political Bureau, was arrested, allegedly without a warrant, from his home office in New Cairo, during a meeting of the party. The operation was reportedly conducted by approximately 20 unarmed men in plainclothes, including National Security officers [REDACTED].

Dr. Aboulfotouh, and the six other persons, were brought to the New Cairo police station in non-police vehicles. An hour later, the six persons were released. Dr. Aboulfotouh, on the contrary, remained in custody at the New Cairo National Security Bureau, where he spent the night.

On 15 February 2018, Dr. Aboulfotouh was brought before the Supreme State Security Prosecution (SSSP), under case no. 440 of 2018. He was charged with spreading false news inside and outside the country; leading a terrorist organization; and promoting a terrorist organization. The SSSP ordered Dr. Aboulfotouh's detention on remand for 15 days, pending investigations. The detention was subsequently renewed every 15 days for five months and every 45 days afterwards.

On 19 February 2018, the Cairo Criminal Court (CCC) ordered the inclusion of Dr. Aboulfotouh in the terrorist list for a period of five years, which resulted in several implications, including a travel ban and assets freeze. Dr. Aboulfotouh's defence appealed the CCC's decision, and in February 2020, the Court of Cassation granted the appeal.

At the end of 2019, an additional fourth charge was brought against Dr. Aboulfotouh, namely that of financing a terrorist organization.

On 20 February 2020, twelve days before the end of the two-year maximum limit of the pre-trial detention, the case of Dr. Aboulfotouh was recorded under the new number 1781 of 2019. The SSSP ordered his remand for 15 days, pending investigation, to start after his release in relation to case 440 of 2018.

In November 2020, the CCC ordered Dr. Aboulfotouh's name to be included in the terrorist list, this time in connection with case no. 1781 of 2019. The defence appealed the decision. Proceedings are ongoing.

In February 2021, the CCC again ordered Dr. Aboulfotouh's name to be included in the terrorist list in connection with case no. 440 of 2018. The defence again appealed the decision. Proceedings are ongoing.

In May 2021, after approximately three years and three months of pre-trial detention under case no. 440 of 2018, Dr. Aboufotouh was ordered a release. Simultaneously, however, the SSSP ordered his remand for 15 days, pending investigations, in connection with case no. 1781 of 2019.

On 14 August 2021, Dr. Aboufotouh was brought before the SSSP, under case no. 440 of 2018, on two new additional charges, namely that of possession of firearms and training individuals to use weapons.

On 11 October 2021, Dr. Aboufotouh appeared, for the first time in person, before the investigating judge in a pre-trial detention renewal session under case no. 1781 of 2019.

On 1 November 2021, Dr. Aboufotouh's s pre-trial detention was renewed for 45 days.

According to reports, Dr. Aboufotouh is being held in isolation since the beginning of his detention, in a 3x2 meters cell and in a separate prison ward where all other cells are empty. His daily 90-minute exercise time, although allowed outside his cell, is heavily restricted inside the same ward with no adequate access to sunlight or fresh air. He reportedly has no access to the prison library, mosque, or any outdoor space and can only communicate with the guards. He has been denied books, newspapers, magazines, TV and radio.

He can receive one 20-minute, no-contact visit (they are held through a glass barrier and a telephone receiver) per month, only from direct family members (since the beginning of 2020, only one adult family member per visit).

While written communications with the family are allowed once per week, every letter must be cleared first by prison authorities before delivery. Letters delivery may face delays, and sometimes, for unknown reasons, are not delivered. The last letter Dr. Aboufotouh's family received from him was on 13 September 2021.

Likewise, Dr. Aboufotouh's communications with his lawyers are heavily restricted and constantly monitored. They have never been allowed any private meeting with him, including on the occasion of detention renewal sessions. Visits remain limited and strictly monitored by prison authorities. In addition, no visits' permits have been granted since the beginning of 2020. Dr. Aboufotouh's lawyers never received a copy of the case file.

It is reported that, throughout his detention, Dr. Aboufotouh suffered several episodes of ischemic heart disease (angina attacks), during which medical response has always been limited to providing him with sublingual nitrates tablets (a vasodilator that helps restore blood supply to the heart muscle) as an emergency intervention. On 24 July 2021, in particular, around midnight, Dr. Aboufotouh suffered especially severe symptoms, indicating a potentially

fatal heart attack (severe chest pain, shortness of breath, fainting, arm and neck pain, and fatigue). The prison guard tried to obtain medical assistance through the radio but reportedly obtained no response.

Thus far, the health situation of Dr. Aboufotouh has reportedly been severely deteriorating and has become life-threatening. He reportedly only had basic medical tests (a blood test; electrocardiogram; spine x-rays), but no curative medical treatment followed, for a potentially fatal condition which normally requires urgent and specialized medical monitoring intervention.

It is submitted that Dr. Aboufotouh currently suffers from an angina attack on average every ten days. He requires urgent cardiovascular examination and close monitoring in a proper medical setting that cannot be performed in his current place of detention. In addition, Dr. Aboufotouh reportedly also suffers from balance and coordination problems and has difficulties in walking unassisted as a result of an accidental fall which he suffered shortly after his arrest, while he was being transferred from the prison to attend a hearing session, in a heavily armoured vehicle and handcuffed.

Dr. Aboufotouh also suffers from advanced prostate disease, requiring urgent surgery, with multiple implications, including urinary tract infections, extremely painful urinary colic, inability to control urination as well as kidney and bladder stones.

Dr. Aboufotouh's family has repeatedly proposed to cover all the expenses of any required medical service, to no avail so far.

There are well founded fears that unless Dr. Aboufotouh receives adequate and proper medical care for his heart condition, as well as for his other serious health problems, his life is at serious risk.

While we do not wish to prejudge the details of these allegations, we wish to express serious concern about the reported state of health of Dr. Aboufotouh and the reported lack so far of adequate and proper medical care, without which his situation is likely to rapidly deteriorate, further increasing the risk that he may suffer extremely harmful or even fatal consequences.

If confirmed, the above allegations could therefore amount to violations of the right to life, as set forth in article 3 of the Universal Declaration of Human Rights (UDHR) and article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt in 1982; as well as of the right to the enjoyment of the highest attainable standard of physical and mental health, recognised in article 12 of the International Covenant on Economic, Social and Cultural Rights, also ratified by Egypt in 1982.

Furthermore, the lack of appropriate medical care, exacerbated by Dr. Aboufotouh's situation of prolonged solitary confinement, may amount to torture

or other cruel, inhuman or degrading treatment or punishment, in violation of article 5 of UDHR, article 7 of the ICCPR, and articles 1, 2 and 16 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT), ratified by Egypt in 1986.

In this regard, we would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement in itself runs afoul of the absolute prohibition of torture and other ill-treatment. Moreover, due to the prisoner's lack of communication, and the lack of witnesses, solitary confinement enhances the risk of other acts of torture or ill-treatment.

The above mentioned allegations could also amount to violations of the right to liberty and security of the person (articles 9 of the UDHR and the ICCPR); the right to due process and fair trial (article 10 of the UDHR and 14 of the ICCPR); the right to freedom of opinion and expression (article 19 of the UDHR and the ICCPR); and the right to freedom of peaceful assembly and association (Article 20 of the UDHR and 22 of the ICCPR).

We recall that by depriving persons of their liberty, States assume responsibility to care for their lives and bodily integrity and must therefore take all necessary measures to protect their lives. Inadequate conditions of detention can be a factor contributing to deaths and serious injury in detention, and when they are seriously inadequate, they can constitute an immediate or long-term danger to life. Furthermore, States must respect the right to health and ensure equal access for all persons, including those deprived of their liberty, to healthcare at least equivalent to that available in the community, taking into account the additional risks linked to incarceration¹.

We stress that the Nelson Mandela Rules² offer extensive guidance to States on how to implement access to health care in detention. In addition, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has formulated numerous recommendations in this regard in a report on the right to health in the context of confinement and deprivation of liberty³.

In light of the above, we respectfully call on Your Excellency's Government **to ensure that Dr. Aboufotouh is provided with access to adequate and proper medical care as a matter of urgency.**

We also call on the authorities concerned to effectively investigate and assess the circumstances of the arrest and deprivation of liberty of Dr. Aboufotouh, who appears to be held in pre-trial detention for almost four years now, without access to an effective defence, based on vague and broad charges which seem to be aimed at

¹ Report of the High Commissioner for Human Rights, Human Rights in the administration of justice (A/HRC/42/20): https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/20

² https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf

³ See [A/HRC/38/36](https://www.unhcr.org/refugees-and-asylum-seekers/2018/05/18/a-hrc-38-36)

criminalising his political views and engagement, the exercise of his right to express those views, as well as his right to assemble peacefully and associate with others. Should it be found that Dr. Aboufotouh is being arbitrarily detained, or in a manner inconsistent with international human rights standards, he should be released without delay.

In this regard, we reiterate that detention in custody of persons awaiting trial shall be the exception rather than the rule. Detention pending trial must be based on an individualized determination that it is reasonable and necessary, taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime. The relevant factors should be specified in law and should not include vague and expansive standards such as “public security”. Courts must examine whether alternatives to pre-trial detention would render detention unnecessary in the particular case. After an initial determination has been made that pre-trial detention is necessary, there should be periodic re-examination of whether it continues to be reasonable and necessary in the light of possible alternatives⁴.

We recall that the terrorism listing process is the subject of ongoing concern for the Special Procedures. In the case of Egypt, the designation or listing of an individual remains an opaque, highly secretive process, as highlighted by the particular facts in this case. The Terrorist Entities Law (Law 8 of 2015) and the Anti-Terrorism Law, (Law 94 of 2015), as amended in March 2020, form the legal basis for the administration of the terrorism watchlist. This legal basis for the list remains of deep concern to us. We reiterate that vaguely and broadly worded provisions undermine the principle of legality, cannot qualify as *lex certa*, and violate due process of law. We recall that the principle of legal certainty expressed in article 11 of the UDHR and in the ICCPR, requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence.⁵

Finally, we reiterate our concern regarding what appears to be the continued misuse of anti-terrorism and national security legislation to criminalise legitimate activities by political opposition, human rights defenders and other citizens including lawyers, journalists, and civil society actors in the country for the chilling effect it has already had and will continue to have on civil society more broadly.⁶ We further reiterate our concern regarding the repeated and continued use of this legislation to shrink civic space in Egypt.

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

⁴ Human Rights Committee, General Comment n. 35 (CCPR/C/GC/35): https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en

⁵ OL EGY 4/2020; article 19(3) of the ICCPR & Human Rights Committee General Comment 34, para. 25; [E/CN.4/2006/98](https://www.ohchr.org/en/docd/E/CN.4/2006/98), para. 45.

⁶ A/HRC/40/52, paras. 27, 60, 75(h).

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 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 updated and detailed information on the present state of physical and mental integrity of Dr. Aboufotouh and please explain what measures have been taken, or are envisaged to be adopted, to protect his life and preserve his safety and well-being, including timely access to adequate medical care, as appropriate.
3. Please explain whether the arrest and current pre-trial detention of Dr. Aboufotouh comply, in light of his reported health situation, with Egypt's international human rights obligations, particularly the absolute prohibition of torture and other cruel, inhuman and degrading treatment or punishment. Please also explain how are they compatible with Dr. Aboufotouh's right to liberty and security; the right to due process and fair trial; the right to freedom of opinion and expression; and the right to freedom of peaceful assembly and association.

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.

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

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