

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 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

Ref.: AL EGY 11/2022
(Please use this reference in your reply)

18 November 2022

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; 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 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, 42/22, 43/4, 51/21, 49/10 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 continued lack of adequate medical care provided to Dr. Abdelmoniem Aboufotouh Abdelhadi, in prison, who is believed to be in a life-threatening state of health.**

Dr. Abdelmoniem Aboufotouh Abdelhadi, also known as Abdel Moniem Aboufotouh, was born on 15 October 1951. Aged 71, he is the head of the "*Strong Egypt Party*", a former Presidential candidate, and the former Secretary-General of the *Arab Doctors Union*.

Previous concerns regarding the deteriorating health conditions of Dr. Aboufotouh were raised in communication UA [EGY 15/2021](#), sent on 12 November 2021. In addition, recent communications AL EGY 5/2022, sent on 29 July 2022, [AL EGY 1/2022](#), sent on 17 March 2022, [AL EGY 14/2021](#), sent on 16 November 2021, and [AL EGY 5/2021](#), sent on 16 June 2021 raised concerns regarding the deliberate withholding of adequate medical treatment from prisoners in Egypt. We regret that we have received no response to these communications to date. We also note that we wrote to our Excellency's Government on several occasions, to alert about the critically deteriorating health conditions of several prisoners, who subsequently died in prison without adequate medical care.

According to the information received:

Arrest and Pre-trial detention of Dr. Aboulfotouh

Dr. Abdelmoniem Aboulfotouh Abdelhadi, has been held in detention since 14 February 2018. On that day he was arrested at his home/office in New Cairo along with six members of the *Strong Egypt Party* Political Bureau, who were later released. No arrest warrant was presented at the time. The arrest occurred as a result of his political involvement and his views critical of the Egyptian Government.

On 15 February 2018, Dr. Aboulfotouh was charged by the Supreme State Security Prosecution (SSSP) with spreading false news inside and outside the country; leading a terrorist organization; and promoting a terrorist organization.¹ The prosecution considered that the alleged offences were committed during the state of emergency imposed by the President of Egypt in April 2017, prompting the case to be referred to the security emergency court.

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. Later, in 2019 and 2021, additional charges were brought against him, including those of financing a terrorist organization, of possession of firearms and training individuals to use weapons.

On the basis of these charges, he was held in pretrial detention for a total of four years and three months. During this period, the SSSP repeatedly extended the pre-trial detention for 15 days at a time, on the grounds that investigations were continuing.

During that entire period – since February 2018 - Dr. Aboulfotouh has been detained in solitary confinement.

On 5 April 2022, his legal counsel filed a complaint with the public prosecution requesting a transparent investigation into the case, but the prosecution neither initiated an investigation nor responded to the counsel's request.

On 26 April 2022, the Egyptian Administrative Court rejected for the second time a request by Dr. Aboulfotouh's legal counsel to end his solitary confinement.

On 29 May 2022, the State Security Emergency Court (SSEC) sentenced Dr. Aboulfotouh to 15 years imprisonment for “spreading false news” and “incitement against state institutions” under article 80/D of the Egyptian Penal Code.

¹ No. 440 of 2018.

The emergency court that handed down these verdicts did not adhere to minimum fair trial guarantees, and the sentences were not subject to appeal.

Dr. Aboulfotouh's communications with his legal counsel remain severely restricted, and he continues to be held in solitary confinement and subject to constant surveillance by prison authorities.

Dr. Aboulfotouh's health condition

Dr. Aboulfotouh's health condition severely deteriorated due to several episodes of ischemic heart disease (angina), advanced prostate disease, and inadequate medical care.

On 23 March 2022, Mr. Aboulfotouh was physically assaulted by forces led by the Inspector of the Prisons Authority for the Tora Prisons Area to which he was transferred to receive visits. The attack allegedly occurred in retaliation for his request to register an official complaint about the Tora Prison Administration's visitation restrictions. As a result, he suffered an angina attack. The prison administration allowed him to take an arterial dilator twice over a six-hour period until his condition stabilized.

Dr. Aboulfotouh suffered several heart attacks on 6 June 2022, 1 July 2022, 3 August 2022, and 25 August 2022. The administration of Al-Mazraa Prison, where he is permanently detained, reportedly refused to conduct a medical examination after these events. Although persons associated with him continued to offer that they cover all costs for necessary medical care, prison authorities did not respond to their offers. Although Dr. Aboulfotouh's legal counsel had also requested the prosecutor's office and the prison administration to transfer him to a private hospital at his own expense due to his deteriorating health condition, the prison authorities rejected this request.

On 21 September 2022, persons associated with Dr. Aboulfotouh were reportedly informed of the occurrence of a new heart attack, but no details on the circumstances of this event were made available.

Inadequate provision of medical care to detainees in Egyptian prisons

Dr. Aboulfotouh's case is reportedly an illustration of a practice in Egyptian prisons of deliberately denying medical care to prisoners due to their political beliefs, often resulting in their deaths. It is alleged that the frequency of such incidents indicates a potential systematic nature of this practice.

Furthermore, emergency court verdicts, as in the case of Dr. Aboulfotouh, reportedly reflect the continuation of the Egyptian State's policy of retaliation against political dissidents and rights activists who are carrying out their legitimate activities of expressing opinions and defending human rights.

While we do not wish to prejudge the accuracy of the details of these allegations, we wish to reiterate our serious concern about renewed information that

this prisoner's health has continued to steadily deteriorate during his detention due to a lack of diligent and adequate medical care, without which his condition is likely to worsen rapidly, increasing the risk that he will suffer extremely harmful or even fatal consequences. We are also alarmed by the alleged lack of regular access to and contact with his family and legal representatives, the repeated prolongation of his pre-trial detention and solitary confinement, and the continued inclusion of his name on a terrorist watch list, in what appears to be a misuse of this listing procedure against individuals peacefully exercising their legitimate right to freedom of expression. Dr. Aboulfotouh has been reportedly detained in isolation since his arrest in February 2018, far beyond what is considered the maximum length under recognized international standards.

If confirmed, the above allegations would amount to violations of various provisions of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) and of the International Covenant on Economic, Social and Cultural Rights, both ratified by Egypt on 14 August 1982 as well as of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT), ratified by Egypt on 25 June 1986.

In relation to these grave allegations and the apparent continuous disregard of Dr. Aboulfotouh's health condition, we wish to reiterate that the right to life constitutes a *jus cogens* and customary international law norm. States hold heightened due diligence obligations in relation to protect the right to life of individuals who are detained under their auspices.

Turning to the trial of Dr. Aboulfotouh by an emergency court, in line with our previous communications (EGY 6/2022 and EGY 4/2022) we reiterate our concern about the compatibility of the state of emergency with international law obligations, the discretionary powers of emergency courts and the curtailment of judicial guarantees, including the denial of the possibility to appeal their decisions. Furthermore, it remains alarming that the prosecution used anti-terrorist provisions to build the case against Dr. Aboulfotouh, without having reportedly completed the investigation procedure, and that the authorities have continuously extended his pre-trial detention. Concerns over the practice of multiple extensions of pre-trial detentions of individuals under investigation have been already expressed in previous letters addressed to your Excellency's Government (case nos. [EGY 4/2020](#) and [EGY 10/2021](#)). We underline that all individuals, regardless of the severity of the charges brought against them, have a right to due process and fair trial.

Last but not least, it is also a concern that Dr. Aboulfotouh has been registered on the terrorist watch list without apparent evidence or a firm legal basis. As in previous communications (EGY 8/2021, EGY 1/2022), we express our serious concern about the lack of adequate safeguards to prevent misuse and the absence of means to guarantee the rights of individuals subject to listing processes at the national level.

In light of the above, we respectfully call upon your Excellency's Government to ensure that Dr. Aboulfotouh receives access to adequate, timely and proper health care as a matter of urgency, in light of what appears to be his

steadily deteriorating health condition, which may threaten his very life.

We also renew our appeal on Your Excellency's Government and the concerned authorities to effectively investigate and assess the circumstances surrounding the arrest and deprivation of liberty of Dr. Aboulfotouh, who appears to be held in pre-trial detention without access to an effective defense, on the basis of vague and broad allegations that appear to be aimed at criminalizing his political views and engagement. If it is found that Dr. Aboulfotouh is being held arbitrarily or in a manner inconsistent with international human rights standards binding Egypt, he should be released immediately.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

We are issuing this appeal in order to safeguard the rights of Dr. Aboulfotouh from irreparable harm and without prejudicing any eventual legal determination.

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. We would be grateful for a prompt, updated and detailed information on the current state of Dr. Aboulfotouh's physical and mental health and integrity, and about the measures that have been taken or are being taken in light of his alleged deteriorating health, particularly his recent heart attacks, as part of the effort and duty of the penitentiary and medical authorities to protect his right to health and life and preserve his safety and well-being.
3. Please provide details on the reasons why the request of persons associated with Dr. Aboulfotouh to transfer him to a private hospital, where he would be provided with the necessary medical care, and to cover the expenses for such care, have been turned down.
4. Please provide the factual and legal basis for the arrest, detention and prosecution of Dr. Aboulfotouh. Please explain how Dr. Aboulfotouh's arrest and current pre-trial detention are in compliance with Egypt's international human rights obligations, in particular the absolute prohibition of torture and other cruel, inhuman and degrading treatment or punishment. Please also explain how these measures are consistent with Dr. Aboulfotouh's right to liberty and security, the right to due process and a fair trial, and the right to freedom of opinion and expression.

5. Please provide detailed information about the grounds for maintaining Dr. Aboulfotouh in solitary confinement since his arrest in February 2018 and what justifies such drastic and disproportionate measure.
6. Please provide detailed information about the grounds for placing Dr. Aboulfotouh on the terrorist list since his arrest five years ago: what did he say or do that justifies that decision, and what are the consequences for him and his family?
7. Please provide detailed information on any judicial or other investigations conducted in connection with the alleged assault by prison staff on Dr. Aboulfotouh at Tora Farm Prison on 23 March 2022 and the conclusions of those investigations. If no inquiry took place, please explain how this is compatible with Egypt's human rights obligations.
8. Please indicate what measures have been taken or are foreseen to be taken and what mechanisms have been put in place to ensure that all detainees in Egypt are provided with adequate medical care without delay when necessary.

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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the cases through its regular procedure 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 allegation letter and the regular procedure.

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

Mumba Malila

Vice-Chair of the Working Group on Arbitrary Detention

Irene Khan

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

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

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we call your Excellency's Government's attention to the rights to life, to be free from torture and other cruel, inhuman or degrading treatment, to liberty and security of the person, to due process and fair trial, and to freedom of opinion and expression as set forth in articles 3, 5, 9, 10 and 19 of the Universal Declaration of Human Rights (UDHR) and articles 6, 7, 9, 10, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt in 1982; as well as of the right of everyone, including people prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health, recognized in article 12 of the International Covenant on Economic, Social and Cultural Rights, also ratified by Egypt on 14 August 1982.

The right to life constitutes a *jus cogens* and customary international law norm (General Comment No. 36, paragraph 2). States hold heightened due diligence obligations in relation to protect the right to life of individuals who are detained under their auspices "since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their life and bodily integrity" (General Comment No. 36, paragraph 25). Inadequate conditions of detention can be a contributing factor to deaths and serious injuries in detention, and when seriously inadequate, can pose an immediate or long-term threat to the lives of detainees. In addition, States must respect the right to health and ensure equal access to health care at least equivalent to care available in the community for all persons, including those deprived of their liberty, taking into account the additional risks linked to incarceration (A/HRC/38/36).

In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights reiterates that "States are obliged to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services".

The former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/HRC/38/36) indicated that "[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life" and that [v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty". Due to the prisoner's lack of communication with the outside worlds, solitary confinement enhances the risk of ill-treatment and torture.

According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the provision of health care for prisoners is a State responsibility, free of charge, without discrimination and at the same level of the health care services provided in the community (Rule 24). In addition, Rule 27 provides that prisoners requiring specialized treatment or surgery shall be transferred

to specialized institutions or to civil hospitals.

In accordance with article 9 of the ICCPR, everyone has the right to liberty and security of person, and no one shall be subjected to arbitrary arrest or detention. Article 9 further requires that anyone arrested or detained on a criminal charge be brought promptly before a judge or other officer authorized by law and be entitled to trial within a reasonable time or to release. In addition, we bring the attention of your Excellency's Government to article 14 of the ICCPR, which guarantees the right to due process and a fair trial. We wish to remind the Government of your Excellency that, in accordance with the jurisprudence of the Working Group on Arbitrary Detention, arresting or detaining an individual as punishment for the legitimate exercise of rights protected under the ICCPR may be arbitrary.

Given the reported lack of adequate medical care, exacerbated by Dr. Aboufotouh's prolonged solitary confinement, we also refer to articles 1, 2 and 16 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT), ratified by Egypt on 25 June 1986. The Special Rapporteur on torture has pointed out that prolonged solitary confinement runs afoul of the absolute prohibition of torture and other ill-treatment ([A/66/268](#)).

The Mandela Rules prohibits the use of indefinite or prolonged solitary confinement, which is defined as solitary confinement for a period of more than 15 consecutive days. In accordance with Rule 45 of the Mandela Rules, solitary confinement must remain exceptional and should only be used as a last resort and for as short a time as possible. Further, solitary confinement must be subject to independent review and authorization by a competent authority.

In this context, we also refer to our previous observation that detention pending trial must be based on an individualized determination that 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. Courts must examine whether alternatives to pre-trial detention would render detention unnecessary in the particular case and periodic examinations of whether it continues to be reasonable and necessary in the light of possible alternatives should be undertaken.

In relation to the compatibility of the state of emergency with international law obligations, the discretionary powers of emergency courts and the curtailment of judicial guarantees, including the denial of the possibility to appeal their decisions, we remind your Excellency's Government that States must ensure that emergency measures are consistent with the State's human rights treaty obligations and that it remains an absolute obligation of the State to protect non-derogable rights ([A/HRC/35/37](#), paras 74-78).

With regard to the seemingly vague and ambiguous charges brought against Dr. Aboufotouh, we reiterate that the principle of legal certainty expressed in article 11 of the UDHR and in the ICCPR requires that criminal laws be sufficiently precise so that it is clear what types of conduct and actions constitute a criminal offense and what the consequences of committing such an offense would be. Vaguely and broadly worded provisions undermine the principle of legality, cannot qualify as

lex certa, and violate due process of law. We remind your Excellency's Government that the use of generic and broad emergency or counter-terrorism measures to limit the freedom of association has a profound and detrimental effect on the rights of association, assembly and expression (A/HRC/40/52), and that counter-terrorism legislation should not be used in an unjustified and arbitrary manner to restrict the right to freedom of opinion and expression.

We also refer to the right to a fair trial, which is recognized not only in human rights treaties but also within international humanitarian law, international criminal law, counterterrorism conventions and customary international law (see A/63/223). We recall your Excellency's Government that article 14 of the ICCPR, ratified by Egypt, provides inter alia for the principle of equality before competent, independent, and impartial courts and tribunals, the presumption of innocence, provision of adequate time and facilities for the preparation of the defense, and the right of accused persons to communicate with counsel of their own choosing.

Finally, the lack of adequate safeguards to prevent misuse and the absence of means to guarantee the rights of individuals subject to listing processes at the national level is inconsistent with the State's human rights and counter-terrorism obligations, including under the mandate of the Security Council and the Global Counter-Terrorism Strategy (A/RES/75/291). We remind your Excellency's Government that the inclusion of individuals or groups on a terrorism watch list must be evidence-based and demonstrate a connection to an actual, distinct and measurable act of terrorism or a demonstrated threat of an act of terrorism.