

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 rights to freedom of peaceful assembly and of association; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: AL SWE 1/2023
(Please use this reference in your reply)

13 July 2023

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 rights to freedom of peaceful assembly and of association; Special Rapporteur on the human rights of migrants and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 44/5, 51/8, 52/9, 50/17, 52/20 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the ongoing risk faced by Dr. ██████████ ██████████ ██████████ ██████████ of being subjected to deportation proceedings from Sweden to Egypt, in violation of the *non-refoulement* principle, where she would be at risk of being subjected to torture and to the potential imposition of the death penalty.**

According to the information received:

Dr. ██████████ an Egyptian national, is a medical doctor based in Sweden. Before emigrating to Sweden in 2013, Dr. ██████████ treated political prisoners in detention facilities in Cairo, Egypt, allegedly against the instructions of the Egyptian authorities. She also provided medical treatment to injured protesters during the protests against the military regime in Rabaa Al-Adaweya in Cairo in July and August 2013. She also participated in numerous demonstrations in 2011. In this context, she witnessed several massacres, in which Egyptian authorities were reportedly involved. As a result, her name was placed on a list of wanted persons for interrogation in Egypt.

In 2001, a person associated with Dr. ██████████ also an Egyptian national, was deported from Sweden to Egypt after Egyptian authorities had given diplomatic assurances to the Swedish authorities that this person would not be subjected to inhuman treatment or punishment by the Egyptian authorities upon return. However, this person associated with Dr. ██████████ was reportedly held in detention by the Egyptian authorities for eleven years during which this person was subjected to torture, reportedly resulting in permanent disability. After the person's return to Sweden, and after being granted asylum

there, Dr. [REDACTED] is the sole primary caregiver for this person.

In 2013, Dr. [REDACTED] applied for asylum in Sweden, citing fear of persecution due to potentially being subjected to acts of torture and the imposition of the death penalty in her home country. Since November 2019, she has worked as a doctor in Sweden, including for three years during the COVID pandemic.

On 20 December 2018, an arrest warrant was issued against Dr. [REDACTED] by the Egyptian National Security Agency. She is accused of providing financial support to the families of prisoners accused of being members of the Muslim Brotherhood and of offering medical aid to the sit-ins in Rabaa Al-Adaweja. A number of the individuals involved in these activities have been convicted in trials that were reportedly conducted devoid of any guarantees of fair trial and due process and were subject to the implementation of the death penalty in Egypt, which was carried out by hanging. Against this background, it is believed that Dr. [REDACTED] would likely be subject to arbitrary detention, torture and the imposition of the death penalty, and executed should she be forcibly returned to Egypt.

In November 2021, a source was reportedly approached by Egyptian security services and questioned about Dr. [REDACTED] political views and attitude towards the Egyptian government. On this occasion, the security service agents informed that an arrest warrant had been issued against her for her alleged ties to the Muslim Brotherhood.

In early 2022, individuals allegedly associated with Dr. [REDACTED] based in Egypt were subjected to acts of intimidation and harassment by Egyptian security forces, and were subsequently interrogated and beaten. These interrogations were carried out with the intention of forcing individuals associated with Dr. [REDACTED] to convince her to reveal the names of other doctors involved in providing life-saving medical support and assistance to those injured during protests.

On 4 May 2023, Dr. [REDACTED] was informed that her asylum application had been rejected again and that she had three weeks to appeal this decision.

On 23 May 2023, she filed an appeal to lift the deportation proceedings on the basis of the pending appeal proceedings.

On 26 May 2023, she was arrested by Swedish police and has since been taken to a deportation centre 400 kilometers from her place of residence. This situation would have disproportionately hindered Dr. [REDACTED] and her legal representatives from appealing against the rejection of her asylum application within the limited timeframe given to them. Moreover, the Swedish authorities initiated deportation proceedings despite the fact that Dr. [REDACTED] appeal was still pending.

On 16 June 2023, Dr. ██████████ was released following the intervention of international human rights mechanisms. She reportedly remains at risk of being subjected to deportation proceedings to Egypt.

If returned to Egypt, Dr. ██████████ will likely be associated with the Muslim Brotherhood and prosecuted under both the *Law No. 94 of 2015 (Anti-Terrorism Law)* and the *Law regulating the list of terrorist entities and terrorists No. 8 of 2015 (Terrorist Entities Law)* due to her documented presence and activities in Rabaa Square during the 2013 anti-coup protests. Her deportation, if carried out, would occur in a context of generalized repression of suspected opposition where security officials in Egypt routinely commit serious human rights violations against detainees, including torture, enforced disappearances and executions.

Without prejudice to the accuracy of these allegations, we express our profound concern that should Dr. ██████████ be forcibly deported by Sweden to Egypt, she would likely be subjected to serious human rights violations including arbitrary arrest and detention, the risk of torture, unfair trial, and the possible imposition of a death sentence and its execution. We note that Dr. ██████████ persecution in Egypt was allegedly triggered by the legitimate and peaceful exercise of her rights to freedom of opinion, expression and assembly, and her involvement as a medical doctor in treating injuries, without discrimination, sustained by protesters.

Should the facts alleged be confirmed, if the deportation proceedings are resumed, they would amount to a violation of multiple provisions of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), ratified by Sweden on 6 December 1971, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Sweden ratified on 8 January 1986.

It is a matter of concern that the deportation proceedings were initiated while Dr. ██████████ appeal was still pending. In this connection we stress that the duty to respect and protect the right to life, to personal security and to integrity requires States parties to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that they would face violations of these rights. The enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but must also be available to all individuals, regardless of nationality or statelessness.

We underscore that, if returned to Egypt, Dr. ██████████ would be subjected to Egypt's Anti-Terrorism Law and Terrorist Entities Law which has been the subject of previous communications sent by Special Procedures. These include the communication sent on 28 February 2020 (EGY 4/2020) and 13 August 2021 (EGY 8/2021) which raised serious concerns regarding the vague and broad definition of terrorism, which criminalise the exercise of the right to freedom of expression and to peaceful assembly and association. These communications also raised the alarming pattern of designating or listing individuals into the terrorism watchlist and which constitutes an arbitrary, independent and severe legal penalty which profoundly affects the civil and administrative rights of individuals.

Against this alarming background, we appeal to your Excellency's Government to refrain from any potential resumption of the deportation proceedings against Dr. [REDACTED] particularly in light of the prohibition of the death penalty in Sweden and the commitment of your Excellency's Government to its worldwide abolition.

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

We are issuing this communication in order to safeguard the rights of Dr. [REDACTED] from irreparable harm and without prejudicing any eventual legal determination.

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 as to whether an individual assessment of the risks for her fundamental rights to life, personal security and integrity has been carried out, should Dr. [REDACTED] be refouled to Egypt, in the context of her request for asylum. In particular, please explain to what extent was taken into consideration the pattern of violations against suspected critics or members of the opposition in Egypt; including the reported torture and ill-treatment and the possible imposition of the death penalty, as well as the harassment and intimidation attempts to which persons associated with Dr. [REDACTED] have been subjected to in Egypt.
3. Please clarify in detail the grounds of the decision to initiate deportation proceedings considering that Dr. [REDACTED] appeal was reportedly still pending.
4. Please provide information on the current legal status of Dr. [REDACTED] regarding her application for asylum.
5. Please explain the factual and legal grounds for the arrest and detention – and subsequent release - of Dr. [REDACTED] Please also provide information regarding alternative and less restrictive measures to deprivation of liberty that can be applied in order to ensure that administrative detention for immigration reasons is used only as a measure of last resort and for the shortest possible time.

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 having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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

Matthew Gillett

Vice-Chair on communications 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

Clement Nyaletsossi Voule

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Felipe González Morales

Special Rapporteur on the human rights of migrants

Fionnuala Ní Aoláin

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described.

In this regard, we remind Your Excellency's Government of Sweden's obligations under the International Covenant on Civil and Political rights, ratified by Sweden on 6 December 1971. In particular, we refer to articles 6 (the right to life), 7 (the prohibition on cruel, inhuman or degrading treatment or punishment), 9 (right to liberty and security), 10 (the right to humane detention conditions), 14 (the right to a fair trial), and 19 (freedom of opinion and expression). In this respect, we note the general duty under article 2(1) of the Covenant to exercise due diligence to prevent violations by non State actors or third States against individuals within its jurisdiction, as well as the prohibition on facilitating (aiding and assisting) the commission of human rights violations by third States (see, for example, general comment no. 36 para. 63). We wish to stress that the enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but "must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party" (CCPR/C/21/Rev.1/Add. 13 (2004), para. 10).

We would like to further refer to general comment no. 36, in which the Human Rights Committee affirms that the duty to respect and ensure the right to life requires States parties to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a real risk exists that their right to life under article 6 of the Covenant would be violated (CCPR/C/GC/36, para. 30). We further refer to principle 5 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions which establishes that no one shall be involuntarily returned or extradited to a country where there are substantial grounds for believing that he or she may become a victim of extra-legal, arbitrary or summary execution in that country.

In particular, we reiterate that states parties to the ICCPR that have abolished the death penalty are not permitted to "deport, extradite or otherwise transfer persons to a country in which they are facing criminal charges that carry the death penalty, unless credible and effective assurances against the imposition of the death penalty have been obtained" (CCPR/C/GC/36, para. 34). Further, "the obligation not to reintroduce the death penalty for any specific crime requires States parties not to deport, extradite or otherwise transfer an individual to a country in which he or she is expected to stand trial for a capital offence, if the same offence does not carry the death penalty in the removing States, unless credible and effective assurances against exposing the individual to the death penalty have been obtained" (CCPR/C/GC/36, para. 34).

In addition, we would like to remind your Excellency's Government of the principle of non-refoulement also codified in article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Sweden ratified on 8 January 1986. Article 3 provides that no State shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds to believe that he would be in danger of being subjected to torture. This absolute prohibition against refoulement is broader than under refugee law, meaning that persons may not be returned even when they may not otherwise qualify for refugee status under article 33 of the 1951 Refugee Convention or domestic law. Accordingly, non-refoulement under the CAT must be assessed independently of refugee status determinations.

Regarding the reported detention-like conditions in which Dr. [REDACTED] was reportedly held until 22 June 2023, we would like to stress that detention for immigration purposes should be a measure of last resort, only permissible for adults and for the shortest period of time and when no less restrictive measure is available. If not justified as reasonable, necessary, legitimate and proportional, the use of this measure could lead to arbitrary detention, prohibited by article 9 of the Universal Declaration of Human Rights and article 9 of the ICCPR.