

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 independence of judges and lawyers and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: AL EGY 1/2024
(Please use this reference in your reply)

20 March 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 independence of judges and lawyers and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 52/4, 52/9, 50/17, 53/12 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning terrorism charges and arrest warrants issued against two Egyptian human rights lawyers, Mr. **Mahmoud Mohamed Abdelmajeed** and Mr. **Mohamed Issa Rajeh** who work with the Egyptian Front for Human Rights (EFHR), a human rights organisation based abroad documenting human rights violations and carrying out international human rights advocacy activities relating to Egypt. Both lawyers are currently residing abroad.

Mr. Mahmoud Mohamed Abdelmajeed is a 29-year-old Egyptian lawyer with the EFHR since 2019; he provides legal assistance to journalists, human rights defenders and political activists.

Mr. Mohamed Issa Rajeh, 33-years old, is an Egyptian lawyer with the EFHR, providing legal support to detainees.

Both lawyers have monitored prison conditions in Egypt and have documented human rights violations on behalf of the EFHR in their international advocacy, in particular for contributions to UN human rights mechanisms.

The Egyptian Front for Human Rights, a non-governmental organisation based in the Czech Republic with offices in Cairo and Brussels, provides legal support to political detainees and documents human rights abuses in Egypt, including arbitrary detentions, enforced disappearances, and monitors and reports on trials and conditions of detention. It provides assistance to alleged victims of human rights violations to avail themselves of the procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms. The EFHR has also engaged with UN mechanisms and has contributed to the joint NGO submissions for the 2023 review of Egypt by the Human Rights Committee,¹ and the

¹ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FEGY%2F51549&Lang=en

2023 Universal Periodic Review mid-term report,² among others.

Special Procedures mandate holders expressed their concern regarding the alleged incompatibility of Egypt's Terrorism Circuit Courts with international due process guarantees in a communication to your Excellency's Government (EGY 13/2020) on 2 October 2020, as well as in a communication (EGY 4/2020) regarding Egypt's anti-terrorism law sent on 28 February 2020. We thank your Excellency's Government for the responses to the communications referenced EGY 4/2020, received on 8 April 2020 and 10 March 2021, and regret that no reply was received for EGY 13/2020.

According to the information received:

In June 2023, Mr. Abdelmajeed and Mr. Rajeh were informed that they had reportedly been included in the Supreme State Security Case no. 1233/2023, under which they had been charged with joining and funding a terrorist group by providing that group with information about political detainees in Egypt.

The State Security Prosecution has issued an arrest warrant against them, yet neither individual was officially informed about their arrest warrants nor the charges against them. It is not known when their trial will start, and their lawyers have not been able to access their clients' files or charge sheet.

There are reasonable grounds to believe that the legal case against Mr. Abdelmajeed and Mr. Rajeh is linked to their cooperation with the United Nations in the field of human rights. The Egyptian Front for Human Rights documents human rights violations against political detainees in Egypt and provides legal or other assistance to them to submit communications under procedures established pursuant to United Nations human rights instruments.

Without prejudging the accuracy of these allegations, we express our concern at the prosecution of Mr. Abdelmajeed and Mr. Rajeh as a result of the legitimate exercise of their profession as human rights lawyers and their documentation of human rights violations. We are equally concerned that they are charged under Egypt's counter-terrorism law, which contravenes international human rights law, and that they would face heavy penalties if convicted. We reiterate our concerns about the vagueness of the counter-terrorism and national security legislation in Egypt. We note with concern that this legislation is reportedly being misused to target, inter alia, human rights defenders, journalists and civil society organizations critical of the government. We underscore to your Excellency's Government that counter-terrorism legislation must be sufficiently precise so as to comply with the principle of legality under article 15 of the ICCPR so as to avoid the risk of abuse of over-broad offences. Counter-terrorism law must also not unnecessarily or disproportionately restrict other human rights, including freedoms of association, assembly, expression and opinion (A/HRC/40/52) and all restrictions to freedom of expression should comply with the standards set out in article 19(3) ICCPR.

Furthermore, we are concerned that the two defenders were not informed about their indictment and the charges against them, nor have their lawyers been able to access their charge sheet.

² <https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/midtermreports/ngosmidtermreports/egypt-upr-ngo-group-mid-term-en.pdf>

We are also concerned that the charges against the two human rights defenders appear to be connected to their legitimate work in documenting human rights violations and communicating them to international human rights organisations, including to UN human rights mechanisms. The free exercise of the legal profession helps to ensure access to justice, control of state power, protection of fair trial and due process and other judicial guarantees.

We recall that every individual has the right to be informed, at the time of his arrest, of the reasons for this arrest and will receive notification, as soon as possible, of any accusation brought against him.

Regarding legal representation, we are concerned about the alleged restricted access that their lawyers have had to their client's file – a key element of due process.

We would also like to remind your Excellency's Government that any trial in absentia must meet the stringent safeguards under international human rights law for such trials, namely that all due steps have been taken to inform accused persons of the charges and to notify them of the proceedings, and that the possibility of a retrial in person must be available.

We urge your Excellency's Government to immediately cease all acts of reprisals and intimidation and arbitrary arrests against human rights defenders, and to allow Mr. Abdelmajeed and Mr. Rajeh to carry out their legitimate activities as human rights defenders in the future.

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.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the legal basis of the charges against Mr. Abdelmajeed and Mr. Rajeh and explain if they were informed about the charges against them and notified of the proceedings.
3. Please provide information about whether their right to defend oneself through legal counsel of one's own choosing had been upheld.
4. Please clarify whether a right to a re-trial is available following a trial in absentia?
5. Please indicate what measures have been taken to ensure that human rights defenders and human rights lawyers can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind. Specifically,

please indicate how the terrorism charges in these cases are consistent with the principle of legality and other relevant human rights.

6. Please provide information about the measures in place, legally and institutionally, protecting individuals or groups in Egypt to engage or communicate with United Nations entities, including by filing complaints about alleged violations of human rights.

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.

In light of the allegations of intimidation or reprisals for cooperation with the United Nations in the field of human rights, we reserve the right to share this communication – and any response received from Your Excellency's Government – with other UN bodies or representatives addressing this matter, in particular the senior United Nations official designated by the Secretary General to lead the efforts within the United Nations system to address this issue.

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(s) responsible for the alleged violations.

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

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

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

Ben Saul

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 draw the attention of your Excellency's Government to the principles and international standards applicable to this communication. The above-mentioned allegations appear to be in violation of article 19 and article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Egypt acceded to on 14 January 1982.

Article 19 of the ICCPR guarantees that everyone shall have the right to hold opinions without interference, and the right to freedom of expression, which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one's choice. As interpreted by the Human Rights Committee in general comment no. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (paragraph 11) as well as expression of criticism or dissent.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19. (GC34 paragraph 23)

In order to meet the proportionality and necessity test, any restrictive measures adopted must be the least intrusive means capable to achieve the desired objective (legitimate aim).³ States shall not invoke national security as a justification for measures aimed at suppressing opposition or to justify repressive practices against its population.⁴ The right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association to freely carry out its legitimate activities.⁵

We also remind your Excellency's Government that the right to freedom of association is an essential component of democracy as it empowers individuals to "express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable", as enunciated in the Human Rights Council resolution 15/21.

Regarding allegations indicating that the violations could be an act of intimidation and reprisals against those who cooperate with the UN in the field of human rights, we would like to refer to Human Rights Council resolutions 12/2, 24/24, 36/21, 42/28, 48/17 and 54/24 reaffirming the right of everyone, individually

³ [A/61/267](#), para. 23.

⁴ *Ibid.*, para. 20.

⁵ [CCPR/C/88/D/1274/2004](#), para. 7.2.

or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council urges States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies, as well as the issuance of appropriate guidance to national authorities, in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urges States to ensure accountability for reprisals by providing access to remedies for victims and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5(c), which provides for the right to communicate with non-governmental or intergovernmental organisations;
- article 6(a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 9, paragraph 4, point a), which provides for the right to unhindered access to and communication with international bodies;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would further like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not

hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.