

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL TUR 2/2024
(Please use this reference in your reply)

19 June 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/9 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arrest and detention in Türkiye of prominent Egyptian human rights defender Ghada Najibe Sabouny**.

Ms. Sabouny is an Egyptian human rights defender who fled to Türkiye with her husband, Hisham Abdallah Abdeldayem Mohamed, and children in 2015. Ms. Sabouny participated in the protest movements of 25 January 2011, that ousted President Hosni Mubarak and in the protests of 30 June 2013, against the Muslim Brotherhood. She is a co-founder of Tamarod, a protest movement that opposed President Morsi and called for early elections in 2013. In November 2013, Ghada left Tamarod and went on to publish the names of those within Tamarod who were allegedly working for the Egyptian Intelligence Services. She is a member of *Egyptians Abroad for Democracy*, an initiative based in the US, started by Egyptians living abroad aimed at promoting democracy in Egypt. Ms. Sabouny has assisted this organization in lawsuits defending the rights of Egyptians in the context of the construction of the Grand Ethiopian Renaissance Dam, and pursuing justice for civilians killed in the alleged secret Egyptian-French joint intelligence operation, Operation Sirli. In September 2020, Ms. Sabouny wrote opinions and editorials for human rights organizations, including DAWN, criticizing Egypt's growing prisoner numbers.

According to the information received:

On 16 December 2015, Ms. Sabouny and her husband, Mr. Hisham Abdalla, fled from Egypt to Türkiye with their four children after receiving threats from the Egyptian authorities, allegedly in retaliation for her human rights activism. Weeks after the family fled Egypt, Egyptian media published articles that Ghada Naguib was facing criminal investigations.

On 31 January 2019, judges in the Giza Criminal and Supreme State Security Emergency Court-14 Circuit Giza convicted Ghada Naguib and Hisham Abdallah on charges of "spreading false news to incite people against the regime and to undermine national security" and sentenced them to five years in prison in a trial involving 28 defendants. There were serious fair trial concerns in this case because verdicts by these so called 'emergency courts' cannot be appealed and are subject to confirmation by the president. Furthermore, some of the

evidence included confessions by defendants which were allegedly obtained under duress and testimonies of National Security Agents that were allegedly involved in enforced disappearances and tortures. The verdict also cited legitimate and peaceful activities protected under international human rights law such as “writing social media posts critical of the government and manuals on how to document human rights violations and transmitting them to the international community” as evidence of national security crimes.

In November 2020, Ms. Sabouny was viciously attacked in a smear campaign, directed by Colonel Ahmed Shabaan, after she criticized him on Facebook. The campaign targeted her seven-year-old son, accusing him of being fathered by a man other than Ms. Sabouny’s husband.

On 24 December 2020, Ms. Sabouny’s Egyptian nationality was revoked by a ministerial decree, leaving her stateless. The decision was based on allegations that Ghada Naguib was guilty of crimes “endangering national security from abroad”. At the same time, her nephews were arrested in Egypt. Ms. Sabouny’s and her husband’s family and extended family members have been arrested and imprisoned in Egypt on charges of participating in a banned political party.

As a result of oppression in Egypt. Ms. Sabouny fled to Türkiye with her husband, Hisham Abdallah Abdeldayem Mohamed, and children in 2015. The harassment and intimidation against Ms. Sabouny continued in Turkey. The Turkish authorities have on several instances pressured Ms. Sabouny to stop writing on social media, primarily Twitter, in exchange for promises that she would not be imprisoned or deported.

On 2 October 2023, without warrant or formal charges, Ms. Sabouny was arrested and detained by Turkish authorities. Seven vehicles of plainclothes security officers arrived at her house to arrest her, at approximately 12.00 a.m., Istanbul time. They claimed that they were arresting her because her resident status had expired, even though she showed a valid and unexpired permanent residency in Turkey the day of the arrest. The arrest was reportedly violent. The security officers forced Ghada into one of their vehicles, tearing off her hijab inside the car while she attempted to contact the family’s lawyer. She was transferred to the police station, and then, unbeknownst to her lawyer, she was transferred to the deportation center for foreigners in the Turkish city of Malatya, located 1,500 kilometers away from Istanbul. No news was given to her family and lawyers about her situation, and no one was permitted to visit her in the detention center.

From 2 October to 3 November 2023, Ms. Sabouny was held without formal charges at the Malatya deportation center where she began a hunger strike to protest what she considered to be an unlawful detention. She was allegedly threatened by the Turkish intelligence officers.

On 27 October 2023, Ms. Sabouny finally succeeded in contacting her family through her cell phone. She was then released on 3 November, after one month in detention.

On 4 April 2024, Ms. Sabouny has been arrested again. On that day, at 1.00 p.m., Istanbul time, three members of Turkish civil police force, without a warrant, arrived at Ms. Sabouny's residence to pressure her to go with them voluntarily. After asking if they had a warrant, which they said they did not have, Ms. Sabouny refused to comply unless presented with a valid legal document. Five more members of the police force showed up and for the next five hours the eight police officers blocked the entrance to her house until a search warrant was issued, giving them access to their home. Due to Ms. Sabouny's limited proficiency in the Turkish language and limited knowledge of the Turkish legal system, she assumed the legitimacy of the document, allowing the police officers to enter. At 6.30 p.m., they arrested her. Subsequently, it appeared that the search warrant was allegedly not officially registered in the system, indicating that the search was unlawful.

On 5 April 2024, Ms. Sabouny's family members went to the women's deportation center in Istanbul to check on the well-being of Ms. Sabouny. There, they discovered that, without her lawyer's knowledge, she had been transferred to the city of Edirne, located 250 kilometers away from Istanbul. Despite her lawyer's presence at the center since 9.00 a.m., this relocation occurred at 1.30 p.m.

The family then traveled to Edirne and were able to see her at the deportation center. While Ms. Sabouny appeared physically unharmed, no legal document was presented to justify her detention, disabling the lawyer to pursue any legal recourse on her behalf.

During her detention, Ms. Sabouny was allegedly confined to a room and subjected to an intense interrogation. During this ordeal, the interrogators demanded to confiscate her phone, but she resisted their attempts and refused to surrender it. A woman forcefully seized her phone from her bag. Ms. Sabouny was allegedly coerced into unlocking her phone under threat of it being damaged. She declared that she did not care if they destroyed it. Subsequently, one of the other detainees allegedly falsely accused Ms. Sabouny of capturing a video of her. The authorities used this accusation as a pretext to pressure Ms. Sabouny to open her phone. Through forceful aggression, they obtained her fingerprint to unlock the device and proceeded to erase all the phone gallery on it. She was then instructed, through translation by an Arabic speaker, not to disclose the forced deletion of her gallery to anyone. She was coerced into falsely claiming that she had willingly initiated the deletion herself.

On 7 April 2024, she was asked to sign a deportation order, which she refused to sign. Ms. Sabouny was allegedly threatened by the chief officer of the deportation center not to post anything about her situation on social media.

On 15 April 2024, three official orders were issued by the Turkish authorities. It was decided that Ms. Sabouny had to stay in administrative detention until further notice. Moreover, the authorities issued two new 'security codes', the code G-207 and the G-99 in addition to a pre-existing code. These 'codes' or 'tags' allow the authorities to take exceptional action against her without court orders. The first code refers to Ms. Sabouny as someone who incites people to

violence and riots, and the second one refers to her as a threat to the country's national security. The lawyer has challenged the legitimacy of the codes but they remain in power. In addition to these security codes, the authorities also issued an “urgent” deportation order for Ms. Sabouny; thus subverting the ongoing court case concerning Ms. Sabouny’s deportation.

On Friday 19 April 2024, the Turkish authorities released Ms. Sabouny from the detention centre, upon declarations from the lawyer about the critical health situation of Ms. Sabouny’s mother, who was hospitalized for heart problems that were allegedly caused by hypertension and extreme emotional stress, possibly as a result of the harassment experienced by the family. Ms. Sabouny has to present herself and sign in every 6 months at the detention centre.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we are concerned about the harassment, detention and criminalisation in exile of Ms. Sabouny, including the pending extradition orders which she was allegedly pressured to sign and the `security codes` that further enable her harassment. We are particularly concerned that the harassment appears to be in retaliation for her human rights work in relation to Egypt. We express strong concern about the possible extradition and the subsequent criminal prosecution and risk of torture or ill treatment that Ms. Sabouny could face in Egypt in retaliation of her human rights work, which would constitute a violation of the principle of non-refoulement.

Furthermore, we are concerned that Ms. Sabouny’s right to a fair trial and rights in detention appear to have been violated during the above-detailed arrests. It is alleged that Ms. Sabouny’s house was unlawfully searched, that she was denied her right to contact her lawyer after the first arrest in October and that she was denied her right to contact her family and receive visit at the detention center. It is also alleged that she was the victim of an unlawful interrogation which implied pressure, threats, a forceful aggression, and false accusations by officers of the detention centers, after her arrest.

We stress the responsibility of states to ensure that, human rights defenders, journalists and activists in exile can safely reside in the country, continue their legitimate human rights and journalistic activities, and to ensure that they are protected from violence, threats and harassment, as well as protection against refoulement or extradition on criminal charges related to their work.

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 on the factual and legal grounds justifying the arrest, detention, and charges against Ms. Sabouny and how these

measures are compatible with international human rights law and standards. Please clarify the safeguards that were granted to Ms. Sabouny from the outset of her arrest and throughout judicial proceedings to ensure her trial is fair and in respect of due process standards, in particular her prompt and confidential access to lawyers, and contact with the family.

3. Please indicate how journalist, activists and human rights defenders exiled in Turkey can safely reside in the country and continue their legitimate professional activities free from violence, threats and harassment.
4. Please provide information on how the Government will protect Ms. Sabouny and other exiled individuals against refoulement or extradition on criminal charges related to their work.

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.

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 note that, in light of the country of origin of the individuals concerned by this letter, a copy of this letter will be shared with Egypt.

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

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

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 above alleged facts and concerns, we remind your Excellency's Government about its obligations under article 19 of the ICCPR, which guarantees the right to freedom of opinion, and the right to freedom of expression, subject to the strict limitations of article 19 paragraph 3. The right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds, which not only applies to information that is favourable, but also to information that may shock or offend. Any restriction to the rights under article 19(2) must pursue a legitimate aim, in accordance with a law that is sufficiently clear, and conform to the requirements of necessity and proportionality. As established by the Human Rights Committee in its general comment 34, any State party seeking to invoke a legitimate ground for restriction of freedom of expression on the basis of a perceived threat to national security or public order, must demonstrate in specific and individualised fashion the precise nature of the threat and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat (CCPR/C/GC/34, para 35). As mentioned above, and repeatedly underlined in previous communications, we further emphasise that attacks against individuals, such as through arbitrary detention and criminalisation, for the exercise of freedom of expression is incompatible with the Covenant.

In its general comment 34, the Human Rights Committee also describes how freedom of expression applies to both public and political issues. It states that "a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society" and that "the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion." It also states that "all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition" and that "in circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high. Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties." (CCPR/C/GC/34, para 13 and 38).

In addition, we wish to recall that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute and non-derogable, as a peremptory norm of international law (Human Rights Council Resolution 52/7 and General Assembly Resolution 77/209).

We also would like to remind your Excellency's Government about its obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Türkiye on 2 August 1988. Indeed, under article 15 CAT (read in conjunction with article 16

CAT) - which operates as a reinforcement of fair trial rights as well as a prohibition on its own against being able to rely on any coerced evidence obtained through torture and other cruel, inhuman or degrading treatment or punishment – no statement which is established to have been made as a result of torture may be invoked as evidence in any proceedings.

Moreover, article 3 (1) CAT expressly prohibits the “*refoulement*” or extradition of a person to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture. Contrary to the prohibition against “*refoulement*” found in international refugee law, the protection offered by article 3 of the CAT against “*refoulement*” is absolute and knows no exception to the rule.