

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 situation of human rights defenders; 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.: OL EGY 5/2024

(Please use this reference in your reply)

8 November 2024

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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 situation of human rights defenders; 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 51/8, 54/14, 52/9, 50/17, 52/4, 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 the "Draft Law on the Issuance of the Criminal Procedure Law No. 150 of 1950", which would repeal the current Law No. 150 of 1950 on the Code of Criminal Procedure and any provision in contradiction of the draft law.

In this communication, we do not aim at providing a comprehensive analysis of the entire set of amendment proposals.

At the outset, we would like to recall that, on 14 January 1982, Egypt ratified the International Covenant on Civil and Political Rights (ICCPR), which includes international standards on the right to a fair trial and the independence of the judiciary. We would like to offer the following comments on various provisions of the draft law, which, if not amended, may be at odds with the obligations of your Excellency's Government under international human rights law, and, in particular, with articles 9 (right to liberty and security and prohibition of arbitrary detentions), 12 (right to freedom of movement), 14 (right to a fair trial), 17 (right to privacy), 19 (right to freedom of expression and opinion), article 21 (freedom of peaceful assembly) and article 22 (freedom of association) of the ICCPR.

While we welcome the efforts of the Government of Egypt to amend the current Code of Criminal Procedure as part of Egypt's National Strategy for Human Rights, concerns remain regarding the reported expanded powers that new amendments would confer to law enforcement personnel and prosecutors without judicial review, the reported vague and broad wording of some provisions, and the reported threat to fair trial guarantees. We are also concerned that some of the amendments seem to violate provisions of the Egyptian Constitution and thereby undermine constitutionally protected rights and freedoms.

Pre-trial detention

We note that articles 123 and 124 of the draft law decrease the caps on pretrial detention for misdemeanours from 6 months to 4 months; for felonies from 18 months to 12 months; for felonies for which there is a possible life or death sentence from 24 months to 18 months; and in cases being heard on appeal where individuals have been sentenced to life or death to a 24-month maximum.

While welcoming the decrease on the caps on pretrial detention, we note nonetheless that the new decreased caps continue to allow for prolonged pretrial detention. We recall that under article 9 (3) of the ICCPR, pretrial detention should be the exception rather than the norm and should be ordered for the shortest time possible. As stated by the Human Rights Committee in general comment No. 35 (2014), detention pending trial must thus be based on an individualized determination that it is reasonable and necessary for such purposes as to prevent flight, interference with evidence or the recurrence of crime. The Committee further noted that “pre-trial detention should not be mandatory for all defendants charged with a particular crime, without regard to individual circumstances. Neither should pre-trial detention be ordered for a period based on the potential sentence for the crime charged, rather than on a determination of necessity” (para. 38).

We also emphasize that according to the Human Rights Committee, prolonged pre-trial detention without judicial review undermines the presumption of innocence. The presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle. Furthermore, the length of pre-trial detention should never be taken as an indication of guilt and its degree (CCPR/C/GC/32, para. 30).

We also note that the draft amendments fail to address the documented practice of “rotating cases” or “case recycling” in Egypt, whereby prosecutors add defendants to multiple cases on near-identical charges in order to restart the clock on pre-trial detention, keeping these individuals in indefinite detention without trial (*see* Working Group on Arbitrary Detention, opinions no. 34/2022, no. 53/2022, no. 60/2022, no. 20/2023, no. 70/2023 and no. 20/2024). We note with regret that the proposed amendments fail to establish strong safeguards against such practices and are concerned that, on the contrary, the broad expansion of prosecutorial powers risks exacerbating this practice. In this regard, we further emphasize that individuals subjected to prolonged pre-trial detention are exposed to an increased risk of being subjected to torture or other inhuman treatment, and to enforced disappearances.

Expansion of Prosecutorial powers

Similarly to the current law, article 116 of the draft law allows prosecutors to assume the powers of presiding judges and judges of Appellate Courts in renewing pretrial detention for up to 150 days, without judicial review, for certain crimes, including national security and terrorism related crimes, those related to establishing or joining groups founded in violation of the law, publishing “false news”, and blasphemy. The broad nature of these charges are susceptible to having a

disproportionate impact on dissidents, human rights activists, journalists, and members of religious minorities.

Additionally, in cases involving offences punishable by at least a year imprisonment, the draft law grants prosecutors the power to order the pretrial detention of suspects for four days after interrogating them, before referring them to a judicial authority to rule on the renewal of their pretrial detention. The authorities are thus not required to establish that pretrial detention must be necessary and proportionate to achieve permissible objectives, such as protecting the public interest. These excessive prosecutorial powers to control detention infringe on the right of anyone arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power, guaranteed under article 9(3) of the Covenant.

In addition, we note with regret that the draft once more fails to introduce safeguards against the misuse of pre-trial detention to punish critics, dissidents and opponents, despite repeated commitments by Egyptian authorities to address the issue.

Further, the draft law would significantly widen prosecutors' powers, allowing them to impose fines on individuals who do not comply with judicial orders, a power currently reserved to district courts under article 33 of the current law. Article 147 of the draft law would also grant prosecutors the authority to issue travel bans where there is enough evidence that an accused is involved in a felony or a misdemeanour punishable by imprisonment. The draft law does not classify the travel ban as a probationary measure, which would be subject to time constraints. Accordingly, the Public Prosecutor may issue a travel ban for a period of one year, with the possibility of indefinite renewal for similar periods, in direct contradiction with article 62 of the Egyptian Constitution, which stipulates that no one should be prohibited from leaving the country except on account of a reasoned judicial order, for a specific period, and in the cases specified by law. While article 148 of the law allows individuals to challenge travel bans before a court, the draft law fails to ensure that affected individuals are informed about the travel ban in the first place, thus undermining the right to fair hearing under article 14 of the ICCPR and the right to an effective remedy under article 2 of the ICCPR.

Similarly, article 143 of the draft law allows prosecutors to order asset-freezes when there is sufficient evidence supporting the seriousness of the accusation. Such orders are not time-bound and may only be lifted if the court dismisses the case or acquits the accused or if the ordered fines and/or compensation are paid.

We are of the view that the blanket imposition by the prosecutor of travel bans and assets is susceptible to silence human rights defenders and critical voices (AL EGY 2/2022, AL EGY 15/2020, AL EGY 1/2017, AL EGY 15/2016). We remind your Excellency's Government that targeted sanctions resulting in the freezing of assets, the imposition of travel bans, and other restrictions may also have severe consequences for the affected individuals and their families to enjoy economic and social rights and that any restriction that may limit freedom of movement should be strictly necessary and proportionate, factually motivated, and when cumulatively sustained, subject to stringent and ongoing review. The imposition of such measures must accord procedural fairness, including notice, a right to effectively challenge the allegations before an independent and impartial tribunal, and effective remedies for violations of rights. We note with regret that the suggested amendments in the draft

law fail to address these concerns and, on the contrary, risk facilitating an abusive use of such measures.

Furthermore, article 116 of the draft law authorizes members of the Public Prosecution, at the rank of Chief Prosecutor at least, to issue a reasoned order, for a period not exceeding thirty days, to seize communications, letters, telegrams, newspapers, publications, parcels, monitor wired and wireless communications, social media accounts and their various contents not available to the public, emails, and messages, whether visual or audio on phones and devices, or any other technological means, and seize the media containing them or conduct recordings made in a private place if it is useful in revealing the truth.

The extensive powers granted to conduct seizures of private communications, newspapers and publications and social media accounts lack sufficient procedural safeguards and robust judicial oversight. This poses a grave threat to the right to privacy under article 17 of the ICCPR and risks being used to curtail legitimate freedom of expression, including critical opinions, particularly when considered concurrently with the broad range of vaguely described criminal offences connected with free expression under Egyptian criminal law (previously highlighted by Special Procedures mandate holders in AL EGY 3/2024, AL EGY 2/2024, OL EGY 4/2020 and OL EGY 13/2018) in relation to which this provision could be applied.

As the amendments stand, they would be in contravention of the international standards that require separation between prosecutorial and judicial functions,¹ and prompt and effective judicial oversight.

In this regard, we wish to further recall article 9(3) of the ICCPR, which guarantees the right of anyone arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power and to be entitled to trial within a reasonable time or to release. The Human Rights Committee has explained that the detention of a person in a criminal investigation or prosecution must be under judicial control, that 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee “promptly” before a judge following the arrest, and that any longer delay must remain absolutely exceptional and be justified under the circumstances (CCPR/C/GC/35). Further, it noted that it is “inherent to the proper exercise of judicial power that it be exercised by an authority which is independent, objective and impartial in relation to the issues dealt with”. As the Working Group on Arbitrary Detention and the Human Rights Committee have noted, a prosecutorial body cannot be considered a judicial authority for the purposes of article 9(3) of the ICCPR (CCPR/C/GC/35, para. 32; opinions No. 31/2023, para. 96 and No. 8/2024, para. 43). Similarly, article 10(1) of the Declaration on the Protection of All Persons from Enforced Disappearance can be recalled. Reference is also made to the General Comment on article 10 of the Declaration on the Protection of All Persons from Enforced Disappearance (E/CN.4/1997/34), paras. 28, which provides that being held at an officially recognized place of detention alone, but should be brought before a judicial authority. Furthermore, the joint statement on so-called short-term enforced disappearances (CED/C/11), reaffirms the obligations of States regardless of the duration of an enforced disappearance.

¹ Guidelines on the Role of Prosecutors Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

The introduction of financial compensation for unlawful pre-trial detention in the draft law is commendable. However, the stringent eligibility criteria set forth under article 523 of the draft law create significant obstacles for individuals seeking compensation for abusive prolonged pre-trial detention, in particular for those who are victims of “case rotation” and do not meet these criteria. We underline that under article 9(5) of the ICCPR, anyone who has been the victim of unlawful arrest or detention must have an enforceable right to compensation.

Remote proceedings

Articles 525 to 532 of the draft law allow both pre-trial and trial hearings to be conducted remotely, via video, at the discretion of prosecutors and judges, thereby codifying and expanding a practice introduced for detention renewal hearings in Egypt in 2020. While accused individuals would be allowed to challenge the decision to be tried remotely, they would be required to do so before the same court that decided to conduct the trial remotely. The proposed amendments would permit judges to conduct hearings remotely not only in pre-trial detention reviews, but in all trial proceedings, including those concerning minors. Additionally, prosecutors would be permitted to use remote proceedings during investigations and interrogation sessions. Article 529 of the draft law allows for statements and transcripts of the hearings to only be signed by prosecutors, judges, and clerks, while removing the current requirement for signatures from defendants, witnesses, experts, or translators.

The proposed amendments as they stand raise serious concerns under articles 7 (freedom from torture and ill-treatment), 9 (liberty and security of person), 14 (right to fair trial and due process) and 17 (right to privacy) of the ICCPR. We remind your Excellency’s Government that, in accordance with general comment No. 35, individuals “must be brought to appear physically before the judge or other officer authorized by law to exercise judicial power” and “the physical presence of detainees at the hearing gives the opportunity for inquiry into the treatment that they received in custody”, in line with principle 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. We are concerned that remote hearings may be particularly vulnerable to technical issues, including poor connectivity, which can impede the ability of legal representatives to effectively hear, communicate with, and advocate for defendants. Instances of remote hearings during which judges do not allow detainees the opportunity to speak freely, citing a lack of time and a large number of cases have also been reported. We recall that remote hearings should only be conducted with the explicit free and informed consent of the accused in criminal cases, and must be subject to various conditions and safeguards to ensure fair trial guarantees outlined in article 14 of the ICCPR, such as ensuring effective access to legal counsel before, during and after the hearings (A/79/296, para. 44).² We reiterate that non-consensual remote hearings pose significant risks to fair trial guarantees as they can impede the lawyers’ ability to engage in private communications, and to advise and represent their clients effectively due to increased risk of digital surveillance, and make it harder for judicial authorities to properly and efficiently examine detainees, thereby undermining safeguards against torture and other ill-treatment.

² See also OHCHR, On-Line Hearings in Justice Systems. Available at <https://www.ohchr.org/sites/default/files/documents/issues/ruleoflaw/Briefer-Online-hearings-justice-systems.pdf>.

Right to a defence and to a fair trial

The new proposed amendments would erode essential guarantees of the right to a fair trial. In particular, article 69 of the draft law allows prosecutors to conduct investigations in the absence of the accused' representative whenever prosecutors "deem this necessary to reveal the truth", thereby allowing the possibility of interrogations of detainees without legal representation. We recall that article 14(3)(d) of the ICCPR enshrines the right to have adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's own choosing. In accordance with principle 9 and guideline 8 of the Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, persons deprived of their liberty have the right to legal assistance by counsel of their choice, at any time during their detention, including immediately after the moment of apprehension, and such access must be provided promptly.

Further, the draft law does not appear to establish any safeguard to ensure that individuals suspected of a criminal offence have access to legal counsel when questioned by and held in the custody of the police following their arrest. The draft law provides no safeguards either for the right to consult lawyers privately before or during questioning by prosecution. In this regard, we emphasize that prompt and regular access to legal representation in detention is required for the effective exercise of the rights guaranteed under article 9 of the ICCPR (general comment No. 35, para. 58).

We are further concerned at the reported extensive discretion given to prosecutors to deny lawyers the right to review or photocopy case files if deemed to be in the interest of the investigation. According to article 73 of the draft law, the accused, the victim, the civil claimant, and their legal representatives may obtain, during the investigation and at their own expense, copies of case files "unless the interests of the investigation require otherwise". Article 105 further provides that the defence lawyer must be able to review the investigation documents at least one day before the interrogation, "unless the prosecutor decides otherwise". Article 72 of the draft law states that the defence lawyer "is not allowed to speak unless permitted by the prosecutor", thereby allowing for severe and arbitrary limitations on lawyers' right to speak, object, and defend their clients during interrogation sessions before the prosecution, and resulting in inequality of arms between the parties, contrary to the right to fair trial under article 14 of the ICCPR.

We once again wish to bring to the attention of your Excellency's Government the right to a fair trial, enshrined in article 14 of the ICCPR. Article 14(1) of the ICCPR guarantees the right of all persons to be equal before the courts and tribunals. The right to equality before courts and tribunals also ensures equality of arms. This means that the same procedural rights are to be provided to all the parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant. There is no equality of arms if, for instance, only the prosecutor, but not the defendant, is allowed to appeal a certain decision. The principle of equality between parties applies also to civil proceedings, and demands, inter alia, that each side be given the opportunity to contest all the arguments and evidence adduced by the other party (CCPR/C/GC/32, para. 13).

Further, article 14(3)(b) of the ICCPR guarantees the right to have adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's own choosing, which is essential to the principle of equality of arms. In accordance with principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, the right to legal assistance by counsel of a person's choice must be granted at any time during detention, including immediately after the moment of apprehension, and must be granted promptly. Further, under the Basic Principles on the Role of Lawyers and principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, persons must be immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice when charged with a criminal offence.

International standards also provide that lawyers must be able to perform their professional functions without intimidation, hindrance, harassment, or improper interference by the authorities. We underline Human Rights Committee's general comment No. 32, according to which "adequate facilities" must include access to documents and other evidence, including "all materials that the prosecution plans to offer in court against the accused or that are exculpatory." As provided under the Basic Principles on the Role of Lawyers, it is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time. The expansion of the Prosecutor's powers and the large discretion that these proposed amendments would grant the Prosecutor risks hindering lawyers' ability to present an adequate defence for their clients and are incompatible with the principle of equality of arms and the right to a fair trial.

In addition, the draft law retains the same restrictions under the current law limiting the right of the individual suspected of a criminal offence and their defence to question the prosecution witnesses during the investigation phase of the criminal proceedings. Indeed, article 92 of the draft law allows prosecutors to refuse to direct a question to the witness that is "irrelevant to the case" or is "phrased in a way that affects others". In addition, at trial, the draft law, like the current law, allows courts to rely on witness testimonies from initial investigations or police reports without requiring those witnesses to testify at trial "if it is not possible to hear them for any reason." The draft article introduces a provision requiring judges to justify their refusal in their rulings in cases where the defence insists on witnesses being heard in court.

Such vaguely defined restrictions would allow prosecutors and judges to arbitrarily prevent individuals suspected of criminal offences from challenging evidence by prosecution witnesses, including police or other State officials. As it stands, the draft amendment gives judges wide discretion to deny defendants and their lawyers the ability to call and question both their own and the prosecution's witnesses. We remind your Excellency's Government that the right for an individual to examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her is a fundamental component of the right to a fair trial and is enshrined in article 14(3)(e) of the ICCPR. The ability to examine prosecution witnesses ensures that the defence has an effective opportunity to

challenge the evidence against the defendant, and is an essential tenet of the principle of equality of arms.

Public hearings

Article 266 of the draft law would broaden the existing prohibition, enshrined in the Penal Code in 2021 (Law No. 71 of 2021), on the “reporting or broadcast of session proceedings except with the written approval from the court president.” Article 267 further criminalizes the publication of information and news, and the holding of discussions related to the details of the trial sessions in a manner that would “influence the trajectory of justice”. It also criminalizes disclosing any information regarding judges, prosecutors, witnesses or defendants when the court is hearing cases brought under the country’s Anti-Terrorism Law.

These articles, intended to be the norm rather than the exception under the proposed regulation, are contrary to the constitutional principle of public (article 187) and open trials and are not in line with international standards on fair trial. In this regard, we recall the right to a fair and public hearing enshrined in article 14 of the ICCPR. While the article admits that “the press and the public may be excluded from all or part of a trial,” it restricts the grounds to justify this possibility to “reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice”. The article highlights that “any judgement rendered in a criminal case or in a suit at law shall be made public,” except where the interest of juvenile persons or children involved requires otherwise.

Furthermore, these two provisions hinder the right to access to information of public interest in an unjustified manner. Access to information is an essential component of the right to freedom of expression and, particularly when it concerns information of public interest, it must be duly safeguarded and promoted. Additionally, article 267 seriously curtails freedom of expression concerning any matter related to “court sessions, judges, or prosecutors”, unduly restricting free speech, including legitimate, peaceful criticism on these issues and even mere information on them, including media reporting.

Furthermore, the proposed amendments would stifle the ability of lawyers, journalists, human rights defenders and other civil society members to report on and critique judicial processes without fear of reprisal. We recall that article 6(a) of 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 provides that everyone has the right, individually and in association with others “to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems”. Article 9(3)(b) of the Declaration guarantees the right of everyone to “attend public hearings, proceedings, and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments.”

Safeguards and accountability

The current draft, in its article 226, retains the inability for civil plaintiffs to file civil complaints against state officials, including law enforcement personnel, for acts committed “in the course of their duties or because of them,” except in cases where the crime involves obstructing the execution of Government orders, laws, or court rulings. Under article 162 of the proposed draft, in cases where prosecutors or investigative judges conduct investigations into alleged criminal conduct by law enforcement officials and decide to dismiss the case and not press criminal charges, plaintiffs are not only unable to challenge this decision, but they are also unable to lodge complaints in civil courts. The right to appeal prosecutors’ or investigative judges’ decisions to dismiss a case is guaranteed in cases not involving state officials.

As they stand, the proposed amendments would limit the right of victims to appeal a prosecutor’s decision not to initiate charges against public officials and denying victims and their families the right to file a criminal complaint directly with an investigating judge. This would effectively leave the choice to proceed against State officials entirely up to prosecutors, thereby undermining accountability of State officials, including in cases of enforced disappearances, torture and other ill-treatment, denial of medical care and other human rights violations or abuses of power. In this regard, we recall the observations made by UN bodies in connection with issues raised by these amendments (CCPR/C/EGY/CO/5; CAT/C/EGY/CO/5). We further emphasize that under article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (acceded to by Egypt on 25 June 1986), States parties must ensure that any individual who alleges he or she has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his or her case promptly and impartially examined by, its competent authorities. We further underline that article 2 of the Convention guarantees to any person whose rights or freedoms recognized therein are violated the right to an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity, and the right of any person claiming such a remedy to have their right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State. We draw your Excellency’s Government’s attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes in articles 13 and 14, that states that steps shall be taken to ensure that all involved in the investigation, including witnesses, are protected against ill-treatment, intimidation or reprisal and to bring to justice all persons presumed responsible for an act of enforced disappearance.

Article 42 of the current Code of Criminal Procedure, the essence of which would be retained if article 44 of the draft law is adopted in its present formulation, provides public prosecutors, investigative judges and presidents of courts with discretionary authority to supervise detention facilities, with no obligation to do so.

Finally, we express concern regarding the potential implications of the proposed amendments to the Criminal Procedure Code for individuals charged with terrorism and national security-related offences. In line with our previous communications (EGY 4/2020, EGY 1/2022), we reiterate our concern regarding the vagueness of the counter-terrorism legislation, which, coupled with these amendments, is susceptible to further infringing upon fundamental human rights, undermining the rule of law, and contravening Egypt’s international obligations under

human rights law. We draw the attention of your Excellency's Government to communication EGY 4/2020 concerning the amendments of the Anti-Terrorism Law, Terrorist Entities Law, Association Law, Protest Law and associated decrees and their incompatibility with international human rights standards. We are of the view that the expansion of the prosecutor's powers envisaged in the amendments of the Code of Criminal Procedure, combined with the stringent restrictions on disclosing information about judges, prosecutors, witnesses or defendants when the court is hearing cases brought under the country's Anti-Terrorism Law, raises concerns about its potential misuse. Such amendments may further facilitate the arbitrary application of the Anti-Terrorism Law, disproportionately affecting human rights defenders, legal practitioners, journalists, and civil society actors, thereby endangering essential freedoms and civic space.

In view of the above considerations, we urge your Excellency's Government to conduct an independent and comprehensive review and reconsideration of the draft law. We further recommend that this process include broad consultations with legal experts and civil society representatives to ensure that the amendments to the Criminal Procedure Code comply with Egypt's obligations under international human rights instruments, particularly with respect to ensuring transparency, safeguarding fair trial, and protecting fundamental freedoms. We offer technical assistance for this purpose and affirm our goal to engage positively with your Government. In adopting such an approach, Egypt would present a model of good practice for other States, using its strong legal culture as a means to amend, review and tighten legal definitions to show the responsiveness of its legal system.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Please explain how the above-mentioned amendments to the Criminal Procedure Law No. 150 of 1950 comply with Egypt's obligations under international law, in particular with the principles and standards protecting against arbitrary deprivation of liberty and the rights to due process and fair trial guarantees, enshrined in international human rights instruments, including in the ICCPR.
3. Please detail any measures taken by your Excellency's Government to safeguard against the abusive use of pretrial detention, including the practice of "rotating" cases, whereby Prosecutors add defendants to multiple cases on near-identical charges in order to detain individuals in pretrial detention indefinitely, and to ensure that pretrial detention is not used as a tool against critical voices to stifle legitimate and peaceful dissent.
4. Please explain the compatibility of the expansion of the Prosecutor's powers with Egypt's international obligations and human rights law and standards.

5. Please indicate how Egypt's counter-terrorism law will be reformed to ensure it respects the principle of legality and avoids overbroad misapplication to conduct that is not genuinely terrorist in nature.
6. Please provide information on any further amendments to the above-mentioned pieces of legislation.
7. Please indicate the measures taken by your Excellency's Government to review the proposed amendments to the Egyptian Code of Criminal Procedure in light of the observations shared above.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. 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.

Ganna Yudkivska

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