

DECISION No. 45/1995 (EGYPT)

Communication addressed to the Government of Egypt on  
14 August 1995.

Concerning: Hassan Gharabawi Shehata Farag, Abdel-Moniem Mohammed El-Srougi, Sha'ban Ali Ibrahim, Mansour Ahmad Ahmad Mansour, Mohammed Sayid L'eed Hassanien, Nabawi Ibrahim El-Sayid Farag, Ibrahim Ali el-Sayid Ibrahim, Ahmad Mohammed Abdullah Ali, Mohammed Abd El Rasiq Farghali, Mahmoud Mohammed Ahmad El Ghatrifi, Ramadan Abu El Hassan Hassan Mohammed and Ahmad Ahmad Mos'ad Soboh, on the one hand and the Arab Republic of Egypt, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.

2. The Working Group notes with concern that till date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days of the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect (of each of the cases) of alleged arbitrary detention brought to its knowledge.

3. (Same text as para. 30 of Decision No. 35/1995.)

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Egypt. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government although it was given the opportunity to do so.

5. According to the communication submitted by the source, a summary of which was forwarded to the Government:

(a) Hassan Gharabawi Shehata Farag, aged 34, was reportedly arrested on 11 January 1989 in connection with riots that took place in the Ain-Shams district of Cairo. On 29 May 1990 he was acquitted by a judicial ruling. However, on 1 June 1990, the authorities issued a detention order which was overturned by a final court ruling. According to the source, in spite of this judicial decision, the authorities issued a new detention order. It was reported that during the last few years Mr. Farag had received 25 release orders which the authorities have bypassed by transferring him from his place of detention to the Ain-Shams Police Station or to the office of the SSI at Shubra El-Khema for a few days, and then returning him under a new detention order. Mr. Farag had been held in the prisons of Al-Zagazig, Abou Za'abal, Istikbal Tora and the High Security Prison at Tora before being recently transferred to El-Wadi El-Gadeed Prison, where according to reports, he was ill-treated.

(b) Abdel-Moniem Mohammed El-Sourgi, aged 30, was arrested in June 1990 and since then has been held without a charge. It was reported that during his detention the authorities have managed to bypass the Court's rulings declaring the reason for his detention as invalid, and issued a total of eight new detention orders. According to the source, Mr. El-Srougi had been held in the prisons of Shebeen El-koum, Abou Za'abal, Istikbal Tora and the High Security Prison at Tora, before being recently transferred to El-Wadi El-Gadeed Prison where, according to the reports, he was ill-treated.

(c) Sha'ban Ali Ibrahim, aged 39, was reportedly arrested on 10 June 1991 and was still under detention even though he was acquitted by about 20 judicial rulings on the grounds that the reasons for his detention were invalid. According to the source, Sha'ban Ali Ibrahim was still being detained in spite of being acquitted by the investigating bodies in December 1994. He was recently transferred to El-Wadi El-Gadeed Prison. It was alleged that he had been subjected to torture in the SSI office at Lazoghli, where he was allegedly beaten on his legs and given electric shocks. He had also allegedly been attacked during the search campaign launched by the prison authorities at the High Security Prison at Tora on 19 October 1994, during which trained dogs, rubber batons, electric rods and tear gas were used.

(d) Mansour Ahmad Ahmad Mansour, aged 31, was reportedly arrested on 15 June 1992, as a suspect, during the campaign launched to pursue those accused of planning and carrying out the killing of secular writer Farag Fouda. On 30 December 1992 Mr. Mansour was acquitted by the court. Nevertheless, he had been subjected to recurrent detention even though he was again acquitted by court rulings on 23 February and 16 March 1994, on the grounds that the reasons for his detention were not sufficient. It was reported that during his detention he was transferred to various prisons including Istiqbal Tora, Leman Tora, the High Security Prison at Tora and Abu Za'abel Industrial prison. Mr. Mansour was currently being detained in El-Wadi El-Gadeed Prison. In March 1994, after he was transferred from Abu Za'abal prison to the High Security Prison at Tora, he was allegedly badly beaten, punched and kicked, as a result of which he suffered from a punctured ear drum, bleeding of the gums and bruises on different parts of his body.

(e) Mohammed Sayid I'eed Hassanien was reportedly arrested in early January 1994. A detention order was issued by the authorities on 14 February 1994. Since then he has reportedly been detained without charge or trial. According to the source, Mr. Hassanien was transferred from the Leman Tora Prison to the Mazra'it Tora Prison and the Istikbal Prison at Abou Za-abal. Recently he had been transferred to El-Wadi El-Gadeed Prison.

(f) Nabawi Ibrahim El-Sayid Farag, aged 35, was reportedly arrested on 6 July 1993 because his name was included in the case of Tala'i Al-Fateh (case no. 123/1993, part one). As his name was not mentioned in the verdict order of this case, he was released two months after his detention. However, it was reported that he was arrested on 3 November 1993 following his pleading, before a Military Court, on behalf of the accused in the same case. He was currently being detained at El-Wadi El-Gadeed Prison after having been transferred from the Istikbal Tora Prison to the Abou Za'abal Prison and then to the High Security Prison at Tora.

(g) Ibrahim Ali el-Sayid Ibrahim, aged 38, was reportedly held in detention on repeated occasions: from 15 May until 29 June 1992, from 2 July until 13 August 1992 and from 20 December 1992 until 26 June 1993. According to the source, he was rearrested in October 1993 after having been threatened with detention by the Head of the Shebeen El-Koum Prison if he continued his visits as a lawyer to the detainees. It was reported that Mr. Ibrahim has been held in detention since that time and has been transferred to the Shebeen El-Koum Prison, the Al-Hadra Prison, the Abou Za'abal Prison, the Istikbal Tora Prison and recently to El-Wadi El-Gadeed Prison.

(h) Ahmad Mohammed Abdullah Ali, aged 28, was reportedly arrested on 1 October 1993. An administrative order was issued, under the Emergency Law, on 19 October 1993. It was reported that following the hearing of his complaints about the detention order by a competent court, on 4 August 1994, a release order was issued to which the Minister of Interior objected. This judicial decision was reinforced by a subsequent release order on 23 August 1994. Despite this second release order he has been kept in detention without charge or trial. He was currently being detained in Abu Za'abal Prison.

(i) Mohammed Abd El Rasiq Farghali, aged 28, was reportedly arrested on 3 April 1993. An administrative detention order was issued on 13 April 1993. It was reported that following his arrest he was held in the Istiqbal Tora Prison and was then transferred to Abu Za'abal Prison where he was still being detained.

(j) Mahmoud Mohammed Ahmad El Ghatrifi, aged 29, was reportedly arrested on 24 December 1993. It was reported that since then he has been detained at Abu Za'abal Prison without charge or trial.

(k) Ramadan Abu El Hassan Hassan Mohammed, aged 30, was reportedly arrested on 15 February 1993. It was reported that an administrative detention order was issued the next day. Though he received two consecutive release orders, a further detention order was issued on 15 October 1994. According to the source, since then he has been kept in detention without charge or trial. He was transferred from Qena Prison to Abu Za'abal Prison, where he was currently being detained.

(l) Ahmad Ahmad Mos'ad Sobah, aged 32, was reportedly arrested in early January 1994. Immediately after his arrest, a detention order was issued. Since then, it was reported that he has been detained in Istiqbal Tora Prison.

6. It appears from the facts as described above which, it may be recalled, have not been contested by the Government in spite of the possibility given to it, that all the above-mentioned persons are being kept under detention without being charged or tried. Moreover, it may be noted that, with the exception of five (Mohammed Sayid L'eed Hassanien, Ibrahim Ali el-Sayid Ibrahim, Mohammed Abd El Rasiq Farghali, Mahmoud Mohammed Ahmad El Ghatrifi and Ahmad Ahmad Mos'ad Sobah) all of them were the object of judicial decisions ordering their release which the Egyptian authorities refuse to execute by each time issuing new detention orders. The cases of Hassan Gharabawi Shehata Farag and Abdel-Moniem Mohammed El-Srougi are particularly

edifying in this respect, as they were the subject, respectively, of 25 and 8 detention orders following the same number of release orders issued by the judicial authorities. It may further be noted that all these persons have been regularly transferred from one prison to another, during their detention period, and that some of them were allegedly tortured or brutally beaten.

7. In the Working Group's view, there is no doubt that in the present cases there are grave violations of the right to a fair trial, and in particular of the provisions of articles 9, 10, and 11 of the Universal Declaration of Human Rights and articles 9 (2) and (3) and 14 (1), (2) and (3) of the International Covenant on Civil and Political Rights, and that their gravity is such that it confers on the detention of the above-mentioned persons an arbitrary character.

8. In the light of the above the Working Group decides:

(a) The detention of Hassan Gharabawi Shehata Farag, Abdel-Moniem Mohammed El-Srougi, Sha'ban Ali Ibrahim, Mansour Ahmad Ahmad Mansour, Mohammed Sayid L'eed Hassanien, Nabawi Ibrahim El-Sayid Farag, Ibrahim Ali el-Sayid Ibrahim, Ahmad Mohammed Abdullah Ali, Mohammed Abd El Rasiq Farghali, Mahmoud Mohammed Ahmad El Ghatrifi, Ramadan Abu El Hassan Hassan Mohammed and Ahmad Ahmad Mos'ad Soboh, is declared to be arbitrary being in contravention of articles 9, 10 and 11 of the Universal Declaration of Human Rights, and articles 9 (2) and (3) and 14 (1), (2) and (3) of the International Covenant on Civil and Political Rights and falling within Category III of the principles applicable in the consideration of the cases submitted to the Working Group.

(b) Moreover, since (with the exception of the five persons mentioned in para. 6 above) they were regularly ordered released by the judicial authorities and the Egyptian authorities systematically refused to execute the order, their detention is also declared arbitrary falling within Category I of the principles applicable in the consideration of the cases submitted to the Working Group.

(c) To transmit the information concerning the alleged torture to the Special Rapporteur on torture.

9. Consequent upon the decision of the Working Group declaring the detention of the above-mentioned persons to be arbitrary, the Working Group requests the Government of Egypt to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 29 November 1995.