

Statement in response to Sheinin report

Egypt welcomed Mr. Sheinin last April as part of its decision to positively engage with special procedures of the Human Rights Council. An extensive program of meetings was arranged for him which included meetings with every official involved in his field of work namely the Speaker of the Parliament, the President of the Supreme Court, the Minister for Legal and Parliamentary Affairs who also heads the committee drafting the new anti-terrorism bill, the ministries of Interior and Foreign Affairs, the Public Prosecutor, as well as the National Council for Human Rights and others.

Unfortunately, Mr Sheinin's report did not sufficiently reflect the constructive engagement which took place, nor the substantive replies and clarifications forwarded to him after his visit and before the finalization of the report. Instead, the report chose to express concern and to comment on some issues based on speculations regarding the possible content of the future counter-terrorism law despite the fact that it was made abundantly clear to Mr Sheinin during his visit that this law is by no means complete and that most if not all of its provisions are still under consideration. For this reason, we welcomed the visit by the special rapporteur as a contribution to our national debate and consideration of this important new legislation.

A large portion of the report was devoted to expressing concerns about certain practices alleged by unnamed sources and containing unsubstantiated information and allegations. It is worth noting in this regard that most of these issues came up in the various discussions with Mr Sheinin in Cairo and were also addressed in our later responses to many of his questions.

Furthermore, we would certainly have appreciated if the report had devoted more space to issues relating to the central issue at hand which is our drafting of a new counter-terrorism law and providing us with guidance and recommendations as well as best practices from other countries experiences rather than the excessive critique of the current state of emergency which the

Government of Egypt has unambiguously committed to end upon completion of the counter-terrorism law. Egypt takes exception with some assumptions and remarks made in the report. However, due to time restrictions, I will restrict myself to making the following general points:

- 1- Like many countries in the world, Egypt faces a real persistent danger of terrorism. This necessitated proclaiming a state of emergency following the assassination of former President Sadat, which was followed by successive terrorist attacks targeting political figures, the Coptic Christian community, foreign tourists, with the overall intent of fomenting sectarian strife, and destabilizing the political and economic life of the country. Contrary to what the report seems to imply, these challenges still remain and are very real.
- 2- When requesting Parliament to extend the state of emergency, the government has consistently pledged to limit the use of the emergency powers to dealing with terrorism and drug-related crimes. Here it is necessary for all to realize that the emergency law does not by any means suspend or otherwise limit the application of the provisions of the Constitution or of ordinary laws and that all measures undertaken under the emergency law are subject to judicial oversight. In this regard, it is noteworthy that the Egyptian Court of Cassation has on several occasions pronounced itself against Government practice and implementation of the emergency law and ordered reversal of measures taken while highlighting that use of emergency powers must be resorted to solely for the purpose of maintaining security and public order or else they become illegitimate, and null and void.
- 3- As for the comments in the report regarding administrative detention, it must be noted that this is a measure taken by the Ministry of Interior pursuant to the emergency law to protect society from persons who manifestly represent a threat to public security and public order. By law, persons in

administrative detention can only be held in legally sanctioned places of detention. Such facilities are monitored by the Public Prosecutor which in Egypt is part of the judiciary.

- 4- Administrative detention in no way detracts from the constitutional guarantees afforded to the person, namely that he be informed of the grounds for his detention, that he be afforded the rights of any person undergoing pre-trial detention, and that he has the right to fair compensation if the detention decision was not justified. In addition, detention decisions are subject to review and monitoring by the judiciary and can be appealed, as any administrative decision, before the Council of State to challenge the legality of these decisions and whether they have correct grounds for their issuance.
- 5- The President of the Republic pledged in his 2005 election program to end the state of emergency as soon as a new counter-terrorism law has been enacted which balances the protection of the public interest with respect for human rights and freedoms. As for the allegation frequently made by civil society organizations and the media, and somewhat reflected in the report, to the effect that somehow the forthcoming counter-terrorism law will be comparable in content to the emergency law, let me emphasize that the two documents cannot be compared and the allegation is therefore completely unfounded. This was made clear throughout the discussions in Cairo and assurances were made that the definition of the crime of terror in the Egyptian law will be consistent with the definition adopted by the vast majority of countries in their corresponding legislations.
- 6- An inter-ministerial committee presided by the Minister of Legal Affairs and Parliamentary Councils was created to elaborate the new anti-terrorism bill. This committee has not yet completed its work. The Government of Egypt has undertaken to hold a public debate on the draft law, once the

text is ready, and to submit the draft to the Egyptian National Council for Human Rights for comments.

- 7- As to the comments made by the report regarding military or emergency courts, I wish to highlight the fact that these courts apply the normal criminal law and the law on criminal procedures, and are comprised of independent judges who cannot be removed, and whose verdicts can be appealed before a Supreme Court of Appeal. Only a few cases have been referred to such courts in recent years. And in any event, the promulgation of the counter-terrorism law will end recourse to emergency courts.
- 8- In closing, we wish to, once again, affirm that, in our view, the discussions and the dialogue held with Mr Sheinin, during his visit to Cairo were open, frank, constructive, and indeed helpful. Egypt once again expresses its willingness to consider the special rapporteur's comments and observations into consideration as it continues its quest to preserve its security in the face of terrorism while continuing to uphold and respect the fundamental rights and freedoms of its citizens.