

في رسالة شديدة اللهجة: الاتحاد الأفريقي يطلب من مصر وقف إعدام المعارضين



الثلاثاء 10 مارس 2015 12:03 م

أرسل الاتحاد الإفريقي رسالة شديدة اللهجة إلى مصر في السادس والعشرين من شهر شباط/ فبراير الماضي، ويطالب فيها بعدم تنفيذ حكم الإعدام الصادر بحق الشاب محمود رمضان، إضافة إلى عدم تنفيذ أحكام الإعدام التي صدرت بالجملة مؤخراً ضد معارضي الانقلاب العسكري الذي قام به السيسي □

ووصفت الرسالة الصادرة عن مفوضية حقوق الإنسان التابعة للاتحاد الأفريقي أحكام الإعدام بأنها "انتهاك للالتزامات الدولية الموقعة عليها مصر إضافة إلى أنها انتهاك لمواثيق حقوق الإنسان"، كما أشارت إلى العديد من الرسائل السابقة التي تطالب بوقف الإعدامات في مصر -بحسب "عربي 21".

وأعدت الرسالة تذكير سلطات الانقلاب برسالة سابقة مؤرخة في الثاني من نيسان/ أبريل 2014، إضافة إلى قرار صادر عن المفوضية في تموز/ يوليو 2014 بشأن انتهاكات حقوق الإنسان في مصر، حيث تدعو كل منهما حكومة الانقلاب بمصر إلى الالتزام بمعايير المحاكمات العادلة، ووقف تنفيذ عقوبات الإعدام، إضافة إلى إلغاء العقوبة ذاتها من القوانين في مصر □

وقالت المفوضية التابعة للاتحاد الأفريقي في رسالتها الأخيرة إنها أصدرت قراراً خلال اجتماعها العادي الرابع والأربعين يوجب على السلطات في مصر وقف تنفيذ عقوبات الإعدام بحق المعارضين، والالتزام بمعايير المحاكمات العادلة التي توجب توفير المساعدة القانونية والمحامين للمتهمين، وهي المعايير المعمول بها في أفريقيا، التي تم إقرارها من قبل المفوضية التابعة للاتحاد الأفريقي في العام 2001.

وكانت أحكام الإعدام التي صدرت بالجملة في مصر تسببت بانتقادات واسعة لنظام الانقلاب العسكري، بما في ذلك المحاكم التي أصبحت وسيلة لارتكاب المجازر باسم القانون ضد معارضي الانقلاب، فيما طالبت العديد من منظمات حقوق الإنسان بوقف تنفيذ الإعدامات واحترام المواثيق الحقوقية التي وقعت عليها مصر سابقاً □

وتستحوذ مفوضية حقوق الإنسان الأفريقية على أهمية استثنائية كونها منظمة رسمية تابعة للاتحاد الأفريقي الذي يضم في عضويته جمهورية مصر العربية، ومن المفترض تبعاً لذلك أن تكون القرارات الصادرة عن الاتحاد والمنظمات المنبثقة عنه ملزمة لمصر الموقعة على مواثيق المنظمة □

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Date: 26 February 2015

His Excellency President Abdel Fatah al-Sisi
Office of the President
State House
The Arab Republic of Egypt

Your Excellency,

Subject: REQUEST FOR PROVISIONAL MEASURES UNDER RULE 98 OF THE RULES OF PROCEDURE OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

I have the honour to write to you in my capacity as Vice-Chairperson of the African Commission on Human and Peoples' Rights (the African Commission), to bring to Your Excellency's kind attention, a Complaint that has been brought against the Arab Republic of Egypt in terms of Article 55 of the African Charter on Human and Peoples' Rights (the African Charter).

The Complaint has been lodged on behalf of Mahmoud Hassan Ramadan Abdel-Naby and 57 Others (the Victims), by Ahmed Mefreh Al-Saidy (the Complainant). The Complaint has been seized by the African Commission and registered as **Communication 512/15 - Mahmoud Hassan Ramadan Abdel-Naby and 57 Others v. the Arab Republic of Egypt**

In the Complaint, it is alleged that on 16 May 2014, the Terrorism Cases Panel of the Alexandria Criminal Court issued a verdict in the criminal lawsuit number 15663 Sidi Gaber sentencing the Victims, Mahmoud Hassan Ramadan Abdel-Naby to death and 57 others to jail sentences with hard labour.

Your Excellency, the Complainant contends that the defense attorneys had submitted a number of requests that would have changed the course of the trial, including the request to re-interrogate the Victims, due to the fact that confessions were extracted through physical and psychological coercion. The Complainant further alleges that the Victims were subjected to torture by security forces, some of whom were disguised as civilians and others in police uniform, during

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the dispersal of protests in Alexandria on 5 July 2013, which are the central events in this case and have resulted in the death of 20 protestors. The Complainant avers that the public prosecution and the court did not react to complaints filed by the Victims in this regard.

Your Excellency, the Complainant submits that the death sentence was reviewed by the Grand Mufti, who also supported the sentence. The Complainant adds that on 5 February 2015, Court Panel A of the Egyptian Court of Cassation denied the Victims' request for appeal, making the death sentence final and ripe for execution. The Complainant alleges that the conditions in Egypt are grave and there is currently no access to justice.

Although the Complainant had initially submitted that the date for the execution of the death sentence is unknown. The Secretariat of the African Commission has since received correspondence from the Complainant dated 23 February 2015, indicating that the Government of the Arab Republic of Egypt has set 28 February 2015 as the date for the execution of the death sentence.

The Complainant has requested the African Commission to invoke Rule 98 of its Rules of Procedure and issue Provisional Measures to prevent irreparable harm being done to the Victims.

I wish to recall the African Commission's **Provisional Measures Order on Communication 467/14 - 529 Persons Sentenced to Death v. Egypt** dated 25 April 2014, the **Letter of Appeal** dated 2 April 2014 as well as **Resolution ACHPR/Res.287(EXT.OS/XVI)2014 on Human Rights Abuses in Egypt** adopted at its 16th Extra-Ordinary Session in July 2014, which all call on the Government of the Arab Republic of Egypt to comply with basic fair trial standards, observe a moratorium on death penalty and generally uphold its obligations under international human rights law.

I would further like to draw Your Excellency's kind attention to **Resolution ACHPR/Res. 42(XXVI) 99: Resolution Urging States to Envisage a Moratorium on the Death Penalty**, adopted at the 26th Ordinary Session of the African Commission urging all States Parties that retained the death penalty to consider the possibility of adopting a moratorium on the death penalty and to reflect on the possibility of abolishing the death penalty.

Further, at its 44th Ordinary Session, the African Commission adopted a **Resolution ACHPR/Res.136(XXXI111)08: Resolution Urging States to Observe a Moratorium on the Death Penalty**.

I would also like to bring to Your Excellency's kind attention, the **Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (the Principles**

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and Guidelines on Fair Trial), adopted by the Commission in 2001 to supplement Articles 5, 6, 7 and 26 of the African Charter.

Your Excellency, if the allegations in the above-referenced Communication are correct, it would be a great cause for concern, as it would constitute gross violation of the African Charter, to which the Arab Republic of Egypt is a party.

Article 4 of the African Charter specifically prohibits arbitrary deprivation of the right to life and enshrines the integrity of persons, Article 5 prohibits all forms of torture, cruel, inhuman or degrading punishment and treatment, and Articles 6 and 7 provide for the right to personal liberty and protection from arbitrary arrest, the right to fair trial. Article 26 places an obligation on State Parties to ensure the independence of courts. If true, these allegations would also constitute violations of international human rights law, norms and standards.

In view of the above, the African Commission respectfully requests Your Excellency to intervene in this matter and ensure that the Government of the Arab Republic of Egypt:

- Immediately suspends the death sentence against Mahmoud Hassan Ramadan Abdel-Naby while the matter is being considered by the African Commission;
- Fully investigate the circumstances of the above-stated allegations to establish the veracity or otherwise;
- Takes all necessary measures to implement the African Commission's Resolution ACHPR/Res.136 (XXXI1111)08: Resolution Urging States to Observe a Moratorium on the Death Penalty;
- Ensures that defendants are afforded adequate opportunity to prepare a case, present arguments and evidence and to challenge or respond to opposing arguments or evidence to ensure a fair hearing; and
- Fully commits itself to upholding the rights in its own Constitution, the African Charter and its obligations under international human rights law, including granting the Victims an opportunity to appeal against the sentence.

I would like to indicate that the grant of Provisional Measures does not in any way affect the final decision of the African Commission on the Complaint.

Considering the commitment of the Arab Republic of Egypt to the cause of human rights, including through its ratification of the African Charter, I have no doubt that the present request for Provisional Measures will be followed by a positive response.

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The Commission kindly requests the State to report back on the implementation of the Provisional Measures granted, within fifteen (15) days of receipt of this letter, in accordance with Rule 98(4) of its Rules of Procedure.

I would like to inform Your Excellency that as part of my responsibility, I am required to report to each Ordinary Session of the African Commission on the actions that I have taken in my capacity as the Vice-Chairperson and as a Member of the African Commission. In that regard, the contents of this letter as well as any response received from Your Excellency will be included in my report to the next Session of the African Commission, as well as to the Policy Organs of the African Union, namely, the Permanent Representative Committee, the Executive Council and the Assembly of Heads of State and Government of the African Union.

Please accept, Your Excellency, the assurances of my highest consideration.



Hon. Commissioner Bechir Khalfallah
Vice-Chairperson of the African Commission on Human and Peoples' Rights

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