

# EGYPT

## Imprisonment of human rights defenders

On 21 May 2001 the Supreme State Security Court in Cairo sentenced human rights defender Saad Eddin Ibrahim to seven years' imprisonment. All the 27 other defendants in the same trial were also convicted and received sentences ranging from a one-year suspended prison sentence to five years' imprisonment.

The written judgement, as released on 18 June 2001, states that Saad Eddin Ibrahim was convicted on the basis of three charges: receiving funding without authorization, dissemination of false information abroad and appropriating money by fraudulent means. The charges relate to the implementation of projects funded by the MEDA Democracy Programme of the European Union (EU)<sup>1</sup>. Four staff members of the *Ibn Khaldun Center for Development Studies* (IKCDS) which is headed by Saad Eddin Ibrahim were sentenced to two years' imprisonment for having collaborated with Saad Eddin Ibrahim.

Saad Eddin Ibrahim and two of his staff members, namely Khaled Ahmad Muhammad Fayadh and Ussama Hashim Hammad 'Ali, are currently held in Tora Mazra'at Prison. Nadia Muhammad Ahmad 'Abd al-Nur, the financial director of the IKCDS, is imprisoned at the Qanatir Prison for women. Another IKCDS staff member was sentenced to two years' imprisonment *in absentia*.

Amnesty International believes that the charges on which Saad Eddin Ibrahim and three of his staff members were convicted and imprisoned are a pretext used to punish the exercise of their right to freedom of expression and therefore considers them to be prisoners of conscience. The organization calls for the immediate and unconditional release of human rights defenders Saad Eddin Ibrahim, Nadia Muhammad Ahmad 'Abd al-Nur, Khaled Ahmad Muhammad Fayadh and Ussama Hashim Hammad 'Ali.

Two other defendants, who are not staff members of the IKCDS, are currently held in prison serving sentences of five years' imprisonment under separate charges of bribery and forgery of official documents. Amnesty International calls for their right to be tried before a court which ensures international standards of fair trial.

### The pre-trial period

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<sup>1</sup>In 1996 the MEDA Democracy Programme (MDP) started granting subsidies to non-profit-making associations and research institutions as well as public bodies which aim to promote democracy, the rule of law, freedom of expression, freedom of assembly and freedom of association to protect vulnerable groups and to increase awareness of socio-economic rights and contribute to conflict resolution. The MDP funds operations in 12 countries in the South and East of the Mediterranean, including Egypt.

Saad Eddin Ibrahim was arrested on 30 June 2000 at about 10.30 pm at his home in Cairo and held in detention until his release on 10 August 2000 on bail. During his detention he was accused of various offences which are related to the implementation of two projects funded by the European Union.

On the night of Saad Eddin Ibrahim's arrest and during the following days, numerous staff members of the IKCDS and the *Association for the Support of Women Voters* and people affiliated with these two non-governmental organizations (NGOs) were also taken into custody. During the pre-trial detention period access to some detainees was obstructed and interrogations were conducted without the presence of a lawyer. Nadia Muhammad Ahmad 'Abd al-Nur was arrested in the evening of 30 July 2000 on her way home from the IKCDS. She reported that she had been forced by plain clothes police officers into a car, blindfolded and transferred to an unknown location. Later that night the blindfold was taken off and she was returned to the IKCDS which was being searched at the time.

The interrogation sessions at the State Security Prosecution started in the early hours of the following morning. Investigating officers discouraged her from requesting the presence of a lawyer by telling her that she would be released more swiftly without a lawyer. During the first two weeks of her detention she was regularly interrogated without the presence of her appointed lawyer. Amnesty International is concerned that the treatment of Nadia Muhammad Ahmad 'Abd al-Nur and other detainees during pre-trial detention is in conflict with international standards, including the right to be specifically notified of the rights to legal counsel.<sup>2</sup>

By the end of August 2000 all detainees had been released on bail. However, the charges they were facing had still not been communicated to any of them in writing. On 24 September, the Public Prosecution issued the indictment referring the case of 28 people, including Saad Eddin Ibrahim, for trial before the Supreme State Security Court. It was only several days later that the charges were communicated to the defendants clearly and in writing for the first time.

Immediately following the arrest, Saad Eddin Ibrahim and the other defendants were confronted with media reports suggesting that the investigating authorities leaked selected information and documents of the case. For example, on 6 July 2000 the newspaper *al-Gumhuriya* (The Republic) published copies of allegedly incriminating documents under the heading "Evidence in the case against Saad Eddin Ibrahim". These documents included copies of a project proposal and other correspondence related to the EU-funded project. The Egyptian authorities should investigate how this material was obtained by the newspaper.

### **The charges and the political context**<sup>3</sup>

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<sup>2</sup>See Principle 1 and 5 of the UN Basic Principles on the Role of Lawyers. The UN Human Rights Committee (HRC) has stressed that all persons must have immediate access to legal counsel (Concluding Observations of the HRC: Georgia, UN Doc: CCPR/C/79/Add.74, para 28).

<sup>3</sup>For further background see also: *Amnesty International: Egypt: Muzzling Civil Society*, September 2000, AI Index: MDE 12/21/00.

Human rights organizations, including Amnesty International, have expressed concerns that the charges against Saad Eddin Ibrahim and his staff were politically motivated.<sup>4</sup> Saad Eddin Ibrahim, a longstanding human rights activist, is the director of the IKCDS<sup>5</sup>, founded in 1988, which is active in the field of democracy and human rights. Activities of the IKCDS have included publications and public events on the situation of minorities in the Middle East, which have discussed discrimination and threats faced by Egypt's Coptic Christian communities.

The IKCDS had been involved in monitoring the 1995 parliamentary elections in Egypt and denounced irregularities which had been observed. Prior to the arrest of the IKCDS staff, Saad Eddin Ibrahim had expressed the intention to monitor the parliamentary elections in October and November 2000. As stated in the indictment, the charges against Saad Eddin Ibrahim and the others are linked to the implementation of two EU-funded projects aimed at raising political awareness in Egypt, in particular regarding electoral rights.

One of the charges on which Saad Eddin Ibrahim was convicted is explicitly linked to the activities of the IKCDS regarding the political and human rights situation in Egypt. Under Article 80 (d) (1) of the Penal Code he was charged with "spreading abroad false information harmful to Egypt's interests" in connection with statements concerning irregularities during elections and discrimination against religious minorities. This article sets out a minimum sentence of six months' and a maximum of five years' imprisonment.

Amnesty International believes that the above charges are in violation of Egypt's obligations under international human rights law. Article 19 of the International Covenant of Civil and Political Rights (ICCPR) to which Egypt is a state party states:

- (1). Everyone shall have the right to hold opinions without interference.*
- (2). Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
- (3). The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;*
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals."**

The charge against Saad Eddin Ibrahim carrying the highest penalty is based on Military Decree No. 4 of 1992 which sets out a minimum of seven and a maximum of 15 years' imprisonment for receiving unauthorized funding. Amnesty International believes that the trial

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<sup>4</sup>See: Joint statement: *Egypt: Concerns about trial of human rights defender*, 17 November 2000, AI Index: MDE 12/035/2000.

<sup>5</sup>The IKCDS was established as a private company and applied for registration under the now suspended Association Law (Law 153 of 1999).

of Saad Eddin Ibrahim is the only case in which these restrictive regulations on funding have led to a conviction and that this charge has been selectively used against Saad Eddin Ibrahim as a human rights defender.

The Military Decree has previously been used in one other case against a human rights defender. Hafez Abu Sa'da, General Secretary of the Egyptian Organization for Human Rights (EOHR), was detained in December 1998 in connection with a report on human rights violations in the predominantly Coptic Christian village of al-Kushh, Upper Egypt. He was released on bail after six days' detention following widespread protests by human rights organizations in Egypt and abroad.

The initial charges against Hafez Abu Sa'da were of receiving unauthorized funding and dissemination of false information. On 13 February 2000 the Public Prosecution Office announced that the case would be referred to trial before the (Emergency) Supreme State Security Court (ESSSC), under Military Decree No. 4 of 1992. However, subsequently Abu Sa'da, who was abroad when the referral was made public, received oral assurances from the authorities that his case would not be pursued and he returned to Egypt in March 2000.

The detention of Hafez Abu Sa'da is an example of the repression faced by the EOHR for many years. Since the organization was established in 1985, the authorities have refused its applications for registration. In July 2000 the Ministry of Social Affairs initially gave oral notification confirming the registration of the organization. However, a few days later the EOHR was informed that the registration had been postponed for unspecified security reasons.

Amnesty International believes that charges based on Military Decree No. 4 of 1992 have been selectively applied against the two human rights defenders Saad Eddin Ibrahim and Hafez Abu Sa'da and are contradictory to both the letter and the spirit of both the ICCPR and the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Human Rights Defenders Declaration). Article 1 of the UN Human Rights Defenders Declaration stipulates:

*"Everyone has the right, individually and in association with others, to promote and to strive for the protection and the realization of human rights and fundamental freedoms at the national and international levels."*

Criticism of the strict regulations on foreign funding in Egypt has been expressed by the United Nations Committee for Economic Social and Cultural Rights in relation to the now suspended *Association Law* (Law 153 of 1999)<sup>6</sup>. In May 2000 the Committee stated that the law "gives the government control over the rights of NGOs to manage their own activities, including seeking external funding."<sup>7</sup>

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<sup>6</sup>According to Article 75 of Law 153 of 1999, imprisonment of up to six months is prescribed for any member of an NGO receiving or sending money abroad or collection of donations without prior permission from the authorities.

<sup>7</sup>UN doc.: E/C.12/1/Add.44 , para 19.

The charge of unauthorized funding against Saad Eddin Ibrahim in relation to projects funded by the European Union in Egypt appears to be in conflict with the MEDA Framework Convention within the Euro-Mediterranean Partnership Agreement, which the Egyptian government signed in February 1998. According to Article 7 of the 1998 MEDA Framework Convention between the Egyptian government, the European Commission and the European Investment Bank (EIB): "Beneficiaries of operations financed by the Community and the EIB may be (...) private operators, cooperatives, mutual societies, associations, foundations and non-governmental organizations."

Staff of the IKCDS and the *Association for the Support of Women Voters*, including Saad Eddin Ibrahim, were also convicted of having committed fraud by misleading the European Union concerning the costs of the two funded projects.<sup>8</sup> Both projects were closely related to each other and ran from summer 1997 for a three-year-period with a total budget of more than 300,000 Euros. When the arrests took place in July and August 2000 no final financial report had been submitted for both projects. Since then it has not been possible to finalize these reports, because the Egyptian authorities confiscated the relevant material.

### **The trial before the Supreme State Security Court**

The case was heard before a Supreme State Security Court, an exceptional court as established under Law 105 of 1980.<sup>9</sup> Contrary to international standards for fair trial, people convicted in a Supreme State Security Court do not have the right for a full review before a higher tribunal. Article 8 of Law 105 of 1980 provides that verdicts issued by the Supreme State Security Courts are final and cannot be appealed except through cassation or re-consideration which are decided on by the Court of Cassation. The grounds of appeal in both cases are rather limited and should be based on points of law, but not on the facts of the case.<sup>10</sup>

Such restrictions of the right to appeal are in conflict with international standards as guaranteed in Article 14 (5) of the ICCPR:

*"Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to the law"*<sup>11</sup>

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<sup>8</sup>Saad Eddin Ibrahim and four other staff members of the IKCDS were also charged with intending to bribe public employees. They were acquitted of this charge.

<sup>9</sup>According to Article 2 of this law, the President of the Republic is entitled to appoint two military judges to sit alongside the three regular judges. However, the case against Saad Eddin Ibrahim and the others went before a panel composed of only three civilian judges.

<sup>10</sup>According to Law 57 of 1959 as amended by Law 106 of 1962 final verdicts can be reviewed before the Court of Cassation on the following three grounds: (1) the verdict is based on a violation or misapplication of the law, (2) the verdict is invalid, or (3) there have been procedural irregularities which had an impact on the verdict. The Court of Cassation also decides about applications for a re-consideration which can be allowed in exceptional circumstances, in particular if later verdicts in other trials require a reassessment of the case.

<sup>11</sup>For example, referring to review proceedings before the State Security Court in Kuwait, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions raised the concern "that defendants do not fully benefit from the right to appeal (...) since they are deprived of a stage of

The trial against Saad Eddin Ibrahim and 27 others, opened on 18 November 2000, and was conducted over a period of seven months over 15 sessions which were attended by observers of Egyptian and international human rights organizations, including Amnesty International, Human Rights Watch and the International Federation of Human Rights. Observers from foreign embassies or consulates in Egypt, including representatives of the European Union states, were also present at the trial hearings.

During all sessions the defendants were held in an iron cage within the court room, despite the fact that all of them had been released on bail. Amnesty International fears that this common practice at the Supreme State Security Court may be seen to attribute guilt and therefore might impinge on the presumption of innocence.

### **The verdict**

Within less than two hours of deliberations following the conclusion of the trial hearings on 21 May 2001, the panel of the court reconvened and read out the verdict. The speed with which the verdict was reached raises grave concerns about how seriously the defence team's evidence - some of which was being submitted on the same day - was considered.

The written reasoning of the judgement had to be provided within 30 days and was released on 18 June 2001. However, in an unusual move the judges discussed the verdict in an interview with the Egyptian weekly *al-Mussawar*, published on 1 June 2001, before the reasoning of the judgement had been communicated to the defendants. According to one of the judges, the most important charge against Saad Eddin Ibrahim was "spreading abroad false information harmful to Egypt's interests".

In its judgement, the court referred to one particular incident of dissemination of false information abroad, namely sending documents to a German Protestant organization in September 1997 in which the following observations were made: "the results of the [1995] elections were marred by violence and the official arrest of supporters of the opposition and independent candidates; the Egyptian government treats human rights organizations with hostility; the level of oppression and religious discrimination has risen".

The court noted that the constitutionality of the Military Decree was questioned by a defence lawyer. In addition, the lawyers of Saad Eddin Ibrahim argued that the Military Decree was not intended to apply to civil companies such as the IKCDS. However, Saad Eddin Ibrahim was convicted under this decree which carries a minimum of seven years' imprisonment.

The court found that Saad Eddin Ibrahim and certain other defendants obtained funding by fraudulent means, which included reporting to the EU the successful registration of Egyptian voters and the fabrication of 60.000 voter registration cards. However, the submission of copies

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appeal which fully reviews the case, both with regards to the facts and legal aspects" (UN Doc: E/CN.4/1994/7, at paras 113 and 404).

of registration cards was not required in either of the two project contracts, neither were samples of the copies included in reports to the EU.

The court's findings of fraud further contrast the findings of the European Commission's monitoring process of both projects. In a statement of 13 December 2000, the European Commission noted that according to standard procedures, the projects of the IKCDS and the *Association for the Support of Women Voters* were the "subject of external mid-term audits whose reports gave no cause for concern, financial or otherwise".

The court sentenced Saad Eddin Ibrahim to seven years' imprisonment and four staff members of the IKCDS to two years' imprisonment.<sup>12</sup> Two defendants, Muhammad Hassanein Hassanein 'Amara and Magda Ibrahim Ibrahim Al-Bey, who are not staff members of the IKCDS, received five years' imprisonment under separate charges of bribery and forgery of official documents. The other 21 defendants received a suspended prison sentence of one year's imprisonment, including those who were tried *in absentia*. The prison sentences were immediately implemented.

In a joint statement of 25 May 2001 two UN human rights experts, the Special Representative on Human Rights Defenders and the Special Rapporteur on the Independence of Judges and Lawyers, commented on the verdict: "We believe that the conviction of these members of civil society for their human rights activities will have a chilling effect on the activities of other human rights defenders in Egypt."

### **Concerns and recommendations**

Amnesty International believes that the imprisonment of Saad Eddin Ibrahim and three of his staff members constitutes a violation of their right to the peaceful expression of their opinion and considers them to be prisoners of conscience. The organization is further concerned that the trial fell short of international standards of fair trial, including the right for a full review before a higher tribunal.

*To the Egyptian authorities:*

Amnesty International calls on the Egyptian authorities:

- to release immediately and unconditionally human rights defenders Saad Eddin Ibrahim, Nadia Muhammad Ahmad 'Abd al-Nur, Khaled Ahmad Muhammad Fayadh and Ussama Hashim Hammad 'Ali;
- to guarantee the rights of Muhammad Hassanein Hassanein 'Amara and Magda Ibrahim Ibrahim Al-Bey to be tried before a court which ensures international standards of fair trial, including the right for a full review before a higher tribunal;
- to review or abolish legislation that, in violation of international standards, stipulate prison sentences for the mere exercise of the right to freedom of peaceful expression and association;

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<sup>12</sup>One of the four staff members was sentenced *in absentia*.

- to ensure that human rights defenders in Egypt can work freely without interference and harassment in accordance with the spirit of the UN Human Rights Defenders Declaration of 1998.

*To the European Union*

Amnesty International believes that the European Union has a responsibility to ensure that all persons, including Saad Eddin Ibrahim and his staff members, can exercise their right to freedom of expression. The European Union (EU) should not tolerate that these prisoners of conscience be imprisoned for having implemented a political awareness project funded by the EU. Amnesty International therefore calls on the European Union:

- to urge the Egyptian authorities to immediately and unconditionally release Saad Eddin Ibrahim, Nadia Muhammad Ahmad 'Abd al-Nur, Khaled Ahmad Muhammad Fayadh and Ussama Hashim Hammad 'Ali;
- to urge the Egyptian authorities to provide for a legal framework that protects human rights defenders and other civil society activists from being punished for the mere exercise of their rights to freedom of expression and association;
- to publicly state that the persecution and detention of human rights defender Saad Eddin Ibrahim and his colleagues contradicts the spirit of the 1995 Barcelona Declaration, which acknowledges the importance of civil society, and the forthcoming Association Agreement with Egypt, which states that the relationship between the partners should be based on respect for international human rights principles.

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