

Comprehensive Guide to Litigation for Lawyers

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Introduction

"All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times".¹

"Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon".²

Despite the fact that the provisions of international charters and covenants, as well as the Egyptian Constitution, respect the dignity of inmates and that they are not subjected to torture or ill-treatment and that their safety and security must be guaranteed, the situation inside Egyptian prisons is contrary to what is stated in international charters and covenants and the Constitution. Many inmates complained of ill-treatment and some of them were subjected to torture, as well as medical negligence, lack of providing the necessary medical care, and overcrowding of places of detention, in addition to restricting the rights of inmates to visit and communicate with the outside world, especially with detainees who are charged in cases of a political nature.

¹ Rule 1 of the UN Standard Minimum Rules for the Treatment of prisoners, available via the UN website, last visited 28 June 2021, available at: <https://documents.un.org/doc/undoc/gen/n15/443/41/pdf/n1544341.pdf>

² See the text of Article 55 of the Egyptian Constitution

Considering the legal framework that regulates the rules of detention and treatment of inmates, we find that there are many deficiencies, as the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956 gave the administration authority and officials of correction and rehabilitation centers absolute powers without control or supervision of those powers. For example, the law gave the administration authority the power to place inmates in one of the correction and rehabilitation centers mentioned in the first article of the law, and the legislator omitted to take into account the proximity or distance of the place of detention from the place of residence of inmates as entitled in article 1 bis of the law³, despite that Article No. 59 of the Standard Minimum Rules for the Treatment of prisoners stipulates that inmates shall be distributed in places of detention close to their place of residence⁴.

In addition, the rights granted to inmates by the laws regulating their treatment have been devoid of many of the rights stated by international charters and covenants, There are several rights that the legislator has placed under strict controls and conditions, which have altered their original meaning. For example, Article 30 of the Law on the Organization of Correction and Community Rehabilitation Centers stipulates: " Prisoners may at their expense bring books, papers and magazines in conformity with the prison regulations." However, Article No. 15 of the Executive Regulation No. 79 of 1961 stipulates "the right of inmates to bring at their expense books, newspapers and magazines. The Department of Correction and Rehabilitation Centers shall review the books, newspapers and magazines brought by inmates and shall not deliver to them except after ensuring that they are free from anything that violates the system, provokes feelings or senses, or violates security and belief ...".

The regulation lacked transparency, failing to define the criteria for book censorship. It granted the management of correction and rehabilitation centers unrestricted power to reject books at their discretion, without providing any justification. "The Law on the Organization of Correction and Community Rehabilitation Centers and its executive regulations, enacted over 60 years ago, contain several outdated articles that no longer align with contemporary standards. These provisions necessitate review and amendment to reflect the current era. One example is

³ See the text of Article 1bis of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956 in accordance with its latest amendments.

⁴ Rule 59 of the United Nations Standard Minimum Rules for the Treatment of Prisoners <https://documents.un.org/doc/undoc/gen/n15/443/41/pdf/n1544341.pdf> ibid

Article 83 of the executive regulations, issued by the Minister of Interior Resolution No. 79 of 1961, which stipulates outdated furnishings for pretrial detainees authorized to stay in furnished rooms, including items such as a hospital-style bed, a mattress, a pillow, two pillowcases, two bed sheets,, one wool blanket in the summer and 2 in the winter, a fiber mat, a wood chair, an iron brace, a painted saj jug, a painted teapot.....".

Furthermore, the prolonged litigation process, often resulting in delayed justice in Egypt, is compounded by outdated legislation and numerous shortcomings within the Egyptian judiciary. This leads to hundreds of cases remaining unresolved in courts for years, not due to legal complexities but systemic inefficiencies. This situation has resulted in frustration for inmates and their families, who find the legal procedures they undertake in pursuit of their rights to be futile. This report aims to illuminate the guarantees and rights of inmates, as outlined in international charters and covenants, the Constitution, and the law. It strives to educate inmates and their families about their rights and to offer solutions and legal procedures to follow when faced with violations or restrictions. The report encourages inmates and their families to pursue all available legal avenues and advocate for their rights.

Purpose of the Manual

This manual is intended to inform legal practitioners, inmates, and their families about inmate rights. It provides an analysis of the economic, social, cultural, and human rights of inmates and detainees, as stipulated in international charters and covenants, the Egyptian Constitution, and relevant laws. By reviewing human rights standards related to inmate rights, this guide evaluates their alignment with the treatment of detainees within detention facilities. It also outlines the human rights standards that must be upheld in the treatment of detainees. This often arises in the context of violations related to the treatment of inmates, restrictions imposed upon them, their rights, or interference in their exercise of those rights. The guide provides an overview of these rights in general, which are guaranteed under international conventions and the Egyptian Constitution. These rights do not cease at the prison gates but extend to all rights enjoyed by inmates. It highlights the most prominent violations they face and offers solutions and legal procedures that can be undertaken in response to any infringement of these rights, in accordance with available legal remedies. In this manual, "inmates" primarily refers to individuals held in pretrial detention or who have been deprived of their liberty following a

judicial conviction. However, the term also refers to all persons detained for any other reason in correctional and rehabilitation centers, and also applies to detainees in similar places of detention such as police stations. All persons have the same rights that cannot be taken away from them, and the mere fact that a person is inside prisons does not mean that he is convicted. In order to be convicted, it must be based on a fair and equitable trial and without diminishing his rights.

The right not to be arbitrarily arrested or detained in any way:

Everyone has the right to liberty and security. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.⁵

The right to humane conditions in detention and freedom from torture and other cruel treatment:

Every person deprived of liberty has the right to be detained in conditions consistent with human dignity. No one may be subjected to torture or other ill-treatment, under any circumstances. States have a responsibility to take action to prevent the crime of torture⁶. "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation"⁷.

The right to be informed of rights:

Everyone has the right to be informed of his or her rights and of the interpretation and use of these rights, in a language he or she understands. According to Principle 13 of the UN Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.⁸

⁵ Article 9 of the International Covenant on Civil and Political Rights, available at the following link: <https://www.ohchr.org/sites/default/files/ccpr.pdf>

⁶ Article 2 of The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at the following link: https://legal.un.org/avl/pdf/ha/catcidtp/catcidtp_e.pdf

⁷ [Article 7 of the International Covenant on Civil and Political Rights](https://www.ohchr.org/sites/default/files/ccpr.pdf)
<https://www.ohchr.org/sites/default/files/ccpr.pdf>

⁸ See Principle 13 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Visit January 11, 2022, available at: <https://www.ohchr.org/ar/instruments-mechanisms/instruments/body-princi>

Right to an attorney:

The accused has the right to appoint a counsel to defend him at all stages of the proceedings. Principle 11 and 17 of the UN Principles also state that a detainee has the right to be assisted by a lawyer in the manner prescribed by law, and If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases.⁹

Right to report:

The accused shall have the right to immediately inform his family of his arrest and detention.¹⁰

Right to be presumed innocent:

Every person accused of a crime shall be presumed innocent until proven guilty according to law in a public trial in which he has been provided with all the guarantees necessary to defend himself.¹¹ . The presumption of innocence is a right valid from the moment of arrest and during all stages of litigation until the issuance of a judgment and the exhaustion of all means of appeal against it.

The right to a speedy and fair trial:

Persons held in pretrial detention have the right to prompt and expeditious proceedings. Unless brought to trial within a reasonable time, they have the right to be released pending trial.¹² The Human Rights Committee has defined "promptness" as meaning "a few days." This refers not only to the time frame within which a trial should begin but also to the period it should take to reach a verdict.

Right to health care:

⁹ [Ibid https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention](https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention)

¹⁰ See Rule 92 of the Standard Minimum Rules for the Treatment of Inmates, [op. cit.](#)

¹¹ [Article 14 of the International Covenant on Civil and Political](#) Rights

¹² [Ibidhttps://www.ohchr.org/sites/default/files/ccpr.pdf](https://www.ohchr.org/sites/default/files/ccpr.pdf)

“The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”¹³ Everyone, including persons in detention, has the right to the highest attainable standard of physical and mental health. The right to health is not limited to appropriate health care when needed but goes beyond that to addressing underlying factors of physical health, such as access to adequate food, water and personal hygiene. It is the responsibility of the State to provide health care to prisoners, without discrimination on the basis of their legal status.

Right to freedom from discrimination:

Every person deprived of their liberty has the right to be treated humanely and with respect for their inherent human dignity, without discrimination on the basis of race, color, origin, religion, political or other opinion, sexual orientation, gender identity, disability, or any other status or distinction.¹⁴

The right to visit, communicate with the outside world and correspondence:

Everyone has the right to respect for his private and family life and the inviolability of his home or correspondence. Interference by a public authority in the exercise of this right is permissible only if such interference is provided for by law and constitutes a necessary measure in a democratic society. Everyone has the right to freedom of expression. This right includes freedom of opinion and the freedom to receive and impart information and ideas without interference from public authorities, regardless of frontiers. The exercise of these freedoms and the duties and responsibilities they entail may be subject to certain conditions or restrictions provided for by law.¹⁵

The right to marry:

¹³ Article 12 of the International Covenant on Economic, Social and Cultural Rights, last visited 30May 2021, is available at the following link: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

¹⁴ Article 9 paragraph 2 of the International Covenant on Civil and Political Rights, available at the following link: <https://www.ohchr.org/sites/default/files/ccpr.pdf>

¹⁵ Article 8, 10 of the European Convention on Human Rights, available at: https://www.echr.coe.int/documents/d/echr/Convention_ENG

After reaching the age of marriage, men and women have the right to marry and form a family in accordance with national laws governing the exercise of this right.¹⁶

Right to education:

Everyone has the right to education, and they agree that education should be directed to the full development of the human personality and the sense of its dignity and to the strengthening of respect for human rights and fundamental freedoms.¹⁷ “To that end, prison administrations and competent authorities should provide education and vocational training, take the necessary measures to continue the education of all inmates who are able to benefit from it, make the education of illiterates and juveniles compulsory, and receive special attention from the administration of correction and rehabilitation centers.¹⁸

The right to practice religious rites:

Freedom of belief is absolute. The freedom to practice religious rites and to establish places of worship for the owners of divine religions is a right regulated by law. Every prisoner has the right to perform the duties of his religious life, to possess books of rituals and religious education.¹⁹

The right to exercise political rights:

Every citizen shall, without discrimination, have the right to take part in the conduct of public affairs and to vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.²⁰

¹⁶ Ibid

¹⁷ Article 13 of the International Covenant on Economic, Social and Cultural Rights, via the UN website, last visited 21 May 2021, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

¹⁸ Rule 4, paragraph 2 and rule 104, Model Rules for the Treatment of Prisons, available at: https://www.un.org/ar/events/mandeladay/mandela_rules.shtml

¹⁹ Rule 4, 104, 105, 64-66 of the Standard Minimum Rules for the Treatment of Inmates, <https://documents.un.org/doc/undoc/gen/n15/443/41/pdf/n1544341.pdf> l [ibid.](#)

²⁰ Article 25 of the International Covenant on Civil and Political Rights, [op. Cit.](#)

This report also tries to clarify the rights and guarantees of the employee and the inmate worker, what are the conditions and controls that allow his dismissal, and what are the legal procedures that must be followed in the event of the employee's unfair termination of service in accordance with the Civil Service Law or the case of arbitrary dismissal of the worker in accordance with the Labor Law, and the review of listing on terrorism lists in accordance with the law. The report provides a form to challenge the listing decision. Then the report reviews the inspection of detention centers and those who have the right to inspect and judicial control over detention centers and the human rights monitoring represented by the National Council for Human Rights. Finally, the report details the procedures for implementing judgments issued by the State Council, addressing the scenario where the responsible official refuses to enforce such judgments. It outlines the legal recourse available in this situation, including filing a misdemeanor complaint for non-compliance with a judgment. Additionally, the report provides guidance to prisoners and their families regarding the appropriate authorities to contact and submit applications to. Annexed to the report are templates and formats for legal requests, such as a request to obtain a certified copy of a judgment, a certificate request form, or requesting a new notice of judgment.

Methodology

For the purpose of researching and preparing this report, the team conducted research on the rights of inmates in international charters and covenants, as well as the Egyptian Constitution and laws governing the detention and treatment of inmates. The team also reviewed rulings issued by the Administrative Court, the Supreme Administrative Court, and legal opinions issued by the Fatwa and Legislation Department of the State Council on a number of cases and topics related to the rights of inmates. In addition, five interviews were conducted with lawyers from the Egyptian Commission for Rights and Freedoms to benefit from their practical legal experience in assisting inmates and their families in obtaining their rights. This was done to identify the procedures to be followed in the event of an inmate being subjected to a violation. The team also relied on three lawsuits filed by the organization to provide a number of models for legal notices and lawsuits. Additionally, a wide range of lawsuits related to the rights of inmates were reviewed through the online platforms of a number of civil society organizations.

Due to the security restrictions imposed on civil society organizations, the team preferred not to mention the names of the lawyers who were consulted, for fear of exposing them to security harassment.

Chapter One: The right not to be subjected to enforced disappearance, violating of the Sanctity of the home, and the right to bodily integrity

Section One: Enforced Disappearance

Introduction:

The phenomenon of enforced disappearance has increased in recent years, and this phenomenon is considered to be at the forefront of violations against citizens and opponents, especially with the state's lack of recognition and denial of enforced disappearance, and the absence of a legal provision criminalizing enforced disappearance. During this section, we try to provide the legal procedures to be followed in the event that a person is subjected to enforced disappearance. Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance defines enforced disappearance as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.”²¹

1. Enforced disappearance in international charters and covenants and in the Egyptian Constitution and law:

A. Enforced Disappearance in International Covenants and Covenants:

The International Covenant on Civil and Political Rights, which was adopted by the resolution of the United Nations General Assembly on December 16, 1966, stipulates a set of basic rights due to each person, in addition to what was approved by the Universal Declaration of Human Rights of a set of basic rights such as the right to freedom and security and the right to the protection of the law. Article (9) of the International Covenant stipulates a set of basic rights in the event of arrest and detention of individuals that may not be violated in any way and

²¹ Text of Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance, available at <https://www.ohchr.org/sites/default/files/disappearance-convention.pdf>.

stipulates that everyone has the right to freedom and security and that no one may be arrested or detained except for reasons of crimes stipulated by law and in accordance with the specific legal procedure. The article specifies that in the event of arrest or detention of any individual, he must be informed of the reasons for this and must be informed immediately of the charges against him, and he must be brought promptly before the judiciary. He has the right to be tried within a reasonable period or released until the date of his trial. The article specifies that every person who was the victim of an illegal arrest or detention has the right to compensation²².

As well as the "Declaration on the Protection of All Persons from Enforced Disappearance"²³, article 1 which stipulates that "every act of enforced disappearance shall be considered a crime against human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and a serious and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in the international instruments issued in this field." In addition, enforced disappearance deprives the person subjected to it of the protection of the law and violates the norms of international law which guarantee, among other things, the right of everyone to be recognized as a person before the law, the right to liberty and security of person, and the right to be free from torture and other cruel, inhuman or degrading treatment or punishment. It also violates the right to life or constitutes an imminent threat to it.

Articles 2 and 3 of the Declaration outline the obligations of every State to take the necessary measures to prevent acts of enforced disappearance and that no State shall in any circumstances practice, permit or tolerate such acts. It is the responsibility of every State to take legislative, administrative, judicial or other measures to prevent and put an end to enforced disappearances. "²⁴.

²² Article 9 of the International Covenant on Civil and Political Rights, <https://www.ohchr.org/sites/default/files/ccpr.pdf>.

²³ Declaration on the Protection of All Persons from Enforced Disappearance, 18 December 1992, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-protection-all-persons-enforced-disappearance>

²⁴ Declaration on the Protection of Persons from Enforced Disappearance, Article 2: No State shall practise, permit or tolerate enforced disappearances. States shall work at the national and regional levels, in cooperation with the United Nations, to contribute by all means to the prevention and eradication of enforced disappearances " Article 3: Each State shall take effective legislative, administrative, judicial and other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction".

The Rome Statute of the International Criminal Court,²⁵ adopted in Rome on 17 July 1998, defined enforced disappearance as a crime against humanity in its Article 7, which defined crimes against humanity as any act committed as part of a widespread or systematic attack directed against any civilian population.

In the same article, point (i) is defined as "the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time."

B. Enforced Disappearance in the Constitution and the Law:

Enforced Disappearance in the Egyptian Constitution:

Although enforced disappearance is a crime against humanity, and combating crimes of enforced disappearance is an essential part of the state's duties towards imposing a range of legal protection for all persons, except for the law that explicitly criminalizes enforced disappearance, Article 54 of the Constitution stipulates that (Personal freedom is a natural right, and a person may not be arrested or searched except by a reasoned judicial order except in cases of flagrante delicto, and anyone whose freedom is restricted must be immediately informed of the reasons for this, be able to contact his family or lawyer immediately, and be brought before the investigation authority within 24 hours ..)²⁶

Enforced Disappearance Egyptian Law:

As for Egyptian law, there is also no provision criminalizing enforced disappearance, but Egyptian law criminalizes detention without right, and detention in places other than official places of detention. However, the Criminal Procedure Law specifies basic rules in the process of arresting, arresting, and detaining persons. Judicial officers must also present the accused to the Public Prosecution within no more than 24 hours from the date of arrest. The

²⁵Article 7, Rome Statute of the International Criminal Court, 17 July 1998, available at: <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

²⁶ See Article 54 of the Egyptian Constitution.

Public Prosecution must interrogate the accused within 24 hours and then issue its decision to imprison or release him, in accordance with Article 36 of the Criminal Procedure Law.

In addition, Article 40 stipulates that no person may be arrested or imprisoned except by order of the legally competent authorities. He or she must also be treated in a manner that preserves human dignity, and he or she may not be harmed physically or morally.

Article 41 stipulates that no person may be imprisoned except in the prisons designated for that purpose. It is not permitted for the warden of any prison to accept any person in it except by virtue of an order signed by the competent authority, and not to keep him after the period specified in this order.²⁷

In addition, the Penal Code specifies that violating these rules requires the punishment of imprisonment or a fine. Article 280 of the Penal Code stipulates that "whoever arrests, confines, or detains a person without an order of the concerned judges/ruling governors, and in other than the cases wherein the laws and statutes authorize the arrest of suspects, shall be punished with detention or a fine not exceeding two hundred Egyptian pounds."²⁸

It is also worth mentioning that Article 40 of the Anti-Terrorism Law No. 94 of 2015, which stipulates that in the case of an eminent terrorist crime that needs to be confronted, law enforcement officers shall have the right to collect information on such crimes, search for the perpetrators, and keep them in custody for a period not exceeding 24 hours.

Law enforcement officers shall prepare reports on the procedures and the detainee(s) shall be referred along with the report to the public prosecutor or the relevant investigating authority, according to the case. For the same necessity set forth in the first paragraph of this Article and before the expiration of the period specified, the Public Prosecution or the relevant investigating authority may order the extension of custody once for a period not exceeding 14 days. The order shall be issued with the causes by at least an General Prosecutor or the equivalent. The custody period shall be calculated as part of the precautionary detention, and the accused shall be kept in

²⁷ See the provisions of Articles 36, 40 and 41 of Law No. 150 of 1950, the Code of Criminal Procedure, as last amended.

²⁸ See the text of Article 280 of Law No. 58 of 1937, the Penal Code, as last amended

a legally designated area. The provisions of the first paragraph of Article (44) of this Law shall apply to grievances against continuation of custody.

The police are allowed to detain the suspect for 24 hours before he is referred to the Public Prosecution, which allows it to order an extension of detention without charge for 28 days, and has the right to prevent the detainee from communicating with the outside world, but even in this case the law required that the suspect be presented to the Public Prosecution first and then the Public Prosecution orders an extension of his detention.²⁹

2- Legal procedures to be followed in case of enforced disappearance

In the event that a person is arrested, and the police department denies the arrest and does not present him to the competent prosecution within 24 hours from the date of arrest, the family must follow the following procedures:

I. Telegraph

Families should contact number 124 or go to the central police station to send a telegram to the Minister of Interior and the Public Prosecutor to document the arrest, its date, and location.

Telegraph Form:

To: The Honorable Advisor/ The Public Prosecutor

The Honorable Minister of Interior With respect and appreciation,

This is a complaint submitted by: [Your Name]

I would like to report that my [relationship to the arrested person] [Name] was arrested on the morning/evening of [Date] at approximately [Time] in [Location] by security forces wearing [official/civilian] uniforms. Since then, we have no information about his whereabouts. When we inquired at the [police station] (in the area where the arrest took place/place of residence), they denied having any information about him, and he has not been presented to the competent investigative authority until now. His mobile phone has been turned off, and we do not know where he is being held.

²⁹ Article 40 of Law No. 94 of 2015 Anti-Terrorism Law

I am submitting this complaint to document the incident and hold the Ministry of Interior responsible for his safety. We request that you take the necessary legal measures to locate him and disclose his place of detention.

With utmost respect and appreciation, [Your Name]"

II. Report

the family must submit a report to prove the arrest and its date to the General Prosecutor or the Attorney General (at the court of first instance of which the place of residence or the place of arrest)

Form of the report:

To: The Counselor/General Prosecutor

The Counselor/Attorney General of Public Prosecutions

Greetings and respect,

Submitted to your esteemed attention by: [Your Name] Residing at: [Your Address] Holding National ID Card No.: [Your ID Number] [Your Relationship to the Disappeared Person]

Subject: [Briefly describe the incident or subject matter]

For example:

On [Date], [Name of Disappeared Person] was arrested from their home located at [Address] by the security forces in [uniform type].

Or, for example:

On [Date], during a phone call with my son, who informed me he was in front of [University Name] as a student at the [Faculty Name] faculty, I heard an officer ask my son for identification and then hang up the phone. After that, I tried to call him repeatedly, but his phone was turned off. Since that date, I have not heard from him.

Important note:

(It's important to write clear details about the last known location. If you were present during the incident, remember the number of security forces, whether they were in civilian or official

attire, and if they confiscated any items such as a phone, laptop, or money (specify the amount), and the exact time of the arrest..)

We proceeded to the police station (affiliated with the place of residence or the location of the disappearance), but we did not find him there. The officials at the station refused to file a report to search for him and investigate the incident, or to review the cameras around "[Location of the incident]" and track his phone number [phone number].

To date, we remain unaware of his fate. What has happened to (.....) constitutes several crimes in violation of the Constitution, the law, and international conventions signed by the Egyptian state, which are considered binding laws according to the Egyptian Constitution approved in 2014.

Article (54) of the Egyptian Constitution stipulates that: " Personal freedom is a natural right, shall be protected and may not be infringed upon. Except for the case of being caught in flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of anyone in any way except by virtue of a reasoned judicial order that was required in the context of an investigation. Every person whose freedom is restricted shall be immediately notified of the reasons; therefore, shall be informed of his/her rights in writing; shall be immediately enabled to contact his/her relatives and lawyer; and shall be brought before the investigation authority within twenty-four (24) hours as of the time of restricting his/her freedom. Investigation may not start with the person unless his/her lawyer is present. A lawyer shall be seconded for persons who do not have one. Necessary assistance shall be rendered to people with disability according to procedures prescribed by Law. Every person whose freedom is restricted, as well as others, shall have the right to file grievance before the court against this action. A decision shall be made on such grievance within one (1) week as of the date of action; otherwise, the person must be immediately released. 18 The Law shall regulate the provisions, duration, and causes of temporary detention, as well as the cases in which damages are due on the state to compensate a person for such temporary detention or for serving punishment thereafter cancelled pursuant to a final judgment reversing the judgment by virtue of which such punishment was imposed. In all events, it is not permissible to present an accused for trial in crimes that may be punishable by imprisonment unless a lawyer is present by virtue of a power of attorney from the accused or by secondment by the court."

Article 55 of the Constitution also states that

"Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon".

Article 40 of the Code of Criminal Procedure also stipulates that "No one may be arrested or imprisoned except by order of the legally competent authorities, and they must be treated in a manner that preserves human dignity, and they may not be physically or morally harmed.

"Article 280 of the Penal Code also stipulates that" Whoever arrests, imprisons or detains any person without the order of a competent judge. In cases other than those in which laws and regulations authorize the arrest of suspects, he shall be punished by imprisonment or a fine not exceeding two hundred pounds."

Article 9/1 of the International Covenant on Civil and Political Rights, to which Egypt is a signatory, stipulates that:

"1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law".

Therefore

We request your esteemed court to take the necessary legal action to investigate the complaint, hear my testimony, and take the necessary legal action against the perpetrators. Please inform us of the investigation and its results, review the cameras around (location of the incident), track him through his mobile phone number, and request investigations into the incident.

Please accept our utmost respect and appreciation.

Submitted to your esteemed attention by: [Name of the complainant]

- Or submit the report through the WhatsApp number designated for receiving complaints and reports from citizens to the Public Prosecutor, using the following number: (01111755959).

Or by submitting the complaint on the Public Prosecution's website through the following link:

[Public Prosecution website](#).

Follow-up of the communication procedures:

After submitting the report, it will be registered with the number of the public prosecutor's reports if it is submitted to the Public Prosecutor's Office in Rehab. The report number and date must be recorded and will later be sent to the competent prosecution to investigate the report. The issued number must be followed up until the report is sent to the Public Prosecution and registered with an incoming number and the record number is taken and followed up in the Public Prosecution. In the event that the report is filed without investigation, it is preferable to file a grievance against the filing decision issued in the total prosecution to which the Public Prosecution is affiliated. For example, "If the report is registered in the Public Prosecution of the District of Old Egypt, the grievance shall be submitted to the Public Defender of the Public Prosecutions of South Cairo First Instance."

Grievance Form:

Mr. / Counselor,

General Prosecutor

Greetings,

Submitted to you / (Grievant)

Against

Mr. / (Defendant/M)

Subject

Grievance regarding complaint No. [complaint number] of the year [year] of the Public Prosecutor's petitions, registered under No. [registration number] of the year [year] of misdemeanors/administrative cases, and for which a decision to dismiss was issued on [date].

On [date], the complainant submitted a complaint to the Public Prosecutor, registered under No. [complaint number] of the year [year] of the Public Prosecutor's petitions, due to his grievance against the security forces for arresting from his home located at by security forces in attire.

Or for example (on / / During a call between me and my son, in which he told me that he was in front of a university Whereas he is a college student... At the university, during the call, I heard the voice of an officer asking my son for his identity card, then he turned off the mobile phone, and then I tried to call him repeatedly, but I found that his phone had been turned off, and since that date, his news was cut off. We went to the police station (affiliated with the place of residence, or the place of the disappearance), but we did not find him there, and the officials of the department refused to write a report to search for him and investigate the incident, which led to the submission of the report with a request:

Take the necessary legal action to investigate the complaint, hear my testimony, and take the necessary legal action against the perpetrators. Please keep us informed of the progress and results of the investigation, review the camera footage from the vicinity of (the incident location), track him using his mobile phone number, and request further inquiries into the incident. The complaint was submitted to the Partial Prosecution Office of for investigation. However, the complainant was surprised to find that the Partial Prosecution Office of registered the complaint under No. [registration number] of the year [year] of administrative cases and dismissed the case on [date] without conducting an investigation and without notifying the complainant, which caused significant harm to the complainant. The aforementioned facts are established against the accused.

Therefore

We request your esteemed authority to overturn the dismissal decision issued in complaint No. [complaint number] of the year [year] of the Public Prosecutor's petitions, registered under No. [registration number] of the year [year] of misdemeanors/administrative cases, and for which a dismissal decision was issued on [date].

We further request that the case be reopened and investigated criminally to establish the

aforementioned facts. We also request that the complaint be investigated, my testimony be heard, and the necessary legal action be taken against the perpetrators. Please keep us informed of the investigation's progress and results, review the camera footage from the vicinity of (the incident location), track him using his mobile phone number, and request further inquiries into the incident.

Thank you very much for your attention.

Submitted to your esteemed authority,

[Name of the complainant]

III. Complaint to the National Council for Human Rights:

A communication is submitted to the National Council for Human Rights for enforced disappearances and complaints through the following electronic form:

<https://nchr.eg/ar/contactus>, or by submitting a complaint to the Council through their office at the following address: -

[National Council for Human Rights](#)

Complaints Office: 69 Giza Street - Giza - Egypt.

Main Branch: 340 D - North 90th Street - Fifth Settlement - Cairo.

Or by visiting the following link: <https://nchr.eg/ar/Branches> to inquire

<https://nchr.eg/ar/Branches> about the addresses of the Council's branches in the governorates.

Phone : +2028135606 - +2028135607

Fax : +2028135607

Email : nchr-n@nchr.org.eg

IV. Filing a lawsuit

If the disappeared person's whereabouts remain unknown, they are not released, or they do not appear before any prosecution office in connection with a case, a lawsuit must be filed before the Administrative Court of the State Council against the Minister of Interior, requesting

disclosure of the person's place of detention and their fate. This can be done through the following steps:

1- Prepare a formal notice addressed to the Minister of Interior in their official capacity, and deliver it to the bailiffs of the New Cairo Court in the Fifth Settlement, where the Ministry of Interior is headquartered.

Notice Form

On the day of corresponding to // Upon the request of Mr./ residing at Governorate and his chosen domicile is the office of the lawyers/ I, bailiff of the court, have proceeded and served notice to:

The Minister of Interior, in his official capacity, and his Excellency is notified: At his workplace At the Ministry of Interior building Addressed to/

Serving the following notice

On [date], security forces under the authority of the addressee, in his official capacity, arrested [relationship of the notifier to the arrested person] Mr./Ms., from [location of the arrest], without any legal basis or warrant issued by the Public Prosecutor's Office or any judicial authority.

The notifier sent a telegram to His Excellency the Minister of Interior on [date] to document the arrest of without a legal basis and to disclose the place of detention of Mr./Ms. However, no response was received from any authority, nor was the whereabouts of disclosed.

This prompted him/her to issue the notice in order to reveal the place of detention of or to present him/her to the Public Prosecution if he/she is wanted in connection with any cases. The addressee, in his official capacity, is legally obligated to disclose the place of detention of the notified Mr./Ms., who was arrested from [place of arrest] by law enforcement officers under the addressee's authority on [date].

The addressee's refusal, in his official capacity, to disclose the place of detention of the notified Mr./Ms., is in violation of the Egyptian Constitution, which mandates respect for personal freedom and prohibits the arrest or restriction of the liberty of any citizen except by a reasoned judicial order necessitated by an investigation.

Article 54 of the Constitution stipulates that: "Personal freedom is a natural right, shall be protected and may not be infringed upon. Except for the case of being caught in flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of anyone in any way except by virtue of a reasoned judicial order that was required in the context of an investigation. Every person whose freedom is restricted shall be immediately notified of the reasons; therefore, shall be informed of his/her rights in writing; shall be immediately enabled to contact his/her relatives and lawyer; and shall be brought before the investigation authority within twenty-four (24) hours as of the time of restricting his/her freedom.....)

Article 55 of the Constitution stipulates that: " Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.)

Article 59 of the Constitution stipulates that: " Everyone has the right to a safe life. The State shall provide security and reassurance for its citizens and all those residing in its territory.

In addition, contrary to what is stated in international charters and covenants, paragraph (a) of Article 9 of the International Covenant on Civil and Political Rights stipulates that: "Everyone has the right to liberty and security of person. No one may be arbitrarily arrested or detained. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.)

Therefore

The notifier directs this notice to the addressee, in his official capacity, to:

Disclose the place of detention of the notified, named, who was arrested from (place of arrest) on [date].

Accordingly

I, the aforementioned bailiff, proceeded to the addressee, in his official capacity, and served him with a copy of this notice for his information and awareness of its contents. I also reminded him, in his official capacity, of the necessity to disclose the place of detention of the notified, named who was arrested from (place of arrest) on [date], within ten days of receiving this notice.

Otherwise, the notifier will be compelled to take all necessary legal measures.

This is without prejudice to all other rights of the notifier.

For your information /

Form of the petition

To the Honorable Counselor/Vice President of the State Council "President of the Administrative Court"

Greetings and respect,

Submitted to your esteemed attention by/ - residing at, and his chosen domicile is the office of the lawyers/ Attorneys at the Court of Cassation, the State Council, and located at

Against

The Minister of Interior, in his official capacity.

Subject

On [date], security forces under the authority of the respondent, in his official capacity, arrested the (son/brother/husband...) of the appellant, Mr./Ms. without a legal basis or warrant issued by the Public Prosecutor or any judicial authority.

The appellant searched for at the police station affiliated with their residence and at the Public Prosecution, but could not find him/her. This prompted them to file the complaint registered under No. of the year, to document the arrest of without a legal basis and to disclose his/her place of detention. However, no response was received from any authority, nor was the whereabouts of the appellant disclosed.

What has been done to the appellant is in violation of the Constitution and international conventions and covenants. The respondent, in his official capacity, is obligated by the Constitution to protect the lives and liberties of citizens. Therefore, he is legally obligated to disclose the place of detention of the appellant, Mr./Ms. who was arrested on [date].

Despite all this, the respondent has refrained from disclosing the whereabouts of the appellant, which constitutes a negative decision to refrain from disclosing the whereabouts of Mr./Ms.

This decision represents a breach and violation of the Constitution and a contravention of Egypt's international obligations. It also represents an infringement on the fundamental rights of citizens and their right to know. Therefore, the appellant is appealing against it for the following reasons.

Grounds for Appeal

Grounds for Appeal

First Ground: The Existence of an Administrative Decision in the Respondent's Refusal to Disclose the Place of Detention of

It is well-established that an administrative decision is:

(An expression of the administration's binding will, within the scope of its authority as granted by laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of public interest.)

(See the ruling of the Supreme Administrative Court on February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of the year 9 Q) (Book: The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, it was ruled:

(An expression from the public administration, issued explicitly or implicitly in the course of performing its functions prescribed by law within the administrative domain, intended to produce a legal effect and taking an executive nature.)

(Case 1 of the year 1 Q 19/3/1947 - Mahmoud Assem Collection, First Group "November 1946 - June 1948" p. 34)

And in a third definition:

An administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing one. Dean Leon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a certain future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council's Jurisprudence - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as an expression of the administration's binding will, within the scope of its authority as granted by laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of the year 1 Q - Session 1947) (Administrative Court ruling in Case No. 263 of the year 1 Q - Session 7/1/1948 - S 2 - p. 222) (Supreme Administrative Court - Appeal No. 674 of the year 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled

“The final administrative decision that falls within the jurisdiction of the courts of the Council of State is the decision that completes the elements of the administrative decision in the sense

established by the rulings of the Supreme Administrative Court, which issues a declaration by the administration in the form specified by law of its will binding on its public authority under laws and regulations, with the intention of creating a legal status whenever possible and legally permissible. aiming to achieve the public interest. Hence, the pillars of the administrative decision are to have a place, which is the legal status that the will of the issuer of the decision tends to create the legal effect that results from it, directly and immediately, and this is the establishment of a new legal situation or an amendment to an existing legal status or its cancellation.”

Appeal No. 4358 of the year 37 Q - Session 3/5/1992)

Whereas a secure life is the right of every person residing in Egypt, and the state is obligated to provide security and peace of mind to its citizens and all residents within its borders.

The Ministry of Interior, headed by the respondent in his official capacity, along with its leadership and personnel, is bound by Article 1 of Law No. 109 of 1971 regarding the Police Authority, which states:

(The police is a regular civil body within the Ministry of Interior that performs its functions and exercises its jurisdiction under the leadership of the Minister of Interior and under his command. He is the one who issues the decisions regulating all its affairs and work systems.)

Furthermore, Article 3 of Law No. 109 of 1971 regarding the Police Authority states:

The Police Authority is responsible for maintaining order, public security, and morals, and for protecting lives, honor, and property. In particular, it is responsible for preventing and controlling crimes, ensuring peace and security for citizens in all fields, and implementing the duties imposed on it by laws and regulations.

Therefore, the police are the guardians of the security of citizens, ensuring their safety and peace of mind. One of their most important duties is to preserve the lives of citizens and to carry out their duties in investigating and uncovering the whereabouts of any citizen, whether alive or deceased, in the event of any report of their disappearance and failure to locate them, and to document this in their records and documents for reference when necessary.

The respondent, in his official capacity, is a member of the police force, and security forces under his command arrested the appellant, Mr./Ms., without a legal basis or warrant

issued by the Public Prosecutor or any judicial authority. He/she has not been seen since [date].

Despite the filing of official reports to disclose the whereabouts of the appellant, Mr./Ms., the respondent, in his official capacity, has remained silent, confirming the existence of a negative decision that can be appealed against. Therefore, this appeal is admissible in form due to the existence of a negative administrative decision.

The second reason: The invalidity of the contested decision for violating the Constitution:

Whereas the Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets boundaries and restrictions on their activities, and enshrines public freedoms and rights, arranging fundamental guarantees for their protection. Thus, the Constitution is distinguished by a special nature that confers upon it the quality of sovereignty and supremacy, as it is the guarantor of freedoms, their haven, and the cornerstone of constitutional life and the foundation of its system. Its provisions rightfully stand at the pinnacle of the state's legal structure and occupy a position of prominence among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, its judiciary, and in the exercise of its executive powers, without any discrimination or distinction - in terms of adherence to them - between the legislative, executive, and judicial authorities.

Whereas the Constitution is the supreme law that establishes the rules and principles upon which the system of governance is based. It defines the public authorities, outlines their functions, sets the boundaries and restrictions governing their activities, and enshrines public freedoms and rights, arranging the fundamental guarantees for their protection. Thus, the Constitution is distinguished by a special nature that confers upon it the quality of sovereignty and supremacy, as it is the guarantor of freedoms, their haven, the pillar of constitutional life, and the foundation of its system. Its provisions rightfully stand at the pinnacle of the state's legal structure and occupy a position of prominence among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, its judiciary, and in the exercise of its executive powers, without any discrimination or distinction - in terms of adherence to them - between the three public authorities: the legislative, the executive, and the judicial. This is because all these authorities are established authorities created by the Constitution, deriving their existence and entity from it, and it is the reference in defining their

functions. Therefore, they are all considered equal before the Constitution, each standing on an equal footing with the others, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or the nature of the powers entrusted to it, to abide by the rules and principles of the Constitution and to adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted with the flaw of unconstitutionality.

(Case 37 of the year 9 Judicial "Constitutional" Session May 19, 1990).

Whereas the actions of the respondent, in his official capacity, constitute a grave violation of the provisions of the Egyptian Constitution, which mandate respect for personal freedom and prohibit the arrest or restriction of the liberty of any citizen except by a reasoned judicial order necessitated by an investigation.

Article 54 of the Egyptian Constitution stipulates: "Personal freedom is a natural right, shall be protected and may not be infringed upon. Except for the case of being caught in flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of anyone in any way except by virtue of a reasoned judicial order that was required in the context of an investigation. Every person whose freedom is restricted shall be immediately notified of the reasons; therefore, shall be informed of his/her rights in writing; shall be immediately enabled to contact his/her relatives and lawyer; and shall be brought before the investigation authority within twenty-four (24) hours as of the time of restricting his/her freedom. Investigation may not start with the person unless his/her lawyer is present. A lawyer shall be seconded for persons who do not have one. Necessary assistance shall be rendered to people with disability according to procedures prescribed by Law. Every person whose freedom is restricted, as well as others, shall have the right to file a grievance against this action before the court. A decision shall be made on such grievance within one (1) week as of the date of action; otherwise, the person must be immediately released. 18 The Law shall regulate the provisions, duration, and causes of temporary detention, as well as the cases in which damages are due on the state to compensate a person for such temporary detention or for serving punishment thereafter cancelled pursuant to a final judgment reversing the judgment by virtue of which such

punishment was imposed. In all events, it is not permissible to present an accused for trial in crimes that may be punishable by imprisonment unless a lawyer is present by a power of attorney from the accused or by secondment by the court.”

Article 55 of the same Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon”.

Article 92 also stipulates that: “Inalienable rights and freedoms of citizens may not be suspended or reduced. No law regulating the exercise of rights and freedoms may restrict such rights and freedoms in a manner prejudicing the substance and the essence thereof”. Whereas any violation of personal freedom, the sanctity of private life, or other public rights and freedoms guaranteed by the Constitution and the law is a crime for which neither criminal nor civil proceedings are subject to a statute of limitations. The aggrieved party has the right to initiate criminal proceedings directly, and the state guarantees fair compensation to the victim of the violation. The National Council for Human Rights has the authority to notify the Public Prosecutor of any violation of these rights and may intervene in the civil lawsuit by joining the aggrieved party, upon their request, all in accordance with the provisions of the Constitution.

From this, it is clear that the provisions of the Egyptian Constitution have enshrined a secure life as a constitutional right for every individual and have obligated the state to provide security and peace of mind to its citizens and all residents within its territory. The Minister of Interior is entrusted with this responsibility, and one of their primary obligations is to preserve the lives of citizens, prevent and control crimes that may occur, and fulfill their duty to investigate and uncover the whereabouts of any citizen in the event of any report of their disappearance and failure to locate them. Otherwise, security and public order in society would be disrupted, chaos and unrest would prevail, and the Ministry of Interior's commitment and duty to protect the lives of citizens would be reduced to mere ink on paper, devoid of any real benefit, hope, or fulfilled

right.

Whereas the respondent, in his official capacity, has refrained from disclosing the whereabouts of the appellant, despite being notified through official channels (the report submitted to the Honorable Public Prosecutor or the report filed at the ... Police Station), he has violated the provisions of the Constitution. This renders the appealed decision null and void, necessitating its annulment.

Third Ground: The Appealed Decision's Violation of the Law and the Obligations of the Arab Republic of Egypt, as Guaranteed by the Egyptian Constitution:

Whereas the Egyptian Constitution has recognized international agreements and placed them on par with national legislation. It also stipulates the state's commitment to all international agreements it signs, as stated in Article 93 of the Constitution

stipulates that: "The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions".

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories".

Paragraph (a) of Article 9 of the International Covenant on Civil and Political Rights states: "Everyone has the right to liberty and security of person. No one may be arbitrarily arrested or detained. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

Article 1 of Law No. 109 of 1971 on the Police Authority also stipulates: (The police is a regular civil body in the Ministry of Interior that performs its functions and carries out its competencies under the chairmanship and leadership of the Minister of Interior, who issues

decisions regulating all its affairs and work systems.)

Article 3 of the same law also stipulates that: (The Police Authority is competent to maintain order, public security and morals, and to protect lives, symptoms and funds, and in particular to prevent and control crimes. It is also competent to ensure the tranquility and security of citizens in all fields, and to implement the duties imposed on it by laws and regulations.)

From the aforementioned, it is clear that the respondent's refusal, in his official capacity, to disclose the place of detention of the appellant is in violation of the provisions of international conventions, covenants, and the law, which necessitates its annulment.

Fourth Ground: Invalidity of the Decision due to the Absence of Cause and Legitimacy:

The Supreme Administrative Court has ruled in this regard: (The cause of an administrative decision is a factual or legal circumstance that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the ultimate goal of the decision.)

(Supreme Administrative Court - Appeal 277 of the year 33 Q on 27/2/1993 - The Modern Administrative Encyclopedia - 1985/1993 - Volume 35 - Rule 342 - p. 997)

It also ruled: (The decision ... must be based on reasons that justify it truthfully and accurately in fact and in law, as one of the pillars of its validity, as it is a legal act, and no legal act can be valid without its cause.)

(Appeal 3471 of the year 32 Q on 29/12/1990 - The Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the cause to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective justifications and motives that led the authority to issue its negative or positive decision.

Since the respondent has not yet provided any reasons or justifications for the security forces under his command to arrest the appellant or even present him/her to the competent judicial investigation authorities since the arrest, the appealed decision is therefore null and void due to the lack of cause, which necessitates its annulment.

Fifth Ground: Regarding the Request for Suspension of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from and is a branch of the authority to annul them. Its basis lies in the legal oversight exercised by the administrative judiciary, which weighs the law and its legitimacy. The execution of an administrative decision is suspended only if two fundamental conditions are met: first, the urgency condition, whereby the execution of the appealed decision would result in irreparable consequences, and second, the legitimacy condition, whereby the appellant's claim, on the face of it, is based on reasons that could lead to the annulment of the decision. All this is without prejudice to the request for annulment itself, which remains until it is addressed substantively.

(Supreme Administrative Court in Appeal No. 221 of the year 32 Q, session 26/1/1985)

Applying this, we find that all these conditions are met. Regarding the urgency condition, the execution of the appealed decision of non-disclosure by the respondent regarding the place of detention of the appellant's husband...

Furthermore, the grounds for appeal suggest that a judgment annulling this decision is likely to be issued. Therefore, the grounds for suspending execution are present in this appeal.

Moreover, the phenomenon of enforced disappearance of persons constitutes a violation of all fundamental principles of human rights and represents a form of torture for its victims who remain ignorant of their fate. The chances of those who can offer them assistance are slim, as they are excluded from the protection of the law and hidden from society. This will result in many psychological effects arising from this form of stripping people of their basic attributes. Therefore, the grounds for suspending the execution of this appealed decision are present.

Accordingly

Based on the foregoing, the appellant requests the court to set the nearest hearing date and render the following judgment:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the negative decision of the respondent's refusal to disclose the place of detention of the appellant named who was arrested on [date], with all the consequences arising therefrom, and that the judgment be

executed with its draft and without notification.

Third: On the merits, to annul the negative decision of the respondent's refusal to disclose the place of detention of the appellant named who was arrested on [date], with all the consequences arising therefrom, and that the judgment be executed with its draft and without notification.

Appellant's Attorney

The Lawyer

Section Two: The right to inviolability of the home

Introduction

There is no dispute about the importance of personal freedom and the human right to security and tranquility, from which stems the right to the inviolability of the home and the protection of one's person and property. Homes have a special sanctity, and no party has the right to intrude upon them except according to the controls and conditions stipulated in the constitution and the law.

However, in most cases, the executive authority violates this right when raiding and searching homes without a legal warrant. The home is the repository of a person's secrets, and no individual is allowed to enter it without their permission. For a home to have legal protection, it is sufficient that it is in the possession of a person, whether it is actually inhabited or empty of residents. A home may also have some attachments, such as fenced gardens and warehouses, which are attached to it in their ruling and have the same protection prescribed for it.

I. Violation of the Sanctity of Homes and their Search in International Law, the Egyptian Constitution, and Egyptian Law:

1- Inviolability of Homes in International Law:

The Universal Declaration of Human Rights recognizes the right to housing and its inviolability. Article 12 of the Declaration states: " No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."³⁰

This right is also enshrined in the International Covenant on Civil and Political Rights, which dedicates a specific article to this principle. Article 17 states that: "No one shall be subjected to

³⁰ See the text of Article 12 of the Universal Declaration of Human Rights at the following link: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to any unlawful attacks on his honour or reputation. Everyone has the right to the protection of the law against such interference or attacks".³¹

2- The Inviolability of Homes in the Egyptian Constitution:

The Egyptian Constitution grants homes a special sanctity. They may not be entered or searched except by a judicial order. Article 58 of the Egyptian Constitution stipulates: "Privacy of homes is inviolable. Except for cases of danger or call for help, homes may not be entered, inspected, monitored or eavesdropped except by a reasoned judicial warrant specifying the place, the time and the purpose thereof. This is to be applied only in the cases and in the manner prescribed by Law. Upon entering or inspection, the residents of houses must be apprised and have access to the warrant issued in this regard".

Article 59 also stipulates that: "Everyone has the right to a safe life. The State shall provide security and reassurance for its citizens and all those residing in its territory".³²

3- Inviolability of Homes in Egyptian Law:

As for the Egyptian law, articles 91 and 92 of the Egypt Criminal Procedure Code No. 150 of 1950 stipulate that: "

Searching places of residence is deemed part of an investigation process and shall not be resorted to unless by virtue of a warrant issued by the investigating magistrate on the grounds of an accusation made against a person residing in the place of residence that needs to be searched for the commission of a crime or misdemeanor or for participating in the commission thereof or if presumptions are found proving that said person is in possession of items relevant to the crime. The investigating magistrate may search any place and may seize documents, arms and everything that might have been used in the commission of the crime, that may have resulted from the commission of the crime or on which the crime has been committed and everything

³¹ See the text of Article 17 of the International Covenant on Civil and Political Rights: [previous reference](#)

³² See the provisions of Articles 58 and 59 of the Egyptian Constitution/

that may be useful in the revelation of the truth. In all cases, the search warrant shall be justified”.

The search shall, whenever possible, be conducted in the presence of the suspect or any person acting on behalf thereof. If the search is conducted in a place of residence other than the place of residence of the suspect, the relevant owner or any person acting on behalf thereof shall, whenever possible, be called upon to be present.³³

II. Conditions Required for the Validity of Home Searches by Law Enforcement Officers According to the Constitution and Law

- 1- Searching residences is an act of investigation, not a procedure of preliminary inquiry. A search cannot be used as a means to discover crimes and apprehend perpetrators. Its purpose is to gather evidence. A report of a crime alone is not sufficient to conduct a search.
- 2- Residences may only be searched in connection with felonies or misdemeanors
- 3- A valid search requires an existing accusation against a specific person residing in the home. It doesn't matter if the person is the principal perpetrator or an accomplice. There must be evidence or indications that justify the accusation against them.
- 4- The search warrant must be justified. The constitution and the law do not stipulate a specific degree of justification or a particular form that the search warrant must take.³⁴

III. Legal procedures to be followed in the event that police officers break into your home:

In the event that police officers force their way into your home, you must first ask for their identification and demand to see a search warrant. If the police officers refuse to disclose their identities or present a search warrant, it is recommended that immediately after the police leave, you file a telegram reporting the incident to the Public Prosecutor and the Minister of Interior. This serves to establish your refusal to allow the police to search your home and violate its sanctity, and to provide details of the incident.

³³ See the text of Article 91, 92 of the Code of Criminal Procedure No. 150 of 1950 as last amended.

³⁴ Appeal No. 5769 of 60, session 11/03/1999, 50, p. 159, 37

This is crucial because the restrictions on home searches and the protections afforded by the constitution and the law are waived when entry is granted with the explicit, free, and unequivocal consent of the homeowner, given before entry, after they are fully aware of the circumstances and purpose of the search, and in the absence of any grounds that would grant the requesting party the authority to conduct it. It does not matter whether this consent is given in writing or if the court ascertains its existence from the facts and circumstances of the case.³⁵

1. Telegraph:

The family should call the number 124 or go to the central telegraph office and send a registered telegram with acknowledgement of receipt to the Minister of Interior and the Public Prosecutor. This is to document the incident of the home intrusion, your refusal of the search, the date, and the location of the incident.

Telegraph Form:

The Honorable Counselor/Public Prosecutor

The Honorable Major General/Minister of Interior

Greetings and respect,

Submitted to your Excellency by "[Name of the complainant]"

On the morning/evening of at on, police forces stormed my residence located at "[Address: Street.... - Floor.... Apartment... - District.... - Governorate....]". The security forces were in (official uniform/civilian clothes). When asked about their identities or the Public Prosecutor's warrant to search the residence, they refused to disclose their identities or the warrant. I was forced to allow them to enter and search the house. They assaulted me by "[Describe the assault: insulting, cursing, or beating]". "[If applicable: They arrested [Name of the arrested family member(s)] and confiscated [List of confiscated items: laptop, phone, or money]]".

³⁵ Refer to Criminal Appeal No. 4586 of the judicial year 67 issued at the session of February 3, 1999

I submit this report to your Excellency to document the incident and request that you take the necessary legal measures and investigate the matter.

With the utmost respect and appreciation,

Submitted to your Excellency

2- Submitting a report to the General Prosecutor:

It is recommended that after sending the telegram, you file a formal complaint about the incident for criminal investigation with the Public Prosecutor at the Public Prosecutor's Office in Al Rehab, or with the Attorney General (at the Primary Court in your district of residence).

Form of the report:

The Honorable Counselor/Public Prosecutor

The Honorable Counselor/Attorney General for the Public Prosecution Offices of

Greetings,

Submitted to your Excellency by: residing at and holding National ID number (Complainant)

Against:

Mr./..... (Respondent)

Subject

"(Describe the incident or subject)"

On the morning/evening of at on, police forces stormed my residence located at "[Address: Street.... - Floor.... Apartment... - District.... - Governorate....]". The security forces were in (official uniform/civilian clothes). When asked about their identities or the Public Prosecutor's warrant to search the residence, they refused to disclose their identities or the warrant. I was forced to allow them to enter and search the house. They assaulted me by "[Describe the assault: insulting, cursing, or beating]". "[If applicable: They arrested [Name of the arrested family member(s)] and confiscated [List of confiscated items: laptop, phone, or money]]".

Important note:

It is important in the complaint to write details such as the number of security forces that stormed the place, whether they were in civilian clothes or official uniform. Usually, there will be police officers from the police station in your area. If you recognize any of them, it is preferable to mention their names. If they seized any belongings, such as a phone or laptop, mention details like the brand. If you have purchase receipts, attach photocopies of them to the complaint. If they seized money, mention the amount, and so on. Note the exact time of the arrest. If there are cameras around your residence, it is preferable to request that the footage from the cameras around "[location of the incident]" at the time of the incident be extracted.

This is because the storming of the house by security forces violates the constitution, the law, and the international conventions signed by the Egyptian state, which are considered binding law according to the Egyptian Constitution approved in 2014.

Article 17 of the International Covenant on Civil and Political Rights states: " No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

Article 58 of the Egyptian Constitution stipulates that: "Privacy of homes is inviolable. Except for cases of danger or call for help, homes may not be entered, inspected, monitored or eavesdropped except by a reasoned judicial warrant specifying the place, the time and the purpose thereof. This is to be applied only in the cases and in the manner prescribed by Law. Upon entering or inspection, the residents of houses must be apprised and have access to the warrant issued in this regard."

Article 59 of the same constitution stipulates that: "Everyone has the right to a safe life. The State shall provide security and reassurance for its citizens and all those residing in its territory."

Article 91 of the Criminal Procedure Law No. 150 of 1950 stipulates that "Home searches are an act of investigation, and it is not permissible to resort to them except by order of the investigating judge, based on an accusation against a person residing in the house to be searched of committing a felony or a misdemeanor or his participation in committing it, or if there are clues indicating that he is in possession of things related to the crime."

Article 92 of the same law also stipulates that "the investigating judge may search any place and seize papers, weapons, everything that may have been used in the commission of the crime or resulted in it or occurred on it and everything that is useful in revealing the truth. In all cases, the search warrant must be reasoned."

"The search shall take place in the presence of the accused or his representative, if possible. If the search takes place in the house of a person other than the accused, its owner shall be invited to attend in person or by his representative, if possible."

Therefore

We appeal to your fairness to take the necessary legal measures to investigate the complaint, hear my testimony, and take legal action against the perpetrators. We kindly request that you inform us of the progress and results of the investigation and extract the footage from the cameras around (location of the incident).

Please accept our utmost respect and appreciation.

Submitted to your Excellency

- Or submit the report through the WhatsApp number to receive citizens' complaints and reports to the General Prosecutor, through the following number (01111755959).
- Or by submitting the complaint on the website of the Public Prosecution through the following link

[The website](#) of [the Public](#) Prosecution

Follow-up of the communication procedures:

After submitting the complaint, it will be registered with a Public Prosecutor's complaint number if submitted to the Public Prosecutor's Office in Al Rehab. You should record the complaint number and date. It will then be sent to the competent prosecution office to investigate the complaint. You should follow up on the outgoing number until the complaint is sent to the district prosecution office and registered with an incoming number. Obtain the case number and follow up on it at the prosecution office. If the complaint is dismissed without

investigation, it is recommended that you appeal the dismissal decision issued by the district prosecution office to the competent high prosecution office. For example, "if the case is registered with the Old Cairo District Prosecution Office, the appeal is submitted to the General Prosecutor for the South Cairo Primary Public Prosecution Offices."

Grievance Form:

The Honorable Counselor/Attorney General for the Cairo Public Prosecution Offices

Greetings,

Submitted to your Excellency by: (Appellant)

Against:

Mr./ (Respondent(s))

Subject

Appeal against the dismissal of complaint No. [complaint number] of [year] Petitions of the Public Prosecutor, registered under No. [case number] of [year] Misdemeanors/Administrative, with a dismissal decision issued on [date].

On [date], the appellant submitted a complaint to the Public Prosecutor, registered under No. [complaint number] of [year] Petitions of the Public Prosecutor, due to suffering caused by police forces who, on the morning/evening of at on, stormed my residence located at "[Address: Street.... - Floor.... Apartment... - District.... - Governorate....]". The security forces were in (official uniform/civilian clothes). When asked about their identities or the Public Prosecutor's warrant to search the residence, they refused to disclose their identities or the warrant. I was forced to allow them to enter and search the house. They assaulted me by "[Describe the assault: insulting, cursing, or beating]". "[If applicable: They arrested [Name of the arrested family member(s)] and confiscated [List of confiscated items: laptop, phone, or money]]".

Therefore, we request the following:

Taking all legal measures and investigating the aforementioned incidents and investigating Mr./ [.....] for his involvement, along with others, in storming my home and [describe other

actions]. The complaint was sent to the [District] District Prosecution Office for investigation. However, the appellant was surprised by the [District] District Prosecution Office registering the complaint under No. [case number] of [year] Administrative [District] and dismissing the case on [date] without conducting an investigation and without notifying the appellant, which caused significant harm to the appellant. The aforementioned incidents are proven against the respondent(s) through "[Evidence: e.g., surveillance camera footage on the day of the incident]".

Therefore

We request that your Excellency cancel the dismissal decision issued for complaint No. [complaint number] of [year] Petitions of the Public Prosecutor, registered under No. [case number] of [year] Misdemeanors/Administrative, with a dismissal decision issued on [date].

We request that the case be reopened and investigated criminally to prove the aforementioned incidents and that Mr./ [Respondent's name] be investigated for storming my home without a warrant from the Public Prosecutor or my consent, forcing me to allow a search of my home, assaulting me by "[Describe the assault]", and confiscating "[List confiscated items]".

Thank you very much, your Excellency.

Submitted to your Excellency

Section Three: Right to physical integrity and freedom from torture

Introduction

The right to physical integrity and freedom from torture is an inherent right of every human being without discrimination, and this right has been guaranteed by international treaties and covenants to protect persons from being subjected to torture.

Torture is considered one of the most heinous violations of human rights, and an explicit assault on the physical and psychological integrity of the victim, and it has physical and health effects that amount to death, permanent disabilities, or pain and physical suffering of the victims. These crimes must be investigated impartially and impartially, the perpetrators must be brought to a fair trial and citizens must be provided with protection in the face of these crimes³⁶. This section tries to clarify the legal procedures to be taken in the event that a person is subjected to torture.

I. Definition of Torture:

According to Article 1 of the Convention against Torture, torture means "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity and does not include pain or suffering arising solely from, inherent in or incidental to lawful sanctions".³⁷

³⁶ A report issued by the Egyptian Commission for Rights and Freedoms entitled "The Continuation of the Nightmare of Torture in Egypt: Legal Obstacles to Redress for Victims of Torture." The last visit, May 16, 2021, is available at the following link: <https://www.ec-rf.net/wp-content/uploads/2019/08/fin.pdf>

³⁷ Article I of the Torture Convention via the following link: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

II. Torture in International Covenants and Covenants and in the Egyptian Constitution and Law

A. Torture in International Covenants and Laws:

1. The Convention against Torture, which prohibits torture and all forms of cruel, inhuman, or degrading treatment, places responsibility on states to take measures to prevent the crime of torture, in accordance with its Article 2.³⁸
2. Article 7 of the International Covenant on Civil and Political Rights states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."
3. The African Charter on Human and Peoples' Rights, article 5 which states that: "Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."³⁹

B. Torture in the Egyptian Constitution and Law:

Article 52 of the Egyptian Constitution stipulates that "Torture in all forms and types is a crime that is not subject to prescription"⁴⁰

In addition to the text of Article 55 of the Egyptian Constitution, which stipulates: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner

³⁸ Previous reference.

³⁹ The text of Article V of the African Charter on Human and Peoples' Rights is available at the following link: <https://treaties.un.org/doc/Publication/UNTS/Volume%201520/volume-1520-I-26363-English.pdf>

⁴⁰ Article 52 of the Egyptian Constitution

that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."⁴¹

As for the Penal Code, Article 126 of the Penal Code stipulates that: "Any public official or employee who orders the torture of an accused person or does so himself to force him to confess shall be punished by rigorous correction and rehabilitation centers or correction and rehabilitation centers from three to ten years. If the victim dies, he shall be sentenced to the penalty prescribed for intentional killing."⁴²

As well as the text of Article 129 of the Penal Code, "Every public official or employee and every person entrusted with a public service who uses cruelty to people based on his job so that he violates their honor or causes pain to their bodies shall be punished by imprisonment for a period not exceeding one year or a fine not exceeding two hundred Egyptian pounds."⁴³

Article 280 of the Penal Code stipulates that: "Whoever arrests, imprisons or detains a person without an order from one of the competent judges/rulling governors, and in cases other than those in which laws and regulations authorize the arrest of suspects, shall be punished by imprisonment or a fine not exceeding two hundred Egyptian pounds."⁴⁴

III. Legal procedures to be followed in case of torture

- A. The occurrence of torture during the stage of arrest or during the period before the prosecution or during the period of enforced disappearance:

⁴¹ Article 55 of the Egyptian Constitution

⁴² Article 126 of the Penal Code 58 of 1937 as last amended

⁴³ Article 129 of the Penal Code 58 of 1937as last amended

⁴⁴ Article 280 of the Penal Code 58 of 1937as last amended

Detainees are often subjected to torture, ranging from mistreatment to other forms of abuse. Those arrested in cases of a political nature are also often subjected to enforced disappearance and torture by police officers at their detention centers. In these situations, the victim should take the following steps:

When brought before the Public Prosecution, refuse to begin the investigation or even engage in discussion without the presence of your lawyer. "This is because in the majority of investigations in cases of a political nature, particularly in the State Security Prosecution, the initial interrogation and investigation take place without the presence of a lawyer."

Describe the events you were subjected to, the tools used to assault you, and the location of the injuries. You should also mention the time and place of the incident. If you recognize the person who assaulted you, you should mention them in the investigations with the prosecution. It is sufficient, for example, to mention their first name and rank. If you do not know the name or identity of the assailant, you can accuse the officer in charge of the police station where the assault took place or the head of investigations. If there were any witnesses to the incident, you should mention them so their statements can be heard during the investigation. Request to be examined by a forensic medical examiner to document any injuries sustained and the duration of medical treatment required."

File a complaint with the Public Prosecutor or Attorney General, through detailing the incident you experienced and request an investigation and a forensic medical examination to document the injuries. This is because in most cases, the Public Prosecution refuses to refer detainees to the Forensic Medical Authority to examine the effects of torture on their bodies. In some cases, the Public Prosecution delays the referral to the Forensic Medical Authority until the effects of torture have disappeared.

Furthermore, the current legal procedures stipulated in Egyptian law do not effectively ensure that torture victims and their families obtain justice, nor do investigative authorities hold perpetrators of torture accountable. Article 232 of the Code of Criminal Procedure prevents a torture victim from filing a direct lawsuit before the court against security personnel who perpetrated the crime of torture if the accusation against them is related to crimes committed during or as a result of their work. Therefore, torture victims – or their families in the case of

death – are unable to file a lawsuit against law enforcement officers, in clear disregard of Article 99 of the Constitution. The law only authorizes the Public Prosecution to make the final decision to refer a case against a public employee or law enforcement officer to trial. In most cases of torture reported to the prosecution, the perpetrators are usually sent to disciplinary boards within the Ministry of Interior, dismissed, or the cases are closed.

B. Exposure to torture or ill-treatment inside the detention facility

If you experience torture or poor detention conditions at a detention center, police station, or correction and rehabilitation center, such as being prevented from exercising or enduring overcrowding, you must file a formal complaint. It's essential to first determine whether the incident qualifies as torture or falls under the category of poor detention conditions.

To do this, provide a detailed account of the events. Describe the actions taken against you, any tools used to inflict harm, and the specific location of any injuries. Include the date and time of the incident, as well as where it happened. If you can, identify the person who abused you by name and rank. If you don't know their identity, you can accuse the officer in charge of the station or the head of investigations. If there were any witnesses, be sure to name them in your complaint so their accounts can be considered.

Request a forensic medical examination to document your injuries and the required recovery time. This complaint should be filed with the district prosecution office responsible for your place of detention. For example, if you are detained in Tora Prison, the relevant authority would be the Maadi District Prosecution Office. You can also submit the complaint to the General Prosecutor at the High Prosecution Office, such as the South Cairo Prosecution Office, or to the Public Prosecutor directly. As mentioned earlier, complaints can be filed online or by calling the dedicated numbers provided by the Public Prosecution.

Form of the Report

The Honorable Mr./ Head of the [Name of] Prosecution Office

Greetings,

Submitted to your Excellency by: [Your Name], in my capacity as [Your Capacity/Position], and currently detained at [Place of Detention].

Subject

On [date] at approximately [time], at [location: prison/police station], the following incident occurred: [Rank] at [prison/police station name] assaulted [your name], who is in pretrial detention in case No. [case number] of [year]. He assaulted me by [describe the assault, e.g., "striking me with a wooden stick, causing injuries and blood clots on my back and leg"].

These actions constitute a blatant violation of the law, the constitution, and international conventions that condemn violations of citizens' personal freedoms.

Article 55 of the Constitution states: "(Rehabilitation and Reform Centers are places of reform and rehabilitation, and anything that endangers the health of the prisoner is prohibited. It is not permissible to torture, intimidate, or harm prisoners, and they must be detained in places that are decent in terms of human and health conditions)."

Article 10 of the International Covenant on Civil and Political Rights, which is binding on Egypt as it was ratified in January 1982, emphasizes treatment that preserves the human dignity of prisoners and that prisoners should be treated in a way that aims primarily at reform and rehabilitation.

The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment also addresses this issue.

Article 126 of the Penal Code states: "Any public official or employee who orders the torture of an accused person or does so himself to force a confession shall be punished by imprisonment for a period of three to ten years. If the victim dies, the penalty prescribed for premeditated murder shall be imposed.

Therefore

Based on the aforementioned facts, we request the following:

First: Take all legal measures and investigate the aforementioned incidents and investigate Mr./ [Name and rank of the alleged perpetrator] regarding the accusations against him. If the identity of the assailant is unknown, the accusation can be directed at Mr./ Warden of [Prison Name] and Mr./ Head of Investigations of [Prison Name].

Second: Issue an order to transfer the victim, [Your Name], to the Forensic Medical Authority to document the injuries.

With much thanks and appreciation to your Excellency.

Some legal articles that can be added to the report form depending on the incident.

Code of Criminal Procedure:

Article 4: In the event there is more than one victim, a complaint made by one of said shall suffice. In the event there is more than one person accused and a complaint is made against one of said, the complaint shall be deemed made against all.

Article 25: Any person who has learnt of the commission of a crime for which the Public Prosecution can file a lawsuit without need to receive a complaint or request may inform the Public Prosecution or a judicial officer thereof.⁴⁵

Penal Code:

Article 126: Every public official/civil servant or public employee who orders the torture of a suspect or does torture personally, in order to force him/her to confess, shall be punished by hard labor, or imprisonment for a period of three to ten years.

If the tortured victim dies, the penalty as prescribed for deliberate murder shall be inflicted.

⁴⁵ Criminal Procedure Law No. 150 of 1950 Legal Publications Website Last visited 18 May 2021 Available at <https://cyrilla.org/en/entity/z73ypmn2ph80sx44fcyjh5mi?page=8>

Article 127 (1)

Imprisonment shall be the penalty inflicted on any public official/civil servant or any person assigned a public service who orders to punish the victim or personally punishes him/her with a severer penalty than the one legally ruled, or with a penalty not originally ruled against.

Article 128: Detention or paying a fine not exceeding two hundred pounds shall be the penalty inflicted on any public official/civil servant or public employee, or any person charged with performing a public service who enters the house of any individual without his/her consent depending on his position, with the exception of the cases set forth in the law, or without observing the rules prescribed therefor.

Article 129: Any public official or employee/civil servant or any person charged with performing a public service who employs cruelty with people, depending on his position, such as that he/she commits a breach of their honor, or incurs bodily pains to them, shall be punished with detention for a period not exceeding one two hundred pounds.

Article 130: Any public official or employee/civil servant or any person charged with performing a public service who, based on the sway of his position, buys a property, whether a realty or movable, by coercion, from its owner, lays hold thereof, or compels the landlord to sell it to another person, shall be penalized according to the degree of his guilt, with detention for a period not exceeding two years, and removal from office besides restituting the object usurped, or its value if it is not in kind.

Article 131: Any public official or employee/civil servant who forces on the people a work in cases other than those allowed by law, or employs a persons to perform work other than that they are grouped for by virtue of the removal from office, besides passing, a ruling thereon to pay the value of the wages due to those he/she employed without due right.

Article 132: Any public official or employee/civil servant, or public employee who , in case he sojourns with a person whose lodging exists on the road to his mission, encroaches on him/her, by taking food or fodder therefrom, coercively or at no price, or at an underrate, shall be sentenced to detention for a period not exceeding three months or paying a fine not exceeding two hundred pounds, in addition to his/her removal from office in both cases, and passing a ruling thereon to refund the price of the objects taken therefrom, to its beneficiaries.

Article 230: Capital punishment shall be the penalty inflicted on whoever premeditatedly murders another person.

Article 145: Anyone who learns of the occurrence of a felony or misdemeanor, or has reason to believe that it has occurred, and assists the perpetrator in any way to flee from the face of the judiciary, either by harboring the aforementioned perpetrator, or by concealing evidence of the crime, or by providing information related to the crime while he knows that it is not true, or has reason to believe that it is, shall be punished in accordance with the following provisions:

If the crime committed is punishable by hard labor or correction and rehabilitation centers, the punishment shall be imprisonment for a period not exceeding one year.

In other cases, the penalty shall be imprisonment for a period not exceeding six (2) months. In any case, the penalty may not exceed the maximum prescribed for the crime itself.)

Article 268: (Anyone who defiles a person by force or threat or attempts to do so shall be punished by hard labor from three to seven years.

If the age of the perpetrator of the aforementioned crime is under sixteen years of age or if the perpetrator is one of those stipulated in the second paragraph of article 267, the period of penalty may be communicated to the maximum extent prescribed by the intensive correction and rehabilitation centers. If these two conditions meet together, he shall be sentenced to life correction and rehabilitation centers.)

Article 269 (Anyone who indecently assaults a boy or girl under the age of eighteen years without force or threat shall be punished by imprisonment, and if he is under the age of seven years or if the crime was committed by a person stipulated in the second paragraph of Article 267, the punishment shall be the Correction and Aggravated Rehabilitation Centers.)⁴⁶

⁴⁶ Penal Code Legal Publications Website Last Visited 18 May 2021 Available at: <https://manshurat.org/node/14677>

Chapter Two: Treatment of Inmates and Detainees

Section One: The right of prisoners to be placed in prisons close to their place of habitual residence

Introduction

The detainee has the right to be placed in a rehabilitation and correction center close to their usual place of residence. This is due to the hardship and difficulty faced by their family and relatives in traveling long distances to visit them. Furthermore, it is often the case that some family members and relatives are elderly, which makes it difficult for them to travel. Additionally, they bear financial costs that exceed the ability of most of them to travel from their place of residence to the rehabilitation and correction center where the detainee is located. This right also falls within the framework of achieving all aspects of care for inmates of correction and rehabilitation centers. It entails considering the human and social dimensions, in line with the modern approach to punitive philosophy. This philosophy emphasizes care for all inmates and their families, directly addressing the problems they face. It also reaffirms the importance of respecting human rights and solving the problems of inmates and their families.

I. Placement of Detainees under the Law on the Organization of Correction and Community Rehabilitation Centers

The Law on the Organization of Correction and Community Rehabilitation Centers has given the discretionary authority to the administration to place any person who is detained, arrested, or has their freedom deprived in any way into one of the rehabilitation and reform centers specified in the law, or into one of the places designated by a decision from the Minister of Interior. There is no oversight of the administrative authority in this matter as long as its decision is valid and based on legal justification. The Egyptian legislator completely overlooked considering the proximity or distance of the place of detention from the detainee's place of residence. This is according to Article 1 bis of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers, which states:

"Every person who is detained, arrested, or has their freedom deprived in any way shall be placed in one of the reform and centers rehabilitation specified in the preceding article, or in one of the places designated by a decision from the Minister of Interior, and all the provisions contained in this law shall apply to them, provided that the right of entry therein stipulated in Article 85 shall be for the Public Prosecutor or his representatives from among the members of the Public Prosecution with a rank of at least Chief Prosecutor."⁴⁷

II. The right of inmates to be placed in reform and rehabilitation centers near their place of residence under international charters and covenants

International covenants and agreements have recognized the right of a detainee to be held in proximity to their place of residence. This is affirmed in Principle 20 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which states that "If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence."⁴⁸

According to Rule 59 of the Standard Minimum Rules for the Treatment of prisoners, "Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation."⁴⁹

III. Request Form for Transfer of a Detainee to a Prison Near Their Place of Residence

The Honorable Mr./ Head of the Community Protection Sector

⁴⁷ See the text of Article 1 bis of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers

⁴⁸ Principle No. 20 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment , available on the UN Human Rights website, last visited 31 May 2021, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention>

⁴⁹ Rule 59 of the Standard Minimum Rules for the Treatment of Inmates , available on the UN website, [op. cit.](#)

The Honorable Mr./ President of the Court of Appeal for Detainee Affairs

Greetings and Respect,

Submitted to your Excellency by: [Your Name], in my capacity as "[Your relationship to the detainee, e.g., father, brother, lawyer]" on behalf of [Detainee's Name], who is detained at [Place of Detention] and sentenced in case No. [Case number] of [Year], or held in pretrial detention in case No. [Case number].

Subject

On [date], [Detainee's name] was arrested and charged in case No. [Case number] of [year]. He was subsequently placed in the [Name] Rehabilitation and Reform Center.

However, the documents accompanying this request clearly indicate that his place of residence is in [Governorate name], [Area name]. This placement creates a significant hardship for his family, who must travel from [Family's location] to [Detention center location] to visit him. The journey takes over [Number] hours round trip, making it a difficult and costly undertaking for them to maintain contact. This burden is compounded by the fact that his parents are elderly, which further limits their physical and financial capacity to make the journey.

This request is made in accordance with the principle of providing comprehensive care for detainees, considering both the human and social impact of their placement. It aligns with the modern approach to punitive philosophy, which emphasizes care for all detainees and their families and seeks to address their problems directly. It also underscores the commitment to upholding human rights and finding solutions to the challenges faced by detainees and their loved ones.

Article 55 of the Egyptian Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or

threat thereof, shall be disregarded and not be relied upon. "

Article 56 of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited....."

Whereas the Egyptian Constitution has recognized international conventions and placed them on the level of national legislation. It also stipulates that the State shall abide by all international conventions it signs. Article 93 of the Constitution stipulates that: "The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."

Since international charters and covenants clearly protect the human rights of inmates, it is stated in the first paragraph of the text of Article 7 of the International Covenant on Civil and Political Rights that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

International charters and covenants also recognized the right of inmates to be placed in correctional and rehabilitation centers close to their place of residence, in accordance with Principle No. 20 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Correction and Rehabilitation Centers, "A detainee or inmate shall be placed in a place of detention or imprisonment reasonably close to his habitual residence, if he so requests and it is possible to do so."

According to Rule 59 of the Standard Minimum Rules for the Treatment of Prisoners, "Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation."

Therefore

In light of the aforementioned facts and circumstances, and appealing to your sense of justice, we respectfully request that you issue the following order:

To take the necessary measures to issue a decision approving the transfer of [Detainee's name], who was convicted in case No. "[Case number]" of [Year] (criminal/misdemeanor) at the [Division/Center name] section/center, from his current detention center to a rehabilitation and correction center near his place of residence located at "[Address]".

With utmost appreciation and respect to your Excellency,

Submitted to your Excellency

In the event that the request submitted to transfer the detainee is rejected or if the administration fails to respond, an appeal can be filed before the Administrative Court.

Appeal Petition Before the Administrative Court in Case of Rejection of Request:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

Mr./ Head of the Community Protection Sector, in his official capacity.

Mr./ Minister of Interior, in his official capacity.

Mr./ Public Prosecutor, in his official capacity.

Subject

On [date], the appellant was arrested and charged in case No. [Case number] of [year]. He was subsequently placed in a reform and center rehabilitation, despite the fact that the documents attached to the document folders clearly indicate that his place of residence is in [Governorate name], [Area name]. This placement creates a significant hardship for his family, who must travel from [Family's location] to [Detention center location] to visit him. The journey takes over [Number] hours round trip, making it a difficult and costly undertaking for them to maintain contact. This burden is compounded by the fact that his parents are elderly, which further limits their physical and financial capacity to make the journey.

This appeal is made in accordance with the principle of providing comprehensive care for detainees, considering both the human and social impact of their placement. It aligns with the modern approach to punitive philosophy, which emphasizes care for all detainees and their families and seeks to address their problems directly. It also underscores the commitment to upholding human rights and finding solutions to the challenges faced by detainees and their loved ones.

Article 55 of the Egyptian Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon. "

According to rule No. 59 of the Standard Minimum Rules for the Treatment of Prisoners, which stipulates that "Prisoners shall be distributed, as far as possible, to prisons close to their homes or places of social rehabilitation. "

The appellant's [State relationship to the appellant, e.g., father, brother] submitted a request to the first respondent, in his official capacity, to transfer the appellant from [Name] Rehabilitation and Correction center to a rehabilitation and correction center closer to his place of residence.

However, on [date], the first respondent, in his official capacity, rejected the request [or: failed to respond to the request]. This action violates the provisions of the constitution and international conventions and agreements, prompting the appellant to file this lawsuit seeking the annulment of the implicit decision resulting from the failure to transfer him.

First Reason: Existence of an Administrative Decision through the Respondents' Failure to Transfer the Appellant to a Rehabilitation and Correction Center Near His Place of Residence:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the 11th Year, p. 435, Case No. 1042 of 9

Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yous Ekasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled that "the final administrative decision that falls within the jurisdiction of the courts of the Council of State is the decision that completes the elements of the administrative decision in the sense established by the rulings of the Supreme Administrative Court, which issues a disclosure by the administration in the form specified by law of its will binding on its public authority under laws and regulations, with the intention of creating a legal status whenever possible and legally permissible. aiming to achieve the public interest. Hence, the pillars of the administrative decision are to have a place, which is the legal status that the will of the issuer of the decision tends to create the legal effect that results from it, directly and immediately, and this is the establishment of a new legal situation or an amendment to an existing legal status or its cancellation."

(Appeal No. 4358 of 37BC – session of 3/5/1992)

Whereas, according to Article 55 of the Egyptian Constitution, "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

According to rule No. 59 of the Standard Minimum Rules for the Treatment of Inmates, which stipulates that "Inmates shall be distributed, as far as possible, to prisons close to their homes or places of social rehabilitation."

Despite the fact that the appellant's [State relationship to the appellant, e.g., father, brother] submitted a request to the first respondent, in his official capacity, registered under No. [Request number] on [date], to transfer the appellant from [Name] Reform and Rehabilitation Center to a rehabilitation and correction center closer to his place of residence, the second respondent refused to transfer the appellant [or: failed to respond to the request]. This action violates the provisions of the Egyptian Constitution and international conventions and agreements, confirming the existence of a decision that is subject to appeal. Therefore, this appeal is admissible in form due to the existence of an appealable administrative decision.

The second reason: Violation of the appealed decision by the law and the obligations of the Arab Republic of Egypt guaranteed by the Egyptian Constitution:

Whereas the Egyptian Constitution has recognized international conventions and placed them on the level of national legislation. It also stipulates that the State shall abide by all international conventions it signs. Article 93 of the Constitution stipulates that: " The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Since international charters and covenants clearly protect the human rights of inmates, it is stated in the first paragraph of the text of Article 7 of the International Covenant on Civil and Political Rights that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

International charters and covenants also recognized the right of inmates to be placed in correctional and rehabilitation centers close to their place of residence, in accordance with Principle No. 20 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Correction and Rehabilitation Centers, “A detainee or inmate shall be placed in a place of detention or imprisonment reasonably close to his habitual residence, if he so requests and it is possible to do so.”

According to Rule 59 of the Standard Minimum Rules for the Treatment of Prisoners, “Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation.”

According to the international charters and covenants, which recognized the right of the inmate to be placed in a prison near his place of residence, and to be brought to the facts of the present case, it is clear that the refusal of the appellant against them in their capacity to transfer the appellant to one of the reform and rehabilitation centers near his place of residence is contrary to the provisions of international charters and covenants, which requires its cancellation.

The third reason: The invalidity of the contested decision for violating the Constitution:

Whereas the Constitution is the supreme law that establishes the rules and principles on which the government is based, determines the public authorities, draws their functions, sets the limits and restrictions governing their activity, determines public freedoms and rights, and arranges the basic guarantees for their protection, and therefore the Constitution is characterized by a special nature that gives it the status of sovereignty and supremacy as the guarantor of freedoms and their habitats, the pillar of constitutional life and the foundations of its system, and the right of its rules to be at the top of the legal structure of the state and take the lead among the rules of public order as the highest jus cogens rules that the state must abide by in its legislation and in its judiciary in its executive powers, without any distinction or discrimination – in the field of adherence to them – between the legislative, executive and judicial authorities.

In terms of benefiting from the foregoing provisions, the Constitution imposed a duty on the State with all its powers to provide everyone with easy access to its courts, which takes into account the guarantees of justice, which is achieved in a tangible reality only by removing the obstacles that prevent the individual from hearing his case and obtaining his goal of judicial

litigation, within the framework of the principle of equality between citizens in rights and duties. The Constitutional Court confirmed this by ruling - that all Egyptian constitutions, starting from the 1923 Constitution until the existing Constitution, have repeated the principle of equality before the law, and ensured its application to all citizens as the basis of justice, freedom and social peace, and that the purpose it originally aims at preserving the rights and freedoms of citizens, in the face of forms of discrimination that affect them or restrict their exercise. In essence, this principle became a means of determining equal legal protection, the scope of which is not limited to the rights and freedoms stipulated in the Constitution, but also extends its scope of application to those guaranteed by the legislator to citizens within the limits of his discretion and in the light of what he deems in the public interest.

(Case No. 39of 15BC - Constitutional - Session of 4/2/1995.)

The respondents' refusal to transfer the appellant to a rehabilitation and correction center near his place of residence constitutes a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein.

Detaining the appellant in [Place of detention] while his place of residence is [Place of residence] creates a significant hardship for his family. They must travel from [Family's location] to [Detention center location] to visit him, a journey that takes over [Number] hours round trip. This is a difficult and costly undertaking, especially given that his parents are elderly, which further limits their physical and financial capacity to make the trip.

This situation contradicts the principle of providing comprehensive care for detainees, taking into account the human and social dimensions of their placement. It goes against the modern approach to punitive philosophy, which emphasizes care for all detainees and their families and seeks to address their problems directly. It also undermines the commitment to upholding human rights and finding solutions to the challenges faced by detainees and their families.

Article 55 of the Egyptian Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating

any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon. "

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release..

The respondents refused to transfer the appellant to a rehabilitation and correction center near his place of residence. Despite a formal request submitted to the first respondent, in his official capacity, the request was rejected [or: no response was received]. This refusal violates the provisions of the Egyptian Constitution.

Therefore, the respondents' actions are in direct contravention of the Constitution, rendering the contested decision invalid and warranting its annulment.

The fourth reason: Nullity of the decision for lack of reason and lack of legitimacy: -

The Supreme Administrative Court ruled that "the reason for the administrative decision is a factual or legal situation that leads the administration to intervene with the intention of creating a legal effect that is the subject of the decision in order to achieve the public interest, which is the goal of the decision."

(Supreme Administrative Court – Appeal 277 of 33 S on 27/2/1993 – Modern Administrative Encyclopedia – 1985/1993 – C 35 - Rule 342 – p. 997)

It also ruled (the decision must be based on reasons that justify it honestly and truly in fact and in the law as one of the elements of its convening as a legal act, and no legal act is carried out without its reason)

Appeal 3471 for the year 32 S on 29/12/1990 Modern Administrative Encyclopedia – 1985/1993 – Rule 341 – p. 995)

According to the rulings of the Supreme Administrative Court, it is not sufficient for the reason to exist only, but it is required to be consistent with constitutional principles, and that the

control of the reasons for the decision requires the administrative judge to examine the evidence and objective motives that led the authority to issue its negative or positive decision.

Whereas the Appellee has so far not provided reasons or justifications for their complete refusal to transfer the Appellant to one of the reform and rehabilitation centers near his place of residence, and therefore the contested decision is absent for its reason, which requires its cancellation .

The fifth reason: In the request for a stay of execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision.

All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court in Appeal No. 221of 32 session 26/1/1985)

Applying this, we find that all these conditions are met, as it is about the corner of urgency, the implementation of the contested decision, their complete refusal to transfer the appellant to one of the reform and rehabilitation centers near his place of residence, and the reasons for the appeal suggest the issuance of a ruling to cancel this decision, so the reasons for suspending the execution are available in this appeal.

Accordingly

The appellant seeks to determine the nearest hearing and judgment

First: - By accepting the appeal in form.

Second: -As a matter of urgency,

to suspend the execution of the contested decision, which entails the refusal to transfer the Appellant from [Name of Rehabilitation and Reform Center] to a rehabilitation and correction center near his place of residence. This suspension should include all consequential effects, most importantly the transfer of the Appellant from any distant rehabilitation and correction center to one near his place of residence. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the decision refusing to transfer the Appellant from [Name of Rehabilitation and Reform Center] to a rehabilitation and correction center near his place of residence. This annulment should include all consequential effects, most importantly the transfer of the Appellant from any distant rehabilitation and correction center to one near his place of residence. The ruling should be executed on its draft and without announcement.

The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Section Two: The right of detained persons to be free from violence and discrimination because of their sexual orientation or gender identity

Introduction

Many people experience violence and discrimination because of their sexual orientation or gender identity. In many cases, the mere sensing of homosexuality or gender identity puts people at risk. In international human rights law, bisexual and transgender people are entitled to protection, guided by Article 1 of the Universal Declaration of Human Rights, which states that “all human beings are born free and equal in dignity and rights”. Including those related to the right to life, security and privacy of the person, the right not to be subjected to torture, arbitrary arrest and detention, the right not to be subjected to discrimination, and the right to freedom of expression, association and peaceful assembly.⁵⁰

Members of LGBTQI + minorities are often subjected to varying forms of torture and other ill-treatment. Especially in detention facilities, they are often placed with other inmates, which there is a strict hierarchy, and they are at the bottom of the pyramid, such as gay, lesbian, bisexual and transgender people. They suffer from double or triple discrimination. This exposes them to harm by the police and prison guards or places them in solitary confinement and prevents them from exercising.⁵¹

Furthermore, they are subjected to procedures that are "medically worthless." These procedures involve forcibly subjecting men suspected of homosexual conduct to anal examinations without

⁵⁰ See the text of Article 1 of the Universal Declaration of Human Rights, available at: <https://www.un.org/ar/universal-declar/>

⁵¹ A statement issued by the Egyptian Commission for Rights and Freedoms entitled "The Ministry of Interior must deposit the property of the detector in a detention facility dedicated to women and stop preventing the arrival of medicines, which poses a threat to their lives" published on March 22, 2019, last visit May 21, 2022, available at the following link: <https://www.ec-rf.net/%d8%b9%d9%84%d9%89-%d8%a7%d9%>

their consent, with the aim of "proving" their homosexuality. This practice has been deemed a form of torture and is considered to violate the prohibition against torture and ill-treatment..⁵²

Here the authorities must take reasonable measures to protect everyone from discrimination on the basis of sexual orientation and gender identity, and to prevent violence against detainees perceived to be homosexual. Such as the establishment of prisons and places of detention dedicated to transgender people in police stations. Being homosexual, bisexual, or transgender does not limit a person's right to enjoy the full range of human rights.⁵³

I. The right of detained persons not to be subjected to violence and discrimination because of their sexual orientation or gender identity in international law, the Constitution and the law

1- The right of detained persons not to be subjected to violence and discrimination because of their sexual orientation or gender identity in international law

Article 2 of the International Covenant on Civil and Political Rights states that “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁵⁴

As for Article 3 of the Universal Declaration of Human Rights, which states that " everyone has the right to life, liberty and security of person."⁵⁵

⁵² A statement issued by the Egyptian Commission for Rights and Freedoms entitled "The Egyptian Commission for Rights and Freedoms: The Egyptian authorities must stop forced anal examinations and immediately and unconditionally release Malak Al-Kashef", published on November 3, 2019, last visit May 21, 2022, available at the following link: <https://www.ec-rf.net/%d8%a7%d9%84%d9%85%d9%81%d9%88%d8%b6%d9%8a%d8>

⁵³ OHCHR 19th Session Annual Report “On Discriminatory Laws and Practices and Acts of Violence Against Individuals on the Basis of Their Sexual Orientation or Gender Identity”, available at: <https://www.ohchr.org/sites/default/files/Document>

⁵⁴ Article 2 of the International Covenant on Civil and Political Rights, [op. Cit.](#)

⁵⁵ Article 3 of the Universal Declaration of Human Rights, [op. Cit.](#)

Article 6 of the International Covenant on Civil and Political Rights affirms in its first paragraph that "the right to life is inherent in every human being. The law shall protect this right. No one shall be arbitrarily deprived of his life. "⁵⁶

The right not to be subjected to torture and other cruel, inhuman or degrading treatment is also absolute. Article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights affirmed that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"⁵⁷

As for the situation of detained persons, article 10 of the International Covenant on Civil and Political Rights states: "Persons deprived of their liberty shall be treated with humanity and with respect for their inherent dignity⁵⁸ ." The United Nations Human Rights Committee, in its General Comment No. 21, has interpreted that the humane treatment mentioned in the first paragraph of article 10 of the Covenant, is not limited to the general prohibition of torture and other inhuman treatment, but extends to not subjecting persons deprived of their liberty to any hardship or constraint other than that resulting from the deprivation of liberty. It shall also ensure respect for the dignity of such persons under the same conditions under which respect for the dignity of free persons is guaranteed.

As for the Standard Minimum Rules for the Treatment of Prisoners:

The first rule states: - "All prisoners shall be treated with due respect for their dignity and inherent value as human beings. No prisoner shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. All prisoners shall be protected from all this. No circumstances may be invoked as a justification. The safety and security of prisoners must be guaranteed..... "

⁵⁶ Article 6 of the International Covenant on Civil and Political Rights, [op. Cit.](#)

⁵⁷ Article 5 of the Universal Declaration of Human Rights, [op. cit.](#), and Article 7 of the International Covenant on Civil and Political Rights, [op. cit.](#)

⁵⁸ Article 10 of the International Covenant on Civil and Political Rights, [op. Cit.](#)

The second rule states: - 1- These rules shall be applied impartially and there shall be no discrimination in treatment on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, wealth, birth or any other status.....

2. With a view to the principle of non-discrimination in practice , prison administrations shall take into account the individual needs of prisoners , in particular the most vulnerable groups in prison settings. Measures shall be taken to protect and promote the rights of prisoners with special needs. Such measures shall not be considered but shall be discriminatory .

The third rule states: - "Imprisonment and other measures that require the isolation of persons from the outside world are painful measures, in that they deprive the individual of his right to self-determination by depriving him of his freedom. Therefore, the prison system should only within the limits of the justifications for isolation or maintaining discipline, exacerbate the suffering inherent in such a situation."

Finally, Rule XI states: - Different categories of prisoners shall be placed in different institutions or different parts of institutions taking into account their sex and age⁵⁹

2- The right of detained persons not to be subjected to violence and discrimination because of their sexual orientation or gender identity in the Egyptian Constitution

Article 55 of the Constitution states: - " Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels....."

Article 56 of the Egyptian Constitution also stipulates: "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."

⁵⁹ See Rules 1, 2, 3 , 11 of the United Nations Standard Minimum Rules for the Treatment of Prisoners,[op. cit.](#)

As for Article 59 of the Constitution, which states: - " Everyone has the right to a safe life. The State shall provide security and reassurance for its citizens and all those residing in its territory. "

Article 92 of the Constitution clarifies that " Inalienable rights and freedoms of citizens may not be suspended or reduced. No law regulating the exercise of rights and freedoms may restrict such rights and freedoms in a manner prejudicing the substance and the essence thereof. "60

3- The right of detained persons not to be subjected to violence and discrimination because of their sexual orientation or gender identity in Egyptian law

Egyptian law does not protect the rights of homosexuals, which is why we recommend that the legislative authorities issue legislative amendments to take reasonable measures to protect everyone from discrimination on the basis of sexual orientation and gender identity and to prevent violence against detainees who are perceived to be homosexual.

II. Legal procedures to be followed in the event of detention with other inmates

In the event that a person of the sensed homosexuality is exposed with other inmates inside the detention facilities, that incident must be proven, by filing a lawsuit before the Administrative Court, through the following steps:

1- Filling a Notice:

Form of Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

⁶⁰ See the provisions of Articles 55, 56, 59, 92 of the Egyptian Constitution

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Public Prosecutor, in his official capacity, at his workplace at the Public Prosecutor's Office in Al Rehab, addressed together with:

The Warden of the [Name] Rehabilitation and Reform Center, in his official capacity, at his workplace at the [Name] Rehabilitation and Correction center building.

And I hereby serve them notice of the following:

On [Date], [Detainee's name], [Your relationship to the detainee], was arrested by security forces in (official uniform/civilian clothes) and investigated in case No. [Case number] of [Year] (misdemeanor) at the [Police station name] police station. He/She was then detained inside [Place of detention] with other detainees. The Notifier's son/daughter is registered in official documents as "[Detainee's legal name]" and is transgender, suffers from gender identity disorder, and is undergoing advanced stages of gender reassignment surgery from male to female [or: female to male]. [If applicable: Medical reports are available and indicate [Summarize the content of the medical reports].] He/She has psychological medical reports issued by [Hospital name] hospital, which state [Summarize the results of the medical report].

"[If applicable: In the case of solitary confinement,] and since being detained inside [Place of detention], he/she has been held in solitary confinement and completely prohibited from exercising. This violates the laws and regulations governing such matters and puts his/her life at risk, contradicting the provisions of the Egyptian Constitution and international conventions and agreements."Article 55 of the Constitution stipulates: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels."

Article 56 of the Egyptian Constitution also stipulates: "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited.

The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

As for international covenants and covenants, Article 2 of the International Covenant on Civil and Political Rights states that "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Article 6 of the International Covenant on Civil and Political Rights affirms in its first paragraph that "the right to life is inherent in every human being. The law shall protect this right. No one shall be arbitrarily deprived of his life."

As for his/ her placement in solitary confinement and the prohibition of exercise, Article 10 of the International Covenant on Civil and Political Rights states that "persons deprived of their liberty shall be treated in a humane manner respectful of their inherent dignity."

In its General Comment No. 21, the United Nations Human Rights Committee has interpreted that the humane treatment mentioned in the first paragraph of Article 10 of the Covenant is not limited to the general prohibition of torture and other inhuman treatment, but extends to not subjecting persons deprived of their liberty to any hardship or constraint other than that resulting from the deprivation of liberty. It shall also ensure respect for the dignity of such persons under the same conditions under which respect for the dignity of free persons is guaranteed.

Therefore

the Notifier directs this notice to the Notified Parties, in their official capacities, for the following:

To hold the third Notified Party, in his official capacity, responsible for [Detainee's name]'s personal safety, and to stress the necessity of taking the necessary legal measures to provide designated areas within detention facilities for homosexual individuals, ensuring their protection from other detainees and law enforcement personnel. Alternatively, to establish dedicated

prisons and detention areas in police stations for transgender individuals and to transfer the Notifier's son/daughter there.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed to the third Notified Party, in his official capacity, the necessity of ensuring the personal safety of [Detainee's name].

I have also emphasized the necessity of:

1. Taking the necessary legal measures to provide designated areas within detention facilities for homosexual individuals, ensuring their protection from other detainees and law enforcement personnel.
2. Establishing dedicated rehabilitation and reform centers and detention areas in police stations specifically for transgender individuals, and transferring the Notifier's son/daughter there.

This must be done within ten days of receiving this notice. Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

- 1- If there is no response to the formal notice, it is advisable to file a lawsuit before the Administrative Court, attaching the following documents: A copy of the National ID card.
- 2- A certificate from the prosecution's records stating the legal status, case details, and the latest developments in the case.
- 3- The original formal notice.

If there are any medical reports regarding the case, they should be attached.

2- Form of the lawsuit:

Counselor/ President of the Administrative Court

Greetings

Submitted to your Excellency by: Mr./Ms. [Your Name], residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at Law, located at [Office address].Against

The Minister of Interior in his capacity as

Mr. General Prosecutor in his capacity as

Mr./ Commissioner of the Correction and Rehabilitation Center "" in his capacity as

We are honored to present the following

On [Date], security forces arrested [Detainee's name] and presented him/her to the [Name of Prosecutor's Office] Prosecutor's Office on [Date] for questioning in case No. [Case number] of [Year] (misdemeanor). He/She was then detained inside [Place of detention] with other detainees. The Appellant is registered in official documents as "[Detainee's legal name]" and is transgender, suffers from gender identity disorder, and is undergoing advanced stages of gender reassignment surgery from male to female [or: female to male]. [If applicable: Medical reports are available and indicate [Summarize the content of the medical reports].] He/She has psychological medical reports issued by [Hospital name] hospital, which state [Summarize the results of the medical report].

"[If applicable: In the case of solitary confinement,] and since being detained inside [Place of detention], he/she has been held in solitary confinement and completely prohibited from exercising. This violates the laws and regulations governing such matters and puts his/her life at risk, contradicting the provisions of the Egyptian Constitution and international conventions and agreements."

Given the legislative vacuum regarding the status of transgender individuals, particularly those who have not yet been able to change their legal documents, are still undergoing hormone therapy, or have not been able to undergo all the necessary surgical procedures, and who are in pretrial detention or have been convicted and sentenced, their placement in detention facilities poses a significant risk to their lives. They are subjected to prolonged solitary confinement and denied exercise and many other rights enshrined in international conventions, laws, and internal regulations.

Moreover, the first respondent, in his official capacity, has not issued any administrative decision to establish dedicated prisons and detention areas in police stations specifically for transgender individuals.

This prompted the Appellant to issue formal notice No. [Notice number], recorded in minutes [Minutes number], and served on [Date], holding the third respondent, in his official capacity, responsible for the personal safety of [Detainee's name]. The notice demanded the following:

1. Taking the necessary legal measures to provide designated areas within detention facilities for homosexual individuals, ensuring their protection from other detainees and law enforcement personnel.
2. Establishing dedicated rehabilitation and reform centers and detention areas in police stations specifically for transgender individuals, and transferring the Notifier's son/daughter there.

This demand was based on the reasons that will be explained later to this Honorable Court. Despite this, the first respondent, in his official capacity, has refrained from issuing an administrative decision to establish dedicated rehabilitation and reform centers and detention areas in police stations.

This inaction is unjust and violates the Constitution, the law, and the international conventions and treaties ratified by the Arab Republic of Egypt. Therefore, the Appellant challenges it for the following reasons.

Grounds for Appeal

First: The availability of the administrative decision with the abstention of the respondent in his

capacity, by issuing a decision to establish a reform and rehabilitation center and places of detention designated in police stations for transgender people: -

Whereas it is established in the jurisdiction of the Council of State that the administrative decision is:

(Disclosure by the administration of its binding will with its authority under laws and regulations with the intention of producing a certain legal effect)

(Judgement of the Administrative Court in Case No. 1 of 1S – 1947 session)

In a second definition:

Since the administrative decision is a legal act issued by the administration with its public authority that creates a new legal status or affects a previous legal status, Brigadier Leon Doge defined it as every administrative act issued with the intention of modifying the legal conditions as they exist at the time of its issuance or as they are at a certain future moment. Brigadier Bonar defined it as every administrative act that causes a change in the existing legal conditions.

(Counselor Hamdi Yassin Okasha – Administrative Decision in Majlis Al-Dawla District – 1987 – 170)

It is also well established that the administrative decision may be positive or negative.

The negative administrative decision is available in the event that the administration refuses or refuses to take action, which is the issuance of a decision that should have been issued legally.

Due to this situation, the Appellant served a formal notice on the respondent, in his official capacity, recorded under No. [Notice number] in minutes [Minutes number]. This notice aimed to hold the third respondent, in his official capacity, responsible for the personal safety of [Detainee's name]. It also demanded that the first respondent, in his official capacity, issue a decision to:

1. Take the necessary legal measures to provide designated areas within detention facilities for homosexual individuals, ensuring their protection from other detainees and law enforcement personnel.
2. Establish dedicated rehabilitation and reform centers and detention areas in police stations specifically for transgender individuals, and transfer the Appellant there.

Despite being served this notice, the first respondent, in his official capacity, ignored it and

refrained from issuing any such decision. This inaction has compelled the Appellant to file this lawsuit.

Second: The invalidity of the contested decision for violating the Constitution, and the defect of the underdevelopment of the corner of the cause, deviation and abuse of power: -

Whereas the Constitution is the supreme law that lays down the rules and principles on which the government is based, determines the public authorities, draws their functions, sets the limits and restrictions governing its activity, determines public freedoms and rights, and arranges the basic guarantees for their protection. Therefore, the Constitution is characterized by a special nature that gives it the status of sovereignty and supremacy as the guarantor of freedoms and their habitats, the pillar of constitutional life, the foundations of its system, and the right of its rules to be at the top of the legal structure of the state and take the lead among the rules of public order as the highest jus cogens rules that the state must abide by in its legislation and in its judiciary in the executive powers it exercises, without distinction or discrimination in the field of adherence to them between the legislative, executive and judicial authorities. Therefore, every public authority, whatever its function and the nature of the competencies assigned to it, is obliged to abide by the rules and principles of the Constitution and the commitment of its limits and restrictions. If it violates or exceeds them, its work is a violation of the Constitution.

Whereas Article 55 of the Constitution stipulates that: -

(Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability.....)

Article 56 of the Egyptian Constitution also stipulates: "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The

Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

Article 59 of the Constitution stipulates: (Everyone has the right to a safe life. The State shall provide security and reassurance for its citizens and all those residing in its territory.)

Also, Article 92 of the Constitution stipulates: "Inalienable rights and freedoms of citizens may not be suspended or reduced. No law regulating the exercise of rights and freedoms may restrict such rights and freedoms in a manner prejudicing the substance and the essence thereof."

From all this, it is clear to the esteemed body that the provisions of the Egyptian Constitution have recognized safe life as a constitutional right for every human being. It also recognized that anyone who is arrested must be treated in a manner that preserves his dignity and that the inherent rights and freedoms cannot be suspended in any way.

Therefore, the first addressee, in light of the legislative vacuum, was obliged not to talk about the situation of transgender persons in the event that any of them committed a crime that requires their pretrial detention or convictions against them, and in light of what happens to them inside places of detention and correction and rehabilitation centers, to place them in solitary confinement beyond the period stipulated in the Prisons Regulation Law and its executive regulations, for fear of harming them from other prisoners and the possibility of subjecting them to psychological or material harm, as well as strictly preventing them from exercising, and in order to ensure the application of these constitutional provisions as well as the legal provisions stipulated in the Law Regulating Community Correction and Rehabilitation Centers and its executive regulations, to issue a decision that would make that group of inmates safe from others and treat them at the same time as treatment that preserves their dignity and human rights and enables them to be imprisoned with their peers in a way that allows them to incite as well.

Law No. 396 of 1956, the law regulating community correction and rehabilitation centers, stipulated several articles that show and clarify to the esteemed body the extent of the violation of the addressees in their capacity as those articles and then its violation of the constitutional provisions.

The fifth paragraph of Article 43 on disciplining inmates stipulates that "solitary confinement for a

period not exceeding fifteen days.”

That is, solitary confinement in the case of disciplining inmates is fifteen days, while transgender persons held in prisons remain for much longer than that period, despite the fact that they have not committed any offenses that require discipline in prisons. Hence, it is clear to the esteemed body the distinction between transgender people and other prisoners, which is not based on any statutory, legal or constitutional text.

This leads to the disruption of these constitutional and legal provisions, but rather the implementation of those provisions or pretrial detention decisions in violation of the Law on the Organization of Correction and Community Rehabilitation Centers and its executive regulations.

In line with what the Ministry of Interior is doing as it is the body that implements the provisions and decisions and is keen to preserve that category of transgender people who have not yet been able to change the identity papers of other inmates who may be exposed to them and cause them serious damage, and it was worthy of the addressee in his capacity as the first person entrusted with issuing decisions to establish community reform and rehabilitation centers to implement and activate the provisions of the Constitution and the law and issue such decisions that preserve the dignity of inmates of that category, especially since the first addressee in his capacity as he has issued several decisions in previous years to establish many community reform and rehabilitation centers, which confirms to the esteemed body that the first addressee in his capacity was able to allocate one of the community reform and rehabilitation centers or special places of detention for transgender people, as well as his ability to establish community reform and rehabilitation centers dedicated to transgender people in the future, which in turn, if achieved, would preserve the dignity of that category of people and their human rights.

Whereas the first addressee, in his capacity as he has refrained from issuing a decision, has violated the Constitution, which renders the contested decision null and void, necessitating its annulment.

Third: Violation of International Conventions and Agreements by the Contested Decision: Binding on the State under the Egyptian Constitution:Whereas, the Egyptian Constitution has

recognized international agreements and placed them on the level of national legislation. It also stipulates that the State shall abide by all international agreements it signs, as Article 93 of the Constitution stipulates:

1. The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. The International Covenant on Civil and Political Rights, the International Covenant on Civil and Political Rights, ratified by the Arab Republic of Egypt, contains some articles, including:

Article 2: "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26 of the International Covenant on Civil and Political Rights stipulates:

"All people are equal before the law and enjoy, without any discrimination, an equal right to its protection. In this regard, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. United Nations Standard Minimum Rules for the Treatment of Prisoners "Nelson Mandela Rules"

In addition, the United Nations General Assembly, of which Egypt is a member and abides by its resolutions, adopted some rules on December 17, 2015, called the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules.

The preamble to this resolution states: "Recognizing that the Standard Minimum Rules for the Treatment of Prisoners have always been the universally recognized minimum standards for the detention of prisoners, and that these Rules have great value and impact as they have guided the development of laws, policies and practices of correctional institutions since their adoption by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in

1955,"

The preamble of this resolution also includes the following:

"Recognizing also that it reiterated in its resolution 69/192 its affirmation that any changes to the Standard Minimum Rules should not detract from any of the existing standards, but should reflect the latest advances in correctional science and good practices in this area, thereby contributing to enhancing the safety, security and humane conditions of prisoners."

- The first rule stated on:
- All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times. The second rule stated on:
 1. The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status.....
- In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory. The third rule stated on:
- Imprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Therefore the prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

The 11th rule stipulated that:

Different categories of prisoners shall be placed in different institutions or different parts of institutions taking into account their gender and age
- The rule 43th also stipulates that:
 1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be

prohibited:

(a) Indefinite solitary confinement;

(b) Prolonged solitary confinement;

- (c) Placement of a prisoner in a dark or constantly lit cell; The 93th rule also stipulated that:

So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of different classes of prisoners.

3. The International Convention on the Elimination of All Forms of Discrimination:

This is in addition to the articles contained in the International Convention on the Elimination of All Forms of Discrimination, which Egypt joined by Presidential Decree No. 369 of 1967 and published in the Official Gazette No. 45 on 11/11/1972.

The preamble of this Convention states: "Considering that the Charter of the United Nations is based on the principles of the inherent dignity and equality of all human beings and that all Member States have pledged themselves to take collective and individual action, in cooperation with the Organization, for the achievement of one of the purposes of the United Nations, namely, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, in particular as to race, colour or national origin,"

Article 2 of this Convention stipulates:

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and of promoting understanding among all races, and to this end:
 - a) Each State Party undertakes not to engage in any act or practice of racial discrimination against persons, groups of persons or institutions, and to ensure that all public authorities and public institutions, national and local, act in conformity with this obligation.
2. States Parties shall, when circumstances so warrant, take the necessary special and concrete

measures in the social, economic, cultural and other fields to ensure the adequate development and protection of certain ethnic groups or individuals belonging to them, with a view to ensuring their full and equal enjoyment of human rights and fundamental freedoms.

Article 5 of the Convention also stipulates:

In fulfilment of the basic obligations established in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, in particular with regard to the enjoyment of the following rights:

(b) The right to security of person and to protection by the State from any violence or bodily harm, whether inflicted by public officials or by any group or institution.

In addition, Egypt acknowledged in its periodic report submitted in 2000 to the Committee on the Elimination of Racial Discrimination that the text of Article 40 of the Constitution contains a prohibition of discrimination between citizens in certain circumstances and that the Constitution's highlighting of certain forms is due to the fact that they are the most common and does not indicate that they are limited to them, if this were to lead to the fact that discrimination is permissible in what is usual, which contradicts the equality guaranteed by the Constitution.

Thus, it is clear to the esteemed body that there is an obligation on the state, represented by the Minister of Interior, to take all necessary special measures that would eliminate all forms of discrimination between transgender people and other prisoners, which would preserve their dignity and human rights.

Of all this, what was issued by the Appellee as a violation of Egypt's international obligations and human rights contained in international covenants, must be canceled.

Fourth: The invalidity of the contested decision for lack of reason and lack of legitimacy:

Whereas it was established that the administration does not have absolute freedom to issue administrative decisions, but rather abides by its will because of the justification of the decision it issues and for the public interest desired by the administration, but the rulings of the Supreme Administrative Court held that the absence of the reason for the decision represents a defect contrary to the law.

Where it ruled that "the decision must be based on reasons that justify it honestly and rightly in reality and in the law as one of the elements of its convening as a legal act, and no legal act is carried out without its reason."

(Supreme Administrative Court – Appeal 277 of 33 S – Session 27/2/1993)

The judgments of the Supreme Administrative Court have established that it is not enough for the reason to be present only, but it is required to be consistent with constitutional principles, and that the censorship of the reasons for the decision requires the administrative judge to examine the substantive grounds and motives that led the authority to issue its negative or positive decision.

The Supreme Administrative Court ruled on this

(The reason for the administrative decision is a factual or legal situation that leads the administration to intervene with the intention of creating a legal effect that is the subject of the decision in order to achieve the public interest, which is the goal of the decision)

(Supreme Administrative Court – Appeal 277 of 33S on 27/2/1993 - Modern Administrative Encyclopedia - 1985/1993 - C 35 - Rule 342- P 997)

The respondent, in his official capacity, has not provided any justification for his failure to issue a decision to establish dedicated prisons and detention areas in police stations specifically for transgender individuals. Therefore, the contested decision lacks a valid reason and should be annulled. Fifth: Request for a Stay of Execution of the Implicit Negative Decision: Failure to Establish Dedicated Detention Facilities for Transgender Individuals:

Whereas it is recognized that the authority to suspend the implementation of administrative decisions is derived from the cancellation authority, which is a branch of it due to the legal control exercised by the administrative judiciary based on its weight in the balance of the law and its legitimacy, the implementation of the administrative decision is not suspended unless there are two basic elements, the first of which is the element of urgency that the implementation of the contested decision entails irreversible consequences, and the second is related to the principle of

legality, that is, the claim of the applicant is based, apparently, on reasons that bear a basis for the cancellation of the decision. This is without prejudice to the cancellation request itself, which remains until it is related to a subject.

(Supreme Administrative Court in Appeal No. 221 of 32 session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the respondent's failure, in his official capacity, to issue a decision to establish Correction and Community Rehabilitation Centers and dedicated detention areas in police stations for transgender individuals. The grounds for the appeal suggest a likely ruling to annul this inaction. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

The Appellant [whose name in official documents is [Appellant's legal name]] is transgender, suffers from gender identity disorder, and is undergoing advanced stages of gender reassignment surgery from male to female [or: female to male]. He/She has psychological medical reports issued by [Hospital name] hospital, which state [Summarize the results of the medical report].

He/She was arrested by security forces on [Date] and brought before the [Prosecutor's office name] Prosecutor's Office on [Date] in connection with case No. [Case number] of [Year] (misdemeanor). Since his/her detention, he/she has been placed in the [Detention center name] Rehabilitation and Reform Center, which is designated for men/women. He/She has been held in solitary confinement and completely prohibited from exercising out of concern for his/her safety among other detainees.

Moreover, the Appellant was subjected to a forced anal examination without his consent, with the aim of "proving" his homosexuality. He/She was also subjected to bullying and verbal harassment inside [Place of detention]. This put his/her life at risk, being held in [Place of detention] designated for men, and caused a severe deterioration in his/her mental health due to prolonged solitary confinement and deprivation of his/her legal right to exercise since being detained in the aforementioned case. [If applicable: Mention any medical reports about the psychological condition resulting from solitary confinement, or any suicide attempts.] Therefore, the conditions for suspending the execution of the contested decision are met.

Accordingly

The Appellant requests you to kindly specify the nearest hearing to consider the appeal and the judgment:

First: -By accepting the appeal in form.

Second: - As a matter of urgency, to stop the implementation of the negative decision with the abstention of the first respondent in his capacity as issuing a decision to establish reform and rehabilitation centers and places of detention designated within police stations for transgender people who were unable to change their identity papers or complete the necessary surgeries or complete the necessary hormone therapy with the consequent effects, provided that the judgment is implemented with its draft and without announcement.

Third:- In the matter, by canceling the negative decision with the abstention of the Appellee in his capacity as issuing a decision to establish correction and rehabilitation centers and places of detention designated within police stations for transgender people who were unable to change their identity papers or complete the necessary surgeries or complete the necessary hormone therapy with the consequent effects, provided that the judgment is implemented with its draft and without announcement.

I. Legal Procedures to Follow in Case of Expiration of Preventive Detention:

If the period of preventive detention expires according to the Code of Criminal Procedure, a request must be submitted to the Public Prosecutor or the Attorney General for the release of the detainee due to exceeding the maximum period of preventive detention.

Request Form

To the Honorable Counselor/ [Name of Public Prosecutor or Attorney General]

Greetings and Respect,

Submitted to your Excellency by: [Your Name], in my capacity as attorney for Mr./ [Detainee's Name], according to Power of Attorney No. [Number] of [Year], authenticated by [Authentication Authority], who is in preventive detention in connection with case No. [Case number] of [Year], and detained at [Detention center name] Prison.

Subject

On [Date], Mr./ [Detainee's Name] was arrested and his preventive detention began on [Date] in connection with the aforementioned case. Thus, he has been in preventive detention for more than [Number] months, which necessitates his immediate release due to exceeding the maximum period of preventive detention according to the fourth paragraph of Article 143 of the Code of Criminal Procedure No. 150 of 1950, as amended, which states:

"In all cases, the period of preventive detention during the preliminary investigation and all other stages of criminal proceedings may not exceed one-third of the maximum term of imprisonment, provided that it does not exceed six months for misdemeanors, eighteen months for felonies, and two years if the penalty prescribed for the crime is life imprisonment or death."

Applying the aforementioned article to the defendant, Mr./ [Detainee's Name], it is evident that the period of his preventive detention has exceeded the maximum period prescribed by law. The defendant has been charged by the prosecution with [List of charges], and the maximum penalty for these charges does not reach [Maximum penalty]. Therefore, the maximum period of preventive detention according to the aforementioned article is [Maximum period].

This necessitates the release of the defendant, Mr./ [Detainee's Name], due to the expiration of preventive detention.

Therefore

we request that your Excellency issue a decision to release Mr./ [Detainee's Name], who is in preventive detention in connection with case No. [Case number] of [Year], due to exceeding the maximum period of preventive detention according to Article 143 of the Code of Criminal Procedure.

With the utmost appreciation and respect to your Excellency,

Submitted to your Excellency

III. Legal Procedures to Follow if Sanitary Pads are Not Available

This can be done through the following:

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Ms./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

1. **The Minister of Interior, in his official capacity**, at his workplace at the Ministry of Interior building, addressed together with:
2. **The Head of the Community Protection Sector, in his official capacity**, at his workplace at the Community Protection Sector building, addressed together with:
3. **The Director of [Name] Rehabilitation and Reform Center, in his official capacity**, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

The Notifier is (in pretrial detention or convicted) at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date].

The Notifier [State the reason, depending on the situation] (is prohibited from receiving visits, does not receive visits, or the correctional facility administration prevented the entry of sanitary pads during the visit). The canteen at the correctional facility has a balance of [Amount], and the Notifier does not have enough money to purchase sanitary pads. The Notifier and her family have repeatedly requested the administration of [Detention center name] Rehabilitation and Correction center to provide free sanitary pads during menstruation, but the administration refused and did not provide any reasons for denying this request. The correctional facility administration has disregarded the guarantees provided to the Notifier by international law and the Constitution. The administration has not provided the Notifier with a clear answer about the reason for the denial, and there is no legal basis for this action.

This prompted her to issue this formal notice, requesting "permission to provide free sanitary pads, or to make them available in the canteen of the rehabilitation and correction center at nominal prices or at the official price," in addition to sanitary facilities and safe and effective means of managing menstruation. The notice also demands that the administration disclose the reasons for preventing the provision of free sanitary pads.

The Notified Parties, in their official capacities, have refused to provide free sanitary pads or to make them available in the canteen of the rehabilitation and correction center at nominal prices or at the official price. [Or: The security forces confiscated sanitary pads during a search of visitors on [Date].] This, in addition to the lack of sanitary facilities and safe and effective means of managing menstruation, violates the Egyptian Constitution.

Article 18 of the Egyptian Constitution stipulates that: " Every citizen has the right to health and to comprehensive health care which complies with quality standards. The State shall maintain and support public health facilities that provide health services to the people, and shall enhance their efficiency and their equitable geographical distribution. Refusing to provide any form of medical treatment to any human in emergency or lifethreatening situations is a crime. "

Article 56 of the Egyptian Constitution also stipulates that (A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release.)

Therefore

The Notifier directs this notice to the Notified Parties, in their official capacities, to:

Stop the decision to refrain from providing free sanitary pads or making them available in the canteen of the rehabilitation and correction center at nominal prices or at the official price. [Or: Stop preventing the entry of sanitary pads and confiscating them during visitor searches, as occurred on [Date].] The Notified Parties must also provide sanitary facilities and safe and effective means of managing menstruation, as this refusal violates the Egyptian Constitution.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of stopping the decision to refrain from providing free sanitary pads or making them available in the canteen of the rehabilitation and correction center at nominal prices or at the official price. [Or: Stop preventing the entry of sanitary pads and confiscating them during visitor searches, as

occurred on [Date].] I have also emphasized the need to provide sanitary facilities and safe and effective means of managing menstruation, as this violates the Egyptian Constitution.

The Notified Parties must allow the provision of free sanitary pads, or make them available in the canteen of the rehabilitation and correction center at nominal prices or at the official price. [Or: They must allow the Notifier to receive sanitary pads during family visits and return the sanitary pads that were confiscated by security forces during the search of visitors on [Date].] They must also provide sanitary facilities and safe and effective means of managing menstruation. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

- *If there is no response to the formal notice from the Notified Parties within the specified timeframe after receiving the notice, a lawsuit must be filed before the Administrative Court.*

Appeal Petition

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against:

Mr./ Public Prosecutor

Mr./ Minister of Interior, in his official capacity.

Mr./ Head of the Community Protection Sector.

Mr./ Director of [Name] Rehabilitation and Reform Center.

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] [Case details].

The Appellant [State the reason, depending on the situation] (is prohibited from receiving visits, does not receive visits, or the correctional facility administration prevented the entry of sanitary pads during the visit). The canteen at the correctional facility has a balance of [Amount], and the Notifier does not have enough money to purchase sanitary pads. The Appellant and her family have repeatedly requested the administration of [Detention center name] Rehabilitation and Correction center to provide free sanitary pads during menstruation, but the administration refused and did not provide any reasons for denying this request. The correctional facility administration has disregarded the guarantees provided to the Appellant by international law and the Constitution. The administration has not provided the Notifier with a clear answer about the reason for the denial, and there is no legal basis for this action.

The Appellant has repeatedly requested the administration of [Detention center name] Rehabilitation and Correction center to provide free sanitary pads during menstruation, but the administration refused. This prompted her to issue a formal notice, registered under No. [Notice number] in minutes [Minutes number], and served on [Date], requesting permission to receive sanitary pads during family visits and the return of the sanitary pads that were confiscated by security forces during the search of visitors on [Date]. The notice also demanded the provision of sanitary facilities and safe and effective means of managing menstruation, and an explanation for the refusal to provide free sanitary pads. However, she has not received any response.

The Appellant challenges the decision to deny access to free sanitary pads, as it violates the Constitution and international conventions and treaties.

The Appellant bases her appeal on the following grounds:

Grounds for Appeal

First reason: Existence of an Administrative Decision Manifested in the Respondents' Denial of the Appellant's Visitation Rights It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

Whereas, according to the first paragraph of Article 18 of the Egyptian Constitution, Every citizen has the right to health and to comprehensive health care which complies with quality standards. The State shall maintain and support public health facilities that provide health services to the people, and shall enhance their efficiency and their equitable geographical distribution. "

Article 56 of the Egyptian Constitution also stipulates that " A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

Applying the aforementioned constitutional articles to the facts of this case, we find that the Appellant's inability to obtain sanitary pads and safe and effective means of managing her menstrual cycle infringes upon her rights, undermines her dignity, and causes her psychological harm. This violates Article 56 of the Constitution.

Furthermore, the lack of access to sanitary pads can lead to physical harm due to infections, which constitutes a violation of her right to receive healthcare as guaranteed by Article 18 of the Egyptian Constitution.

Despite the Appellant, who is detained at [Detention center name] Rehabilitation and Reform Center, issuing a formal notice requesting the Respondents, in their official capacities, to stop the decision to refrain from providing free sanitary pads or making them available in the canteen of the rehabilitation and correction center at nominal prices or at the official price, [or: to stop preventing the entry of sanitary pads and confiscating them during visitor searches, as occurred on [Date],] and to provide sanitary facilities and safe and effective means of managing menstruation, as this refusal violates the Egyptian Constitution and international conventions and agreements, and despite demanding the provision of free sanitary pads [or: the return of the sanitary pads that were confiscated by security forces during the search of visitors on [Date],] and an explanation for the refusal, the Respondents have remained silent. This confirms the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions,

sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

The respondents' actions, in their official capacities, in preventing the Appellant, who is detained at [Detention center name] Rehabilitation and Reform Center, from obtaining sanitary pads during her menstrual period constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein. Article 55 of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law."

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."

It is evident from the aforementioned provisions that the Constitution emphasizes the preservation of human dignity as a constitutional objective and a protection of natural rights. All prisoners have the right to be detained in dignified and humane conditions. The Constitution directs all state authorities to treat every detainee in a manner that preserves their dignity, prohibiting any physical or psychological harm. Undeniably, preventing the Appellant from accessing safe sanitary pads causes psychological harm and undermines her dignity, which violates the Egyptian Constitution. This is in addition to what is stated in Article 18 of the Egyptian Constitution, which stipulates that "Every citizen has the right to health and to comprehensive health care which complies with quality standards. The State shall maintain and support public health facilities that provide health services to the people, and shall enhance their efficiency and their equitable geographical distribution.".

The aforementioned article guarantees every citizen the right to health and integrated healthcare, as enshrined in the Egyptian Constitution. This is a public right that must be enjoyed by all citizens, even those who are imprisoned or have their freedom restricted. The administrative authority is obligated to provide healthcare to detainees, including ensuring a healthy environment that protects them from diseases and providing access to medical care.

The Constitution defines the purpose of penalties that restrict freedom, considering prison a place of reform and rehabilitation, and prohibiting anything that violates human dignity or endangers life. The legislator has guaranteed the provision of healthcare to prisoners. The Appellant is financially unable to bear the cost of purchasing sanitary pads from the canteen of [Detention center name] Rehabilitation and Reform Center, [or: the administrative authority refused to allow the entry of sanitary pads during a family visit on [Date]]. In light of this, the administrative authority is obligated to provide healthcare to detainees, including ensuring a healthy environment that protects them from diseases and providing access to medical care. This is an essential reality that cannot be separated from the necessity of providing necessary

healthcare to female detainees. Therefore, the obligation of [Detention center name] Rehabilitation and Reform Center's administration to provide free sanitary pads is imperative and necessary to ensure healthcare and a safe and healthy environment. The administration's refusal constitutes a negative decision that violates the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates International Conventions and Agreements and the Arab Republic of Egypt's Obligations Enshrined in the Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

" The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories." International conventions and agreements clearly protect the human rights of prisoners. The first paragraph of Article 7 of the International Covenant on Civil and Political Rights states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Rule 5 of the United Nations Rules for the Treatment of Women Prisoners states:

"Women prisoners shall be provided with facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water for personal care use by women and children, and especially for washing babies, menstruation, pregnancy and post-natal care."

Given that the first paragraph of Article 10 of the International Covenant on Civil and Political Rights mandates that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person, and Rule 5 of the United Nations Rules for the Treatment of Women Prisoners stipulates the provision of necessary tools and materials for personal hygiene, the Appellant has the right to have the administration of [Detention center name] Rehabilitation and Correction center provide her with free sanitary pads during menstruation. Therefore, the refusal of the respondents, in their official capacities, to allow the Appellant access to free sanitary pads violates the Egyptian Constitution and the ratified international treaties, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review

of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

The respondents, in their official capacities, have so far failed to provide any reasons or justifications for their complete refusal to provide free sanitary pads, or to make sanitary pads available in the canteen of the rehabilitation and correction center at nominal or official prices, [or: for refusing to allow the Appellant to bring in sanitary pads during family visits and to return the sanitary pads that were confiscated by security forces during the search of visitors on [Date]]. Therefore, the contested decision lacks a valid reason and warrants annulment.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to provide free sanitary pads, or to provide sanitary pads within the canteen of the Correction and Rehabilitation Center at nominal prices or at the official price, [or: their refusal to allow the Appellant to bring in sanitary pads during family visits and to return the sanitary pads that were confiscated by security forces during the search of visitors on [Date]]. The grounds for the

appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to provide the Appellant with free sanitary pads, or to provide sanitary pads within the canteen of the rehabilitation and correction center at nominal prices or at the official price, [or: to stop preventing the entry of sanitary pads and confiscating them during visitor searches, as occurred on [Date]]. The Appellant is currently detained at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility where she may be transferred. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to provide the Appellant with free sanitary pads, or to provide sanitary pads within the canteen of the rehabilitation and correction center at nominal prices or at the official price, [or: to stop preventing the entry of sanitary pads and confiscating them during visitor searches, as occurred on [Date]]. The Appellant is currently detained at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility where she may be transferred. This annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.

The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Third Section: Treatment of Inmates and Detainees

Introduction

International charters and covenants, as well as the Egyptian Constitution, affirmed the importance of preserving the dignity and humanity of the imprisoned person. It is not permissible to harm him physically or morally or to derogate from his rights and freedoms. It is obligatory to preserve human life in general as it is at the highest levels of the rights and personal freedoms of individuals, including preserving the lives of prisoners by all means and means, taking into account that the payment of material and moral harm to them is consistent with international conventions and advanced penal legislation, which are based on the philosophy of rehabilitating the prisoner with the aim of reforming his behavior and preserving the integrity of his body in a way that preserves the legal safety of the individual on his rights and freedoms. There is no doubt that the Prisons Law and its internal regulations have taken into account these considerations and guarantees by determining the right of the prisoner to balanced nutrition in all meals provided to him. The health status of sick prisoners has also been taken into account by determining meals subject to medical supervision by the doctor of the correction and rehabilitation centers commensurate with their sick cases, because the nutrition of the convict is closely related to his condition and his sick conditions. Furthermore, the Prison Regulations permit detainees to receive certain foods and meals from their visitors, within the limits and proportions allowed by the internal regulations and subject to health inspections by the rehabilitation and correction center's physician. Additionally, it is essential to ensure that detainees have access to the necessary resources for living and working within the detention facility. For example, each detainee should have a designated bed and its accompanying necessities.

I. Treatment of Inmates in International Law, the Constitution, Egyptian Law and its Executive Regulations

1. Treatment of Inmates in International Covenants and Covenants

The Standard Rules for the Treatment of Inmates clarified how inmates are treated with regard to personal hygiene, clothing, furniture and food, from rule 18 to rule 22, where rule 18 is concerned with personal hygiene and states that "Inmates must be required to take care of their

personal hygiene, and for this purpose they must be provided with water and the tools required for health and hygiene, and repair and rehabilitation centers must be provided with the necessary facilities for hair and chin care, and males must have the possibility of shaving regularly.

Rules 19, 20, and 21 is concerned with clothing and bedding, and state, "Every prisoner who is not allowed to wear his or her own clothing shall be provided with a set of clothing suitable for the climate and sufficient to maintain his or her health. In no case may these garments be humiliating or degrading. All clothing must be clean and kept in good condition. Underwear must be changed and washed at the frequency necessary to maintain health.

When prisoners are allowed to wear their own clothing, arrangements shall be made for their entry into correctional and rehabilitation centres to ensure their cleanliness and suitability for wearing.

Each prisoner shall be provided, in accordance with local or national standards, with an individual bed and supplies for this bed allocated to him and sufficient, which shall be clean at the time of delivery, shall be kept fit, and shall be replaced at close dates to the extent that they maintain their cleanliness.

Rule 22 is concerned with food and states: "The prison administration shall provide every prisoner, at normal hours, with a meal of sufficient nutritional value to maintain his health and strength, of good quality and well prepared and served. Every prisoner is provided with access to clean drinking water whenever they need it.⁶¹

2. Treatment of Inmates and Detainees in the Egyptian Constitution

Article 55 of the same Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain

⁶¹ Previous reference

silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.)

Article 56 of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."⁶²

3. Treatment of Inmates in Law No. 396 of 1956, the Law Organization Correction and Community Rehabilitation Centers, according to its latest amendments:

The treatment and division of inmates is mentioned in the law from Article 13 to Article 20 of the law, and it states:

A. Partition of Prisoners:

Article 13 of the law stipulates that "Convicts are divided into no less than 3 grades. The treatment and living conditions of every grade shall be determined by a decision of the Minister of Interior,⁴ upon a recommendation by the Director General of Prisons and the approval of the Public Prosecutor. Prison regulations shall be taken into account concerning the order of prisoners' situation within every grade and their transfer from one grade to another, taking age into consideration. "⁶³

B. Detainees in preventive detention:

Articles 14 to 16 stipulate that: " Persons in preventive custody shall be kept in places separate from other prisoners. A person in preventive custody may be allowed to stay in a furnished room against an amount not exceeding 150 millimetres per day, within the capacity of places and facilities in the prison according to the prison regulations. Persons in preventive custody have the right to wear their private clothes, unless the prison administration decides, for reasons of health, cleanliness or in the interest of security, that they should wear the same clothes

⁶² Article 55, 56 of the Egyptian Constitution.

⁶³ Article 13 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers in accordance with its latest amendments.

intended for other prisoners. Persons in preventive custody may bring the food they need from outside the prison or buy it in the prison at the specified price. If they do not so want or can, they shall receive the determined food. Treatment of convicts:

Articles 17 and 18 of the law clarified the treatment of convicted persons and stipulated that "the Assistant Minister for the Community Protection Sector may, after the approval of the Public Prosecutor, grant those sentenced to simple imprisonment all or some of the benefits prescribed for pretrial detainees.

If the period of stay of the convict in the reform and rehabilitation centers exceeds four years, he must pass a period of transition before his release. The bylaws shall specify the period of this period and the treatment of the inmate during it, taking into account the gradual easing of restrictions or the granting of benefits.

C. Pregnant female prisoner:

Article 19, 20 stipulates the treatment of the pregnant inmate, which stipulates that "the pregnant inmate shall be treated with special medical treatment in terms of food, employment and sleep since her pregnancy is proven by a medical report, and until she gives birth and forty days after delivery.

The mother and her child must be given the necessary health care with food, appropriate clothing, and comfort, and the pregnant inmate or the mother may not be deprived of the food prescribed for her for any reason whatsoever.

The child of a female prisoner shall remain with his mother until he reaches 2 years of age. If she does not wish that he remains with her or if he reaches that age, he shall be handed over to his father or to a relative of her choice. If the child has no father and no relative to take care of him, the prison's director or superintendent shall inform the governor or director to take delivery of him in order that he may receive care outside the prison in an asylum. The incarcerated mother shall be informed of his whereabouts and shall be allowed to see him periodically as specified in the prison regulations.⁶⁴

⁶⁴ Articles 13 to 20 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers in accordance with its latest amendments

4. Treatment of Detainees and Inmates in the Internal Regulations of the Law Regulating Correction and Rehabilitation Centers:

Several decisions were issued by the Minister of Interior regarding the treatment of inmates, the latest of which was Minister of Interior Resolution No. 691 of 1998, as amended by Resolution No. 150 of 2011, and Resolution No. 545 of 2015. Which was concerned with clarifying how inmates and detainees are treated, and it was requested by:

A. The minimum number of furniture and toiletries prescribed for prisoners: -

The following furniture and tools shall be allocated to each male or female inmate:

Bed - mattress - bed sheet - pillowcase - (2) pillowcase - wool blanket in summer or two winter - mattress - (3) plastic plates (2) plastic spoons - hair comb for female guests - (2) soaps.

For nursing mothers, the soap variety shall be increased to (4) soaps for each of them.

B. Clothing:

The regulation also clarified the prescribed clothes for male inmates who are "remanded in custody and sentenced to simple imprisonment or executed under physical coercion, those transferred to the medium-security (public) reform center, those sentenced to imprisonment with labor, and those sentenced to hard labor. The clothes of the sick inmates in the Correction and Rehabilitation Centers Hospital, the clothes of the sentenced inmates and women in pretrial detention, the clothes of the sick inmates, and the clothes of infants.

The regulation authorizes the doctor of the correction and rehabilitation centers, if he deems it necessary, to recommend the issuance of additional underwear at the expense of the community protection sector to inmates who are unable to purchase it, after the approval of the head of the community protection sector.

The medical examination of those to whom the doctor recommends disbursing clothes shall be carried out at the expense of the community protection sector in two batches per year, and the result of the examination shall be indicated in the medical report book and the exceptional treatment book. If it is felt that these items should be re-disbursed because the reasons for the

disbursement continue to exist free of charge, they shall be disbursed to them with the approval of the Head of the Community Protection Sector.

C. Food:

The regulation set the minimum food course for inmates at three meals: breakfast, lunch, and dinner. The course specifies foods for patients with heart disease, atherosclerosis, and hypertension. The course specifies foods for infants from the age of 6 months to one year.

The division of inmates into three degrees by law entails giving the inmates of the second and first degrees additional advantages, as the decision stated that the convict in the second degree is authorized to buy or bring a sleeping pillow and a wool cover that conforms to the health conditions, and he is authorized to keep books and lighting in his room after the scheduled dates at his expense, all under the conditions set by the head of the Community Protection Sector.

The convict in the first degree is authorized to buy or bring a mattress, a sleeping pillow, blankets, a mirror, a table, a chair, a carpet, and a bath towel, and to keep family photos, books, newspapers, magazines, and lighting in his room after the prescribed dates, all at his expense and under the conditions set by the head of the Community Protection Sector.

Inmates, regardless of their administrative degree, are allowed to accept the foods, sweets and fruits offered to them by their visitors within the limits of their personal consumption for one day and cigarettes within 40 cigarettes, whether on a regular or private visit. Those sentenced to death do not enjoy this advantage.⁶⁵

According to what was mentioned about the treatment of inmates and detainees, whether in food, clothing, furniture and personal hygiene supplies, in accordance with the Model Rules for the Treatment of Inmates and in accordance with the Constitution and the Law Regulating Community Reform and Rehabilitation Centers No. 396 of 1956 and its executive regulations, in the event that any of the aforementioned rights are derogated from, inmates, detainees and

⁶⁵ Minister of Interior Decree No. 691 of 1998 on how to treat prisoners, via the Middle East Laws website, the last visit of July 10, 2021 is available through the following link:
<https://www.eastlaws.com/data/tash/details/18719/0>

their families must take the necessary legal measures so that the inmate or detainee maintains legal security over his rights and freedoms.

II. Legal Procedures to Follow if a Correctional Facility Refuses to Allow Food from the inmate's visitors

If the correctional facility administration refuses to allow a detainee to receive certain foods and meals from their visitors, within the limits and proportions allowed by the internal regulations and subject to health inspections by the rehabilitation and reform center's physician, the detainee and their family must take legal action to protect the detainee's right to a balanced diet. This can be done by filing a report to document the situation at the police station that has jurisdiction over the correctional facility.

If the police station refuses to file the report, or if the family fears retaliation if they go to the police station to report the incident, they can send a registered telegram with acknowledgement of receipt to the Public Prosecutor and the Minister of Interior on the day of the incident.

1- Telegraph Form

The Public Prosecutor

The Minister of Interior

Greetings,

Submitted to your Excellency by: [Your Name], [Your relationship to the detainee, e.g., father, brother, friend] of [Detainee's name], who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year].

On this day, [Date], during my visit to [him/her] at the correctional facility, the administration refused to allow me to bring in food items. The food was confiscated and denied entry. I appeal to your sense of justice to investigate this incident and take the necessary legal action.

Respectfully submitted,

[Your Name]

National ID No.: [Your National ID Number]

2- Fill a lawsuit

A lawsuit must be filed before the Administrative Court of the Council of State against the Minister of Interior and others in the event of a repeated ban on the entry of foods, by requesting to enable allowing foods and food from visitors to the prison, within the limits and percentages allowed in the internal regulations, through the following steps:

3- Issuing a Notice to the Minister of Interior and Others

Notice Form:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

1. **The Minister of Interior, in his official capacity**, at his workplace at the Ministry of Interior building, addressed together with:
2. **The Public Prosecutor, in his official capacity**, at his workplace at the Public Prosecutor's Office building, addressed together with:
3. **The Head of the Community Protection Sector, in his official capacity**, at his workplace at the Community Protection Sector office, addressed together with:
4. **The Director of [Name] Rehabilitation and Reform Center, in his official capacity**, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

I hereby serve them notice of the following

On [Date], during the visit of [Notifier's relationship to detainee] to the Notifier, who is detained at [Detention center name] Rehabilitation and Correction center in connection

with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year], the correctional facility administration refused entry to food items and confiscated them, preventing them from being brought in.

The Notifier's [Relationship to detainee] then sent a registered telegram with acknowledgment of receipt to the Major General, Minister of Interior, and to the Public Prosecutor on [Date], registered under No. [Telegram number], to document the incident of refusing food entry without any legal basis. However, no response was received from either party. Furthermore, food items were again denied entry during the following visit.

This prompted the Notifier to issue this formal notice, requesting permission to bring in food and meals for the detainee within the limits and proportions allowed by the internal regulations.

The refusal of the Notified Parties, in their official capacities, to allow the Notifier to bring in food and meals for the detainee within the permissible limits and proportions violates the Egyptian Constitution, which mandates the preservation of the dignity and humanity of detainees. It prohibits any physical or psychological harm or deprivation of their rights and freedoms. It also mandates the preservation of human life in general, considering it to be at the highest level of individual rights and personal freedoms.

Article 55 of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.)

This also violates the Standard Minimum Rules for the Treatment of Prisoners. Rule 22 states:

“ The prison administration shall provide every prisoner, at the usual hours, with a meal of sufficient nutritional value to maintain his health and strength, of good quality and well prepared and served.

Therefore

the Notifier directs this notice to the Notified Parties, in their official capacities,

It is necessary

to allow the Notifier to bring in food and meals for the detainee, [Detainee's name], within the limits and proportions permitted by the internal regulations.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of allowing the Notifier to bring in food and meals for the detainee, [Detainee's name], within the limits and proportions permitted by the internal regulations. This notice was served on [Date], and they have been given ten days from the date of receipt to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

4- **Form of the petition**

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

Mr./ Minister of Interior, in his official capacity.

Mr./ Public Prosecutor, in his official capacity.

Mr./ Head of the Community Protection Sector, in his official capacity.

Mr./ Warden of [Name] Prison, in his official capacity.

Subject

On [Date], during the visit of [Your relationship to the detainee] to the Appellant, who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year], the correctional facility administration refused entry to food items and confiscated them, preventing them from being brought in.

The Appellant's [Relationship to detainee] then sent a registered telegram with acknowledgment of receipt to the Major General, Minister of Interior, and to the Public Prosecutor on [Date], registered under No. [Telegram number], to document the incident of refusing food entry without any legal basis. However, no response was received from either party. Furthermore, food items were again denied entry during the following visit.

This prompted the Appellant to issue a formal notice to the Respondents, in their official capacities, recorded under No. [Notice number] on [Date] in minutes [Minutes number]. The notice requested permission to bring in food and meals for the detainee within the limits and proportions allowed by the internal regulations.

The Respondents' refusal, in their official capacities, to allow the Appellant to receive food and meals from visitors, within the permissible limits and proportions of the internal regulations, violates the Egyptian Constitution. The Constitution mandates preserving the dignity and humanity of detainees, prohibiting any physical or psychological harm or deprivation of their rights and freedoms. It emphasizes the preservation of human life, considering it paramount among individual rights and personal freedoms. Article 55 of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may

not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.”

Despite this, the Respondents have prevented the Appellant from receiving food and meals from visitors.

This decision represents a violation and disregard for the Constitution and a breach of Egypt's international obligations. It also constitutes an infringement upon the fundamental rights of citizens. Therefore, the Appellant challenges this decision for the following reasons.

Grounds for Appeal

First Reason: Existence of an Administrative Decision through the Respondents' Failure to Allow the Appellant to Receive Food and Meals:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yous Ekasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

The Ministry of Interior, headed by the first respondent in his official capacity, leads and manages its personnel according to Article 1 of Law No. 109 of 1971 regarding the Police Authority, which states:

(The police is a civilian, uniformed body within the Ministry of Interior that performs its

functions and exercises its jurisdiction under the chairmanship and leadership of the Minister of Interior, who issues decisions organizing all its affairs and work systems.)

Article 3 of Law No. 109 of 1971 regarding the Police Authority also states:

"The police authority is responsible for maintaining public order, security, and morals, and for protecting lives, honor, and property..."

Therefore, the police are the trusted guardians of citizens' security, ensuring safety and reassurance. One of their most important duties is to preserve the lives of citizens. The first respondent, in his official capacity, is a member of the police force. The security forces at [Prison name] prison, under his authority, prevented the Appellant from providing food and meals to his/her relative, [Detainee's name], who is detained in the rehabilitation and reform center, without any legal basis.

Despite the Appellant sending a registered telegram with acknowledgment of receipt requesting permission to bring food to his/her relative, he/she was subsequently denied again. The Appellant then issued a formal notice with the same request to the Respondents, in their official capacities. However, the Respondents remained silent, confirming the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the Appellee as a serious violation of the provisions of the Egyptian Constitution, as Article 55 of the Constitution stipulates (Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.)

Article 56 of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

The constitutional legislator mandates respect for personal freedom and emphasizes the preservation of the dignity and humanity of detainees. It prohibits any physical or psychological harm or deprivation of their constitutionally and legally established rights and freedoms. It also mandates the preservation of human life, considering it paramount among individual rights and personal freedoms. The constitutional legislator has prohibited any infringement upon these rights, including the preservation of the lives of prisoners by all means and ways. Protecting them from physical and psychological harm aligns with international conventions and advanced penal legislation based on the philosophy of rehabilitating detainees to reform their behavior and preserve their physical well-being, ensuring that individuals, even if they have violated the law, have legal safeguards for their rights and freedoms. Undoubtedly, the Law on Rehabilitation and Reform Centers and its internal regulations have taken these considerations and guarantees into account by establishing the detainee's right to a balanced diet in all meals provided. They have also considered the health conditions of sick detainees by providing meals under the medical supervision of the rehabilitation and reform center's physician, tailored to their specific medical conditions. This is because a detainee's nutrition is closely linked to their health and medical circumstances. The Law on the Organization of Rehabilitation and Reform Centers also allows for certain foods and meals to be brought in by the detainee's visitors, within the limits and proportions permitted by the internal regulations and subject to health inspections by the rehabilitation and reform center's physician.

The respondents, in their official capacities, refused to allow the Appellant to receive food and meals as legally permitted, despite being officially notified through (a report submitted to the Public Prosecutor, a report filed at the police station, or a telegram...). This constitutes a violation of the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Enshrined in the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation.

Article 93 of the Constitution stipulates that: " The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."The first paragraph of the text of rule 22 stipulates that "the prison administration shall provide every prisoner, at normal hours, with a meal of sufficient nutritional value to maintain his health and strength, of good quality and well prepared and served.

Article 3 of the same law also stipulates that "the Police Authority is competent to maintain order, public security and morals, and to protect lives, symptoms and funds, and in particular to prevent and control crimes. It is also competent to ensure the tranquility and security of citizens in all fields, and to implement the duties imposed on it by laws and regulations."

The last paragraph of Article 8 of the Minister of Interior's Resolution No. 691 of 1998 issued on 03-07-1998 stipulates that "Prisoners, regardless of their administrative degree, are allowed to accept the food, sweets and fruits provided by their visitors within the limits of their personal consumption for one day and cigarettes up to 40 cigarettes, whether on a regular or private visit. Death row inmates do not enjoy this advantage."

Through the aforementioned, it is clear that the refusal of the Appellee, in their capacity as the appellant, to enable the appellant to summon foods and foods in accordance with what is legally prescribed, is contrary to the provisions of international charters and covenants and the internal regulations of Law No. 396 of 1956, the Law Regulating Community Correction and Rehabilitation Centers, which requires its cancellation.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

(The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision.)

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

The respondents, in their official capacities, have not provided any reasons or justifications for the administration of [Detention center name] Rehabilitation and Reform Center, where [Detainee's name], [Your relationship to the detainee], is detained, to prevent the Appellant from receiving food and meals as legally permitted. Therefore, the contested decision lacks a valid reason and should be annulled.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is

derived from the authority to annul them. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision preventing the Appellant from receiving food and meals from his/her relatives during visits.

The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

The Constitution upholds the preservation of human life, considering it paramount among individual rights and personal freedoms. The constitutional legislator has prohibited any infringement upon these rights, considering them natural rights inherent in human beings, and has granted them the fullest and most comprehensive protection to affirm their value, without prejudice to the right to regulate them. The Law on the Organization of Rehabilitation and Reform Centers and its internal regulations have taken these considerations and guarantees into account by establishing the detainee's right to a balanced diet in all meals provided. They have also considered the health conditions of sick detainees by providing meals under the medical supervision of the rehabilitation and reform center's physician, tailored to their specific medical conditions. This is because a detainee's nutrition is closely linked to their health and medical circumstances. The Law on the Organization of Rehabilitation and Reform Centers also allows for certain foods and meals to be brought in by the detainee's visitors, within the limits and proportions permitted by the internal regulations and subject to health inspections by the rehabilitation and reform center's physician. Therefore, the conditions for suspending the

execution of the contested decision are met.

Accordingly

The Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to allow the Appellant to provide food and meals to [Detainee's name], [Your relationship to the detainee], who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year]. This suspension should include allowing the Appellant to provide food and meals to [Detainee's name] at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility where he/she may be detained, with all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to allow the Appellant to provide food and meals to [Detainee's name], [Your relationship to the detainee], who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year]. This annulment should include allowing the Appellant to provide food and meals to [Detainee's name] at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility where he/she may be detained, with all consequential effects. The ruling should be executed on its draft and without announcement.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

5- Legal Procedures to Follow if a Correctional Facility Refuses to Allow Personal Hygiene Products from Visitors:

If the correctional facility administration refuses to allow visitors to bring in necessary personal hygiene products for the detainee, the detainee and their family must take legal action to protect

the detainee's health and right to maintain personal hygiene. This can be done by filing a report to document the situation at the police station that has jurisdiction over the correctional facility.

If the police station refuses to file the report, or if the family fears retaliation for going to the police station to report the incident, they can submit a complaint to the Public Prosecutor or send a registered telegram with acknowledgment of receipt to the Public Prosecutor and the Minister of Interior on the day the correctional facility administration refuses to allow the personal hygiene products.

Telegraph Form:

The Public Prosecutor, The Minister of Interior

Greetings,

Submitted to your Excellency by: [Your Name], [Your relationship to the detainee, e.g., father, brother, friend] of [Detainee's name], who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year].

On this day, [Date], during my visit to [him/her] at [Detention center name] Rehabilitation and Reform Center, the administration refused to allow me to bring in personal hygiene products and protective supplies for the detainee. The items were confiscated and denied entry. I appeal to your sense of justice to investigate this incident and take the necessary legal action.

Respectfully submitted,

[Your Name]

National ID No.: [Your National ID Number]

Filing a lawsuit

It is necessary to file a lawsuit before the Administrative Court at the State Council against the Minister of Interior and others in the event of repeated denial of entry for personal hygiene

products. This lawsuit should request permission to bring in necessary hygiene or medical supplies for the detainee from their visitors. This can be done through the following steps:

1. **Issue a formal notice to the Minister of Interior and others.**

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

1. **The Minister of Interior, in his official capacity**, at his workplace at the Ministry of Interior building, addressed together with:
2. **The Public Prosecutor, in his official capacity**, at his workplace at the Public Prosecutor's Office building, addressed together with:
3. **The Head of the Community Protection Sector, in his official capacity**, at his workplace at the Community Protection Sector office, addressed together with:
4. **The Director of [Name] Rehabilitation and Reform Center**, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

On [Date], during the visit of [Your relationship to the detainee] to me at [Detention center name] Rehabilitation and Reform Center, where the Notifier is detained in connection with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year], the correctional facility administration refused entry to necessary hygiene products and medical supplies for the detainee, [Detainee's name], and confiscated them, preventing them from being brought in.

The Notifier's [Relationship to detainee] then sent a registered telegram with acknowledgment of receipt to the Major General, Minister of Interior, and to the Public Prosecutor on [Date], registered under No. [Telegram number], to document the incident of the [Detention center name] Rehabilitation and Correction center administration refusing entry to necessary hygiene products and medical supplies for the detainee, [Detainee's name], without any legal basis.

However, no response was received from either party. Furthermore, these items were again denied entry during the following visit.

This prompted the Notifier to issue this formal notice, requesting permission to bring in necessary hygiene products and medical supplies for the detainee, [Detainee's name], from the Notifier's visitors, within the limits and proportions permitted by the internal regulations.

The refusal of the Notified Parties, in their official capacities, to allow the Notifier to bring in necessary hygiene products and medical supplies for the detainee from visitors, within the permissible limits and proportions, violates the Egyptian Constitution, which mandates the preservation of the dignity and humanity of detainees. It prohibits any physical or psychological harm or deprivation of their rights and freedoms. It also mandates the preservation of human life in general, considering it to be at the highest level of individual rights and personal freedoms.

Article 55 of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.)

This also violates the Standard Minimum Rules for the Treatment of Prisoners. Rule 18 on personal hygiene states:

"Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness. To keep the hair and beard trimmed, suitable facilities shall be provided. Prisoners shall be provided with facilities for shaving where necessary."

Therefore, the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Allow the Notifier to bring in necessary hygiene products and medical supplies for the detainee, [Detainee's name], from the Notifier's visitors, within the limits and proportions permitted by the internal regulations.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of allowing the Notifier to bring in necessary hygiene products and medical supplies for the detainee, [Detainee's name], from the Notifier's visitors, within the limits and proportions permitted by the internal regulations. This notice was served on [Date], and they have been given ten days from the date of receipt to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

Petition Form:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against:

Mr./ Minister of Interior, in his official capacity.

Mr./ Public Prosecutor, in his official capacity.

Mr./ Head of the Community Protection Sector, in his official capacity.

Mr./ Director of [Name] Rehabilitation and Reform Center, in his official capacity.

Subject

On [Date], during the visit of [Your relationship to the detainee] to the Appellant, who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year], the correctional facility administration refused to allow the Appellant to receive hygiene products and medical supplies from visitors, within the limits and proportions permitted by the internal regulations.

The Appellant then sent a registered telegram with acknowledgment of receipt to the Major General, Minister of Interior, and to the Public Prosecutor on [Date], registered under No. [Telegram number], to document the incident of refusal to allow hygiene products and medical supplies, without any legal basis. However, no response was received from either party. Furthermore, these items were again denied entry during subsequent visits.

This prompted the Appellant to issue a formal notice to the Respondents, in their official capacities, recorded under No. [Notice number] on [Date] in minutes [Minutes number]. The notice requested permission to bring in hygiene products and medical supplies for the detainee within the limits and proportions allowed by the internal regulations.

The refusal of the Respondents, in their official capacities, to allow the Appellant to receive hygiene products and medical supplies from visitors, within the permissible limits and proportions, violates the Egyptian Constitution. The Constitution mandates preserving the dignity and humanity of detainees, prohibiting any physical or psychological harm or deprivation of their rights and freedoms. It also mandates the preservation of human life in general, considering it to be at the highest level of individual rights and personal freedoms.

Article 55 of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every

statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.”.

Despite all of this, the fourth respondent, in his official capacity, has prevented the Appellant from receiving necessary hygiene products and medical supplies from visitors, within the limits and proportions permitted by the internal regulations. This decision represents a violation and disregard for the Constitution and a breach of Egypt's international obligations. It also constitutes an infringement upon the fundamental rights of citizens and their right to health. Therefore, the Appellant challenges this decision for the following reasons.

Grounds for Appeal

First Ground: The Existence of an Administrative Decision in the Respondent's Refusal to Disclose the Place of Detention of

It is well-established that an administrative decision is:

(An expression of the administration's binding will, within the scope of its authority as granted by laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of public interest.)

(See the ruling of the Supreme Administrative Court on February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of the year 9 Q) (Book: The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, it was ruled:

(An expression from the public administration, issued explicitly or implicitly in the course of performing its functions prescribed by law within the administrative domain, intended to produce a legal effect and taking an executive nature.)

(Case 1 of the year 1 Q 19/3/1947 - Mahmoud Assem Collection, First Group "November 1946 - June 1948" p. 34)

And in a third definition:

An administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing one. Dean Leon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a certain future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council's Jurisprudence - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as an expression of the administration's binding will, within the scope of its authority as granted by laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of the year 1 Q - Session 1947) (Administrative Court ruling in Case No. 263 of the year 1 Q - Session 7/1/1948 - S 2 - p. 222) (Supreme Administrative Court - Appeal No. 674 of the year 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled

“The final administrative decision that falls within the jurisdiction of the courts of the Council of State is the decision that completes the elements of the administrative decision in the sense established by the rulings of the Supreme Administrative Court, which issues a declaration by the administration in the form specified by law of its will binding on its public authority under laws and regulations, with the intention of creating a legal status whenever possible and legally permissible. aiming to achieve the public interest. Hence, the pillars of the administrative decision are to have a place, which is the legal status that the will of the issuer of the decision tends to create the legal effect that results from it, directly and immediately, and this is the establishment of a new legal situation or an amendment to an existing legal status or its cancellation.”

(Appeal No. 4358 of the year 37 Q - Session 3/5/1992)

Whereas a secure life is the right of every person residing in Egypt, and the state is obligated to provide security and peace of mind to its citizens and all residents within its borders.

The Ministry of Interior, headed by the respondent in his official capacity, along with its leadership and personnel, is bound by Article 1 of Law No. 109 of 1971 regarding the Police Authority, which states:

(The police is a regular civil body within the Ministry of Interior that performs its functions and exercises its jurisdiction under the leadership of the Minister of Interior and under his command. He is the one who issues the decisions regulating all its affairs and work systems.)

Furthermore, Article 3 of Law No. 109 of 1971 regarding the Police Authority states:

The Police Authority is responsible for maintaining order, public security, and morals, and for

protecting lives, honor, and property. In particular, it is responsible for preventing and controlling crimes, ensuring peace and security for citizens in all fields, and implementing the duties imposed on it by laws and regulations.

Therefore, the police are the guardians of the security of citizens, ensuring their safety and peace of mind. One of their most important duties is to preserve the lives of citizens and to carry out their duties in investigating and uncovering the whereabouts of any citizen, whether alive or deceased, in the event of any report of their disappearance and failure to locate them, and to document this in their records and documents for reference when necessary.

The respondent, in his official capacity, is a member of the police force, and security forces under his command arrested the appellant, Mr./Ms., without a legal basis or warrant issued by the Public Prosecutor or any judicial authority. He/she has not been seen since [date].

Despite the filing of official reports to disclose the whereabouts of the appellant, Mr./Ms., the respondent, in his official capacity, has remained silent, confirming the existence of a negative decision that can be appealed against. Therefore, this appeal is admissible in form due to the existence of a negative administrative decision.

The second reason: The invalidity of the contested decision for violating the Constitution:

Whereas the Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets boundaries and restrictions on their activities, and enshrines public freedoms and rights, arranging fundamental guarantees for their protection. Thus, the Constitution is distinguished by a special nature that confers upon it the quality of sovereignty and supremacy, as it is the guarantor of freedoms, their haven, and the cornerstone of constitutional life and the foundation of its system. Its provisions rightfully stand at the pinnacle of the state's legal structure and occupy a position of prominence among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, its judiciary, and in the exercise of its executive powers, without any discrimination or distinction - in terms of adherence to them - between the legislative, executive, and judicial authorities.

Whereas the Constitution is the supreme law that establishes the rules and principles upon which the system of governance is based. It defines the public authorities, outlines their

functions, sets the boundaries and restrictions governing their activities, and enshrines public freedoms and rights, arranging the fundamental guarantees for their protection. Thus, the Constitution is distinguished by a special nature that confers upon it the quality of sovereignty and supremacy, as it is the guarantor of freedoms, their haven, the pillar of constitutional life, and the foundation of its system. Its provisions rightfully stand at the pinnacle of the state's legal structure and occupy a position of prominence among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, its judiciary, and in the exercise of its executive powers, without any discrimination or distinction - in terms of adherence to them - between the three public authorities: the legislative, the executive, and the judicial. This is because all these authorities are established authorities created by the Constitution, deriving their existence and entity from it, and it is the reference in defining their functions. Therefore, they are all considered equal before the Constitution, each standing on an equal footing with the others, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or the nature of the powers entrusted to it, to abide by the rules and principles of the Constitution and to adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted with the flaw of unconstitutionality.

(Case 37 of the year 9 Judicial "Constitutional" Session May 19, 1990).

Whereas the actions of the respondent, in his official capacity, constitute a grave violation of the provisions of the Egyptian Constitution, which mandate respect for personal freedom and prohibit the arrest or restriction of the liberty of any citizen except by a reasoned judicial order necessitated by an investigation.

Article 54 of the Egyptian Constitution stipulates: "Personal freedom is a natural right, shall be protected and may not be infringed upon. Except for the case of being caught in flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of anyone in any way except by virtue of a reasoned judicial order that was required in the context of an investigation. Every person whose freedom is restricted shall be immediately notified of the

reasons; therefore, shall be informed of his/her rights in writing; shall be immediately enabled to contact his/her relatives and lawyer; and shall be brought before the investigation authority within twenty-four (24) hours as of the time of restricting his/her freedom. Investigation may not start with the person unless his/her lawyer is present. A lawyer shall be seconded for persons who do not have one. Necessary assistance shall be rendered to people with disability according to procedures prescribed by Law. Every person whose freedom is restricted, as well as others, shall have the right to file grievance before the court against this action. A decision shall be made on such grievance within one (1) week as of the date of action; otherwise, the person must be immediately released. 18 The Law shall regulate the provisions, duration, and causes of temporary detention, as well as the cases in which damages are due on the state to compensate a person for such temporary detention or for serving punishment thereafter cancelled pursuant to a final judgment reversing the judgment by virtue of which such punishment was imposed. In all events, it is not permissible to present an accused for trial in crimes that may be punishable by imprisonment unless a lawyer is present by virtue of a power of attorney from the accused or by secondment by the court.”

Article 55 of the same Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon”.

Article 92 also stipulates that: “Inalienable rights and freedoms of citizens may not be suspended or reduced. No law regulating the exercise of rights and freedoms may restrict such rights and freedoms in a manner prejudicing the substance and the essence thereof”. Whereas any violation of personal freedom, the sanctity of private life, or other public rights and freedoms guaranteed by the Constitution and the law is a crime for which neither criminal nor civil proceedings are subject to a statute of limitations. The aggrieved party has the right to

initiate criminal proceedings directly, and the state guarantees fair compensation to the victim of the violation. The National Council for Human Rights has the authority to notify the Public Prosecutor of any violation of these rights and may intervene in the civil lawsuit by joining the aggrieved party, upon their request, all in accordance with the provisions of the Constitution.

From this, it is clear that the provisions of the Egyptian Constitution have enshrined a secure life as a constitutional right for every individual and have obligated the state to provide security and peace of mind to its citizens and all residents within its territory. The Minister of Interior is entrusted with this responsibility, and one of their primary obligations is to preserve the lives of citizens, prevent and control crimes that may occur, and fulfill their duty to investigate and uncover the whereabouts of any citizen in the event of any report of their disappearance and failure to locate them. Otherwise, security and public order in society would be disrupted, chaos and unrest would prevail, and the Ministry of Interior's commitment and duty to protect the lives of citizens would be reduced to mere ink on paper, devoid of any real benefit, hope, or fulfilled right.

Whereas the respondent, in his official capacity, has refrained from disclosing the whereabouts of the appellant, despite being notified through official channels (the report submitted to the Honorable Public Prosecutor or the report filed at the ... Police Station), he has violated the provisions of the Constitution. This renders the appealed decision null and void, necessitating its annulment.

Third Ground: The Appealed Decision's Violation of the Law and the Obligations of the Arab Republic of Egypt, as Guaranteed by the Egyptian Constitution.

Whereas the Egyptian Constitution has recognized international agreements and placed them on par with national legislation. It also stipulates the state's commitment to all international agreements it signs, as stated in Article 93 of the Constitution

stipulates that: "The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions".

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the

House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories”.

The first paragraph of Rule 22 states:

"Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served."

Article 3 of the same law states:

(The police authority is responsible for maintaining public order, security, and morals, and for protecting lives, honor, and property, and in particular for preventing and suppressing crimes. It is also responsible for ensuring peace and security for citizens in all areas, and for carrying out the duties imposed on it by laws and regulations.)

The last paragraph of Article 8 of the Minister of Interior's Resolution No. 691 of 1998, issued on 03-07-1998, states:

"A prisoner, regardless of their administrative degree, is allowed to accept food, sweets, and fruits offered by visitors, within the limits of their personal consumption for one day, and cigarettes within the limit of 40 cigarettes, whether during regular or special visits. Those sentenced to death do not enjoy this privilege."

Based on the foregoing, it is clear that the refusal of the respondents, in their official capacities, to allow the Appellant to receive food and meals, as legally permitted, violates the provisions of international conventions and agreements and the internal regulations of Law No. 396 of 1956, the Law Regulating Community Correction and Rehabilitation Centers. This necessitates its annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

(The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision.)

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

The respondents, in their official capacities, have not provided any reasons or justifications for the administration of [Detention center name] Rehabilitation and Reform Center, where [Detainee's name], [Your relationship to the detainee], is detained, to prevent the Appellant from receiving food and meals as legally permitted. Therefore, the contested decision lacks a valid reason and should be annulled.

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision preventing the Appellant from receiving food and meals from his/her relatives during visits.

The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

The Constitution upholds the preservation of human life, considering it paramount among individual rights and personal freedoms. The constitutional legislator has prohibited any infringement upon these rights, considering them natural rights inherent in human beings, and has granted them the fullest and most comprehensive protection to affirm their value, without prejudice to the right to regulate them. The Law on the Organization of Rehabilitation and Reform Centers and its internal regulations have taken these considerations and guarantees into account by establishing the detainee's right to a balanced diet in all meals provided. They have also considered the health conditions of sick detainees by providing meals under the medical supervision of the rehabilitation and reform center's physician, tailored to their specific medical conditions. This is because a detainee's nutrition is closely linked to their health and medical circumstances. The Law on the Organization of Rehabilitation and Reform Centers also allows for certain foods and meals to be brought in by the detainee's visitors, within the limits and proportions permitted by the internal regulations and subject to health inspections by the rehabilitation and reform center's physician. Therefore, the conditions for suspending the execution of the contested decision are met.

Accordingly

the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to allow the Appellant to provide food and meals to [Detainee's name], [Your relationship to the detainee], who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year]. This suspension should include allowing the Appellant to

provide food and meals to [Detainee's name] at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility where he/she may be detained, with all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to allow the Appellant to provide food and meals to [Detainee's name], [Your relationship to the detainee], who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year]. This annulment should include allowing the Appellant to provide food and meals to [Detainee's name] at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility where he/she may be detained, with all consequential effects. The ruling should be executed on its draft and without announcement.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

- 6- The legal procedures to be followed in case the correctional facility administration prevents visitors from bringing clothes or furniture for the inmate

In the event that the administration of the Correction and Rehabilitation Center refuses to bring the clothes or furniture necessary for the residence of the inmate inside the detention center in accordance with what is prescribed by law, and their families take legal action towards preserving the right of the inmate to obtain the clothes and furniture necessary for his residence, by writing a report proving a case in the department to which the Correction and Rehabilitation Center belongs. In the event that the police department refuses to write the report or fears eligibility to abuse them if they go to the police department to write a report of the incident, the eligibility can make a report to the Public Prosecutor of the incident, or edit a telegraph registered with knowledge of access to the Public Prosecutor and the Minister of Interior, on the day of the occurrence of the incident of the refusal of the administration of the Correction and Rehabilitation Center to enter the clothes or furniture.

Telegraph Form:

The Public Prosecutor The Minister of the Interior

Greetings,

I am writing to you regarding my relation to the inmate, [Name of Inmate], who is detained at the [Correctional Facility Name] correctional facility, case number [Case Number] of the year [Year], or against whom a verdict was issued in case number [Case Number] of the year [Year].

On [Date], during my visit to him at the [Correctional Facility Name] correctional facility, the administration of the correctional facility refused to allow the entry of [list of items, e.g., blankets, bed, fan] in accordance with the law, and these items were confiscated and their entry was prevented. I request your Excellency to investigate this matter and take the necessary legal action.

Respectfully submitted, [Your Name] [Your ID Number]

Initiate a lawsuit

A lawsuit must be filed before the Administrative Court of the Council of State against the Minister of Interior and others in the event of prohibition, by requesting to be able to summon clothes or furniture from visitors to the inmate, through the following steps:

1- Issuing a warning to the Minister of Interior and others

Notice Form Format

[Date]

To:

1. The Minister of the Interior, [Address]
2. The Public Prosecutor, [Address]
3. The Head of the Community Protection Authority, [Address]
4. The Director of [Correctional Facility Name], [Address]

Please take notice that on [Date], during a visit to [Correctional Facility Name] by [Relationship to inmate], who is detained there on charges related to case number [Case Number] of [Year], or against whom a verdict was issued in case number [Case Number] of [Year], the correctional facility administration refused to allow the entry of [list of items, e.g., clothes, furniture]. These items were confiscated, and their entry was prevented.

[Relationship to inmate] subsequently sent a registered letter with acknowledgment of receipt to the Minister of the Interior and the Public Prosecutor on [Date], reference number [Reference Number], to document the incident of the correctional facility refusing to allow the entry of the items without legal justification. However, no response has been received from any of the authorities. Furthermore, during a subsequent visit, the same items were again denied entry.

Therefore, this notice is being served to demand that you allow the entry of the necessary clothes and furniture for the inmate, within the limits permitted by the internal regulations.

By preventing the entry of the necessary clothes and furniture, you are violating the provisions of the Egyptian Constitution, which guarantees the dignity and humanity of all individuals, including those in detention. The Constitution prohibits any form of physical or psychological harm and safeguards the rights and freedoms of individuals.

[Your Name] [Your Address] [Your ID Number]

Article 55 of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.)

This is also contrary to what is stated in the Standard Rules for the Treatment of Inmates, Rule 19, 20 and 21 on caring for clothes and bedding, which states that " every prisoner who is not

allowed to wear his own clothes must be provided with a set of clothes suitable for the climate and sufficient to maintain his health. In no case may these garments be humiliating or degrading. All clothing must be clean and kept in good condition. Underwear must be changed and washed at the frequency necessary to maintain health.

When prisoners are allowed to wear their own clothing, arrangements shall be made for their entry into correctional and rehabilitation centres to ensure their cleanliness and suitability for wearing.

Each prisoner shall be provided, in accordance with local or national standards, with an individual bed and supplies for this bed allocated to him and sufficient, which shall be clean at the time of delivery, shall be kept fit, and shall be replaced at close dates to the extent that they maintain their cleanliness.

Therefore

The notifying party hereby notifies the notified parties in their respective capacities as follows:

It is imperative that the notified parties enable the notifying party to bring in clothes/furniture for the inmate, within the limits and proportions permitted by the internal regulations.

Accordingly

I, the aforementioned bailiff, have proceeded to the notified parties in their respective capacities and served them a copy of this notice, informing them of its contents and alerting them to the necessity of enabling the notifying party to bring in clothes/furniture for the inmate, within the limits and proportions permitted by the internal regulations. This was done on [Date], and they have ten days from the date of receipt of this notice to comply.

Otherwise,

The notifying party will be forced to take all necessary legal measures.

All other rights of the notifying party are reserved.

For your information:

In the event that the notice is not responded to and the correctional facility administration refuses to allow the entry of clothes or furniture for the detained inmate, a lawsuit must be filed before the Administrative Judiciary Court. The following documents must be attached:

1. A copy of the national ID card.
2. A certificate from the case file stating the latest developments in the case.
3. An official copy of the telegram or police report.
4. The original notice.

Form of the petition

To: The Honorable Advisor/Vice President of the State Council (President of the Administrative Judiciary Court)

Subject: [Brief description of the case, e.g., Denial of Bringing Clothes and Furniture to Inmate]

Plaintiff: [Your Name] [Your Address] Represented by: [Lawyers' Name] [Lawyers' Office Address]

Defendants:

1. The Minister of the Interior, in his official capacity
2. The Public Prosecutor, in his official capacity
3. The Head of the Community Protection Authority, in his official capacity
4. The Director of [Correctional Facility Name], in his official capacity

Subject

On [Date], during a visit to [Correctional Facility Name] by the plaintiff, who is detained there on charges related to case number [Case Number] of [Year], or against whom a verdict was issued in case number [Case Number] of [Year], the correctional facility administration refused to allow the entry of [list of items, e.g., clothes, furniture], within the limits permitted by the internal regulations.

The plaintiff subsequently sent a registered letter with acknowledgment of receipt to the Minister of the Interior and the Public Prosecutor on [Date], reference number [Reference Number], to document the incident of the correctional facility refusing to allow the entry of the items without legal justification. However, no response has been received from any of the authorities. Furthermore, during subsequent visits, the same items were again denied entry.

Therefore, the plaintiff filed a notice to the defendants on [Date], reference number [Reference Number], demanding that they allow the entry of the necessary clothes and furniture for the inmate, within the limits permitted by the internal regulations.

By preventing the entry of the necessary clothes and furniture, the defendants have violated the provisions of the Egyptian Constitution, which guarantees the dignity and humanity of all individuals, including those in detention. The Constitution prohibits any form of physical or psychological harm and safeguards the rights and freedoms of individuals.

Article 55 of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

Despite all this, the fourth respondent, in his capacity as he has refrained from bringing clothes/ furniture from the inmate's visitors to the appellant, within the limits allowed in the internal regulations, and since this decision represents a violation and waste of the Constitution and a violation of Egypt's international obligations, and represents an attack on the basic rights of citizens and their right to know, so the applicant challenges it for the following reasons.

Grounds for Appeal

First reason: Existence of an Administrative Decision Manifested in the Respondents' Denial of the Appellant's Visitation Rights It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

Whereas a secure life is the right of every human being residing in the land of Egypt, and the State is committed to providing security and tranquillity to its citizens and to every resident on its territory .

And that the Ministry of Interior, headed by the Appellee in his capacity as its leader and its men, in accordance with the text of Article 1 of Law No. 109 of 1971 on the Police Authority, which states:

(The police is a regular civilian body in the Ministry of Interior that performs its functions and exercises its competence under the chairmanship and leadership of the Minister of Interior, who issues decisions regulating all its affairs and work systems.)

Article 3 of Law No. 109 of 1971 on the Police Authority also stipulates: -

“The Police Authority is competent to maintain order, public security and morals, and to protect lives, symptoms and money.....”

The police is the guardian of the security of the citizen in order to ensure security and tranquility, and that the most important duties placed on them are to preserve the life of the citizen, and since the first respondent, in his capacity as a policeman, and the security forces of his reform center, prevented the appellant from summoning clothes/ furniture from visitors to the inmate, within the limits and proportions allowed in the internal regulations, and despite the appellant's release of a telegraph registered with acknowledgment of receipt with a request to

enable him to summon clothes / furniture from his visitors, he was also prevented after that, and he issued a warning with the same content to the respondent in their capacity, but the respondent, in their capacity, remained silent to confirm the availability of the negative decision that may be appealed against, so this appeal is acceptable in form because of the availability of the negative administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the

Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the Appellee as a serious violation of the provisions of the Egyptian Constitution, as Article 55 of the Constitution stipulates (Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.)

Article 56 of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

The constitutional legislator is obligated to respect personal freedom, and to take care to preserve the dignity and humanity of the imprisoned person. It is not permissible to harm him physically or morally or to derogate from his rights and freedoms established constitutionally and legally, and it is obligatory to preserve human life in general as it is at the highest levels of individual rights and personal freedoms. The constitutional legislator has prohibited violating it, including preserving the lives of prisoners by all means and means, considering that the

payment of material and moral harm to them is consistent with international conventions and advanced penal legislation, which is based on the philosophy of rehabilitation of the inmate with the aim of reforming his behavior, including by deciding the right of the inmate to enter clothes / furniture.

Whereas, the Appellee, in their capacity as the Appellant, refrained from enabling the Appellant to summon clothes / furniture from his visitors as legally prescribed, despite being notified of this by official means through (the written communication to the Counselor, the Public Prosecutor, the written report at a police station, or the telegraph ...), if he has violated the validity of the Constitution, so that the contested decision is null and void, which requires its cancellation.

The third reason: Violation of the appealed decision by the law and the obligations of the Arab Republic of Egypt guaranteed by the Egyptian Constitution:

Whereas the Egyptian Constitution has recognized international conventions and placed them on the level of national legislation. It also stipulates that the State shall abide by all international conventions it signs. Article 93 of the Constitution stipulates that: " The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations, shall conclude treaties, shall ratify them after the approval of the Chamber of Deputies, and shall have the force of law after their publication in accordance with the provisions of the Constitution. Voters must be invited to a referendum on the treaties of reconciliation and alliance and what relates to the rights of sovereignty, and they shall not be ratified until after the result of the referendum is announced with approval. In all cases, no treaty may be concluded that violates the provisions of the Constitution or entails the cession of any part of the territory of the State.)

The Standard Rules for the Treatment of Inmates also provided, in Rule 19, that "1. Every prisoner who is not allowed to wear his or her own clothing shall be provided with a set of clothing suitable for the climate and sufficient to maintain his or her own well-being. In no case

may these garments be humiliating or degrading.

2- All clothes must be clean and kept in good condition. Underwear must be changed and washed at the necessary pace to maintain health.....

Rule 20 states that "When prisoners are allowed to wear their own clothes, arrangements shall be made upon their entry to correctional and rehabilitation centers to ensure their cleanliness and suitability for wear."

Rule 21 also stipulates that "Each prisoner shall be provided, in accordance with local or national standards, with an individual bed and supplies for this bed allocated to him and sufficient, which shall be clean upon delivery, shall be kept fit, and shall be replaced at close dates to the extent that it maintains its cleanliness."

Article 1 of the Minister of Interior's Decree No. 691 of 1998 issued on 03-07-1998 stipulates that "taking into account the provisions of Articles (14, 15) of the aforementioned Law No. 396 of 1956.

(1) The minimum prescribed for prisoners of furniture and clothing shall be as follows, within the limits of the capabilities of the community protection service sector: -

The following furniture and tools shall be allocated to each male or female inmate:

Bed - mattress - bed sheet - pillowcase - (2) pillowcase - wool blanket in summer or two winter - mattress - (3) plastic plates (2) plastic spoons - hair comb for female guests - (2) soaps .

For nursing mothers, the soap variety shall be increased to (4) soaps each.

1-The clothes prescribed for each male inmate are :

(a) Pre-trial detainees and those sentenced to simple imprisonment or those executed under physical coercion.

(b) Convicts transferred to medium-security (public) prison.

(c) Persons sentenced to imprisonment with work or imprisonment .

(d) Persons sentenced to hard labour .

They are as follows :

(2) trousers - (2) jackets (of the same type of trouser cloth) - (2) shirts (a jacket used as an underwear) - (2) clothes - (2) handkerchiefs - winter cotton wool jacket - shoes - plastic slippers (for bathing and ablution) - (2) pairs of socks (two drinks) white cotton - (2) face towels, (2) soaps"

Article 8 of the same regulation stipulates that "the convict in the second degree is authorized to buy or bring a sleeping pillow and a wool cover that conforms to the health conditions and is authorized to keep books and lighting in his room after the scheduled dates at his expense, all under the conditions set by the head of the Community Protection Sector.

The convict in the first degree is authorized to buy or bring a mattress, a sleeping pad, blankets, a mirror, a table, a chair, a carpet and a Bashkir, and to keep family photos, books, newspapers, magazines and lighting in his room after the prescribed dates, all at his expense and under the conditions set by the head of the Community Protection Sector....."

The provisions of the following articles may be added if the appellant is in pretrial detention or has been sentenced to simple imprisonment

Article 14 of Law No. 396 of 1956, the Law Regulating Community Correction and Rehabilitation Centers, as last amended, stipulates that: "Pre-trial detainees shall reside in places separate from the places of other inmates. Pre-trial detainees may be authorized to reside in a furnished room for an amount determined by the Assistant Minister for the Community Protection Sector, not less than fifteen pounds per day, taking into account what the places and tasks of the correction and rehabilitation centers allow, and in accordance with the procedures and rules specified by the internal regulations.

Article 15 of the same law stipulates that "Pre-trial detainees have the right to wear their own clothes, unless the administration of the Correction and Rehabilitation Center decides, in the interest of health or hygiene or in the interest of security, to wear the clothes prescribed for other inmates.

Article 17 also stipulates that "the Assistant Minister for the Community Protection Sector may, after the approval of the Public Prosecutor, grant those sentenced to simple imprisonment all or some of the benefits prescribed for those in pretrial detention."

Through the aforementioned, it is clear that the refusal of the Appellee, in their capacity as the appellant, to enable the appellant to summon clothes or furniture from his visitors in accordance with what is legally prescribed, is contrary to the provisions of international charters and covenants and the internal regulations of Law No. 396 of 1956, the Law Regulating Correction and Community Rehabilitation Centers, which requires its abolition.

The fourth reason: Nullity of the decision for lack of reason and lack of legitimacy: -

The Supreme Administrative Court ruled that (the reason for the administrative decision is a factual or legal situation that leads the administration to intervene with the intention of creating a legal effect that is the subject of the decision in order to achieve the public interest, which is the goal of the decision)

(Supreme Administrative Court – Appeal 277 of 33 S on 27/2/1993 – Modern Administrative Encyclopedia – 1985/1993 – C 35
- Rule 342 – p. 997)

She also ruled

(The decision must be based on reasons that justify it honestly and truly in reality and in the law as one of the elements of its convening as a legal act, and no legal act is carried out without a reason.

(Appeal 3471 for the year 32 S on 29/12/1990 Modern Administrative Encyclopedia – 1985/1993 – Rule 341 – p. 995)

According to the rulings of the Supreme Administrative Court, it is not sufficient for the reason to exist only, but it is required to be consistent with constitutional principles, and that the control of the reasons for the decision requires the administrative judge to examine the evidence and objective motives that led the authority to issue its negative or positive decision.

Whereas, the Appellees, in their capacity so far, have not provided reasons or justifications for the establishment of the administration of a reform center.... The appellant is deposited with the appellant to prevent him from being able to bring clothes / furniture from his visitors, as legally permitted, and therefore the contested decision is absent for its reason, which requires its cancellation .

The fifth reason: In the request for a stay of execution: -

Whereas, it is recognized that the power to suspend the implementation of administrative

decisions is derived from the power of revocation, a branch of which is due to the legal control exercised by the administrative judiciary on the basis of its weight, which distinguishes the law and the weight of its legitimate powers. The implementation of the administrative decision shall not be suspended unless there are two basic pillars, the first of which is the element of urgency that the implementation of the contested decision entails irreversible consequences and the second relates to the principle of legality, that is, the claim of the applicant is based on prima facie reasons that bear a basis for canceling the decision. All of this is without prejudice to the request for cancellation itself, which remains until it is subject)

(Supreme Administrative Court in Appeal No. 221 of 32 session 26/1/1985)

Applying this, we find that all these conditions are available as it is about the corner of urgency, the implementation of the contested decision to enable the appellant to summon clothes/ furniture from his visitors, as legally authorized, and the reasons for the appeal suggest the issuance of a ruling to cancel this decision, so the reasons for the suspension of execution are available in this appeal.

Accordingly

The appellant seeks to determine the nearest hearing and judgment: -

First: - By accepting the appeal in form

Second: - As a matter of urgency, to stop the implementation of the negative decision with the abstention of the Appellee in their capacity as preventing the Appellant from being able to summon clothes / furniture from his visitors, as legally authorized, while enabling him to summon clothes/ furniture from his visitors, as legally authorized, in a repair center....., or in any other correction center in which it is deposited, with the consequent effects, provided that the judgment is executed with its draft and without announcement.

Third: On the subject of canceling the negative decision with the abstention of the Appellee with the abstention of the Appellee in their capacity as preventing the Appellant from being able to bring clothes / furniture from his visitors, as legally authorized, while being able to bring clothes/ furniture from his visitors, as legally authorized, at a repair center....., or in any other

correction center in which it is deposited, with the consequent effects, provided that the judgment is executed with its draft and without announcement.

The agent of the appellant

Lawyer

Chapter Three: Right to personal liberty

Section One: Prolonged pretrial detention and the fall of pretrial detention

Introduction

Recently, preventive detention in cases of a political nature has transformed from a precautionary measure into a quasi-punishment. In many instances, defendants held in preventive detention for politically motivated charges exceed the time limits established by the Code of Criminal Procedure for the expiration of preventive detention orders. This practice violates both the Constitution and the law.

II. Definition of Preventive Detention

Preventive detention is a legal procedure undertaken by the investigative authority or the competent court to ensure the detention of the accused in a secure location until the case and the accusations against them are adjudicated. It aims to guarantee that the accused does not tamper with evidence or influence witnesses.

(Preventive detention is considered one of the most serious criminal procedures taken against the accused during the investigation and trial phases. This is due to its direct infringement on the human right to freedom of movement, which is guaranteed by the Constitution. This infringement occurs during two phases of criminal proceedings, throughout which the accused is presumed innocent.

Therefore, it is not surprising that all those engaged in the legal field seek to define the boundaries within which personal freedom is exercised, and the balance achieved by the legislator between the principle of the presumption of innocence and the right to personal liberty on the one hand, and the requirements of the investigation and the protection of society's security on the other. This balance reflects society's perspective within the

framework of important guarantees outlined in the Constitution and the law to express the essence of the right to personal freedom and the presumption of innocence.

Freedom of movement is one of the most important aspects of personal freedom, and it has enjoyed constitutional protection in all Egyptian constitutional documents. It is also enshrined in the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights. Infringement upon freedom of movement occurs through arrest or preventive detention, and these guarantees legitimize such infringement.⁶⁶

III. Preventive Detention in the Constitution and the Law

A. Preventive Detention in the Constitution:

Article 54 of the Constitution stipulates “Personal freedom is a natural right, shall be protected and may not be infringed upon. Except for the case of being caught in flagrante delicto, it is not permissible to arrest, search, detain, or restrict the freedom of anyone in any way except by virtue of a reasoned judicial order that was required in the context of an investigation. Every person whose freedom is restricted shall be immediately notified of the reasons; therefore, shall be informed of his/her rights in writing; shall be immediately enabled to contact his/her relatives and lawyer; and shall be brought before the investigation authority within twenty-four (24) hours as of the time of restricting his/her freedom. Investigation may not start with the person unless his/her lawyer is present. A lawyer shall be seconded for persons who do not have one. Necessary assistance shall be rendered to people with a disability according to procedures prescribed by Law. Every person whose freedom is restricted, as well as others, shall have the right to file grievance before the court against this action. A decision shall be made on such grievance within one (1) week as of the date of action; otherwise, the person must be immediately released. 18 The Law shall regulate the provisions, duration, and causes of temporary detention, as well as the cases in which damages are due on the state to compensate a person for such temporary detention or for serving punishment thereafter cancelled pursuant to a final judgment reversing the judgment

⁶⁶ Dr. Ahmed Fathi Sorour - Introduction to Judge Seri Mahmoud Siam's book on pretrial detention in Egyptian legislation in light of the new guarantees introduced by Law 145 of 2006. - Page 8

by virtue of which such punishment was imposed. In all events, it is not permissible to present an accused for trial in crimes that may be punishable by imprisonment unless a lawyer is present by virtue of a power of attorney from the accused or by secondment by the court."⁶⁷

B. Preventive Detention in the Code of Criminal Procedure No. 150 of 1950:

The Code of Criminal Procedure No. 150 of 1950, as amended, outlines the regulations and conditions for preventive detention in Articles 134 to 143. Regarding the expiration of preventive detention, the fourth paragraph of Article 143 stipulates:

"In all cases, the period of preventive detention during the preliminary investigation and all other stages of criminal proceedings may not exceed one-third of the maximum term of imprisonment, provided that it does not exceed six months for misdemeanors, eighteen months for felonies, and two years if the penalty prescribed for the crime is life imprisonment or death."⁶⁸

⁶⁷ Article 54 of the Egyptian Constitution.

⁶⁸ See Articles 134 to 143 of Law No. 150 of 1950 Criminal Procedure Code as last amended

Section Two: Non-Execution of Release Orders and Incommunicado Detention

Introduction

Defendants in cases of a political nature are often subjected to unlawful detention, even when a release order has been issued. In these situations, the administration of the rehabilitation and correction center where the detainee is held sends their documents to the prosecution office to endorse the release order. The detainee is then transferred to the police station in their district of residence for the implementation of the release order. Their criminal record is checked to ensure there are no outstanding judgments against them. If their record is clear, the release order should be executed. If there are any criminal judgments against them, they are sent to the competent prosecution office to take legal action regarding the judgment, such as filing an opposition if the judgment was issued in absentia, or filing an appeal if the judgment was issued in their presence.

However, the detainee may be surprised to find that the release order is not executed and that they remain in detention without knowing the reasons for the non-execution. Upon inquiring with the officer in charge at the police station, they may be told that they are "awaiting a signal from National Security to execute the release order." This implies that the release is contingent on the approval of the officer in charge of the National Security sector. This practice allows for the circumvention of release orders for activists and dissidents by accusing them of new charges, which violates the law, the Constitution, and international conventions and agreements.

I. Incommunicado Detention and Non-Execution of Release Orders by the Prosecution or Court in International Conventions and Agreements and Egyptian Law

A. International Conventions and Agreements:

Article 9 (1) of the International Covenant on Civil and Political Rights, ratified by Egypt, states:

"Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in

accordance with such procedure as are established by law." ⁶⁹

B. Detention in isolation from the outside world and failure to implement the decision issued to release in the Constitution and the law:

1- Constitution:

Article 1/42 of the Constitution stipulates that: "Every citizen who is arrested, imprisoned or whose freedom is restricted in any way must be treated in a manner that preserves human dignity. He may not be physically or morally harmed, nor may he be detained or imprisoned in places other than those subject to the laws issued to regulate prisons."⁷⁰

2- Criminal Procedure Law No. 150 of 1950, as last amended:

Article 40 of the Code of Criminal Procedure stipulates that "no person may be arrested or imprisoned except by order of the legally competent authorities. He must also be treated in a manner that preserves human dignity, and he may not be physically or morally harmed."

As stated in Article 41, "No one may be imprisoned except in the prisons designated for this purpose. It is not permitted for the warden of any prison to accept any person in it except by virtue of an order signed by the competent authority, otherwise he shall keep him after the period specified in this order.

Article 42 also stipulates that "Members of the Public Prosecution, presidents, and representatives of primary and appellate courts are authorized to visit public and central prisons within their jurisdictions to ensure that no one is being held unlawfully. They have the right to inspect the registers of correctional and rehabilitation centers, as well as arrest and detention warrants, and to take copies thereof. They may also communicate with any detainee and hear

⁶⁹ See the text of the first paragraph of Article 9 of the International Covenant on Civil and Political Rights, <https://www.ohchr.org/ar/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights op. Cit.>

⁷⁰ See the text of Article 42 of the Egyptian Constitution

any complaint they wish to raise. Prison directors and staff are obligated to provide them with full assistance in obtaining the information they request.."⁷¹

Article 43 states:

"Every prisoner has the right to submit a complaint in writing or orally to the officer in charge of the correctional and rehabilitation center and request that it be forwarded to the Public Prosecution. The officer is obligated to accept and forward it immediately after recording it in a register designated for this purpose in the correctional and rehabilitation center."

Furthermore, anyone who becomes aware of a person being unlawfully detained or held in a place not designated for detention must notify a member of the Public Prosecution. Upon becoming aware, the prosecutor must immediately visit the place where the detainee is held, conduct an investigation, and order the release of any person unlawfully detained. The prosecutor must also document these actions in an official report.⁷²

II. Legal Procedures in Case of Non-Execution of a Release Order

If the security forces at the police station in the released person's district of residence fail to implement the release order, and the person remains unlawfully detained, a telegram must be sent to the Public Prosecutor and the Minister of Interior. A report must also be submitted to the Chief Prosecutor of the court with jurisdiction over the police station, or to the Public Prosecutor, requesting the implementation of the release order.

Telegram Format:

To the Honorable Counselor/ Public Prosecutor

The Honorable Major General/ Minister of Interior

Submitted to your Excellency by: "[Name of the complainant]"

⁷¹ See Articles 40 to 42 of the Code of Criminal Procedure No. 150 of 1950 as last amended.

⁷² Review the text of Article 43 of the Criminal Procedure Law No. 150 of 1950 in accordance with its amendments.

On [Date], a release order was issued for [Your relationship to the released person], in connection with case No. [Case number] of [Year]. On [Date], he/she was transferred to [Police station name] Police Station to execute the release order. However, the order has not been executed to date, and he/she remains unlawfully detained at the police station, despite the passage of [Number] days. I submit this report to your Excellency requesting his/her immediate release and to document the incident. I hold the Ministry of Interior responsible for his/her personal safety and request that you take the necessary legal measures to secure his/her release and investigate the incident.

With the utmost respect and appreciation,

Submitted to your Excellency "[Your Name]"

Report Format:

To the Honorable Counselor/ [Name of the Chief Prosecutor or Public Prosecutor]

Greetings and Respect,

Submitted to your Excellency by: [Your Name], in my capacity as attorney for [Released person's name], who was ordered released in case No. [Case number] of [Year], and is currently unlawfully detained at [Police station name] Police Station/Center.

Subject

On [Date], a release order was issued for [Released person's name] by the prosecution/court. He/she was transferred to [Police station name] Police Station in his/her district of residence on [Date]. However, the release order has not been executed as of the date of this report. Upon inquiring with the police station chief about the non-execution of the release order, he stated that the release order is contingent on the approval of the National Security officer at the station, which violates the Constitution and the law.

Article 42(1) of the Constitution states:

"Every citizen who is arrested, detained, or has their freedom restricted in any way must be treated in a manner that preserves human dignity. It is not permissible to inflict physical or psychological harm on them, nor is it permissible to detain or imprison them in places other

than those subject to the laws governing prisons."

Article 40 of the Code of Criminal Procedure states:

"No person may be arrested or detained except by order of the legally competent authorities. They must also be treated in a manner that preserves human dignity, and it is not permissible to inflict physical or psychological harm on them."

The actions of the officials at [Police station name] Police Station/Center constitute unlawful detention, which necessitates immediate release and an investigation into the unlawful detention, according to the second paragraph of Article 43 of the Code of Criminal Procedure, which states:

(Anyone who becomes aware of a person being unlawfully detained or held in a place not designated for detention must notify a member of the Public Prosecution. Upon becoming aware, the prosecutor must immediately visit the place where the detainee is held, conduct an investigation, and order the release of any person unlawfully detained. The prosecutor must also document these actions in an official report.)

This is also a violation of Article 129 of the Penal Code, which states:

"Any public official or employee, and any person charged with public service, who uses cruelty against people by virtue of his position, thereby violating their honor or causing pain to their bodies, shall be punished by imprisonment for a period not exceeding one year or a fine not exceeding two hundred Egyptian pounds."

Therefore

I request that you take the following legal actions:

First: Release [Released person's name], who was ordered released on [Date] in case No. [Case number] of [Year], and is currently unlawfully detained at [Police station name] Police Station.

Second: Take the necessary legal action to investigate the unlawful detention of [Released person's name] at [Police station name] Police Station, according to the second paragraph of Article 43 of the Code of Criminal Procedure and Article 129 of the Penal Code.

With utmost appreciation and respect to your Excellency,

Submitted to your Excellency.

Section Three: Disciplining Detainees and Solitary Confinement

Introduction

Detainees in correctional facilities, particularly those involved in cases of a political nature, are sometimes subjected to disciplinary measures as a form of punishment and abuse. These measures range from warnings and deprivation of certain rights to delaying the detainee's transfer to a higher level within the facility and prolonged or indefinite solitary confinement, which can last for years. They may also be denied the right to communicate with fellow detainees, exercise, contact the outside world, or receive visits from family, without any legal basis.

The provisions of the Law on Correction and Community Rehabilitation Centers and its implementing regulations regarding disciplinary measures and penalties for detainees are inhumane and, in some cases, amount to torture. They lack even the most basic principles of justice and legality. The law specifies the penalties that may be imposed without defining the actions that warrant them, neither in the law itself nor in the regulations, except for the penalty of placement in a special high-security room with adequate health conditions for a period not exceeding six months.⁷³ It is also contrary to the Egyptian Constitution in accordance with Article 55 of it, which stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

Also Article 56 " A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human

⁷³ A report issued by the Egyptian Initiative for Personal Rights:entitled "Episodes on Egyptian Prison Legislation, Chapter Eight Discipline Prisoners", last visit 26 May 2022, available at the following link: [https://eipr.org/content/% D8% A7%](https://eipr.org/content/%D8%A7)

dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."⁷⁴

⁷⁴ See Article 55, 56 of the Egyptian Constitution.

Subsection I: Discipline Inmates

I. Discipline inmates in international charters and covenants, the Constitution and the law

A. Discipline inmates in international law

The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) address the disciplining of detainees in Rules 37 to 41. These rules emphasize several key principles:

First, prison administrations should prioritize the peaceful resolution of conflicts and avoid using disciplinary measures whenever possible. If disciplinary action is necessary, it should be proportionate to the offense committed.

To ensure accountability and transparency, prison authorities must maintain detailed records of all disciplinary actions taken against prisoners. Additionally, it's crucial to consider the impact of mental illness or intellectual disability on a prisoner's behavior before imposing any sanctions. Prisoners should not be punished for actions that are a direct result of their mental health condition.

The rules also explicitly prohibit the use of punitive labor within the prison system. Prisoners should not be forced to perform any work that is inherently degrading or serves as a form of punishment.

Finally, the Nelson Mandela Rules stress the importance of due process rights for prisoners facing disciplinary charges. This includes the right to be informed of the charges, participate in the investigation, and present a defense, with legal assistance if necessary, especially in cases involving serious allegations. Prisoners also have the right to appeal any disciplinary sanctions imposed on them. These rules work together to promote fairness, justice, and respect for human dignity within correctional facilities. They aim to prevent arbitrary or excessive punishment and ensure that disciplinary actions are used constructively to maintain order and promote rehabilitation.⁷⁵

⁷⁵ Rules 37 to 41 of the Standard Minimum Rules for the Treatment of Inmates [op. cit.](#)

B. Discipline inmates in the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956:

The Law Regulating Correction and Community Rehabilitation Centers addresses the disciplining of detainees in Chapter Nine, "Disciplining Detainees," specifically in Articles 43 to 48. These articles outline the penalties that may be imposed on detainees. The prison director has the authority to issue a warning, revoke certain privileges, or delay a detainee's transfer to a higher class for a maximum of three months for those with life or aggravated sentences, or one month for those with lesser sentences. These penalties are imposed after the detainee is informed of the alleged violation, given a chance to provide their account, and has their defense investigated. The prison director's decision in these cases is final.

More severe penalties are imposed by the Assistant Minister for the Community Protection Sector, based on the prison director's request and after a thorough investigation involving witness testimonies and the detainee's defense. These penalties can include delaying a transfer to a higher class for up to six months for those with detention or imprisonment sentences, or up to a year for those sentenced to hard labor. Similarly, a detainee can be demoted to a lower class for a comparable duration depending on their sentence. All disciplinary actions are meticulously recorded in a dedicated register. It's important to note that detainees in pretrial detention are subject to the same disciplinary system as those convicted and sentenced to detention or imprisonment.⁷⁶

C. Discipline Inmates in the Executive Regulations of the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956:

As for the executive regulations, Article 81 of the Minister of Interior's Resolution No. 79 of 1961 stipulates that "the inmate, upon entering the reform center, shall be informed of his rights and obligations and the penalties imposed on him when he violates the laws and regulations. He shall also be informed of how to submit his complaint."⁷⁷

⁷⁶ See the provisions of Articles 43 to 48 of the Law Regulating Correction and Rehabilitation Centers No. 396 of 1956 in accordance with its latest amendments.

⁷⁷ Article 81 of the Minister of Interior's Resolution No. 79 of 1961 issued on December 28, 1961

Whereas the bylaws of the geographical reform centers have singled out five articles for discipline starting from Article No. 50 and ending with Article No. 55. According to which "the director has the authority to impose the following penalties for violations committed by the inmate inside the correction center after announcing what is attributed to him and achieving his defense, "warning, deprivation of reading newspapers and magazines or dealing with the canteen for a maximum period of fifteen days, deprivation of visit at once, solitary confinement for a period not exceeding a week", recording the violations in a special record...⁷⁸

II. Legal Procedures to Follow if a Detainee is Subjected to Disciplinary Action

If a detainee is subjected to disciplinary action without justification, without being informed of the alleged act or accusation, without having their statement heard, or without their defense being investigated, the disciplinary action is considered invalid for violating legal provisions and must be suspended. These penalties can have irreversible consequences, such as being recorded in the detainee's file at the correctional facility and affecting their eligibility for parole. Therefore, legal action must be taken by submitting a request to the Public Prosecutor, the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held, requesting the suspension of the disciplinary action. This can be done as follows:

Request Form

To:

The Honorable Counselor/ Public Prosecutor

The Honorable/ Minister of Interior

The Honorable/ Head of the Community Protection Sector

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center

Greetings and Respect,

⁷⁸ See Articles 50 to 55 of the bylaws of the Geographical Reform Center, issued by Minister of Interior Decision No. 1654 of 1971 issued on 1971-09-20

Submitted to your Excellency by: [Your Name], in my capacity as [Your relationship to the detainee] of [Detainee's name], who was convicted in case No. [Case number] of [Year], [verdict], on charges of [charges], [or: who is in pretrial detention in connection with case No. [Case number] of [Year]], and is currently detained at [Detention center name] Rehabilitation and Reform Center.

Subject

On [Date], [Detainee's name] was arrested and charged in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center. On [Date], [Detainee's name] was surprised to find that a disciplinary action had been imposed on him by the Director of [Detention center name] Rehabilitation and Reform Center, consisting of an administrative penalty of [penalty type, e.g., warning, delaying transfer to a higher class for [duration]], without providing any reasons or evidence of wrongdoing, and without conducting an investigation or hearing his statement or defense regarding the accusations against him.

This violates Article 44 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956, as amended, which states: "The penalties that may be imposed on a detainee are:

1. Notice.
2. Deprivation of all or some of the privileges granted to the detainee's class or category for a period not exceeding thirty days.
3. Delaying the detainee's transfer to a higher class in the correctional facility for a period not exceeding six months if sentenced to detention or imprisonment, and for a period not exceeding one year if sentenced to life imprisonment or aggravated imprisonment.
4. Demoting the detainee to a lower class in the correctional facility for a period not exceeding six months if sentenced to detention or imprisonment, and for a period not exceeding one year if sentenced to life imprisonment or aggravated imprisonment...

The second paragraph of Article 44 of the same law states: "These penalties are imposed after informing the detainee of the alleged act, hearing their statement, and investigating their defense. The prison director's decision to impose the penalty is final."

Based on the aforementioned provisions and applying them to the facts of the case, we find that the legislator has specified the penalties that may be imposed on detainees, as well as the authority competent to impose these penalties and the limits for each. The legislator has also surrounded the imposition of these penalties with guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

Applying this to the case at hand, we find that [Detainee's name] was surprised by a disciplinary decision against him without being informed of the alleged offense, and without an investigation being conducted or his statement or defense being heard regarding the accusations against him. This violates the law and necessitates the cancellation of the disciplinary action against [Detainee's name].

Therefore, I request that you issue a decision to take the necessary measures to:

First: Provide information about the disciplinary decision issued by the Director of [Detention center name] Rehabilitation and Correction center against the detainee, [Detainee's name], and the alleged acts that led to the imposition of this penalty. Allow access to the detainee's file to verify the disciplinary decisions issued against him.

Second: Issue a decision to cancel and suspend the execution of the disciplinary action imposed on [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with the law.

Respectfully submitted,

If the request is not responded to, or if the cancellation of the disciplinary action against the detainee is refused, a lawsuit must be filed before the Administrative Court. The lawsuit must include the following documents:

1. A copy of the Appellant's National ID card.
2. A certificate from the prosecution's records in the case, including the latest developments.
3. A copy of the submitted request or any document proving the submission of a request to cancel the disciplinary action imposed on the Appellant.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against:

The Honorable Counselor/ Public Prosecutor

The Honorable/ Minister of Interior

The Honorable/ Head of the Community Protection Sector

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center

Subject

On [Date], [Detainee's name] was arrested and charged in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center. On [Date], [Detainee's name] was surprised to find that a disciplinary action had been imposed on him by the Director of [Detention center name] Rehabilitation and Reform Center, consisting of an administrative penalty of [penalty type, e.g., warning, delaying transfer to a higher class for [duration]], without providing any reasons or evidence of wrongdoing, and without conducting an investigation or hearing his statement or defense regarding the accusations against him.

This violates Article 44 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956, as amended, which states: "The penalties that may be imposed on a detainee are:

1. Notice.
2. Deprivation of all or some of the privileges granted to the detainee's class or category for a period not exceeding thirty days.

3. Delaying the detainee's transfer to a higher class in the correctional facility for a period not exceeding six months if sentenced to detention or imprisonment, and for a period not exceeding one year if sentenced to life imprisonment or aggravated imprisonment.
4. Demoting the detainee to a lower class in the correctional facility for a period not exceeding six months if sentenced to detention or imprisonment, and for a period not exceeding one year if sentenced to life imprisonment or aggravated imprisonment...

The second paragraph of Article 44 of the same law states: "These penalties are imposed after informing the detainee of the alleged act, hearing their statement, and investigating their defense. The prison director's decision to impose the penalty is final."

Based on the aforementioned provisions and applying them to the facts of the case, we find that the legislator has specified the penalties that may be imposed on detainees, as well as the authority competent to impose these penalties and the limits for each. The legislator has also surrounded the imposition of these penalties with guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

The Appellant's [Your relationship to the detainee, e.g., father] submitted a request to the Respondents, in their official capacities, requesting the following:

- "Provide information about the disciplinary decision issued by the Director of [Detention center name] Rehabilitation and Correction center against the detainee, [Detainee's name], and the alleged acts that led to the imposition of this penalty.
- Allow access to the detainee's file to verify the disciplinary decisions issued against him.
- Issue a decision to cancel and suspend the execution of the disciplinary action imposed on [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with the law."

However, the Respondents, in their official capacities, refrained from responding and did not take any action. This violates the law and has prompted the Appellant to file this lawsuit seeking the annulment of the implicit decision resulting from the failure to suspend the disciplinary action imposed on [Detainee's name].

Grounds for Appeal

First Ground for Appeal: Existence of an Administrative Decision Manifested in the Respondents' Failure to Suspend the Disciplinary Action Against the Appellant It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers and its internal regulations, specifically Article 43 mentioned earlier, the legislator has specified the penalties that may be imposed on detainees, including "[State the disciplinary penalty]". The law also designates the authority competent to impose these penalties and the limits for each. The imposition of these penalties is subject to guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

Applying this to the case at hand, we find that [Detainee's name] was surprised by a disciplinary decision against him without being informed of the alleged offense, and without an investigation being conducted or his statement or defense being heard regarding the accusations against him. This violates the law and necessitates the cancellation of the disciplinary action against [Detainee's name].

Despite the Appellant's [Your relationship to the detainee, e.g., father] submitting a request to the Respondents, in their official capacities, requesting the following:

- "Provide information about the disciplinary decision issued by the Director of [Detention center name] Rehabilitation and Correction center against the detainee, [Detainee's name], and the alleged acts that led to the imposition of this penalty.
- Allow access to the detainee's file to verify the disciplinary decisions issued against him.
- Issue a decision to cancel and suspend the execution of the disciplinary action imposed on [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with the law."

However, the Respondents, in their official capacities, refrained from responding. This violates the Egyptian Constitution and the Law on the Organization of Correction and Community Rehabilitation Centers, confirming the existence of an implicit negative decision that is subject to appeal. Therefore, this appeal is admissible in form due to the existence of an appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions,

sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

The imposition of the disciplinary action [State the disciplinary penalty] against the detainee, [Detainee's name], without any wrongdoing on his part that warrants punishment, and without informing him of the accusations against him, conducting an investigation, or hearing his statement or defense, and the respondents' refusal, in their official capacities, to allow the Appellant access to the accusations against the detainee that led to the disciplinary action, or to allow him access to the detainee's file or to cancel the disciplinary action, renders the decision invalid for violating the provisions of the Constitution.

The Constitution emphasizes the preservation of the dignity and humanity of detainees, prohibiting any physical or psychological harm or deprivation of their constitutionally and legally established rights and freedoms. It also mandates the preservation of human life, considering it paramount among individual rights and personal freedoms. The constitutional

legislator has prohibited any infringement upon these rights, including the preservation of the lives of detainees by all means and ways. Protecting them from physical and psychological harm aligns with international conventions and advanced penal legislation based on the philosophy of rehabilitating detainees to reform their behavior and preserve their physical well-being, ensuring that individuals, even if they have violated the law, have legal safeguards for their rights and freedoms.

Article 55 of the Constitution stipulates that "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels."

One of the fundamental principles upon which the State of the Rule of Law is based, according to the provisions of the Constitution and laws, is that the accused is innocent until proven guilty in a legal trial that guarantees them the right to defend themselves, whether personally or through legal representation. Consequently, no penalty may be imposed on any detainee without informing them of the act attributed to them, hearing their statement, and investigating their defense. As a general rule, the investigation with the detainee must fulfill the basic requirements that should be met in investigations, especially providing guarantees that ensure the detainee is informed of the accusation against them, allowed to present their defense, submit evidence, hear witnesses, and utilize other means of defense, whether to prove or deny the accusation. The investigation is invalid whenever it deviates from the general principles that must be followed in conducting it, or deviates from its objective, neutral, and impartial nature, as long as any of these flaws prejudice the right of defense. The invalidity of the investigation results in the invalidity of the penalty based on it.

In light of the foregoing, the imposition of the disciplinary action [State the disciplinary penalty] against the detainee, [Detainee's name], by the third respondent, in his official capacity, without any wrongdoing on his part that warrants punishment, and without informing him of the accusations against him, conducting an investigation, or hearing his statement or defense, and the respondents' refusal, in their official capacities, to allow the Appellant access to the accusations against the detainee that led to the disciplinary action, or to allow him access to the

detainee's file or to cancel the disciplinary action, are invalid for violating the provisions of the Constitution. This renders the contested decision invalid and necessitates its annulment.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Enshrined in the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

" The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Since international charters and covenants clearly protect the human rights of prisoners, the first paragraph of Article 7 of the International Covenant on Civil and Political Rights states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 also stipulates that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Rule 41 of the Standard Minimum Rules for the Treatment of Prisoners states that :1.

1. Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.

2. Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and shall be given adequate time and facilities for the preparation of their defence.

3. Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.

4. Prisoners shall have an opportunity to seek judicial review of disciplinary sanctions imposed against them.

5. In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser. As for the law, Article 43 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956, according to its latest amendments, stipulates that "the penalties that may be imposed on inmates are:

1. Notice.
2. Deprivation of all or some of the privileges granted to the detainee's class or category for a period not exceeding thirty days.
3. Delaying the detainee's transfer to a higher class in the correctional facility for a period not exceeding six months if sentenced to detention or imprisonment, and for a period not exceeding one year if sentenced to life imprisonment or aggravated imprisonment.
4. Demoting the detainee to a lower class in the correctional facility for a period not exceeding six months...

Article 44 of the same law states:

"The prison director may impose the following penalties:

(1) Notice. (2) Deprivation of some of the privileges granted to the detainee's class. (3) Delaying the detainee's transfer to a higher class for a period not exceeding three months if sentenced to life imprisonment or aggravated imprisonment, or for a period not exceeding one month if sentenced to imprisonment or detention with labor. (4) Solitary confinement for a period not exceeding fifteen days.

These penalties are imposed after informing the detainee of the alleged act, hearing their statement, and investigating their defense. The prison director's decision to impose the penalty is final.

Other penalties are imposed by the Assistant Minister for the Community Protection Sector, based on a request from the prison director, after a report is prepared that includes the detainee's statement, investigation of their defense, and witness testimony."

Based on the aforementioned legal provisions and applying them to the facts of the case, we find that the legislator has specified the penalties that may be imposed on detainees, as well as the authority competent to impose these penalties and the limits for each. The legislator has granted the prison director the authority to impose certain penalties, including warnings and deprivation of some privileges, and has surrounded the imposition of these penalties with guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

Applying this to the present case, we find that the Appellant was surprised by the disciplinary action imposed on him by the third respondent, in his official capacity, without any wrongdoing on his part, and without an investigation being conducted or his statement or defense being heard regarding the accusations against him, and without hearing witnesses. The respondents' refusal, in their official capacities, to allow the Appellant access to the accusations against the detainee that led to the disciplinary action, or to allow him access to the detainee's file or to cancel the disciplinary action, are invalid for violating the provisions of the Constitution. This renders the contested decision invalid and necessitates its annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the appellees, in their capacity, have so far failed to provide any reasons or justifications for their complete refusal to cancel the disciplinary action imposed on the Appellant. Therefore, the contested decision lacks a valid reason and warrants annulment.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the

request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to cancel the disciplinary action imposed on the Appellant. These penalties affect the application of parole rules, which are due on [Date] [if the Appellant is eligible for parole]. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the contested decision, which includes suspending the decision of the Director of [Detention center name] Rehabilitation and Correction center to impose the penalty of [State the disciplinary penalty] on the Appellant without informing him of the accusations against him, conducting an investigation, or hearing his statement or defense. This also includes suspending the implicit negative decision of refusing to allow the Appellant access to the file containing the penalties previously imposed on him without confrontation, notification, or following the procedures stipulated in the law. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the contested decision, which includes canceling the decision of the Director of [Detention center name] Rehabilitation and Correction center to impose the penalty of [State the disciplinary penalty] on the Appellant without informing him of the accusations against him, conducting an investigation, or hearing his statement or defense. This also includes canceling the implicit negative decision of refusing to allow the Appellant access

to the file containing the penalties previously imposed on him without confrontation, notification, or following the procedures stipulated in the law. This annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Subsection II: Solitary Confinement

Definition of Solitary Confinement

According to the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, solitary confinement is a disciplinary penalty that may be imposed on prisoners for a period not exceeding 30 days. Alternatively, a convicted person can be placed in a special high-security room for a period not exceeding six months. This placement requires a decision from the Assistant Minister for the Community Protection Sector, based on a request from the prison director and after consulting the prison doctor and preparing a report that includes the detainee's statement, investigation of their defense, and witness testimony. This measure is only permissible in specific cases defined by the regulations. It is prohibited to transfer a convicted person to the aforementioned room if they are under 18 years of age or over 60 years of age.⁷⁹

Solitary Confinement in International Conventions and Agreements, the Constitution, and the Law

A. Solitary Confinement in International Law:

The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) address solitary confinement in Rules 43 to 45. They state that prolonged or indefinite solitary confinement is prohibited. Solitary confinement, according to the Standard Minimum Rules, is defined as the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement refers to solitary confinement for a period exceeding 15 consecutive days.

The rules emphasize that solitary confinement should only be used as a last resort, in exceptional cases, and for the shortest possible time. They also prohibit the imposition of solitary confinement on prisoners with disabilities, women, and children.

⁷⁹ Articles 43 to 48 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956.

These provisions reflect a growing international consensus that solitary confinement can have severe negative impacts on the physical and mental health of prisoners, and that its use should be strictly limited and regulated to prevent abuse and protect the fundamental rights of detainees.⁸⁰

B. Solitary Confinement in the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956 and its Implementing Regulations:

The Law Regulating Correction and Community Rehabilitation Centers addresses solitary confinement in Articles 43 to 48. These articles allow for solitary confinement as a disciplinary measure, but with limitations. It can be imposed for a maximum of 30 days, or a convicted individual can be placed in a special high-security room for up to six months, as detailed in the internal regulations. However, this placement is restricted to individuals between 18 and 60 years old, and it results in the loss of some or all privileges granted by law or internal regulations.

The prison director holds the authority to impose penalties, including solitary confinement for up to 15 days, or even up to a week in certain cases. While the law grants this power, it also mandates certain safeguards to protect prisoners. These include the requirement to inform the detainee of the alleged offense, allowing them to provide their account of the events, and conducting a thorough investigation of their defense. This emphasizes an attempt to balance disciplinary measures with a degree of procedural fairness. However, concerns remain about the potential for misuse of solitary confinement, especially given the lack of clear definitions of what constitutes an offense warranting such a penalty.⁸¹

⁸⁰ Rules 43 to 45 of the Standard Minimum Rules for the Treatment of Inmates , available via the UN website,[op. cit.](#)

⁸¹ See Articles 43 to 48 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers.

C. Solitary Confinement in the Regulations of the Law Regulating Correction and Community Rehabilitation Centers:

Solitary confinement is stipulated in the regulations under Article 82, which states that a prisoner may be subjected to a penalty of placement in a highly secure solitary cell that meets health standards for a period not exceeding six months, in accordance with the provisions of paragraph six of Article 43 of the Law Regulating Correctional and Rehabilitation Centers - by a decision of the Assistant Minister for Community Protection, upon a request from the Director of the Correctional and Rehabilitation Center, after obtaining the opinion of the center's physician, and recording a statement from the inmate, hearing his defense, and taking witness testimony. This is applicable in the following specific cases: 1. Possession of objects that may cause harm to others or to the security of the correctional center. 2. Stealing or copying the keys of the correctional center. 3. Attempting to escape or escaping. 4. Assaulting an employee who enters the correctional center to perform their duties or assaulting a visitor. 5. Intentionally damaging the records of the correctional center or the inmates' papers, or making alterations to them. 6. Intentionally damaging any property of the correctional center. 7. Starting a fire inside the cells of the correctional centers. 8. Intentionally setting fire to the correctional centers or their facilities. 9. Assaulting another inmate if the assault results in an injury requiring treatment. 10. Committing any act that could jeopardize the security of the correctional center. This shall not preclude the taking of criminal proceedings regarding the incident. A prisoner may not be transferred to the aforementioned cell if they are under eighteen years of age or over sixty years of age.⁸²

I. Legal Procedures to Follow if a Detainee is Subjected to Solitary Confinement:

If a detainee is placed in solitary confinement without justification, as defined by law, and without being informed of the alleged act, having their statement heard, or having their defense investigated, this is considered an invalid decision. Legal action must be taken by submitting a request to the Public Prosecutor, the Minister of Interior, the Head of the Community Protection

⁸² Article 83 of the Internal Regulations of the Law Regulating Correction and Community Rehabilitation Centers issued by the Minister of Interior Decision No. 79 of 1961, as amended by the decision and amended by the Minister of Interior Decision No. 345 of 2017

Sector, and the Director of the correctional facility where the detainee is held, requesting the termination of solitary confinement.

Request Form:

To:

The Honorable Counselor/ Public Prosecutor

The Honorable/ Minister of Interior

The Honorable/ Head of the Community Protection Sector

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center

Greetings and Respect,

Submitted to your Excellency by: [Your Name], in my capacity as [Your relationship to the detainee] of [Detainee's name], who was convicted in case No. [Case number] of [Year], [verdict], on charges of [charges], [or: who is in pretrial detention in connection with case No. [Case number] of [Year]], and is currently detained at [Detention center name] Rehabilitation and Reform Center.

Subject

On [Date], [Detainee's name] was arrested and charged in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center. On [Date], [Detainee's name] was surprised to find that a disciplinary action had been imposed on him by the Director of [Detention center name] Rehabilitation and Reform Center, consisting of an administrative penalty of "solitary confinement," without providing any reasons or evidence of wrongdoing, and without conducting an investigation or hearing his statement or defense regarding the accusations against him.

This violates Article 44 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956, as amended, which states: "The penalties that may be imposed on a detainee are:

5. Solitary confinement for a period not exceeding thirty days.

6. Placement of the convicted person in a special high-security room for a period not exceeding six months, as specified in the internal regulations. A convicted person may not be transferred from the correctional facility to the room referred to in the preceding paragraph unless he is at least eighteen years of age and not over sixty years of age. The transfer shall result in the deprivation of all or some of the privileges prescribed by law or the internal regulations."

Article 44 of the same law states:

"The prison director may impose the following penalties:

(1) Notice. (2) Deprivation of some of the privileges granted to the detainee's class. (3) Delaying the detainee's transfer to a higher class for a period not exceeding three months if sentenced to life imprisonment or aggravated imprisonment, or for a period not exceeding one month if sentenced to imprisonment or detention with labor. (4) Solitary confinement for a period not exceeding fifteen days.

These penalties are imposed after informing the detainee of the alleged act, hearing their statement, and investigating their defense. The prison director's decision to impose the penalty is final."

Based on the aforementioned provisions and applying them to the facts of the case, we find that the legislator has specified the penalties that may be imposed on detainees, as well as the authority competent to impose these penalties and the limits for each. The legislator has also surrounded the imposition of these penalties with guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

Applying this to the case at hand, we find that [Detainee's name] was surprised by a disciplinary decision against him, placing him in solitary confinement, without being informed of the alleged offense, and without an investigation being conducted or his statement or defense being heard regarding the accusations against him. Furthermore, the duration of his solitary confinement exceeded the legally permitted period. This violates the law and necessitates the cancellation of the disciplinary action and the termination of solitary confinement for [Detainee's name].

Therefore, I request that you issue a decision to take the necessary measures to:

First: Provide information about the disciplinary decision issued by the Director of [Detention center name] Rehabilitation and Correction center against the detainee, [Detainee's name], placing him in solitary confinement, and the alleged acts that led to the imposition of this penalty. Allow access to the detainee's file to verify the disciplinary decisions issued against him.

Second: Issue a decision to cancel and suspend the execution of the disciplinary action imposed on [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, placing him in solitary confinement, in accordance with the law.

Respectfully submitted,

If the request is not responded to, or if the termination of solitary confinement for the prisoner is refused, a lawsuit must be filed before the Administrative Court.

The lawsuit must include the following documents:

1. A copy of the Appellant's National ID card.
2. A certificate from the prosecution's records in the case, including the latest developments.
3. A copy of the submitted request or any document proving the submission of a request to cancel the disciplinary action imposed on the Appellant.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against:

The Honorable Counselor/ Public Prosecutor, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector, in his official capacity

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

On [Date], the Appellant, [Detainee's name], was arrested and charged in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center. On [Date], [Detainee's name] was surprised to find that a disciplinary action had been imposed on him by the fourth respondent, in his official capacity, consisting of an administrative penalty of "solitary confinement," without providing any reasons or evidence of wrongdoing, and without conducting an investigation or hearing his statement or defense regarding the accusations against him. This violates Article 44 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956, as amended, which states: "The penalties that may be imposed on a detainee are:

5. Solitary confinement for a period not exceeding thirty days.
6. Placement of the convicted person in a special high-security room for a period not exceeding six months, as specified in the internal regulations. A convicted person may not be transferred from the correctional facility to the room referred to in the preceding paragraph unless he is at least eighteen years of age and not over sixty years of age. The transfer shall result in the deprivation of all or some of the privileges prescribed by law or the internal regulations."

Article 44 of the same law states:

"The prison director may impose the following penalties:

- (1) Notice.
- (2) Deprivation of some of the privileges granted to the detainee's class.
- (3) Delaying the detainee's transfer to a higher class for a period not exceeding three months if sentenced to life imprisonment or aggravated imprisonment, or for a period not exceeding one month if sentenced to imprisonment or detention with labor.
- (4) Solitary confinement for a period not exceeding fifteen days.

These penalties are imposed after informing the detainee of the alleged act, hearing their statement, and investigating their defense. The prison director's decision to impose the penalty is final."

Based on the aforementioned provisions and applying them to the facts of the case, we find that the legislator has specified the penalties that may be imposed on detainees, as well as the authority competent to impose these penalties and the limits for each. The legislator has also surrounded the imposition of these penalties with guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

Applying this to the case at hand, we find that the Appellant, [Detainee's name], was surprised by a disciplinary decision against him by the fourth respondent, in his official capacity, placing him in solitary confinement, without being informed of the alleged offense, and without an investigation being conducted or his statement or defense being heard regarding the accusations against him. Furthermore, the duration of his solitary confinement exceeded the legally permitted period. This violates the law and necessitates the cancellation of the disciplinary action and the termination of solitary confinement for [Detainee's name].

The Appellant's [Your relationship to the detainee, e.g., father] had submitted a request to the Respondents, in their official capacities, requesting the following:

- "Provide information about the disciplinary decision issued by the Director of [Detention center name] Rehabilitation and Correction center against the detainee, [Detainee's name], placing him in solitary confinement, and the alleged acts that led to the imposition of this penalty.
- Allow access to the detainee's file to verify the disciplinary decisions issued against him.
- Issue a decision to cancel and suspend the execution of the disciplinary action imposed on [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, placing him in solitary confinement, in accordance with the law."

However, the Respondents, in their official capacities, refrained from responding. This violates the law and has prompted the Appellant to file this lawsuit seeking annulment of the implicit negative decision.

Grounds for Appeal

First Ground for Appeal: Existence of an Administrative Decision Manifested in the Respondents' Failure to Cancel the Disciplinary Action of Solitary Confinement Imposed on the Appellant It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers and its internal regulations, specifically Article 43 mentioned earlier, the legislator has specified the penalties that may be imposed on detainees, including solitary confinement for a period not exceeding fifteen days. The law also designates the authority competent to impose these penalties and the limits for each. It grants the prison director the power to impose certain penalties, including warnings and solitary confinement for a period not exceeding one week. The imposition of these penalties is subject to guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

Applying this to the case at hand, we find that the Appellant, [Detainee's name], was surprised by a disciplinary decision against him by the fourth respondent, in his official capacity, placing him in solitary confinement, without being informed of the alleged offense, and without an

investigation being conducted or his statement or defense being heard regarding the accusations against him. Furthermore, the duration of his solitary confinement exceeded the legally permitted period. This violates the law and necessitates the cancellation of the disciplinary action and the termination of solitary confinement for [Detainee's name].

The Appellant's [Your relationship to the detainee, e.g., father] had submitted a request to the Respondents, in their official capacities, requesting the following:

- "Provide information about the disciplinary decision issued by the Director of [Detention center name] Rehabilitation and Correction center against the detainee, [Detainee's name], placing him in solitary confinement, and the alleged acts that led to the imposition of this penalty.
- Allow access to the detainee's file to verify the disciplinary decisions issued against him.
- Issue a decision to cancel and suspend the execution of the disciplinary action imposed on [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, placing him in solitary confinement, in accordance with the law."

However, the Respondents, in their official capacities, refrained from responding. This violates the Egyptian Constitution and the Law on the Organization of Correction and Community Rehabilitation Centers, confirming the existence of an implicit negative decision that is subject to appeal. Therefore, this appeal is admissible in form due to the existence of an appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and

executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

The imposition of the disciplinary action of solitary confinement against the detainee, [Detainee's name], by the fourth respondent, in his official capacity, without any wrongdoing on his part that warrants such punishment according to the law, and without conducting an investigation or hearing his statement or defense regarding the accusations against him, and the respondents' refusal, in their official capacities, to provide information about the disciplinary decision, the alleged acts that led to its imposition, access to the detainee's file to verify the

disciplinary decisions issued against him, and to cancel and suspend the execution of the solitary confinement order, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein.

The Constitution emphasizes the preservation of the dignity and humanity of detainees, prohibiting any physical or psychological harm or deprivation of their constitutionally and legally established rights and freedoms. It also mandates the preservation of human life, considering it paramount among individual rights and personal freedoms. The constitutional legislator has prohibited any infringement upon these rights, including the preservation of the lives of detainees by all means and ways. Protecting them from physical and psychological harm aligns with international conventions and advanced penal legislation based on the philosophy of rehabilitating detainees to reform their behavior and preserve their physical well-being, ensuring that individuals, even if they have violated the law, have legal safeguards for their rights and freedoms.

Article 55 of the Constitution stipulates that " Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. "

One of the fundamental principles upon which the State of the Rule of Law is based, according to the provisions of the Constitution and laws, is that the accused is innocent until proven guilty in a legal trial that guarantees them the right to defend themselves, whether personally or through legal representation. Consequently, no penalty may be imposed on any detainee without informing them of the act attributed to them, hearing their statement, and investigating their defense. As a general rule, the investigation with the detainee must fulfill the basic requirements that should be met in investigations, especially providing guarantees that ensure the detainee is informed of the accusation against them, allowed to present their defense, submit evidence, hear witnesses, and utilize other means of defense, whether to prove or deny the accusation. The investigation is invalid whenever it deviates from the general principles that must be followed in conducting it, or deviates from its objective, neutral, and impartial nature, as long as any of

these flaws prejudice the right of defense. The invalidity of the investigation results in the invalidity of the penalty based on it.

In light of the foregoing, the respondents' refusal, in their official capacities, to provide information about the disciplinary decision against the detainee, [Detainee's name], placing him in solitary confinement, the alleged acts that led to its imposition, access to the detainee's file to verify the disciplinary decisions issued against him, and to cancel and suspend the execution of the solitary confinement order, are invalid for violating the provisions of the Constitution. This renders the contested decision invalid and necessitates its annulment.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Enshrined in the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

: " The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

International conventions and charters clearly protect the human rights of prisoners. The first paragraph of Article 7 of the International Covenant on Civil and Political Rights states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 states:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Rule 43 of the Standard Minimum Rules for the Treatment of Prisoners states:

"1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

(a) Indefinite solitary confinement;

(b) Prolonged solitary confinement."

Rule 44 states:

"Solitary confinement in the context of these rules refers to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement refers to solitary confinement for a period exceeding 15 consecutive days."

Rule 45 states:

"Solitary confinement shall only be used in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to authorization by a competent authority. It shall not be imposed on the basis of the sentence imposed."

Regarding Egyptian law, Article 43 of the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956, as amended, states:

"The penalties that may be imposed on a detainee are:

5. Solitary confinement for a period not exceeding thirty days.
6. Placement of the convicted person in a special high-security room for a period not exceeding six months, as specified in the internal regulations. A convicted person may not be transferred from the correctional facility to the room referred to in the preceding paragraph unless he is at least eighteen years of age and not over sixty years of age. The transfer shall result in the deprivation of all or some of the privileges prescribed by law or the internal regulations."

Article 44 of the same law states:

"The prison director may impose the following penalties:

- (4) Solitary confinement for a period not exceeding fifteen days.

These penalties are imposed after informing the detainee of the alleged act, hearing their statement, and investigating their defense. The prison director's decision to impose the penalty is final.

Other penalties are imposed by the Assistant Minister for the Community Protection Sector, based on a request from the prison director, after a report is prepared that includes the detainee's statement, investigation of their defense, and witness testimony."

Based on the aforementioned legal provisions and applying them to the facts of the case, we find that the legislator has specified the penalties that may be imposed on detainees, including solitary confinement for a period not exceeding fifteen days. The law also designates the authority competent to impose these penalties and the limits for each. It grants the prison director the power to impose certain penalties, including warnings and solitary confinement for a period not exceeding one week. The imposition of these penalties is subject to guarantees for detainees, including informing the detainee of the alleged act, hearing their statement, and investigating their defense.

Applying this to the present case, we find that the Appellant was subjected to a disciplinary action by the fourth respondent, in his official capacity, placing him in solitary confinement, without any wrongdoing on his part that warrants such punishment according to the law, and without conducting an investigation or hearing his statement or defense regarding the accusations against him. The respondents' refusal, in their official capacities, to provide information about the disciplinary decision, the alleged acts that led to its imposition, access to the detainee's file to verify the disciplinary decisions issued against him, and to cancel and suspend the execution of the solitary confinement order, violates the provisions of international conventions and agreements and the law, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas, the Appellees, in their official capacities, have failed to provide any justification for their refusal to take action on the Appellant's request. They have not provided information about the disciplinary decision against the detainee, [Detainee's name], placing him in solitary

confinement, nor the alleged acts that led to its imposition. They have also refused to grant access to the detainee's file to verify the disciplinary decisions against him, and they have refused to cancel and suspend the execution of the solitary confinement order. This lack of action and justification renders the contested decision baseless and necessitates its annulment.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, which is the respondents' complete refusal to address the Appellant's concerns regarding the solitary confinement order. They have refused to provide any information about the decision, the reasons behind it, or allow access to the detainee's file to verify the disciplinary actions against him. Furthermore, they have refused to cancel or suspend the solitary confinement order. The grounds for the appeal strongly suggest that a court would likely rule to annul this decision, further emphasizing the need for immediate action. Therefore, the conditions for suspending the execution of the decision are clearly present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First, to accept the appeal in form.

Second, as a matter of urgency, to suspend the execution of the contested decision. This includes suspending the decision of the Director of [Detention center name] Rehabilitation and Correction center to impose solitary confinement on the Appellant without informing him of the accusations against him, conducting an investigation, or hearing his statement or defense, and for a period exceeding the legal limit. It also includes suspending the implicit negative decision of refusing the Appellant access to the file containing the penalties previously imposed on him without confrontation, notification, or following due process. This suspension should have immediate effect and be executed without a formal announcement.

Third, on the merits, to annul the contested decision entirely. This includes canceling the decision of the Director of [Detention center name] Rehabilitation and Correction center to impose solitary confinement on the Appellant without due process, and for a period exceeding the legal limit. It also includes canceling the implicit negative decision of refusing the Appellant access to the file containing the penalties previously imposed on him without confrontation, notification, or following due process. This annulment should have immediate effect and be executed without a formal announcement.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Chapter Four: Social and Human Rights of Inmates

Section One: The right to visit and communicate with the outside world

Introduction

The right to visit and communicate with the outside world and correspondence is one of the most important factors that help prisoners in rehabilitation and integration opportunities. Family visits are the only way to check on individuals and provide them with the minimum necessary food and medicines. Article 55 of the Egyptian Constitution obliges everyone who is arrested to be treated in a manner that preserves their dignity and may not be physically and morally harmed.⁸³

- I. **The Right to Visitation and Communication with the Outside World in the Constitution, the Law, and International Conventions and Agreements**
 - A. **Visitation in International Law:**

The text concerning visitation is found in the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) under the title "Contact with the Outside World," specifically in Rules 58 to 63. These rules stipulate the following:

Prisoners should be allowed visitation rights, including conjugal visits. This right is to be applied without discrimination, and women prisoners should have the same access to visits as men. Procedures should be established and facilities provided to ensure that all prisoners have a fair and equal opportunity to exercise this right, with due regard for safety and dignity. Prisoners should be allocated, as far as possible, to prisons close to their homes. Furthermore,

⁸³ Article 55 of the Egyptian Constitution

prisoners should be allowed to be visited by their legal counsel without being overheard or monitored, ensuring complete confidentiality.⁸⁴

Regarding visits, the rules stipulate that visitors' entry into correctional facilities is conditional upon their consent to be searched. Visitors have the right to withdraw their consent at any time, in which case the correctional facility administration has the right to deny them entry. Search procedures for visitors should not be degrading, and body cavity searches should be avoided and never applied to children.⁸⁵

B. The right to visit and communicate with the outside world in the Egyptian Constitution: -

According to Article 55 of the Egyptian Constitution, anyone who is arrested, imprisoned or whose freedom is restricted must be treated in a manner that preserves his dignity.⁸⁶

As for the meaning of Article 56 of the Constitution, which also " A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."⁸⁷

This means that the correctional facility administration must provide every detainee with the means to continue their life and not be an obstacle in their way. The right to visitation is a right for both the detainee and their family, and to say otherwise constitutes a disregard for the detainee's humanity, causing them psychological harm and depriving them and their family of a natural right.

C. The Right to Visitation and Communication with the Outside World in Egyptian Law

⁸⁴ Rule 58 to Rule 63 of the UN Model Rules for the Treatment of Inmates [op. cit.](#)

⁸⁵ https://www.un.org/ar/events/mandeladay/mandela_rules.shtml
[lbidhttps://www.un.org/ar/events/mandeladay/mandela_rules.shtml](https://www.un.org/ar/events/mandeladay/mandela_rules.shtml)

⁸⁶ Article 55 of the Egyptian Constitution

⁸⁷ Article 56 of the Egyptian Constitution

1- Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956:

Articles 38 to 42 of the Law Regulating Correction and Community Rehabilitation Centers govern the detainee's right to visitation. They state that convicted or pretrial detainees have the right to receive visits twice a month. The detainee's lawyer also has the right to meet with them privately, provided they obtain permission from the competent prosecution office. The Public Prosecutor, the Attorney General, the Assistant Minister for the Community Protection Sector, or their representative may authorize the detainee's family to visit them outside of normal visiting hours. Correctional officers have the right to search any person suspected of possessing prohibited items inside the facility. Visitation may be prohibited entirely or restricted under certain circumstances for health or security reasons.⁸⁸

2- Executive Regulations of the Law:

The organization of the visit is contained in the regulation of the reform and community rehabilitation centers in Articles 60 and ending with Article 80,⁸⁹ and the internal regulations of the geographical reform centers issued by the Minister of Interior Resolution No. 1954 of 1971 have been singled out with ten articles, including this order starting with Article 34 and ending with Article 43.⁹⁰

The internal regulations stipulate that the family of a convicted person may visit them after one month from the date of execution of the sentence, once every calendar month from the date of the first visit. Those sentenced to simple imprisonment (for a period not exceeding three months) and those in pretrial detention may be visited by their families once a week, on any day of the week except Fridays and official holidays, with the exception of the first and second days of Eid al-Fitr and Eid al-Adha, unless the Public Prosecution or the investigating judge prohibits it. Visiting hours are from 9:00 AM to 12:00 PM.

⁸⁸ See Articles 38 to 42 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956.

⁸⁹ Refer to Articles 60 to 80 of the Regulation Governing Correction and Community Rehabilitation Centers issued by Minister of Interior Decision No. 79 of 1961.

⁹⁰ See Articles 34 to 43 of the Internal Regulations of the Geographical Reform Centers issued by the Minister of Interior Resolution No. 1954 of 1971

Several amendments were made to the Regulations on the Organization of Correction and Community Rehabilitation Centers regarding visitation and correspondence by the Minister of Interior's Resolution No. 3320 of 2014. Article 71 of the Regulations was amended to increase the duration of regular and special visits permitted under Article 40 of the law to 60 minutes. This is a positive change, as the previous duration was only 15 minutes for regular visits and 30 minutes for special visits, which was insufficient.⁹¹

Article 38 of the Reform and Community Rehabilitation Centers Law was amended by Presidential Decree by Law No. 106 of 2015, in which it was decided that every convict shall have the right to telephone in return for a fee.⁹²

Regarding the number of visitors allowed in geographical correctional facilities, the Regulations on the Organization of Correction and Community Rehabilitation Centers stipulate that the number of visitors for a convicted person at any one time may not exceed two individuals unless approved by the prison director. However, there is no restriction on the number of visitors for pretrial detainees, as the prosecution's order for their visitation is valid for any number of visitors.

In specialized correctional and rehabilitation centers, the number of visitors may not exceed two for both convicted and pretrial detainees, unless approved by the prison warden, in which case the number may not exceed four individuals.

⁹¹ Refer to the Minister of Interior's Resolution No. 3320 of 2014 issued on September 18, 2014

⁹² See the text of Article 38 of Law No. 106 of 2015.

Subsection I: Visit Procedures

I. Inquiring about the Location of a Detainee or Pretrial Detainee

If someone is arrested and their family doesn't know where they are being held, they should inquire by submitting a written request to the Community Protection Sector. The following conditions must be met by the applicant:

1. The applicant must be a first or second-degree relative of the detainee or pretrial detainee, or their spouse.
2. The applicant may be the detainee's or pretrial detainee's lawyer, with a legal power of attorney.
3. The applicant may be authorized by a court order or a decision from the Public Prosecution in the case of a legal dispute with the detainee or pretrial detainee.

The inquiry request can be submitted orally or in writing to the Information Department of the Prisons Sector, or sent by fax to: 5746919.

Request Form:

To the Head of the Community Protection Sector,

Greetings,

Submitted to your Excellency by: [Your Name], in my capacity as [Your relationship to the detainee or details of the power of attorney], holding National ID No. [Your ID Number], on behalf of [Detainee's Name], who was arrested on [Date] in case No. [Case Number] of [Year] at [Police Station Name] Police Station/Center [if the case details are known].

Subject:

[If the case details are known]: On [Date], my [Your relationship to the detainee], [Detainee's Name], holding National ID No. [Detainee's ID Number], was arrested and investigated by the [Prosecutor's Office name] Prosecutor's Office and placed in pretrial detention in case No. [Case

Number] of [Year] at [Police Station Name] Police Station/Center. However, I do not know where he/she is being held.

[If the case details are not known]: On [Date], my [Your relationship to the detainee], [Detainee's Name], was arrested, but I do not know where he/she is being held.

Therefore, I request that you inquire about the place of detention of [Detainee's Name], National ID No. [Detainee's ID Number], and the details of the case in which he/she is being held in pretrial detention.

With utmost appreciation and respect to your Excellency,

Submitted by [Your Name]

II. Visitation Procedures:

• Regular Visits

The detainee's family should go directly to the correctional facility and express their desire to visit the detainee. The administration will then notify the visitor if the detainee is eligible for a visit and agrees to the procedures. Regular visits are conducted as follows:

- Once a month for men sentenced to life imprisonment or aggravated imprisonment who are detained in the main prison.
- Once every three weeks for men sentenced to imprisonment or detention with labor, as well as for those transferred from main prisons to public prisons.
- Once every three weeks for women, regardless of the sentence.
- Once a week for those sentenced to simple imprisonment and those in pretrial detention, on any day of the week except Fridays and official holidays.
- Regular visits are not permitted during the health assessment period or while the detainee is in solitary confinement as a penalty or awaiting a decision in a case against them.

The period for regular visits for pretrial detainees or those deprived of their liberty without a court judgment begins after ten days from the date of their placement in the correctional and rehabilitation center, according to Article 46 of the internal regulations for prisons regarding the health assessment period, with the first visit for these categories starting on the eleventh day.⁹³

- **Special Visits**

The Public Prosecutor, the Attorney General, or the Director General of Community Protection may authorize a prisoner's family to visit them outside of regular visiting hours if there is a compelling reason.

- Every prisoner, regardless of their sentence, is allowed one special visit per month. However, special visits for inmates convicted of crimes that harm national security, whether internal or external, or for other categories, are subject to written permission from the Sector Presidency and after consulting with security agencies.
- Visitors must fill out a special request form for a special visit and submit it to the correctional facility administration after paying the required fees.
- The director of the correctional facility may allow inmates in the same facility to visit each other within the limits of regular visits. The visit shall take place in the assistant's office and in their presence. Visits between male and female inmates are only permitted if the female is the male's wife or mahram (a male relative with whom marriage is permanently forbidden). Such visits shall take place in the designated area for regular visits, outside of regular visiting hours, and in the presence of a female staff member of the correctional facility with the female inmate and the assistant of the correctional facility with the male inmate. The Director General of Community Protection may allow inmates to visit their relatives detained in another correctional facility if there is a compelling reason. (Article 75) of the Internal Regulations of the Law."⁹⁴

Submitting the visit request electronically to the Head of the Community Protection Sector:

⁹³ Article 46 of the Internal Regulations for the Organization of Prisons.

⁹⁴ See the text of Article 75 of the Regulation of the Community Correction and Rehabilitation Center

The request can be submitted electronically, through the [following link](#) , and the name of the visitor must be mentioned in the quadrant, the kinship link, the name of the quadrant inmate and the place of detention, and the request will be answered within two days. In the event of any complaints or inquiries, contact the numbers of the Human Rights Department in the Community Protection Sector through the following numbers: 25748831 – 25757474 .

Inquire about the status of a guest visit request

- To inquire about the status of an inmate visit request, access the [official website](#) of the [Ministry of Interior](#), then the service directory, click on the inmate visit requests, and then inquire about the status of the inmate visit request.

To inquire about the visit request submitted, login through the [website of the Egyptian Ministry of Interior from here](#)

"Then choose the directory of services from the top right of the page, then choose the requests to visit the inmates, and then record the data of the registrant of the request to visit a guest, which includes " the data of the inmate of the Correction and Rehabilitation Center and the data of the applicant for the visit. "

If the request for a visit is submitted in writing, the following steps must be taken:

- 1- The applicant must submit their request to the general prosecution office overseeing the defendant's case or to the prosecution office, along with proof of their relationship to the defendant, such as a power of attorney from the defendant or a visitor's ID. The request is submitted to the prosecution's schedule and information is obtained from the case file and from the execution records if the defendant has been sentenced, to determine the start and end dates of the sentence. The request is then handed over to the relevant employee to obtain the prosecutor's approval for the visit. A number is assigned to the request, issued by the Public Prosecutor's Office, and within two or three days at most, the Supreme Judicial Council is

contacted with the issued number. The permit is then collected the following day. The duration of the visit permit ranges from three to five days, depending on the prison or detention facility.

- 2- In the case of a pre-trial detainee in a state security case, the request is submitted to the State Security Prosecution Office in the previously mentioned format. The request is submitted during the scheduled hours set by the prosecution and is handed to the relevant employee at the gate. The request is subsequently inquired about, and the visit permit is issued after the approval of the chief prosecutor.⁹⁵

Visit Permit Request Form:

To the Head of [Name of Prosecutor's Office] Prosecutor's Office,

Greetings,

Submitted to your Excellency by: [Your Name], in my capacity as [Your relationship to the detainee] of the defendant, [Detainee's name], in case No. [Case number] of [Year].

Subject:

I kindly request your authorization for a visit with the defendant at [Detention center name] Correctional Facility. The following individuals wish to visit:

- Name: [Visitor's name] (Relationship: [Relationship to detainee])

1- [Visitor's name]

2- [Visitor's name]

3- [Visitor's name]

With utmost appreciation and respect to your Excellency,

⁹⁵ Prison numbers for inquiring about visits, attached via the following link:

https://docs.google.com/spreadsheets/d/1nKci_DnrP0lKlbEgpva5egCX0sqqvgNyqvEn1YMIrl/edit#g

Submitted by:

Name: [Your Name]

National ID No.: [Your National ID Number]

Subsection II: Prevention from Visiting

Introduction

There is no dispute over what is stated in the Constitution and international charters and covenants regarding the need to respect and ensure the right of inmates and other detainees to communicate with the outside world. There are a number of cases in which a visit is prohibited.⁹⁶ Here, some reform and rehabilitation centers are prohibited from visiting. The decision to prevent a visit is based on the text of Article 42 of the Law Regulating Community Reform and Rehabilitation Centers,⁹⁷ which did not specify the authority entrusted with issuing decisions to prevent a visit, in violation of the text of Article 141 of the Code of Criminal Procedure, which specified the authority to prevent a visit and limited it to the Public Prosecution or the investigating judge in the cases assigned to him.⁹⁸

The Supreme Administrative Court has consistently ruled that consecutive decisions over a period of time, without interruption, effectively amount to a denial of visitation rights. This is contrary to the legislator's intent, which sought to prevent such denial due to the constitutional and legal considerations that underpin the right of detainees to receive visits from their families. Moreover, the threat of terrorist acts by certain individuals does not authorize the administration to permanently ban visits to detainees. Instead, the administration must impose the ban for a specific period, during which it should take measures and precautions to guarantee the rights enshrined in the Constitution and the law. These measures and precautions should not amount to a permanent deprivation of visitation rights through consecutive and uninterrupted bans.

⁹⁶ Rather, a session adopting the recommendations of the Universal Periodic Review: The Egyptian authorities organize a mock visit to prisons to deny themselves committing violations, available at the following link: <https://egyptianfront.org/ar/2020/02/video-moi-prisons/> Last visit 25 February 2021.

⁹⁷ See the text of Article 42 of Law No. 396 of 1956 as last amended

⁹⁸ Article 141 of the Criminal Procedure Law No. 150 of 1950

Therefore, the contested decision, based on the evidence presented, appears to violate the principle of legality. This establishes the seriousness of the appeal. The urgency requirement is also met because the continued implementation of the decision will lead to irreparable consequences, namely severing the ties between the detainee and their family, which the legislator sought to preserve.

According to Articles 38 and 42 of Law No. 396 of 1956 on the Organization of Prisons and Article 64 of the law's internal regulations, the legislator has respected human dignity by granting every convicted person, regardless of their sentence, the right to visitation. This is a dual right granted to both the convicted person and their family, and either party may request a visit in accordance with the regulations set forth in Law No. 396 of 1956 and its internal regulations. As an exception to this principle, the administrative authority may prohibit visits to prisoners for health or security reasons. However, this prohibition is not absolute or indefinite. It is a prohibition of visits at specific times and for reasons related to security or health. This authority cannot be exercised at all times, permanently, or continuously throughout the duration of the prisoner's or detainee's imprisonment. To argue otherwise would be to disregard the humanity of the prisoner, inflict psychological harm on them, and deprive them and their family of a natural right.⁹⁹

Filing a Lawsuit in Case of Denial of Visitation Rights

If visitation is denied, the detainee's or pretrial detainee's family must file a lawsuit before the Administrative Court at the State Council against the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee or pretrial detainee is held. The lawsuit should request the suspension of the Minister of Interior's decision to deny visitation.

It is important that the appellant proves their relationship to the detainee or pretrial detainee. For example, if the appellant is the spouse, they must attach a copy of the marriage certificate or a

⁹⁹ Refer to Appeal No. 3383 of 64 Senior Administrative Laws issued at the session of March 29, 2006

copy of their National ID card if it includes the spouse's name. If the appellant is the mother, they must attach a copy of their child's birth certificate and a power of attorney.

A distinction must be made between the case where there is no decision to deny visitation but the detainee's family and relatives are prevented from visiting, and the case where there are decisions to deny visitation issued by the Public Prosecutor or the Minister of Interior in the case for which the detainee is being held, or a decision issued to the detainee denying them visitation, or a decision issued to deny visitation in the correctional facility where the detainee is held. Each case will be addressed separately in the following section.

1- In the Case of No Denial Decision, but Visitation is Prevented:

In this case, the detainee's family and relatives must issue a formal notice to the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held. The notice is served by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Head of the Community Protection Sector, at his workplace at the Community Protection Sector building, addressed together with:

The Director of [Name] Rehabilitation and Reform Center, at his workplace at [Name] Prison, addressed together with:

And I hereby serve them notice of the following:

The Notifier is the [Your relationship to the detainee] of Mr./ [Detainee's Name], who is currently detained at [Detention center name] Prison in connection with case No. [Case details].

Since [Date], the Notifier has been unable to exercise their constitutional and legal right to visit [Detainee's Name] [State the date of the denial of visitation]. This is despite obtaining numerous visit permits. The Notifier is being prevented from visiting by the third Notified Party, in their official capacity, without any given reason. This has become an absolute denial of visitation, which is not permitted by the Constitution or the law, and is extremely detrimental to the Notifier, who is unable to visit [Detainee's Name].

The Notifier has repeatedly requested the correctional facility administration to allow the visit, but they continue to be prevented. This has prompted the Notifier to issue this formal notice, requesting permission to visit [Detainee's Name] who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with the conditions and rules stipulated in the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956 and its implementing regulations. The notice also demands that the administration disclose the reasons for preventing the Notifier from visiting.

The Notified Parties, in their official capacities, preventing the Notifier from visiting [Detainee's Name] who is detained at [Detention center name] Rehabilitation and Reform Center, violates the Egyptian Constitution.

Article (55) of the Constitution stipulates that "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed;..."

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."

This also violates Article 38 of Law No. 396 of 1956, the Law Regulating Correction and Community Rehabilitation Centers, which states:

"Subject to the provisions of the Code of Criminal Procedure, every convicted person shall have the right to correspondence and telephone communication for a fee, and their family may visit

them twice a month, all under the supervision of the correctional facility administration and in accordance with the controls and procedures specified in the internal regulations.

A pretrial detainee shall have this right unless otherwise decided by the competent Public Prosecution or the competent investigating judge, in accordance with the procedures specified in the internal regulations.

The correctional facility administration shall treat visitors humanely and provide them with suitable places for waiting and visiting."

Article 40 of the aforementioned law states:

"The Public Prosecutor, the Attorney General, the Assistant Minister for the Community Protection Sector, or their representative may authorize the detainee's family to visit them outside of normal visiting hours..."

Therefore, the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Stop the decision to prevent the Notifier from visiting [Detainee's name] who is detained at [Detention center name] Rehabilitation and Reform Center, as this violates the Egyptian Constitution and the Law Regulating Prisons. The Notified Parties must allow the Notifier to visit [Detainee's name] at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility to which he/she may be transferred, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of stopping the decision to prevent the Notifier from visiting [Detainee's name] who is detained at [Detention center name] Rehabilitation and Reform Center, as this violates the Egyptian Constitution and the Law Regulating Prisons. The Notified Parties must allow the Notifier to visit [Detainee's name] at [Detention center name] Rehabilitation and Reform Center, or any

other correctional facility to which he/she may be transferred, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

In the event of no response or refusal, a lawsuit must be filed before the Administrative Court, attaching the following documents:

1. A copy of the Appellant's National ID card.
2. The original document proving the relationship to the detainee (marriage certificate, birth certificate).
3. A certificate from the prosecution's records with the latest developments in the case for which the detainee is being held.
4. The original served formal notice.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable/ Public Prosecutor

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center

Subject

The Appellant is the [Your relationship to the detainee] of Mr./ [Detainee's Name], who is currently detained at [Detention center name] Prison in connection with case No. [Case details].

Since [Date], the Appellant has been unable to exercise their constitutional and legal right to visit [Detainee's Name] [State the date of the denial of visitation]. This is despite obtaining numerous visit permits. The Appellant is being prevented from visiting by the fourth respondent, in his official capacity, without any given reason. This has become an absolute denial of visitation, which is not permitted by the Constitution or the law, and is extremely detrimental to the Appellant, who is unable to visit [Detainee's Name].

The Appellant has repeatedly requested the correctional facility administration to allow the visit, but they continue to be prevented. This prompted the Appellant to issue a formal notice, registered under No. [Notice number] in minutes [Minutes number], and served on [Date], requesting permission to visit [Detainee's Name] and demanding that the administration disclose the reasons for preventing the visit. However, no response was received.

The Appellant challenges the decision to deny visitation, requesting its annulment and, as a matter of urgency, its suspension with all consequential effects, most importantly allowing the Appellant to visit [Detainee's Name] at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility to which he/she may be transferred.

The Appellant bases their appeal on the following grounds:

Grounds for Appeal

First Ground for Appeal: Existence of an Administrative Decision Manifested in the Respondents' Denial of the Appellant's Visitation Rights It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers and its internal regulations, the legislator has respected human dignity by granting detainees the right to visitation and correspondence with their families. Article 38 of Presidential Decree Law No. 396/1956 on the Organization of Correction and Community Rehabilitation Centers states:

"Subject to the provisions of the Code of Criminal Procedure, every convicted person shall have the right to correspondence and telephone communication for a fee, and their family may visit them twice a month, all under the supervision of the correctional facility administration and in accordance with the controls and procedures specified in the internal regulations.

A pretrial detainee shall have this right unless otherwise decided by the competent Public Prosecution or the competent investigating judge, in accordance with the procedures specified in the internal regulations.

The correctional facility administration shall treat visitors humanely and provide them with suitable places for waiting and visiting."

Article 40 of the same law states:

"The Public Prosecutor, the Attorney General, the Assistant Minister for the Community Protection Sector, or their representative may authorize the detainee's family to visit them outside of normal visiting hours if necessary."

Despite the Appellant issuing a formal notice requesting the Respondents, in their official capacities, to stop the decision to prevent the Appellant from visiting [Detainee's name] who is detained at [Detention center name] Rehabilitation and Reform Center, as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers, and despite demanding to be allowed to visit in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, and an explanation for the refusal, the Respondents have remained silent. This confirms the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is

distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the appellant against in their official capacities, in preventing the Appellant from visiting [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein. Article (55) of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

It is evident from the aforementioned provisions that the Constitution emphasizes the preservation of human dignity as a constitutional objective. It directs all state authorities to treat every detainee in a manner that preserves their dignity, prohibiting any physical or psychological harm. Undeniably, the right to visitation is a dual right shared by the detainee and their family. The legislative authorization granted to the authorities responsible for correctional facilities, which includes the right to prohibit visitation entirely or temporarily, does not detract from the obligation to respect this constitutional principle. This prohibition is linked to security or health conditions, but the discretion granted to the administrative authority does not extend to the right to continuously renew this prohibition by issuing consecutive decisions preventing the detainee from being visited by their family. Such action would violate the provisions of the Constitution and the executive authority granted to the administrative authority.

Furthermore, this measure negatively impacts the legislative objective of imprisonment, which, in the modern system, aims to rehabilitate the detainee psychologically and morally to foster a healthy relationship between them and the society from which they were removed due to a crime they committed, resulting in a custodial sentence that deprives them of their freedom.

The documents show that the visitation ban has been in effect from [Date] until the present, as mentioned above. This has resulted in the Appellant's inability to visit [Detainee's name] without interruption, effectively amounting to a permanent deprivation of visitation rights, which the legislator sought to prevent for constitutional and legal reasons. The purpose of granting detainees the right to visitation is to maintain their connection with their families. The threat of hostile actions by certain individuals does not authorize the administration to permanently ban visits to detainees. Instead, the administration must impose the ban for a specific period, during which it should take measures and precautions to guarantee the rights enshrined in the Constitution and the law. These measures should not amount to a permanent

deprivation of visitation rights through consecutive and uninterrupted bans. Therefore, the contested decision, based on the evidence presented, appears to be justified.

The respondents, in their official capacities, have prevented the Appellant from visiting [Detainee's name] who is detained at [Detention center name] Rehabilitation and Reform Center. Despite the Appellant issuing a formal notice requesting the Respondents to stop the decision to prevent the visit, as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers, and despite demanding to be allowed to visit in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, and an explanation for the refusal, the Respondents' actions violate the Constitution, rendering the contested decision invalid and warranting its annulment.

The third reason: Violation of the Law and the Arab Republic of Egypt's Obligations by the Contested Decision: Guaranteed by the Egyptian Constitution Whereas the Egyptian Constitution has recognized international conventions and placed them on the level of national legislation. It also stipulates that the State shall abide by all international conventions it signs. Article 93 of the Constitution stipulates that: " The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

International conventions and agreements clearly protect the human rights of prisoners. The first paragraph of Article 7 of the International Covenant on Civil and Political Rights states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 states:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Rule 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states:

"Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals, both by corresponding in writing and orally, and, where possible, by using electronic, digital and other means of communication, and by receiving visits."

Regarding Egyptian law, Article 38 of the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956 states:

"Subject to the provisions of the Code of Criminal Procedure, every convicted person shall have the right to correspondence and telephone communication for a fee, and their family may visit them twice a month, all under the supervision of the correctional facility administration and in accordance with the controls and procedures specified in the internal regulations.

A pretrial detainee shall have this right unless otherwise decided by the competent Public Prosecution or the competent investigating judge, in accordance with the procedures specified in the internal regulations.

The correctional facility administration shall treat visitors humanely and provide them with suitable places for waiting and visiting."

Article 40 of the same law states:

"The Public Prosecutor, the Attorney General, the Assistant Minister for the Community Protection Sector, or their representative may authorize the detainee's family to visit them outside of normal visiting hours if necessary."

Based on the foregoing, it is clear that the respondents' refusal to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, without interruption, effectively amounts to a permanent deprivation of visitation rights, which the legislator sought to prevent. Visiting a detainee or pretrial detainee is a right that must be upheld. It is also a right for their family and relatives. The legislative authorization granted to the authorities responsible for correctional facilities, which allows them to prohibit visitation entirely or temporarily, is not without limitations. The legislator has stipulated that there must be health or security reasons to justify such a prohibition. If these reasons do not exist, then prohibiting visitation is illegal, as it exceeds the discretionary power granted to the administrative authority in this matter, violating international conventions and agreements and the provisions of the law, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has so far not provided reasons or justifications for their complete refusal to enable the Appellant to visit..... and the prisoner....., and therefore the contested decision is absent for its reason, which requires its cancellation.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility to which he/she may be transferred. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal, in their official capacities, to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility to which he/she may be transferred. This annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.

The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

2- In the Case of a Decision to Deny Visitation:

If there is a decision to deny visitation, whether issued by the Public Prosecutor or the Minister of Interior, prohibiting visitation in a specific case or for a specific defendant, or if there is a decision prohibiting visitation in a particular correctional facility (such as Tora High-Security Prison), the detainee's family has the right to file a lawsuit before the Administrative Court to request permission to visit, without the need to issue a formal notice.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable/ Public Prosecutor, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector, in his official capacity

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

The Appellant is the [Your relationship to the detainee] of Mr./ [Detainee's Name], who is currently detained at [Detention center name] Prison in connection with case No. [Case details].

Since [Date], the Appellant has been unable to exercise their constitutional and legal right to visit [Detainee's Name] [State the date of the denial of visitation]. This is despite obtaining numerous visit permits. The Appellant is being prevented from visiting by the fourth respondent, in his official capacity, claiming that there is a decision from "the Public Prosecutor or the Minister of Interior" prohibiting the visit. This ban has continued with similar decisions, effectively becoming an absolute denial of visitation, which is not permitted by the Constitution or the law, and is extremely detrimental to the Appellant, who is unable to visit [Detainee's Name].

The Appellant challenges the decision to deny visitation, requesting its annulment and, as a matter of urgency, its suspension with all consequential effects, most importantly allowing the Appellant to visit [Detainee's Name] at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility to which he/she may be transferred.

The Appellant bases their appeal on the following grounds:

Grounds for Appeal

The first reason: - Existence of an Administrative Decision Manifested in the Respondents' Denial of the Appellant's Visitation Rights

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers and its internal regulations, the legislator has respected human dignity by granting detainees the right to visitation and correspondence with their families. Article 38 of Presidential Decree Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers states:

"Subject to the provisions of the Code of Criminal Procedure, every convicted person shall have the right to correspondence and telephone communication for a fee, and their family may visit them twice a month, all under the supervision of the correctional facility administration and in accordance with the controls and procedures specified in the internal regulations.

A pretrial detainee shall have this right unless otherwise decided by the competent Public Prosecution or the competent investigating judge, in accordance with the procedures specified in the internal regulations.

The correctional facility administration shall treat visitors humanely and provide them with suitable places for waiting and visiting."

Article 40 of the same law states:

"The Public Prosecutor, the Attorney General, and the Director General of Prisons, or their representative, may authorize the detainee's family to visit them outside of normal visiting hours if necessary."

Despite the Appellant obtaining visit permits from the Public Prosecution, he was unable to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, due to an alleged decision prohibiting visitation. This violates the Egyptian Constitution and the law, confirming the existence of a decision that is subject to appeal. Therefore, this appeal is admissible in form due to the existence of an appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides

fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

The respondents' actions, in their official capacities, in preventing the Appellant from visiting [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein.

Article (55) of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."

It is evident from the aforementioned provisions that the Constitution emphasizes the preservation of human dignity as a constitutional objective. It directs all state authorities to treat every detainee in a manner that preserves their dignity, prohibiting any physical or psychological harm. Undeniably, the right to visitation is a dual right shared by the detainee and their family. The legislative authorization granted to the authorities responsible for correctional facilities, which includes the right to prohibit visitation entirely or temporarily, does not detract from the obligation to respect this constitutional principle. This prohibition is linked to security or health conditions, but the discretion granted to the administrative authority does not extend to the right to continuously renew this prohibition by issuing consecutive decisions preventing the detainee from being visited by their family. Such action would violate the provisions of the Constitution and the executive authority granted to the administrative authority.

Furthermore, this measure negatively impacts the legislative objective of imprisonment, which, in the modern system, aims to rehabilitate the detainee psychologically and morally to foster a healthy relationship between them and the society from which they were removed due to a crime they committed, resulting in a custodial sentence that deprives them of their freedom.

The documents show that the decisions to prohibit visitation were issued for security reasons, and they resulted in the Appellant's inability to visit [Detainee's name]. After the expiry of the initial decision, a similar decision was issued for the same reason as the previous one. This indicates that consecutive decisions were issued over a period of time, without interruption, effectively amounting to a permanent deprivation of visitation rights. This is contrary to the legislator's intent, which sought to prevent such denial due to the constitutional and legal considerations that underpin the right of detainees to receive visits from their families. Moreover, the threat of hostile acts by certain individuals does not authorize the administration to permanently ban visits to detainees. Instead, the administration must impose the ban for a specific period, during which it should take measures and precautions to guarantee the rights enshrined in the Constitution and the law. These measures and precautions should not amount to a permanent deprivation of visitation rights through consecutive and uninterrupted bans. Therefore, the contested decision, based on the evidence presented, appears to be justified.

The respondents, in their official capacities, have prevented the Appellant from visiting [Detainee's name] who is detained at [Detention center name] Rehabilitation and Reform Center. Despite the Appellant obtaining a visit permit from the Public Prosecution, he was prevented from visiting by the correctional facility administration, claiming that there was a decision prohibiting visitation. This violates the Constitution, rendering the contested decision invalid and warranting its annulment.

The third reason: Violation of the Law and the Arab Republic of Egypt's Obligations by the Contested Decision, Guaranteed by the Egyptian Constitution

Whereas the Egyptian Constitution has recognized international conventions and placed them on the level of national legislation. It also stipulates that the State shall abide by all international conventions it signs. Article 93 of the Constitution stipulates that: " The State shall be bound by

the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions.
"

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

International conventions and agreements clearly protect the human rights of prisoners. The first paragraph of Article 7 of the International Covenant on Civil and Political Rights states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 states:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Rule 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states:

"Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals, both by corresponding in writing and orally, and, where possible, by using electronic, digital and other means of communication, and by receiving visits."

Regarding Egyptian law, Article 38 of the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956 states:

"Subject to the provisions of the Code of Criminal Procedure, every convicted person shall have the right to correspondence and telephone communication for a fee, and their family may visit them twice a month, all under the supervision of the correctional facility administration and in accordance with the controls and procedures specified in the internal regulations.

A pretrial detainee shall have this right unless otherwise decided by the competent Public Prosecution or the competent investigating judge, in accordance with the procedures specified in the internal regulations.

The correctional facility administration shall treat visitors humanely and provide them with suitable places for waiting and visiting."

Article 40 of the same law states:

"The Public Prosecutor, the Attorney General, the Assistant Minister for the Community Protection Sector, or their representative may authorize the detainee's family to visit them outside of normal visiting hours if necessary."

Based on the foregoing, it is clear that the respondents' refusal to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, due to an alleged series of decisions prohibiting visitation for security reasons, has resulted in the Appellant's inability to visit [Detainee's name] without interruption, effectively amounting to a permanent deprivation of visitation rights. This is contrary to the legislator's intent, which sought to prevent such denial. Visiting a detainee is a right that must be upheld. It is also a right for their family and relatives. The legislative authorization granted to the authorities responsible for correctional facilities, which allows them to prohibit visitation entirely or temporarily, is not without limitations. The legislator has stipulated that there must be health or security reasons to justify such a prohibition. If these reasons do not exist, then prohibiting visitation is illegal, as it exceeds the discretionary power granted to the administrative authority in this matter, violating international conventions and agreements and the provisions of the law, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the fourth respondent, in his official capacity, has prevented the Appellant from visiting [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, claiming that there are repeated decisions prohibiting visitation for security reasons, issued consecutively without interruption. Therefore, the contested decision lacks a valid reason and warrants annulment.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the decision issued by [Issuing authority] (prohibiting visitation at [Detention center name] Rehabilitation and Reform Center, or prohibiting visitation in case No. [Case number] of [Year], or prohibiting visitation with the Appellant), and to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, or any other correctional facility to which he/she may be transferred. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the decision issued by [Issuing authority] (prohibiting visitation at [Detention center name] Rehabilitation and Reform Center, or prohibiting visitation in case No. [Case number] of [Year], or prohibiting visitation with the Appellant), and to allow the Appellant to visit [Detainee's name], who is detained at [Detention center name] Rehabilitation

and Reform Center, or any other correctional facility to which he/she may be transferred. This annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.

The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Subsection III: Lawyer Visits

A lawyer has the right to meet with their client in private, according to Article 39 of the Law Regulating Correction and Community Rehabilitation Centers, "which permits lawyers to meet with their clients in private, provided they obtain written permission from the prosecution."¹⁰⁰ If the correctional facility administration allows the lawyer to visit their client only through a glass barrier or a separating wire mesh, the lawyer has the right to request the person in charge of the correctional facility "prison director" to allow a private visit without barriers, in accordance with the law. If the request is denied, legal action must be taken by filing a report at the police station with jurisdiction over the detention facility to document the situation and the incident, or by sending a registered telegram with acknowledgment of receipt to the Public Prosecutor and the Minister of Interior, detailing the incident and providing evidence of the lawyer being allowed to visit their client only through a barrier or being denied a private meeting with their client. A copy of the telegram should be attached.

Then, a lawsuit must be filed before the Administrative Court. The lawyer must "attach the visit permit or a copy thereof" if the original permit was retained by the correctional facility administration. The lawsuit is only admissible if it is filed by the lawyer as the appellant ("the person with standing and interest"). The detainee's family does not have the right to file this

¹⁰⁰ See Article 39 of Law No. 396 of 1956, the Law Regulating Correction and Community Rehabilitation Centers, as amended.

lawsuit, and the court will reject it. In such cases, the right to visitation for family members does not preclude the use of organizational measures such as wire mesh or glass barriers, which are permissible for the administrative authority according to Article 42 of the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956. This article allows the executive authority to restrict visitation for health or security reasons.¹⁰¹

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council

Greetings,

Submitted to your Excellency by: [Your Name]

Against

Minister of Interior, in his official capacity

Director of the Community Protection Sector, in his official capacity

Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

I have the honor to present the following:

Subject

The Appellant, [Your Name], is a lawyer for Mr./ [Detainee's Name], who is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case details].

¹⁰¹ See Article 42 of Law No. 396 of 1956, the Law Regulating Correction and Community Rehabilitation Centers, as amended.

The Appellant obtained a visit permit for the aforementioned detainee as his lawyer, exercising his legal right under Article 39 of the Law Regulating Correction and Community Rehabilitation Centers, which states:

"(The detainee's lawyer is authorized to meet with him in private on the condition of obtaining written permission from the Public Prosecution and from the investigating judge in the cases he is assigned to investigate, whether the meeting is at the request of the detainee or that of the lawyer.)"

However, the Appellant was surprised to find that the visit was conducted through a glass barrier or a double layer of barbed wire, separating the Appellant from his client, [Detainee's name], by a distance of [Distance] meters, under heavy guard by security personnel at the correctional facility. In addition to the overcrowding and loud noise during the visit, which made it difficult for visitors to hear each other, the limited visitation time rendered the visit meaningless and deprived it of its intended purpose, both constitutionally and legally. The detainee was unable to meet with his lawyer in private to discuss the necessary legal procedures for his defense, as guaranteed by the Constitution and the law. The Appellant challenges the decision of the Respondent to conduct the visit through a glass barrier or a double layer of barbed wire, seeking its annulment and, as a matter of urgency, its suspension.

The Appellant bases their appeal on the following grounds:

1. First Ground for Appeal: Existence of an Administrative Decision Manifested in the Respondents' Refusal to Allow the Appellant to Meet with His Client in Private:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal

status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Article 39 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers and its internal regulations:

"The detainee's lawyer is authorized to meet with him in private on the condition of obtaining written permission from the Public Prosecution and from the investigating judge in the cases he is assigned to investigate, whether the meeting is at the request of the detainee or that of the lawyer."

Similarly, the second paragraph of Article 70 of the implementing regulations states:

"Provided that the lawyer's visit to his client is in private."

Despite this, the respondents, in their official capacities, allowed the Appellant to meet with his client only in the presence of a security officer. This violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers.

Second reason: The decision violates the Constitution and the law: -

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities

are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case No. 37, judicial year 9, "Constitutional", session of May 19, 1990).

The constitutional legislator has consistently emphasized the importance of human dignity. In the Egyptian Constitution, it is stated that individual dignity is a natural reflection of the nation's dignity, and that the rule of law is not only a necessary guarantee for individual freedom but also the sole basis for the legitimacy of authority.

The constitutional legislator has crystallized these objectives in its articles, stating in Article 54 that "Personal freedom is a natural right, protected and inviolable."

Article 55 further states: "Every person who is arrested, imprisoned, or has their freedom restricted in any way shall be treated in a manner that preserves human dignity. It is not permissible to inflict physical or psychological harm on them." The legal legislator has spared no effort in incorporating the provisions of the Constitution into legal texts, stating in Article 38 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers that "Every convicted person shall have the right to correspondence, and their family may visit them, in accordance with the provisions of the internal regulations. Pretrial detainees shall have this right..."

Article 39 states: "The detainee's lawyer is authorized to meet with him in private on the condition of obtaining written permission..."

Article 70 of the law emphasizes that in the case of special visits, "they shall take place in one of the offices of the correctional facility officers and in their presence, or that of their representative, without prejudice to the detainee's right to meet with their lawyer in private."

However, the respondents have persistently violated this constitutional and legal right. The decision of the first respondent has undermined and diminished this right, preventing the Appellant from meeting with his client in private to discuss his defense and protect his rights. This is a right that no one can violate or undermine.

Since his detention, the aforementioned detainee and his lawyer have been meeting in the presence of a security officer, as described earlier. The legislator was not unaware of security concerns. The respondents, with their undeniable power and complete control over the detainee, can uphold human dignity, as enshrined and intended by the constitutional legislator, while simultaneously maintaining security, especially given the clarity of the legal and constitutional provisions in this regard.

Therefore, the Appellant's appeal is consistent with the Constitution and the law and aligns with the preservation of human dignity.

Third Reason: The Contested Decision Violates International Treaties and Conventions Guaranteed by the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

"The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights

of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

International conventions and agreements clearly protect the human rights of prisoners. The first paragraph of Article 7 of the International Covenant on Civil and Political Rights states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 states:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

The first paragraph of Rule 61 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states:

"1. Prisoners shall be allowed the opportunity and the time and the facilities to be visited by and to communicate and consult with a lawyer of their own choice or legal aid provider, without delay, interception or censorship and in full confidentiality, on any legal matter, in accordance with the applicable domestic law. Such consultations may take place under visual but not aural supervision by prison staff."

Based on the foregoing, it is clear that the respondents' refusal to allow the Appellant to meet with his client in private violates the provisions of international conventions and agreements, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

The respondents have so far failed to provide any reasons or justifications for not allowing the Appellant to meet with his client in private and for requiring the presence of a security officer during the visit. Therefore, the contested decision lacks a valid reason and warrants annulment.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the requirement for the Appellant to

meet with his client only through a glass barrier or wire mesh during visits. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the contested decision that mandates visits at [Detention center name] Rehabilitation and Correction center to be conducted through a glass barrier or wire mesh for lawyers representing detainees. This suspension should include all consequential effects, most importantly allowing the Appellant, in his capacity as a lawyer, to visit the detainee, [Detainee's name], at [Detention center name] Rehabilitation and Correction center without the presence of barriers. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the contested decision that mandates visits at [Detention center name] Rehabilitation and Correction center to be conducted through a glass barrier or wire mesh for lawyers representing detainees. This annulment should include all consequential effects, most importantly allowing the Appellant, in his capacity as a lawyer, to visit the detainee, [Detainee's name], at [Detention center name] Rehabilitation and Correction center without the presence of barriers. The ruling should be executed on its draft and without announcement.

This is without prejudice to all other rights of the Appellant.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Subsection IV: Lawyer Visiting Their Client in the Presence of a Security Officer

It is common for lawyers to be allowed to visit their clients accused in politically motivated cases only in the office of an officer at the correctional facility. These visits take place in the presence of an officer who warns the lawyer and their client against speaking in hushed tones and records their conversations. This practice violates Article 39 of the Law Regulating Correction and Community Rehabilitation Centers, which permits lawyers to meet with their clients in private after obtaining a visit permit from the judicial authority.¹⁰² It also contradicts Article 70 of the implementing regulations, which confirms that lawyer visits with their clients must be conducted in private.¹⁰³

The lawyer must first formally object to the presence of a security officer during the visit and request the proper application of the law by being allowed to meet with their client in private. If the correctional facility administration refuses, the lawyer should not proceed with the visit and should obtain the original visit permit, or a copy if the administration refuses to hand over the original. The lawyer should then file a report to document the situation and the incident, or send a registered telegram with acknowledgment of receipt to the Public Prosecutor, the Minister of Interior, and the Head of the Prisons Sector, detailing the incident. The lawyer must attach a photocopy of the visit permit and an official copy of the incident report or the registered telegram.

Then, a lawsuit must be filed before the Administrative Court. The lawyer must "attach the visit permit or a copy thereof" if the original permit was retained by the correctional facility administration. The lawsuit is only admissible if it is filed by the lawyer as the appellant ("the person with standing and interest").

¹⁰² See Article 39 of Law No. 396 of 1956, the Law Regulating Correction and Community Rehabilitation Centers, as amended.

¹⁰³ See Article 70 of the implementing regulations of the Law Regulating Correction and Community Rehabilitation Centers.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council

Greetings,

Submitted to your Excellency by: [Your Name]

Against:

- (1) Minister of Interior, in his official capacity
- (2) Head of the Community Protection Sector, in his official capacity
- (3) Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

I have the honor to present the following:

Subject

The Appellant, [Your Name], is a lawyer for Mr./ [Detainee's name], who is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case details].

The Appellant obtained a visit permit for the aforementioned detainee as his lawyer, exercising his legal right under Article 39 of the Law Regulating Correction and Community Rehabilitation Centers, which states:

"(The detainee's lawyer is authorized to meet with him in private on the condition of obtaining written permission from the Public Prosecution and from the investigating judge in the cases he is assigned to investigate, whether the meeting is at the request of the detainee or that of the lawyer.)"

However, on [Date], while attempting to execute the visit permit issued by the [Prosecutor's Office name] Prosecutor's Office, the Appellant was surprised to find that the visit was to be conducted in the office of a security officer at the correctional facility, with an officer present throughout the entire visit, taking notes of the conversation and warning the Appellant and his client against speaking in hushed tones. In addition to this, the limited visitation time rendered

the visit meaningless and deprived it of its intended purpose, both constitutionally and legally. The detainee was unable to meet with his lawyer in private to discuss the necessary legal procedures for his defense, as guaranteed by the Constitution and the law. The Appellant challenges the decision of the Respondent to conduct the visit in the office of a security officer, without complete privacy and confidentiality, seeking its annulment and, as a matter of urgency, its suspension.

The Appellant bases their appeal on the following grounds:

1. First Ground for Appeal: Existence of an Administrative Decision Manifested in the Respondents' Refusal to Allow the Appellant to Meet with His Client in Private:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Article 39 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers and its internal regulations:

"The detainee's lawyer is authorized to meet with him in private on the condition of obtaining written permission from the Public Prosecution and from the investigating judge in the cases he is assigned to investigate, whether the meeting is at the request of the detainee or that of the lawyer."

Similarly, the second paragraph of Article 70 of the implementing regulations states:

"Provided that the lawyer's visit to his client is in private."

Despite this, the respondents, in their official capacities, allowed the Appellant to meet with his client only in the presence of a security officer. This violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the

Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

The constitutional legislator has consistently emphasized the importance of human dignity. The Egyptian Constitution states that individual dignity is a natural reflection of the nation's dignity, and that the rule of law is not only a necessary guarantee for individual freedom, but also the sole basis for the legitimacy of authority.

The constitutional legislator has crystallized these objectives in the articles of the Constitution, stating in Article 54 that "Personal freedom is a natural right, protected and inviolable.", as it states that

“Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed”.

The legal legislator has spared no effort in incorporating the provisions of the Constitution into legal texts, stating in Article 38 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers that "Every convicted person shall have the right to correspondence, and their family may visit them, in accordance with the provisions of the internal regulations. Pretrial detainees shall have this right..."

Article 39 states: "The detainee's lawyer is authorized to meet with him in private on the condition of obtaining written permission..."

Article 70 of the law emphasizes that in the case of special visits, "they shall take place in one of the offices of the correctional facility officers and in their presence, or that of their representative, without prejudice to the detainee's right to meet with their lawyer in private."

However, the respondents have persistently violated this constitutional and legal right. The decision of the first respondent has undermined and diminished this right, preventing the Appellant from meeting with his client in private to discuss his defense and protect his rights. This is a right that no one can violate or undermine.

Since his detention, the aforementioned detainee and his lawyer have been meeting in the presence of a security officer, as described earlier. The legislator was not unaware of security concerns. The respondents, with their undeniable power and complete control over the detainee, can uphold human dignity, as enshrined and intended by the constitutional legislator, while simultaneously maintaining security, especially given the clarity of the legal and constitutional provisions in this regard.

Therefore, the Appellant's appeal is consistent with the Constitution and the law and aligns with the preservation of human dignity.

Third Reason: The Contested Decision Violates International Treaties and Conventions Guaranteed by the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

" The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their

publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

International conventions and agreements clearly protect the human rights of prisoners. The first paragraph of Article 7 of the International Covenant on Civil and Political Rights states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 states:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

The first paragraph of Rule 61 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states:

"1. Prisoners shall be allowed the opportunity and the time and the facilities to be visited by and to communicate and consult with a lawyer of their own choice or legal aid provider, without delay, interception or censorship and in full confidentiality, on any legal matter, in accordance with the applicable domestic law. Such consultations may take place under visual but not aural supervision by prison staff."

Based on the foregoing, it is clear that the respondents' refusal to allow the Appellant to meet with his client in private violates the provisions of international conventions and agreements, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the requirement for the Appellant to meet with his client only in the presence of a security officer. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the

request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the requirement for the Appellant to meet with his client only in the presence of a security officer. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the contested decision that mandates visits at [Detention center name] Rehabilitation and Correction center to be conducted in the presence of a security officer. This suspension should include all consequential effects, most importantly allowing the Appellant, in his capacity as a lawyer, to visit the detainee, [Detainee's name], at [Detention center name] Rehabilitation and Correction center in private, without the presence of a security officer. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the contested decision, with all consequential effects. This is without prejudice to all other rights of the Appellant.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Section Two: The Right to Correspondence and Telephone Calls

Introduction

The right of detainees to correspond and communicate with their families is a crucial factor in their rehabilitation and reintegration into society. By providing them with appropriate care and support, we can help them contribute positively to the development of their community instead of leaving them as idle individuals who pose a threat to society's security and stability.

The importance of correspondence and communication with detainees became particularly evident during the COVID-19 pandemic. When the Ministry of Interior implemented measures to prevent the spread of the virus, including suspending visits and then resuming them with limitations (one visitor per month for 20 minutes), the need to enable detainees to communicate with their families, either through letters or phone calls, became urgent.

I. The Right to Correspondence and Telephone Communication in International Law, the Egyptian Constitution, and Egyptian Law

A. The Right to Correspondence and Telephone Communication in International Law:

The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) address correspondence in Rule 58, under the title "Contact with the Outside World." This rule allows prisoners to correspond in writing and communicate with their families using electronic means.¹⁰⁴

B. The Right to Correspondence and Telephone Calls in the Egyptian Constitution:

Article 55 of the Egyptian Constitution stipulates that " Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity..... ".¹⁰⁵

¹⁰⁴ Rule 58 of the Nelson Mandela Rules

¹⁰⁵ Article 55 of the Egyptian Constitution

Article 56 of the Constitution defines the functions of correctional and rehabilitation centers as places of reform and rehabilitation and entrusts the Law Regulating Correction and Community Rehabilitation Centers with the responsibility of caring for the prisoner's life after release.¹⁰⁶ This means that the correctional facility administration must provide every detainee with the means to continue their life and not be an obstacle in their way. The right to correspondence and communication with their families is one of the most important factors that help detainees in their rehabilitation and reintegration into society.

C. The Right to Correspondence and Telephone Calls in Egyptian Law

Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956, as amended by Law No. 106 of 2015

Article 38 of the Law Regulating Correction and Community Rehabilitation Centers states that convicted persons have the right to correspondence. This was amended by Presidential Decree Law No. 106 of 2015, which added to Article 38 the right of every convicted person to make telephone calls for a fee, under the supervision of the correctional facility administration.¹⁰⁷

Implementing Regulations for the Organization of Prisons

The Regulations for the Organization of Prisons, issued by the Minister of Interior's Resolution No. 79 of 1961, regulate visitation in Articles 60 to 67.¹⁰⁸

The internal regulations stipulate that those sentenced to simple imprisonment and those in pretrial detention have the right to correspondence at any time. The prison director must review all incoming and outgoing correspondence, except for correspondence between the detainee and their lawyer regarding their case. This does not affect their right to visitation. Every person sentenced to a custodial sentence has the right to send four letters per month from the date of

¹⁰⁶ Article 56 of the Egyptian Constitution.

¹⁰⁷ See the amendment of some provisions of the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956 by Law No. 106 of 2015.

¹⁰⁸ See Articles 60 to 67 of the Regulations for the Organization of Prisons issued by the Minister of Interior's Resolution No. 79 of 1961.

commencement of the sentence and to receive any correspondence addressed to them. Convicted persons are allowed to make phone calls for a maximum of three minutes twice a month from the date they are eligible for visitation. Telephone communication may be prohibited under certain circumstances if security reasons so require.

The prison director may exceptionally authorize telephone communication for a convicted person in cases of necessity and with the approval of the Minister of Interior. Pretrial detainees may also be allowed to make phone calls under the same conditions, unless prohibited by the Public Prosecution or the investigating judge.

Upon transfer to a correctional facility in another city, the detainee has the right to correspondence before or after the transfer, even if the correspondence schedule has not yet arrived. This correspondence is not counted towards the number of letters allowed for detainees. The correctional facility administration provides detainees with the necessary paper and tools to write their letters.

II. If the Correctional Facility Administration Refuses Correspondence or Telephone Communication

If the correctional facility administration refuses to receive or send letters for the detainee or refuses to allow the detainee to use the telephone, a lawsuit must be filed before the Administrative Court at the State Council against the Minister of Interior. The lawsuit should request the annulment of the implicit negative decision to refuse to deliver all correspondence sent to the detainee regularly and demand disclosure of the reasons for withholding the letters.

This can be done through the following steps:

1. Issue a formal notice to the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held. The notice is served by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

1. **The Minister of Interior, in his official capacity**, at his workplace at the Ministry of Interior building, addressed together with:
2. **The Head of the Community Protection Sector, in his official capacity**, at his workplace at the Community Protection Sector building, addressed together with:
3. **The Director of [Name] Rehabilitation and Reform Center, in his official capacity**, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

The Notifier is (in pretrial detention or convicted) at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. However, on [Date], the correctional facility administration refused to deliver or receive correspondence or prevented the Notifier from exercising their right to make phone calls.

The Appellant and his family have tried to understand the reasons behind these violations and the disregard for the guarantees provided to the Notifier by law and the Constitution. However, the correctional facility administration has not provided a clear answer about the reason for the denial, and there is no legal basis for this action.

This prompted the Notifier to issue this formal notice, requesting the delivery and receipt of all correspondence sent to the Notifier regularly, or to allow the Notifier to exercise their right to make phone calls. The notice also demands that the administration disclose the reasons for preventing the letters.

The Notified Parties, in their official capacities, preventing the Notifier from receiving or sending correspondence or exercising their right to make phone calls, violates the Egyptian Constitution.

Article (55) of the Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

Article 56 also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."

This also violates the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956, as amended by Law No. 106 of 2015, which states:

"(Subject to the provisions of the Code of Criminal Procedure, every convicted person shall have the right to correspondence and telephone communication for a fee, and their family may visit them twice a month, all under the supervision of the correctional facility administration and in accordance with the controls and procedures specified in the internal regulations.

A pretrial detainee shall have this right unless otherwise decided by the competent Public Prosecution or the competent investigating judge, in accordance with the procedures specified in the internal regulations...)"

Therefore

the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Allow the Notifier to receive and send correspondence or exercise their right to make phone calls, as preventing this violates the Egyptian Constitution.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of allowing the Notifier to receive and send correspondence or exercise their right to make phone calls, as preventing this violates the Egyptian Constitution. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

If there is no response to the formal notice from the Notified Parties within the specified timeframe after receiving the notice, a lawsuit must be filed before the Administrative Court.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

- The Honorable/ Minister of Interior, in his official capacity
- The Honorable/ Head of the Community Protection Sector, in his official capacity

- The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. However, on [Date], the correctional facility administration refused to deliver or receive correspondence or prevented the Appellant from exercising their right to make phone calls.

The Appellant and his family have tried to understand the reasons behind these violations and the disregard for the guarantees provided to the Notifier by law and the Constitution. However, the correctional facility administration has not provided a clear answer about the reason for the denial, and there is no legal basis for this action.

This prompted the Appellant to issue formal notice No. [Notice number] on [Date] recorded in minutes [Minutes number], requesting the delivery and receipt of all correspondence sent to the Appellant regularly, or to allow the Appellant to exercise their right to make phone calls, and demanding that the administration disclose the reasons for preventing the letters or phone calls.

The refusal of the Respondents, in their official capacities, to allow the Appellant to receive or send correspondence or exercise their right to make phone calls, violates the Egyptian Constitution.

Therefore, the Appellant challenges it for the following reasons:

Grounds for the Appeal:

First Reason: Existence of an Administrative Decision through the Respondents' Refusal to Allow the Appellant to Receive or Send Correspondence or Exercise Their Right to Make Phone Calls:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers and its internal regulations, the legislator has respected human dignity by granting detainees the right to correspondence. This is a dual right granted to both the detainee and their family, in accordance with the established regulations. As an exception to this principle, the administrative authority may prohibit correspondence or telephone communication for security reasons. However, this prohibition is not absolute or indefinite. It applies only at specific times and for reasons related to security. This authority cannot be exercised at all times, permanently, or continuously throughout the duration of the detainee's imprisonment. To argue otherwise would be to disregard the humanity of the detainee, inflict psychological harm on them, and deprive them and their family of a natural right.

Despite the Appellant issuing a formal notice requesting the delivery and receipt of all correspondence sent to the Appellant regularly, or to allow the Appellant to exercise their right to make phone calls, and demanding that the Respondents, in their official capacities, disclose the reasons for preventing the letters or phone calls, the Respondents have remained silent. This confirms the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the

rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the appellee in their official capacities, in preventing the Appellant from corresponding and communicating with their family constitutes a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein. Article (55) of the Constitution stipulates that

“Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.”

As for the role and function of the reform and rehabilitation centers for which it was established, Article (56) of the Constitution states: "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release.“Whereas the Appellee has

have prevented the Appellant from corresponding and communicating with their family. Despite the Appellant issuing a formal notice requesting the delivery and receipt of all correspondence sent to the Appellant regularly, or to allow the Appellant to exercise their right to make phone calls, and demanding disclosure of the reasons for preventing the letters or phone calls, this action violates the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Enshrined in the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

" The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Since international charters and covenants clearly protect the human rights of prisoners, the first paragraph of Article 7 of the International Covenant on Civil and Political Rights states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected to medical or scientific experimentation without their free consent."

Additionally, Article 10 states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

In the first paragraph of Rule 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, it is stated: "Prisoners shall be allowed, under necessary supervision, to

communicate in writing and, where available, by using means of communication, including electronic, digital, and other means."

As for the law, Article 38 of Law No. 396 of 1956, regulating prisons and amended by Law No. 106 of 2015, provides that "subject to the provisions of the Code of Criminal Procedure, every convicted person has the right to correspondence and telephone communication for a fee, and their relatives have the right to visit them twice a month. All this is under the supervision and control of the administration of the Correction and Rehabilitation Center, and in accordance with the regulations and procedures specified by the internal regulations."

A detainee awaiting trial also has this right unless a decision to the contrary is issued by the competent Public Prosecution or the investigating judge, and this is in accordance with the procedures outlined in the internal regulations.

The right to correspondence and telephone calls is regulated by the Prisons Regulations issued by the Minister of Interior's Decision No. 79 of 1961, from Articles 60 to 67. The internal regulations of the Correction and Rehabilitation Centers stipulate that convicted persons sentenced to simple imprisonment and those held in pretrial detention have the right to correspond at any time. The Director of the Correction and Rehabilitation Center must review every document that arrives for the inmate or that the inmate wishes to send, except for correspondence between the inmate and their lawyer regarding the case. This does not negate the inmate's right to visits. Every prisoner serving a sentence of deprivation of liberty has the right to send four letters per month from the date the sentence begins and to receive any correspondence addressed to them. Convicted persons are allowed to make telephone calls for no longer than three minutes twice a month from the date they become eligible for visits. Telephone calls may be prohibited at certain times if security reasons warrant it.

Telephone communication may be exceptionally authorized for convicted persons in urgent cases with the approval of the Minister of Interior. Pretrial detainees are also allowed telephone communication under the same conditions unless prohibited by the Public Prosecution or the investigating judge.

Inmates being transferred to a correctional center in another location have the right to correspond before or after the transfer, even if it is not within the regular correspondence schedule, and such communication will not be counted as part of their allocated correspondence. The Correction and Rehabilitation Center administration provides the necessary paper and tools for the inmates to write their letters.

From all the aforementioned, it is clear that the refusal of the respondents to allow the appellant to correspond and communicate with their relatives is contrary to the obligations imposed on them by international covenants and domestic law, and therefore must be annulled.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee have not yet provided any reasons or justifications for their refusal to deliver or receive all correspondence regularly sent to the appellant, or for preventing him from

exercising his right to telephone communication, the contested decision is therefore void for lack of cause and must be annulled.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

By applying this, we find that all the conditions are met. Regarding the urgency, the implementation of the contested decision—namely the refusal to deliver or receive all the correspondence regularly sent to the appellant, or preventing him from exercising his right to telephone communication—suggests that the reasons for the appeal increase the likelihood of a ruling annulling this decision. Therefore, the reasons for halting the execution are present in this appeal.

Based on this, The appellant requests that the court:

1. **Firstly:** Accept the appeal in form.
2. **Secondly:** As an urgent matter, suspend the execution of the negative decision by the respondents, who refused to deliver or receive the correspondence regularly sent to the appellant, detained at the Correctional Center (...), or prevent him from using his right to

telephone communication, along with the subsequent consequences, and for the ruling to be executed in its draft form without notification.

3. **Thirdly:** On the merits, annul the negative decision by the respondents, who refused to deliver or receive the correspondence regularly sent to the appellant, detained at the Correctional Center (...), or prevent him from using his right to telephone communication, along with the subsequent consequences, and for the ruling to be executed in its draft form without notification.

Appellant's Lawyer

Attorney

Section Three: The Right to Conjugal Visits

Detainees have the right to conjugal visits. The purpose of detention or imprisonment is to restrict the detainee's freedom without depriving them of other rights granted to them by the Constitution, the law, and international conventions and agreements. Restricting freedom is a punishment in itself, and it should not extend to punishing others. Depriving a detainee of meeting their spouse is a double punishment for both partners and can lead to psychological harm. This meeting can contribute to the detainee's rehabilitation and positively impact their mental health by reducing stress. It is considered a rehabilitation method aimed at reintegrating the detainee into their natural environment after serving their sentence and returning to society. However, this right is only enjoyed by married detainees within correctional facilities, as unmarried detainees do not have this right. Denying conjugal visits often leads to divorce requests. Therefore, conjugal visits should be implemented to preserve families and children, whether in a suitable location within the correctional facility or by allowing the detainee to leave the facility and visit their family for a specified period under guard.

The second paragraph of Rule 58 of the Standard Minimum Rules for the Treatment of Prisoners states:

"Conjugal visits may be granted without discrimination, and women prisoners shall have the right to exercise this right on an equal basis with men, with procedures and facilities to ensure fair and equal opportunity to exercise this right, while preserving safety and dignity."¹⁰⁹

However, the legal situation remains unclear, especially since Egyptian law does not explicitly address the right to conjugal visits. Law No. 396 of 1956 on the Organization of Correctional and Rehabilitation Centers and its internal regulations do not address the issue of detainees who wish to marry while in detention. They also do not provide specific regulations for visits between spouses, as visits take place in the presence of a correctional officer, similar to regular visits. The prison director may order an extraordinary visit to take place in their office, but always in the presence of a correctional officer. Egyptian correctional facilities lack designated

¹⁰⁹ Pervious reference

areas for conjugal visits. Furthermore, detainees are not allowed to leave the correctional facility to visit their homes under guard for conjugal visits.

Legal Steps to Enable Conjugal Visits for Detainees:

The detainee or their spouse must submit a request to the Head of the Community Protection Sector and the Director of the correctional facility where the detainee is held, requesting permission for a conjugal visit.

Request Form:

To:

The Head of the Community Protection Sector

The Director of [Detention center name] Rehabilitation and Reform Center

Greetings,

Submitted to your Excellency by: [Your Name], in my capacity as the spouse of [Detainee's name], who is in pretrial detention in connection with case No. [Case number] of [Year], / sentenced in case No. [Case number] of [Year], and detained at [Detention center name] Rehabilitation and Reform Center.

Subject

I kindly request your approval to allow the detainee, [Detainee's name], a conjugal visit, either by providing a suitable and safe place within the correctional facility for this purpose, or by allowing the detainee to visit their home under necessary guard.

Article 10 of the Egyptian Constitution states:

"The family is the foundation of society, based on religion, morality, and patriotism. The state shall ensure its cohesion, stability, and the consolidation of its values."

Therefore

I request your approval to allow the detainee, [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, a conjugal visit, after providing a suitable and safe place within the correctional facility, or by allowing the detainee to visit their home under necessary guard.

With utmost appreciation and respect to your Excellency,

Submitted to your Excellency

In Case of Refusal or No Response to the Conjugal Visit Request:

If the conjugal visit request is refused or if there is no response, a formal notice must be issued to the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held. The notice is served by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Head of the Community Protection Sector, in his official capacity, at his workplace at the Community Protection Sector building, addressed together with:

The Director of [Name] Rehabilitation and Reform Center, in his official capacity, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

The Notifier is [Detainee's name], who is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case details].

On [Date], a request was submitted to the Head of the Community Protection Sector, requesting permission for the Notifier to have a conjugal visit. The request was registered under No. [Request number]. However, the Notifier was surprised by the refusal of the request without providing any reasons, [or: the submitted request has not been decided upon since the date of its submission until the date of this notice]. This prompted the Notifier to issue this formal notice, requesting permission for a conjugal visit, after providing a suitable and safe place for this purpose, or by allowing the detainee to visit their home under necessary guard.

The Notified Parties, in their official capacities, preventing the Notifier from having a conjugal visit, violates the Egyptian Constitution. Article 10 of the Egyptian Constitution states:

"The family is the foundation of society, based on religion, morality, and patriotism. The state shall ensure its cohesion, stability, and the consolidation of its values."

Article (55) of the Constitution also stipulates that "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed..."

While Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

Therefore, the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Stop the decision refusing the Notifier's request for a conjugal visit, as this violates the Egyptian Constitution. The Notified Parties must allow the Notifier, who is detained at [Detention center name] Rehabilitation and Reform Center, a conjugal visit, after providing a suitable and safe place for this purpose, or by allowing the detainee to visit their home under necessary guard.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of stopping the decision refusing to allow the Notifier, who is in pretrial detention in connection with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year] on [Date] with the verdict [Verdict], and is detained at [Detention center name] Rehabilitation and Reform Center, a conjugal visit. The Notified Parties must allow the Notifier a conjugal visit, after providing a suitable and safe place for this purpose, or by allowing the detainee to visit their home under necessary guard. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

If there is no response to the formal notice from the Notified Parties within the specified timeframe after receiving the notice, a lawsuit must be filed before the Administrative Court.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable/ Minister of Justice, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector, in his official capacity

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date].

On [Date], a request was submitted to the third and fourth respondents, in their official capacities, requesting permission for the Appellant to have a conjugal visit. The request was registered under No. [Request number]. However, the Appellant was surprised by the refusal of the request without providing any reasons, [or: the submitted request has not been decided upon since the date of its submission until the date of this lawsuit]. Despite the Appellant and their family trying repeatedly to understand the reasons behind the respondents' refusal to allow the Appellant a conjugal visit, after providing a suitable and safe place for this purpose, or by allowing the detainee to visit their home under necessary guard, the Appellant was prompted to issue a formal notice to the Respondents, recorded under No. [Notice number] in minutes [Minutes number], and served on [Date], requesting permission for a conjugal visit, after providing a suitable and safe place for this purpose, or by allowing the detainee to visit their home under necessary guard. The notice also demanded that the respondents disclose the reasons for refusing the request.

The refusal of the Respondents, in their official capacities, to allow the Appellant to exercise their right to a conjugal visit violates the Egyptian Constitution and international conventions and agreements. Therefore, the Appellant challenges it for the following reasons:

Grounds for the Appeal:

First Reason: Existence of an Administrative Decision through the Respondents' Refusal to Allow the Appellant a Conjugal Visit:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to the Constitution, which respects human dignity and considers the family as the foundation of society, ensuring its cohesion, stability, and the consolidation of its values, and recognizing its role as one of the most important institutions of social upbringing, the Appellant has the right to conjugal visits. The purpose of imprisonment or detention is to restrict the detainee's freedom without depriving them of other rights granted to them by the Constitution, the law, and international conventions and agreements. Restricting freedom is a punishment in itself, and it should not extend to punishing others. Depriving a detainee of meeting their spouse is a double punishment for both partners and can lead to psychological harm. This meeting can contribute to the detainee's rehabilitation and positively impact their mental health by reducing stress. It is considered a rehabilitation method aimed at reintegrating the detainee into their natural environment after serving their sentence and returning to society. However, this right is only enjoyed by married detainees within correctional facilities, as unmarried detainees do not have this right. Denying conjugal visits often leads to divorce requests. Therefore, conjugal visits should be implemented to preserve families and children, whether in a suitable location within the correctional facility or by allowing the detainee to leave the facility and visit their family for a specified period under guard.

Despite the Appellant issuing a formal notice requesting the Appellee, in their official capacities, to stop the decision refusing the request to allow the Appellant a conjugal visit, after providing a suitable and safe place for this purpose, or by allowing the detainee to visit their

home under necessary guard, as this violates the Egyptian Constitution and international conventions and agreements, and despite demanding to be allowed a conjugal visit under these conditions and an explanation for the refusal, the Respondents have remained silent. This confirms the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the

Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the in their official capacities, in preventing the Appellant from having a conjugal visit, whether by refusing to provide a suitable and safe place within the correctional facility for this purpose or by refusing to allow the detainee to visit their home under necessary guard, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein.

Article 10 of the Constitution states:

"The family is the foundation of society, based on religion, morality, and patriotism. The state shall ensure its cohesion, stability, and the consolidation of its values."

Article (55) of the Constitution also stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. ."

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and

facilitating decent lives after their release. “Upon examining the Egyptian Constitution, which emphasizes the state's commitment to ensuring that the family is the foundation of society and preserving family cohesion, we find that the respondents' rejection of the Appellant's request violates the Constitution. Denying conjugal visits often leads to divorce requests, and therefore, conjugal visits should be implemented to preserve families and children.

The Egyptian Constitution also upholds respect for human dignity and considers correctional and rehabilitation centers as places of reform and rehabilitation. The law regulates the provisions for the reform and rehabilitation of convicts and facilitates their access to a decent life after their release. Preventing the Appellant from exercising their right to conjugal visits contradicts the Constitution. The purpose of imprisonment or detention is to restrict the detainee's freedom without depriving them of other rights granted to them by the Constitution, the law, and international conventions and agreements. Restricting freedom is a punishment in itself, and it should not extend to punishing others. Depriving a detainee of meeting their spouse is a double punishment for both partners and can lead to psychological harm. This meeting can contribute to the detainee's rehabilitation and positively impact their mental health by reducing stress. It is considered a rehabilitation method aimed at reintegrating the detainee into their natural environment after serving their sentence and returning to society.

Applying this to the present case, we find that the respondents have prevented the Appellant from having a conjugal visit, whether by refusing to provide a suitable and safe place within the correctional facility for this purpose or by refusing to allow the detainee to visit their home under necessary guard. This violates the Egyptian Constitution. Despite the Appellant demanding to be allowed a conjugal visit under these conditions and an explanation for the refusal, the respondents' actions violate the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates the Arab Republic of Egypt's Obligations Under International Conventions and Agreements Guaranteed by the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

"The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

International conventions and agreements clearly protect the human rights of prisoners. The first paragraph of Article 10 of the International Covenant on Civil and Political Rights states:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

The Standard Minimum Rules for the Treatment of Prisoners address the right of detainees to conjugal visits. The second paragraph of Rule 58 states:

"Conjugal visits may be granted without discrimination, and women prisoners shall have the right to exercise this right on an equal basis with men, with procedures and facilities to ensure fair and equal opportunity to exercise this right, while preserving safety and dignity."

The first paragraph of Article 10 of the International Covenant on Economic, Social and Cultural Rights states:

"The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society..."

Based on the foregoing, it is clear that the respondents' refusal to allow the Appellant a conjugal visit, whether by refusing to provide a suitable and safe place within the correctional facility for this purpose or by refusing to allow the detainee to visit their home under necessary guard, violates the provisions of international conventions and agreements, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the appellee has not so far provided reasons or justifications for their complete refusal to enable the appellant to complete the marriage procedures, and therefore the contested decision is lacking for its reason, which requires its cancellation

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to allow the Appellant a conjugal visit, whether by refusing to provide a suitable and safe place within the correctional facility for this purpose or by refusing to allow the detainee to visit their home under necessary guard. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal to allow the Appellant a conjugal visit, whether by refusing to provide a suitable and safe place within [Detention center name] Rehabilitation and Correction center for this purpose or by refusing to allow the detainee to visit their home under

necessary guard. This suspension should include allowing the Appellant a conjugal visit under these conditions. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal to allow the Appellant a conjugal visit, whether by refusing to provide a suitable and safe place within [Detention center name] Rehabilitation and Correction center for this purpose or by refusing to allow the detainee to visit their home under necessary guard. This annulment should include allowing the Appellant a conjugal visit under these conditions. This annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Section Four: The Right to Marry

The family is the cornerstone of building societies. Recognizing the importance of the family and its role as one of the most important institutions of social upbringing, and as a contributing factor in the rehabilitation and reintegration of prisoners into society, the Universal Declaration of Human Rights addressed the right to marry and found a family in Article 16:

"(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

The first paragraph of Article 10 of the International Covenant on Economic, Social and Cultural Rights states:

"The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses."

Article 10 of the Egyptian Constitution states:

"The family is the foundation of society, based on religion, morality, and patriotism. The state shall ensure its cohesion, stability, and the consolidation of its values."

The procedures for marriage require several things:

1. The wife must be an adult of sound mind. The recognized age of majority in Egypt is 18 years or older. Marriage below this age is considered a crime according to the law, and anyone who falsifies the age of the wife or husband to legally establish it shall be punished by imprisonment and a fine, according to Article 227(a) of the Egyptian Penal Code.
2. The couple must undergo a medical examination to ensure they are free from diseases that may affect them or the health of their offspring.
3. The marriage contract must be documented if the two previous conditions are met.

Procedures for Obtaining Permission to Marry:

As for the situation of a detainee, who is in a special legal situation, they may request to marry while inside the correctional facility and be allowed to do so. However, to complete the marriage procedures, a request must be submitted to the High Prosecution Office that has jurisdiction over the detainee's case, or to the competent district prosecution office, requesting permission to proceed with the marriage. The request should include proof of relationship, such as a power of attorney from the detainee or a copy of the National ID card of a first-degree relative of the detainee. The request is submitted to the prosecution's registry and information is taken from the case file, and from the execution records in the case of a convicted person, to determine the start and end dates of the sentence. The request is then handed to the designated employee to obtain the Chief Prosecutor's endorsement to take the necessary action. After the prosecution endorses the request, it is sent to the Court of Appeal, to the office of the "President of the Court of Appeal for Detainee Affairs," where an outgoing number is assigned and followed up with the designated employee. After the request is approved, it is sent to the Community Protection Sector and then to the correctional facility where the detainee is held to take the necessary steps to complete the marriage procedures. The request is followed up until it is sent to the correctional facility. Then, the applicant goes to the designated employee at the correctional facility and then to the prison director to set a date to complete the marriage procedures.

The required documents are:

1. The husband's ID card and three photocopies.
2. The wife's ID card and three photocopies.
3. The wife's guardian's ID card (father, brother, uncle, maternal uncle) and a photocopy.
4. Six personal photos of each spouse.
5. A health certificate from a government hospital or a medical unit with a family medicine department.
6. An official divorce certificate if the wife is divorced.
7. Marriage certificate + death certificate of the husband if the wife is a widow.

The marriage officiant (Ma'zoun) documents the marriage contract in the court records and then provides the couple with official certified copies of the marriage certificate.

The Ma'zoun also provides the couple with a certificate or statement confirming the marriage. Then, a copy of the marriage certificate is taken to the Civil Registry to obtain a computerized marriage certificate.

The fees for documenting a marriage in Egypt are 600 Egyptian pounds, in addition to a dowry fee of 3% if the dowry is less than 5,000 pounds, 4% if it is less than 10,000 pounds, and 5% if it is more than that.

Request Form for Permission to Marry:

To the Head of [Name of Prosecutor's Office] Prosecutor's Office,

Greetings,

Submitted to your Excellency by: [Your Name], in my capacity as [Your relationship to the detainee] of the defendant, [Detainee's name], in case No. [Case number] of [Year], (in pretrial detention / sentenced in the session of [Date], with the verdict [Verdict]), detained at [Detention center name] Rehabilitation and Reform Center.

Subject

I kindly request your permission to complete the marriage procedures for the detainee, [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, to Mr./Ms. [Spouse's name]. A copy of their National ID card is attached to this request.

With utmost appreciation and respect to your Excellency,

Submitted by:

Name: [Your Name]

National ID No.: [Your National ID Number]

In Case of Refusal or No Response to the Marriage Request:

If the marriage request is refused or if there is no response, a formal notice must be issued to the Public Prosecutor, the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held. The notice is served by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Honorable Counselor/ Public Prosecutor, at his workplace at the Public Prosecutor's Office in Al Rehab, addressed together with:

The Honorable/ Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Honorable/ Head of the Community Protection Sector, at his workplace, addressed together with:

The Honorable/ Director of [Name] Rehabilitation and Reform Center, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

The Notifier is [Detainee's name] (in pretrial detention or convicted), currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case details].

On [Date], a request was submitted to the [Prosecutor's Office name] Prosecutor's Office, requesting permission to complete the marriage procedures for the Notifier to Mr./Ms. [Spouse's name]. The request was registered under No. [Request number]. However, the Notifier was surprised by the refusal of the request without providing any reasons, [or: the submitted request has not been decided upon since the date of its submission until the date of this notice]. This

prompted the Notifier to issue this formal notice, requesting permission to complete the marriage procedures with Mr./Ms. [Spouse's name], in accordance with the conditions and rules stipulated in the law, and demanding that the Notified Parties disclose the reasons for refusing the marriage request.

The Notified Parties, in their official capacities, preventing the Notifier from completing the marriage procedures, violates the Egyptian Constitution. Article 10 of the Egyptian Constitution states:

"The family is the foundation of society, based on religion, morality, and patriotism. The state shall ensure its cohesion, stability, and the consolidation of its values."

Article (55) of the Constitution also stipulates that "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed;..."

While Article (56) of the Constitution also stipulates that A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "Therefore, the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Stop the decision refusing the Notifier's marriage request to Mr./Ms. [Spouse's name], as this violates the Egyptian Constitution. The Notified Parties must allow the Notifier, who is detained at [Detention center name] Rehabilitation and Reform Center, to complete the marriage procedures with Mr./Ms. [Spouse's name], in accordance with the controls and conditions stipulated in the law.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of stopping the decision refusing to allow the Notifier, who is in pretrial detention in connection

with case No. [Case number] of [Year], or sentenced in case No. [Case number] of [Year] on [Date] with the verdict [Verdict], and is detained at [Detention center name] Rehabilitation and Reform Center, to complete the marriage procedures with Mr./Ms. [Spouse's name]. The Notified Parties must allow the Notifier to complete the marriage procedures in accordance with the procedures and conditions stipulated in the law. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

If there is no response to the formal notice from the Notified Parties within the specified timeframe after receiving the notice, a lawsuit must be filed before the Administrative Court.

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable/ Minister of Justice, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. However, on [Date], a request was submitted to the [Prosecutor's Office name] Prosecutor's Office, requesting permission to complete the marriage procedures for the Appellant to Mr./Ms. [Spouse's name]. The request was registered under No. [Request number]. However, the Appellant was surprised by the refusal of the request without providing any reasons, [or: the submitted request has not been decided upon since the date of its submission until the date of this lawsuit]. Despite the Appellant and their family repeatedly trying to understand the reasons behind the respondents' refusal to allow the Appellant to complete the marriage procedures, the Appellant was prompted to issue a formal notice to the Respondents, recorded under No. [Notice number] in minutes [Minutes number], and served on [Date], requesting permission to complete the marriage procedures with Mr./Ms. [Spouse's name], in accordance with the conditions and rules stipulated in the law, and demanding that the respondents disclose the reasons for refusing the marriage request.

The refusal of the Respondents, in their official capacities, to allow the Appellant to complete the marriage procedures, violates the Egyptian Constitution. Therefore, the Appellant challenges it for the following reasons:

Grounds for the Appeal:

First Reason: Existence of an Administrative Decision through the Respondents' Refusal to Allow the Appellant to Marry:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by

the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to the Constitution, which respects human dignity and considers the family as the foundation of society, ensuring its cohesion, stability, and the consolidation of its values, and recognizing its role as one of the most important institutions of social upbringing, the Appellant has the right to complete marriage procedures in accordance with the law. Marriage is considered a contributing factor in the rehabilitation and reintegration of prisoners into society.

Despite the Appellant issuing a formal notice requesting the Respondents, in their official capacities, to stop the decision refusing the request to allow the Appellant to complete the marriage procedures, as this violates the Egyptian Constitution and international conventions and agreements, and despite demanding to be allowed to complete the marriage procedures in accordance with the controls and conditions stipulated in the law, and an explanation for the refusal, the Respondents have remained silent. This confirms the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the

foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the appellee

in their official capacities, in preventing the Appellant from completing the marriage procedures in accordance with the controls and conditions stipulated in the law, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein.

Article 10 of the Constitution states:

"The family is the foundation of society, based on religion, morality, and patriotism. The state shall ensure its cohesion, stability, and the consolidation of its values."

Article (55) of the Constitution also stipulates that

"Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law."

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "The respondents have prevented the Appellant from completing the marriage procedures in accordance with the controls and conditions stipulated in the law. Despite the Appellant issuing a formal notice requesting the Respondents, in their official capacities, to stop the decision preventing the Appellant from completing the marriage procedures, as this violates the Egyptian Constitution, and despite demanding to be allowed to complete the marriage procedures in accordance with the controls and conditions stipulated in the law, and an explanation for the refusal, the Respondents' actions violate the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates the Arab Republic of Egypt's Obligations Under International Conventions and Agreements Guaranteed by the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

" The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

International conventions and agreements clearly protect the human rights of prisoners. The first paragraph of Article 10 of the International Covenant on Civil and Political Rights states:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

The Universal Declaration of Human Rights addresses the right to marry and found a family in Article 16:

"(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full

consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

The first paragraph of Article 10 of the International Covenant on Economic, Social and Cultural Rights states:

"The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses."

Based on the foregoing, it is clear that the respondents' complete refusal to allow the Appellant to complete the marriage procedures violates the provisions of international conventions and agreements and the law, and thus warrants annulment.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review

of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the appellee has not so far provided reasons or justifications for their complete refusal to enable the appellant to complete the marriage procedures, and therefore the contested decision is lacking for its reason, which requires its cancellation

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to allow the Appellant to complete the marriage procedures. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly

The Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal to allow the Appellant to complete the marriage procedures with Mr./Ms. [Spouse's name]. This suspension should include allowing the Appellant to complete the marriage procedures in accordance with the controls and conditions stipulated in the law. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal to allow the Appellant to complete the marriage procedures with Mr./Ms. [Spouse's name]. This annulment should include allowing the Appellant to complete the marriage procedures in accordance with the controls and conditions stipulated in the law. This annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.

Respectfully submitted,

[Lawyer's Name]

Chapter Five: The right to education, education and religious life of inmates

Section One: The right to education, education and religious life of inmates in the international law and Egyptian Constitution and laws

Introduction

Education in correctional centers refers to any educational activity that takes place within them. This can include basic literacy programs, high school equivalency programs, vocational education, and higher education. Other activities, such as rehabilitation programs, physical education, and arts and crafts, can also be considered forms of education in correctional centers. The importance of educating and rehabilitating inmates is evident as it gives them the opportunity to acquire new skills and practical experiences, helping make life inside correctional centers more similar to life outside.

I. The right to education and education of inmates and their religious life in accordance with international charters and covenants:

Article 10 of the International Covenant on Civil and Political Rights states that prisoners have the right to be treated humanely and with respect for their dignity, and that the prison system shall have as its primary objective the reform and social rehabilitation of prisoners.¹¹⁰

As stated in Article 13 of the International Covenant on Economic, Social and Cultural Rights, “everyone has the right to education, and agrees that education shall be directed to the full

¹¹⁰ Article 10 of the International Covenant on Civil and Political Rights, [op. Cit.](#)

development of the human personality and the sense of its dignity and to the strengthening of respect for human rights and fundamental freedoms.....”¹¹¹

The United Nations Standard Minimum Rules for the Treatment of Prisoners also addresses education:

- **Rule 4, paragraph 2** mentions that prison administrations and relevant authorities should provide education, vocational training, and work opportunities to achieve the primary goals of imprisonment.
- **Rule 104** states that arrangements should be made for the continuation of education for all inmates capable of benefiting from it, including religious education where applicable. Education for illiterate inmates and juveniles should be compulsory and receive special attention from correctional administrations. Education should, where possible, align with the national education system so that inmates can continue their studies without difficulty upon release.

Regarding inmate rehabilitation, **Rule 64** specifies that every prison should have a library with sufficient educational and recreational books and encourage inmates to use it as much as possible.

Rule 105 states that recreational and cultural activities should be organized in all prisons to promote the physical and mental well-being of inmates.

As for inmates' religious lives, **Rule 65** states that if a prison holds a sufficient number of inmates practicing the same religion, a representative qualified for this task should be appointed or approved. This representative should be allowed to regularly conduct religious services and, where appropriate, make special visits to inmates of that religion. No inmate should be denied access to a qualified religious representative. However, inmates' objections to such visits should be respected.

Rule 66 ensures that, as much as possible, every inmate is permitted to observe their religious obligations, attend religious services held in the prison, and possess religious texts or educational materials relevant to their faith.¹¹²

¹¹¹ Article 13 of the International Covenant on Economic, Social and Cultural Rights, available at: <https://www.ohchr.org/ar/professio>

II. **The Right to Education, Inmate Rehabilitation, and Their Religious Lives in the Egyptian Constitution**

The right to education is enshrined in Article 19 of the Egyptian Constitution, which states, "Education is a right for every citizen, with the goal of building the Egyptian character, preserving national identity, grounding scientific thinking, developing talents, encouraging innovation, and embedding values of citizenship, tolerance, and non-discrimination. The state is committed to meeting these goals in education curricula and methods, and providing education in accordance with global quality standards."¹¹³

The right to culture is addressed in Article 48, which asserts, "Culture is a right for every citizen, guaranteed by the state, which is committed to supporting and providing cultural resources of all kinds to all segments of society, without discrimination based on financial ability, geographic location, or any other factor. Special attention is given to remote areas and the most needy groups."¹¹⁴

Article (56) also stipulates that (A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release.)¹¹⁵

III. The right to education and education of inmates and their religious life in accordance with the Law on the Organization of Correction and Community Rehabilitation Centers, and its executive regulations:

It was decided to regulate this right by the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956 in the following articles from 28 to 32, and

¹¹² Rule 4, 104, 105, 64-66 of the Standard Minimum Rules for the Treatment of Prisoners [op. cit.](#)

¹¹³ Article 19 of the Egyptian Constitution

¹¹⁴ 48 of the 2014 Constitution

¹¹⁵ 56 of the 2014 Constitution

its executive regulations issued by the Minister of Interior Resolution No. 79 of 1961 from Article 15 to 23:

A. As for education:

The law stipulates that the administration of the Correction and Rehabilitation Center shall educate inmates, taking into account the age, readiness and duration of the punishment, and that the Minister of the Interior, in agreement with the Minister of Education, shall develop the study curriculum for men and women, after taking the opinion of the Director General of the Correction and Rehabilitation Center. It also states that "the administration of the Correction and Rehabilitation Center shall encourage inmates to see and learn and facilitate study for inmates who wish to continue studying and allow them to perform their examinations at the headquarters of the committees."¹¹⁶

As for the Executive Regulations, Article 15 bis of the Regulations stipulates that the Community Protection Sector shall facilitate the ways and means of educating inmates in a manner that does not conflict with the provisions of penal enforcement and the requirements of public security. Resolution No. 1026 of 1972 was also issued, which stipulates that the education of inmates shall be in accordance with the curriculum prepared by the Ministry of Education in implementation of the aforementioned Law No. 67 of 1970.¹¹⁷

B. As for enhancing knowledge of inmates:

Article 30 of the law stipulates that: "A library shall be established in each correction center for inmates containing religious, scientific and moral books that inmates are encouraged to use in their free time. Inmates may, at their own expense, bring books, newspapers and magazines, as determined by the internal regulations."

While the regulation of the law is stated in Article 15 of the Minister of Interior Resolution No. 79 of 1961, that "convicted persons and those in pre-trial detention may, at their own expense, bring whatever books, newspapers and magazines they are authorized to circulate for review in their free time. The administration of the Correction and Rehabilitation Center shall review the

¹¹⁶ 28-32 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers.

¹¹⁷ Minister of Interior Decree No. 1026 of 1972

books, newspapers and magazines brought by inmates and shall not hand them over to them except after ensuring that they are free from anything that violates the system, provokes feelings or senses, or violates security and belief, and shall sign them to this effect and stamp them with the seal of the Correction and Rehabilitation Center. If they are prohibited from printing and publishing, they shall notify the competent authorities and the community protection sector."¹¹⁸

C. Religious life of inmates:

The law stipulates in Article 32 that "Every public correction and rehabilitation center shall have one or more preachers to encourage inmates in virtue and urge them to perform religious obligations. It shall also have one or more specialists in the social and psychological sciences in the manner specified in the bylaws."¹¹⁹

The preacher must be familiar with the existing systems in the reform centers so that he can perform his mission to¹²⁰ the fullest extent and participate spiritually and intellectually with the administration of the reform and rehabilitation center in treating the souls of inmates. The preacher should visit every inmate who is dominated by homosexuality and dishonesty, making an effort to reform and discipline him. Inmates in preaching lessons are divided into groups so that each group listens to the preacher at least once a week.¹²¹

¹¹⁸ See the text of Article 15 of the Regulation Governing Correction and Community Rehabilitation Centers issued by the Minister of Interior Resolution No. 79 of 1961.

¹¹⁹ Articles 28 to 32 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956

¹²⁰ See Articles 21 to 23 of the Regulation Governing Correction and Community Rehabilitation Centers issued by Minister of Interior Decision No. 79 of 1961.

¹²¹ Episodes on Egyptian Prison Legislation, Chapter Five: Educating Prisoners and Their Religious Life, via the Egyptian Initiative for Personal Rights electronic page, last visit 22 May 2021, available at: <https://eipr.org/content/%D8%A7%D9%84%>

Section Two: Enabling Detainees to Exercise Their Right to Education, Culture, and Religious Practices

Subsection I: Legal Procedures to Enable Preventive Detainees and Convicted Prisoners to Take Exams

Firstly,

There are a number of students registered with the Community Protection Sector in secondary and university education, especially Al-Azhar. During exam season, they are gathered from all correctional facilities and special exam committees are held for them at Tora Public Rehabilitation and Reform Center, without the need to submit requests to enable them to take the exams.

Second: Convicted Prisoners (with Final Judgments or Pending Appeals

Their families or lawyers must obtain proof of enrollment and an exam schedule stamped by the (university or school) where they are registered. If the student has a student ID card, a photocopy should be attached. These documents should be submitted directly to the Community Protection Sector. The applicant must also provide a copy of their National ID card if they are the father, brother, or sister. If the applicant is the mother, they must provide the student's birth certificate showing the mother's name, and the designated employee will inspect the original documents and attach copies to the application. If the applicant is the wife, and the husband's name is on her National ID card, a copy of the ID is sufficient. If the husband's name is not on the ID card, a copy of the marriage certificate must be attached. The request is submitted to the designated employee on a special form provided by the Community Protection Sector. The applicant must fill in the required information, ensuring accuracy when writing the case details, the correctional facility, and the exam dates from the schedule. The employee registers the request in a special register, and the applicant receives a request number and date to follow up on the request. These applicants submit their requests directly to the Community Protection Sector without obtaining approval from the prosecution or the court.

Third: Pretrial Detainees in Cases Under the Jurisdiction of Public Prosecution Offices

Their families or lawyers must obtain proof of enrollment and an exam schedule stamped by the (university or school) where they are registered. If the student has a student ID card, a photocopy should be attached. A request is then submitted to the Public Prosecution, and they obtain an endorsement from the prosecution approving their attendance at the exams. After receiving the endorsement, they submit the request to the Community Protection Sector.

The request is submitted to the Chief Prosecutor or the Public Prosecutor at the prosecution office investigating the case for which the student is in pretrial detention.

Request Form:

To the Head of [Name of Prosecutor's Office] Prosecutor's Office,

Greetings and Respect,

Submitted to your Excellency by: [Your Name], in my capacity as [Your relationship to the detainee] of Mr./ [Detainee's Name], who is in pretrial detention in connection with case No. [Case number] of [Year], and detained at [Detention center name].

Subject

Mr./ [Detainee's Name] is a student enrolled in [Year and school or university], and his exam date is [Date], according to the exam schedule or the certificate issued by [Issuing authority]. He is deprived of his liberty due to being in pretrial detention in connection with case No. [Case number] of [Year], and is detained at [Detention center name].

I request your approval to allow [Detainee's Name] to take the exams this year, in accordance with the Constitution and the law.

Article 40 of the Constitution states:

"(All citizens are equal in rights and duties.)"

Article 42 states:

"(Every citizen who is arrested, imprisoned, or has their freedom restricted in any way must be treated in a manner that preserves human dignity. It is not permissible to inflict physical or psychological harm on them...)"

Article 18 of the Constitution also states:

"(Education is a right guaranteed by the state.)"

Article 31 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers, as replaced by Law No. 87 of 1973, obligates the correctional facility administration to encourage detainees to read and learn, facilitate studying for those who wish to continue their education, and allow them to take their exams at designated committees in colleges and universities, or at the correctional facility where the detainee is serving their sentence by assigning a committee from the college to examine them at the correctional facility. A pretrial detainee, during their trial and before a judgment is issued against them, is even more entitled to this, as they are still considered innocent until proven guilty by a final criminal judgment.

Therefore, I request your approval to allow [Detainee's Name], who is in pretrial detention in case No. [Case number] of [Year] and detained at [Detention center name], and who is enrolled in [Year and school or university], to take the exams this year, starting on [Date], according to the exam schedule or the certificate issued by [Issuing authority], a photocopy of which is attached to this request.

With utmost appreciation and respect to your Excellency,

Submitted to your Excellency

Fourth: Students in Pretrial Detention in Cases Under the Jurisdiction of the Supreme State Security Prosecution:

Their families or lawyers must obtain proof of enrollment and an exam schedule stamped by the (university or school) where they are registered. If the student has a student ID card, a photocopy should be attached. A request, following the aforementioned model but with the case details modified to (State Security), is submitted to the Supreme State Security Prosecution in the Fifth Settlement, New Cairo. The request is submitted by handing it to the designated

employee at the gate during the designated times. They are responsible for approving it and sending it to the Community Protection Sector.

Fifth: Students in Pretrial Detention in Military Cases:

Their families or lawyers must obtain proof of enrollment and an exam schedule stamped by the (university or school) where they are registered. If the student has a student ID card, a photocopy should be attached. A request, following the aforementioned model but with the case details modified to (Military), is submitted to the competent military prosecution office investigating the case for which the student is in pretrial detention. After obtaining approval, they submit the request to the Community Protection Sector, following the procedures mentioned earlier.

Sixth: Pretrial Detainees in Criminal Court Cases:

Their families or lawyers must obtain proof of enrollment and an exam schedule stamped by the (university or school) where they are registered. If the student has a student ID card, a photocopy should be attached. A request, following the aforementioned model, is submitted to the Court of Appeal that has jurisdiction over the case. The request is submitted to the "President of the Court of Appeal for Prisoner Affairs" and is registered with a number. The applicant receives the number to follow up on the request. After the President of the Court of Appeal for Prisoner Affairs endorses the request, it is sent to the Community Protection Sector for follow-up.

Second: Legal Procedures if the Prosecution or the Correctional Facility Administration Denies Detainees the Right to Education:

If the prosecution refuses to endorse the request or if the request is shelved without a response of approval or refusal, the applicant must go to the Public Prosecutor's Office in Al Rehab and submit a report about the prosecution's refusal to allow the student to take the exams, requesting that the student be allowed to take their exams. Alternatively, the report can be submitted online, as mentioned earlier.

Request Form:

To the Honorable Counselor/ Public Prosecutor

Greetings and Respect,

Submitted to your Excellency by: [Your Name], in my capacity as [Your relationship to the detainee] of [Detainee's Name], who is in pretrial detention in connection with case No. [Case number] of [Year], and detained at [Detention center name].

Subject

Mr./ [Detainee's Name] is a student enrolled in [Year and school or university], and his exam date is [Date], according to the exam schedule or the certificate issued by [Issuing authority]. He is deprived of his liberty due to being in pretrial detention in connection with case No. [Case number] of [Year], and is detained at [Detention center name].

The student submitted a request to the [Prosecutor's Office name] Prosecutor's Office to be allowed to take the exams this year, but the State Security Prosecution refused to accept the request and refrained from taking the necessary measures to enable the student to exercise his constitutional right to education and take the exams for the year he is enrolled in.

Article 40 of the Constitution states:

"(All citizens are equal in rights and duties.)"

Article 42 states:

"(Every citizen who is arrested, imprisoned, or has their freedom restricted in any way must be treated in a manner that preserves human dignity. It is not permissible to inflict physical or psychological harm on them...)"

Article 18 of the Constitution also states:

"(Education is a right guaranteed by the state.)"

Article 31 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers, as replaced by Law No. 87 of 1973, obligates the correctional facility administration to encourage detainees to read and learn, facilitate studying for those who wish to continue their education, and allow them to take their exams at designated committees in colleges and universities, or at the correctional facility where the detainee is serving their sentence by assigning a committee from the college to examine them at the correctional facility.

A pretrial detainee, during their trial and before a judgment is issued against them, is even more entitled to this, as they are still considered innocent until proven guilty by a final criminal judgment.

Therefore

I request that you issue a decision to allow [Detainee's Name], who is in pretrial detention in case No. [Case number] of [Year] and detained at [Detention center name], and who is enrolled in [Year and school or university], to take the exams this year, starting on [Date], according to the exam schedule or the certificate issued by [Issuing authority], a photocopy of which is attached to this request.

With utmost appreciation and respect to your Excellency,

Submitted to your Excellency

Legal Procedures if the Request is Rejected or Not Responded to:

If the Community Protection Sector rejects the request or does not respond, legal action must be taken to file a lawsuit before the Administrative Court. This is done by issuing a formal notice to the Public Prosecutor, the Minister of Interior, the Head of the Community Protection Sector, and the Minister of Education. The notice is delivered by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, New Cairo, Fifth Settlement, addressed together with:

The Public Prosecutor, in his official capacity, at his workplace at the Public Prosecutor's Office, New Cairo Court, Al Rehab, addressed together with:

The Head of the Community Protection Sector, in his official capacity, at his workplace at the Community Protection Sector building, addressed together with:

The Director of [Name] Rehabilitation and Reform Center, in his official capacity, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

Whereas, [Your relationship to the detainee] of the Notifier, who is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year] (criminal/misdemeanor), is a student enrolled in [Year and school or university], and his practical exam date is [Date], and his theoretical exams are on [Date], according to the certificate or exam schedule issued by [Issuing authority]. He is deprived of his liberty due to being in detention, and he has submitted a request to the Public Prosecution to be allowed to take the exams this year. However, the prosecution refused to accept the request and refrained from taking the necessary measures to enable him to exercise his constitutional right to education and take the exams for the year he is enrolled in.

This will prevent him from taking his exams. Therefore, the student submitted a report to the Public Prosecutor on [Date], registered under No. [Report number] of [Year], requesting that the student be allowed to take his exams. A similar request was also submitted to the Major General, Head of the Community Protection Sector.

However, no response was received to the request to allow [Detainee's name] to take his exams, and no reasons were provided. This violates the law and the Constitution.

Article 19 of the Constitution stipulates that " Every citizen has the right to education. The goals of education are to build the Egyptian character, preserve the national identity, root the scientific method of thinking, develop talents and promote innovation, establish cultural and spiritual values, and found the concepts of citizenship, tolerance and non-discrimination. The State shall observe the goals of education in the educational curricula and methods, and provide education in accordance with international quality standards. Education is compulsory until the end of the secondary stage or its equivalent. The State shall provide free education in the various stages in the State's educational institutions according to the Law." Article (56) also stipulates that A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject

to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release.)

The law regulates the provisions for the reform and rehabilitation of convicts and facilitates their access to a decent life after their release.

Article 28 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers states:

"The correctional facility administration shall provide education to detainees, taking into account their age, aptitude, and sentence length."

It also states:

"The correctional facility administration shall encourage detainees to read and learn, facilitate studying for those who wish to continue their education, and allow them to take their exams at designated committees."

This prompted the Notifier to issue this formal notice, requesting permission to allow [Notifier's relationship to the detainee], the Notifier, who is in pretrial detention or convicted in case No. [Case number] of [Year] and currently detained at [Detention center name] Rehabilitation and Reform Center, to take their exams in [Subject] starting on [Date], according to the certificate/exam schedule issued by [Issuing authority], and to continue their education.

Therefore, the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Allow [Notifier's relationship to the detainee], the Notifier, who is in pretrial detention or convicted in case No. [Case number] of [Year] and currently detained at [Detention center name] Rehabilitation and Reform Center, to take their exams in [Subject] starting on [Date], according to the certificate/exam schedule issued by [Issuing authority], and to continue their education, or at any other correctional facility to which he/she may be transferred, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of allowing [Notifier's relationship to the detainee], the Notifier, who is in pretrial detention or convicted in case No. [Case number] of [Year] and currently detained at [Detention center name] Rehabilitation and Reform Center, to take their exams in [Subject] starting on [Date], according to the certificate/exam schedule issued by [Issuing authority], and to continue their education, or at any other correctional facility to which he/she may be transferred, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

If there is no response to the formal notice or if the administrative authority refuses to allow the Notifier to take the exams within the specified timeframe after receiving the notice, the Notifier must file a lawsuit before the Administrative Court at the State Council requesting permission to take the exams.

The following documents must be attached when filing the lawsuit:

- The original served formal notice to the respondents.
- Proof of enrollment in the study program.
- The original exam schedule.
- A certificate from the prosecution's records in the case, stating that the student is still in pretrial detention.
- A copy of the National ID card.

Appeal Petition:

Enabling a Prisoner to Take an Exam

To the Honorable Counselor/ Vice President of the State Council

President of the Administrative Court

Greetings and Respect,

Submitted to your Excellency by: Mr./ [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names].

Against

The Honorable/ Minister of Education, in his official capacity

The Honorable Counselor/ Public Prosecutor, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable Major General/ Assistant Minister of Interior for the Community Protection Sector, in his official capacity

Subject

The Appellant (defendant / father of the defendant [state the relationship]) is (in pretrial detention or convicted) in connection with case No. [Case details], and is currently detained at [Detention center name] Rehabilitation and Reform Center.

The Appellant is a student enrolled in [Year and school or university], and his practical exam date is [Date], and his theoretical exams are on [Date], according to the certificate or exam schedule issued by [Issuing authority]. He is deprived of his liberty due to being in detention, and he has submitted a request to the Public Prosecution to be allowed to take the exams this year. However, the prosecution refused to accept the request and refrained from taking the necessary measures to enable him to exercise his constitutional right to education and take the exams for the year he is enrolled in.

This will prevent him from taking his exams. Therefore, the student submitted a report to the Public Prosecutor on [Date], registered under No. [Report number] of [Year], requesting that the

student be allowed to take his exams. A similar request was also submitted to the Major General, Head of the Community Protection Sector.

The Appellant also issued formal notice No. [Notice number] on [Date] recorded in minutes [Minutes number], requesting that the Appellant be allowed to take his exams.

The decision of the Public Prosecutor and the Head of the Community Protection Sector is considered a complete administrative decision, according to the definition of the Administrative Court:

"The administration's declaration, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest."

(Administrative Court ruling in Case No. 132 of 1960)

The State Council has the jurisdiction to exercise oversight over the decision to determine its legality, according to Article 190 of the Constitution, which states:

"The State Council is an independent judicial body with exclusive jurisdiction to adjudicate administrative disputes and execution disputes related to all its judgments. It also has exclusive jurisdiction to adjudicate disciplinary lawsuits and appeals, and to issue legal opinions to the entities specified by law. It shall review and draft laws and decisions of a legislative nature, and review draft contracts to which the state or a public authority is a party. The law shall specify its other jurisdictions."

This decision is flawed due to illegality, abuse of power, error in applying the law, and violation of its explicit text. Therefore, the Appellant has no choice but to resort to appealing this decision, requesting its annulment and, as a matter of urgency, its suspension with all consequential effects, most importantly allowing [Detainee's name], who is in pretrial detention or convicted in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center, to take the exams. He is enrolled in [Year and school or university], and the exams are scheduled from [Start date] to [End date], according to the certificate/schedule issued by [Issuing authority].

The Appellant bases their appeal on the following grounds:

First: Error in Applying the Constitution and the Law, Violating its Explicit Text and the Regulations Governing it:

The penal legislator did not intend to inflict pain on those subject to custodial sentences. Instead, in addition to general and specific deterrence, the legislator intended to impose measures on the detainee that ensure their rehabilitation and reintegration as a productive citizen in society. To achieve this goal, the detainee must be treated humanely so that they do not feel ostracized by society or further injustice and deprivation of their rights, which would have the opposite effect of the rehabilitation intended by the legislator.

Therefore, the legislator has guaranteed basic human rights for any detainee, the most important of which is the right to education. The issuance of such a decision by the university deprives the Appellant of this right, violating the provisions of the Constitution, the law, and the international treaties ratified and approved by the Egyptian state and enshrined as an integral part of its domestic legislation.

The constitutional legislator has enshrined this right in the following articles of the Egyptian Constitution:

Article 19: "Education is a right for every citizen. Its aim is to build the Egyptian personality, preserve national identity, instill the scientific method of thinking, develop talents, encourage innovation, consolidate civilizational and spiritual values, establish the concepts of citizenship, tolerance, and non-discrimination. The state is committed to observing its objectives in the curricula and methods of education, and providing it in accordance with international quality standards."

Article 48: "Culture is a right for every citizen, guaranteed by the state. The state is committed to supporting it and providing cultural materials of all kinds to various segments of the population, without discrimination based on financial ability, geographical location, or otherwise. It shall pay special attention to remote areas and the most needy groups.

The state shall encourage the translation movement from and into Arabic."

Article (56) "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

s it was decided to regulate this right by the law regulating community reform and rehabilitation centers, Law No. 396 of 1956, in the following articles:

Article (28): "The management of reform and rehabilitation centers shall provide education for inmates, taking into account age, aptitude, and the length of the sentence."

Article (29): "The Minister of the Interior, in agreement with the Minister of Education, shall set the curriculum for men and women, after consulting with the Director General of the Reform and Rehabilitation Center."

Article (31): "The management of the reform and rehabilitation center shall encourage inmates to read and learn, facilitate revision for inmates who wish to continue their studies, and allow them to take their exams at the examination centers."

s it was decided to regulate this right by the law regulating community reform and rehabilitation centers, Law No. 396 of 1956, in the following articles:

Article (28): "The management of reform and rehabilitation centers shall provide education for inmates, taking into account age, aptitude, and the length of the sentence."

Article (29): "The Minister of the Interior, in agreement with the Minister of Education, shall set the curriculum for men and women, after consulting with the Director General of the Reform and Rehabilitation Center."

Article (31): "The management of the reform and rehabilitation center shall encourage inmates to read and learn, facilitate revision for inmates who wish to continue their studies, and allow them to take their exams at the examination centers."

Since the refusal to issue a decision by the Deputy Public Prosecutor and the Head of the Community Protection Sector resulted in the deprivation of the petitioner's son of his right to education and to complete his studies, which was guaranteed to him by all legal, constitutional,

and international treaties signed by the Egyptian state, he was effectively deprived from taking his exams on... .. in accordance with the information/examination schedule issued by... ..

Since all the aforementioned texts have stipulated this right for the inmate who was convicted of committing a crime against society, this right is even more entitled to the petitioner, as he is still in pre-trial detention and has not been convicted, and therefore the presumption of innocence still applies to him. Therefore, the decision... in this manner was issued with a defect contrary to the provisions of the law in what it recognized as a right, as well as the error in its application and interpretation, which makes it subject to annulment.

Secondly: the defect of arbitrariness in the use of authority:

The Administrative Justice Court has jurisdiction to annul administrative decisions if the basis of the appeal is lack of jurisdiction, a formal defect, violation of laws or regulations, error in their application and interpretation, or abuse of power. If it is proven that the entity that issued the decision is not authorized to issue it, or it has a formal defect, or the decision was based on incorrect facts, or the motive behind it was not in the public interest, such a decision is considered to be beyond the scope of authority and must be annulled. While the administration is independent in assessing the appropriateness of issuing its decisions, meaning that it has the freedom to assess the appropriateness of issuing the administrative decision or not, taking into account its circumstances and the weight of the surrounding circumstances, it must be motivated by seeking the public interest, otherwise it is tainted with the defect of abuse of power. The reasons relied upon by the administration must also be present in the papers, otherwise it entails a violation of the law due to the lack of legal basis upon which the decision is based.

Since the challenged decision was issued denying the petitioner's original right as a detainee, which is his right to education and to complete his studies in accordance with what was stipulated for him by the constitutional, legal, and regulatory texts as detailed above, the administrative authority has abused its power by disregarding the provisions of the laws, in addition to disregarding the principle of the hierarchy of legal rules when the decision violated the provisions of the higher legal rules, which are the regulations and laws. Therefore, the decision was tainted with the defect of blatant arbitrariness in the use of the right granted to it by the law, and its decision is worthy of annulment.

Thirdly: Regarding the urgent request to suspend the implementation of the decision due to the presence of the elements of danger and urgency:

Article 49 of Law No. 47 of 1972 on the State Council stipulates that: "The submission of the request to the court does not result in the suspension of the implementation of the decision sought to be annulled, but the court may order its suspension if requested in the lawsuit and the court finds that the consequences of implementation may be difficult to remedy."

Therefore, the suspension of the implementation of the challenged decision is subject to the following two conditions:

1. The petitioner must explicitly request the suspension of the implementation of the decision in the petition, as a request for suspension that is made in a separate petition is not accepted. The petition must include two requests: an urgent request to temporarily suspend the implementation of the challenged decision until the substantive appeal is decided, and a substantive request to annul the challenged decision.
2. The implementation of the decision must result in consequences that are difficult to remedy, which the Supreme Administrative Court has described as the "element of urgency." The Administrative Justice Court is the one that assesses whether the implementation of the decision may result in consequences that are difficult to remedy or not.

The suspension of the implementation of the challenged decision requires that the petitioner's claim, as it appears, is based on serious reasons that make the annulment of the challenged decision likely.

In this regard, the Supreme Administrative Court ruled that: "This court's jurisprudence has established that the authority to suspend the implementation of administrative decisions is derived from the authority to annul them and is a branch of it, rooted in the legal supervision that the Administrative Justice Court exercises over the decision based on its weighing against the scales of the law, a weighing based on the principle of legality that obliges the Administrative Justice Court not to suspend an administrative decision unless it is clear to it - as it appears from the papers and without affecting the substance of the annulment request when deciding on it - that the request for suspension is based on two elements: first, the existence of urgency, namely that the implementation of the decision would result in consequences that are

difficult to remedy, and second, the connection to the principle of legality, namely that the petitioner's claim in this regard is based, as it appears, on serious reasons. Both elements are within the legal limits that define the authority of the Administrative Justice Court and are subject to the supervision of the Supreme Court."

(The ruling of the Supreme Administrative Court in Appeal No. 2 of 20 Judicial Year, Administrative Division, Session of 25/1/1975, and in Appeal No. 1235 of 18 Judicial Year, Administrative Division, Session of 15/2/1975.)

Therefore, the acceptance of the urgent request and the ruling on it requires the presence of two essential elements:

First: the element of seriousness

As previously mentioned, it is clear to the court that the challenged administrative decision was tainted with numerous defects, which makes its annulment likely when deciding on the substance. Therefore, the condition of seriousness is present.

Second: the element of urgency

The urgency here lies in the necessity of suspending the challenged decision to enable the petitioner to take his exams... .. starting from... .., in accordance with the information/examination schedule issued by... ..

The element of urgency also lies in protecting the legislative text and upholding the principle of the rule of law by ensuring that a right is not granted by an administrative decision that contradicts a legislative text, and by establishing the principle of legality and protecting it from being undermined within the conscience of any person who feels reassured about disregarding the value of the legal text by issuing administrative decisions that are lower in rank than the legal text in the hierarchy of legal rules. These are consequences that may be difficult to remedy if the decision continues to be implemented until it is annulled, and therefore it is necessary to urgently suspend the implementation of this decision.

Therefore

For all of the above, and since the right to education and the completion of the study is one of the basic rights of the human being stipulated in all the constitutions of the world, foremost of which is the great Egyptian Constitution, whose guarantee to the inmate would help to achieve the legislator's goal of imposing freedom-depriving penalties, which is to reform and

rehabilitate the inmate to reintegrate him into society as a good citizen, especially since the appellant has not been proven guilty in the first place and is still discharged until the date of filing this appeal and has the right to complete his studies a fortiori.

For all these reasons and for the reasons that the appellant will present in the hearings,

Accordingly

The appellant seeks to determine the nearest hearing and judgment:

First: By accepting the appeal in form.

Second: As a matter of urgency, to stop the implementation of the negative decision by the abstention of the appellees in their capacity as empowering the appellant/..., who is in pre-trial detention or sentenced to/ in case No. for a year and currently held in a correctional center..... by enabling him to perform his examinations..... starting from the day of... ..., according to the information/examination schedule issued by... ..., and the completion of his studies with the implications of this decision.

And oblige the Appellees in their capacity to take the necessary measures to enable the Appellant's son to perform the examinations with the judgment to implement the judgment in its original draft and without notification.

Third: In the matter of canceling the suspension of the implementation of the negative decision by the abstention of the appellees in their capacity as empowering the appellant/..., who is in pre-trial detention or sentenced to/ in case No. for a year and currently held in a correctional center..... by enabling him to perform his examinations..... starting from the day of... ..., according to the information/examination schedule issued by... ..., and the completion of his studies with the implications of this decision.

And oblige the Appellees in their capacity to take the necessary measures to enable the Appellant's son to perform the examinations with the judgment to implement the judgment in its original draft and without notification.

The administrative authority shall be obligated to pay the expenses and attorneys' fees.

Appellant's Attorney

Lawyer

Appealing a dismissal decision for a student at Al-Azhar University issued by the President of the University:

In some cases, especially after amending the Al-Azhar University Law by Law No. 134 of 2014¹²², the President of Al-Azhar University issues a decision to dismiss students from the university if they are accused of cases of a political nature. The decision to dismiss is made mostly without investigating the student and hearing his statements regarding the violations attributed to him. Therefore, the student must appeal the decision or his father if he is the natural guardian of his son.

- Documents required for the lawsuit of the Council of State:
 - A photocopy of the national ID card.
 - A certificate from the prosecution's schedule stating the case data and the period of pretrial detention.
 - Original or photocopy of the dismissal decision.

Form of the lawsuit

To the Honorable Judge/Deputy President of the State Council

President of the Administrative Justice Court

Greetings, appreciation and respect

Presented to Your Excellency Mr./... - Resident... and with his chosen domicile at the Office of Professors/ ...

Against

Mr./ President of Al-Azhar University in his capacity

¹²² Article 2 of the Presidential Decree Law No. 134 of 2014, which amends certain provisions of Law No. 103 of 1961

Subject

The appellant or the appellant's son is in pretrial detention pending the case... and currently detained at the ... Reform Center. The petitioner or the petitioner's son is a student enrolled in the... year at the... Faculty at Al-Azhar University. On/..., he became aware of the issuance of the decision of the President of the University to expel him permanently from the faculty, despite the fact that he is known for his moral highness and respect for his colleagues and professors and his keenness to respect the laws, regulations and university traditions.

Since this is the case, and what was issued by the President of Al-Azhar University is considered an administrative decision with complete elements according to the definition of the Administrative Justice Court that the administrative decision is "The disclosure by the administration, in the form specified by law, of its will binding on its public authority under the laws and regulations, with the intention of creating a legal status whenever it is legally possible and permissible, and if it is motivated for the purpose of public interest."

[Ruling of the Administrative Judiciary Court in Case No. 132 of 1960]

Given the competence of the State Council to impose its control over the decision to determine the extent of its legitimacy or not in accordance with the text of Article 190 of the Constitution, which decides that: "The State Council is an independent judicial body, which is exclusively competent to adjudicate administrative disputes and enforcement disputes related to all its provisions, and it is also competent to adjudicate in disciplinary cases and appeals, and it alone undertakes to give an advisory opinion on legal matters to the entities specified by law, reviewing and drafting drafts of laws and decisions of a legislative nature, and reviewing draft contracts to which the State or one of the public entities is a party, and the law determines its other competences."

Since this decision was issued flawed by the illegality of the abuse and deviation in the use of power and the error in the application of the law and the violation of its explicit text, which found with the appellant only to resort to the way of appealing against this decision requesting its annulment and in an urgent part to stop its implementation with the consequences of this, the most important of which is the suspension of the implementation of the decision of the President of Al-Azhar University in the dismissal of the appellant from the... Faculty at the

university, with the consequent effects, and the implementation of the judgment in its draft without announcement, and in the matter of canceling this decision, with the consequent effects, and obliging the university to pay the expenses.

Therefore, he bases his appeal on the following reasons:

First: error in the application of the Constitution and the law, and violation of its explicit text and the regulations governing it:

It is an established principle in the jurisprudence of the Supreme Administrative Court that disciplinary responsibility must be based on a solid foundation, with certainty and conviction of the occurrence of the act that violates the law or the established rules of proper conduct, which affects dignity, administrative order, or the proper functioning and organization of public services, with the attribution of this act to the same degree to the person against whom the disciplinary penalty is imposed. It is not permissible to base disciplinary responsibility, like criminal responsibility, on suspicion, conjecture, probability, and guesswork.

Since Article (19) of the Egyptian Constitution stipulates that "education is a right for every citizen, aimed at building the Egyptian personality, preserving the national identity, establishing the scientific approach in thinking, developing talents, encouraging innovation, establishing cultural and spiritual values, and establishing the concepts of citizenship, tolerance, and non-discrimination. The state is committed to taking these objectives into account in its educational curricula and methods, and providing education in accordance with global quality standards."

And since Article (69) of the Constitution stipulates that "the accused is innocent until proven guilty in a fair legal trial that guarantees him the right to defend himself."

Since the principle for every human being is innocence, it is therefore prohibited to convict anyone, criminally or disciplinarily, before hearing their statement and investigating their defense after confronting them with what is attributed to them, through a sound legal investigation in terms of procedures, location, and purpose, so that the accusation decision can be based on its result. This general rule, upon which the legitimacy of the penalty is based, is the one that must be followed, whether the penalty is imposed administratively by the presidential disciplinary authority through the administrative president, or by a specialized disciplinary council, or by a ruling from the disciplinary court, because the investigation is a

means of ascertaining the truth regarding the accusations attributed to the employee or student. Therefore, any decision or ruling regarding a penalty that is issued based on something other than a previous investigation and interrogation, or that is issued based on an incomplete or defective investigation, or has a defect that invalidates it, is invalid.

*Moreover, Article (74 bis) of Law No. 103 of 1961 on the reorganization of Al-Azhar and the entities it includes, as amended by the President's Decree Law No. 134 of 2014, stipulates that "the university president may impose the penalty of expulsion from the university on any student who commits or participates in committing any of the following violations:

1. Engaging in subversive acts that harm the educational process or the university facilities or expose any of them to danger.
2. Bringing weapons, ammunition, explosives, or any tools that can be used to incite riots and vandalism.
3. Committing acts that lead to disrupting studies or preventing the performance of exams or affecting any of them.
4. Inciting students to violence or the use of force.

The expulsion decision shall not be issued unless the university conducts an investigation within seven days of the incident, and the student is notified of the university president's decision by a registered letter accompanied by a receipt. Complaints about this decision shall be submitted to the disciplinary council stipulated in Article (71) of this law.

Appeals against the disciplinary council's decision may be filed before the substantive division of the Supreme Administrative Court."

It is established from reviewing the texts regulating student discipline in Law No. 103 of 1961 and its executive regulations that the legislator created a disciplinary system for Al-Azhar University students. This system outlines disciplinary violations and specifies the penalties that can be imposed on offending students. Several bodies are authorized to impose these penalties, each within its defined scope.

The Disciplinary Committee of each college is responsible for imposing penalties. Article 250 of the executive regulations outlines the committee's composition:

- **Chairman:** The dean of the student's college.
- **Member:** The competent college agent.
- **Member:** The most senior member of the College Council.

For colleges without an agent or council, the committee comprises the dean and the two most senior faculty members. The university president can refer students to the Disciplinary Committee on their own initiative or at the dean's request. If a committee member is absent or impeded, they are replaced by the Vice Dean or the next most senior faculty member. If the committee cannot be formed this way, the university president appoints it.

This committee's decisions are final, except for cases involving penalties outlined in clauses (6), (7), (8), and (9) of Article 248 of the Regulations. Article 251 allows appeals for these specific penalties:

"Decisions issued by the bodies competent to impose disciplinary penalties in accordance with Article (249) shall be final. However, the decision issued with one of the disciplinary penalties set forth in clauses 6, 7, 8, and 9 of Article (248) may be appealed. The appeal shall be by appeal and shall be filed by a written request submitted by the student to the President of the University within fifteen days from the date of notification of the decision.

The president then refers this request to the Supreme Disciplinary Council, which consists of:

- **Chairman:** The competent vice-chancellor of the university.
- **Member:** Dean of the Faculty of Sharia and Law in Cairo or a professor from that faculty.
- **Member:** A professor from the student's college.

The university president selects the member professors.

And pursuant to the provisions of Decree-Law No. 134 of 2014 amending the aforementioned law, the legislator added Article 74 bis to Law No. 103 of 1961, whereby he granted the President of Al-Azhar University the authority to issue a decision to permanently expel a student if they commit any of the disruptive acts that harm the educational process or endanger it, or target its facilities, exams, or work within it, or assault persons or public or private property, or incite students to violence and use of force, or contribute to any of these matters. In

order to safeguard the rights of students, the legislator surrounded this procedure with a set of guarantees that ensure the achievement of justice and the right to defense, by stipulating that this decision must be preceded by an investigation conducted by the university within a week at most from the date of the incident, and that the student must be notified to attend this investigation by a registered letter so that they can present their defense and respond to the accusations made against them. The student was also allowed to appeal any decisions that may be issued in this regard by appealing to the competent disciplinary council of the university, provided that one of its members is a member of the State Council and one is a law professor at the Faculty of Law. He was also allowed to appeal the council's decision to the Supreme Administrative Court, subject matter division. However, it has been found from the provisions of the constitution and the law, and their application to the facts of the case at hand, that the papers do not contain anything to indicate that the appellant was summoned by a registered letter with acknowledgment of receipt, as expressly required by Article 74 bis of Law No. 103 of 1961, to attend the headquarters of the general legal affairs department to hear his statements regarding the violations attributed to him. He therefore did not attend or appear for the investigation. Furthermore, there is no evidence that the appellant was certain that he had been referred for investigation regarding what was attributed to him, and that he was required to give his statement in this investigation regarding the aforementioned violations, which constitutes a procedural defect that results in the loss of the essential guarantee stipulated by the legislator for imposing the penalty of dismissal against him by a decision of the university president, which is the necessity of conducting an investigation that meets the requirements necessary for its legal soundness with the student, in which his statements are heard and his defense is examined or the way is paved for him to do so, but he refrained from doing so of his own free and conscious will, thus missing the opportunity that the legislator granted him to defend himself, which casts doubt on the disciplinary decision issued in this case due to the invalidity of the procedures that must be fulfilled for its issuance in a sound manner in accordance with the law, which makes the decision issued by the university in this form have been issued with a defect contrary to the provisions of the constitution and the law in what it affirmed of the right as well as the error in its application and interpretation, which makes it liable to annulment.

Second : The defect of abuse of power:

The Administrative Court has the jurisdiction to annul administrative decisions in cases of lack of jurisdiction, procedural defects, violation of laws or regulations, errors in their application or interpretation, or abuse of power. If it is proven that the authority that issued the decision did not have the jurisdiction to do so, or if the decision suffers from a defect in its formal elements, or if it was based on incorrect facts or motivated by something other than the public interest, then such a decision exceeds the limits of authority and must be annulled. While the administration has discretion in assessing the appropriateness of issuing its decisions, meaning that it has the freedom to assess the suitability of issuing or not issuing an administrative decision, taking into account the circumstances and weighing the surrounding factors, the decision must be motivated by the public interest. Otherwise, it is considered an abuse of power. The reasons on which the administration relies must be documented, otherwise the decision violates the law due to the lack of a legal basis.

The contested decision deprives the Appellant of an inherent right, which is the right to education and to continue their studies, as guaranteed by the constitutional and legal provisions and the regulations governing it, as detailed above. Therefore, the administrative authority has abused its power by violating the provisions of the laws and the principle of the hierarchy of legal rules when the decision contradicted the provisions of higher-ranking legal rules, namely laws and regulations.

Therefore, the decision is tainted by a blatant abuse of the right granted to it by law, making it worthy of annulment.

Third: Regarding the Urgent Request to Suspend the Implementation of the Decision Due to the Existence of Risk and Urgency:

Article 49 of the State Council Law No. 47 of 1972 states:

"The filing of a request with the court shall not result in the suspension of the execution of the contested decision. However, the court may order its suspension if requested in the petition and if the court deems that the consequences of execution may be irreversible."

Therefore, the suspension of the contested decision requires the fulfillment of the following two conditions:

1. The appellant explicitly requests the suspension of the decision in the petition. A request for suspension submitted in a separate document is not admissible. The petition must include two requests: an urgent request to suspend the execution of the contested decision temporarily until a decision is made on the merits of the appeal, and a substantive request to annul the contested decision.
2. The implementation of the decision would lead to irreversible consequences, which the Supreme Administrative Court refers to as the "urgency requirement." The Administrative Court assesses whether the implementation of the decision would lead to irreversible consequences.

To suspend the execution of the contested decision, the appellant's claim must be based on serious grounds that suggest the annulment of the contested decision.

In this regard, the Supreme Administrative Court has ruled:

"The jurisprudence of this Court has established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them and is a branch of it. Both stem from the legal oversight that the administrative judiciary exercises over the decision based on its weight in the balance of law, with the principle of legality being the determining factor. This requires the administrative judiciary not to suspend an administrative decision unless it finds – based on the evidence presented and without prejudice to the original request for annulment when deciding on it – that the request for suspension is based on two pillars: first, the existence of urgency, meaning that the implementation of the decision would lead to irreversible consequences; and second, related to the principle of legality, that the appellant's claim in this regard is based on serious grounds. Both pillars are legal limitations that restrict the authority of the administrative judiciary and are subject to the oversight of the Supreme Administrative Court."

(Supreme Administrative Court ruling in Appeal No. 2 of 20 Judicial "Supreme Administrative" - Session 25/1/1975. And in Appeal No. 1235 of 18 Judicial "Supreme Administrative" - Session 15/2/1975).

Therefore, accepting and ruling on the urgent request requires the fulfillment of two main pillars:

First: Seriousness

Based on the foregoing, it is clear to the Honorable Court, as we have shown, that the contested administrative decision suffers from numerous flaws that make its annulment likely when a decision is made on the merits. Therefore, the seriousness condition is met.

Second: Urgency

The urgency lies in protecting the legislative text and upholding the principle of the rule of law, preventing the establishment of a right by an administrative decision that violates a legislative text, and consolidating and protecting the principle of legality from being undermined in the mind of any person who may feel reassured in disregarding the value of the legal text by issuing administrative decisions that contradict it. These decisions are of a lower rank than the legal text in the hierarchy of legal rules. These are consequences that may be irreversible if the implementation of the decision continues until its annulment. Therefore, urgent action is necessary to suspend the implementation of that decision.

Since the seriousness condition is met, as indicated above, as well as the urgency condition, because the right to education is a constitutional right and its suspension without legal basis fulfills the urgency requirement, the request to suspend the implementation of the decision to suspend the Appellant's registration and prevent them from taking their exams is a serious request that must be granted by suspending the contested decision until it is annulled.

The urgency here lies in the necessity of suspending the contested decision, as it prevents the Appellant from exercising their right to education, which is guaranteed by Article 19 of the Constitution. Therefore, continuing to implement this decision would lead to irreversible consequences, fulfilling the urgency requirement.

For all these reasons and the reasons that the Appellant will present during the hearing sessions,

Accordingly

The Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the President of Al-Azhar University's decision to dismiss the Appellant, [Appellant's name], who is enrolled in [Year] at

the Faculty of [Faculty name], Al-Azhar University, and to allow him to continue his studies, with all consequential effects. The ruling should be executed on its original draft and without announcement.

Third: On the merits, to annul the decision of the President of Al-Azhar University to dismiss the Appellant, [Appellant's name], who is enrolled in [Year] at the Faculty of [Faculty name], Al-Azhar University, and to allow him to continue his studies, with all consequential effects. The ruling should be executed on its original draft and without announcement.

The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Challenging an Educational Institution's Decision to Prevent Detainees from Taking Exams:

Sometimes, the reason detainees are unable to take their exams is due to the educational institution where they are enrolled. For example, the university or college may refuse to send an exam committee to the detention facility or may suspend the enrollment of detainees, such as those enrolled in practical colleges. In this case, a lawsuit must be filed before the Administrative Court to enable the detainee to take their exams or to maintain their enrollment and be allowed to take the exams.

This can be done through the following steps:

Issue a formal notice to the Minister of Higher Education/Minister of Education, the Minister of Interior, the President of the university where the detainee is enrolled, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held. The notice is served by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Minister of Higher Education/Minister of Education, in his official capacity, at his workplace at the Ministry of Higher Education/Ministry of Education building, addressed together with:

The President of [University name] University, in his official capacity, at his workplace at [University name] University, addressed together with:

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Head of the Community Protection Sector, in his official capacity, at his workplace at the Community Protection Sector building, addressed together with:

The Director of [Name] Rehabilitation and Reform Center, in his official capacity, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

The Notifier is (in pretrial detention or convicted) at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. The Notifier is a student enrolled in [State the university, college, and year of study in detail]. His practical exam date is [Date], and his theoretical exams are on [Date], according to the certificate or exam schedule issued by [Issuing authority]. He is deprived of his liberty due to being in detention, and he has submitted a request to the Public Prosecution/Community Protection Sector to be allowed to take the exams this year. However, he was surprised to find that he is prohibited from taking the exams. Upon inquiring about the reason for the ban, he was told that the university and college where he is enrolled were contacted to allow him to take his exams, as evidenced by the exam schedule attached to the request submitted by [Your relationship to the Notifier], the applicant, in accordance with the procedures and instructions stipulated in the Law and Regulations on the Organization of Correction and Community Rehabilitation Centers, and the established procedures for examining detained students. However, the university did not respond.

Upon visiting the university and inquiring at the Student Affairs building of the college where the Notifier is enrolled, he was informed orally/in writing of the suspension [State the reason for refusing to hold the exams], for example, "Suspension of enrollment for imprisoned students enrolled in practical colleges" or "Refusal to hold committees inside detention facilities."

This will prevent him from taking his exams. This prompted the Notifier to issue this formal notice, requesting that the Notifier, who is in pretrial detention or convicted in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center, be allowed to take the exams. He is enrolled in [Year] at [School name], and the exams are scheduled from [Start date] to [End date], according to the certificate/schedule issued by [Issuing authority].

The Notified Parties, in their official capacities, particularly the first and second Notified Parties, preventing the Notifier from taking his exams, violates the Egyptian Constitution.

Article 19 of the Constitution states:

"Education is a right for every citizen. Its aim is to build the Egyptian personality, preserve national identity, instill the scientific method of thinking, develop talents, encourage innovation, consolidate civilizational and spiritual values, establish the concepts of citizenship, tolerance, and non-discrimination. The state is committed to observing its objectives in the curricula and methods of education, and providing it in accordance with international quality standards."

This also violates the following articles of the Law:

Article 28:

"The correctional facility administration shall provide education to detainees, taking into account their age, aptitude, and sentence length."

Article 29:

"The Minister of Interior, in agreement with the Minister of Education, shall set the curriculum for men and women after consulting the Assistant Minister for the Community Protection Sector."

Article 31:

"The administration of public correctional and rehabilitation centers shall encourage detainees to read and learn, and facilitate studying for those who wish to continue their education. The educational institutions where the detainees are enrolled shall hold special committees for them inside their detention centers to enable them to take their prescribed exams, unless the head of the educational institution requests the transfer of the detainees to take the practical or oral exams outside the detention centers in cases that require this, provided there is no risk in their transfer, as assessed by the Minister of Interior or their delegate. All of this is regulated by the internal regulations."

Therefore, the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Allow the Notifier, who is in pretrial detention or convicted in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center, to take the exams. He is enrolled in [Year] at [School name], and the exams are scheduled from [Start date] to [End date], according to the certificate/schedule issued by [Issuing authority].

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of allowing the Notifier, who is in pretrial detention or convicted in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center, to take the exams. He is enrolled in [Year] at [School name], and the exams are scheduled from [Start date] to [End date], according to the certificate/schedule issued by [Issuing authority]. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

If there is no response to the formal notice from the Notified Parties within the specified timeframe after receiving the notice, a lawsuit must be filed before the Administrative Court.

The following documents must be prepared when filing the lawsuit:

- A copy of the student's National ID card. If the lawsuit is filed by the father and the student is a minor, please attach the student's birth certificate.
- The original served formal notice. A certificate from the prosecution's records in the case, stating the latest developments in the legal situation.
- A statement from the educational institution proving enrollment, the year of study, and the exam schedule for the student's year of study.

Appeal Petition

To the Honorable Counselor/ Vice President of the State Council

President of the Administrative Court

Greetings and Respect,

Submitted to your Excellency by: Mr./ [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names].

Against

The Honorable/ Minister of Higher Education/Minister of Education, in his official capacity

The Honorable/ President of [University name] University, in his official capacity

The Honorable Counselor/ Public Prosecutor, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable Major General/ Assistant Minister of Interior for the Community Protection Sector, in his official capacity

Subject

The Appellant (defendant / father of the defendant [state the relationship]) is (in pretrial detention or convicted) in connection with case No. [Case details], and is currently detained at [Detention center name] Rehabilitation and Reform Center.

The Appellant is a student enrolled in [Year and school or university], and his practical exam date is [Date], and his theoretical exams are on [Date], according to the certificate or exam schedule issued by [Issuing authority]. He is deprived of his liberty due to being in detention, and he has submitted a request to the Public Prosecution to be allowed to take the exams this year.

The student submitted a request to the Public Prosecution/Community Protection Sector to be allowed to take the exams this year, but he was surprised to find that he is prohibited from taking the exams. Upon inquiring about the reason for the ban, he was told that the university and college where he is enrolled were contacted to allow him to take his exams, as evidenced by the exam schedule attached to the request submitted by [Your relationship to the Appellant], the applicant, in accordance with the procedures and instructions stipulated in the Law and Regulations on the Organization of Correction and Community Rehabilitation Centers, and the established procedures for examining detained students. However, the university did not respond.

Upon visiting the university and inquiring at the Student Affairs building of the college where the student is enrolled, he was informed orally/in writing of the suspension [State the reason for refusing to hold the exams], for example, "Suspension of enrollment for imprisoned students enrolled in practical colleges" or "Refusal to hold committees inside detention facilities." This will prevent him from taking his exams.

This prompted the student to issue formal notice No. [Notice number] in minutes [Minutes number], served on [Date], requesting that the student be allowed to take his exams.

The decision of the Notified Parties, in their official capacities, particularly the first and second Notified Parties, is considered a complete administrative decision, according to the definition of the Administrative Court:

"The administration's declaration, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest."

(Administrative Court ruling in Case No. 132 of 1960)

The State Council has the jurisdiction to exercise oversight over the decision to determine its legality, according to Article 190 of the Constitution, which states:

"The State Council is an independent judicial body with exclusive jurisdiction to adjudicate administrative disputes and execution disputes related to all its judgments. It also has exclusive jurisdiction to adjudicate disciplinary lawsuits and appeals, and to issue legal opinions to the entities specified by law. It shall review and draft laws and decisions of a legislative nature, and review draft contracts to which the state or a public authority is a party. The law shall specify its other jurisdictions."

This decision is flawed due to illegality, abuse of power, error in applying the law, and violation of its explicit text. Therefore, the Appellant has no choice but to resort to appealing this decision, requesting its annulment and, as a matter of urgency, its suspension with all consequential effects, most importantly allowing [Detainee's name], who is in pretrial detention or convicted in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center, to take the exams. He is enrolled in [Year and school or university], and the exams are scheduled from [Start date] to [End date], according to the certificate/schedule issued by [Issuing authority].

The decision made by the notified parties, specifically the first and second notified parties in their official capacity, is considered a complete administrative decision according to the definition of the Administrative Court:

"The administration's declaration, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest."

(Administrative Court ruling in Case No. 132 of 1960)

In view of the competence of the Council of State to impose its control over the decision to determine the extent of its legitimacy or not in accordance with the text of Article 190 of the

Constitution, which states that:" The State Council is an independent judicial body with exclusive jurisdiction to adjudicate administrative disputes and execution disputes related to all its judgments. It also has exclusive jurisdiction to adjudicate disciplinary lawsuits and appeals, and to issue legal opinions to the entities specified by law. It shall review and draft laws and decisions of a legislative nature, and review draft contracts to which the state or a public authority is a party. The law shall specify its other jurisdictions."

This decision is flawed due to illegality, abuse of power, error in applying the law, and violation of its explicit text. Therefore, the Appellant has no choice but to resort to appealing this decision, requesting its annulment and, as a matter of urgency, its suspension with all consequential effects, most importantly allowing [Detainee's name], who is in pretrial detention or convicted in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Reform Center, to take the exams. He is enrolled in [Year and school or university], and the exams are scheduled from [Start date] to [End date], according to the certificate/schedule issued by [Issuing authority].

Therefore, the Appellant bases their appeal on the following grounds:

First: Error in Applying the Constitution and the Law, Violating its Explicit Text and the Regulations Governing it

The penal legislator did not intend for custodial sentences to inflict pain on those subject to them. Instead, in addition to general and specific deterrence, the legislator intended to impose measures on the detainee that ensure their rehabilitation and reintegration as a productive citizen in society. To achieve this goal, the detainee must be treated humanely so that they do not feel ostracized by society or further injustice and deprivation of their rights, which would have the opposite effect of the rehabilitation intended by the legislator.

Therefore, the legislator has guaranteed basic human rights for any detainee, the most important of which is the right to education. The issuance of such a decision by the university deprives the Appellant of this right, violating the provisions of the Constitution, the law, and the international treaties ratified and approved by the Egyptian state and enshrined as an integral part of its domestic legislation.

The legislator stipulated this right in the Egyptian Constitution in its article (19), which stipulates that " Every citizen has the right to education. The goals of education are to build the Egyptian character, preserve the national identity, root the scientific method of thinking, develop talents and promote innovation, establish cultural and spiritual values, and found the concepts of citizenship, tolerance and non-discrimination. The State shall observe the goals of education in the educational curricula and methods, and provide education in accordance with international quality standards. Education is compulsory until the end of the secondary stage or its equivalent. The State shall provide free education in the various stages in the State's educational institutions according to the Law." The meaning of Article 56 of the Constitution, Article (56), "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

It was also decided to regulate this right by the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956 in the following articles

Article (28)

"The management of the correctional center shall educate the inmates taking into account the age, readiness and duration of the sentence."

Article (29)

"The Minister of Interior, in agreement with the Minister of Education, shall develop the curriculum for men and women, after taking the opinion of the Assistant Minister for the Community Protection Sector."

Article (31)

"The administration of public correction and rehabilitation centers should encourage inmates to be informed and educated and facilitate the study of inmates who have the desire to continue studying. Educational institutions in which inmates are enrolled shall hold special committees for them within their detention centers to enable them to perform the examinations prescribed for them, unless the head of the educational institution requests the transfer of inmates to perform

scientific or oral examinations outside the centers in which they are placed in cases that require this, unless there is a risk of their transfer estimated by the Minister of Interior or his authorized representative. All of this shall be regulated by the Rules of Procedure. ”

The appealed decision also contradicted the provisions of the international treaties signed by Egypt in this regard.

The appealed decision is contrary to the provisions of Article 10 of the International Covenant on Civil and Political Rights, which states that "all persons deprived of their liberty shall be treated humanely and with respect for the inherent dignity of the human person. The prison system shall treat prisoners with a view to their reformation and social rehabilitation. Juvenile offenders shall be separated from adults and shall be treated in accordance with their age and legal status.

It is also contrary to article 13 of the International Covenant on Economic, Social and Cultural Rights, which states: "The States Parties to the present Covenant recognize the right of everyone to education. They agree that education should be directed to the full development of the human personality and the sense of its dignity and to the strengthening of respect for human rights and fundamental freedoms. They also agree that education should be aimed at enabling everyone to contribute to a free society, strengthening understanding, tolerance and friendship among all nations and various ethnic or religious groups, and supporting the activities of the United Nations for the maintenance of peace)

The decision is also contrary to the United Nations Standard Minimum Rules for the Treatment of Persons in their following articles

Article (77/1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty. 78. Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners. The failure of the notified parties, specifically the first and second notified parties in their official capacity, to issue a decision has

resulted in depriving the notifier of the right to education and to continue their studies, as guaranteed by all legal, constitutional, and international conventions ratified by the Egyptian state. This is evident in the actual prevention of the notifier from taking their exams in [Subject] starting on [Date], according to the certificate/exam schedule issued by [Issuing authority].

All the aforementioned texts have established this right for detainees, even those convicted of committing a crime against society. Therefore, this right is even more applicable to the Appellant, who is still in pretrial detention and has not been convicted, and thus is still presumed innocent.

Therefore, the university's decision is flawed and violates the provisions of the law regarding this right and is also an error in its application and interpretation, making it subject to annulment.

Second: Abuse of Power:

The Administrative Court has the jurisdiction to annul administrative decisions in cases of lack of jurisdiction, procedural defects, violation of laws or regulations, errors in their application or interpretation, or abuse of power. If it is proven that the authority that issued the decision did not have the jurisdiction to do so, or if the decision suffers from a defect in its formal elements, or if it was based on incorrect facts or motivated by something other than the public interest, then such a decision exceeds the limits of authority and must be annulled. While the administration has discretion in assessing the appropriateness of issuing its decisions, meaning that it has the freedom to assess the suitability of issuing or not issuing an administrative decision, taking into account the circumstances and weighing the surrounding factors, the decision must be motivated by the public interest. Otherwise, it is considered an abuse of power. The reasons on which the administration relies must be documented, otherwise the decision violates the law due to the lack of a legal basis.

The contested decision deprives the imprisoned Appellant of an inherent right, which is the right to education and to continue their studies, as guaranteed by the constitutional and legal provisions and the regulations governing it, as detailed above. Therefore, the administrative authority has abused its power by violating the provisions of the laws and the principle of the hierarchy of legal rules when the decision contradicted the provisions of higher-ranking legal rules, namely laws and regulations.

Therefore, the decision is tainted by a blatant abuse of the right granted to it by law, making it worthy of annulment.

Third: Regarding the Urgent Request to Suspend the Implementation of the Decision Due to the Existence of Risk and Urgency:

Article 49 of the State Council Law No. 47 of 1972 states:

"The filing of a request with the court shall not result in the suspension of the execution of the contested decision. However, the court may order its suspension if requested in the petition and if the court deems that the consequences of execution may be irreversible."

Therefore, the suspension of the contested decision requires the fulfillment of the following two conditions:

1. The appellant explicitly requests the suspension of the decision in the petition. A request for suspension submitted in a separate document is not admissible. The petition must include two requests: an urgent request to suspend the execution of the contested decision temporarily until a decision is made on the merits of the appeal, and a substantive request to annul the contested decision.
2. The implementation of the decision would lead to irreversible consequences, which the Supreme Administrative Court refers to as the "urgency requirement." The Administrative Court assesses whether the implementation of the decision would lead to irreversible consequences.

To suspend the execution of the contested decision, the appellant's claim must be based on serious grounds that suggest the annulment of the contested decision.

In this regard, the Supreme Administrative Court has ruled:

"The jurisprudence of this Court has established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them and is a branch of it. Both stem from the legal oversight that the administrative judiciary exercises over the decision based on its weight in the balance of law, with the principle of legality being the determining factor. This requires the administrative judiciary not to suspend an administrative decision unless it finds – based on the evidence presented and without prejudice to the original request for

annulment when deciding on it – that the request for suspension is based on two pillars: first, the existence of urgency, meaning that the implementation of the decision would lead to irreversible consequences; and second, related to the principle of legality, that the appellant's claim in this regard is based on serious grounds. Both pillars are legal limitations that restrict the authority of the administrative judiciary and are subject to the oversight of the Supreme Administrative Court."

(Supreme Administrative Court ruling in Appeal No. 2 of 20 Judicial "Supreme Administrative" - Session 25/1/1975. And in Appeal No. 1235 of 18 Judicial "Supreme Administrative" - Session 15/2/1975).

Therefore, accepting and ruling on the urgent request requires the fulfillment of two main pillars:

First: Seriousness

Based on the foregoing, it is clear to the Honorable Court, as we have shown, that the contested administrative decision suffers from numerous flaws that make its annulment likely when a decision is made on the merits. Therefore, the seriousness condition is met.

Second: Urgency

The urgency here lies in the necessity of suspending the contested decision to allow the Appellant to take their exams in [Subject] starting on [Date], according to the certificate/exam schedule issued by [Issuing authority].

The urgency also lies in protecting the legislative text and upholding the principle of the rule of law, preventing the establishment of a right by an administrative decision that violates a legislative text, and consolidating and protecting the principle of legality from being undermined in the mind of any person who may feel reassured in disregarding the value of the legal text by issuing administrative decisions that contradict it. These decisions are of a lower rank than the legal text in the hierarchy of legal rules. These are consequences that may be irreversible if the implementation of the decision continues until its annulment. Therefore, urgent action is necessary to suspend the implementation of that decision.

Since the seriousness condition is met, as indicated above, as well as the urgency condition, because the right to education is a constitutional right and its suspension without legal basis fulfills the urgency requirement, the request to suspend the implementation of the decision to

suspend the Appellant's registration and prevent them from taking their exams is a serious request that must be granted by suspending the contested decision until it is annulled.

Therefore

In light of all the foregoing, and considering that the right to education and the continuation of studies is a fundamental human right enshrined in all constitutions of the world, including the great Egyptian Constitution, guaranteeing this right to prisoners helps achieve the legislator's goal of imposing custodial sentences, which is to rehabilitate the detainee and reintegrate them into society as a productive citizen, especially since the Appellant's son has not been convicted and is still presumed innocent until proven guilty, and thus has the right to continue his education.

For all these reasons and the reasons that the Appellant will present during the hearing sessions,

Accordingly

The Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the refusal of the notified parties, specifically the first and second notified parties in their official capacity, to allow the notifier, [Notifier's name], who is in pretrial detention or convicted in case No. [Case number] of [Year] and currently detained at [Detention center name] Rehabilitation and Reform Center, to take their exams in [Subject] starting on [Date], according to the certificate/exam schedule issued by [Issuing authority], and to continue their education, with all consequential effects. The ruling should be executed on its original draft and without announcement.

The Notified Parties, in their official capacities, should also be obligated to take the necessary measures to enable the Appellant to take the exams.

Third: On the merits, to annul the implicit negative decision resulting from the refusal of the notified parties, specifically the first notified party, to allow the notifier, [Notifier's name], who is in pretrial detention or convicted in case No. [Case number] of [Year] and currently detained at [Detention center name] Rehabilitation and Reform Center, to take their exams in [Subject]

starting on [Date], according to the certificate/exam schedule issued by [Issuing authority], and to continue their education, with all consequential effects. The ruling should be executed on its original draft and without announcement.

The Notified Parties, in their official capacities, specifically the first and second notified parties, should also be obligated to take the necessary measures to enable the Appellant to take the exams.

The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

- **Challenging a Decision to Prevent the Entry of Textbooks or Confiscate Them by the Correctional Facility Administration:**

This section outlines the legal procedures to follow if the correctional facility administration prevents the entry of textbooks or study materials, or if security forces confiscate them during inspections, hindering the detainee's ability to continue their education. In this case, a report should be filed at the police station with jurisdiction over the correctional facility. If the police station refuses to file a report, a registered telegram with acknowledgment of receipt can be sent to the Minister of Interior and the Public Prosecutor, summarizing the incident. A lawsuit can also be filed before the Administrative Court to enable the detainee to take their exams or maintain their enrollment and be allowed to take the exams.

- This can be done through the following steps:
 1. **Issue a formal notice** to the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held. The notice is served by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Head of the Community Protection Sector, in his official capacity, at his workplace at the Community Protection Sector building, addressed together with:

The Director of [Name] Rehabilitation and Reform Center, in his official capacity, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

The Notifier is (in pretrial detention or convicted) at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. The Notifier is a student enrolled in [State the university, college, and year of study, or the school and educational administration in detail].

However, on [Date], the Notifier was surprised [Describe the situation, e.g., "by the correctional facility administration preventing the entry of textbooks, references, and school supplies brought by family during visits" or "by the security forces affiliated with the administration of [Detention center name] Rehabilitation and Correction center confiscating textbooks, references, and school supplies necessary for studying"]. The administration has exceeded its authority as defined by the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations by exceeding its role in supervising the entry of textbooks, references, and school supplies to the Notifier and preventing him from continuing his education. The Notifier and his family have repeatedly tried to understand the reasons behind these violations and the disregard for the guarantees provided to the Notifier by law and the Constitution. However, the correctional facility administration has not provided a clear answer about the reason for the denial, and there is no legal basis for this action.

This prompted him to issue this formal notice, requesting [State the request, e.g., "permission to allow the entry of textbooks, references, and school supplies for the Notifier" or "the return of the textbooks, references, and school supplies that were confiscated by the security forces

during the inspection on [Date]"]. The notice also demands compliance with the conditions and rules stipulated in the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956 and its implementing regulations, and disclosure of the reasons for preventing the entry of textbooks and school supplies.

Whereas, preventing the Notified Party in their capacity from receiving textbooks, references and school tools for the Notifier or textbooks, references and school tools during the inspection and preventing the Notifier from continuing his studies in violation of what is stated in the Egyptian Constitution.

Article (19) of the Constitution stipulates: " Every citizen has the right to education. The goals of education are to build the Egyptian character, preserve the national identity, root the scientific method of thinking, develop talents 10 and promote innovation, establish cultural and spiritual values, and found the concepts of citizenship, tolerance and non-discrimination. The State shall observe the goals of education in the educational curricula and methods, and provide education in accordance with international quality standards. Education is compulsory until the end of the secondary stage or its equivalent. The State shall provide free education in the various stages in the State's educational institutions according to the Law."

Also, in violation of the provisions of Article (28), "The administration of the correctional center shall teach inmates, taking into account the age, readiness and duration of the sentence."

As for Article (31) of the same law, which stipulates that "the administration of public correction and rehabilitation centers shall encourage inmates to be informed and educated and facilitate study for inmates who have the desire to continue studying. Educational institutions in which inmates are enrolled shall hold special committees for them within their detention centers to enable them to perform the examinations prescribed for them, unless the head of the educational institution requests the transfer of inmates to perform scientific or oral examinations outside the centers in which they are placed in cases that require this, unless there is a risk of their transfer estimated by the Minister of Interior or his authorized representative. All of this shall be regulated by the Rules of Procedure."

Therefore

the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Stop the decision to prevent the entry of textbooks, references, and school supplies for the Notifier, [or: return the textbooks, references, and school supplies that were confiscated by the security forces during the inspection on [Date]], as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers. The Notified Parties must allow the entry of books and newspapers in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of stopping the decision to prevent the entry of textbooks, references, and school supplies for the Notifier, [or: returning the textbooks, references, and school supplies that were confiscated by the security forces during the inspection on [Date]], and allowing the Notifier to continue their education, as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers. The Notified Parties must allow the entry of textbooks, references, and school supplies, or return the confiscated items, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

If there is no response to the formal notice from the Notified Parties within the specified timeframe after receiving the notice, a lawsuit must be filed before the Administrative Court.

The following documents must be prepared when filing the lawsuit:

1. A copy of the student's National ID card. If the lawsuit is filed by the father and the student is a minor, please attach the student's birth certificate.
2. The original served formal notice, and an official copy of the incident report or the registered telegram.
3. A certificate from the prosecution's records in the case, stating the latest developments in the legal situation.
4. A statement from the educational institution proving enrollment and the year of study.

Appeal Petition

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector, in his official capacity

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of

[Year], since [Date]. The Appellant is a student enrolled in [State the university, college, and year of study, or the school and educational administration in detail].

However, on [Date], the Appellant was surprised [Describe the situation, e.g., "by the correctional facility administration preventing the entry of textbooks, references, and school supplies brought by family during visits" or "by the security forces affiliated with the administration of [Detention center name] Rehabilitation and Correction center confiscating textbooks, references, and school supplies necessary for studying"]. The administration has exceeded its authority as defined by the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations by exceeding its role in supervising the entry of textbooks, references, and school supplies to the Appellant and preventing him from continuing his education. The Appellant and his family have repeatedly tried to understand the reasons behind these violations and the disregard for the guarantees provided to the Appellant by law and the Constitution. However, the correctional facility administration has not provided a clear answer about the reason for the denial, and there is no legal basis for this action.

This prompted the Appellant to issue formal notice No. [Notice number] on [Date] recorded in minutes [Minutes number], requesting to be allowed to receive the textbooks, references, and school supplies necessary to continue their education, or to have the textbooks, references, and school supplies that were confiscated by the security forces during the inspection on [Date] returned, and to be allowed to continue their education. The notice also demanded disclosure of the reasons for preventing the entry of textbooks and school supplies.

The refusal of the Respondents, in their official capacities, to allow the Appellant to receive textbooks, references, and school supplies violates the Egyptian Constitution. Therefore, the Appellant challenges it for the following reasons:

Grounds for the Appeal

First Reason: Existence of an Administrative Decision through the Respondents' Refusal to Allow the Appellant to Receive Textbooks, References, and School Supplies, and Preventing Him from Continuing His Education:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

And whereas, in accordance with Law No. 396 of 1956 concerning the organization of prisons and its internal regulations, which respect human dignity, detainees have the right to education and training within correctional and rehabilitation centers. This is to provide them with the opportunity to acquire new skills and practical experience, and to help make life within correctional and rehabilitation centers more similar to life outside.

Despite the **appellant's** notification to the **appellees** requesting them to cease their decision to refuse to provide the **appellant** with textbooks, study references, or study tools and to enable him/her to continue his/her studies, in violation of the Egyptian Constitution and the Law on the Organization of Correctional and Rehabilitation Centers, which permits the entry of textbooks, references, and study tools and enables the **appellant** to continue his/her education, in accordance with the controls and conditions stipulated in the Law on the Organization of Community Correctional and Rehabilitation Centers and its executive regulations, and obliging them to disclose the reasons for such a prohibition, the **appellees** remained silent, confirming the existence of a negative decision that can be appealed against. Therefore, this appeal is formally admissible due to the existence of a negative administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the

rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas the actions of the appellees in preventing the appellant from receiving textbooks, study references, or study tools, or the seizure of textbooks, study references, and school tools by the security forces at the [Correction Center Name] during a search on [Date], constitutes a serious violation of the provisions of the Egyptian Constitution and a blatant infringement on rights that are enshrined in the Constitution.

The Constitution, in Article 19, stipulates that "education is a right for every citizen, aimed at building the Egyptian personality, preserving national identity, instilling the scientific method of thinking, developing talents, encouraging innovation, consolidating civilizational and spiritual values, establishing the concepts of citizenship, tolerance, and non-discrimination. The state is committed to observing its objectives in the curricula and methods of education, and providing it in accordance with international quality standards."

Furthermore, Article 55 of the Constitution states that "Everyone who is arrested, detained, or deprived of their liberty shall be treated in a manner that preserves their dignity."

Also, the meaning of Article 56 of the Constitution states on "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release." "And whereas the appellees, in their capacity as [specific roles], have prevented the appellant, who is enrolled in the ... year at ... Faculty, ... University, or who is enrolled in the ... grade at ... School, affiliated with the ... Educational Authority, from receiving textbooks, study references, and study tools, or have seized the textbooks, study references, or study tools from the appellant during a search conducted by the security forces at the ... Correctional Center on [Date], and have prevented the appellant from continuing their studies. Despite the appellant's notification requesting the appellees to cease their decision to refuse to provide the appellant with textbooks, study references, and study tools, or to return the textbooks, study references, or study tools that were

seized by the security forces at the ... Correctional Center during a search on [Date], and to enable the appellant to continue their studies, in violation of the Egyptian Constitution and the Prison Law, and to allow them to receive textbooks and study tools to enable them to continue their studies, in accordance with the controls and conditions stipulated in the Law on the Organization of Community Correctional and Rehabilitation Centers and its executive regulations, and obliging them to disclose the reasons for such a prohibition, they have violated the Constitution, thus rendering the appealed decision null and void and warranting its cancellation.

The third reason: The appealed decision is in violation of the law and the obligations of the Arab Republic of Egypt as guaranteed by the Egyptian Constitution.

Whereas the Egyptian Constitution has recognized international agreements and placed them at the level of national legislation, and has stipulated the state's commitment to all international agreements that it signs, as stated in Article 93 of the Constitution..."

"The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Since international charters and covenants clearly protect the human rights of prisoners, the first paragraph of Article 7 of the International Covenant on Civil and Political Rights states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 stipulates that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

It is also contrary to Article 13 of the International Covenant on Economic, Social and Cultural Rights, which stipulates that

(The States Parties to the present Covenant recognize the right of everyone to education. They agree that education should be directed to the full development of the human personality and the sense of its dignity and to the strengthening of respect for human rights and fundamental freedoms. They also agree that education should be aimed at enabling everyone to contribute to a free society, strengthening understanding, tolerance and friendship among all nations and various ethnic or religious groups, and supporting the activities of the United Nations for the maintenance of peace)

The decision is also contrary to the United Nations Standard Minimum Rules for the Treatment of Persons in their following articles

Article 77:

(1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

Article 78: Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners. Accordingly, all parties entrusted with the application of these legal texts, represented by the appellees, each in his capacity, must take measures that enable the appellant to enjoy this right and continue to study it.

It was also decided to regulate this right by the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956 in the following articles

Article (28): "The management of the correctional center shall educate the inmates taking into account the age, readiness and duration of the sentence."

Article (29): "The Minister of Interior, in agreement with the Minister of Education, shall set the curriculum for men and women, after taking the opinion of the Assistant Minister for the Community Protection Sector."

Article (31): "The administration of public correction and rehabilitation centers shall encourage inmates to be informed and educated and facilitate the study of inmates who have the desire to continue studying.....".

From the above, it is clear that the Appellee's refusal to enable the Appellant to receive textbooks, references and study tools or to seize textbooks, references or study tools, as well as his failure to enable him to continue his education, is contrary to what is imposed on him by the provisions of international charters and covenants and the law, which requires its cancellation.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review

of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has not yet provided reasons or justifications for their complete refusal to receive the Appellant's textbooks, references and study tools, or to seize textbooks, references or study tools, as well as not to enable him to continue his education, and therefore the contested decision is lacking for its reason, which requires its cancellation .

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to allow the Appellant to receive textbooks, references, and school supplies, or their confiscation of these items, and the prevention of the Appellant from continuing their education. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal to allow the Appellant, who is detained at [Detention center name] Rehabilitation and Reform Center, to receive textbooks, references, and school supplies, or their confiscation of these items, and the prevention of the Appellant from continuing their education, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. This suspension should include allowing the Appellant to receive textbooks, references, and school supplies to continue their education. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal to allow the Appellant, who is detained at [Detention center name] Rehabilitation and Reform Center, to receive textbooks, references, and school supplies, or their confiscation of these items, and the prevention of the Appellant from continuing their education, in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. This annulment should include allowing the Appellant to receive textbooks, references, and school supplies to continue their education. This annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Subsection II: The Right of Detainees to Access Educational Materials and to Bring in Books and Magazines

If the correctional facility administration prevents a detainee from bringing in books and magazines without providing reasons or prevents them from accessing the correctional facility library, a lawsuit must be filed before the Administrative Court requesting that the detainee be allowed to bring in books and magazines or access the library.

This can be done through the following steps:

1. Issue a formal notice to the Minister of Interior, the Head of the Community Protection Sector, and the Director of the correctional facility where the detainee is held. The notice is served by court bailiffs at the court with jurisdiction over the workplace of each notified party.

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Head of the Community Protection Sector, in his official capacity, at his workplace at the Community Protection Sector building, addressed together with:

The Director of [Name] Rehabilitation and Reform Center, in his official capacity, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

The Notifier is (in pretrial detention or convicted) at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. However, on [Date], the correctional facility administration completely banned the entry of books and newspapers. The administration has exceeded its authority as defined by the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations by exceeding its role in supervising the entry of books and newspapers to the Notifier and preventing him from accessing the correctional facility library. The Notifier and his family have repeatedly tried to understand the reasons behind these violations and the disregard for the guarantees provided to the Notifier by law and the Constitution. However, the correctional facility administration has not provided a clear answer about the reason for the denial, and there is no legal basis for this action.

This prompted him to issue this formal notice, requesting permission to allow the entry of books and newspapers for the Notifier, in accordance with the conditions and rules stipulated in the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956 and its implementing regulations. The notice also demands disclosure of the reasons for preventing the entry of books and newspapers.

The Notified Parties, in their official capacities, preventing the Notifier from receiving books and newspapers or accessing the correctional facility library, violates the Egyptian Constitution.

Article 48 of the Constitution stipulates that "Culture is a right of every citizen, guaranteed by the State, which is committed to supporting it and making cultural materials of all kinds available to various groups of people, without discrimination on the basis of financial ability, geographical location or otherwise. It pays special attention to remote areas and the most needy groups. "

Article (56) also stipulates: "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "

This is also contrary to the provisions of Article 30 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956, which stipulates that "a library shall be established in each correction center for inmates containing religious, scientific and ethical books that inmates are encouraged to use in their free time. Inmates may, at their own expense, bring books, newspapers and magazines, as determined by the internal regulations."

Therefore

Therefore, the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Stop the decision to prevent the Notifier from receiving books and newspapers and accessing the correctional facility library, as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers. The Notified Parties must allow the entry of books and newspapers in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations.

Accordingly,

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of stopping the decision to prevent the Notifier from receiving books and newspapers and accessing the correctional facility library, as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers. The Notified Parties must allow the entry of books and newspapers in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

If there is no response to the formal notice from the Notified Parties within the specified timeframe after receiving the notice, a lawsuit must be filed before the Administrative Court.

Appeal Petition

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector, in his official capacity

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. However, on [Date], the administration of [Detention center name] Rehabilitation and Reform Center, under the authority of the third respondent, in his official capacity, completely banned the entry of books and newspapers. The administration has exceeded its authority as defined by the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations by exceeding its role in supervising the entry of books and newspapers to the Appellant and preventing him from accessing the correctional facility library. The Appellant and his family have repeatedly tried to understand the reasons behind these violations and the disregard for the guarantees provided to the Appellant by law and the Constitution. However, the correctional facility administration has not

provided a clear answer about the reason for the denial, and there is no legal basis for this action.

This prompted the Appellant to issue formal notice No. [Notice number] on [Date] recorded in minutes [Minutes number], requesting to be allowed to receive books and newspapers and access the correctional facility library, and demanding disclosure of the reasons for the prevention.

The refusal of the Respondents, in their official capacities, to allow the Appellant to receive books and newspapers and access the correctional facility library, violates the Egyptian Constitution. Therefore, the Appellant challenges it for the following reasons:

Grounds for the Appeal:

First Reason: Existence of an Administrative Decision through the Respondents' Refusal to Allow the Appellant to Receive Books and Daily Newspapers and Preventing Him from Entering the Prison Library:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Law No. 396 of 1956 on the Organization of Prisons and its internal regulations, the legislator has respected human dignity by granting detainees the right to education and cultural enrichment within correctional facilities. This provides them with the opportunity to acquire new skills and practical experience, helping to make life inside correctional facilities more similar to life outside.

Despite the Appellant issuing a formal notice requesting the Respondents, in their official capacities, to stop the decision to prevent the Appellant from receiving books and newspapers and accessing the correctional facility library, as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers, and despite demanding to be allowed access to books and newspapers in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, and an explanation for the refusal, the Respondents have remained silent. This confirms the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions,

sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the appellee in their capacity as preventing the appellant from receiving books and newspapers and enabling him to enter the library of the Reform and Rehabilitation Center in accordance with the controls and conditions contained in the Law on the Organization of Reform and Community Rehabilitation Centers and its executive regulations, represents a serious violation of the provisions of the Egyptian Constitution, and an explicit attack on the rights to which the provisions of the Constitution are established.

Article (48) of the Constitution stipulates that " Culture is a right to every citizen. The State shall secure and support this right and make available all types of cultural materials to all strata of the people, without any discrimination 16 based on financial capability, geographic location or others. The State shall give special attention to remote areas and the neediest groups."

Article (55) of the Constitution also stipulates that

“Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.”

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. “The respondents have prevented the Appellant from receiving books and newspapers and accessing the correctional facility library. Despite the Appellant issuing a formal notice requesting the Respondents, in their official capacities, to stop the decision to prevent the Appellant from receiving books and newspapers and accessing the correctional facility library, as this violates the Egyptian Constitution and the Law Regulating Prisons, and despite demanding to be allowed access to books and newspapers in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, and an explanation for the refusal, the Respondents' actions violate the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Enshrined in the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

"The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Since international charters and covenants clearly protect the human rights of prisoners, the first paragraph of Article 7 of the International Covenant on Civil and Political Rights states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 10 stipulates that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Rule 64 of the United Nations Standard Minimum Rules for the Treatment of Inmates states, "Each prison shall be provided with a library dedicated to the various categories of inmates, which shall include an adequate amount of both recreational and educational books. Guests are encouraged to make the most of it."

As stated in the first paragraph of Rule No. 105 of the United Nations Standard Minimum Rules for the Treatment of Inmates, “recreational and cultural activities shall be organized in all prisons in order to ensure the physical and mental health of inmates.

Social Relationships and Aftercare "

As for the law, Article 30 of the Law on the Organization of Correction and Community Rehabilitation Centers No. 396 of 1956 stipulates that "a library shall be established in each correction center for inmates containing religious, scientific and moral books that inmates are encouraged to use in their free time. Inmates may, at their own expense, bring books, newspapers and magazines, as determined by the internal regulations."

Whereas the regulation of the right to enter books and newspapers was included in the list of the law issued by the Minister of Interior Resolution - No. 79 of 1961, and it was decided in the text of Article 15 of the Internal Regulations of the Correction and Rehabilitation Centers that "the convicts and pre-trial detainees may, at their own expense, bring whatever books, newspapers and magazines they are authorized to circulate to view in their free time.

The administration of the Correction and Rehabilitation Center shall review the books, newspapers and magazines summoned by inmates and shall not hand them over to them except after ensuring that they are free of anything that violates the system, arouses feelings or senses, or violates security and doctrine, and signing them to this effect and stamping them with the seal of the public reform centers or the Correction and Rehabilitation Center.

If it is prohibited from being printed and published, it shall notify the competent authorities and the community protection sector. "

From the above, it is clear that the refusal of the Appellee to enable the Appellant to receive books and newspapers is a complete ban, as well as not enabling him to enter the library of the Correction and Rehabilitation Center, in violation of the provisions of international charters and covenants and the law, which requires its cancellation.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has not yet provided reasons or justifications for their complete refusal to receive the Appellant's books and newspapers as well as to enable him to enter the library of the Correction and Rehabilitation Center, and therefore the contested decision is absent for its reason, which requires its cancellation .

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the

implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the respondents' complete refusal to allow the Appellant to receive books and newspapers and access the correctional facility library. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision resulting from the Respondents' refusal to allow the Appellant to receive books and newspapers and access the correctional facility library. This suspension should include allowing the Appellant access to books and newspapers in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. This suspension should include all consequential effects. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision resulting from the Respondents' refusal to allow the Appellant to receive books and newspapers and access the correctional facility library. This annulment should include allowing the Appellant access to books and newspapers in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations. This

annulment should include all consequential effects. The ruling should be executed on its draft and without announcement.¹²³

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

¹²³ Appeal petition against the prevention of entry of books and correspondence to Alaa Abdel Fattah, available on the website of the Association for Freedom of Thought and Expression, last accessed on May 22, 2021, available at:

https://afteegypt.org/law_unit/2016/12/29/12714-afteegypt.html

Subsection III: Enabling a Prisoner to Practice Their Religious Beliefs

Legal Procedures to Enable Detainees to Practice Their Religion if Prevented

If a detainee is prevented from practicing their religion, a lawsuit must be filed before the Administrative Court at the State Council against the Minister of Interior, the Director of the correctional facility, and the Head of the Community Protection Sector, requesting that the detainee be allowed to practice their religion.

This can be done through the following steps:

1. **Issue a formal notice** to the Minister of Interior, in his official capacity, and others:

Formal Notice:

On this day, [Date] corresponding to [Day/Month/Year],

At the request of Mr./ [Your Name], residing at [Your Address], [Governorate], and electing domicile at the office of Professors/ [Lawyers' names],

I, [Name of Court Clerk], court clerk, have delivered and served notice upon:

The Minister of Interior, in his official capacity, at his workplace at the Ministry of Interior building, addressed together with:

The Honorable Counselor/ Public Prosecutor, at his workplace at the Public Prosecutor's Office in Al Rehab, addressed together with:

The Head of the Community Protection Sector, in his official capacity, at his workplace at the Community Protection Sector, addressed together with:

The Director of [Name] Rehabilitation and Reform Center, in his official capacity, at his workplace at [Name] Rehabilitation and Reform Center, addressed together with:

And I hereby serve them notice of the following:

On [Date], the Notifier was arrested and charged in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Correction center on [Date]. Since being detained, the correctional facility administration has allowed him to practice his religious beliefs

("prayer"). However, on [Date], the correctional facility administration, under the authority of the fourth Notified Party, prevented him from practicing his religion and prevented him from praying. There are no excuses for the Notifier to neglect his religious practices except for the actions of the Notified Parties.

The Notifier has requested the correctional facility administration to allow him to practice his religion, but his request was denied without any legal justification. This prompted him to issue this formal notice, demanding to be allowed to practice his religion. This denial infringes on the Notifier's right to freedom of belief and the freedom to practice religious rites, which are rights guaranteed by the Constitution, the law, and international conventions and agreements.

Article 64 of the Constitution states:

"(Freedom of belief is absolute. Freedom to practice religious rites and establish places of worship for the followers of Abrahamic religions is a right regulated by law.)"

This also violates the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10/12/1948, by its Resolution No. 217 (III), which states in Article 18:

"Everyone has the right to freedom of thought, conscience and religion... and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

This also violates Article 32 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers, which states:

"Every public correctional and rehabilitation center shall have one or more preachers to encourage detainees towards virtue and urge them to perform their religious duties..."

Therefore

the Notifier directs this notice to the Notified Parties, in their official capacities, to:

Allow the Notifier, [Detainee's name], who is detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], to practice his religious beliefs.

Accordingly

I, the aforementioned court clerk, have delivered this notice to the Notified Parties, in their official capacities, and have provided them with a copy for their awareness of its contents. I have emphasized all the points mentioned, and have particularly stressed the necessity of allowing the Notifier, [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, to practice his religious beliefs. They have been given ten days from the date of receipt of this notice to comply.

Otherwise, the Notifier will be forced to take all necessary legal measures.

This is without prejudice to all other rights of the Notifier.

For your information,

Appeal Petition:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable Counselor/ Public Prosecutor, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector, in his official capacity

The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

On [Date], the Appellant was arrested and charged in case No. [Case number] of [Year] and detained at [Detention center name] Rehabilitation and Correction center on [Date]. Since being detained, the correctional facility administration has allowed him to practice his religious beliefs ("prayer"). However, on [Date], the correctional facility administration, under the authority of the fourth Respondent, in his official capacity, prevented him from practicing his religion and prevented him from praying. There are no excuses for the Appellant to neglect his religious practices except for the actions of the fourth Respondent.

The Appellant has requested the correctional facility administration to allow him to practice his religion, but his request was denied without any legal justification. This prompted him to issue formal notice No. [Notice number], served on [Date], demanding to be allowed to practice his religion. However, no response was received from the Respondents.

This denial infringes on the Appellant's right to freedom of belief and the freedom to practice religious rites, which are rights guaranteed by the Constitution, the law, and international conventions and agreements.

Despite this, the respondents have prevented the Appellant from practicing his religion. This constitutes an implicit negative decision. This decision represents a violation and disregard for the Constitution and a breach of Egypt's international obligations. It also constitutes an infringement upon the fundamental rights of citizens.

Therefore, the Appellant challenges it for the following reasons:

Grounds for the Appeal:

First Reason: Existence of an Administrative Decision through the Respondents' Refusal to Allow the Appellant to Practice His Religion:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to the Constitution, which guarantees freedom of belief and the freedom to practice religious rites, and Article 32 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers, which states:

"Every public correctional and rehabilitation center shall have one or more preachers to encourage detainees towards virtue and urge them to perform their religious duties, and shall also have one or more specialists in social and psychological sciences, as specified in the internal regulations."

Despite the Appellant issuing a formal notice requesting the Respondents, in their official capacities, to stop the decision to prevent the Appellant from practicing their religion, as this violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers, and despite demanding to be allowed to practice their religion in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, and an explanation for the refusal, the Respondents have remained silent. This confirms the existence of an implicit negative decision that can be appealed. Therefore, this appeal is admissible in form due to the existence of this appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the

rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the appellee

in their official capacities, in preventing the Appellant from practicing their religion in accordance with the controls and conditions stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein.

The Constitution states that the state guarantees freedom of belief and the freedom to practice religious rites. There is undoubtedly a close and inseparable link between granting freedom of belief and the consequences that may result from that freedom, as long as those consequences do not violate any of the requirements of public order and public morals established in society. To argue otherwise would be to empty this freedom of its content, making it a mere slogan without any real substance or resulting in any consequences that violate public order or public morals. What the Egyptian Constitution has guaranteed.

Article 64 of the Constitution stipulates that (Freedom of belief is absolute. The freedom to practice religious rites and establish places of worship for the owners of divine religions is a right regulated by law.)

Article 55 of the Constitution also stipulates that

“Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a

detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon.”

Article (56) of the Constitution also stipulates that "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. “The appellees, in their official capacities, have prevented the Appellant from practicing their religion. The principles of the Constitution uphold the freedom of belief and the practice of religious rites as fundamental principles inherent to human beings. Therefore, under no circumstances may the administration issue or refrain from issuing a decision that violates these principles.

The decision of the appellees to prevent the Appellant from practicing their religion violates the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Enshrined in the Egyptian Constitution:

The Egyptian Constitution recognizes international agreements and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: “The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in

the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Whereas international charters and covenants clearly protect the human rights of prisoners, the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10/12/1948, by virtue of its resolution No. 217 (D3), which stipulates in Article (18) that: "Everyone has the right to freedom of thought, conscience and religion and the freedom to express them through education, practice, observance and observance, whether in secret or with the group. "

In addition to what is stated in the United Nations Standard Minimum Rules for the Treatment of Inmates, rule 65 stipulates that: (1) If the correction and rehabilitation centers include a sufficient number of inmates of the same religion, a qualified representative of this religion shall be appointed or accredited for this task. Such an appointment should be for full-time employment if the number of inmates justifies it and the circumstances permit it.

2. A qualified representative appointed or accredited in accordance with paragraph 1 of this rule shall be permitted to hold religious services regularly and to pay, whenever appropriate, special visits to prisoners of his religion for their care.

3. No prisoner shall be denied access to a qualified representative of any religion. In return, the guest's opinion is fully respected if he objects to a visit by any religious representative.

As stated in rule 66, "Every prisoner shall be allowed, as far as practicable, to perform the duties of his religious life by attending the prayers held in the prison and by possessing the books of rituals and religious education used by his community."

As for the law, it is stated in the text of Article 32 of the Law Regulating Community Reform and Rehabilitation Centers No. 396 of 1956, which stipulates that "Every public reform and rehabilitation center shall have one or more preachers to encourage inmates in virtue and urge them to perform religious obligations. It shall also have one or more specialists in the social and psychological sciences in the manner specified in the internal regulations.

While the regulation of the right to hold religious rites was included in the Prisons Regulations issued by the Minister of Interior Decree - No. 79 of 1961, and it was decided in the text of Article 23 of the Internal Regulations of Prisons that "Inmates in preaching lessons shall be divided into groups so that each group listens to the preacher at least once"

From the unanimity of the aforementioned, it is clear that the abstention of the appellee in their capacity to enable the appellant to establish his religious rites is contrary to what is imposed on him by the provisions of international charters and covenants and the law, which requires its cancellation.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellees, in their capacity so far, have not provided reasons or justifications for their complete refusal to enable the Appellant to perform its religious rites, and therefore the contested decision is absent for its reason, which requires its cancellation.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the appellees' complete refusal to allow the Appellant to practice their religion and their obstruction of their prayer. The grounds for the appeal suggest a likely ruling to annul this decision. Therefore, the conditions for suspending the execution of the decision are present in this appeal.

Accordingly

The Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the implicit negative decision, which entails not allowing the Appellant detained at [Detention center name] Rehabilitation and Correction center to practice their religion. This suspension should include all consequential effects, most importantly allowing the Appellant to practice their religion at any other correctional facility where they may be located. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the implicit negative decision, which entails not allowing the Appellant detained at [Detention center name] Rehabilitation and Correction center to practice their religion. This annulment should include all consequential effects, most importantly allowing the Appellant to practice their religion at any other correctional facility where they may be located. The ruling should be executed on its draft and without announcement.

The administrative authority should also be liable for all legal costs and attorney fees.

Chapter Six: The Right to Health

Section One: Healthcare for Prisoners

Introduction

Healthcare is one of the most important aspects of human rights, especially for those deprived of their liberty. They should enjoy all the rights enjoyed by their counterparts who are not detained, the most important of which is the right to receive healthcare without discrimination. This is a fundamental human right, and the right to healthcare should include several factors, such as the suitability of the place of detention to health requirements, such as avoiding overcrowding and providing fresh air, food, potable water, and exercise.

However, the situation inside Egyptian correctional and rehabilitation centers is characterized by its unsuitability for the right to health, including overcrowding, lack of potable water, poor quality of food provided by the correctional facility administration, and medical negligence.

First: Definition of the Right to Health

According to Article 12 of the International Covenant on Economic, Social and Cultural Rights, it is:

"The right of everyone to the enjoyment of the highest attainable standard of physical and mental health."¹²⁴

The state must be responsible for providing healthcare to prisoners, without discrimination based on their legal status.

I. Healthcare in International Law, the Egyptian Constitution, and Egyptian Law

A. Healthcare in International Conventions and Agreements:

¹²⁴ See Article 12 of the International Covenant on Economic, Social and Cultural Rights

The first paragraph of Article 12 of the International Covenant on Economic, Social and Cultural Rights states:

"The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."¹²⁵

The Standard Minimum Rules for the Treatment of Prisoners regulate the right of detainees to receive healthcare in eleven articles, from 24 to 35.¹²⁶

The first paragraph of Rule 24 states:

"The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status."

Rule 33 states:

"The doctor shall report to the prison director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment."

B. The Right to Health According to the Egyptian Constitution:

Article 18 of the Egyptian Constitution states:

"Every citizen has the right to health and to integrated healthcare, in accordance with quality standards. The state shall guarantee the maintenance and support of public health facilities that

¹²⁵ Ibid

¹²⁶ See Rules 24 to 35 of the Standard Minimum Rules for the Treatment of Prisoners,

provide health services to the people, and shall enhance their efficiency and their equitable geographical distribution..."¹²⁷

Article 55 of the Egyptian Constitution stipulates that: " Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."¹²⁸

As for Article 56 of the Egyptian Constitution on" A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release."¹²⁹

C. Health care in Egyptian law:

"The **Law on Organization of Correction and Rehabilitation Centers** No. 396 of 1956, as amended, outlines the organization of medical treatment for inmates in seven articles starting from Article 33 to Article 37.¹³⁰ Additionally, Articles 24 to 54 of the **Regulations of Correctional and Rehabilitation Centers** No. 79 of 1961 provide further details.¹³¹

¹²⁷ See Article 18 of the Egyptian Constitution.

¹²⁸ Article 55 of the Egyptian Constitution.

¹²⁹ Article 56 of the Egyptian Constitution.

¹³⁰ Articles 33 to 37 of the **Law on Organization of Correction and Rehabilitation Centers** No. 396 of 1956.

¹³¹ Articles 24 to 54 of the **Regulations of Correctional and Rehabilitation Centers** issued by the Minister of Interior Decree No. 79 of 1961.

The **Law on Organization of Correction and Rehabilitation Centers** stipulates that every public correctional center shall have one or more physicians responsible for health services, and a geographic correctional center shall have a physician. If no physician is appointed for a geographic correctional center, one of the government physicians shall be assigned to perform the duties assigned to the correctional center physician, in accordance with the internal regulations. The law also obliges government and university medical institutions to treat inmates referred to them from correctional centers.

The director of the correctional and rehabilitation center is required to guard the inmates and implement the provisions of the **Law on Organization of Correction and Rehabilitation Centers** and its regulations within the correctional and rehabilitation center under his management. The regulations assign the correctional center physician the responsibility for the health procedures that guarantee the safety of the inmates' health. The physician is also required to examine the inmate upon admission to the correctional center and to record their health condition and the work they are able to perform. The physician is also required to visit sick inmates daily and to order the transfer of the patient to the correctional center hospital if necessary.

If the inmate cannot be treated at the correctional center hospital and the physician considers it necessary to treat them at an external hospital, the physician must submit a report to the medical administration of the community protection sector to decide what it deems appropriate. In emergency cases, the physician may take whatever measures he deems necessary to preserve the inmate's health, while providing the authority with an urgent medical report."

II. The Practical Reality of Inmates Receiving Health Care:

According to the Constitution, the law, and international charters and covenants, inmates have the right to receive health care to maintain their well-being. However, the reality is that there are many obstacles to exercising this right, especially for inmates in cases of a political nature. These obstacles lead to delays in receiving health care, in addition to the lax provision of medical assistance and sometimes misdiagnosis by doctors in correctional facilities. The process of transferring an inmate to receive treatment outside the facility is slow and requires

coordination and approval from various parties, including the correctional facility administration, the community protection sector, the deportation management, and even National Security if the inmate is accused of a political offense.¹³²

III. Legal Procedures for Providing Health Care to Prisoners:

If an inmate does not receive the necessary health care or experiences delays in receiving it, this must be documented and a request should be made to present the inmate to the competent doctor at the correctional facility hospital to receive the necessary treatment. This request should be made during the detention renewal session if the inmate is in pretrial detention. If the inmate is at the trial stage, this should be documented in the minutes of the session, and a letter should be issued by the prosecution or the court to present to the competent doctor at the correctional facility hospital. A medical report on the inmate's condition should be attached after the examination.

If the inmate's condition requires transfer to a private hospital for treatment and there is negligence on the part of the correctional facility administration in transferring the inmate, this must also be documented as mentioned above. If the inmate is not transferred, an application should be submitted to the Public Prosecutor or their deputy, who must be at least a chief prosecutor, to transfer the inmate to receive treatment in a private hospital. Medical reports supporting the application should be attached, in accordance with the last paragraph of Article 85 of the Law on the Organization of Correction and Community Rehabilitation Centers, which states:

"They may accept complaints from prisoners and examine judicial records and papers to verify their conformity with the prescribed forms. The Director of the Correction and Rehabilitation Center shall provide them with all the data they request regarding the task they are entrusted with."

¹³² A report entitled "Treat them, release them", on medical negligence in prisons, Egyptian Initiative for Personal Rights, last visit 23 June 2021, available at the following link:

https://eipr.org/sites/default/files/reports/pdf/medicalnegligence_jointreport.pdf

The correctional facility administration must respond to the request by submitting medical reports to the Public Prosecutor for their decision on the request to transfer the inmate to an external hospital. The Public Prosecutor may accept the request and issue a decision for health release or reject it. If the request is rejected, the decision can be appealed before the Administrative Court. The following are the request form and the lawsuit form:

Request for Transfer to a Hospital

To: The Honorable Public Prosecutor The Honorable Public Prosecutor or Chief Prosecutor of [Prosecutor's Office]

Respected Sir/Madam,

I, acting as an attorney for Mr./Ms. [Inmate's Name], the defendant in case number [Case Number] of the year [Year] and currently detained at [Prison Name], pursuant to power of attorney number [Power of Attorney Number] of the year [Year],

Subject

On [Date], [Inmate's Name] was arrested and charged in case number [Case Number] of the year [Year], and on [Date], the court ruled [Court's Decision]. Since the issuance of the judgment, the inmate has been detained at [Prison Name].

Alternatively, on [Date], [Inmate's Name] was arrested and charged in case number [Case Number] and has been detained pending trial in that case at [Prison Name].

I request that Your Excellency order the transfer of [Inmate's Name] to [Hospital Name] to receive the necessary treatment for their condition. The inmate is [Age] years old and suffers from [List of medical conditions according to the attached medical reports]. The inmate's condition cannot be treated at the prison hospital, which necessitates their transfer to an external hospital to receive treatment, as their life is in danger.

Therefore

We request Your Excellency to issue a decision to transfer [Inmate's Name], currently detained at [Prison Name], to one of the hospitals equipped to provide the necessary treatment.

Respectfully submitted,

[Your Name]

Appeal Petition before the Administrative Court for Refusal of the Administration to Transfer the Detainee to an External Hospital for Treatment:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against:

- The Honorable/ Public Prosecutor, in his official capacity
- The Honorable/ Minister of Interior, in his official capacity
- The Honorable/ Head of the Community Protection Sector, in his official capacity
- The Honorable/ Director of [Detention center name] Rehabilitation and Reform Center, in his official capacity

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. The Appellant is [Age] years old and suffers from [List the medical

conditions in detail]. Their condition cannot be treated at the correctional facility hospital, which necessitates their transfer to [Hospital name] Hospital to receive the necessary treatment, as their life is at risk.

A request was submitted by [Your relationship to the Appellant] to the first appellee, in his official capacity, registered under No. [Request number] on [Date], requesting a decision to transfer the Appellant to an external hospital to receive the necessary treatment for their condition, as their life is at risk if they remain in detention without being transferred to an external hospital. This request was supported by the attached medical reports, in accordance with Article 33 of the Law Regulating Correction and Community Rehabilitation Centers, which states:

"Every public correctional and rehabilitation center shall have one or more doctors, one of whom is a resident, who shall be entrusted with health work in accordance with the provisions of the internal regulations.

The geographical correctional facility shall have a doctor. If a doctor is not appointed to it, a government doctor shall be assigned to perform the work assigned to the doctor of the correctional facility."

Article 33 bis states:

"Government and university medical facilities are obligated to treat detainees referred to them from correctional facilities, in accordance with the controls and conditions issued by a decision of the Ministers of Health and Higher Education in coordination with the Minister of Interior."

Article 37 of the Regulations for the Organization of Prisons, as replaced by the Minister of Interior's Resolution No. 3320 of 2014, states:

"(If a detainee cannot be treated at the correctional facility hospital and the correctional facility doctor believes that they need to be treated at an external hospital, the doctor must submit a report to the medical administration of the Community Protection Sector to decide what it deems appropriate.

In emergency or urgent cases, the correctional facility doctor may take any measures they deem necessary to preserve the detainee's health, and shall provide the department with an urgent medical report.

If the doctor believes that the patient's condition requires consulting a specialist, they must obtain permission from the Community Protection Sector. Permission is obtained by phone in urgent cases. The correctional facility doctor may order the acceptance of medications sent to the detainee from outside if they deem it necessary.)"

However, the first appellee, in his official capacity, refused the request to transfer the Appellant to an external hospital to receive the necessary treatment on [Date]. This violates the law and has prompted the Appellant to file this lawsuit seeking the annulment of the implicit decision resulting from the failure to transfer them to an external hospital to receive the necessary treatment.

First Ground for Appeal: Existence of an Administrative Decision Manifested in the Appellees' Refusal to Allow the Appellant to Receive Treatment and Be Transferred to an External Hospital:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest.

Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Article 37 of the Regulations for the Organization of Prisons, as replaced by the Minister of Interior's Resolution No. 3320 of 2014:

"(If a detainee cannot be treated at the correctional facility hospital and the correctional facility doctor believes that they need to be treated at an external hospital, the doctor must submit a report to the medical administration of the Community Protection Sector to decide what it deems appropriate.

In emergency or urgent cases, the correctional facility doctor may take any measures they deem necessary to preserve the detainee's health, and shall provide the department with an urgent medical report.

If the doctor believes that the patient's condition requires consulting a specialist, they must obtain permission from the Community Protection Sector. Permission is obtained by phone in urgent cases. The correctional facility doctor may order the acceptance of medications sent to the detainee from outside if they deem it necessary.)"

Despite the submission of a request by [Your relationship to the Appellant] to the first appellee, in his official capacity, registered under No. [Request number] on [Date], requesting a decision to transfer the Appellant to an external hospital to receive the necessary treatment due to the unavailability of treatment at the correctional facility hospital, and out of concern for the Appellant's life if they remain in detention without being transferred to the hospital, in accordance with the last paragraph of Article 85 of the Law on the Organization of Prisons, which states:

"They may accept complaints from prisoners and examine judicial records and papers to verify their conformity with the prescribed forms. The Director of the Correction and Rehabilitation

Center shall provide them with all the data they request regarding the task they are entrusted with."

However, the second appellee, in his official capacity, refused the request. This violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers, confirming the existence of a decision that is subject to appeal. Therefore, this appeal is admissible in form due to the existence of an appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities

are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

The appellees' actions, in their official capacities, in preventing the transfer of the Appellant to an external hospital to receive the necessary treatment due to the unavailability of treatment at the correctional facility hospital, despite meeting the conditions and controls stipulated in the Law Regulating Correction and Community Rehabilitation Centers and its implementing regulations, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein. Article 55 of the Egyptian Constitution stipulates that: " Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon. "

Article 18 of the Constitution also stipulates that "Every citizen has the right to health and to integrated health care in accordance with quality standards. The State shall ensure the maintenance of public health facilities that provide their services to the people, support them, and work to raise their efficiency and equitable geographical spread..."

As for the role and function of prisons, for which reform and rehabilitation centers were established, Article (56) of the Constitution states: "A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. "The appellees' refusal to transfer the Appellant to an external hospital for necessary treatment, despite the unavailability of such treatment at the correctional facility hospital and despite meeting the conditions and controls stipulated in the Constitution and the law, constitutes a violation of the Constitution. This renders the contested decision invalid and necessitates its cancellation.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Guaranteed by the Egyptian Constitution:

The Egyptian Constitution recognizes international conventions and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

" The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Since international charters and covenants clearly protect the human rights of prisoners, the first paragraph of Article 7 of the International Covenant on Civil and Political Rights states that "no

one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

Article 12, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights states: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

The first paragraph of Rule 24 of the Standard Minimum Rules for the Treatment of Inmates states, “The State shall be responsible for the provision of health care to prisoners. Inmates should have the same standard of health care available in the community and should have the right to access necessary health services free of charge and without discrimination on the basis of their legal status.”

As for the law, Article 33 of Law No. 396 of 1956, the Law on the Organization of Community Reform and Rehabilitation Centers, stipulates that in each public reform and rehabilitation center, one or more doctors, one of whom is a resident, shall be entrusted with health work in accordance with what is specified in the internal regulations.

The geographical reform centre shall have a doctor. If a doctor is not appointed to it, a government doctor shall be assigned to perform the work assigned to the doctor of the reform centre.

Article 33 bis also stipulates that government and university medical facilities are obligated to treat inmates referred to them from reform centers for treatment, in accordance with the controls and conditions issued by a decision by the Ministers of Health and Higher Education in coordination with the Minister of Interior.

While Article 37 of the Prisons Regulation, which was replaced by Minister of Interior Decision No. 3320 of 2014, stipulates that (If the reasons for treating an inmate in the Correction and Rehabilitation Center Hospital are not available and the doctor of the Correction and Rehabilitation Center deems it necessary to treat him in an external hospital, he must submit a report to the Medical Department in the Community Protection Sector to decide what it sees.

In emergency or urgent cases, the doctor of the Correction and Rehabilitation Center may take whatever he deems necessary to preserve the health of the inmate while providing the Department with an urgent medical report from him.

If the doctor deems that the patient's condition requires the opinion of a specialized doctor, he shall seek the permission of the Community Protection Sector in this regard. The permission shall be taken by telephone in urgent cases. The doctor of the Correction and Rehabilitation Center may order the acceptance of medicines received from abroad if he deems it necessary.

From the above, it is clear that the Appellee's failure to enable the Appellant to receive the necessary treatment for his condition and transfer him to an external hospital is contrary to what is imposed on him by the provisions of international charters and covenants and the law and its executive regulations, which requires its cancellation.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has not yet provided reasons or justifications for their refusal to transfer the Appellant to an external hospital to receive the necessary treatment for his condition due to the unavailability of the reasons for his treatment at the Correction and Rehabilitation Centers Hospital, and therefore the contested decision is lacking for its reason, which requires its cancellation.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the refusal to transfer the Appellant to an external hospital to receive the necessary treatment due to the unavailability of treatment at the correctional facility hospital, despite meeting the conditions and controls stipulated in the Constitution and the law, as mentioned earlier. This, in addition to the danger of keeping the Appellant in detention without transferring them to an external hospital for treatment, as their life is at risk, and the grounds for the appeal suggesting a likely ruling to annul this decision, all contribute to fulfilling the conditions for suspending the execution of the decision in this appeal.

Accordingly, the Appellant requests that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the contested decision, which entails refusing to transfer the Appellant, [Appellant's name], who is detained at [Detention center name] Rehabilitation and Reform Center, to an external hospital to receive the necessary treatment due to the unavailability of treatment at the correctional facility hospital. This suspension should include all consequential effects, most importantly releasing the Appellant from any correctional facility where they are held. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the contested decision, which entails refusing to transfer the Appellant, [Appellant's name], who is detained at [Detention center name] Rehabilitation and Reform Center, to an external hospital to receive the necessary treatment due to the unavailability of treatment at the correctional facility hospital. This annulment should include all consequential effects, most importantly releasing the Appellant from any correctional facility where they are held. The ruling should be executed on its draft and without announcement.

The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Section Two: Health Release

Definition of Health Release:

Health release is the release of a detainee or pretrial detainee due to their health condition, based on a decision by the health release committee formed for this purpose. The committee's decisions are approved by the Public Prosecutor or the Military Prosecutor, as the case may be, and the committee is chaired by a forensic doctor.¹³³

Health Release in Egyptian Law:

A. Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956:

Articles 36 and 37 of the law state:

"Any convicted person who is found by the correctional facility doctor to be suffering from a life-threatening or totally disabling illness shall be brought before the Director of the Medical Services Department for Correctional Facilities for examination, in conjunction with the forensic doctor, to consider their release.

The release decision shall be executed after its approval by the Assistant Minister for the Community Protection Sector and the consent of the Public Prosecutor, and the administrative authority and the competent prosecution office shall be notified accordingly.

The administrative authority in whose district the released person wishes to reside must have them examined by a health doctor every six months and submit a report on their condition to the Community Protection Sector to determine their health status, with a view to canceling the release order if necessary.

The Assistant Minister for the Community Protection Sector may assign the Director of the Medical Services Department for Correctional Facilities and the forensic doctor to examine the released person to report on their health status whenever deemed necessary.

¹³³ Studies in the Science of Punishment for the Rights of Detainees, Milad Bashir, last accessed on May 30, 2021, available at the following link:

<https://bit.ly/36bUNOb>

The released detainee shall be returned to the correctional facility to complete their sentence by order of the Public Prosecutor if it is determined from the re-examination conducted by the two aforementioned doctors that the health reasons that led to the release no longer exist. They may also be returned by order of the Public Prosecutor if they change their place of residence without notifying the administrative authority in whose district they reside.

The period that the released patient spends outside the correctional facility shall be deducted from the sentence term.

If the sick detainee's condition becomes critical, the correctional facility administration must immediately notify the administrative authority in whose district their family resides to inform them of the situation, and they shall be allowed to visit the detainee..."¹³⁴

B. Code of Criminal Procedure No. 150 of 1950:

Article 486 states:

"If the person sentenced to a custodial sentence is suffering from an illness that, by itself or due to its execution, poses a threat to their life, the execution of the sentence may be postponed."

I. Procedures for Submitting a Health Release Request:

If a detainee is suffering from a life-threatening illness or has become completely disabled, their family must take the following steps:

1. Obtain medical reports that explain the detainee's medical condition and prove that their life is at risk if they remain imprisoned (a medical report written in Arabic, detailing the detainee's medical condition).
2. Submit a request to the Public Prosecutor ("International Cooperation Office") in Al Rehab, attaching the aforementioned medical reports. The request is reviewed and sent to the Community Protection Sector to take the necessary legal action.
3. The detainee is examined by a forensic doctor who prepares a medical report on their condition. If it is determined that the detainee's life is at risk if they remain imprisoned, the case is

¹³⁴ See Articles 36 and 37 of Law No. 396 of 1956 on the Organization of Community Rehabilitation and Reform Centers.

presented to the Director of the Medical Department at the Community Protection Sector to decide on the release.

A committee from the Community Protection Sector is also formed to conduct a medical examination of the detainee to confirm that continued detention poses a threat to their life. The medical reports are then submitted to the Public Prosecutor, who decides on the submitted health release request, either by accepting the request and issuing a health release decision or by rejecting it.

If the request is rejected, the decision can be appealed before the Administrative Court. The following are the request form and the lawsuit form:

Health Release Request Form:

To the Honorable Counselor/ Public Prosecutor

Greetings and Respect,

Submitted to your Excellency by:

[Detainee's Spouse, Son, Daughter, Father, Mother, Brother/Sister]

National ID No.: [Your National ID Number]

Residing at: [Your Address]

I have the honor to present the following:

Subject

On [Date], [Detainee's name] was arrested and charged in case No. [Case number] of [Year]. On [Date], the court ruled [Verdict].

Since the issuance of the judgment until this date, he has been detained at [Detention center name] Rehabilitation and Reform Center.

Or:

On [Date], [Detainee's name] was arrested and charged in case No. [Case number] of [Year]. He is in pretrial detention in connection with this case and is detained at [Detention center name] Rehabilitation and Reform Center.

I request that you release [Detainee's name], as he is [Age] years old and suffers from [List the medical conditions in detail according to the medical reports attached to the request].

Article 18 of the Egyptian Constitution states:

"(Every citizen has the right to health and to integrated healthcare, in accordance with quality standards. The state shall guarantee the maintenance and support of public health facilities that provide health services to the people, and shall enhance their efficiency and their equitable geographical distribution... It is a crime to refuse to provide treatment in all its forms to any person in cases of emergency or danger to life...)"

Article 56 of the Egyptian Constitution also stipulates that (A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release.)

The first paragraph of Article 12 of the International Covenant on Economic, Social and Cultural Rights

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.....

Article 36 of the Law Regulating Correction and Community Rehabilitation Centers, as replaced by Law No. 6 of 2018, states:

"Any convicted person who is found by the correctional facility doctor to be suffering from a life-threatening or totally disabling illness shall be brought before the Director of the Medical Services Department for Correctional Facilities for examination, in conjunction with the forensic doctor, to consider their release.

The release decision shall be executed after its approval by the Assistant Minister for the Community Protection Sector and the consent of the Public Prosecutor, and the administrative authority and the competent prosecution office shall be notified accordingly.

The administrative authority in whose district the released person wishes to reside must have them examined by a health doctor every six months and submit a report on their condition to the Community Protection Sector to determine their health status, with a view to canceling the release order if necessary.

The Assistant Minister for the Community Protection Sector may assign the Director of the Medical Services Department for Correctional Facilities and the forensic doctor to examine the released person to report on their health status whenever deemed necessary..."

Continuing to detain [Detainee's name] violates the law and endangers their life, in clear violation of Egypt's international obligations, the Egyptian Constitution, and the law.

Therefore

I request that you issue a decision to:

First: Take the necessary measures to issue a decision for the health release of [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center.

Second: Admit [Detainee's name] to a hospital where their treatment is available until a decision is issued for their health release.

Respectfully submitted,

If the request is rejected or not responded to, a lawsuit can be filed before the Administrative Court requesting health release.

Appeal Petition before the Administrative Court Challenging the Decision to Refuse Health Release:

To the Honorable Counselor/ Vice President of the State Council (President of the Administrative Court)

Greetings,

Submitted to your Excellency by: [Your Name] - residing at [Your Address], and electing domicile at the office of Professors/ [Lawyers' names], Attorneys at the High Court of Appeal and the State Council, located at [Office address].

Against

The Honorable/ Public Prosecutor, in his official capacity

The Honorable/ Minister of Interior, in his official capacity

The Honorable/ Head of the Community Protection Sector, in his official capacity

Subject

The Appellant (in pretrial detention or convicted) is currently detained at [Detention center name] Rehabilitation and Correction center in connection with case No. [Case number] of [Year], since [Date]. The Appellant is [Age] years old and suffers from [List the medical conditions in detail]. These illnesses are life-threatening if the Appellant remains imprisoned.

A request was submitted by [Your relationship to the Appellant] to the first appellee, in his official capacity, registered under No. [Request number] on [Date], requesting a decision for the health release of the Appellant, as their life is at risk if they remain in detention. This request was supported by the attached medical reports, in accordance with Article 36 of the Law Regulating Correction and Community Rehabilitation Centers, as replaced by Law No. 6 of 2018, which states:

"Any convicted person who is found by the correctional facility doctor to be suffering from a life-threatening or totally disabling illness shall be brought before the Director of the Medical Services Department for Correctional Facilities for examination, in conjunction with the forensic doctor, to consider their release.

The release decision shall be executed after its approval by the Assistant Minister for the Community Protection Sector and the consent of the Public Prosecutor, and the administrative authority and the competent prosecution office shall be notified accordingly.

The administrative authority in whose district the released person wishes to reside must have them examined by a health doctor every six months and submit a report on their condition to the Community Protection Sector to determine their health status, with a view to canceling the release order if necessary.

The Assistant Minister for the Community Protection Sector may assign the Director of the Medical Services Department for Correctional Facilities and the forensic doctor to examine the released person to report on their health status whenever deemed necessary..."

However, the first appellee, in his official capacity, refused the request to release the Appellant on [Date]. This violates the law and has prompted the Appellant to file this lawsuit seeking the annulment of the implicit decision resulting from the failure to release them.

First Ground for Appeal: Existence of an Administrative Decision Manifested in the Appellees' Refusal to Grant the Appellant Health Release:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

According to Article 36 of Law No. 396 of 1956 on the Organization of Prisons:

"Any convicted person who is found by the correctional facility doctor to be suffering from a life-threatening or totally disabling illness shall be brought before the Director of the Medical Services Department for Correctional Facilities for examination, in conjunction with the forensic doctor, to consider their release.

The release decision shall be executed after its approval by the Assistant Minister for the Community Protection Sector and the consent of the Public Prosecutor, and the administrative authority and the competent prosecution office shall be notified accordingly.

The administrative authority in whose district the released person wishes to reside must have them examined by a health doctor every six months and submit a report on their condition to the Community Protection Sector to determine their health status, with a view to canceling the release order if necessary.

The Assistant Minister for the Community Protection Sector may assign the Director of the Medical Services Department for Correctional Facilities and the forensic doctor to examine the released person to report on their health status whenever deemed necessary."

Despite the submission of a request by [Your relationship to the Appellant] to the first appellee, in his official capacity, registered under No. [Request number] on [Date], requesting a decision for the health release of the Appellant, as their life is at risk if they remain in detention, the second appellee refused the request for the Appellant's health release. This violates the Egyptian Constitution and the Law Regulating Correction and Community Rehabilitation Centers, confirming the existence of a decision that is subject to appeal. Therefore, this appeal is admissible in form due to the existence of an appealable administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the

foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

The appellees' actions, in their official capacities, in preventing the health release of the Appellant, despite meeting the conditions and controls stipulated in the Law Regulating

Correction and Community Rehabilitation Centers and its implementing regulations, constitute a grave violation of the Egyptian Constitution and a blatant infringement upon the rights enshrined therein. Article 55 of the Egyptian Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

Article 18 of the Constitution also stipulates that "Every citizen has the right to health and to integrated health care in accordance with quality standards. The State shall ensure the maintenance of public health facilities that provide their services to the people, support them, and work to raise their efficiency and equitable geographical spread..."

On the role and function of prisons for which prisons were established, Article (56) of the Constitution clarifies

“A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release. “The appellees have refused to grant health release to the Appellant, despite meeting the conditions and controls stipulated in the Constitution and the law. This violates the Constitution, rendering the contested decision invalid and warranting its annulment.

Third Reason: The Contested Decision Violates the Law and the Arab Republic of Egypt's Obligations Guaranteed by the Egyptian Constitution:

The Egyptian Constitution recognizes international conventions and grants them the same status as national legislation. It also stipulates the state's commitment to all international agreements it ratifies, as stated in Article 93 of the Constitution:

" The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions. "

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Since international charters and covenants clearly protect the human rights of prisoners, the first paragraph of Article 7 of the International Covenant on Civil and Political Rights states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 12, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights states: "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

The first paragraph of Rule 24 of the Standard Minimum Rules for the Treatment of Inmates states, "The State shall be responsible for the provision of health care to prisoners. Inmates should have the same standard of health care available in the community and should have the right to access necessary health services free of charge and without discrimination on the basis of their legal status."

Also, Rule No. 33, which stipulates that "the doctor shall submit a report to the prison director whenever he deems that the physical or mental health of a prisoner has been or will be harmed

by the continuation of his imprisonment or by any circumstance of the correction and rehabilitation centers."

As for the law, Article 36 of Law No. 396 of 1956 on the Organization of Correction and Community Rehabilitation Centers stipulates that: "Any convict who is found by the doctor of the correction center to have a life-threatening illness or a total disability shall be presented to the Director of the Medical Services Department of the correction centers for examination in conjunction with the forensic doctor to consider his release.

The release decision shall be implemented after its approval by the Assistant Minister for the Community Protection Sector and the approval of the Public Prosecutor, and the competent administration and prosecution authority shall be notified of this.

The administration body in whose jurisdiction the released person requests to reside shall present him to the health doctor to sign the medical examination every six months and submit a report on his condition to be sent to the Community Protection Sector to determine his health condition in preparation for canceling the order for his release if necessary.

The Assistant Minister for the Community Protection Sector may delegate the Director of the Medical Services Department to the correction centers and the forensic doctor to examine the released person to report his health condition whenever he sees it....."

Article 486 of the Code of Criminal Procedure No. 150 of 1950 stipulates that: "If a person sentenced to a custodial sentence suffers from a disease that threatens his life in itself or because of the execution, the execution of the sentence may be postponed.

From the unanimity of the aforementioned, it is clear that the refusal of the Appellee to release the health of the Appellant is contrary to what is imposed on him by the provisions of international charters and covenants and the law, which requires its cancellation.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has so far not provided reasons or justifications for their refusal to release the Appellant's health, and therefore the contested decision is absent for its reason, which requires its cancellation .

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to

be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this to the present case, we find that all the conditions for a stay of execution are met. The urgency lies in the contested decision, specifically the appellees' refusal to grant health release to the Appellant, despite meeting the conditions and controls stipulated in the law, as mentioned earlier. This, in addition to the danger of keeping the Appellant in detention, as their life is at risk, and the grounds for the appeal suggesting a likely ruling to annul this decision, all contribute to fulfilling the conditions for suspending the execution of the decision in this appeal. Accordingly, the Appellants request that the Court set the earliest possible hearing date and rule as follows:

First: To accept the appeal in form.

Second: As a matter of urgency, to suspend the execution of the contested decision, which entails refusing to grant health release to the detainee, [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with Article 36 of Prison Law No. 396 of 1956. This suspension should include all consequential effects, most importantly releasing the detainee from any correctional facility where they are held. The ruling should be executed on its draft and without announcement.

Third: On the merits, to annul the contested decision, which entails refusing to grant health release to the detainee, [Detainee's name], who is detained at [Detention center name] Rehabilitation and Reform Center, in accordance with Article 36 of Prison Law No. 396 of 1956. This annulment should include all consequential effects, most importantly releasing the detainee from any correctional facility where they are held.

The ruling should be executed on its draft and without announcement. The administrative authority should also be liable for all legal costs and attorney fees.

Respectfully submitted,

[Lawyer's Name]

Attorney for the Appellant

Chapter Seven: Conditional Release, Pardon, and General Amnesty

Section One: Conditional Release

I. Definition of Conditional Release

Conditional release is a method used by modern penal systems to mitigate the negative effects of prolonged detention, which can hinder the rehabilitation and correction of detainees. Under this common system, the detainee spends a specific period of their sentence in the correctional facility, after which they are released before the end of their sentence, provided that good conduct is a fundamental condition for this type of release.

Another definition states that it is: “The release of a person sentenced to a custodial sentence before the end of their full sentence term, subject to conditions such as imposed obligations and restrictions on their freedom, and a suspension of freedom contingent upon fulfilling these obligations.”¹³⁵

Therefore, conditional release is not a suspension of the sentence, termination of its execution, or a reason for its expiry. Rather, it is a modification in the method of its execution. The sentence does not expire until its full term specified in the judgment has been served. Additionally, any supplementary penalties imposed on the convicted person or imposed by law based on the imprisonment sentence are not affected by conditional release, such as dismissal from public office, which remains in effect throughout the conditional release period.

Conditional release is handled by the Community Protection Sector through its specialized committees. These committees examine the files of detainees in correctional facilities who have been convicted of final original custodial sentences to determine those eligible for conditional release for the remainder of their sentence, provided they meet the conditions stipulated in the

¹³⁵ Legal research on conditional release, last accessed on May 24, 2021, available at: <https://qawaneen.blogspot.com/2010/06/bla>

law. The committee convenes once a month to review the names, and then issues lists on holidays and special occasions (such as Eid al-Fitr, Eid al-Adha, Sinai Liberation Day, etc.).

These committees apply Article 52 of the new Law Regulating Correction and Community Rehabilitation Centers, as replaced by Republican Decree No. 6 of 2018, which came into effect on January 24, 2018. This article states:

“Conditional release may be granted to any person sentenced to a custodial sentence if they have served half of their sentence in the correctional facility and their conduct during their detention demonstrates trustworthiness and self-correction, provided that their release does not pose a threat to public security.

In all cases, the period spent in the correctional facility may not be less than six months. If the sentence is life imprisonment, conditional release may not be granted unless the convicted person has served at least twenty years.”¹³⁶

II. Conditional Release in the Law Regulating Correction and Community Rehabilitation Centers No. 396 of 1956:

The Law Regulating Correction and Community Rehabilitation Centers regulates conditional release for detainees in Articles 52 to 64, which state the following:¹³⁷

Provided that early release on probation may be granted to any person finally convicted of a restrictive liberty penalty:

On condition that if he has served half of the sentence in a correctional and rehabilitation center and his conduct while in the correctional and rehabilitation center gives grounds for confidence in his rehabilitation, unless his release poses a danger to public security. In all cases, the period served in a correctional and rehabilitation center shall not be less than six months, and if the penalty is life imprisonment, early release on probation shall not be granted unless the convict has served at least twenty years." And the person who has the authority to issue the decision is

¹³⁶ See Article 52 of Law No. 396 of 1956 on the Organization of Community Rehabilitation and Reform Centers, as amended.

¹³⁷ See Articles 52 to 64 of Law No. 396 of 1956 on the Organization of Community Rehabilitation and Reform Centers, as amended.

the Assistant Minister for Community Protection, in accordance with the conditions and procedures determined by the internal regulations, as amended by Law No. 106 of 2015.

If multiple sentences are imposed for crimes committed before the convicted person's entry into the correctional facility, the release is based on the total duration of these sentences. If the convicted person commits a crime while in the correctional facility, the release is based on the remaining time of their sentence at the time of committing this crime, plus the sentence imposed for it.

If the person sentenced to a custodial sentence has spent time in pretrial detention that must be deducted from their sentence, their conditional release is based on the total sentence duration.

If a pardon is issued to reduce the sentence, the period that is not subject to execution under the pardon is not included in the calculation of the period required to be served in the correctional facility for release.

The convicted person must fulfill the financial obligations stipulated in the judgment, unless it is impossible for them to do so.

Conditional release must include the obligations imposed on the released person regarding their place of residence, their livelihood, and guarantees of their good conduct.

Conditional release ends either when the conditional release period (the remaining period of the sentence) expires without the released person violating the imposed obligations and conditions, in which case they are considered to have served their full sentence and are permanently released, or by revoking the conditional release decision and returning the convicted person to the correctional facility for violating those obligations and conditions. Conditional release may also be revoked if the released person is convicted of a felony or misdemeanor of the same type as the crime for which they were previously convicted, if five years have not passed since the date of the previous judgment.

After the revocation of conditional release, the detainee may be released again if the previously mentioned conditions for release are met. In this case, the remaining period of the sentence after the revocation of release is considered as if it were a newly imposed sentence.

The Public Prosecutor has the authority to consider and examine complaints submitted regarding conditional release and take any measures they deem necessary to address their causes.

On March 18, 2020, Law No. 19 of 2020 was issued, amending the Law Regulating Correction and Community Rehabilitation Centers and the Law on Combating Drugs and Regulating Their Use and Trafficking. This amendment stipulates that the provisions of conditional release in the Law Regulating Correction and Community Rehabilitation Centers do not apply to those convicted of committing any of the crimes stipulated in Law No. 10 of 1914 on Assembly, Law No. 182 of 1960 on Combating Drugs and Regulating Their Use and Trafficking, except for the felony stipulated in Article 37 thereof, the Anti-Money Laundering Law issued by Law No. 80 of 2022, and the Anti-Terrorism Law issued by Law No. 94 of 2015.¹³⁸

Conditional Release According to the Regulations of the Law Regulating Correction and Community Rehabilitation Centers:

The Regulations of the Law Regulating Correction and Community Rehabilitation Centers address conditional release in Articles 86 to 88, stating that:

"After consulting the competent security authorities, conditional release may be granted to those convicted of crimes that harm the security of the government from within or outside, those sentenced to aggravated imprisonment or imprisonment for premeditated murder, counterfeiting, unlawful arrest, theft, currency smuggling, and drug offenses, and those sentenced to imprisonment for drug offenses if they have been previously convicted of similar crimes."

Clothing made of suitable fabric is provided to released individuals who do not have clothes or cannot obtain them, as follows:

- For men: "Underwear, outerwear, and shoes."

¹³⁸ Amendment of the Law Regulating Prisons and the Law on Combating Drugs and Regulating Their Use and Trafficking by Law No. 19 of 2020, via the Manshurat Law Publications website, last accessed on May 24, 2021, available at:

<https://manshurat.org/node/66849>

- For women: "Underwear, outerwear, head covering, and shoes."

III. Conditions for Applying Conditional Release:

1. The detainee must be convicted of a final custodial sentence, which includes life imprisonment, aggravated imprisonment (4 to 15 years), imprisonment (3 to 15 years), and simple detention or detention with labor (24 hours to 3 years). This condition excludes pretrial detainees, those subject to physical coercion, and those with non-final judgments.
2. The detainee must not be convicted of an offense that is legally excluded from conditional release, such as military crimes, crimes against the government, possession of explosives, bribery, counterfeiting, disruption of transportation, felonies stipulated in the law on weapons and ammunition, felonies of illicit gain, crimes stipulated in the Building Law, crimes stipulated in the law on companies working in the field of receiving funds for investment, crimes of assembly, drug offenses with the intent to traffic (excluding possession for personal use), money laundering crimes, and terrorism. Other crimes are eligible for conditional release, but the regulations require security approvals for certain crimes, such as premeditated murder, counterfeiting, theft, currency smuggling, and unlawful arrest.
3. The detainee must have served half of their sentence in the correctional facility, with a minimum of six months. If the sentence is life imprisonment, they must have served at least twenty years.
4. The detainee's conduct during their detention must demonstrate trustworthiness and self-correction, and their release must not pose a threat to public security.
5. The convicted person must fulfill the financial obligations stipulated in the judgment, unless it is impossible to do so. (In case of impossibility, an investigation into financial insolvency is conducted and approved by the competent prosecution office).

IV. Procedures for Applying Conditional Release

The Assistant Minister for Community Protection is authorized to issue a decision for conditional release, in accordance with Article 53 of the Law on Correctional and Rehabilitation Centers, and according to the conditions and procedures determined by the internal regulations.

An appeal may be lodged against the refusal to grant conditional release if the convicted person meets the requirements, considering that conditional release is a stage of punishment.

Conditional release shall end either upon completion of the sentence or by its revocation if the pardoned person violates the following conditions:

(Good conduct and behavior, and no association with persons of bad character; to seek to live from a lawful occupation and to be serious about it; to reside in the place chosen by him, unless the administrative authority objects and determines a place for him to reside in; not to change his place of residence without notifying the administrative authority in advance; to report to the administrative authority once a month on a specific day that is compatible with the nature of his work.

V. How to Inquire about a Detainee's Release Date

1. The family should go to the correctional facility where the detainee is held and submit a formal inquiry request to the correctional facility administration about the detainee's release date. (The request can be submitted during a visit.) The correctional facility administration will respond to the inquiry with the entry date, expected release date, and the scheduled date for considering the pardon request.
2. The family should inquire with the correctional facility administration about any missing documents or information needed to complete the file, such as financial obligations stipulated in the judgment (fines or compensation). The family should fulfill these financial obligations and attach the receipt or supporting document to the detainee's file.

VI. Submitting a Conditional Release Request:

The detainee's family has the right to submit a conditional release request. The request is submitted to the Public Prosecutor (in Al Rehab) or to the Head of the Community Protection Sector. If submitting the request in person is difficult, it can be sent by registered telegram with acknowledgment of receipt by calling 124, or submitted electronically, as explained earlier.

Request for Conditional Release

Attached is a suggested form that can be modified according to individual circumstances.

Conditional Release Request

To: Mr./Ms. Public Prosecutor Or Mr./Ms. Head of the Community Protection Sector With due respect,

I am the [relationship to the inmate: spouse, son, daughter, father, mother, brother, sister] of [inmate's name], holder of national ID number [ID number], residing at [address].

I would like to respectfully submit the following:

Subject

On [date], [inmate's name] was arrested and charged in case number [case number] of [year].
On [date], the court ruled [court ruling].

Since the issuance of the verdict, [inmate's name] has been detained at a correctional facility and has served more than half of their sentence. Their behavior during their imprisonment has been exemplary.

I hereby request that you grant conditional release to [inmate's name]. Considering that they have already served more than half of their sentence, and due to concerns about their health, especially in light of the warnings issued by the World Health Organization regarding [disease, e.g., COVID-19], as well as the measures taken by the state to limit the spread of the virus, including the prohibition of visits to correctional facilities, and the refusal of the correctional facility administration to accept their food and medication, and fearing the spread of diseases due to overcrowding and poor ventilation, and considering that they are [age] years old and are susceptible to illness due to their age and suffer from [illness].

Article 52 of the Law Regulating Community Correctional and Rehabilitation Centers, as amended by Law No. 6 of 2018, stipulates that: "Conditional release may be granted to any person finally convicted of a restrictive liberty penalty if they have served half of the sentence in a correctional center and their conduct while in the correctional center warrants confidence in their rehabilitation, unless their release poses a danger to public security."

Moreover, Article 18 of the Egyptian Constitution states: "[Every citizen has the right to health and comprehensive health care in accordance with quality standards, and the state guarantees the preservation of public health service facilities that provide services to the people and supports them and works to raise their efficiency and their fair geographical distribution... It is a crime to refuse to provide treatment in its various forms to any person in cases of emergency or danger to life...]"

Article 56 of the Egyptian Constitution also stipulates that

(A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release.)

Article 12 of the International Covenant on Economic, Social and Cultural Rights

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. Measures to be taken by the States Parties to the present Covenant to ensure the full exercise of this right shall include those necessary for:

(a) Working to reduce the infant mortality rate and the infant mortality rate and to ensure the healthy development of the child,

- (b) improve all aspects of environmental and industrial hygiene,
- (c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases,
- (d) Creating conditions that would ensure medical services and medical care for all in the event of illness.

Whereas, the continuation of the deposit, violates the law, and endangers his life in a clear violation of Egypt's international obligations, the Egyptian Constitution, and the law.

Therefore

We request you to issue your decision: -

to take the necessary action to issue your decision to release Deposited in a repair center.....¹³⁹

Introduction to Your Excellency

VII. Appeal Against the Decision to Deny Conditional Release:

A. Grounds for Appeal: If a prisoner who meets the legal requirements for conditional release, as outlined in the law, has been denied such release, they have the right to appeal this decision. According to Article 12 of State Council Law No. 47 of 1972, which states in its first paragraph that "requests submitted by persons who do not have a personal interest shall not be accepted," the prisoner can appeal the decision denying conditional release. This appeal should be submitted to the Director General of the Community Protection Sector, as they are responsible for granting conditional release, according to Article 53 of the Law Regulating Community Correctional and Rehabilitation Centers.

¹³⁹ The form of the request for conditional release, via the page of the Egyptian Commission for Rights and Freedoms, last visited on May 24, 2021, available at:<https://m.facebook.com/ecrf.net/photos/a.344802732350133/1652800791550314/?type=3&eid=A>

B. Legal Deadlines for Appeal: According to Article 24 of State Council Law No. 47 of 1972, which states: "The deadline for filing a lawsuit before the court regarding annulment requests is sixty days from the date of publication of the challenged administrative decision in the Official Gazette or in the bulletins issued by public authorities or the notification of the interested party."

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VIII. **Appeal Form and Submission:**

Appeal Form

To: Mr./Ms. Director General of the Community Protection Sector With due respect, I, as the agent of [inmate's name], who was sentenced in case number [case number] of [year] for [crime], and who is currently detained at [correctional facility],

Subject

Considering that... [inmate's name] has begun serving their sentence since [date], and has served [number] months, they are eligible for conditional release as they have served more than half of their sentence, in accordance with Article 52 of the Law Regulating Community Correctional and Rehabilitation Centers, as amended by Law No. 6 of 2018, which states: "Conditional release may be granted to any person finally convicted of a restrictive liberty penalty if they have served half of the sentence in a correctional center and their conduct while in the correctional center warrants confidence in their rehabilitation, unless their release poses a danger to public security."

Moreover, [inmate's name] has fulfilled all financial obligations as stated in the court judgment, and a copy of the payment receipt is attached as proof, in accordance with Article 56 of the Law Regulating Community Correctional and Rehabilitation Centers which states: "Conditional release shall not be granted unless the convicted person fulfills the financial obligations imposed on them by the criminal court, unless it is impossible for them to fulfill them."

¹⁴⁰ Articles 12 and 24 of State Council Law No. 47 of 1972.

Therefore, all the conditions and requirements stipulated in the Law Regulating Community Correctional and Rehabilitation Centers have been met by [inmate's name], and they should be granted conditional release.

Therefore

I request that Your Excellency issue a decision to grant conditional release to [inmate's name], who is detained at [correctional facility], in accordance with the law.

Respectfully submitted,

[Your Name]

In the event that the appeal is rejected or no response is received, the appellant has the right to file a lawsuit before the Administrative Judiciary Court to challenge the negative decision to deny conditional release.

Form of the Lawsuit

To: Mr. Counselor/ Vice President of the State Council (President of the Administrative Judiciary Court)

With due respect,

Submitted by: [Your Name] - residing at, and whose authorized representative is Attorney/ [Attorney's Name] at the Court of Appeal and the State Council, located at...

Against

The Minister of Interior, in his official capacity. The Director of the Community Protection Sector, in his official capacity.

Subject

The **appellant** was sentenced in case number [case number] of [year] for [crime].

According to Article 52 of the Law Regulating Community Correctional and Rehabilitation Centers, as amended by Law No. 6 of 2018, "Conditional release may be granted to any person finally convicted of a restrictive liberty penalty if they have served half of the sentence in a correctional center and their conduct while in the correctional center warrants confidence in their rehabilitation, unless their release poses a danger to public security."

[Appellant's relative] submitted a request for conditional release to the **appellees** in their official capacity, as the **appellant** has served more than [number] months of their sentence. However, the **appellees** refused to release the **appellant**, stating that the **appellant** must serve the full term of their sentence, which is contrary to the law. Therefore, the **appellant** has filed this lawsuit to annul the negative decision to deny conditional release.

Reasons for the Appeal

First Reason: The existence of an administrative decision by the **appellees** in their official capacity to deny conditional release to the **appellant**.

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal

status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

Whereas, in accordance with Law No. 396 of 1956 concerning the organization of prisons and its internal regulations, which stipulate that 'any person finally convicted of a restrictive liberty penalty may be released if they have served half of their sentence in a correctional institution and their conduct during imprisonment warrants confidence in their rehabilitation, unless their release poses a danger to public security,' and despite the fact that [relation to the appellant], such as the appellant's father, submitted a request for conditional release to the second appellee in their official capacity, as the appellant is entitled to it having served more than [number] months, the second appellee refused to release the appellant, stating that the appellant must serve the full term of their sentence, which is in violation of the Egyptian Constitution and the Law Regulating Community Correctional and Rehabilitation Centers, thereby confirming the existence of a negative decision that can be appealed. Therefore, this appeal is procedurally admissible due to the existence of a negative administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and

executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the appellee in their capacity as preventing the conditional release of the appellant despite the availability of the conditions and controls contained in the Law on the Organization of Reform and Community Rehabilitation Centers and its executive regulations, represents a serious violation of the provisions of the Egyptian Constitution, and an explicit attack on the rights established by the provisions of the Constitution.

Article 55 of the Egyptian Constitution stipulates that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon."

In addition to the violation of the contested decision of the principle of equality between citizens, Article 53 stipulates: "Citizens are equal before the law, and they are equal in rights, freedoms and public duties, without discrimination between them on the basis of religion, belief, sex, origin, race, color, language, disability, social level, political or geographical affiliation, or any other reason..."

Whereas the provisions of Article 52 of the Law on the Organization of Correction and Community Rehabilitation Centers stipulate: "It is permissible to release under condition every person finally sentenced to a custodial sentence if he has spent half of the sentence in the correction center and his behavior while in the correction center calls for confidence in his self-assessment, unless his release is a threat to public security.

In all cases, it is not permitted for the period spent in the correction centre to be less than six months. If the punishment is life imprisonment, it is not permitted to release under condition unless the convict has spent at least twenty years.

This article gave the right of conditional release to every convict without discrimination, and since the conduct of the appellant against them represented in refraining from granting the appellant the right of conditional release without mentioning reasons constitutes a serious violation of the principle of equality between citizens, which was approved by the Constitution.

Whereas the appellee has prevented the appellant from the right to release despite the availability of the conditions and controls contained in the Law on the Organization of Correction and Community Rehabilitation Centers and its executive regulations, it may have

violated the validity of the Constitution, which causes the contested decision to be null and void, which requires its cancellation.

The third reason: Violation of the appealed decision of the Law on the Organization of Correction and Community Rehabilitation Centers and its executive regulations: -

Article 52 of the Law on the Organization of Correction and Community Rehabilitation Centers stipulates that "every person sentenced to a final custodial sentence may be released under condition if he has spent half of the sentence in the correction center and his behavior while in the correction center calls for confidence in correcting himself, unless his release is a threat to public security.

In all cases, it is not permitted for the period spent in the correction centre to be less than six months. If the punishment is life imprisonment, it is not permitted to release under condition unless the convict has spent at least twenty years.

Article 56 of the law also stipulates that "conditional release may only be granted if the convict has the financial obligations imposed on him by the criminal court in the crime, unless it is impossible for him to fulfill them."

Whereas, it is established from the papers of the present appeal that the conditions and controls mentioned in the law are met against the appellant, and the appellant has paid the financial obligations mentioned in the operative part of the aforementioned judgment, and the receipt is attached to the documents indicating this, and since the refusal of the appellee, in their capacity as the conditional release of the appellant, is contrary to what is imposed on him by the provisions of the law, which requires its cancellation.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has so far not provided reasons or justifications for their refusal to release the Appellant conditionally, despite the availability of the conditions and controls contained in the Law on the Organization of Reform and Community Rehabilitation Centers and its Executive Regulations, and therefore the contested decision is lacking for its reason, which requires its cancellation.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

Applying this, we find that all these conditions are met, as it is about the corner of urgency, the implementation of the contested decision, their complete rejection of their refusal to release the police from the appellant, despite the availability of the conditions and controls contained in the Law on the Organization of Reform and Community Rehabilitation Centers and its executive regulations, and the reasons for the appeal suggest the issuance of a ruling to cancel this decision, so the reasons for suspending the execution are available in this appeal.

Accordingly

The appellant seeks to determine the nearest hearing and judgment :

First: - By accepting the appeal in form .

Second: - As a matter of urgency to stop the implementation of the negative decision by the refusal of the Appellee in their capacity as the conditional release of the Appellant, with the consequent effects that the judgment shall be implemented with its draft and without announcement

Third: In the matter of canceling the negative decision of the Appellee's abstention in their capacity from the conditional release of the Appellant, with the consequent effects that the judgment shall be implemented with its draft and without announcement.

The administrative authority shall be obligated to pay the expenses and attorneys' fees.

Appellant's Attorney

Lawyer

Section Two: Presidential Pardon and General Amnesty

Introduction

A presidential pardon is a decision issued by the President of the Republic to pardon a punishment, in accordance with Article 155 of the Egyptian Constitution,¹⁴¹ which stipulates that "The President of the Republic, after consulting with the Council of Ministers, may pardon a punishment or commute it. A general pardon may only be granted by a law passed with the approval of the majority of the members of the House of Representatives."

Presidential pardons encompass two types of decisions: a general pardon and a pardon for a specific punishment.

However, certain crimes are excluded from presidential pardons due to the severity of the criminal offense committed. Examples of such crimes include terrorism, espionage, drug trafficking, arms trafficking, embezzlement of public funds, prostitution, and adultery. Law No. 58 of 1937, as amended, outlines the regulations and conditions necessary for the application of a pardon for a punishment or a general pardon.

I. Presidential Pardon in the Egyptian Constitution and Law:

A. Presidential Pardon in the Constitution:

According to Article 155 of the Egyptian Constitution, which states "The President of the Republic, after consulting with the Council of Ministers, may pardon or commute a penalty. General amnesty may only be granted by a law passed with the approval of the majority of the members of the House of Representatives."¹⁴²

Article 156 of the Constitution also stipulates that if something occurs during a period when the House of Representatives is not in session that requires urgent measures, the President may convene an extraordinary session of the House to present the matter to it. If the House of Representatives is not in existence, the President may issue decrees with the force of law,

¹⁴¹ Article 155 of the Egyptian Constitution

¹⁴² Previous reference

provided that they are presented for discussion and approval within fifteen days of the convening of the new House. If they are not presented and discussed, or if they are presented but not approved by the House, they shall be revoked retroactively without the need for a decision to that effect, unless the House decides to approve their application during the previous period, or to settle any consequences arising therefrom.

B. Pardon in the Law The Penal Code, in Articles 74 to 76, addresses presidential pardons.

The Penal Code has outlined the conditions for applying a decision to pardon a penalty, as well as general amnesty, in the provisions of Articles 74 to 76 of Law No. 58 of 1937.¹⁴³ This law states that a decision to pardon a penalty is a decision that does not require a law for its issuance and is issued by the President of the Republic to those who have been convicted by a court judgment. A decision to pardon a penalty can be issued either by dropping it entirely, or in part, or by replacing it with a lesser penalty. For example, if the penalty is death, it can be replaced by a life sentence in a correctional and rehabilitation center. As for a general amnesty decision, it must be issued in the form of a law and approved by a majority of the members of the House of Representatives. A general amnesty decision must be issued in the form of a law, and according to Article 155 of the Constitution, it must be approved by a majority of the members of the House of Representatives. In the absence of the House of Representatives, according to Article 156, which states: "If the House of Representatives is not in existence, it may issue decrees with the force of law, provided that they are presented for discussion and approval within fifteen days of the convening of the new House. If they are not presented and discussed, or if they are presented but not approved by the House, they shall be revoked retroactively without the need for a decision to that effect, unless the House decides to approve their application during the previous period, or to settle any consequences arising therefrom."

¹⁴³ Articles 74 and 75 of the Panel Criminal Code No. 58/1937

- **Pardon of the Penalty:**

- ❖ **Nature of the pardon of the penalty and its legal basis**

The first paragraph of Article 155 of the Constitution states that "The President of the Republic, after consulting with the Council of Ministers, may pardon or commute a penalty." In this context, Article 74 of the Penal Code stipulates that "A pardon for a convicted penalty requires its complete or partial dropping, or its replacement with a lesser penalty prescribed by law, and does not extinguish accessory penalties or other criminal consequences resulting from the conviction unless the pardon order stipulates otherwise." Article 75 of the same law also stipulates that "If a pardon is issued to replace a penalty with a lesser one, the death penalty shall be replaced by a life sentence. If a person sentenced to life imprisonment is pardoned or their penalty is commuted, they shall be placed under police surveillance for five years. A pardon for a penalty, or its commutation if it is one of the penalties prescribed for felonies, does not include deprivation of the rights and privileges specified in paragraphs one, two, five, and six of Article 25 of this law, unless the pardon stipulates otherwise."¹⁴⁴

- ❖ **Meaning of this:** A pardon of the penalty means that the convicted person is exempted from serving all or part of their sentence or that it is replaced with a lesser penalty prescribed by law.

- ❖ **Who benefits from the pardon of the penalty?** The beneficiary of the pardon of the penalty is the person who has been issued a final judgment, so that the only option left for the convicted person is to appeal to the head of state, requesting a pardon.

- ❖ **Effect of the pardon of the penalty:** A pardon of the penalty, even if it is complete, does not erase the conviction or affect the judgment issued in the civil lawsuit. A pardon of the penalty means only waiving its execution, so accessory penalties and other criminal consequences resulting from the conviction are not extinguished unless the pardon order stipulates otherwise. The judgment remains in force and is considered a precedent for

¹⁴⁴ Articles 74 and 75 of the Penal Criminal Code No. 58/1937

recidivism. Moreover, the pardon order may itself, in some cases, entail being placed under police surveillance¹⁴⁵.

- **General Pardon:**

- ❖ **What is General Pardon and Its Legal Basis?**

General pardon, as stipulated in the second paragraph of Article 155 of the Constitution, "may only be granted by a law passed with the approval of the majority of the members of the House of Representatives." Article 76 of the Penal Code further clarifies that "general pardon prevents or suspends the proceedings in a case or erases a conviction. It does not affect the rights of third parties unless the law granting the pardon stipulates otherwise."¹⁴⁶

- ❖ **Legal Form of Issuing General Pardon**

A general pardon must be issued in the form of a law and approved by a majority of the members of the House of Representatives.¹⁴⁷

- ❖ **What if the House of Representatives is not in Session?**

The President may issue decrees with the force of law, provided that they are presented for discussion and approval within 15 days of the convening of the new House. If they are not presented and discussed, or if they are presented but not approved by the House, they shall be revoked retroactively without the need for a decision to that effect, unless the House decides to approve their application during the previous period, or to settle any consequences arising therefrom.¹⁴⁸

- ❖ **Can a Pre-Trial Detainee Benefit from General Pardon?**

Yes, a pre-trial detainee, whether their case has not been referred to trial or has been referred but no judgment has been issued, can benefit from general pardon¹⁴⁹.

- ❖ **Effect of General Pardon**

¹⁴⁵ See appeal number 10613 of the year 88, criminal court, issued on July 5, 2021.

¹⁴⁶ Article 76 of the Panel Criminal Code No. 58/1937

¹⁴⁷ Second paragraph of Article 155 of the Egyptian Constitution

¹⁴⁸ Article 156 of the Egyptian Constitution

¹⁴⁹ Previous reference

General pardon is limited in its effect to penalties; it does not prevent the execution of a confiscation order nor affect civil rights or compensation awarded to a victim of the crime, according to the second paragraph of the aforementioned article.¹⁵⁰

❖ **Are There Crimes Excluded from Presidential Pardons?**

Yes, there are a number of crimes that are not subject to presidential pardons, such as crimes related to felonies and misdemeanors that harm the security of the state internally or externally, explosives, bribery, forgery, thuggery, drugs, weapons, ammunition, disruption of communications, combating drugs, combating prostitution and illicit gains, military court cases, construction law crimes, crimes related to the assets of joint-stock companies, crimes stipulated in the Child Law, money laundering crimes, and the planting and trafficking of human organs.¹⁵¹

❖ **When are Presidential Pardon Decisions Issued?**

The President typically issues presidential pardon decisions on official occasions and holidays such as: January 25th, April 25th, Eid al-Fitr, Eid al-Adha, June 30th, July 23rd, and October 6th.

II. Applying for a Pardon

Relatives of inmates can submit the request to several authorities: the Presidency through the Citizens' Service Office at Abdeen Palace in downtown Cairo, the Community Protection Sector, the National Council for Human Rights' Complaints Office at 69 Gezira Street in front of the old Giza Security Directorate headquarters, or the main center in New Cairo, 340 D North Ninety Street, or at the locations listed in the following link: <https://nchr.org/ar/Branches>, or electronically through the following link: <https://nchr.org/ar/contactus> or via email at nchr-n@nchr.org.eg, or to the amnesty committee responsible for those who have not been sentenced according to the criteria set by the committee via the following website: "<https://egyouth.com/ar/release/>". In case of submitting a paper application, a copy of the national ID of a first-degree relative of the inmate must be attached, along with a form containing all their data, the case number, and the place of their imprisonment.

¹⁵⁰ "Pardon for punishment or crime according to the Egyptian Constitution", the Al-Ahram electronic newspaper website, October 5, 2015, date of visit May 10, 2022, available via: <https://gate.ahram.org.eg/daily/News/13>

¹⁵¹ Article 3 of Presidential Decree No. 155 of 2022 issued on April 17, 2022

Form of the Pardon Request

To: Mr. President of the Republic / Mr. Prime Minister / Mr. Minister of Interior / With due respect,

I, [Your Name], as the "[relationship to the inmate]" of [inmate's name], request that Your Excellency issue a decision to pardon the inmate [inmate's name] who is currently at [correctional facility] and sentenced in case number [case number] to [sentence length]. They have already served [time served]. Or, if they are detained pending trial in case number [case number] of the year [year], for a "general pardon".

Subject

Considering that their age has exceeded [age], and they suffer from old age diseases such as high blood pressure and [other illnesses], and their inability to perform simple tasks, and their continued imprisonment poses a danger to their life due to the deterioration of their health, and because overcrowding among inmates is a form of gatherings and crowding which leads to the spread of the novel Coronavirus, which endangers the lives of the elderly and those with weak immunity.

And in continuation of applying the frameworks of the penal policy in its modern concept, and providing various forms of care for inmates of correctional and rehabilitation centers, and activating the executive role of methods of releasing inmates who have been rehabilitated to reintegrate into society.

Therefore,

we request that Your Excellency issue an order to pardon the remaining period of the sentence imposed on [inmate's name].

With our highest respect and appreciation, [Your Name] [ID Number]

Appeal Against the Decision to Deny Presidential Pardon:

A. **In the event that the aforementioned conditions are met** in accordance with the law for the inmate "the interested party whose legal status or interest has been affected by the decision," and a presidential pardon decision has been issued but the inmate's name is not included in the decision issued by the committee formed to consider those eligible for pardon under this decision. An appeal may be filed against this decision, in accordance with the provisions of Article 12 of State Council Law No. 47 of 1972, which stipulates in its first paragraph that "applications submitted by persons who have no personal interest shall not be accepted," by requesting the inclusion of the inmate's name among the names included in the pardon of the remaining punishment pursuant to Presidential Decree No. ... of the year ..., and the appeal shall be submitted to the Director General of the Community Protection Sector.

B. Legally Specified Deadlines for Appeal:

In accordance with the provisions of Article 24 of State Council Law No. 47 of 1972, which states that "the deadline for filing a lawsuit before the court with regard to annulment requests shall be sixty days from the date of publication of the administrative decision appealed against in the Official Gazette or in the bulletins issued by public authorities or the announcement thereof by the interested party."¹⁵²

Grievance Format and Place of Submission

Appeal for Inclusion in Presidential Pardon

To: The Director General of the Community Protection Sector

Dear Sir/Madam,

I am writing on behalf of [Inmate's Name], the convict in case number [Case Number] of the year [Year], regarding the charge of [Charge]. The inmate is currently detained at [Prison Name].

¹⁵² Articles 12 and 24 of State Council Law No. 47 of 1972.

On [Date], the [Court Name] court, in case number [Case Number], sentenced the appellant to [Sentence]. On [Date], the sentence was executed, and the inmate was admitted to [Prison Name]. The inmate has served more than half of their sentence and has maintained good conduct. Moreover, they have fulfilled all financial obligations.

Subject

On [Date], the President issued Decree No. [Decree Number] of the year [Year] granting a pardon to certain convicts on the occasion of [Occasion]. The committee formed to consider those eligible for pardon met on [Date] and issued a decision listing those eligible, but the appellant's name was omitted.

The appellant is eligible for the pardon, as Article 155 of the Egyptian Constitution states that "[Insert relevant portion of the article]". Additionally, Article 74 of the Penal Code stipulates that "[Insert relevant portion of the article]".

Decree No. [Decree Number] of the year [Year] regarding the pardon for certain convicts on the occasion of [Occasion] specified in paragraph two that "[Insert relevant portion of the decree]". The decree also stipulated in Article [Article Number] the crimes that are not subject to this pardon and set forth the following conditions for a pardon: [Insert conditions].

It has been established that the appellant meets the conditions for the presidential pardon. The appellant was convicted on [Date] for [Crime], which is one of the crimes covered by the aforementioned presidential decree. The sentence was issued before the date specified in the decree, and the appellant has served more than [Fraction] of the sentence before this date. Additionally, the appellant has fulfilled all financial obligations, as evidenced by the attached receipt. The appellant has maintained good conduct and has not committed any violations during the period of execution.

Therefore

I request that you issue a decision to include the name of the inmate, [Inmate's Name], who was convicted in case number [Case Number] of the year [Year], among those included in the pardon pursuant to Presidential Decree No. [Decree Number] of the year [Year].

Respectfully submitted,

In the event of rejection or failure to respond to the grievance, a lawsuit shall be filed before the Administrative Court of the Council of State.

Complaint to the State Council

To: The Honorable Advisor/Deputy President of the State Council (President of the Administrative Judiciary Court)

Respected Sir,

[Your Name], residing at [Address], represented by Attorneys at Law [Law Firm Name], located at [Address],

Against

The Minister of Interior, in his official capacity The Director of the Community Protection Sector, in his official capacity

Subject

On [Date], the [Court Name] court, in case number [Case Number], sentenced the appellant to [Sentence]. On [Date], the sentence was executed, and the appellant was admitted to [Prison Name]. The appellant has served more than half of their sentence and has maintained good conduct. Moreover, they have fulfilled all financial obligations.

On [Date], the President issued Decree No. [Decree Number] of the year [Year] granting a pardon to certain convicts on the occasion of [Occasion]. The committee formed to consider

those eligible for pardon met on [Date] and issued a decision listing those eligible, but the appellant's name was omitted.

Upon learning that his name was not included in the committee's decision, the appellant submitted an appeal to the Assistant Minister of Interior for Community Protection and to the Minister of Interior, requesting that his name be added to the list of those granted a pardon pursuant to Presidential Decree No. [Decree Number] of the year [Year]. However, their appeal was ignored.

This is in violation of the Constitution and the law. Therefore, the appellant has filed this lawsuit requesting:

- The suspension of the Community Protection Sector's decision to exclude the appellant's name from the list of those granted a pardon pursuant to Presidential Decree No. [Decree Number] of the year [Year].

Legal Standing and Interest

It is a well-established principle in jurisprudence that a legal interest is a prerequisite for filing a lawsuit. This principle is explicitly stated in Article 3 of the Code of Civil Procedure and in the first paragraph of Article 12 of the State Council Law. While this principle is clear, the scope and meaning of 'legal interest' can vary between private law and public law, and even within different areas of public law.

In civil proceedings, a lawsuit can only be admitted if it is based on a right that has been violated or is under threat of violation. This same principle applies to claims for damages in administrative courts (full judicial review) where the claimant must demonstrate that they hold a right that has been adversely affected by a wrongful administrative decision, seeking redress for such harm. In both instances, the concept of 'legal interest' is closely tied to individual rights.

However, in an annulment lawsuit before the administrative judiciary, we find a complete separation between interest and right. Here, the interest is linked to the legal status; where the

interest that justifies the acceptance of the lawsuit is not required to be based on a right of the plaintiff that the public authorities have attacked, or threatened to attack. Rather, it is enough to have a personal and direct interest in the cancellation request; and the personal interest here means that the plaintiff must be in a special legal position or a special legal situation for the contested decision that will make it – as long as it exists – directly affect the self-interest of the claimant. Moreover, the administrative judiciary has expanded its application of the interest requirement in annulment lawsuits. In some cases, it has been sufficient for the court to accept a lawsuit based solely on the fact that the plaintiff is a citizen. This is enough to give the plaintiff a direct personal interest in appealing the decision in question.

In a ruling dated April 1, 1980, in case number 6927 of 1932, the Administrative Judiciary Court stated that: "It is established that the status of a citizen is sufficient in some cases to file an annulment lawsuit challenging administrative decisions that affect all citizens residing in the country and expose their interests, health or future to serious risks."

Furthermore, in defining the meaning of personal interest, the Administrative Judiciary Court ruled that "an annulment lawsuit, which aims to challenge the decision itself and reveal its defects and flaws, does not require in its acceptance to rely on the right of the plaintiff before the administration, but it is sufficient for the plaintiff to have a personal interest directly affected by the decision..."

(A set of legal principles decided by the Administrative Judiciary Court, Fifth Year, p. 657, referred to in the Administrative Judiciary – by Dr. Fuad Al-Attar – from Dar Al-Nahda Al-Arabiya, Edition 66 – 1967, p. 614).

In determining the direct interest, the Administrative Court ruled that "it is sufficient for the availability of the interest condition in the administrative decision litigation on the grounds of cancellation that the person filing it has a legal link in which the decision to be canceled has a direct impact..."

(The set of legal principles decided by the Administrative Court in the fifth year 884 of the same previous reference, p. 614)

Based on both judgments, we find that the interest is satisfied in its two elements when the appellant has a personal benefit from appealing the decision, and that decision has directly affected one of their legal rights.

Applying this to the facts of the dispute, we find that the challenged decision directly affects the appellant, who meets the conditions of the presidential pardon as outlined in the constitution and the law and issued by Presidential Decree No. ... for the year However, their name was not included in the pardon list, and therefore they have a direct personal interest and standing to file this lawsuit, given that the standing and interest in an annulment lawsuit merge together in a way that prevents the separation of one from the other.

Grounds for Appeal

First Reason: The Challenged Decision Contravenes the Constitution

Given that the constitution is the supreme law that establishes the foundations and principles upon which governance is based, defines public authorities, delineates their functions, sets the boundaries and limitations governing their activities, and declares public freedoms and rights, along with the fundamental guarantees for their protection, the constitution has a special nature that confers upon it the attributes of sovereignty and supremacy. This is because it is the guarantor of freedoms, their foundation, and the cornerstone of the constitutional system and its foundations. Its provisions have the right to stand at the pinnacle of the state's legal structure and occupy the foremost position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, its judiciary, and in the exercise of its executive powers, without any distinction or discrimination – in the realm of adherence – between the legislative, executive, and judicial authorities.

(And given that the constitution is the supreme fundamental law that establishes the foundations and principles upon which the system of governance is based, defines public authorities, delineates their functions, and sets the boundaries and limitations governing their activities, and

declares public freedoms and rights, along with the fundamental guarantees for their protection, the constitution has a special nature that confers upon it the attributes of sovereignty and supremacy. This is because it is the guarantor of freedoms, their foundation, and the cornerstone of the constitutional system and its foundations. Its provisions have the right to stand at the pinnacle of the state's legal structure and occupy the foremost position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, its judiciary, and in the exercise of its executive powers, without any distinction or discrimination – in the realm of adherence – between the three public authorities, namely the legislative, executive, and judicial, given that all these authorities are established authorities created by the constitution, deriving their existence and entity from it, and it is the reference for determining their functions. Therefore, they are all considered equal before the constitution, and each stands on an equal footing with the other, performing its constitutional function in cooperation with each other within the prescribed limits, subject to the provisions of the constitution, which alone has the final say. When its provisions are applied, all public authorities and the state are bound by a fundamental principle of democratic governance, which is submission to the principle of the supremacy of the constitution. Therefore, it is incumbent upon every public authority, regardless of its nature, function, or the nature of the powers assigned to it, to abide by the rules and principles of the constitution and adhere to its boundaries and limitations. If it violates or exceeds them, its action is tainted by the defect of unconstitutionality.)

(Case No. 37, judicial year 9, “Constitutional”, session of May 19, 1990).

Given that the respondents, in their capacity as [specify their role], failed to include the appellant's name among those granted a pardon from the remaining portion of their sentence pursuant to Presidential Decree No. of the year, despite the appellant meeting all the conditions and criteria stipulated in the Prison Organization Law and its executive regulations, this constitutes a grave violation of the provisions of the Egyptian Constitution and a blatant infringement upon rights enshrined therein.

Article 155 of the Egyptian Constitution stipulates that: " After consultation with the Cabinet, the President of the Republic may issue a pardon or reduce a sentence. General amnesty may

only be granted by virtue of a law, ratified by the majority of the members of the House of Representatives.”

In addition to the violation of the contested decision of the principle of equality between citizens, Article 53 stipulates: "All citizens are equal before the Law. They are equal in rights, freedoms and general duties, without discrimination based on religion, belief, sex, origin, race, color, language, disability, social class, political or geographic affiliation or any other reason.."

This article granted the President of the Republic the authority to pardon any convict who meets the conditions stipulated in the law, without discrimination. Consequently, the President issued Decree No. ... of the year ... to pardon the remaining portion of the sentence for certain convicts, on the occasion of...

The committee formed to consider who is eligible for a pardon under this decree met on [date] and issued a decision specifying those eligible. However, the appellant's name was omitted. The appellant filed a grievance with the second respondent in their official capacity, but the respondent failed to uphold the constitution and the law. The respondent's refusal to grant the appellant the presidential pardon, as per Presidential Decree No. ... of the year ..., without providing reasons constitutes a grave violation of the principle of equality among citizens, as enshrined in the Constitution.

Given that the respondents have deprived the appellant of their right to a presidential pardon despite the fulfillment of the conditions and criteria stipulated in the constitution and the law, they may have violated the constitution. This renders the challenged decision null and void, necessitating its cancellation.

The second reason: The appealed decision violates the law:

Article 74 of the Penal Code stipulates that: "A pardon for a sentence imposed requires that it be overturned in whole or in part or replaced by a lighter penalty prescribed by law.

Neither ancillary penalties nor other criminal effects of a conviction shall be extinguished unless otherwise provided in the amnesty order.”

As stated in Decree No. of the year regarding the pardon of the remaining portion of the sentence for certain convicts on the occasion of, which stipulated in paragraph "Secondly" the substance of the decision, and specified in Article ... thereof the crimes not subject to this pardon, and the decision stipulated in Article ... thereof that for a convict to be pardoned, the following conditions must be met:

It was established that the appellant meets the conditions for the application of the presidential pardon. The appellant was sentenced on [date] for [crime], a crime that is covered by the aforementioned presidential decree. The sentence was issued before the date specified in the decree, and more than of the sentence had been served before that date. Furthermore, the appellant has fulfilled their financial obligations, as evidenced by the attached receipt. They have also maintained good conduct and have no disciplinary record during their sentence. However, the respondents have categorically refused to release the appellant without providing any justification. Therefore, their refusal to release the appellant constitutes an unlawful negative administrative decision, as it is not based on any valid grounds.

Third Reason: The Decision is Void for Lack of Reason and Absence of Lawfulness:

The Supreme Administrative Court has ruled that the reason for an administrative decision is a factual or legal situation that compels the administration to intervene with the aim of producing a legal effect that is the subject of the decision, in pursuit of the public interest, which is the ultimate goal of the decision.

(Supreme Administrative Court – Appeal 277 of 33 S on 27/2/1993 – Modern Administrative Encyclopedia – 1985/1993 – C 35
- Rule 342 – p. 997)

She also ruled

(The decision must be based on reasons that justify it honestly and truly in reality and in the law as one of the elements of its convening as a legal act, and no legal act is carried out without a reason)

Appeal 3471 for the year 32 S on 29/12/1990 Modern Administrative Encyclopedia – 1985/1993 – Rule 341 – p. 995)

In accordance with the established jurisprudence of the Supreme Administrative Court, it is not sufficient for a reason to merely exist; rather, it must also be consistent with constitutional principles. The scrutiny of the reasons behind a decision requires the administrative judge to examine the factual and legal grounds that led the authority to issue its negative or positive decision.

Since the respondents have thus far failed to provide any reasons or justifications for their refusal to release the appellant, despite the fulfillment of the conditions and criteria stipulated in the constitution, the law, and Presidential Decree No. of the year, the challenged decision is therefore void for lack of a valid reason, necessitating its cancellation.

Fourth Reason: Regarding the Request to Suspend Execution:

It is well-established that the power to suspend the execution of administrative decisions is derived from the power to annul such decisions and is a branch thereof. This power stems from the judicial review exercised by administrative courts based on their ability to distinguish between lawful and unlawful administrative acts. Consequently, the execution of an administrative decision shall not be suspended unless two essential elements are present: firstly, the element of urgency, meaning that the execution of the challenged decision would result in consequences that cannot be remedied, and secondly, the element of legality, meaning that the applicant's claim, on its face, is based on grounds that could justify the annulment of the decision.

All of this is without prejudice to the request for annulment itself, which remains subject to further consideration.

(Supreme Administrative Court in Appeal No. 221of 32 session 26/1/1985)

By applying this, we find that all these conditions are met. As for the element of urgency, the execution of the challenged decision - their complete refusal to release the appellant, despite the fulfillment of the conditions and criteria stipulated in the constitution, the law, and Presidential Decree No. of the year, means that the challenged decision is void for lack of a valid reason, necessitating its cancellation.

Therefore

The appellant requests that the court set the earliest hearing and rule as follows:

Firstly: Accept the appeal in terms of form.

Secondly: As a matter of urgency, suspend the execution of the negative decision by the respondents in their capacity for refusing to pardon them from the remaining portion of the sentence of for which they were convicted, in implementation of Presidential Decree No. of the year, with all the resulting consequences. This judgment shall be executed in draft form without notification.

Thirdly: On the merits, cancel the negative decision by the respondents in their capacity for refusing to pardon them from the remaining portion of the sentence of for which they were convicted, in implementation of Presidential Decree No. of the year, with all the resulting consequences. This judgment shall be executed in draft form without notification.

Attorney for the Appellant

Chapter Eight: Concurrence of Crimes and Cumulative Punishments

Section One: Concurrence of Crimes

Introduction

The general principle is that the commission of multiple crimes by a single individual results in multiple punishments. This principle, known as the concurrence of crimes, requires three elements: a single offender, the commission of several criminal acts, and the absence of a final judgment for one crime before the commission of the next.

In essence, when a person commits multiple offenses without a final judgment for each, they are subject to separate punishments for each offense. However, the Egyptian legal system has introduced the concept of **concurrence of punishments**, which serves as an exception to this general rule.

I. Governing Provisions for Multiple Punishments and Concurrence of Punishments:

Articles 32 to 38 of the Penal Code No. 58 of 1937, as amended, stipulate that:

Article 32 states: "If the same deed forms multiple crimes, the crime with a stricter penalty and the judgement inflicting that penalty shall alone be considered. If several crimes are committed for the same purpose and are so interconnected that they are indivisible, they shall all be considered one crime and a ruling shall be passed inflicting the penalty that is prescribed for the most serious of these crimes."

The basis for applying the second paragraph of Article 32 of the Penal Code is that the crimes must have been part of a single criminal plan, involving multiple acts that complement each other. Collectively, these acts constitute the criminal unit intended by the legislator in the aforementioned provision. In other words, the crimes must have been organized by a single

criminal plan, involving multiple complementary acts and united by a common purpose, thus forming an indivisible criminal unit.¹⁵³

As for the meaning of Article 33, "Freedom-restricting penalties shall be multiple, subject to the restrictions mentioned in Articles 35, 36, and 38 of this law." This means that the penalty of hard labor shall be imposed for the duration of each sentence imposed for a crime committed before the sentence of hard labor. However, if a person commits multiple crimes before being sentenced for one of them, the maximum duration of aggravated imprisonment shall not exceed twenty years, even if there are multiple penalties. The combined duration of imprisonment or imprisonment and hard labor shall not exceed twenty years, and the maximum duration of imprisonment alone shall not exceed six years. Penalties involving police surveillance may be multiple, but their total duration cannot exceed five years.¹⁵⁴

It follows from the foregoing that the application of concurrent punishments is limited to freedom-restricting penalties. The general rule in the execution of criminal penalties is that multiple crimes result in multiple punishments. However, the legislator has made an exception for the penalty of hard labor, stipulating that it overrides any previous custodial sentence. This means that serving one sentence of hard labor is considered sufficient for multiple offenses committed before it. The principle of concurrent punishments is based on the existence of a disparity in penalties, requiring that the penalty to be served concurrently be less severe than hard labor. Consequently, no additional sentence of hard labor is imposed, as it would be inappropriate for an offender to serve a longer, more severe sentence followed by a shorter one. This demonstrates the legislator's intent to limit the cumulative punishment to imprisonment and hard labor, and that hard labor cannot be combined with any other penalty imposed for crimes committed afterwards.¹⁵⁵

According to Article 36, one limitation on the concurrence of punishments is that freedom-restricting penalties cannot exceed certain maximum durations. For example, in some cases, the

¹⁵³ See Criminal Cassation Judgment No. 2236 of 38, session of April 28, 1969

¹⁵⁴ See Articles 32 to 38 of Law No. 58 of 1937, Penal Code as last amended.

¹⁵⁵ See the ruling of the Administrative Court No. 2381 of 57 S issued in the session of October 12, 2004.

maximum is 20 years, while in others, it is 6 years. If a person is convicted of multiple crimes and is sentenced to a combination of temporary hard labor, imprisonment, or both, the total duration cannot exceed 20 years. However, if the person is only sentenced to imprisonment, such as in cases of embezzlement, and the total duration of all sentences exceeds 6 years, only 6 years will be served.

Illustrative Example:

A person is convicted of six cases of embezzlement and is sentenced to a total of eight years. In this case, the principle of concurrence applies, and the person will only serve six years.

For fines, there is no limit on the total amount that can be imposed, as stated in Article 37 of the Penal Code. The convicted person must pay the full amount, regardless of the total. As for police surveillance, Article 38 limits the total duration to five years.

Conditions for Concurrence of Punishments. For the application of the principle of concurrence of punishments, it is required that the accused has committed all of their crimes before being sentenced for any of them, and that the multiple crimes have been committed with a single purpose. Additionally, the multiple crimes must be interconnected in a way that they cannot be considered separate offenses. Even if the crimes are considered materially separate, given that each crime is independent in its elements from the other, they must still be considered a single crime and punished according to the most severe penalty. For the full application of the principle of concurrence of punishments, all of these conditions must be met.

II. Procedures for Submitting a Request for Concurrence of Punishments:

1. **Request Submission:** Printed request forms for concurrence of punishments are available at correctional facilities. These forms need to be filled out and submitted to the highest authority responsible for general correctional facilities, which is the Public Prosecutor. The Public Prosecutor then forwards the request to the correctional facilities to inquire about the case numbers the inmate is involved in, the extent to which the sentence has been served, and the types of cases.

2. **Request Follow-up:** The inmate should follow up on the request within the correctional facility to obtain the information authorized by the Public Prosecutor regarding the inmate's cases.
3. **Forwarding the Request:** The director of the correctional facility then forwards the request to two entities: the Community Protection Sector and the International Cooperation Office at the Public Prosecutor 's Office in El Rehab.
4. **Review and Approval:** The International Cooperation Office copies the memo sent to them, verifies it, and sends it back to the general prosecution. The general prosecution then prepares a memo on all the cases and submits it to the Public Prosecutor for approval. Once approved, the memo is sent back to the International Cooperation Office at the Public Prosecutor's Office in El Rehab. The office then presents the memo to the Public Prosecutor, who issues a decision on the concurrence of punishments for the inmate. The decision is then sent to the correctional facility where the inmate is located.

Section Two: Postponement of the Execution of Criminal Sentences

Introduction

Generally, judgments, including those imposing custodial sentences, are executed immediately upon issuance. However, Egyptian criminal procedure law provides for exceptions regarding the execution of custodial sentences.

I. Definition of Postponement of Execution:

Postponement of the execution of a sentence against an accused, despite the judgment becoming final, occurs due to a temporary circumstance or based on the discretionary power of the court or the competent authority. The judgment is not executed until the reason for the postponement ceases, and then execution resumes.¹⁵⁶

First Case: Postponement of Execution in Cases of Spouses with a Child: Articles 488 and 489 of Law No. 150 of 1950, the Code of Criminal Procedure, regulate the postponement of the execution of a sentence for one of the spouses under specific conditions:¹⁵⁷

1. Both spouses are sentenced to a custodial sentence at the same time, even if for different crimes, and have no previous criminal records.
2. The total duration of the sentences imposed on both of them does not exceed one year.
3. They have a child under the age of fifteen.
4. They have a known place of residence in Egypt.
5. In cases where the execution of the sentence may be postponed, the public prosecution may request the convicted person to provide a guarantee that they will not flee upon the cessation of

¹⁵⁶ Postponement of the Execution of the Sentence in Emirati Law: A Comparative Study, by researchers Mohamed Amin and Alaa Youssef, p. 22, last visited on June 7, 2021, available at:

<https://digitalcommons.aaru.edu.jo/cgi/viewcontent.cgi?article=1030&context=aaujbl>

¹⁵⁷ See Articles 488 and 489 of Law No. 150 of 1950, the Code of Criminal Procedure, as amended.

the reason for the postponement. The prosecution may also impose other precautionary measures to prevent the convicted person from escaping. Postponement of the execution of the sentence is discretionary for the court or the public prosecution, not mandatory. If the judgment does not include a provision for postponement, a request for postponement may be submitted. This request must be submitted before the execution of the sentence begins and must include the following documents:

6. An official copy or a certificate from the court records of the case against both spouses.
7. A copy of the national ID cards of both spouses, along with a copy of the marriage certificate (the original should be attached to the request for inspection).
8. The original birth certificate of the child, and evidence that both spouses have a fixed and known place of residence in Egypt.
9. The criminal record of both spouses.

Request for Postponement of Sentence

To: The General Prosecutor

The Head of the Prosecution/ Public Prosecutor ...

With utmost respect,

Subject

I am writing to request your approval for the postponement of the sentence issued against me in case number ____, dated , **which states, “**”.

The reason for this request is that my spouse was also sentenced in case number ____, dated , **which states, “**”. We have a child who is ____ years old.

In accordance with Article 488 of Law No. 150 of 1950, the Code of Criminal Procedure, which states, “If a husband and wife are sentenced to imprisonment for a term not exceeding one year,

even for different crimes, and have not previously been imprisoned, the execution of the sentence of one of them may be postponed until the other is released. This is if they are responsible for the upbringing of a child under the age of fifteen years, and have a known place of residence in Egypt.”

This request is made to safeguard the best interests of my child, _____, and to ensure their upbringing in accordance with Article 80 of the Egyptian Constitution, which states, “A child is defined as any person under the age of eighteen. Every child has the right to a name and identification papers, free compulsory vaccination, health care and family or alternative care, basic nutrition, safe shelter, religious upbringing, and moral and intellectual development. The state shall guarantee the rights of children with disabilities, and their rehabilitation and integration into society. The state shall be responsible for the care and protection of the child from all forms of violence, abuse, mistreatment, and sexual and commercial exploitation. Every child has the right to early childhood education in a child care center until the age of six, and the employment of a child before completing basic education is prohibited, as is their employment in hazardous work. The state shall also establish a special judicial system for child victims and witnesses. A child shall not be held criminally liable or detained except in accordance with the law and for the period specified therein. Legal aid shall be provided to the child, and their detention shall be in appropriate places separate from those of adults. The state shall work to achieve the best interests of the child in all proceedings taken concerning him or her.”

Furthermore, Article 1 of Law No. 12 of 1996 on Child Law states, “The state shall guarantee the protection of childhood and motherhood, care for children, and work to create the appropriate conditions for their proper upbringing in all aspects within a framework of freedom and human dignity. The state shall also guarantee, as a minimum, the rights of the child as set forth in the Convention on the Rights of the Child and other relevant international conventions in force in Egypt.”

Therefore

I request your approval for the postponement of the sentence issued against me in case number _____, dated _____, **which states**, “”.

Thank you for your kind consideration. Sincerely,

[Your Name]

Attachments: -

"An official copy of the judgment issued against the wife and husband, the birth certificate of the child, the marriage certificate, the criminal status sheet of the spouses, and a copy of the national ID cards of both spouses"

The second case: Postponement of the execution of the sentence for the convicted woman who is pregnant in the sixth month:

Articles 485 and 489 of Law No. 150 of 1950, the Code of Criminal Procedure, regulated the postponement of the execution of the penalty for one of them, according to specific controls and conditions, namely: ¹⁵⁸

1. The convict, who is sentenced to a penalty restricting freedom, must be pregnant in the sixth month.
2. The court or the Public Prosecution may postpone the execution of the sentence until she gives birth and a period of two months has elapsed since the birth.
3. If the competent authority decides to execute her or she appears during the execution of the pregnancy, the law shall oblige her to be treated as a pre-trial detainee until she gives birth and a period of two months has elapsed since the birth.
4. The Public Prosecution may, in cases where it is permissible to postpone the execution of the sentence on the convict, request him to provide a guarantee that he does not flee from execution upon the removal of the reason for the postponement. It may also stipulate for postponing the execution the precautions it deems necessary to prevent the convict from escaping.

Postponing the execution of the sentence is permissible for the court or the public prosecution and is not obligatory. In the event that the sentence issued for postponing the execution is not

¹⁵⁸ See the text of Article 485, 489 of Law No. 150 of 1950, the Code of Criminal Procedure, as last amended.

included, a request to postpone the execution of the sentence may be submitted, provided that the request is submitted before the execution of the sentence begins.

Request for Postponement of Sentence

To: The Attorney General

The Head of the Prosecution/ Public Prosecutor ...

With utmost respect,

Subject

I am writing to request your approval for the postponement of the sentence issued against me in case number _____, dated , **which states, “**”.

The reason for this request is that I am six months pregnant and request a postponement of the sentence until after I give birth. This is in accordance with the first paragraph of Article 485 of Law No. 150 of 1950, the Code of Criminal Procedure, which states, “If a female convict is pregnant in the sixth month of pregnancy, the execution of the sentence may be postponed until she gives birth and two months have passed since the birth.”

This request is made out of concern for my health during pregnancy as I am suffering from [Please specify the medical condition according to a medical report written in Arabic].

Therefore

I request your approval for the postponement of the sentence issued against me in case number _____, dated , **which states, “**”.

Thank you for your kind consideration. Sincerely, [Your Name]

Attachments: Please attach a medical report in Arabic detailing the convict’s medical condition.

Chapter Nine: The right to exercise political rights

Introduction

The right to nominate and be elected is a fundamental constitutional right that is indispensable to democracy. Without this right, people cannot aspire to democratic governance. This right is superseded only by the freedom of belief, and it is closely linked to the freedom of opinion; the two are inseparable. Consequently, the constitutions of developed nations have elevated this right and provided robust protections to ensure its fulfilment. Moreover, many constitutions have elevated it to the status of a constitutional duty, making it obligatory for every citizen who enjoys this right.

Egyptian constitutions, including the current Constitutional Declaration and Law No. 45 of 2014 on the Exercise of Political Rights (as amended), have followed this trend. This law mandates that every Egyptian citizen aged eighteen or older must personally exercise their right to express their opinion. The law also explicitly outlines the limited circumstances under which individuals may be deprived of political rights. All other citizens are legally obligated to participate in any elections held by the Egyptian state. This ensures that elected representative bodies accurately reflect the views of the entire population, encompassing diverse political affiliations, social backgrounds, and cultural perspectives.¹⁵⁹

1. The Right to Exercise Political Rights in International Covenants and in the Egyptian Constitution and Law:

A. The Right to Exercise Political Rights in the International Covenant on Civil and Political Rights:

Article 25 of the Covenant stipulates that "every citizen shall have the right, without discrimination, to take part in the conduct of public affairs and to vote and be elected at genuine

¹⁵⁹ Reasons for the ruling in favor of Alaa Abdel Fattah to enable him to vote in the elections, available through the website of the Egyptian Center for Economic and Social Rights, last visited July 25, 2021, available through the following link: <https://ecesar.org/%D8%A7%D9%84%D8%>

periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors."¹⁶⁰

B. The Right to Exercise Political Rights in the Constitution:

Article 87 of the Egyptian Constitution states, "Citizen participation in public life is a national duty. Every citizen has the right to vote, to stand for election, and to express their opinion in a referendum. The law shall regulate the exercise of these rights. Exemption from performing this duty may be granted in specific cases as determined by law. The state is obligated to include the name of every citizen in the voter database without a request from them, provided that they meet the requirements of a voter. The state is also obligated to periodically purify this database according to the law. The state shall ensure the safety, impartiality, and integrity of the procedures for referendums and elections..."¹⁶¹

C. The Right to Exercise Political Rights in Egyptian Law:

The procedures and conditions for exercising political rights are regulated by Law No. 45 of 2014 on the Regulation of the Exercise of Political Rights, as amended.¹⁶²

Article 1 of this law states, "Every Egyptian man and woman who has reached the age of eighteen must personally exercise the following political rights: First, the right to express their opinion in any referendum stipulated by the constitution. Second, to elect the President of the Republic, members of the House of Representatives, members of the Senate, and members of local councils. Officers and members of the armed forces, and officers and members of the police force are exempt from performing this duty for the duration of their service."¹⁶³

Article 2 defines the categories of individuals temporarily prohibited from exercising these rights:

¹⁶⁰ Text of Article 25 of the International Covenant on Civil and Political Rights

¹⁶¹ Article 87 of the Egyptian Constitution.

¹⁶² Articles 1 and 2 of Law No. 45 of 2014 on the Regulation of the Exercise of Political Rights.

¹⁶³ Article 1 of Law No. 92 of 2015 amending some provisions of the Law on the Regulation of the Exercise of Political Rights.

The first category includes those who have been issued a final judgment for tax evasion, those who have been issued a final judgment specified in Law No. 344 of 1952 concerning the corruption of political life, those convicted of felonies, those whose assets have been confiscated pursuant to a court judgment, and those sentenced to imprisonment for certain specified crimes, as well as those who have been dismissed from government or public sector employment for reasons that are dishonorable. The disqualification lasts for six years in some cases from the date of execution of the sentence, and in other cases from the date of the judgment. The disqualification does not apply if the person's honor is restored or the execution of the sentence is suspended by a court order.¹⁶⁴

The second category includes those who are permanently prohibited from exercising political rights: those under guardianship, those suffering from mental illnesses, and those declared bankrupt, all in accordance with the conditions specified in the law.

2. Legal Procedures to be Followed in Case of Preventing Detainees Entitled to Exercise Their Political Rights from Doing So

The exercise of political rights is a duty incumbent upon every citizen, as long as they do not belong to the aforementioned categories that are exempt, prohibited, or suspended. They have an unquestionable constitutional right to exercise this duty. A person in pretrial detention or who has been issued a non-final imprisonment sentence can still participate in political life and perform their electoral duty. Preventing them from participating constitutes an unauthorized punishment and constitutes a crime committed by the administrative authority that prevents the exercise of this right. This crime involves obstructing a citizen from exercising a duty mandated by the constitution and regulated by law.

They have the right to submit a request to the administration of the correctional facility or the place of detention to exercise this right, whether it is their right to run for election or their right to vote. In the event of no response or refusal, a warning should be issued to the Minister of the Interior and others requesting to enable them to perform this right.

¹⁶⁴ Article 1 of Law No. 92 of 2015 amending some provisions of the Law on the Regulation of the Exercise of Political Rights.

Notice From

On this day, [date], corresponding to [date], in response to the request of Mr./Ms. [name], residing at [address], [governorate], and whose legal representative is the law firm of [law firm name],

I, the bailiff of the [court name] court, have gone to and served the following parties:

Mr./Ms. [name], Minister of the Interior, in his official capacity, at his office at the Ministry of the Interior building. Mr./Ms. [name], Public Prosecutor, in his official capacity, at his office at the Public Prosecutor's Office. Mr./Ms. [name], Head of the Community Protection Sector, in his official capacity, at his office at the Community Protection Sector building. Mr./Ms. [name], Director of [Correctional Facility], in his official capacity, at his office at [Correctional Facility].

And I have notified them of the following:

The notified party is currently in pretrial detention at [Correctional Facility] on case number [case number] of [year], since [date]. On [date], the notified party submitted a request to the fourth notified party in his official capacity to enable them to cast their vote in the [election name] elections, which will be held on [date] according to their electoral district in [governorate], [district], and according to their number on the voter list number () at the [school name] sub-committee located at [address], and which will be held on [date] with a possible rerun on [date]. However, on [date], the administration of the correctional facility refused their request to exercise their right to vote in the elections. The notified party has attempted to understand the reasons that prompted the correctional facility administration to refuse and disregard the guarantees provided by the law and the constitution, but the administrative authority represented by the correctional facility administration has not provided a clear answer as to the reason for the refusal, and without any legal basis.

This has prompted them to issue this notice requesting to be enabled to cast their vote in the [election name] elections, which will be held on [date] according to their electoral district in [governorate], [district], and according to their number on the voter list number () at the [school name] sub-committee located at [address], and which will be held on [date] with a possible rerun on [date], and obliging them to disclose the reasons for the refusal by the fourth notified party in his official capacity.

Since preventing the notified parties in their capacity from exercising the notified party's political rights is in violation of the provisions of the Egyptian Constitution, specifically Article 87, which states: "Citizen participation in public life is a national duty. Every citizen has the right to vote, to stand for election, and to express their opinion in a referendum..." and Article 96, which states: "An accused person shall be presumed innocent until proven guilty in a fair trial in which he is guaranteed the right to defend himself...", and is also in violation of Law No. 45 of 2014 on the Regulation of the Exercise of Political Rights, as amended. Article 1 of this law states, "Every Egyptian man and woman who has reached the age of eighteen must personally exercise the following political rights: First, the right to express their opinion in any referendum stipulated by the constitution. Second, to elect the President of the Republic..." and Article 2 specifies the categories of individuals prohibited from exercising these rights, which do not include persons in pretrial detention.

Therefore

The notified party is directing this notice to the notified parties in their capacity to: Enable them to cast their vote in the [election name] elections, which will be held on [date] according to their electoral district in [governorate], [district], and according to their number on the voter list number () at the [school name] sub-committee located at [address], and which will be held on [date] with a possible rerun on [date], and obliging them to disclose the reasons for the refusal by the fourth notified party in his official capacity.

Accordingly

I, the aforementioned bailiff, have gone to the notified parties in their capacity and served them a copy of this notice, informing them of its contents and notifying them of the need to enable the notified party to cast their vote in the [election name] elections, which will be held on [date] according to their electoral district in [governorate], [district], and according to their number on the voter list number () at the [school name] sub-committee located at [address], and which will be held on [date] with a possible rerun on [date], and obliging them to disclose the reasons for the refusal by the fourth notified party in his official capacity, within ten days of receiving this notice, otherwise, the notified party will be forced to take all necessary legal measures.

This is without prejudice to any other rights of the notified party.

For your information.

If the notified parties in their capacity do not respond to the notice within the specified timeframe after receiving it, a lawsuit must be filed before the Administrative Court.

Petition Form

To: The Honorable Counselor/Vice President of the State Council (President of the Administrative Judiciary Court)

With due respect,

From: [Your Name] - residing at [address], and whose legal representative is the law firm of [law firm name], lawyers at the Court of Appeal and the State Council, located at [address].

Against

The Minister of the Interior, in his official capacity. The Public Prosecutor, in his official capacity. The Head of the Community Protection Sector, in his official capacity. The Director of [Correctional Facility], in his official capacity.

Subject

The appellant is currently in pretrial detention at [Correctional Facility] on case number [case number] of [year], since [date]. On [date], the appellant submitted a request to the fourth respondent in his official capacity to enable them to cast their vote in the [election name] elections, which will be held on [date] according to their electoral district in [governorate], [district], and according to their number on the voter list number () at the [school name] sub-committee located at [address], and which will be held on [date] with a possible rerun on [date]. However, on [date], the administration of the correctional facility refused their request to exercise their right to vote in the elections. The appellant has attempted to understand the reasons that prompted the correctional facility administration to refuse and disregard the guarantees provided by the law and the constitution, but the administrative authority represented by the correctional facility administration has not provided a clear answer as to the reason for the refusal, and without any legal basis.

This has prompted them to issue a notice number [notice number] dated [date], requesting to be enabled to cast their vote in the [election name] elections, which will be held on [date] according to their electoral district in [governorate], [district], and according to their number on the voter list number () at the [school name] sub-committee located at [address], and which will be held on [date] with a possible rerun on [date], and obliging them to disclose the reasons for the refusal by the fourth respondent in his official capacity.

Since preventing the respondents in their capacity from exercising the appellant's political rights is in violation of the provisions of the Egyptian Constitution, therefore, the appellant challenges this for the following reasons:

Grounds for the Appeal:

First Reason: The existence of an administrative decision by the respondents in their capacity to prevent the appellant from casting their vote in the [election name] elections:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

Since the right to nominate and vote is one of the most important constitutional rights to which democracy – to which the peoples aspire – is based only, and it is a right that is not surpassed by any other right except freedom of belief, and it is freedom of opinion. They do not differ and are one and indivisible. Therefore, all the constitutions of the developed world have elevated it and provided it with the necessary protection to fulfill it. It even elevated it to the rank of a constitutional duty that represents the imposition of the eye on every citizen who enjoys this right, and it is the same path taken by the Egyptian constitutions - ending with the current constitutional declaration - and then the Law on the Exercise of Political Rights No. 45 of 2014. Article 1 stipulates that "every Egyptian man and woman who has reached the age of eighteen Gregorian years must personally exercise the following political rights: - First - The right to express an opinion in every referendum stipulated in the Constitution.

2. Election of the President of the Republic, members of the House of Representatives, members of the Senate, and members of local councils. Officers and members of the armed forces, and officers and members of the police force for the duration of their service shall be exempted from this duty.

Despite the fact that the appellant issued a warning by requesting to be able to cast his vote in the elections..... which will take place on..... according to his electoral home in the governorate .. Circle... According to his number in the voter rolls No. () in the sub-committee of the school Its headquarters, which will be held on // and the return on / /, and obligating it to disclose the reasons that push the fourth respondent in his capacity as a banner, but the appellees in their capacity have remained silent to confirm the availability of the negative decision that may be challenged, so this appeal is acceptable in form for the availability of the negative administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides

fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the appellant against them in their capacity as preventing the appellant from his right to vote, represents a serious violation of the provisions of the Egyptian Constitution, and an explicit attack on the rights established by the provisions of the Constitution.

Article (87) of the Constitution stipulates that: " Participation of citizens in the public life is a national duty. Every citizen shall have the right to vote, run for elections, and express his/her opinion in referendums. The Law shall regulate the exercise of these rights. There may be exemption from the performance of this duty in certain cases to be specified by Law. The State shall be responsible for entering the name of each citizen in the voters database without request therefrom provided he/she satisfies the conditions for voting. The State shall also purge this database on a periodic basis in pursuance of the Law. The State shall guarantee the safety, neutrality and integrity of referendum and election procedures...."

Article 96 also stipulates that " The accused person is presumed innocent until proven guilty in a fair legal trial in which the right to defend himself is guaranteed. The law shall regulate the appeal of judgments passed on felonies. The State shall provide protection to victims, witnesses, accused and informants as necessary and in accordance with the Law.

Given that the appellees prevented the appellant from casting their vote in the elections scheduled for..., despite the appellant's warning demanding the ability to cast their vote in the elections scheduled for... at their electoral domicile in the governorate of... district..., according to their voter registration number () at the sub-committee of the school located at..., and obliging them to disclose the reasons that prompted the fourth respondent in their capacity to prevent them, it follows that they have violated the constitution, rendering the appealed decision null and void and necessitating its cancellation.

The third reason: Violation of the appealed decision by the law and the obligations of the Arab Republic of Egypt guaranteed by the Egyptian Constitution:

Whereas the Egyptian Constitution has recognized international conventions and placed them on the level of national legislation. It also stipulates that the State shall abide by all international conventions it signs. Article 93 of the Constitution stipulates that: "The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."

Article 25 of the International Covenant on Civil and Political Rights states: "Every citizen shall have, without any of the distinctions mentioned in article 2, the following rights, which he shall have the opportunity to enjoy without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives.

(b) To elect and to be elected, in genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors,

As for the law, Article 1 of Law No. 45 of 2014 stipulates the law regulating the conduct of political life in accordance with its latest amendments, "Every Egyptian man and woman who has reached eighteen Gregorian years shall personally exercise the following political rights: - First -The right to express an opinion in every referendum stipulated in the Constitution.

2. Election of the President of the Republic, members of the House of Representatives, members of the Senate and members of local councils. Officers and members of the armed forces and officers and members of the police force for the duration of their service shall be exempt from this duty."

Article 2 also defined the categories temporarily deprived of the performance of this duty, namely: -

The first category: Those against whom a final judgment has been issued for committing the crime of tax evasion, or those against whom a final judgment has been issued stipulated in Law No. 344 of 1952 regarding the corruption of political life, or those convicted of a felony, and those whose funds have been confiscated under a judgment from the Court of Values, and those sentenced to imprisonment for some specific crimes exclusively, as well as those who have previously been dismissed from their work in the state or the public sector for reasons that violate honor.

The deprivation shall be for a period of six years in some cases from the date of execution of the sentence, and in other cases from the date of issuance of the judgment. The deprivation shall not apply if the person is rehabilitated or the sentence is suspended by a judicial ruling.

As for the second category, they are arrested from the exercise of political rights in general: they are the interdicted, the mentally ill and those who have been declared bankrupt, all in accordance with the conditions prescribed by the text.

From the above, it is clear that the performance of the exercise of political rights is a duty of every citizen, as long as he is not one of the aforementioned exempted, disadvantaged or suspended categories, and he has the constitutional right - undisputedly - to exercise this duty. The pretrial detainee and the person against whom a prison sentence is issued is not final can participate in participating in political life and performing the electoral duty, and he is not entitled to be prevented from participating, otherwise he is considered a penalty that is not provided for in the law, and in a manner that the administrative authority preventing the exercise of this right commits an offence and commits a crime punishable by law, which is to prevent the citizen from carrying out a duty entrusted to him by the Constitution and his legal systems.

Whereas this was the case, and it was also decided that the principle in man is innocence, and the rule is that every soul was created on instinct, from which the fundamentalist rule legislated that there is no crime except by law or punishment except by law and based on a judgment issued by a court legally competent to issue it after a fair trial in which the accused is informed of the charge against him and is able to defend himself.

Whereas, pretrial detention in accordance with the provisions of the Code of Criminal Procedure does not override the presumed innocence of the person detained on remand, and that it is a precautionary measure initiated in the interest of the criminal investigation in preparation for taking the decision -after the end of the investigations - either to refer him to criminal trial because the investigation authority decided that the elements of the charge against him should be verified, or to release him because of the absence of the obligations of pretrial detention.

Whereas, the presence of a person held in pretrial detention is not an impediment to enabling him to start the performance of the electoral duty, as it is not -once he is held in pretrial detention from the aforementioned categories -exempted, deprived or arrested, and he has the constitutional right - undisputedly - to exercise this duty, otherwise pretrial detention for him is a punishment that is not stipulated in the law, and in a manner that the administrative authority commits an offence and commits a crime punishable by law, which is to prevent the citizen from exercising a duty entrusted to him by the Constitution and its legal systems, in addition to the fact that exercising the right to vote is not in any way inconsistent with the obligations of pretrial detention.

Whereas the Appellee refrained from enabling the Appellant to cast his vote in the elections..... Which will take place on....., contrary to what the provisions of international charters and covenants and the law impose on it, which requires its abolition.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has so far not provided reasons or justifications for their refusal to enable the Appellant to cast his vote in the elections..... Which will take place on..... They prevented the appellant from casting his vote in the elections..... Which will take place on....., and therefore the contested decision is absent for its reason, which requires its cancellation.

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

Applying this, we find that all these conditions are met, as it is about the matter of urgency, the implementation of the contested decision, their refusal to enable the appellant to cast his vote in the elections..... Which will take place on..... They prevented the appellant from casting his vote in the elections..... Which will take place on....., and the reasons for the appeal suggest the issuance of a ruling to cancel this decision, so the reasons for suspension of execution are available in this appeal.

Accordingly

The appellant seeks to determine the nearest hearing and judgment:

First: - By accepting the appeal in form.

Second: -As a matter of urgency to stop the implementation of the negative decision by the abstention of the appellant against them, enabling the appellant to cast his vote in the elections..... Which will take place on..... according to his electoral home in the governorate ofCircle..... According to his number in the voter rolls No. () in the sub-committee of the school Its headquarters, which will be held on / / and the return on / /, with the consequences of this, the most important of which is to enable him to cast his vote in the elections from any prison in which he is located, with the effects of this on the execution of the judgment with its draft and without announcement.

Third: On the subject of canceling the negative decision by the abstaining of the Appellee, enabling the Appellant to cast his vote in the elections..... Which will take place on..... according to his electoral home in the governorate ofCircle..... According to his number in the voter rolls No. () in the sub-committee of the school Its headquarters, which will be held on / / and the return on / /, with the consequences of this, the most important of which is to enable him to cast his vote in the elections from any prison in which he is located, with the effects of this on the execution of the judgment with its draft and without announcement.

Appellant's attorney

Chapter Ten: Rights of the Employee or Worker in Preventive Detention, Or a non-final judgment or simple imprisonment was issued against him

Introduction

Imprisonment is a coercive circumstance that prevents the employee or the worker from working. Imprisonment is a condition between the employee or the worker and the continuation of his work. Law 81 of 2016 regulates the civil service the controls and procedures to be taken towards the employee in the event of his imprisonment. Law No. 12 of 2003 Labor Law regulates these controls and procedures in the event of imprisoning the worker in a private company.

First: For civil servants

The procedures to be taken by the government employee if he is detained on remand or in implementation of a criminal sentence were regulated in accordance with the Civil Service Law No. 81 of 2016, in the provisions of Articles 64, 65 and 69, which stated: ¹⁶⁵

1- Every employee who is detained on remand or in implementation of a criminal judgment shall be suspended from his work for the duration of the imprisonment. The administration may not terminate his service throughout the period of imprisonment in accordance with the provisions of the interruption of work, if the authority learns of the pretrial detention or that the employee is imprisoned by a judgment, but it is not final. "Here, the eligibility must extract a certificate from the court schedule of what was done in the case under the custody of the employee and officially hand it over to the competent employee in his workplace, or the eligibility must inform the employer and extract an official letter from the employer addressed

¹⁶⁵ See the provisions of Articles 64, 65 and 69 of the Civil Service Law No. 81 of 2016.

to the competent prosecution in the case and respond to the letter officially and marked with the slogan of the Republic from the prosecution of the employee's position in the case and the last thing done."

2-The employee shall be deprived of half of his wage if the detention is on remand or in implementation of a non-final criminal judgment. "The final judgment is the presence judgment issued by the Appellant Misdemeanor Court, or the presence judgment issued by the Criminal Court." Half of the wage shall be determined on the basic wage, including the periodic, social and special allowances included and not included, according to the fatwa issued by the Fatwa and Legislation Section of the State Council, Fatwa No. 810 of 2017.¹⁶⁶

3-The case of suspension from work shall continue with the payment of half of the wage, until the employee returns to work or the issuance of a final criminal judgment, and in the event of a final judgment against him, he shall be deprived of his full wage.

4- In the event that a final criminal judgment is issued for a felony or misdemeanor that "violates honor or honesty or affects his consideration in his job," his service shall be terminated, in accordance with the tenth paragraph of the text of Article 69 of the aforementioned Law, "If the criminal judgment is issued with a fine, the termination of the service shall not apply to him."

5- If the operative part of the final criminal judgment issued against him does not stipulate the termination of his service, his order shall be submitted upon his return to work to the competent authority to decide what shall be followed regarding his disciplinary responsibility.

6-The employee referred to the criminal trial shall not be promoted, and his job shall be reserved. If he is acquitted, he shall be promoted as of the date on which the promotion would have taken place had he not been referred to the trial. The wage of the job to which he was promoted shall be granted from this date. In all cases, the employee's promotion may not be delayed for more than two years.

¹⁶⁶ Fatwa No. 810 of 2017 issued on April 29, 2017, via the Legal Publications website, last visited June 4, 2021, available at the following link: <https://manshurat.org/node/25561>

7- As for the case of the employee who was released or who was acquitted or fined for half of the wage he was deprived of during the period of his suspension from work, the General Assembly of the Fatwa and Legislation Divisions of the State Council indicated that the employee was not entitled to pay half of the remaining wage during the period of his suspension.¹⁶⁷

- What are the legal procedures to be followed in the event that the management authority dismisses the employee:

Sometimes the management body dismisses the employee because of his interruption of work, and this often happens if the employee is accused in a case of a political nature, most of the time subjected to enforced disappearance for a period of time that varies from person to person before being presented to the prosecution, so what are the legal procedures that must be followed in this case??

- ❖ As previously mentioned, the first step for the detainee's family is to obtain a certificate from the court's records regarding the case for which the detainee is being held. This certificate should be officially delivered to the relevant employee at the detainee's workplace. Alternatively, the family can inform the workplace and have the workplace issue an official letter addressed to the public prosecution office responsible for the case. The public prosecution office should then respond to the letter in an official manner, stamped with the state emblem, indicating the employee's status in the case and the latest developments. In addition to this, an official copy of the telegrams confirming the detainee's arrest and its date should be provided, as well as official copies of any reports or statements that also confirm the arrest. If a lawsuit is filed with the administrative court requesting disclosure of the detainee's location, it is preferable to provide an official copy of the lawsuit and the judgment, if issued.
- ❖ If a decision is issued to terminate the employee's service by the administrative authority in violation of the law, the employee must appeal the decision to the administrative authority that issued it – if it has the authority to revoke or reverse it – or to the presidential bodies, if they have the authority to do so. From our perspective, it is advisable to submit the appeal by

¹⁶⁷ Fatwa No. 821 of 2019 issued on 29 May 2019, via the Legal Publications website, last visited 4 June 2021, available at the following link: <https://manshurat.org/node/66374>

registered mail with acknowledgment of receipt, and it is also recommended to file a statement of fact at the police station.

Grievance Form: -

Mr./ "Head of the Administrative Authority"

Greetings, Appreciation and Respect

Submitted to you/ and I work as.....

I have the honor to present the following

Subject

On // , I was arrested and charged in case No. for the year , and on// , the court acquitted me of the accusation against me " or a decision was issued to release me. Attached to the application is a certificate from the court's schedule in which.....

But I was surprised by the date..... Decision No. For the year From the Department of..... "Content of Termination Decision".

Whereas, the reasons on which the decision to terminate my service was based are contrary to the reality of reality and the law, as Article 64 of Law No. 81 of 2016 stipulated that civil servants in the state

"Every employee who is detained provisionally or in execution of a criminal judgment shall be suspended from his work, by force of law, for the period of his imprisonment, and shall be deprived of half his wage if the detention is provisional or in execution of a non-final criminal judgment, and shall be deprived of his full wage if the imprisonment is in execution of a final criminal judgment.

If the criminal judgment does not terminate the employee's service, his order upon his return to work shall be submitted to the competent authority to decide on his disciplinary responsibility."

Also, the authority that issued the decision did not see the documents submitted by me, which are.....

Therefore

I request you to reconsider and rescind this decision, with all its implications,

Yours faithfully,

Filing a Lawsuit of the Council of State in the event of a decision to terminate the service based on the absence from work

Counselor/ Vice President of the State Council and President of the Court of Administrative Justice

Greetings, appreciation, respect and dimension.....

Submitted to you/and his chosen place, the Office of Professors/

Against

1)

We are honored to offer the following

Subject

The student works in a job..... A year ago..., on // , I was arrested and charged in case No. For the year , and on // , the court ruled to acquit me of the accusation against me " or a decision was issued to release me. Attached to the application is a certificate from the court's schedule in which.....

However, he was surprised by the issuance of a decision from.....“ The first respondent in his capacity as ” bears a number for the year, which states: “The operative part of the decision.”

Whereas, it is established from the appearance of the papers, which is the alleged reason for terminating the student's service, and without being subjected to the original cancellation request, that the student stopped working without permission as of //and then continued to be interrupted from work, he is reluctant to work, and the management authority terminated his service in accordance with the fifth paragraph of Article 69 of Law No. 81 of 2016 Civil

servants in the state, which stipulated that "the employee's service ends for one of the following reasons: 5-The interruption of work without permission for fifteen consecutive days unless he submits during the following fifteen days proof that the interruption was with an acceptable excuse."

Therefore, his service is considered as apparently terminated from the date of interruption according to this text, but the administration had to examine the documents submitted by the appellant and take down the validity of the law on them, as the appellant submitted an attached request "The original of the telegraph registered with the receipt of the Minister of Interior is registered with a number on the date as well as the telegraph registered with the receipt of the Public Prosecutor is registered with a number on the date , as well as a certificate issued by a prosecution with the date of investigation with the appellant and the date of release.

Whereas, it is established from the attached documents that the appellant was throughout the period of absence in pretrial detention, and imprisonment is considered a coercive circumstance that prevents him from working in it, as the imprisonment prevented him from continuing his work.

Whereas what was issued by the administration does not coincide with the true reality and was contrary to what was stipulated in the law in the text of Article 64 of Law No. 81 of 2016 of civil servants in the state, which stipulates that "Every employee who is detained on remand or in implementation of a criminal sentence is suspended from his work, by force of law for the period of his imprisonment, and is deprived of half his wage if the detention is on remand or in implementation of a non-final criminal sentence, and is deprived of all his wages if the imprisonment is in implementation of a final criminal sentence.

If the criminal judgment does not terminate the employee's service, his order upon his return to work shall be submitted to the competent authority to decide on his disciplinary responsibility. "

By dropping the text of the aforementioned article on the correctness of the incident, the administration authority should have stopped the appellant from his work with the payment of half the wage, and it was not proven from the papers that the appellant was cut off from his will, which means that the decision to terminate his service is illegal and requires

cancellation, and that the decision also results in damage to the student, which is to terminate his service and deprive him of his salary.

This forced the appellant to file a grievance with a number for a year in which he complained about the decision to terminate his service, but on / /the committee decided to reject the request.

Therefore, the student is appealing this decision for the following reasons

Grounds for appeal

First : Regarding the availability of the administrative decision:

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment.

Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

Whereas, by reviewing the facts subject to the present appeal, it is clear that the negative decision to refrain from returning to work is available, all in violation of the law, so this appeal is acceptable in form due to the availability of the negative administrative decision.

Second: - Lack of legitimacy of the contested decision for lack of reason and violation of the provisions of Law No. 81 of 2016 for civil servants in the state:

Whereas the principle is that any administrative decision must be based on a valid existing reason, the reason for the administrative decision is the materially existing and constitutionally legitimate factual or legal situation that justifies its issuance.

The rulings of the administrative judiciary have established that it is not enough for the reason to exist only, but that it is required to be consistent with constitutional principles, and that the control of the reasons for the decision requires the administrative judge to examine the substantive grounds and motives that led the authority to issue its negative or positive decision.

The Supreme Administrative Court ruled on this

The reason for the administrative decision is a factual or legal situation that leads the administration to intervene with the intention of creating a legal effect that is the subject of the decision in order to achieve the public interest, which is the goal of the decision

(Supreme Administrative Court – Appeal 277 of 33 S on 27/2/1993 – Modern Administrative Encyclopedia – 1985/1993 - C 35 – Rule 342 – p. 997)

She also ruled

(The decision must be based on reasons that justify it honestly and truly in reality and in the law as one of the elements of its convening as a legal act, and no legal act is carried out without a reason)

(Appeal 3471 for the year 32 S on 29/12/1990 Modern Administrative Encyclopedia – 1985/1993 – Rule 341 – p. 995)

Whereas, according to the expectations of the aforementioned appeal “the facts”, it is clear that it has not been proven that the appellant stopped working at his will, but that the appellant was throughout the period of absence in pretrial detention, and imprisonment is a compelling circumstance that prevents him from work, as the imprisonment prevented him from continuing his work, and therefore the decision to terminate his service issued by the administration, there is no basis in Law No. 81 of 2016 or in its executive regulations, and therefore the contested decision has been issued without its reason and contrary to the provisions of the law, which causes the contested decision to be null and void, which requires its cancellation .

Third: The nullity of the contested decision because it is tainted by the defect of abuse of power and deviation from it regarding the purpose of the decision:

Whereas the Supreme Administrative Court has held that the abuse or deviation of authority is an intentional defect in administrative behavior and consists of the administration having the intention of abusing or deviating from authority, the defect of abuse of authority justified by the cancellation of the administrative decision or compensation for it must be tainted by the same purpose that the management body has failed in the public interest that the decision must change)

(Judgment of the Supreme Administrative Court in Appeal No. 302 of 43 BC. Supreme Court hearing on 16/1/1999 and in the same sense its judgment in Appeal No. 3666 of 41 BC. Supreme Court hearing on 30/1/1999)

With regard to the means of proving the existence of the defect of deviation and abuse of authority, the Supreme Administrative Court stated that the decisions of the administrative authority must be based on a legitimate reason, and by any abuse of authority and achieved in the public interest, otherwise it is worth canceling, and that although this defect is an intentional defect that must be proven, there is no rebuke to the court if it invokes facts established in the papers that reveal a serious presumption that the administrative authority has abused its authority.

(Judgement of the Supreme Administrative Court issued at the hearing of 7/12/1985 in Appeal No. 680 of the 31st Judicial Year)

Whereas the Authority is bound without stipulation to aim by its decisions at a legitimate goal or purpose, which is the public interest, the protection of rights and freedoms, and the application of the rule of law and the Constitution, and consequently all its decisions are aimed at achieving that purpose.

The Administrative Court has ruled that

" Abuse of power is the use of the law with the intention of breaking the law. In this way, abuse of power is a deliberate violation of the law while pretending to respect it. It is a deliberate violation of the law itself and its objectives."

(Judgement of the Administrative Court on 7/6/1949, Group of Year 3, p. 93)

Applying this to the contested decision, it is clear that it brought a great deal of intransigence and arbitrariness before the appellant and represents an infringement of his rights without a basis from the law and reality, and all this confirms the extent of intransigence and arbitrariness against the appellant, which represents an abuse of power from the administrative authority, which causes the contested decision to be null and void, which requires its cancellation.

And in the request for urgent cleft

Article 49 of Decree-Law No. 47 of 1972 on the Council of State stipulates that:

"The submission of the request to the court does not result in the suspension of the implementation of the decision to be canceled, provided that the court may order the suspension of its implementation if it is requested to do so in the statement of claim and the court considers that the results of the implementation may be irreparable."

Accordingly, the following two conditions are required to suspend the implementation of the contested decision:

- 1- The appellant shall explicitly request a stay of execution of the decision in the appeal statement. The request for a stay of execution, which is presented in an independent statement, shall not be accepted. The statement of claim must include two requests: an urgent request to temporarily suspend the implementation of the contested decision until the subject matter of the appeal is decided, and a substantive request to cancel the contested decision.
- 2- The implementation of the decision shall have irreversible consequences, which was expressed by the Supreme Administrative Court as the "element of urgency", and the Court of Administrative Justice is the one that assesses whether the implementation of the decision has irreversible consequences or not.

To stop the implementation of the contested decision, the claim of the applicant must be based, prima facie, on serious reasons that are likely to cancel the contested decision.

In this regard, the Supreme Administrative Court ruled that:

“The jurisdiction of this court has been based on the fact that the authority to suspend the implementation of administrative decisions is derived from the cancellation authority and a branch thereof, due to the legal control exercised by the administrative judiciary over the decision on the basis of its weight in the balance of the law, a weight given to the principle of legality. The administrative judiciary must not suspend an administrative decision unless it finds – according to what appears from the papers and without prejudice to the origin of the cancellation request when deciding on it – that the request for suspension of execution is based on two elements: First, the urgency that the implementation of the decision had consequences

It is impossible to rectify it, and the second relates to the principle of legality that the claim of the student in this regard is apparently based on serious reasons, and both elements of the legal limits that limit the authority of the administrative judiciary and are subject to the control of the Supreme Court.

(In Appeal No. 2 of 20 s “Supreme Administrative” Session 25/1/1975 and Appeal No. 1235 of 18 judicial year “Supreme Administrative” – Session 15/2/1975).

As for the request to suspend the implementation of the contested decision, the judiciary of the Council of State has repeated its provisions, provided that it requires the availability of two indispensable elements for the other to rule on the suspension of the implementation pursuant to the text of Article 49 of the Council of State Law promulgated by Law No. 47 of 1972 and its amendments. The first relates to the legality or seriousness that the contested decision is prima facie invalid and likely to be canceled. The other relates to the urgency that the court assesses that the results of the implementation of the decision may be irreparable if it is canceled.

Whereas, the administrative authority represented by the contested against them has refused to enable the appellant to return to its work again, as well as the disbursement of the appellant's financial dues, which were estimated at an amount of Egyptian pounds (only one thousand Egyptian pounds) without a legal basis, which constitutes an administrative decision that may be appealed before the administrative judiciary.

Whereas, the urgency corner is also available in the appellant's request for the management authority not to issue their decision to enable the appellant to return to its work again and pay its financial dues, which resulted in irreversible results if the appeal decision was canceled.

Whereas, the request for suspension of execution has been based on its two pillars, which require – and this is the case – the judiciary to suspend the implementation of the contested decision and the consequent effects, especially enabling the appellant to return to his work, as well as the payment of his financial dues for the period / /until// estimated at (EGP) only

Therefore

The appellant seeks to determine the nearest hearing for the judgment.

First: By accepting the appeal in form.

Second: In the urgent part, to suspend the implementation of the administrative decision issued by the appellee to terminate the service of the appellant, his return to his work, and the payment of his salary with the consequent effects, provided that this judgment is implemented with his draft and without announcement.

Third:- On the subject, the administrative decision issued by the appellee to terminate the service of the appellant, his return to work, and the payment of his salary with the consequent effects shall be canceled, provided that this judgment is implemented with its draft and without announcement.

While preserving all other legal rights of the student.

Yours faithfully,

Appellant's Attorney

Lawyer

Second: For employees of private companies subject to the Labor Law: -

The procedures to be taken before the worker if he is detained on remand or in implementation of a criminal sentence were regulated in accordance with the Labor Law No. 12 of 2003, in the provisions of Articles 67, 68, 69, 70 and 71, which stated: - ¹⁶⁸

- 1- Every worker who has been accused of committing a felony or committing a misdemeanor that violates honor, honesty or public morals or is accused of committing any misdemeanor within the Labor Department may be temporarily suspended by the employer.
- 2- The employer shall submit the matter to the Labor Court referred to in Article (71) of this Law within three days from the date of the suspension.
- 3- The Labor Court shall decide on the case before it within seven days from the date of the offer. If it agrees to the suspension, the worker shall be paid half of his wage. However, in the event that the suspension is not approved, the worker's wage shall be paid in full from the date of its suspension.
- 4- If the competent authority deems that the worker should not be brought to criminal trial or presented to trial and his innocence is ruled, he must be reinstated to work with a full settlement of his dues, otherwise his non-return shall be considered an arbitrary dismissal.
- 5- If it is proven that the accusation of the worker was committed by the employer or his representative, the remainder of his wage shall be paid for the period of the suspension.
- 6- The competence to impose the penalty of dismissal from service shall be vested in the Labor Court referred to in Article (71) of this Law.
- 7- The worker may not be dismissed unless he commits a serious error. The following cases shall be considered a serious error:....

If the worker is absent without legitimate justification for more than twenty intermittent days during one year or more than ten consecutive days, provided that the dismissal is preceded by a written warning with a registered letter with acknowledgment of receipt from the employer to the worker after his absence for ten days in the first case, and after his absence for five days in the second case.

¹⁶⁸ See Articles 67, 68, 69, 70, 71 of the Labor Law No. 12 of 2003 as last amended

- What are the legal procedures to be followed in the event that the employer violates the articles of the aforementioned law?

Sometimes the employer dismisses the worker because of his interruption of work, and this often happens if the worker is accused in a case of a political nature, most of the time he is forcibly hidden for a period of time that varies from person to person before being presented to the prosecution, what are the legal procedures that must be followed in this case?

- ❖ As previously mentioned, the first step for the family of the detained worker is to obtain a certificate from the court's records regarding the case for which the worker is being held. This certificate should be officially delivered to the relevant employee at their workplace. Alternatively, the family can inform the workplace and have the workplace issue an official letter addressed to the public prosecution office responsible for the case. The public prosecution office should then respond to the letter in an official manner, stamped with the state emblem, indicating the worker's status in the case and the latest developments.

In addition to this, an official copy of the telegrams confirming the worker's arrest and its date should be provided, as well as official copies of any reports or statements that also confirm the arrest. If a lawsuit is filed with the administrative court requesting disclosure of the worker's location, it is preferable to provide an official copy of the lawsuit and the judgment, if issued.

- ❖ It is preferable not to receive eligibility for any letter from the employer before they can obtain a document stating that the worker is imprisoned, as the Labor Law in the text of its article No. 69, paragraph 4, stipulates that in the event of dismissal as a result of absence from work, the employer must be preceded by a written warning with a registered letter with acknowledgment of receipt from the employer to the worker after his absence for ten days in the first case, and after his absence for five days in the second case.

- ❖ You must keep a copy of the employment contract to prove the employment relationship and the employment relationship can be proven before the court by witness testimony, and you must keep the receipt of salary or any document indicating the last salary you received before the fact of dismissal.

If a decision is issued to dismiss an employee due to their absence from work in violation of the law, the employee should follow these steps:

You must go to the police department of the workplace to write the record of proving a case of dismissal and preventing him from entering his workplace, and then extract an official copy of the record of proving the case from the court to submit it to the court in the event that the subject of dismissal is referred to the competent court.

Then go to the labor office of his workplace to file a complaint to prove the fact of dismissal within a period of seven days from the date of the dispute. In the event that the dispute is not resolved amicably, the committee shall refer the complaint to the competent court, in accordance with the provisions of Articles 70 and 71 of the Labor Law, where Article 70 of Law No. 12 of 2003 stipulates that “If a dispute arises, both the worker and the employer may request the competent administrative authority within seven days from the date of the dispute to settle it amicably. If the settlement is not reached within ten days from the date of submitting the request, each of them may resort to the judicial committee within a maximum period of forty-five days from the date of the dispute, otherwise his right to submit the matter to the committee shall be forfeited.

Article 71 of the same law also stipulates that “Each committee shall have the exclusive competence to adjudicate individual disputes arising from the application of the provisions of this law. The committee shall adjudicate the dispute before it within sixty days from the date of its submission. The committee shall decide on the worker's request within fifteen days from the date of the first session and its decision shall be final. If it rejects the request, it shall oblige the employer to return the worker to his work, and to lead him to what has not been paid to him. If the employer does not implement the decision of the committee to return the worker to his work, this shall be considered an arbitrary dismissal that requires compensation in accordance with Article 122 of this law. The committee shall decide on the matter of temporary compensation if the worker requests it, and the decision of the committee in this case shall be immediately enforceable, even if his appeal is requested, and the amounts that the worker has collected in implementation of the committee's decision to suspend execution shall be deducted from the amount of compensation that may be awarded to him or from any other amounts due to

him by the employer.”

In the event that an amicable settlement with the employer is not reached, the case shall be referred to the competent court to consider a case, and you must follow up with the Labor Office to obtain the number and date of the issue to the competent court to consider the case, then go to the competent court and ask the question (at the Labor Registry Office of the court) and inform them of the number and date issued by the Labor Office, to obtain the number of the case and the date of the hearing, then attend the hearing and the court will postpone its consideration to announce the substantive requests.

Form of petition "Notification of substantive requests": -

At the request of Mr. /, and the resident.....- Governorate..... His chosen domicile is the Office of Professors/

I am a court bailiff who has moved to :

Mr. Chairman of the Board of Directors of..... It shall be announced at the company's headquarters located at..... - Section..... - Governorate.....

Addressing with :

And have served him with the following notification:

By virtue of an indefinite employment contract dated [Date], the claimant joined the defendant company as a [Position] with a salary of [Amount] Egyptian Pounds. The claimant performed his duties faithfully and diligently until he was arrested on [Date] and detained in connection with case number [Case Number] for the year. He remained in pretrial detention until he was released on [Date]. The claimant then went to his workplace and was informed of his dismissal due to his absence from work and was prevented from entering the workplace.

The claimant submitted a certificate from the prosecution office stating his period of detention in the aforementioned case to the company along with a request to return to work, but on [Date], the company informed him of the rejection of the request and the termination of his

employment.

This prompted the claimant, on [Date], to file a complaint with the Labor Relations Office against the defendant company for its obstinacy and refusal to allow him to enter his workplace to express his desire to return to work and for the issuance of a decision to arbitrarily dismiss him, demanding the cancellation of the dismissal decision. However, the Labor Office was unable to reach an amicable settlement of the dispute, which prompted the claimant to file this lawsuit to claim:

1- Unpaid Vacation Leave

"The claimant is entitled to the monetary equivalent of his unused vacation leave. Given that the claimant has worked for the company for seven years and has been deprived of some of his annual leave days, totaling one month and one week, he is entitled to claim them. Pursuant to Article 47 of Labor Law No. 12 of 2003, which grants an employee who has completed a full year of service the right to an annual leave of 21 days with full pay, the company is therefore liable."

2- Severance Pay

"The claimant is entitled to severance pay. Article 111 of Labor Law No. 12 of 2003 stipulates that notice must be given two months before termination if the employee's continuous service with the employer does not exceed ten years, and three months before termination if this period exceeds ten years. Article 118 of the same law states that if the employer terminates the employment contract without notice, they shall pay the employee an amount equivalent to their wages for this period. Since the claimant's period of employment with the company does not exceed ten years but has exceeded [number] years and the defendant has not notified him of the termination of the employment relationship, the claimant is entitled to three months' wages as notice pay."

3- Wrongful Termination Compensation

"The claimant is entitled to compensation for wrongful termination. Article 122 of Labor Law No. 12/2003, as amended, stipulates that if either party terminates the contract without a valid and sufficient reason, they shall compensate the other party for the harm caused by such

termination. Since it has been established that the defendant company has terminated the claimant's employment without justification and without legal grounds, the claimant is entitled to compensation for this unjust act by the company. This compensation consists of:

- A- **Material damages** resulting from his deprivation of a stable source of income that he relied on for his life and the life of his entire family, causing him distress, as well as his future deprivation of a stable pension, especially given the scarcity and unavailability of job opportunities and the prevalence of unemployment in the labor market today.
- B- **Moral damages** resulting from his being prevented from working in a humiliating manner and in front of junior employees whom he trained, mentored, and prepared to perform their job duties, and the resulting feelings of regret and sorrow for what has befallen him, as he is a person who is known for his competence, dedication, and commitment to work throughout his employment period, and the subsequent disruption of his financial situation and his inability to fulfill his family obligations, forcing him to borrow from others to meet his obligations and pay the dues of others, for which the claimant is entitled to compensation, which he estimates at two hundred thousand Egyptian pounds."

Therefore

I, the aforementioned bailiff, have served the defendant in his capacity with a copy of this document and summoned him to appear before the [Court] Primary Court located at [Address] on [Date] at 9:00 AM and thereafter before the [Division] Labor Division to hear the judgment ordering him to pay the claimant:

First: An amount of [Amount] Egyptian Pounds as material and moral compensation for the wrongful termination of the employment contract.

Second: Ordering the defendant to pay the claimant the monetary value of his leave balance.

Third: Ordering the defendant to pay the claimant an amount of [Amount] Egyptian Pounds as severance pay, and ordering him to pay the costs and attorney's fees.

Chapter Eleven: Listing on terrorist lists

The decision to be included on the lists of terrorist entities and terrorists, the purpose of which is to impose precautionary measures, which are applied to some defendants in terrorism cases.

I. The legal framework for inclusion on terrorist lists

Article 237 of the Constitution stipulates that: “The State is committed to confronting terrorism in all its forms and manifestations and to tracking the sources of its financing as a threat to the homeland and citizens, while guaranteeing public rights and freedoms according to a specific timetable. The law shall regulate the provisions and procedures of combating terrorism and fair compensation for the damages resulting from it and because of it.”¹⁶⁹ Law No. 8 of 2015 on Regulating Lists of Terrorist Entities and Terrorists, and Law No. 94 of 2015.

II. How to be included on the lists of terrorist entities and terrorists

Articles 3, 4 and 5 of Law No. 8 of 2015 regulate how to be included on the lists as follows:

1- Based on a request submitted by the General Prosecutor to the competent department, accompanied by investigations and documents supporting this request to the competent court.

2- Such requests shall be considered by one or more criminal chambers of the Cairo Court of Appeal, to be determined annually by the general assembly of the court, which shall be held in the counseling chamber.

3- The competent department shall decide on the listing application by a reasoned decision within seven days from the date of submitting the application to it, completing the necessary documents.

4. The listing shall be for a period not exceeding five years. If the listing period lapses without a final judgment being issued, the Public Prosecution shall resubmit to the aforementioned department to consider extending the listing for another period. Otherwise, the name of the entity or natural person shall be removed from the list from the date of the lapse of that period.

¹⁶⁹ See the text of Article 237 of the Egyptian Constitution

5-The listing decision shall be published on either of the two lists, the decision of its duration, and the decision to remove the name from either of them in the Egyptian facts.¹⁷⁰

III. Implications of the issuance of the listing decision

Article 7 of the law defined the effects of the listing decision as follows:

A- For terrorist entities:

1. Banning the terrorist entity and stopping its activities.
2. 2-Closing the places allocated to him, and banning his meetings.
3. Prohibiting the financing or collection of funds or objects for the entity, whether directly or indirectly.
4. Freezing funds or other assets owned by the entity or its members, whether wholly or in the form of an interest in common property, the proceeds generated from them, or controlled directly or indirectly by the entity, and funds or other assets of persons and entities operating through it.
5. Prohibiting joining, advocating for, promoting, or raising the slogans of the entity.¹⁷¹

B- For terrorists

1. Listing on the travel ban and arrival anticipation lists, or preventing a foreigner from entering the country.
2. Withdrawing or revoking a passport or preventing the issuance or renewal of a new passport.
3. Loss of the requirement of good reputation and conduct necessary to assume public, parliamentary or local positions and positions.
4. 4-Non-appointment or contracting in public positions or in public sector companies or the public business sector, as the case may be.
5. Suspension from work with payment of half the wage.
6. Freezing the funds or other assets owned by the terrorist, whether in whole or in the form of a share in common property, the proceeds generated from them, or which are directly or indirectly controlled by him, and the funds or other assets of the persons and entities operating through them.

¹⁷⁰ See Articles 3 , 4 , 5 of Law No. 8 of 2015 on Regulating Lists of Terrorist Entities

¹⁷¹ See the text of Article 7 of Law No. 8 of 2015 on Regulating the Lists of Terrorist Entities

7. Prohibition of practicing all civil or advocacy activities under any name.
8. Prohibiting the financing or collection of funds or objects for the terrorist, whether directly or indirectly, and prohibiting the receipt or transfer of funds as well as other similar financial services.
9. Suspension of membership in professional syndicates, boards of directors of companies, associations, and institutions, any entity in which the state or citizens contribute a share, and the boards of directors of clubs, sports federations, and any entity dedicated to public benefit.¹⁷²

Fourth: Procedures for appealing the decision to be included on terrorist lists:

Listing on terrorism lists in terms of its legal nature is a decision issued by the competent criminal department held in the counseling room and not a judgment issued by it in the criminal case, that is, the criminal court does not look at the case, but rather considers and decides on the request submitted to it regarding listing on terrorism lists accompanied by documents from the Public Prosecutor. Article 6 of the law regulates the procedures for challenging the listing decision, which is as follows:

1. 1-The concerned parties and the Public Prosecution may appeal against the decision issued regarding the listing.
2. Within sixty days from the date of publication of the decision in the Official Gazette.
3. Before the Criminal Chamber of the Court of Cassation, which is determined annually by the General Assembly of the Court, in accordance with the usual procedures for appeal.
4. The concerned parties may include in the appeal a request for permission to exclude some amounts of funds or other assets frozen to meet their requirements of expenses necessitated by the purchase of foodstuffs, rent, medicines, medical treatment or other expenses.¹⁷³

¹⁷² A report entitled "Sentencing before Conviction", a reading on the application of the Terrorist Entities Law, via the Freedom of Thought and Expression website, last visited June 21, 2021, available at the following link: https://afteegypt.org/publications_org/2020/12/31/20610-afteegypt.html

¹⁷³ See the text of Article 6 of Law No. 8 of 2015 on Regulating the Lists of Terrorist Entities

An indicative form for appealing the listing decision

Court of Cassation

Criminal Division

Memorandum of the reasons for the cassation appeal

Filed by Mr. (Appellant)

Against

Public Prosecution (Indictment)

Appealing the decision issued at the session of/ /

From Cairo Criminal Court

In case no. [Case Number] for requests to include terrorist entities and registered under number [Case Number] for the inclusion of terrorists and registered under number [Case Number] for State Security of the Highest Degree whose operative clause states: (The court, convened in a closed session, decided: ..., and the court ordered that this decision be published in the Egyptian Gazette. This judgment was issued and publicly read out at the session held on [Date]. This decision was published in the Egyptian Gazette on [Date], year [Year], number [Number].) And since this decision was marred by an error in the application of the law, a violation of the right to defense, a deficiency in reasoning, a deficiency in the statement, and a corruption in the evidence, the appellant appeals it by cassation in accordance with Article 6 of Law No. 8 of 2015 for the following reasons:

Facts

On [Date], the [Division] Criminal Court of South Cairo issued a decision to include the appellant's name and others on the list of terrorists for a period of five years starting from the date of this decision, and this decision was published in the Egyptian Gazette on [Date], year [Year], number [Number], but the appellant was not notified to attend the session to present his defense before the court.

And since this decision was marred by an error in the application of the law, a deficiency in reasoning, a deficiency in the statement, a corruption in the evidence, and a violation of the right to defense, the appellant appeals it by cassation in accordance with Article 6 of Law No. 8 of 2015 for the following reasons.

Grounds for Appeal

The first reason: The invalidity of the contested decision for deficiency in causation: -

Whereas the fourth paragraph of Article 3 of Law No. 8 of 2015 stipulates that:

(The competent department shall decide on the listing application by a reasoned decision within seven days from the date of submitting the application to it, fulfilling the necessary documents)

From this, it is clear that the law has stipulated that the decision issued to include the lists of terrorists with the reasons on which it was based and that it is not invalid, because the causation of judicial rulings and decisions is one of the most important guarantees imposed by the law on judges, considering causation as the most important manifestation of the judge's duty, to scrutinize, scrutinize, and look closely, to reach the truth that the judge declares in his judgment, and with his safety of causation and his commitment to the law, judicial rulings are delivered from the suspicion of control, whim, and tyranny.

The rulings of the Court of Cassation have defined causation as:

(What is meant by the reasoning considered to determine the grounds and arguments based on it and produced for it, whether in terms of fact or law, and in order to achieve its purpose, it must be in a detailed statement so that it is possible to determine the justifications for what it ruled, and it is not so if the reasons for the judgment are general or ambiguous in what it proved or denied of the facts or the turmoil that foreshadows the imbalance of its idea on the subject of the lawsuit and the elements of the incident, which cannot be deduced, whether related to the fact of the lawsuit or to legal application, and therefore the Court of Cassation is unable to implement its control properly)

(Rejected January 19, 1984, Q35, No. 14, p. 72)

(Cassation of January 8, 1973, Court of Cassation, Judgments Series Q24 No. 17, p. 72)

From this, it is clear that the reasoning that the law is full of is to determine the reasons and arguments on which the decision was based and which produce it in terms of reality and law .

In order for the reasoning to achieve its purpose, it must be in a clear and detailed statement so that it is possible to find out the justifications for what it concluded.

As for emptying the decision in blind phrases or placing it in an anonymous form, it does not achieve the purpose that the street intended from the affirmation of the reasoning of the decisions, and the Court of Cassation is not able to monitor the validity of its issuance.

The Court of Cassation also ruled on this matter

(If the court ruled to convict the accused and limited the reasons to saying that the charge is fixed from the investigations and medical examination, this judgment is not convincing and must be overturned, because this phrase, if it had been with the authors of the judgment, this judgment is concealed in their consciences that others do not realize, and if the purpose of the reasoning of the judgments was to know why the judgment was ruled, the positive reasoning would have been absurd, but the purpose of the reasoning is to know who has the right to control the judgments of the judiciary from the opponents, the public and the Court of Cassation what the justifications for the judgment are, and this knowledge must be obtained in a detailed statement, even to the extent that the soul and mind are reassured that the judge has shown the excuse in inflicting his judgment on the way he went).

(Cassation of February 28, 1929, Grammar Series C 1 No. 183, p. 223)

By reviewing the reasons for the contested decision, it is clear that it was issued free of the reasons on which it was based because it did not indicate in its reasons the content of the investigations and the documents submitted to it and supporting the request for inclusion, as well as the face of its inference and the evidence that confirmed to it by way of certainty that the appellant is a member of the Muslim Brotherhood group, as well as did not indicate in its reasons what the acts issued by the appellant fall within the scope of criminalization. The decision in its reasons merely repeated the investigations and what came in the prosecution's memorandum without examining what was stated in it, so that its inference is clear and without clearly indicating the reasons for the facts and actions of the appellant, which are specified in Article 1 of Law No. 8 of 2015, and the evidence indicating

this did not indicate a statement clarifying it and revealing that it was based on the reality of the investigations and documents submitted before it – by the Public Prosecutor – and was satisfied only with the terms of its contents and statements sent that did not achieve the purpose intended by the street of the reason for these decisions from clarity and the statement.

Therefore, what is stated in this decision is not a reason within the meaning of Article 4 of Law 8 of 2015.

It also does not have the reasoning approved by the Court of Cassation, which stipulated that it should be in a clear and detailed statement so that the Court of Cassation can control these reasons.

Thus, the reasons for the contested decision were ambiguous, all of which are blind words and did not specify the exact facts committed by the appellant and the acts attributed to him, as well as the documents supporting them, which indicate the validity of the facts that he belongs to the Muslim Brotherhood in order to be subject to the procedures stipulated in Law No. 8 of 2015 .

This makes the contested decision defective in reasoning, which means that the contested decision must be overturned and canceled.

The second reason: Corruption in inference, deficiency in causation and arbitrariness in conclusion:

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Whereas it was decided in the Court of Cassation that the understanding of the copy of the lawsuit and the collection of its photography by the owner of the matter is entrusted to the trial court, which obtains it, which reassures its conscience and comforts its conscience, and no one has authority over it because it is one of its divorces and has no wing over what it states, as long as it has its correct origin from the papers and is certain and fixed in them, but the limit of this is that the court has surrounded the lawsuit from sight and insight and discussed the evidence existing in it with proof and negation and balanced between them and that it is innocent of arbitrariness in conclusion and violation of reasoning, logic and the nature of things and that its judgment or decision is not based on assumptions and probabilities because the evidence, if mixed with probability, its validity in reasoning has lapsed.

It is also the duty of the court to be familiar with all the facts of the case, including the evidence of proof and denial, and to put all this on the table of research, and this is called the factual reasons for the judgment or decision, and the Court of Cassation has the right to monitor it in all of this without being an interference in the subject matter of the case .

Whereas, the contested decision in the place of the perception of the incident repeated all that was stated in the memorandum of the Public Prosecution, which was only an echo of what was stated in the memorandum of investigations of the National Security, and all of them lacked any conclusive evidence to indicate that the appellant was involved or committed any of the acts mentioned in this memorandum and the investigations submitted, and there are no documents or recordings that represent evidence against the appellant, and the submitted cylinders were devoid of any recordings of the appellant or mention of them to him.

However, despite this, the contested decision has ended up proving the implication of the appellant in these acts, and accordingly the decision was issued to include the appellant on the list of terrorists. This affects the contested decision with corruption in inference, deficiency in causation and arbitrariness in conclusion, which stigmatizes the contested decision with severe deficiency in causation, turbulence and ambiguity in the collection of the facts of the accusation and must be reversed and canceled.

The third reason: The invalidity of the contested decision for corruption in inference and its shortcomings in the statement because it is based on uncertain evidence and presumptive inferences:

Whereas, by reading the documents attached to the listing request, it is clear that they are not considered certain evidence against the appellant, and all of them were national security investigations, "which are no more than an opinion of its owner, in addition to being prepared before the hearsay testimony, which is not taken into account until after the investigation of its validity."

In addition, the cylinders are not related to the appellant and have not actually been attributed to him, and therefore they are not considered conclusive and conclusive evidence of any facts against the appellant .

Whereas the contested decision, despite this, has been taken into account in its reasons, it has been corrupted in inference and deficiency in the statement because it is based on uncertain evidence and presumptive inferences.

Given that it is established in the cassation rulings and the unanimous jurisprudence that the evidence on which the court relies in convicting must be certain, and that it must be based on a doctrine that the court itself has obtained and is not based on the opinions of others.

In this regard, the Court of Cassation ruled in a recent ruling on 22 October 2016 in cassation appeal No. 7215 of 85 BC

(Since the court has made the basis of its conviction that the appellants committed the crimes assigned to them based on the opinion of the investigators, its judgment will be based on a doctrine obtained by the first and second witnesses from their investigations, not on a doctrine that the court independent by collecting it itself, its judgment will be defective in the lack of causation and corruption in the reasoning that invalidates it, and this invalidity does not infallible that it has relied on the conviction on what was proven from the CDs, as what the judgment obtained from it does not advance evidence of what it ruled and that the world by its occurrence is considered a partner in its disgust, and the forensic reports and the forensic laboratory on which the judgment was based in its judgment do not advance in themselves as evidence of the ratio of the accusation to the appellants, as it does not go beyond being evidence that supports the statements of the witnesses. Therefore, the judgment based on the medical reports does not change the fact that it relied mainly on the investigations alone and does not constitute single evidence in this field)

(Appeal No. 7215 of 85 BC - Session 22/10/2016)

Applying this to the facts of the contested decision, it becomes clear that it was based on the investigations of a national security officer, as well as the record of the seizure from the national security sector as well, which affects him with corruption in the reasoning .

Therefore, the appellant mourns the decision challenging the nullity of the corruption in the inference and the deficiency in the statement.

The fourth reason: The invalidity of the contested decision for violating the right of defense:

Whereas the right of defense is one of the fundamental rights of the individual, to which all successive constitutions have attached great importance and considered it one of the fundamental rights of the individual, and any attack on it represents a violation of the Constitution and the law .

This is because the right of defense represents the main pillar of a fair trial and is closely related to the principle of the origin of innocence and the right to litigation. It is also necessary to achieve balance and equality between the accusation and the defense. One of the most important principles by which the right of defense is achieved is the principle of confrontation. This principle is a procedural principle of the rights of the defense, which results in nullity because the litigation in the criminal case - at all stages – seeks to reach the truth, depending on confronting the accused with the evidence available against him so that he can respond to it and here equality is achieved, as it is illogical to try a person without presenting evidence to him and giving him sufficient time to respond to it and refute it.

However, if the person is not confronted with the evidence, this represents an attack on his right to defense, and all these measures are invalid because they violate the Constitution and the law and must be canceled and disregarded

Jurisprudence has been established as one of the reasons for the invalidity of the judgment

(Failure to respect the principle of publicity or oral pleading or failure to enable litigants to attend and violation of their right to defense, the trial procedures were null and void related to public order as well as the resulting criminal judgment)

(Book of Criminal Cassation – Dr. Ahmed Fathi Sorour – p. 251)

Whereas the contested decision, which ended with the inclusion of the name of the appellant on the list of terrorists and the consequent confiscation of his funds and travel ban and subjecting him to all the procedures stipulated in Law No. 8 of 2015, all of this was done in his absence and without presenting evidence to him or hearing his statements and defense, which renders him non-existent and invalid for attacking the right of defense of the appellant.

The Court of Cassation has affirmed the great value of the right of defense in many judgments and considered it a sacred right that transcends the right of accusation. In order to ensure this right, which had a precedent in its regard, it stipulated that it should be serious, and that the defendant's lawyer should attend all trial proceedings and review all case papers.

(Collection of Court of Cassation rulings, s.9, s.242, p.998).

It is not permissible to invoke that Law No. 8 of 2015 has been devoid of what it means to notify the applicant to attend the hearing of the listing on those lists or not and to present his defense, because

this is due to him that this right is established according to the general constitutional rules stipulated by the constitutional legislator in Article 54 of the Egyptian Constitution.

The text of Article 208 bis (a) of the Code of Procedure, which is the basic article that gave the right to issue temporary decisions by the Criminal Court to prevent the accused from disposing of his property, was decided in its third paragraph

(The competent criminal court shall issue its judgment in the previous cases after hearing the statements of the concerned parties within a period not exceeding fifteen days from the date of presenting the matter to it. The court shall decide on the continuation of the temporary order referred to in the previous paragraph whenever it deems it necessary to postpone the consideration of the application. The judgment must include the reasons on which it was based)

This article is the original from which Law No. 8 of 2015 derived these procedures for issuing a temporary order against the accused, as it is permissible to measure on this article " 208 bis a procedure " as the original, and the judgments of the Court of Cassation have been established in many judgments on the permissibility of measuring in the interest of the accused.

Reviews

(Cassation of February 1, 1937, Set of Rules C4 No. 40, p. 36)

(Reversal of June 27, 1937, Rule Set C2No. 262, p. 596)

(Cassation of 19 February 1934, Part 3, No. 209, p. 272)

(Overruled December 15, 1941, Rule Set C5 No. 322, p. 597)

Referred to in the book of the Constitutional Criminal Law – Dr. Ahmed Fathi Sorour – Dar Al-Shorouk Edition 2006 (footnote 106)

Based on the foregoing and by analogy with Article 208 bis (a) of the Code of Criminal Procedure, it was obligatory for the contested court in its decision to notify the appellant to attend the hearing to hear his statements and to present his defense in the request for inclusion or to appoint a lawyer to defend him so that he can submit a serious defense that changes the face of the opinion in the request considered before the court, as all this was not considered and the request submitted and the contested decision was issued without notifying the appellant, the contested decision has been null and void for violating the right of defense .

Fifth Reason: Invalidity of the contested decision for violation of the law and error in its application:

Violation of the law means the direct error in the law and is achieved by ignoring the applicable legal rule or the non-enforcement of the legal provision stipulated in it, whether this rule is a substantive or procedural rule, while the error in the application of the law is intended to enforce a legal rule that does not apply to the incident due to the error in its legal adaptation and the error in the interpretation and interpretation of the law is that the error in the application of the law in the two aforementioned terms is due to the court's misinterpretation of the law or the legal rule applicable to the case before it.

Whereas Article 8 of Law No. 8 of 2015 stipulates that:

"In cases where the nature of the frozen funds requires the appointment of those who manage them, the court decision must determine who manages these funds after taking the opinion of the Public Prosecution."

From this text, it is clear that the law required that the decision to be placed on terrorist lists include the appointment of the person who manages the funds.

By applying this to the contested decision, it becomes clear that it has been devoid of the appointment of the person who manages the appellant's funds and the rest, and therefore has been invalidated for violating the law and the error in its application .

For these reasons,

Appellant seeks

First: The judiciary shall accept the appeal in the form to be decided within the legal time limit.

Second: On the merits: by overturning the contested decision with the most important consequences of this, including the cancellation of the contested decision and considering it as if it had not been and erasing all its effects. With the removal of the name of the appellant from the lists of terrorists while obliging the Public Prosecution to publish this judgment in the Egyptian facts.¹⁷⁴

The agent of the appellant

Lawyer

¹⁷⁴ An appeal form against the listing decision, written by Mr. Samir Al-Bajouri, a lawyer in cassation.

Chapter Twelve: Inspection and control of detention facilities

Introduction:

Judicial oversight and inspection are among the most effective means of ensuring the availability of inmates' rights within detention facilities, improving the standards of correctional and rehabilitation centers, and reducing torture and ill-treatment within them. Egyptian law has stipulated inspection and oversight of correctional facilities. Administrative inspection has been made available to the community protection sector, governors, and local directors, while judicial oversight has been made available to the Public Prosecutor or their deputy and the judiciary. Finally, the National Council for Human Rights has been granted rights-based oversight. Additionally, the law has allowed inmates and their families to file complaints with the aforementioned authorities in the event that inmates are subjected to any violation of their rights.

I. Inspection and Judicial Control in International Covenants

The inspection and oversight of inmates are addressed in Rules 83, 84, and 85 of the Standard Minimum Rules for the Treatment of Prisoners, which state that: "A system of regular inspections of prisons and penal institutions shall be established, including internal or administrative inspections carried out by the central prison administration and external inspections carried out by a body independent of the administration of correctional and rehabilitative institutions, which may include relevant international or regional bodies. The aim is to ensure that the management of prisons complies with laws, regulations, policies, and procedures designed to achieve the objectives of penal and correctional institutions and to guarantee the protection of prisoners' rights. Inspectors shall have the following powers: to examine all information concerning the number of prisoners, places of detention and their locations, and to freely choose the prisoners they wish to visit; to conduct private and confidential interviews with prisoners and staff of correctional and rehabilitative institutions during visits; to make recommendations to the administration of correctional and rehabilitative institutions and other relevant authorities. Following each inspection, a written report shall

be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections public, after excluding any personal data concerning prisoners unless they have expressly consented thereto.¹⁷⁵

II. Judicial Inspection and Oversight in the Egyptian Constitution and Law

- A. **The Egyptian Constitution:** Article 56 of the Constitution stipulates that prisons and all places of detention shall be subject to judicial oversight. It states, "Prisons are institutions for reform and rehabilitation. Prisons and places of detention shall be subject to judicial supervision..."¹⁷⁶
- B. **Judicial Inspection and Oversight in Egyptian Law:** Inspection is addressed in Articles 83 and 84 of Law No. 396 of 1956, the Law Organizing Correctional and Rehabilitation Centers, which states that "the community protection sector shall have inspectors to inspect correctional centers to verify that the conditions of hygiene, health, and security within correctional and rehabilitation centers are met, and they shall submit reports on this matter to the head of the community protection sector. Governors and directors have the right to enter correctional centers located within their jurisdictions at any time, and the administration of correctional and rehabilitation centers shall communicate the observations they record to the Assistant Minister for the Community Protection Sector." As for judicial oversight by the Public Prosecution and the judiciary, it is addressed in Articles 85 and 86 of Law No. 396 of 1956, which state that "the Public Prosecutor and his deputies within their jurisdictions have the right to enter all places of correctional and rehabilitation centers at any time to verify: (1) that the orders of the Public Prosecution and the investigating judge in cases referred to them for investigation and the decisions of the courts are being implemented as stated therein; (2) that no person is detained without a legal basis; (3) that no inmate is employed who has not been sentenced to work except in the cases specified by law; (4) that each category of inmates is separated from the other category and treated in the manner prescribed for their category; (5) that the records required by law are used in a regular manner. And in general, to observe what the laws and regulations stipulate and to take whatever measures they deem necessary regarding any violations. They may accept complaints from inmates and examine the records and judicial papers to verify their

¹⁷⁵ Rules 83, 84, 85 of the Model Rules for the Treatment of Guests , available via the UN website, last visited 6 July 2021, available via the following link: https://www.un.org/ar/events/mandeladay/mandela_rules.shtml

¹⁷⁶ Article 56 of the Egyptian Constitution.

conformity with the prescribed models. The director of the correctional and rehabilitation center shall provide them with all the data they request for the task entrusted to them." The presidents and deputy presidents of courts of appeal and primary courts and investigating judges have the right to enter at any time the prisons located within the jurisdictions of the courts in which they work. The president and deputy of the Court of Cassation have the right to enter all correctional and rehabilitation centers. The administration of the correctional center shall communicate the observations they record to the general director.¹⁷⁷ Judicial oversight is also addressed in Article 27 of Law No. 46 of 1972, as amended, the Law on Judicial Authority, which states that "the Public Prosecution shall supervise prisons and other places where criminal judgments are executed, and the Public Prosecutor shall inform the Minister of Justice of any observations that appear to the Public Prosecution in this regard."¹⁷⁸ Judicial oversight is also regulated in the provisions of Articles 42, 43, and 44 of Law No. 150 of 1950, the Code of Criminal Procedure, which stipulate that members of the Public Prosecution, presidents, and deputy presidents of primary and appeal courts may visit public and central prisons located within their jurisdictions and ensure that no person is detained unlawfully. They may inspect the registers of correctional and rehabilitation centers and the arrest and detention orders, and take copies thereof, and may communicate with any detainee and hear any complaint he wishes to make to them. The director and employees of the prisons shall provide them with all assistance in obtaining the information they request.¹⁷⁹

Rights-based oversight: The second paragraph of Article 73 of Law No. 396 of 1956, the Law Organizing Correctional and Rehabilitation Centers, stipulates the right of members of the National Council for Human Rights to visit correctional centers after obtaining the approval of the Public Prosecutor, receiving complaints from inmates, preparing reports, and submitting them to the Assistant Minister for the Community Protection Sector and the competent Public Prosecution.¹⁸⁰ Article 3, paragraph 16, of Law No. 197 of 2017, amending some provisions of

¹⁷⁷ Articles 83 to 86 of Law No. 396 of 1956, the Law Organizing Correction and Rehabilitation Centers, as amended

¹⁷⁸ Article 27 of Law No. 46 of 1972, the Law on Judicial Authority.

¹⁷⁹ Articles 42, 43, and 44 of Law No. 150 of 1950, the Code of Criminal Procedure.

¹⁸⁰ Article 73 of Law No. 396 of 1956, the Law Organizing Correctional and Rehabilitation Centers, as amended.

the Law Establishing the National Council for Human Rights, also stipulates the Council's authority to visit correctional centers and other places of detention and listen to inmates, and inmates of the aforementioned places and institutions to verify their good treatment and the extent to which they enjoy their rights. The Council shall prepare a report on each visit it conducts, including the most important observations and recommendations aimed at improving the conditions of inmates and detainees in the aforementioned places and institutions. The Council shall submit its report to both the Public Prosecutor and the House of Representatives). Article 17 also stipulates the right of Council members to file complaints with the Public Prosecution if they find that any violation of personal freedoms or the sanctity of the private lives of citizens or other rights and freedoms guaranteed by the constitution, law, and international covenants and agreements has occurred.¹⁸¹

III. Legal Procedures for Filing Complaints by Inmates

If an inmate experiences any violation of their rights, they have the right to file a complaint through the following methods:

1. **Internal Complaint:** The inmate can submit a written or verbal complaint to the administration of the correctional facility where they are detained. This complaint must be recorded in a complaints register, as stipulated in Article 75 of Law No. 396 of 1956, which governs correctional and rehabilitation centers.¹⁸² The facility's director is responsible for overseeing this process and must file a report on the incident, referring it to the relevant public prosecution office for a criminal investigation.
2. **Complaint During Court Hearings:** An inmate can present evidence of a rights violation during court hearings, such as when their detention is being renewed. The court will then refer the complaint to the public prosecutor present at the hearing for investigation.

¹⁸¹ Article 3, paragraphs 16 and 17, of Law No. 197 of 2017, amending the provisions of the Law Establishing the National Council for Human Rights.

¹⁸² Article 75 of Law on organization of Correction and Rehabilitation Center No. 396/1956

3. **Direct Complaint to the Public Prosecution:** Inmates can file a complaint directly with the public prosecution office that oversees the detention facility, requesting a criminal investigation into the alleged violation. They can also file a complaint with the general public prosecution or the public prosecutor's office.
4. **Complaint to the National Council for Human Rights:** Inmates and their families can file complaints with the National Council for Human Rights, either verbally or in writing, during the Council's visits to the detention facility. Alternatively, they can submit complaints to the Council's office.
5. **Request for Inspection:** Inmates and their families can request that members of the National Council for Human Rights visit the detention facility to investigate alleged violations. This request can be made in writing or via registered mail. If the Council members are unable to visit or if the relevant authorities deny their request, a legal action can be filed with the administrative court.

Attached is the wording of a petition filed by the lawyers of the Commission before the Administrative Court in 2020 for guidance:

Mr. Counselor/ Vice President of the State Council “President of the Court of Administrative Justice”

Greetings,

This is an introduction to your Excellency / Abdel Moneim Ibrahim Abdel Moneim Metwally, a resident of Raseef—Riyadh Province—Kafr El-Sheikh Governorate. His chosen domicile is the office of Professors/ Mohamed Hamdi Helou, Amr Mohamed Abdel Samie, and Nouredine Mohamed Fahmy, lawyers in the High Appeal and the Council of State, which is based in Cairo.

Against

First: - The Minister of Interior in his capacity.

Second: - Mr. President of the National Council for Human Rights in his capacity.

Subject

On March 9, 2020, the first respondent issued a decision to suspend visits in prisons for a period of ten days, and then on March 19, 2020, he issued a decision to continue suspending visits in all prisons until the end of March, as part of the precautionary measures taken by the state to confront the novel coronavirus, regarding the suspension of all events involving any large gatherings of citizens in accordance with the Prime Minister's decision in this regard No. 719 of 2020 .

However, since the issuance of these decisions prohibiting visits, which led to the failure to communicate with prisoners and reassure their families about them, as well as the refusal to enter food and medicines in some prisons, and the refusal to receive money, and some prisons issued account numbers to place trusts in them in the name of the prisoner Quaternary. The aim of these decisions was for prisons to become a health quarantine for prisoners, which is contrary to the reality of the opening of these prisons to civilian workers and officers and the description of officers, as well as the exit of some prisoners to attend hearings to renew their imprisonment and return to their prison and detention again.

In addition, the Counselor, the Minister of Justice, issued a decision on March 15, 2020, to suspend the work of the courts until the end of March 2020, and to postpone all cases pending before the courts. However, this decision excluded some cases, including the consideration of detention renewal sessions for a number of defendants as well as detainees in connection with cases pending before the Misdemeanors and Criminal Court, which leads to the defendants mixing with many people, which may lead, God forbid, to their exposure to the virus and transfer to their places of detention, and the seriousness of the situation that may result from one of the prisoners becoming ill due to the large overcrowding inside the detention rooms, and the use of a large number of them for the same personal tools, insufficient exposure to the sun, poor ventilation and lack of hygiene.

This is why a number of the families of the defendants called on their lawyers to submit many reports and appeals to the General Prosecutor, requesting the release of their families or the

replacement of pretrial detention with one of the alternative precautionary measures to pretrial detention (pretrial detainees) or their release (a police and health sentence was issued against them) in accordance with the provisions of the Procedures Law and the Law Regulating Correction and Community Rehabilitation Centers for fear of being infected with the Coronavirus.

Whereas the father of the appellant, Mr. Ibrahim Abdel Moneim Metwally, is one of the defendants held in pretrial detention in one of the prisons, he is being held in pretrial detention pending Case No. 1470 of 2019, State Security Inventory and the detainee, in a high-security prison 2 in the Tora Prison Complex, for fear of his health condition, as he is 57 years old, which puts his life at risk, God forbid, in the event of infection with the virus, and other defendants assigned to provide them with legal support, which proves the capacity and interest in filing the lawsuit before your justice, by requesting to prove the case and delegate an expert of the Ministry of Justice whose task is to inspect Tora Investigation Prison and Tora Prison (imprisoned by Ibrahim Metwally) currently under the supervision and prosecution of the first appellee in his capacity.

Whereas, the decisions of Major General and the Minister of Interior were not accompanied by any clarifications or information on the safety measures taken with these decisions to protect prisoners in pretrial detention, as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners (our clients), and about the availability of hygiene tools and good ventilation or not.

This prompted the student to release a telegraph to the President of the National Council for Human Rights and to the Minister of Interior in his capacity, by requesting to prove the status of the reform, rehabilitation and transfer centers for inspection. This was done by assigning a committee of members of the National Council for Human Rights whose task is to move to the high-security prison (2) in the Tora Prison Complex, where the student's father is currently placed for inspection and to indicate the medical and preventive measures taken therein and to prove the status of the reform and rehabilitation centers. However, no response was received from any party.

Whereas what was done against the father of the appellant is contrary to the Constitution and international charters and covenants, and the first appellee is obligated, in his capacity and in accordance with the Constitution, to protect the lives and freedoms of citizens, so he is legally obligated to disclose the safety measures taken with these decisions to protect prisoners in pretrial detention as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners, especially in the prison (High Security 2 in Tora Prison Complex), where the father of the student is currently imprisoned, and about the availability of hygiene tools and good ventilation or not, as well as empowering the committee formed of members of the National Council for Human Rights to inspect him and prove the preventive and medical measures taken within the correction and rehabilitation centers.

Despite all this, the appellees, in their capacity as they have refrained from responding to the telegraph in order to prove the status of the reform, rehabilitation and transition centers for inspection, and that is to assign a committee of members of the National Council for Human Rights whose task is to move to the prison (High Security 2 in the Tora Prison Complex) where the student's father is currently placed to inspect him, indicate the medical and preventive measures taken therein, and prove the status of the reform and rehabilitation centers, which is a negative decision to refrain.

Since this decision represents a violation and waste of the Constitution and a violation of Egypt's international obligations, and represents an attack on the basic rights of citizens, the student challenges it for the following reasons: -

Grounds for Appeal

The first reason: - In the availability of the administrative decision to refrain from the Appellee in his capacity as disclosing the place of detention of the Appellant's husband: -

It is well-established that an administrative decision is:

(The administration's declaration of its binding will, within the scope of its authority under the laws and regulations, with the intention of creating a specific legal status, whenever it is possible and permissible by law, and motivated by the pursuit of the public interest.)

(See the Supreme Administrative Court's ruling of February 12, 1966 - Collection of the Eleventh Year, p. 435, Case No. 1042 of 9 Q)

(The Hierarchy of Administrative Decisions and the Principle of Legality - Dr. Tharwat Badawi)

In another definition, the court ruled:

(An explicit or implicit declaration by the public administration... during the performance of its legally prescribed functions within the administrative sphere, intended to produce a legal effect and having an executive nature.)

(Case 1 of 1 Q, 19/3/1947 - Mahmoud Assem Collection - First Collection "November 1946 - June 1948", p. 34)

And in a third definition:

Whereas an administrative decision is a legal act issued by the administration, within its public authority, that creates a new legal status or affects an existing legal status. Dean Léon Duguit defined it as any administrative act issued with the intention of modifying the legal situation as it exists at the time of its issuance or as it will be at a specific future moment. Dean Bonnard defined it as any administrative act that brings about a change in the existing legal situation.

(Counselor Hamdi Yassin Okasha - The Administrative Decision in the State Council Judgments - 1987 - p. 170)

The State Council's jurisprudence has settled on defining an administrative decision as:

A declaration by the administration of its binding will, within the scope of its authority under the laws and regulations, with the intention of producing a specific legal effect.

(Administrative Court ruling in Case No. 1 of 1 Q - Session 1947)

(Administrative Court ruling in Case No. 263 of 1 Q - Session 7/1/1948 - S 2 - p. 222)

(Supreme Administrative Court - Appeal No. 674 of 12 Q - Session 2/9/1967 - S 12 - p. 1236)

In light of this, the Supreme Administrative Court ruled:

"The final administrative decision that falls within the jurisdiction of the State Council Courts is the decision that fulfills the elements of an administrative decision, as understood and established by the rulings of the Supreme Administrative Court. It is issued as a declaration by the administrative authority, in the form determined by law, of its binding will within the scope of its public authority under the laws and regulations, with the intention of creating a legal status, whenever it is possible and permissible by law, aimed at achieving the public interest. Therefore, the elements of an administrative decision are: 1) It must have a subject matter, which is the legal status that the will of the decision-maker intends to create. 2) It must have a legal effect that results directly and immediately, which is the creation of a new legal situation, the modification of an existing legal status, or its cancellation."

(Appeal No. 4358 of 37 Q - Session 3/5/1992)

Whereas a secure life is the right of every human being residing in the land of Egypt, and the State is committed to providing security and tranquillity to its citizens and to every resident on its territory .

And that the Ministry of Interior, headed by the Appellee in his capacity as its leader and its men, in accordance with the text of Article 1 of Law No. 109of 1971on the Police Authority, which states:

(The police is a regular civilian body in the Ministry of Interior that performs its functions and exercises its competence under the chairmanship and leadership of the Minister of Interior, who issues decisions regulating all its affairs and work systems.)

Article 3 of Law No. 109of 1971on the Police Authority also stipulates:

The police authority shall be competent to maintain order, public security, and morals, and to protect lives, symptoms, and property, and in particular to prevent and control crimes. It shall also be competent to ensure the tranquillity and security of citizens in all fields and to implement the duties imposed on it by laws and regulations.

The police is the guardian of the security of the citizen to ensure security and tranquility, and that the most important duties entrusted to it are to preserve the life of the citizen, as well as to protect prisoners and pretrial detainees, as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners, and about the availability of hygiene tools and good ventilation or not

Whereas the first respondent, in his capacity as a policeman, and his police forces secure a high-security prison (2) in the Tora prison complex, in which the student's father is currently placed, he did not clarify what preventive measures were taken within the reform and rehabilitation centers to avoid the infection of detainees with the Corona virus epidemic, as well as the committee did not enable members of the National Council for Human Rights to inspect the reform and rehabilitation centers and prove his condition.

Despite directing telegraphs with that request, the appellees, in their capacity as the appellees, remained silent to confirm the availability of the negative decision that may be appealed, so this appeal is acceptable in the form of the availability of the negative administrative decision.

Second Reason: Invalidity of the Impugned Decision Due to its Violation of the Constitution:

The Constitution is the supreme law that establishes the rules and principles upon which governance is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the legislative, executive, and judicial authorities in terms of compliance.

(The Constitution is the supreme fundamental law that establishes the rules and principles upon which the system of government is based. It defines public authorities, outlines their functions, sets the limits and restrictions governing their activities, establishes public rights and freedoms, and provides fundamental guarantees for their protection. Therefore, the Constitution is distinguished by a special nature that grants it sovereignty and supremacy. It is the guarantor of freedoms, the foundation of constitutional life and its system. Its rules rightfully stand at the apex of the state's legal structure and occupy a prominent position among the rules of public order, as they are the highest imperative rules that the state must adhere to in its legislation, judicial decisions, and executive actions, without any discrimination or distinction between the three public authorities – legislative, executive, and judicial. This is because all these authorities are established by the Constitution, deriving their existence and entity from it, and it is the reference for defining their functions. Therefore, all authorities are equal before the Constitution, and each stands with the others on an equal footing, performing its constitutional function and cooperating with each other within the prescribed limits, subject to the provisions of the Constitution, which alone has the final say. Before its rulings, all public authorities and the state must comply. In this, the state adheres to a fundamental principle of democratic rule, which is submission to the principle of the supremacy of the Constitution. It is incumbent upon every public authority, regardless of its nature, function, or assigned jurisdiction, to abide by the rules and principles of the Constitution and adhere to its limits and restrictions. If it violates or exceeds them, its actions are tainted by the defect of unconstitutionality.)

(Case 37 of 9 Judicial "Constitutional" Session of May 19, 1990).

Whereas what was issued by the First Appellee as a serious violation of the provisions of the Egyptian Constitution, which obligated respect for personal freedom, and since the decisions of the Major General and the Minister of Interior were not accompanied by any clarifications or information on the safety measures taken with these decisions to protect prisoners and pretrial detainees, as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners, and about the availability of hygiene tools and good ventilation or not, in violation of the provisions of the Constitution and the law.

Article 55 of the Constitution states:

Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability. Violating any of the aforementioned is a crime punished by Law. An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon. The violation of any of this is a crime punishable in accordance with the law.

The accused has the right to remain silent. Every statement that proves that it was made by a detainee under the weight of any of the foregoing or the threat of any of it, is wasted and unreliable.)

Article 56 of the Constitution also states:

(A prison is a place of correction and rehabilitation. Prisons and places of detention shall be subject to judiciary supervision, where actions inconsistent with human dignity or which endanger human health shall be prohibited. The Law shall regulate the provisions of reform and rehabilitation of convicted persons and facilitating decent lives after their release.)

Whereas, the decisions issued by the First Appellee in his capacity as decisions that affect the legal status of the applicant and may potentially become a subject of dispute before the judiciary and be invoked before the judiciary, as they impose a reality that violates and detracts from the legal and constitutional rights of the appellant's father - and other detainees - in his right to an adequate standard of living first and his health-related rights second.

Whereas the attack on the personal freedom or the inviolability of the private life of citizens and other public rights and freedoms guaranteed by the Constitution and the law is a crime, neither the criminal nor the civil lawsuit shall be statute-barred, and the injured party may institute criminal proceedings directly, and the state shall guarantee fair compensation for those who have been assaulted. The National Council for Human Rights may inform the Public Prosecution of any violation of these rights, and it may intervene in the civil lawsuit, joining the injured party, and upon his request, all in the manner specified in the Constitution.

Whereas the first respondent, as he refrained from disclosing the safety measures taken with these decisions to protect prisoners held in pretrial detention, as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners, especially in the (High Security 2) prison in Tora Prison Complex, where the student's father is currently placed, and about the availability of hygiene tools and good ventilation or not, as well as enabling the committee formed by members of the National Council for Human Rights to inspect him and prove the preventive and medical measures taken within the reform and rehabilitation centers, despite being notified of this by official means, if he has violated the validity of the Constitution, the contested decision shall be null and void, which shall be canceled.

The third reason: The contested decision violates the law and the obligations of the Arab Republic of Egypt guaranteed by the Egyptian Constitution and violates the law:

Whereas the Egyptian Constitution has recognized international conventions and placed them on the level of national legislation. It also stipulates that the State shall abide by all international conventions it signs. Article 93 of the Constitution stipulates that: " The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions."

Article 151 of the Constitution stipulates that: "The President of the Republic shall represent the State in its foreign relations and conclude treaties and ratify them after the approval of the House of Representatives. Such treaties shall acquire the force of law following their publication in accordance with the provisions of the Constitution. Voters must be called for referendum on the treaties related to making peace and alliance, and those related to the rights of sovereignty. Such treaties shall only be ratified after the announcement of their approval in the referendum. In all cases, no treaty may be concluded which is contrary to the provisions of the Constitution or which results in ceding any part of state territories."Whereas, the Appellee, in his capacity as the first, refrained from disclosing the safety measures taken with these decisions to protect prisoners held in pretrial detention, as well as workers and officers in these prisons, especially about the preventive measures carried out by the Prison Administration that

would provide protection for prisoners, especially in the (High Security 2) prison in Tora Prison Complex, where the student's father is currently imprisoned, and about the availability of hygiene and good ventilation tools or not, as well as enabling the committee formed by members of the National Council for Human Rights to inspect him and prove the preventive and medical measures taken inside the reform and rehabilitation centers in violation of what is stated in international covenants and charters as well as what is stated in the law, through the following: -

First: The right of persons deprived of their liberty to an adequate standard of living:

Article 10, paragraph 1, of the International Covenant on Civil and Political Rights stipulates that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Article 25, paragraph 1, of the Universal Declaration of Human Rights states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

The first paragraph of Article 11 of the International Covenant on Economic, Social and Cultural Rights states:

(1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. States Parties undertake to take the necessary measures to give effect to this right, recognizing in this regard the fundamental importance of international cooperation based on free consent).

Article 16 of the Law on the Organization of Correction and Community Rehabilitation Centers stipulates:

(Pre-trial detainees may bring the necessary food from outside the reform and rehabilitation centers or buy it from the reform and rehabilitation centers at the price specified for them if they do not wish to do so or if they are unable to disburse the prescribed food.)

Also, Article 38 of the same law stipulates that: (Subject to the provisions of the Code of Criminal Procedure, every convicted person shall have the right to correspond and telephone for a fee, and his family may visit him twice a month, all under the supervision and supervision of the Department of Correction and Rehabilitation Centers and in accordance with the controls and procedures specified by the internal regulations.

The pretrial detainee shall have this right unless a decision is issued by the competent public prosecution or the competent investigative judge to the contrary, in accordance with the procedures specified by the internal regulation. The Department of Correction and Rehabilitation Centers works to treat prisoners' visitors humanely and ensures them the appropriate places to wait and visit.)

Second: Rights of inmates related to health:

The first paragraph of Article 11 of the International Covenant on Economic, Social and Cultural Rights states:

- 1- The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- 2- Measures to be taken by the States Parties to the present Covenant to ensure the full exercise of this right shall include those necessary for:
 - a. Working to reduce the infant mortality rate and the infant mortality rate and to ensure the healthy development of the child,
 - b. improve all aspects of environmental and industrial hygiene,
 - c. the prevention, treatment and control of epidemic, endemic, occupational and other diseases,
 - d. Creating conditions that would ensure medical services and medical care for all in the event of illness.

The Standard Minimum Rules for the Treatment of Inmates also set out several principles relating to inmates' health rights:

Principle 22, second item (2) As for inmates who require specialized care, they are transferred to specialized prisons or to civilian hospitals. When reform and rehabilitation centers provide treatment services provided by hospitals, their equipment, tools, and pharmaceutical products

must be adequate for the purpose of providing the necessary medical care and treatment to sick prisoners, and include a staff with appropriate professional qualification).

Principle 24. (The doctor shall examine each prisoner as soon as possible after his admission to correction and rehabilitation centers, and then examine him whenever necessary, especially with a view to detecting any physical or mental illness that he may have and taking all necessary measures to treat it, isolating inmates suspected of having infectious or communicable diseases, identifying physical or mental deficiencies that may constitute an obstacle to rehabilitation, and deciding on the physical capacity to work for each prisoner.)

Principle 25. (1) The doctor shall be assigned to monitor the physical and mental health of the patients, and he shall meet daily with all sick inmates. And all those who complain of a disease, and any prisoner who drew his attention to it in particular.

(2) The physician shall report to the director whenever it appears to him that the physical or mental health of a prisoner has been or will be harmed by his continued imprisonment or by any circumstance of such correctional and rehabilitation centres).

Principle 26. (1) The doctor shall regularly examine the following aspects and advise the manager thereon:

- a. the quantity, quality and preparation of food,
- b. The extent to which health and hygiene rules are followed in correction and rehabilitation centers and among inmates,
- c. the condition of sanitary facilities, heating, lighting and ventilation in correction and rehabilitation centres,
- d. the quality and cleanliness of inmates' clothing and bedding;
- e. The extent of compliance with the rules related to physical education and sports, when the organizers of these systems are not specialists.

(3) The director shall take into account the reports and advice given to him by the physician pursuant to the provisions of Articles 25 (2) and 26. If he meets with him in opinion, he shall immediately take the necessary measures to put these recommendations into effect. However, if he does not agree with his opinion or if the proposed recommendations are outside the scope of his competence, he shall immediately submit a report of his personal opinion, accompanied by the opinions of the doctor, to a higher authority).

Whereas Article 1 of Law No. 94 of 2003 on the Establishment of the National Council for Human Rights stipulates:

(The National Council for Human Rights is an independent council, which aims to promote, develop and protect human rights and public freedoms in accordance with the provisions of the Constitution, and in the light of international conventions, covenants and charters ratified by Egypt. It also aims to consolidate their values, spread awareness of them, and contribute to ensuring their exercise. In this law, it is referred to as "the Council". The Council shall enjoy legal personality and technical, financial, and administrative independence in the exercise of its functions, activities, and competences. The council shall have its headquarters in the governorate of Cairo or one of the neighboring governorates, and it shall have the right to establish branches and offices in all governorates of the Republic.

Article 3, Clause 17, also stipulates that (Without prejudice to the provisions of the laws in force, the Council shall, in order to achieve its objectives:

“Visit prisons and other places of detention, therapeutic and correctional institutions, and listen to prisoners and inmates of the aforementioned places and institutions to verify their good treatment and the extent to which they enjoy their rights. The Council shall prepare a report on each visit, including the most important observations and recommendations with the aim of improving the conditions of inmates and inmates of the aforementioned places and institutions. The Council shall submit its report to both the Public Prosecutor and the House of Representatives”.

Article 10 of the same law also stipulates that (the chairman of the council is the one who represents him before the judiciary and in his relations with others, and he is replaced by his deputy if he does it against his will or during his absence, and both of them devote themselves to their duties.

The chairman of the board may authorize his deputy to exercise some of his competences).

Whereas, the purpose of the Second Appellee's litigation in his capacity as the formation of a committee of members of the National Council for Human Rights whose task is to move to a

prison (High Security 2 in Tora Prison Complex) in which the father of the Notifier is currently placed to examine him, indicate the medical and preventive measures taken therein, and prove the status of the correction and rehabilitation centers there for fear of losing the rights of the student and other prisoners, workers, and those in charge of protecting the correction and rehabilitation centers.

Fourth Reason: Invalidity of the Decision Due to Lack of Justification and Legality:

The Supreme Administrative Court has ruled:

"The reason for an administrative decision is a factual or legal situation that prompts the administration to intervene with the intention of producing a legal effect, which is the subject of the decision, in pursuit of the public interest, which is the purpose of the decision."

(Supreme Administrative Court, Appeal 277 of 33 Q, February 27, 1993, Modern Administrative Encyclopedia 1985/1993, Vol. 35, Rule 342, p. 997)

It also ruled:

(The decision... must be based on reasons that justify it truthfully and accurately in fact and in law, as an essential element for its validity as a legal act. No legal act is valid without its reason.)

(Appeal 3471 of 32 Q, December 29, 1990, Modern Administrative Encyclopedia - 1985/1993 - Rule 341 - p. 995)

According to the established rulings of the Supreme Administrative Court, it is not sufficient for the reason to merely exist; it must also be consistent with constitutional principles. The review of the reasons for a decision requires the administrative judge to examine the objective grounds and motives that led the authority to issue its decision, whether negative or positive.

Whereas the Appellee has not yet provided reasons or justifications for the reason for not disclosing the safety measures taken with these decisions to protect prisoners in pretrial detention, as well as workers and officers in these prisons, especially about the preventive measures carried out by the Prison Administration that would provide protection for prisoners, especially in the (High Security 2) prison in Tora Prison Complex, where the student's father is currently placed, and about the availability of hygiene tools and good ventilation or not, as well

as enabling the committee formed by members of the National Council for Human Rights to inspect him and prove the preventive and medical measures taken within the reform and rehabilitation centers, despite being notified of this by official means, and therefore the contested decision is lacking for its reason, which requires its cancellation .

Fifth Reason: Request for a Stay of Execution:

It is well-established that the authority to suspend the execution of administrative decisions is derived from the authority to annul them, and is a branch of it. This stems from the legal oversight exercised by the administrative judiciary, based on the principle of weighing and balancing the law, with legitimacy being the deciding factor.

Therefore, the execution of an administrative decision can only be suspended if two fundamental conditions are met. First, there must be an element of urgency, meaning that the implementation of the contested decision would lead to irreparable consequences. Second, the request must be based on the principle of legality, meaning that the appellant's claim appears to be based on grounds that could lead to the annulment of the decision. All of this is without prejudice to the annulment request itself, which remains to be addressed on its merits.

(Supreme Administrative Court, Appeal No. 221 of 32 Q, Session 26/1/1985)

Applying this, we find that all these conditions are met, as it is about the corner of urgency, the implementation of the contested decision not to disclose the safety measures taken with these decisions to protect prisoners in pretrial detention, as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners, especially in the high-security prison 2 in Tora Prison Complex, where the student's father is currently placed, and about the availability of hygiene tools and good ventilation or not, as well as enabling the committee formed by members of the National Council for Human Rights to inspect him and prove the preventive and medical measures taken within the correction and rehabilitation centers, despite being notified of this by official means.

The reasons for the appeal also suggest the issuance of a ruling to cancel this decision, so the reasons for suspending the execution are available in this appeal, so the reasons for suspending the execution are available in this contested decision.

Accordingly

The appellant seeks to determine the nearest hearing and judgment:

First: - By accepting the appeal in form.

Second: - As a matter of urgency, to stop the implementation of the negative decision that the appellee refrains from disclosing the safety measures taken with these decisions to protect prisoners in pretrial detention, as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners, especially in the high-security prison 2 in Tora Prison Complex, where the father of the student, Mr. Ibrahim Abdel Moneim Metwally, is currently detained in pretrial detention pending Case No. 1470 of 2019, State Security Inventory, and about the availability of hygiene tools and good ventilation or not, as well as enabling the committee formed by the members of the National Council for Human Rights to examine him and prove the preventive and medical measures taken inside the reform and rehabilitation centers, with the consequent effects on the implementation of the sentence with his draft and without announcement .

Third: On the subject of canceling the negative decision that the appellee refrains from disclosing the safety measures taken with these decisions to protect prisoners in pretrial detention, as well as workers and officers in these prisons, especially about the preventive measures carried out by the prison administration that would provide protection for prisoners, especially in (High Security 2) prison in Tora Prison Complex, where the father of the student, Mr. Ibrahim Abdel Moneim Metwally, is currently detained in pretrial detention pending Case No. 1470 of 2019, State Security Inventory, and about the availability of hygiene tools and good ventilation or not, as well as enabling the committee formed by members of the National Council for Human Rights to inspect him and prove the preventive and medical measures taken

inside the correction and rehabilitation centers, with the consequent effects on the implementation of the judgment in its draft without announcement .

Appellant's Attorney

Lawyer

Chapter Thirteen: Procedures for the Implementation of Administrative Judgments

Introduction

The judgment issued by the Administrative Court is enforceable even if it is challenged before the Supreme Administrative Court. Article 50 of Law No. 47 of 1972 on the Council of State stipulates that: "The appeal before the Administrative Court shall not result in the suspension of the execution of the contested judgment unless the Appeals Examination Department orders otherwise."¹⁸³

That is, the judgments issued by the Administrative Court are enforceable judgments, and challenging them before the Supreme Administrative Court does not result in a stay of execution, unless the Appeals Examination Department orders otherwise, or in the event that the person against whom the judgment is issued complains about the quantity, as the first problem stops the implementation, but the suspensive effect is limited to the period of consideration of the problem and the decisive in this regard is the judgment that will be issued in the problem.

I. Procedures for the implementation of the judgment

1- Extracting an executive version of the issued judgment, which is an official copy of the judgment from the secretary of the session and stamped with the seal of the executive version.

2- Announcing the executive formula of the convicted person, through the bailiffs of the State Cases Authority.

3- Receiving the executive version of the judgment after its announcement, submitting it to the authority entrusted with its implementation "the administration against which the judgment is issued" and handing over the executive version to the competent employee, with obtaining his

¹⁸³ Opinion of the Council of State No. 767 of 2017, on how to implement the judgments issued by the Administrative Court, via the Legal Publications website, last visited on June 14 2021, available at [:https://manshurat.org/node/26078](https://manshurat.org/node/26078)

signature indicating receipt on a photocopy of the executive version, and that copy must be kept.

4-The execution of the judgment must be followed up with the administrative authority, and in the event of inaction or refusal to execute, the right to establish a direct misdemeanor by not executing a judicial judgment.

II. The direct misdemeanor for non-implementation of a judicial ruling

Article 100 of the Egyptian Constitution stipulates that "judgments shall be issued and executed in the name of the people, and the state shall guarantee the means of their implementation in the manner regulated by law. Refraining from implementing it or obstructing its implementation by competent public officials is a crime punishable by law. In this case, the convict has the right to file a criminal case directly with the competent court. The Public Prosecution shall, at the request of the convicted person, initiate criminal proceedings against the employee who refuses to implement the judgment or who causes its disruption."¹⁸⁴

Article 123 of the Penal Code No. 58 of 1937 stipulates that: "Any public official who uses the authority of his office to suspend the execution of orders issued by the government or the provisions of laws and regulations, delay the collection of funds and fees, or suspend the execution of a judgment or order issued by the court or any competent authority shall be punished by imprisonment and dismissal.

Any public official who deliberately refrains from executing a judgment or order mentioned eight days after being warned by a bailiff shall also be punished by imprisonment and dismissal if the execution of the judgment or order falls within the competence of the employee."¹⁸⁵

❖ According to the text of the aforementioned article, it is clear that:

- 1- It must be ensured that the person receiving the form of the judgment to be executed is a public official who is competent to receive and take implementation measures.

¹⁸⁴ Article 100 of the Egyptian Constitution

¹⁸⁵ Article 123 of the Penal Code No. 58 of 1937 as last amended

- 2- The employee deliberately refrains from executing the judgment.
- 3- Warning the competent employee by a report; eight days have passed without implementation.

❖ We must note before establishing a misdemeanor that a judicial ruling is not implemented a number of points for the validity of legal procedures, which are as follows:

- 1- The person who refuses to execute must be litigated in person and not in his capacity, as in the event of a litigation against the person in his capacity, the procedural capacity necessary for the litigation to take place is non-existent with regard to the litigation against the accused in his capacity.

It is also decided that the public lawsuit is a personal lawsuit, and this is an inevitable result of the personality of the punishment. The public lawsuit is filed only against those who are accused of committing or participating in the crime, and it is based on this that the defendant in the criminal lawsuit must be a specific person, and that he is the perpetrator.

“The rule in Egyptian legislation is that legal persons are not criminally responsible, and that the exception is their criminal responsibility, and there is no reason to say that this responsibility is estimated in our legislation as a general rule or on an equal footing with the responsibility of the natural person unless there is an explicit text that defines the scope of this responsibility and determines its extent, and that the legal person is not criminally liable, but only civilly, and without prejudice to the personal criminal responsibility of those who are proven to have committed a criminal act by their directors or subordinates.”

(Reference: “Principles of Criminal Procedure” – by Dr. Raouf Obaid – 10th Edition – p. 127).

It is also a well-established principle in the judiciary: “The legal person is not criminally responsible.”

(Cassation of 30 December 1968, Court of Cassation, Judgments Series XIX, No. 226, p. 1110; Cassation of 12 May 1969, No. 20, No. 138, p. 680; and Cassation of 21 June 1954, No. 5, No. 260, p. 804)

- 2- The warning and the direct misdemeanor petition must be announced at his place of residence, and it may be delivered at the chosen place in the cases specified by law. It is not legally valid to announce the place of work, as the place of work is not a place where it may be announced, and in the case of a declaration on the place of work, it results in nullity.

Article 234 of the Code of Criminal Procedure stipulates that: “The summons shall be served on the person of the addressee or at his place of residence in the ways prescribed in the Code of Civil and Commercial Procedures.”¹⁸⁶

Article 10 of the Code of Procedure also stipulates that: "The papers required to be served shall be delivered to the same person or in his domicile and may be delivered in the chosen domicile in the cases specified by the law.

If the bailiff does not find the person required in his home country, he shall hand over the paper to the person who decides that he is his agent, that he works in his service, or that he lives with him from among spouses, relatives, and in-laws. "

Article 19 of the Code of Pleadings also states: “Nullity results from the non-observance of the dates and procedures stipulated in Articles 6, 7, 8, 9 and 10...”¹⁸⁷

The Court of Cassation ruled in this regard that “the domicile of the person as defined in Article 40 of the Civil Code is the place where he usually resides, and therefore the place where the employee carries out his work is not considered his home, and when the fact is that the respondent announced the appeal report in the place of his job as a bailiff of the men's reformatory, addressing one of the employees with him for his absence, even though the lawsuit was filed against him in his personal capacity, this declaration shall be null and void.”¹⁸⁸

Notice to Comply with Court Judgment

On this day, corresponding to [Date],

Upon the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name],

¹⁸⁶ Article 234 of Law No. 150 of 1950, the Code of Criminal Procedure, as last amended.

¹⁸⁷ See the text of Article 10, 19 of Law No. 13 of 1968, the Code of Procedure, as last amended

¹⁸⁸ Civil Cassation in Appeal No. 186 of 19 Judicial Year – Hearing of 7/2/1952. Group of Fifty Years – Part One – Volume Two – Rule No. 28 – p. 1513. In Appeal No. 814 of 53 Judicial – Session 12/21/1986

I, the bailiff of the [Court Name] court, have gone to and served the following notice on:

Mr./Ms. [Defendant's Name], residing at [Address]

Subject

Regarding the lawsuit number [Case Number] for the year [Year] before the [Court Name] court, which in its session on [Date] issued the following judgment: [Court's Decision]. Since the defendant has been served with the enforceable copy of the aforementioned judgment on [Date] to proceed with the execution procedures, but the defendant has not executed this judgment without providing any legal reason for refusal, which constitutes a refusal to execute the judgment.

Therefore, the plaintiff has issued this notice requesting that the procedures for the execution of the judgment issued in lawsuit number [Case Number] for the year [Year] before the [Court Name] court, which in its session on [Date] issued the following judgment: [Court's Decision] and which has been made enforceable, be carried out, and since the defendant was served with the enforceable copy of the aforementioned judgment on [Date].

Otherwise, the plaintiff will be forced to file a direct misdemeanor complaint for failure to execute a court judgment in accordance with the provisions of Article 123 of the Penal Code No. 58 of 1937, which states: "Any public official who uses his official authority to halt the execution of orders issued by the government or the provisions of laws and regulations, or to delay the collection of monies and fees, or to halt the execution of a judgment or order issued by a court or any competent authority shall be punished by imprisonment and dismissal. Likewise, any public official who intentionally refuses to execute a judgment or order as mentioned above after being notified by a bailiff eight days after the notice, if the execution of the judgment or order falls within the competence of the employee, shall be punished by imprisonment and dismissal".

Therefore

The plaintiff has directed this notice to the defendant to:

Proceed with the execution procedures for the judgment issued in lawsuit number [Case Number] for the year [Year] before the [Court Name] court, which in its session on [Date] issued the following judgment: [Court's Decision] and which has been made enforceable, and since the defendant was served with the enforceable copy of the aforementioned judgment on [Date].

Accordingly

I, the aforementioned bailiff, have gone to the defendant and handed him a copy of this notice to acknowledge its contents and have informed him of everything contained therein. I have also informed him of the need to proceed with the execution procedures for the judgment issued in lawsuit number [Case Number] for the year [Year] before the [Court Name] court, which in its session on [Date] issued the following judgment: [Court's Decision] and which has been made enforceable, and since the defendant was served with the enforceable copy of the aforementioned judgment on [Date], within eight days of his receipt of this notice, otherwise the defendant shall be considered to have refused to execute a final and enforceable court judgment in accordance with the provisions of Article 123 of the Penal Code.

Otherwise, the plaintiff will be forced to take all necessary legal measures.

This is without prejudice to all the rights of the plaintiff in his other capacity.

For your knowledge.

Criminal Complaint for Failure to Comply with a Court Judgment

On this day, corresponding to [Date],

Upon the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name],

I, the bailiff of the [Court Name] court, have gone to and served the following notice on:

1. Mr./Ms. [Defendant's Name], residing at [Address]

2. Mr./Ms. [Public Prosecutor], at the [Court Name] Public Prosecutor's Office

Subject

The plaintiff filed a lawsuit number [Case Number] for the year [Year] before the [Court Name] court, which in its session on [Date] issued the following judgment: [Court's Decision], which is final and enforceable.

The defendant was served with the enforceable copy of the aforementioned judgment on [Date] to proceed with the execution procedures, but the defendant intentionally failed to execute this judgment, despite being obligated to do so, which constitutes the crime of refusing to execute a court judgment, as stipulated in Article 123 of the Penal Code, which states: "Any public official who uses his official authority to halt the execution of orders issued by the government or the provisions of laws and regulations, or to delay the collection of monies and fees, or to halt the execution of a judgment or order issued by a court or any competent authority shall be punished by imprisonment and dismissal. Likewise, any public official who intentionally refuses to execute a judgment or order as mentioned above after being notified by a bailiff eight days after the notice, if the execution of the judgment or order falls within the competence of the employee, shall be punished by imprisonment and dismissal."

Because the plaintiff has faced obstruction from the defendant in refusing to execute the aforementioned judgment, which compelled the plaintiff to issue a notice registered under number [Number] on [Date], prior to filing this complaint, and despite the passage of more than eight days since the service of the notice, the defendant has persisted in refusing to execute the aforementioned judgment, which has compelled the plaintiff to file this complaint.

The Court of Cassation has ruled on this matter, stating: "Since Article 123 of the Penal Code stipulates that any public official who uses his official authority to halt the execution of orders issued by the government or the provisions of laws and regulations, or to delay the collection of monies and fees, or to halt the execution of a judgment or order issued by a court or any competent authority shall be punished by imprisonment and dismissal. Likewise, any public official who intentionally refuses to execute a judgment or order as mentioned above after being notified by a bailiff eight days after the notice, if the execution of the execution of the judgment

or order falls within the competence of the employee, which implies that the legislator has stipulated that the applicant for execution must notify the competent official who is required to execute to determine the beginning of the eight-day period granted for execution, during which the penalty is incurred if he intentionally refuses to execute. (Appeal No. 559 for the year 55, session 3/6/1985, page 334)"

Therefore, based on the foregoing, it is clear that the defendant has committed the crime of refusing to execute a court judgment or order and has used his authority to obstruct the execution of the laws and regulations stipulated in Article 123/1 and 2 of the Penal Code.

This has caused the plaintiff significant material and moral damages, entitling him to claim an amount of [Amount] Egyptian pounds as provisional compensation for these damages.

Since the purpose of including the second defendant as the party bringing the criminal lawsuit is to direct the accusation against the first defendant.

Therefore

I, the aforementioned bailiff, have gone on the aforementioned date to the residence of both defendants and served each of them a copy of this document, and have summoned them to appear before the [Court Name] court, [Division] at its session to be held publicly at 8:00 AM and thereafter on [Date], so that the first defendant may be sentenced as requested by the public prosecution with the penalty stipulated in Article 123/1 and 2 of the Penal Code, because on [Date] in the [District] district, he refused to execute the court judgment number [Number] which states [Judgment], and ordering the first defendant to pay the plaintiff an amount of [Amount] Egyptian pounds as provisional compensation, costs, and attorney's fees.

For your knowledge.

Chapter Fourteen: Appendices - Sample Forms and Legal Guidelines

I. Request to Expedite Court Hearing

To the Honorable Judge, Presiding Judge of the Administrative Court, "[Division]"

With due respect,

Submitted to Your Honor by [Your Name], a lawyer acting as an attorney for Mr./Ms. [Client's Name] pursuant to power of attorney number [Number] dated [Date].

Subject

I request Your Honor to kindly agree to expedite the hearing of case number [Case Number] for the year [Year], which Your Honorable Court has graciously scheduled for a hearing on [Date in June] as the first hearing.

Given that the subject matter of the case before Your Honor is a request for [State the requests as stated in the original petition], and considering the importance of this matter and the risk of [State the reason for urgency] if the hearing is not expedited, resulting in the loss of the opportunity to...

Therefore

We kindly request Your Honor to be so kind as to agree to expedite the hearing at the earliest possible time. We are fully prepared to bear the costs of re-serving the defendants with the new hearing date.

Respectfully submitted, [Your Name]

II. Notice of Filing a Lawsuit in Administrative Court

On this day, corresponding to [Date],

Pursuant to the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name],

I, the bailiff of the [Court Name] court, have gone to and served the following notice on:

1. Mr./Ms. [Defendant's Name], in their capacity as...
2. Mr./Ms. [Defendant's Name], in their capacity as... and served at the State Lawsuits Authority
3. Mr./Ms. [Defendant's Name], in their capacity as President of [University]
4. Mr./Ms. [Defendant's Name], in their capacity as Dean of [Faculty] and served at the legal affairs department of the university located at...

Notice: [Briefly state the subject matter of the lawsuit]

Accordingly

I, the aforementioned bailiff, have gone on the aforementioned date to the residence of the defendants and served each of them a copy of this notice, and have summoned them to appear before the Administrative Court located at [Address], at its session to be held publicly on [Date] at [Time], to hear the judgment against them for:

1. Accepting the appeal in form.
2. As an urgent matter, suspending the execution of the appealed-against decision... and including the judgment with immediate enforcement without bail and executing it based on its original draft without notification.
3. In substance, canceling it with all the resulting consequences and obligating the administrative authority to pay the costs and attorney's fees.

With the preservation of all other rights of the appellant.

Note: The original lawsuit and its copies served on the defendants must be attached to this notice.

III. Notice of Re-Service

On [Date], pursuant to the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name], I, the bailiff of the [Court Name] court, have gone to and **served the following notice on:**

Mr./Ms. [Defendant's Name], residing at [Address]

The plaintiff has filed a lawsuit number [Case Number] for the year [Year], requesting a judgment in their favor [Briefly state the subject matter of the lawsuit and the plaintiff's claims]. The court scheduled a hearing for [Date] before Division [Division Number]. However, the defendant or their legal representative did not appear at that hearing.

Therefore

The court adjourned the hearing to [Date] to re-serve the notice, as the judgment to be issued will be considered a default judgment pursuant to Article 84 of the Code of Civil Procedure, which states: "If only the defendant is absent at the first hearing and the summons has been personally served on him, the court shall give judgment in the case. If he has not been personally served, the court, except in urgent cases, shall adjourn the hearing to a subsequent session at which the plaintiff shall serve the absent defendant, and the judgment in the case shall in both cases be considered a default judgment. If there are several defendants and some have been personally served and others have not been personally served, and all of them are absent or those who have not been personally served are absent, the court, except in urgent cases, shall adjourn the hearing to a subsequent session at which the plaintiff shall serve those of the absentees who have not been personally served. The judgment in the case shall be considered a default judgment against all the defendants. For the purposes of applying the provisions of this article, service on a public or private legal entity at its administrative headquarters or at the State Lawsuits Authority, as the case may be, shall be considered personal service." As the plaintiff is interested in enforcing the court's decision, I, the aforementioned bailiff, have gone on this date to the defendant's residence and served them a copy of this notice, summoning them to appear before the [Court Name] court located at [Address], Division [Division Number], at its public session on [Date] at 8:00 AM and thereafter, to hear the judgment on the previously announced claims.

For your information,

IV. Notice of Service with Original Complaint

On [Date], pursuant to the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name], I, the bailiff of the [Court Name] court, have gone to **and served the following notice on:**

Mr./Ms. [Defendant's Name], residing at [Address]

The plaintiff has filed a lawsuit number [Case Number] for the year [Year], requesting a judgment in their favor [Briefly state the subject matter of the lawsuit and the plaintiff's claims]. The court scheduled a hearing for [Date] before Division [Division Number]. At that hearing, the plaintiff's representative presented the original complaint, which had not been served on the defendant and was not executed for that hearing. Therefore, the court adjourned the hearing to [Date] for service of the original complaint. As the plaintiff is interested in enforcing the court's decision,

Therefore

I, the aforementioned bailiff, have gone on this date to the defendant's residence and served them a copy of the original complaint, summoning them to appear before the [Court Name] court located at [Address], Division [Division Number], at its public session on [Date] at 8:00 AM and thereafter, to hear the judgment on [State the requests].

For your information.

V. Notice of Renewal of a Dismissed Lawsuit

On [Date], pursuant to the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name], I, the bailiff of the [Court Name] court, have gone to **and served the following notice on:**

Mr./Ms. [Defendant's Name], residing at [Address]

The plaintiff filed lawsuit number [Case Number] before the court, requesting a judgment in their favor [Briefly state the subject matter of the lawsuit and the plaintiff's claims].

Since the plaintiff failed to appear at the hearing on [Date], the court ordered the dismissal of the lawsuit. However, since less than sixty days have passed since the order dismissing this lawsuit, the plaintiff is entitled to renew their lawsuit pursuant to Article 82 of the Code of Civil Procedure, which states: "If neither the plaintiff nor the defendant appears, the court shall give judgment in the case if it is fit for judgment, otherwise it shall order its dismissal. If sixty days have elapsed and neither party has applied to proceed with the case, or if neither party has appeared after the case has proceeded, it shall be deemed as if it had never been. The court shall give judgment in the case if the plaintiff or the plaintiffs or some of them are absent at the first hearing and the defendant is present." As the plaintiff is interested in renewing the lawsuit from dismissal.

Therefore

I, the aforementioned bailiff, have gone on the aforementioned date and served a copy of this notice on the defendant, summoning them to appear before the [Court Name] court located at [Address] at its public session on [Date] at 8:00 AM and thereafter, to hear the judgment on [State the requests], and obligating them to pay the costs and attorney's fees.

For your information.

VI. Notice of Motion to Lift Partial Stay

On [Date], pursuant to the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name], I, the bailiff of the [Court Name] court, have gone to **and served the following notice on:**

Mr./Ms. [Defendant's Name], residing at [Address]

The plaintiff filed lawsuit number [Case Number] for the year [Year] in the civil court, seeking a judgment against the defendant for [State the final requests].

The case proceeded through several hearings, and at the hearing on [Date], the plaintiff was unable to comply with the court's order [State the content of the order]. Therefore, the court, after adjourning for the same reason, ordered a partial stay of the proceedings for a period of one month (or as per the court's decision).

Since the plaintiff has now removed the reason for the partial stay and the specified suspension period has ended, and in accordance with Article 99 of the Code of Civil Procedure, which states: "The court shall impose a fine of not less than forty pounds and not more than four hundred pounds on any of its employees or on the parties who fail to deposit documents or to perform any procedural act within the time limit set by the court. This shall be by a decision recorded in the minutes of the session and shall have the force of a final judgment. No appeal shall lie against it, but the court may remit all or part of the fine imposed on the defendant if he shows a reasonable excuse. The court may, instead of imposing a fine on the plaintiff, order that the proceedings be stayed for a period not exceeding one month after hearing the defendant's statement. If the period of stay expires and the plaintiff does not apply to proceed with his claim within the following fifteen days, or if he does not comply with the court's order, the court shall order that the claim be deemed as if it had never been." And as the plaintiff is interested in expediting the lawsuit and lifting the partial stay,

Therefore

I, the aforementioned bailiff, have gone on the aforementioned date and served a copy of this notice of motion to lift the partial stay on the defendant, summoning them to appear before the [Court Name] court located at [Address] at its public session on [Date] at 8:00 AM and thereafter, to hear the judgment on [State the requests], and obligating them to pay the costs and attorney's fees.

For your information.

VII. Notice of Motion to Lift a Stay of Proceedings

On [Date], pursuant to the request of Mr./Ms. [Plaintiff's Name], residing at [Address], and represented by Attorney [Attorney's Name], I, the bailiff of the [Court Name] court, have gone to **and served the following notice on:**

Mr./Ms. [Defendant's Name], residing at [Address]

The plaintiff filed lawsuit number [Case Number] for the year [Year] in the civil court, seeking a judgment against the defendant for [State the final requests].

The case proceeded through several hearings, and at the hearing on [Date], the court ordered a stay of proceedings [State the content of the order and the reason for the stay]. Since the plaintiff has now removed the reason for the stay of proceedings, and as the plaintiff is interested in expediting the lawsuit and lifting the stay, in accordance with Article 129 of the Code of Civil Procedure, which states: "Except in cases where the law provides for a compulsory or discretionary stay of proceedings, the court may order a stay whenever it considers that its judgment on the merits should be suspended pending the resolution of another matter upon which the judgment depends," and as soon as the reason for the stay ceases to exist, the party may request that the proceedings be expedited.

Therefore

I, the aforementioned bailiff, have gone on the aforementioned date and served a copy of this notice of motion to lift the stay of proceedings on the defendant, summoning them to appear before the [Court Name] court located at [Address] at its public session on [Date] at 8:00 AM and thereafter, to hear the judgment on [State the requests], and obligating them to pay the costs and attorney's fees.

For your information.

VIII. Request for a Certificate from the Court Records/Official Copy

To: Mr./Ms. [Prosecutor's Name] Head of the [Prosecutor's Office]

From: [Your Name] In my capacity as: [Your relationship to the case, e.g., plaintiff, defendant, etc.]

Subject

I kindly request your approval to issue a [certificate from the court records, official copy of the record/judgment] in case number [Case Number] for the year [Year],

Misdemeanor/Administrative Division of [District]. I am ready to pay the required fees.

With my highest regards and respect,

[Name]

[ID Number]

IX. How to Create a Power of Attorney for an Incarcerated Person

A power of attorney is a legal document that authorizes another person to act on behalf of someone else. This is especially crucial for individuals who are unable to act on their own behalf, such as those incarcerated.

Procedures for Creating a Power of Attorney for an Incarcerated Person:

The process typically involves submitting a request to the public prosecution office overseeing the case of the incarcerated individual. A notary public from the real estate registry will then visit the detention facility to finalize the document.

Steps Involved:

- 1- The applicant, who is a relative of the detainee or a lawyer authorized to carry out any necessary procedure, submits a request to the competent public prosecution office. Along with the request, they must attach a copy of a document proving the applicant's relationship to the detainee, such as a birth certificate or marriage certificate if the relationship is through the mother or spouse.
- 2- The request, along with supporting documents, is submitted to the designated official in the public prosecution office handling the detainee's case. After receiving the request and obtaining the prosecutor's approval, the applicant follows up on the issuance of the permit and its delivery to the relevant real estate registry or collects it personally and takes it to the registry.
- 3- The relative of the detainee submits the permit to the real estate registry responsible for the place where the detainee is held (within the detention center or police station), requesting that a notary public be sent to the detention facility to complete the procedures and have the detainee sign the power of attorney document.
- 4- A request is submitted to the head of the real estate registry office where the detention facility is located, requesting the dispatch of a notary public in accordance with the permit obtained

from the public prosecution office. The transfer fee is paid after filling out the power of attorney form with the necessary details and paying the required fee for issuing the power of attorney.

Sample Request to the Public Prosecution Office

To: The Head of the Public Prosecution Office of [Location]

Respectfully, [Your Name] [Your Relationship to the Incarcerated Person] Regarding: [Name of the Incarcerated Person] Detained at [Detention Facility] and facing charges in case number [Case Number] of [Year] in the [Court Name]

We request your kind permission to allow a notary public from the real estate registry to visit the detention facility of [Detention Facility] in order to have [Name of the Incarcerated Person] execute a [general/specific/for legal matters] power of attorney in favor of [Name of Attorney or Individual].

Thank you for your kind attention. Sincerely, [Your Signature]

X. How to Create a Power of Attorney for an Incarcerated Person:

1. **Handwritten Request:** The applicant (usually a lawyer or a family member) writes a handwritten request addressed to the public prosecutor, seeking their approval and necessary information from the execution department.
2. **Typed Request and Supporting Documents:** The request is then typed and submitted along with the handwritten request and a copy of the applicant's identification card.
3. **Submission to the Public Prosecutor's Office:** The application is submitted to the secretariat of the public prosecutor's office where the crime occurred, not the one in the applicant's residence. The secretariat will issue a reference number for the Supreme Judicial Council.
4. **Supreme Judicial Council:** The applicant goes to the secretariat of the public prosecution office at the Supreme Judicial Council (ground floor).

5. **Real Estate Registry:** The applicant goes to the emergency real estate registry and obtains a reference number for the real estate registry associated with the correctional facility where the detainee is held.
6. **Notary Visit:** The applicant goes to the real estate registry, and they will schedule a day for a notary to visit the correctional facility. The applicant pays the fees and accompanies the notary to the facility. The power of attorney is executed there. The notary returns to the real estate registry, deposits the original document, and provides the applicant with a certified copy.

Numbers and addresses for submitting reports, complaints and inquiries

Numbers and addresses of the Office of the Public Prosecutor:

- The report can be submitted by WhatsApp number to receive complaints and reports of citizens to the Attorney General, through the following number (01111755959).
- Or by submitting the complaint on the website of the Public Prosecution through the following link

[The website](#) of [the Public](#) Prosecution

- ❖ Address of the Public Prosecutor's Office: New Cairo - Rehab - Gate 6.
- ❖ Office of the President of the Court of Appeal for Inmates Affairs: - Cairo Court of Appeal - Ground Floor - 26 July Street - Gamal Abdel Nasser Metro Station.
- ❖ International Cooperation Office: - Office of the Public Prosecutor in Al-Rahab

National Council for Human Rights:

Complaints are submitted to the National Council for Human Rights through the following electronic form: https://nchr.eg/ar/contactus_ or by submitting a complaint to the Council through their office at the following address: -

Complaints Office: 69 Giza Street - Giza - Egypt.

Main Branch: 340 D - North 90th Street - Fifth Settlement - Cairo.

Or by visiting the following link: <https://nchr.org/ar/Branches> to inquire <https://nchr.org/ar/Branches> about the addresses of the Council's branches in the governorates.

Phone : +2028135606 - +2028135607

Fax : +2028135607

Email : nchr-n@nchr.org.eg

Pardon Committee:

It is the competent committee for those who have not been sentenced in accordance with the standard set by the committee through the Internet through the following website "<https://egyouth.com/ar/release/>". In the <https://egyouth.com/ar/release/> case of paper submission, the application must be accompanied by a copy of the national number of one of the inmate's first-degree relatives, a form with all his data, the number of his case and the place

Submitting the visit request electronically to the Head of the Community Protection Sector: -

Address of the Community Protection Sector: - Tora Al Balad - next to Tora Al Balad Metro Station - Cairo.

- The request can be submitted electronically, through the [following link](#), and the name of the visitor must be mentioned in the quadrant, the kinship link, the name of the quadrant inmate and the place of detention, and the request will be answered within two days. In the event of any complaints or inquiries, contact the numbers of the Human Rights Department in the Community Protection Sector through the following numbers: 25748831 – 25757474

Inquire about the status of a guest visit request

- To inquire about the status of an inmate visit request, access the [official website](#) of the [Ministry of Interior](#), then the service directory, click on the inmate visit requests, and then inquire about the status of the inmate visit request.

To inquire about the visit request submitted, login through the [website of the Egyptian Ministry of Interior](#) from [here](#)

"Then choose the directory of services from the top right of the page, then choose the requests to visit the inmates, and then record the data of the registrant of the request to visit a guest, which includes " the data of the inmate of the Correction and Rehabilitation Center and the data of the applicant for the visit. "

Numbers and addresses for submitting reports, complaints and inquiries

Numbers and addresses of the Office of the Public Prosecutor:

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"Then choose the directory of services from the top right of the page, then choose the requests to visit the inmates, and then record the data of the registrant of the request to visit a guest, which includes " the data of the inmate of the Correction and Rehabilitation Center and the data of the applicant for the visit."