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**Human Rights Council**  
**Working Group on Arbitrary Detention**

## **Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023**

### **Opinion No. 12/2023 concerning Safwan Ahmed Hassan Thabet and Seif Eldin Safwan Ahmed Thabet (Egypt)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,<sup>1</sup> on 4 January 2023 the Working Group transmitted to the Government of Egypt a communication concerning Safwan Ahmed Hassan Thabet and Seif Eldin Safwan Ahmed Thabet. The Government replied to the communication on 6 March 2023. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status that aims towards or can result in ignoring the equality of human beings (category V).

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<sup>1</sup> [A/HRC/36/38](#).

## Submissions

### *Communication from the source*

4. Safwan Ahmed Hassan Thabet is an Egyptian national, born in 1946. His national identity number is [withheld]. He usually resides in Giza, Egypt. Mr. Safwan Thabet is the founder and former chairman of Juhayna Food Industries.

5. Seif Eldin Safwan Ahmed Thabet is an Egyptian national, born in 1981. His national identity number is [withheld]. He usually resides in Giza, Egypt. Mr. Seif Thabet is the eldest son of Mr. Safwan Thabet and has been the Chief Executive Officer of Juhayna Food Industries since 2016.

### Context

6. According to the source, Mr. Safwan Thabet and Mr. Seif Thabet were arrested as part of a crackdown on successful businesses, whereby the authorities use terrorism laws to add the names of business owners to terrorist lists and to justify the freeze and seizure of their assets.

7. The two individuals reportedly own the largest producer of dairy and juice products in Egypt, Juhayna Food Industries, founded in 1983. For years, the company had the largest share of the country's dairy market and it currently has a capitalization of approximately 1 billion Egyptian pounds (\$63.9 million).

8. According to the source, in August 2015, the Committee to Assess the Financial Assets of the Muslim Brotherhood froze Mr. Safwan Thabet's personal assets but excluded those of Juhayna Food Industries. The Committee claimed that Mr. Safwan Thabet was an active member of the Muslim Brotherhood, not merely a supporter. In February 2016, with no court hearing or official charges, the Committee reportedly froze 7.2 per cent of the shares of Juhayna Food Industries that it said Mr. Safwan Thabet indirectly owned. However, the Government could not seize all of the company's assets because Mr. Safwan Thabet held the majority of his shares through Pharaoh Investments Limited, a fund incorporated abroad, in which Mr. Safwan Thabet's family held a majority of shares.

9. The source reports that the Committee to Assess the Financial Assets of the Muslim Brotherhood is an administrative entity, created in 2013, that is responsible for decisions that pave the way for the unlawful seizure of assets of individuals and companies, which, the authorities claim, regardless of evidence, are linked to the Muslim Brotherhood.

10. On 3 August 2021, the Government of Egypt announced the opening of the first phase of the food and logistics industrial city known as "Silo Foods" in Sadat City. Reportedly, Silo Foods is the most recent State-run enterprise launched by the National Service Products Organization as a component of the country's military economy. The source notes that the Government branding of Silo Foods is remarkably similar to that of Juhayna Food Industries. For instance, the slogan of Silo Foods reads "The World Has a New Taste", while the slogan of Juhayna Food Industries reads "The World Has a Beautiful Taste". Reportedly, for months prior to Mr. Safwan Thabet's arrest, the President of Egypt had publicly instructed the Government to develop government-owned dairy industry facilities. Following his arrest, Mr. Safwan Thabet resigned as the company's Chairperson and was replaced by the company's Saudi partner and shareholder.

#### a. Arrest and detention

### *Safwan Ahmed Hassan Thabet*

11. According to the source, Mr. Safwan Thabet was first arrested on 2 December 2020, when 50 armed policemen in four armoured vehicles, led by an officer from the State Security Authority, broke into his home in Cairo. Allegedly, he was not shown an arrest warrant or provided with any explanation for his arrest.

12. Mr. Safwan Thabet was reportedly subjected to enforced disappearance for four days, until 6 December 2020, when he was brought before the Supreme State Security Prosecution. He was reportedly interrogated on charges of joining and financing a terrorist group based

on an investigative report provided by the State Security Authority that neither Mr. Safwan Thabet nor his lawyer were allowed to examine. The source alleges that despite failing to provide sufficient evidence to support the accusations, the Prosecution ordered Mr. Safwan Thabet into pretrial detention.

13. Reportedly, Mr. Safwan Thabet has been detained in solitary confinement at Tora El Mazraa Prison since 6 December 2020 and that his detention has been renewed almost automatically, without sufficient reasoning being provided, either by the Prosecution or by the Court.

14. The source explains that Mr. Safwan Thabet suffers from stomach ulcers, high cholesterol, fatty liver, a double-knee replacement and shoulder injuries. It is reported that since his arrest, the prison administration has refused to deliver his medicine regularly or to provide him with adequate medical care. On 21 July 2022, the source received information that his health had significantly deteriorated due to his health and the denial of medical treatment.

15. The source further claims that the Ministry of the Interior rejected Mr. Safwan Thabet's family visitation request many times: he was granted a first family visit on 4 August 2021. According to the source, his family has not been authorized to deliver him any of the necessities of life, clothes, medication or food. Reportedly, visits have taken place under close prison observation, through a barrier, with no privacy. It is alleged that, on 11 October 2022, a relative was granted a short visit in the Badr Correctional and Rehabilitation Centre, to which Mr. Safwan Thabet was transferred at some point between August and September 2022. The source alleges that it appeared clear that his physical and cognitive function had deteriorated as a result of the conditions of his detention, including his lengthy stay in solitary confinement. It is reported that the lights in his cell remain on at all hours of the day and night, that he is denied time and access to exercise and that his personal belongings, including his Qur'an, have been confiscated.

16. Since being moved to the Badr Correctional and Rehabilitation Centre, Mr. Safwan Thabet has reportedly remained in solitary confinement. Ventilation in his cell remains on, even on cold days, and, without proper medical attention, his physical and psychological health continue to deteriorate. Mr. Safwan has reportedly requested blood pressure monitoring equipment, along with medicines necessary to alleviate the pain in his shoulders and to mitigate pre-existing medical conditions. However, these requests have been denied. In addition, he is unable to access the commissary to purchase adequate food or clothing, which is an increasing concern as temperatures become colder. He is also subjected to 24-hour video surveillance, by means of an in-cell closed-circuit television camera, and family visits, which are strictly monitored, remain limited to 10 minutes. Finally, the source reports that although Mr. Safwan Thabet's pretrial detention exceeded the permissible legal limit of two years on 2 December 2022, no release order was issued, nor was any evidence presented to merit a referral to trial.

*Seif Eldin Safwan Ahmed Thabet*

17. On 31 January 2021, Mr. Seif Thabet was reportedly ordered to report to the headquarters of the State Security Authority in Madinat Nasr, Cairo. The source alleges that he was not allowed to bring a lawyer to the meeting and that security and intelligence officials ordered him to hand over the entirety of his family's shares in Juhayna Food Industries, threatening that he would face a fate similar to that of his father if he did not comply. Mr. Seif Thabet refused, however, to give up his family shares. The officials, in return, did not offer him compensation in any form.

18. On 2 February 2021, Mr. Seif Thabet was again ordered to report to the headquarters of the State Security Authority. Reportedly, he was subjected to enforced disappearance; the authorities refused to reveal his fate or whereabouts until 6 February 2021.

19. Reportedly, it was later discovered that he had been taken to the offices of the Supreme State Security Prosecution on 6 February 2021, where a Prosecutor accused him of joining and financing a terrorist group. However, such allegations were based on secret investigations of the National Security Agency that he was allegedly not allowed to examine. On

14 February 2021, his family finally managed to locate him inside the notorious Tora maximum security 1 prison, known as Al-Aqrab prison or Scorpion prison.

20. The source explains that detainees at Al-Aqrab prison are “living in tombs” and are deprived of visits from their family and lawyers for months, even years. It is alleged that Mr. Seif Thabet has been held in solitary confinement in an insect-infested cell, sleeping on blankets on the floor, denied access to sanitary facilities and deprived of adequate food, water, climate-appropriate clothing and any personal items. The source claims that while Mr. Seif Thabet was detained in Al-Aqrab prison, no one checked on him for up to 24 hours, wardens had orders not to speak to him and he was not allowed the opportunity to read or write to maintain his mental sanity. In addition, Mr. Seif Thabet was reportedly subjected to physical assault and psychological torture.

21. According to the source, Mr. Seif Thabet’s family was initially denied visitation rights and was subsequently allowed to see him only rarely. Reportedly, between 2 February and 4 April 2021, his family made at least 12 attempts to visit him in prison, all of which were denied. On 16 August 2021, Mr. Seif Thabet received a visit from a relative, during which he informed the visitor that all inmates had been moved from Tora maximum security prison 1 to Tora maximum security prison 2. While he was held at the new location along with other inmates in neighbouring cells and had access to a small window, he complained that the other inmates were violent criminals and that his cell was infested with rats and weasels. Subsequently, on 11 October 2022, he was granted a short family visit at the Badr Correctional and Rehabilitation Centre, to which he had been transferred at some point between August and September 2022. On that occasion, Mr. Seif Thabet reported that he continued to be held in solitary confinement and that the lights in his cell remained on at all hours of the day and night.

22. Since being moved to the Badr Correctional and Rehabilitation Centre, Mr. Seif Thabet remains in solitary confinement. The conditions of his detention have reportedly improved as he now has regular contact with guards and is housed in an above-ground cell where he can hear other prisoners around him. However, he is unable to access the commissary to purchase adequate food or clothing, which is an increasing concern as the temperatures become colder. Furthermore, he is subjected to 24-hour video surveillance, by means of an in-cell closed-circuit television camera, and family visits, which are strictly monitored, remain limited to 10 minutes.

b. Company harassment

23. According to the source, in January 2017, without due process, a court added Mr. Safwan Thabet and 1,500 other individuals to a list of terrorists. Although, in July 2018, the Court of Cassation had struck down that designation, another court had added Mr. Safwan Thabet to the list in April 2018. This decision was subsequently upheld by the Court of Cassation on 11 March 2021. As a result, Mr. Safwan Thabet is subject to a travel ban and an assets freeze.

24. Moreover, it has been reported that, in May 2021, a representative of Juhayna Food Industries announced that the traffic police had placed a checkpoint in front of the company’s main factory, taking measures which the company considered arbitrary, including revoking the vehicle licenses of dozens of its delivery drivers, as well as its company executives and private contractors. The sources complain that such measures were aimed at disrupting the company’s supply chain, damaging its ability to compete and preparing the market for the entry of State-affiliated competitors.

25. Reportedly, shares in Juhayna Food Industries dropped sharply in early trading in February 2021 after the arrest of Mr. Safwan Thabet and Mr. Seif Thabet. Furthermore, the company faced punitive measures on the Egyptian stock market for failing to submit financial statements for the 2020 fiscal year before the deadline. This led to the demotion of the company listing on the stock market exchange.

## c. Family actions

26. According to the source, on 6 February 2021, Mr. Seif Thabet's family submitted a complaint to the Public Prosecutor regarding his enforced disappearance. Reportedly, they received no response.

27. Furthermore, on 24 February 2022, the family submitted urgent requests to the Prosecutor General for a humanitarian release of both individuals. However, no reply was received. The family also alerted the National Council for Human Rights of the requests and the deplorable prison conditions, asking for an investigation and the Council's support for their release. Although the National Council promised to examine the cases, no formal response or investigation followed.

28. It has also been alleged that the family submitted applications on behalf of each individual to the Presidential Pardon Committee, but no reply was received.

29. With regard to the alleged harassment of the company, the source reports that Juhayna Food Industries filed several complaints with the judicial authorities concerning the suspension and the refusal of dozens of vehicle licenses, which had put the company at risk of financial losses.

## d. Reprisals against family members

30. According to the source, authorities threatened Mr. Safwan Thabet in order to harm the rest of his family. On 2 October 2021, the authorities allegedly sought to file charges of "spreading false news" and "joining a terrorist group" against a relative of Mr. Safwan Thabet's after the individual posted complaints on social media about the abusive detention of both individuals. The relative was reportedly interrogated by the State Security Prosecution for over 10 hours and was then ordered to be released pending proceedings. The source alleges that the family initially refrained from speaking publicly and that, during the interrogation, the relative was threatened with detention and instructed by authorities not to post anything or talk to journalists.

31. On 18 March 2022, the above-mentioned relative died after being hospitalized. It is reported that the unfair detention and ill-treatment of the two individuals had exacerbated the condition of the relative. Reportedly, both men were allowed to visit their relative at the hospital a week before his death and to attend the funeral prayers. Afterwards, they were immediately returned to their detention facilities. In addition, the authorities briefly detained a relative of the family who was taking photos of the funeral, although he was subsequently released without further charges.

32. Finally, the source reports that the State Security Authority issued informal orders to cancel the funeral and the reception, which forced the family to uninvite family and friends. According to the source, the issuance of unofficial orders that do not comply with legal procedures and are not formally registered is a well-known practice of the State Security Authority.

## e. Legal analysis

33. The source argues that Mr. Safwan Thabet and Mr. Seif Thabet have been detained arbitrarily under categories I and III of the working methods of the Working Group on Arbitrary Detention.

## i. Category I

## (i) Legality of the arrest

34. The source recalls that article 9 of the Universal Declaration of Human Rights prohibits arbitrary arrest. The source also refers to general comment No. 35 (2014) of the Human Rights Council, according to which any person "shall be informed, at the time of arrest, of the reasons for the arrest" and that such "requirement applies broadly to any deprivation of liberty". According to the source, the right of individuals to be informed, at the time of their arrest, of the reason for their arrest and to be promptly informed of any charges brought against them is also protected under principle 10 of the Body of Principles

for the Protection of All Persons under Any Form of Detention or Imprisonment and article 14 (3) of the Arab Charter on Human Rights, which the source notes has been ratified by Egypt. Furthermore, the source recalls article 54 of the Egyptian Constitution, which provides that: “Personal freedom is a natural right which is safeguarded and cannot be infringed upon. Except in cases of in flagrante delicto, citizens may only be apprehended, searched, arrested, or have their freedoms restricted by a causal judicial warrant necessitated by an investigation”.

35. For these reasons, the source concludes that the right to liberty of Mr. Safwan Thabet and Mr. Seif Thabet was violated when they were arrested without being shown an arrest warrant and without being provided with any legal explanation for their arrest. Furthermore, the source indicates that the Supreme State Security Prosecution failed to provide sufficient evidence to support the charges of joining and financing a terrorist group under articles 3, 12 and 13 of the Anti-Terrorism Law of 2015.

(ii) Enforced disappearance

36. The source recalls that the prohibition of enforced disappearance is non-derogable, even under states of emergency. The source claims that Mr. Safwan Thabet and Mr. Seif Thabet were both subjected to enforced disappearance for four days.

37. According to the source, the enforced disappearances of both men violate articles 17 and 18 of the International Convention for the Protection of All Persons from Enforced Disappearance, which state that detention should only be carried out in officially recognized locations, that States must ensure that no one is detained secretly and that the detainee’s family and lawyer are provided with accurate information about the detention.

38. The source also submits that the detention of both men in secret and undisclosed locations and in conditions unknown to their family prevented them from challenging the lawfulness of their detention, hence violating their rights to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant. Furthermore, the source recalls that the Supreme State Security Prosecution ignored the complaints of the two individuals about their illegal arrest and enforced disappearance and failed to investigate the actual date of arrest in order to legitimize unfair procedures.

ii. Category III

39. The source argues that the detention of Mr. Safwan Thabet and Mr. Seif Thabet is arbitrary insofar as they were both placed in prolonged and excessive pretrial detention, they were denied access to effective legal counsel and subjected to torture and ill-treatment, their right to health was violated and they were partly denied family visits.

(i) Right to be brought promptly before an independent, objective and impartial authority

40. The source argues that the prolonged pretrial detention of Mr. Safwan Thabet and Mr. Seif Thabet, as well as the lack of a prompt judicial review to acknowledge the necessity of their detention, constitute a violation of the right to be brought promptly before a judge. Further, the source claims that the judicial authorities did not comply with the international standards of independence, objectivity and impartiality as the lack of any legal basis to prolong the detention of the two men should have led to their release.

41. In this regard, the source underlines that under article 9 (3) of the Covenant, persons held on a criminal accusation must be brought “promptly” before a judge or another officer authorized by law to exercise judicial power and are entitled to trial within a reasonable time or to release.<sup>2</sup> The source recalls Human Rights Council general comment No. 35 (2014), according to which it is inherent to the proper exercise of judicial power that judicial control be exercised by an authority that is independent, objective and impartial in relation to the issues being dealt with. In particular, the Committee stated that public prosecutors shall not be entitled to exercise judicial power as such. It is further observed that, according to the

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<sup>2</sup> The source explains that, according to the Human Rights Committee, “promptly” needs to be understood as not exceeding a few days, with 48 hours generally considered as appropriate.

Committee, the necessity of pretrial detention needs to be determined based on an individual assessment and alternatives to it must be considered. Hence, should pretrial detention be considered necessary, a periodic re-examination must be carried out to assess if there are still necessary and reasonable grounds for it.

42. The source also recalls articles 142 and 143 of the Code of Criminal Procedure, according to which pretrial detention can be renewed for a 15-day period by an investigating judge or a prosecutor for a maximum of 150 days in total. Once such a limit has been reached, renewal of pretrial detention can take place in 45-day increments but must be reviewed by a judge. Article 143 also provides that the extension of pretrial detention is only permissible if it is in the interest of an investigation, namely when it has not yet been concluded. Furthermore, article 134 of the Code establishes that for pretrial detention to be legal, credible evidence must be presented.

43. Furthermore, the source explains that the competent domestic courts in cases of terrorism-related accusations are the Terrorism Circuit Courts. The source argues that the domestic framework is flawed insofar as it allows prosecutors of the Supreme State Security Prosecution to exercise judicial powers to issue pretrial detention decisions despite the prosecutors being insufficiently independent, objective and impartial.<sup>3</sup> It is submitted that in the case at hand, the Supreme State Security Prosecution is continuing to keep Mr. Safwan Thabet and Mr. Seif Thabet in detention by requesting judges to renew their pretrial detention. The source adds that while the Supreme State Security Prosecution has the power to release both men at any given moment, it regularly chooses not to.

44. As a result, the source concludes that Mr. Safwan Thabet and Mr. Seif Thabet are being held in pretrial detention, contrary to their right to a fair trial before a competent, independent and impartial tribunal.

(ii) Right to access effective legal assistance

45. According to the source, Mr. Safwan Thabet and Mr. Seif Thabet were denied the right to promptly seek legal representation and communicate with their lawyers while in detention.

46. In this regard, the source indicates that principle 15 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that detainees should not be denied the right to communicate with the outside world, in particular their family or counsel, for more than a matter of days. The Human Rights Committee, in its general comment No. 32 (2014), further specifies that the right to promptly access legal representation includes the right for lawyers to communicate privately with their clients and to attend investigations without interference or restrictions.

47. Furthermore, it is noted that under the Basic Principles on the Role of Lawyers,<sup>4</sup> the competent authorities have the duty to ensure lawyers access to appropriate information, files and documents in sufficient time to enable lawyers to provide effective legal assistance to their clients and that such access should be provided at the earliest appropriate time. The source argues that the right to an effective counsel is fundamentally related to the principle of equality of arms, as enshrined under article 11 of the Universal Declaration of Human Rights, which includes the right to be given the time and facilities necessary to prepare and present one's defence with counsel.

48. The source also recalls article 14 (3) (b) and (c) of the Covenant, according to which everyone shall be entitled to have adequate time and facilities for the preparation of their defence, to communicate with the counsel of their own choosing and to be tried without undue delay. The source further notes that article 54 of the Constitution of Egypt prohibits the interrogation of detainees in the absence of their lawyer.

49. In this regard, the source argues that, having been subjected to enforced disappearance, Mr. Safwan Thabet and Mr. Seif Thabet were prevented from immediately seeking legal counsel. Furthermore, it concludes that the unlawful automatic renewal of their pretrial

<sup>3</sup> Opinion No. 14/2020.

<sup>4</sup> Basic Principles on the Role of Lawyers, para. 21.

detention, their inability to carry out private meetings with their lawyers and the fact that judges prevented defence counsel from speaking to their clients during hearings, often denying them the right to present a defence, violate the essence of the right to access and communicate freely with legal counsel and to prepare one's defence under article 11 of the Universal Declaration of Human Rights and article 14 of the Covenant.

(iii) Right to family visits

50. The source submits that the rights of detainees to communicate with the outside world and to be visited by their families are fundamental safeguards against attempts by the authorities to exercise human rights violations, including torture and ill-treatment.

51. It is recalled that, under article 17 (2) (d) of the International Convention for the Protection of All Persons from Enforced Disappearance, detained and imprisoned people have the right to communicate and be visited by their families, regardless of the offence they are suspected or accused of. The source considers that principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment only allows this right to be subject to reasonable conditions and restrictions appropriate to pursue a legitimate aim. In addition, the source notes that under article 54 of the Constitution of Egypt, those whose freedom has been restricted shall be allowed to immediately contact their family.

52. In this regard, the source claims that Mr. Safwan Thabet and Mr. Seif Thabet were entirely denied their rights to contact or to be visited by their family upon or following their arrest.

53. The source argues that after Mr. Seif Thabet failed to reappear following his interrogation on 2 February 2021, his family attempted to locate him by visiting the police station and Tora maximum security prison. On 14 February 2021, prison guards reportedly accepted a package of food for him, which the family understood as a sign he was being held there, although prison officials did not confirm his whereabouts. Reportedly, during the period from 2 February to 4 April 2021, the family made at least 12 attempts to visit Mr. Seif Thabet in Tora maximum security prison, all of which were denied. It was reported that the family waited up to eight hours before being denied the right to visit.

54. On 5 April 2021, a relative was granted a visit with him, which was his first contact with his family in 62 days. The visit lasted eight minutes, was monitored and took place through a glass window using a telephone.

55. After that visit, the family made 16 further attempts to visit. The last of these attempts was granted on 22 May 2021. The visit reportedly took place through a glass and was monitored by prison guards. On 26 May, Mr. Seif was permitted a visit from a relative, which lasted 10 minutes, was monitored by prison guards and was conducted by telephone. After this date, the family made 16 other attempts to visit him, including during the Eid al-Fitr holiday, all of which were denied, including the delivery of food and medication.

56. On 4 August 2021, Mr. Safwan Thabet was reportedly granted his first visit since April. The visit was monitored by prison officials and took place through a barrier.

57. The source submits that the family was regularly denied visits throughout the following months. It reports that any visit granted to either man is heavily monitored and that the denial of visits is a form of reprisal in response to the family's activity on social media or in public.

(iv) Right to be free from torture and ill-treatment

58. According to the source, Mr. Seif Thabet faced psychological torture in solitary confinement. Allegedly, while detained in Al-Aqrab prison, his cell was located far from other cells and no one checked on him for up to 24 hours, he was detained in complete isolation and was denied the ability to read or write to maintain his sanity. Further, his wardens were ordered not to speak to him.

59. The source argues that the authorities have expanded the use of prolonged and unspecified solitary confinement against political prisoners. Specifically, it is reported that solitary confinement has become a pattern of detention to further punish victims of arbitrary



detention, exceeding the maximum permitted period of 30 days. Hence, the source explains, detainees are held in solitary confinement and are subjected to non-official measures, such as limiting food and water and holding the detainees in dark and narrow spaces, designed to aggravate the conditions of their detention and to prevent them from having contact with the outside world. The source submits that such pattern is in direct violation of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which define international standards for the treatment of prisoners.

60. The source further submits that the Committee against Torture has highlighted the absolute nature of the right to be free from torture and other ill-treatment or punishment, and that this right cannot be restricted, including by threats of terrorism or other violent crimes. The source stresses that the prohibition against torture applies irrespective of the offence alleged.<sup>5</sup> Further, the source argues that any act that could cause severe pain or suffering, whether physical or mental, and that is inflicted intentionally amounts to a violation of the obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the source notes has been ratified by Egypt.

61. In the light of the deteriorating mental and physical conditions of Mr. Seif Thabet, the source concludes that his prolonged solitary confinement violates the prohibition of torture and ill-treatment.

(v) Right to health

62. Mr. Safwan Thabet reportedly suffers from stomach ulcers, high cholesterol, fatty liver, a double knee replacement and shoulder injuries. The source is concerned that his health is worsening due to the refusal of prison authorities to deliver his medicine regularly and to provide him with adequate medical care in prison.

63. According to the source, the present case is part of a systematic pattern, whereby the authorities violate the right of political prisoners to access medical care, putting their lives at serious risk of death or irreparable damage.

64. In this regard, the source claims that every detainee has the right to the highest attainable standard of physical and mental health, as provided under article 12 of the International Covenant on Economic, Social and Cultural Rights, article 16 of the African Charter on Human and Peoples' Rights and rules 25 and 27 of the Nelson Mandela Rules. It stresses that this right extends not only to timely and appropriate health care, but also to underlying determinants of health, such as adequate food, water and sanitation.<sup>6</sup> Moreover, it submits that sick detainees whose health conditions require specialized treatment should be transferred to specialized institutions or to civil hospitals and that failure to provide access to adequate health care violates the right to health.

65. In the light of the alleged deteriorating health condition of Mr. Safwan Thabet and the refusal of the authorities to allow him to undergo a medical examination and to access proper medical care and treatment, the source concludes that his right to access adequate health care has been violated.

66. For the reasons mentioned above, the source concludes that the detention of Mr. Safwan Thabet and Mr. Seif Thabet is arbitrary under category III.

*Response from the Government*

67. On 4 January 2023 the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 6 March 2023, detailed information about the current situation of Mr. Safwan Thabet and Mr. Seif Thabet and to clarify the legal provisions justifying their continued detention, as well as its compatibility with obligations of Egypt under international human rights law, in particular with regard to the treaties ratified by the State. Moreover, the

<sup>5</sup> Human Rights Committee, general comment No. 20 (2016), para. 3.

<sup>6</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Third general report on the CPT's activities", document CPT/Inf (93) 12, 4 June 1993, para. 53.

Working Group called upon the Government of Egypt to ensure their physical and mental integrity.

68. On 6 March 2023, the Government submitted a reply explaining that Mr. Safwan Thabet and his son, Mr. Seif El-Din, in Case No. [withheld] 2020, were charged by the Supreme State Security Prosecution with joining a terrorist group established contrary to the provisions of the law, aiming to disrupt the provisions of the Constitution and the law, harm the public interest, incite riots and get involved in committing acts aimed at financing the activities of members of that group. The two individuals were investigated before the Public Prosecutor and subjected to all legal procedures before judicial authorities, in the presence of their lawyers, in accordance with the relevant legal guarantees. They were released on 21 January 2023. The Government notes that the aforementioned case has not yet been referred to the competent court and is still under investigation.

69. In implementation of the ruling issued in Case No. [withheld] 2013 by the South Cairo Court of First Instance, banning the activities of the terrorist Muslim Brotherhood and seizing all of its real estate, liquid and movable funds, whether owned or leased to it, and all real estate, movables and funds owned by the people belonging to it, a decision was issued on 12 August 2015 by the executing judge of the South Cairo Court of First Instance, which included the freezing and prohibition from disposal of the funds of Mr. Safwan Thabet, his personal accounts in banks, the National Postal Authority and deposits registered in his name. On 22 June 2016, the executing judge of the above court issued a decision to seize Mr. Safwan Thabet's share in Juhayna Food Industries and to limit it to 7.204 per cent of the company's shares, noting that no temporary order was issued regarding the company.

70. On 10 September 2018, in implementation of article 16 of Law No. 22 (2018) regulating the procedures for seizing, inventorying, managing and disposing of the funds of terrorist groups and terrorists,<sup>7</sup> the aforementioned decisions were presented to the Judge of Temporary Affairs, who issued Temporary Order No. 1 of 2018 to freeze and prevent the disposal of funds and personal accounts in banks, the National Postal Authority and deposits registered in the name of Mr. Safwan Thabet.

71. On 28 February 2023, the Cairo Criminal Court issued its decision regarding request No. [withheld] of 2023 of the office of the Public Prosecutor regarding Case No. [withheld] of 2018 of the Supreme State Security Prosecution, removing the name of Mr. Safwan Thabet from the terrorist lists, with the publication of the decision in the *Egyptian Gazette* and the consequent cancellation of any temporary decisions regarding the banning of Mr. Safwan Thabet from travelling, the seizing of his money or preventing him from disposing of it. Therefore, the Government argues that the allegations contained in this regard are untrue.

72. Regarding the alleged denial of visits and deterioration of the health condition of Mr. Safwan Thabet, the Government contends that it is established from the records of the Badr Correctional and Rehabilitation Centre that Mr. Safwan Thabet and his son were in good health from the beginning of their imprisonment until their release. Their general condition and vital signs were good and at normal rates. All aspects of regular and other requested health care were provided to them, as is the case for all inmates.

73. The Government adds that both individuals received regular visits during their imprisonment, the most recent of which, by a family member, took place on 14 January 2023, just before they were released.

74. In conclusion, the Government points out that the unsubstantiated suggestions about the existence of economic reasons to prosecute the two individuals in connection with the economic activities of the State are untrue, taking into account the facts and procedures that have been described to hold them accountable for specific legal violations. The Government also affirms that it is committed to the promotion and protection of human rights and fundamental freedoms of all citizens, without discrimination, as all the measures taken above were taken by an independent and impartial body and that judicial and legal procedures

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<sup>7</sup> Article 16 of Law No. 22 (2018) regulating the procedures for seizing, inventorying, managing and disposing of the funds of terrorist groups and terrorists stipulates that all decisions prior to the implementation of the law should be presented to the Committee, which may reconsider them in accordance with the procedures and conditions stipulated.

comply with national and international law. The Government also affirms its continued fight against terrorist organizations within the limits set under the Constitution and in law, in accordance with the fundamental principles of a democratic State.

*Further comments from the source*

75. On 6 March 2023, the Government's reply was sent to the source for further comments, which the source submitted on 24 March 2023.

76. On 21 March 2023, the source confirmed that Mr. Safwan Thabet and Mr. Seif Thabet have been released and that Mr. Safwan Thabet's name has been removed from the terrorist lists. However, the source also stated that no further information was provided to the lawyers for the two men and that the Government had not informed them as to whether their release is subject to any conditions.

77. In its further comments, the source observes that the Government has failed to sufficiently rebut the allegations related to the lack of an arrest warrant, the enforced disappearance of both individuals, their detention in solitary confinement in substandard conditions, the denial of and restrictions on family visitations, the inability of both individuals to examine the evidence against them, the psychological and physical ill-treatment endured by Mr. Seif Thabet, the lack of adequate medical care provided to Mr. Safwan Thabet, the almost automatic renewal of Mr. Safwan Thabet's pretrial detention without justification and the allegations of reprisals against the two individuals and their family members.

78. The source also notes that the Government has not informed the lawyers for the two individuals or their families that their case is still under investigation and no information has been provided regarding their current legal status.

79. The source reiterates its initial allegations and underlines that Mr. Safwan Thabet and Mr. Seif Thabet were supporters of the Muslim Brotherhood when it was a political party, prior to it being declared a terrorist group. It adds that, while the Government states that they were charged with terrorism-related charges, including joining a terrorist group and financing it, no evidence of any link to terrorism was brought to light during the three years of investigation presumably conducted by the authorities.

## **Discussion**

80. The Working Group thanks the source and the Government for their submissions.

81. In determining whether the deprivation of liberty of Mr. Safwan Thabet and Mr. Seif Thabet is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a prima facie case for breach of the international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.<sup>8</sup>

82. The Working Group notes that Mr. Safwan Thabet and Mr. Seif Thabet were released on 21 January 2023. In accordance with paragraph 17 (a) of its methods of work, the Working Group "reserves the right to render an opinion, on a case-by-case basis, whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned". In the present case, the Working Group opines that the allegations made by the source are extremely serious and notes that their case is ongoing and that it has received no information regarding the conditions of their release. Therefore, the Working Group shall proceed to deliver the opinion.

83. The source has argued that the detention of Mr. Safwan Thabet and Mr. Seif Thabet is arbitrary under categories I and III of the Working Group. The Working Group shall proceed to examine the allegations in turn.

<sup>8</sup> [A/HRC/19/57](#), para. 68.

## i. Category I

84. The source has argued that Mr. Safwan Thabet and Mr. Seif Thabet were detained without an arrest warrant. Mr. Safwan Thabet was reportedly arrested on 2 December 2020 and not informed of the reasons for his arrest or the charges against him until 6 December 2020. In the case of Mr. Seif Thabet, he was allegedly arrested on 6 February 2021 and not presented with any reasons for the arrest or charges until 6 February 2021. In its reply, the Government does not address these specific allegations and merely states that Mr. Safwan Thabet and Mr. Seif Thabet were investigated before the Public Prosecutor and subjected to all legal procedures before judicial authorities, in the presence of their lawyers. The Working Group reiterates that mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the *prima facie* allegations presented by the source.<sup>9</sup>

85. The Working Group recalls that a detention is considered arbitrary under category I if it lacks legal basis. As it has previously stated, for a deprivation of liberty case to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.<sup>10</sup> This is typically<sup>11</sup> done through an arrest warrant or arrest order (or equivalent document).<sup>12</sup> In addition, any form of detention or imprisonment should be ordered by, or be subjected to, the effective control of a judicial or other authority under the law, whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence, in accordance with principle 4 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group finds that this was denied to Mr. Safwan Thabet and Mr. Seif Thabet, in violation of articles 3 and 9 of the Universal Declaration of Human Rights and article 9 (1) of the Covenant.

86. Moreover, following their respective arrests, both Mr. Safwan Thabet and Mr. Seif Thabet were subjected to enforced disappearance for four consecutive days as the authorities refused to reveal their fate or whereabouts, despite the numerous efforts of their family members to obtain such information. These allegations were also put to the Government, which chose not to address them. The Working Group therefore finds that the two individuals were subjected to *de facto* enforced disappearance following their respective arrests on 2 December 2020 and 2 February 2021 until they appeared before the Supreme State Security Prosecution four days later, in breach of article 9 (1) of the Covenant. Enforced disappearances are prohibited by international law and constitute a particularly aggravated form of arbitrary detention.<sup>13</sup> Mr. Safwan Thabet and Mr. Seif Thabet were thus also placed outside the protection of the law, in violation of their right to be recognized as persons before the law under article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant.

87. Moreover, the Working Group recalls that article 9 (2) of the Covenant requires that anyone who is arrested is not only informed of the reasons for arrest but also promptly informed of any charges against them. The right to be promptly informed of charges concerns notice of criminal charges and, as noted by the Human Rights Committee in its general comment No. 35 (2014), this right “applies in connection with ordinary criminal prosecutions and also in connection with military prosecutions or other special regimes directed at criminal punishment”.<sup>14</sup>

88. The Working Group notes that Mr. Safwan Thabet and Mr. Seif Thabet were arrested without a warrant, were subsequently subjected to enforced disappearance for four days and

<sup>9</sup> Ibid.

<sup>10</sup> In cases of *in flagrante delicto*, the opportunity to obtain a warrant will not be typically available.

<sup>11</sup> Human Rights Committee, general comment No. 35 (2014), para. 21; see also opinions No. 30/2018, para. 39; No. 3/2018, para. 43; and No. 88/2017, para. 27; see also art. 14 (1) of the Arab Charter on Human Rights.

<sup>12</sup> Human Rights Committee, general comment No. 35 (2014), para. 27, and opinion No. 30/2017, paras. 58–59.

<sup>13</sup> See opinions No. 5/2020; No. 6/2020; No. 11/2020; No. 13/2020; No. 77/2020; No. 38/2021; and No. 25/2022; see also general comment No. 35 (2014), para. 17.

<sup>14</sup> Human Rights Committee, general comment No. 35 (2014), para. 29.

were only notified of the charges against them when they were presented before the Supreme State Security Prosecution on 6 December 2020 and 6 February 2021, respectively. The Government has chosen not to address these allegations in its reply. The Working Group therefore concludes that there has been a breach of article 9 (2) of the Covenant.

89. Further, as the Working Group has consistently argued,<sup>15</sup> in order to establish that a detention is indeed legal, that anyone detained has the right to challenge the legality of his or her detention before a court, as envisaged by article 9 (4) of the Covenant. The Working Group wishes to recall that according to the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings before a Court, the right to challenge the lawfulness of detention before a court is a self-standing human right, which is essential to preserve legality in a democratic society.<sup>16</sup> This right, which is in fact a peremptory norm of international law, applies to all forms of deprivation of liberty<sup>17</sup> and to “all situations of deprivation of liberty, including not only to detention for purposes of criminal proceedings but also to situations of detention under administrative and other fields of law, including military detention, security detention, detention under counter-terrorism measures, involuntary confinement in medical or psychiatric facilities, migration detention, detention for extradition, arbitrary arrests, house arrest, solitary confinement, detention for vagrancy or drug addiction, and detention of children for educational purposes”.<sup>18</sup> The Working Group finds that Mr. Safwan Thabet and Mr. Seif Thabet were denied the right to challenge the legality of their detention, in violation of article 9 (4) of the Covenant.

90. The Working Group further considers that judicial oversight of detention is a fundamental safeguard of personal liberty<sup>19</sup> and is essential in ensuring that detention has a legal basis. Given that Mr. Safwan Thabet and Mr. Seif Thabet were not able to challenge their continued detention, their right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was also violated.

91. Finally, the Working Group notes that both Mr. Safwan Thabet and Mr. Seif Thabet remained in pretrial detention in excess of three and two years, respectively. In both cases, the authority that imposed pretrial detention was the prosecutor of the Supreme State Security Prosecution and their pretrial detention was the subject of near automatic renewal: the source has argued that the provisions of domestic law regarding pretrial detention and its renewal were violated in both cases (see paras. 13 and 43 above). Although the Government had an opportunity to rebut these allegations, it has chosen not to address them.

92. The Working Group recalls that it is a well-established norm of international law that pretrial detention shall be the exception and not the rule and that it should be ordered for as short a time as possible.<sup>20</sup> Article 9 (3) of the Covenant provides that it shall not be the general rule that persons awaiting trial shall be detained, but release may be subject to guarantees to appear for trial and at any other stage of the judicial proceedings. It follows that liberty is recognized as a principle and detention as an exception in the interests of justice.<sup>21</sup>

93. Moreover, according to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge shall be brought promptly before a judge. As the Human Rights Committee has stated, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee “promptly” before a judge following his or her arrest and any longer delay must remain

<sup>15</sup> See, for example, opinions No. 1/2017; No. 6/2017; No. 8/2017; No. 30/2017; No. 2/2018; No. 4/2018; No. 42/2018; No. 43/2018; and No. 79/2018.

<sup>16</sup> [A/HRC/30/37](#), paras. 2–3.

<sup>17</sup> *Ibid.*, para. 11.

<sup>18</sup> *Ibid.*, annex, para. 47 (a).

<sup>19</sup> *Ibid.*, para. 3.

<sup>20</sup> Opinions No. 8/2020, para. 54; No. 1/2020, para. 53; No. 57/2014, para. 26; No. 49/2014, para. 23; and No. 28/2014, para. 43; see also Human Rights Committee, general comment No. 35 (2014), para. 38; and [A/HRC/19/57](#), paras. 48–58.

<sup>21</sup> [A/HRC/19/57](#), para. 54.

absolutely exceptional and be justified under the circumstances.<sup>22</sup> In the present case, the two individuals do not appear to have been brought before a judicial authority within 48 hours of their arrest. Rather, they were arrested, subjected to enforced disappearance for four days and pretrial detention was imposed by the prosecution. In view of Human Rights Committee general comment No. 35 (2014), the Working Group considers that such prosecuting authorities cannot be considered as independent, objective and impartial officers ensuring the proper exercise of judicial power.<sup>23</sup> The failure for the authorities to bring Mr. Safwan Thabet and Mr. Seif Thabet before such judicial authority violates article 9 (3) of the Covenant.

94. Moreover, the Working Group observes, with grave concern, that the requirement of periodic review of pretrial detention, as required by article 9 (3) of the Covenant, did not take place. In this regard, the Working Group reiterates its concern expressed previously<sup>24</sup> over the practice of the Supreme State Security Prosecution of nominally ordering preventive detention pending further investigation but in practice enabling indefinite detention without prospect of trial.

95. Noting all the above, the Working Group considers that the pretrial detention of Mr. Safwan Thabet and Mr. Seif Thabet, which should be the exception rather than the rule, lacked a legal basis as it was not based on an individualized determination that it was reasonable and necessary, taking into account all the circumstances, for such purposes specified in law as to prevent flight, interference with evidence or the recurrence of crime, and as there was no consideration of alternatives, such as bail, electronic bracelets or other conditions, which would render detention unnecessary in the particular case.<sup>25</sup> Therefore, the Government acted contrary to article 9 of the Universal Declaration of Human Rights, article 9 of the Covenant and principles 11, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

96. Consequently, the Working Group considers that the arrest and subsequent detention of Mr. Safwan Thabet and Mr. Seif Thabet lacked legal basis and were therefore arbitrary under category I.

ii. Category III

97. The Working Group has already established above that the pretrial detention of Mr. Safwan Thabet and Mr. Seif Thabet was arbitrary. The two individuals were thus detained for over three and two years, respectively. While the Working Group was informed that both individuals were released on 21 January 2023, it notes the statement of the Government that their case has not yet been referred to the competent court and is still under investigation. As a preliminary matter, the Working Group wishes to record its concern at the source's allegation that none of this information has been communicated to the two individuals' lawyers or families.

98. The Working Group recalls that the right to be tried without undue delay enshrined in article 14 3 (c) of the Covenant is not only designed to avoid keeping persons too long in a state of uncertainty about their fate and, if held in detention during the period of the trial, to ensure that such deprivation of liberty does not last longer than necessary in the circumstances of the specific case, but also to serve the interests of justice.<sup>26</sup> However, what is reasonable has to be assessed in the circumstances of each case, taking into account the complexity of the case, the conduct of the accused and the manner in which the matter was dealt with by the administrative and judicial authorities.

99. In the present case, the Working Group has not been presented with any indication that the actions of Mr. Safwan Thabet and Mr. Seif Thabet could have caused a delay with the commencement of the trial proceedings and therefore concludes that there has been a

<sup>22</sup> Human Rights Committee, general comment No. 35 (2014), para. 33, and [CAT/C/GAB/CO/1](#), para. 10.

<sup>23</sup> Human Rights Committee, general comment No. 35 (2014), para. 32.

<sup>24</sup> Opinion No. 14/2020, paras. 52–53.

<sup>25</sup> Human Rights Committee, general comment No. 35 (2014), para. 38; see also [A/HRC/19/57](#), paras. 48–58.

<sup>26</sup> Human Rights Committee, general comment No. 32 (2007), para. 35.

breach of articles 10 and 11 of the Universal Declaration of Human Rights and article 14 (3) (c) of the Covenant.

100. Moreover, Mr. Safwan Thabet and Mr. Seif Thabet have been denied the right to promptly seek legal representation and communicate with their lawyers while in detention. The Government has chosen not to address this allegation directly and merely stated that both individuals were “subjected to all legal procedures before judicial authorities in the presence of their lawyers, in accordance with legal guarantees”. The allegations of the source, however, concern the promptness of access to legal assistance, an aspect which has not been addressed by the Government. The Working Group recalls that all persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and that such access must be provided without delay.<sup>27</sup> The right to legal assistance is essential to the right to a fair trial as it serves to ensure that the principle of equality of arms is duly observed.<sup>28</sup> In the present case, the Government has thus violated articles 10 and 11 of the Universal Declaration of Human Rights and article 14 (3) (b) and (d) of the Covenant.

101. In the light of the foregoing, the Working Group considers that the violations of the rights of Mr. Safwan Thabet and Mr. Seif Thabet to a fair trial were of such gravity as to render their detention arbitrary under category III. The Working Group refers the case to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for further action.

iii. Concluding remarks

102. The Working Group is disturbed by the allegations that both Mr. Safwan Thabet and Mr. Seif Thabet were kept in solitary confinement from August 2022 until their release. In the case of Mr. Seif Thabet, this reportedly resulted in the serious deterioration of his physical and mental health, while the pre-existing health conditions of Mr. Safwan Thabet were exacerbated by this treatment. Both individuals were also reportedly denied regular contact with their families and, when allowed, family visits were for exceptionally short periods. Although the Government argues that the records of the Badr Correctional and Rehabilitation Centre show that both were in good health throughout their detention, it does not address the allegations of solitary confinement. The Government also states that they were able to receive regular visits.

103. The Working Group feels obliged to remind the Government that, in accordance with article 10 of the Covenant, all persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person.

104. According to rule 45 of the Nelson Mandela Rules, the imposition of solitary confinement must be accompanied by certain safeguards. Solitary confinement must only be used in exceptional cases, as a last resort, for as short a time as possible, subject to independent review and authorized by a competent authority. These conditions do not appear to have been observed in the present case. Prolonged solitary confinement in excess of 15 consecutive days is prohibited under rules 43 (1) (b) and 44 of the Nelson Mandela Rules. Moreover, principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that detainees shall have the right to be visited by and to correspond with, in particular, members of their family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions, as specified by law or lawful regulations. The Working Group also recalls that denial of medical assistance constitutes a violation of the Nelson Mandela Rules, in particular rules 24, 25, 27 and 30.

105. Further, the Working Group is concerned at the source’s allegations that the Committee to Assess the Financial Assets of the Muslim Brotherhood froze 7.2 per cent of the shares of Juhayna Food Industries that it said Mr. Safwan Thabet indirectly owned, without a court hearing or official charges, and that Mr. Seif Thabet was ordered by the

<sup>27</sup> A/HRC/45/16, paras. 51–52; A/HRC/30/37, principle 9 and guideline 8; see also Basic Principles on the Role of Lawyers, paras. 16–22.

<sup>28</sup> See, for example, opinion No. 35/2019.



authorities to hand over the entirety of his family's shares in Juhayna Food Industries, under the threat that he would otherwise face a fate similar to that of his father. While the Government argues that Mr. Safwan Thabet's shares were frozen in implementation of a 2013 ruling of the South Cairo Court of First Instance, it does not address the specific allegations that he was not afforded a court hearing and that no official charges were brought against him before the freezing of his assets was ordered. Further, the Government does not address the allegations made in relation to Mr. Seif Thabet. In this regard, the Working Group wishes to remind the Government that article 17 of the Universal Declaration of Human Rights guarantees the right of anyone not to be arbitrarily deprived of their property.

106. Finally, the Working Group wishes to record its concern at the uncontested allegations over the harassment and reprisals against the family members of Mr. Safwan Thabet and Mr. Seif Thabet, as well as the allegation that their conditions of detention eventually exacerbated a relative's medical condition, leading to that individual's death.

107. The Working Group notes that the present opinion is only one of many opinions in recent years in which it has found the Government to be in violation of its international human rights obligations.<sup>29</sup> It is concerned that this indicates a systemic problem with arbitrary detention in Egypt, which, if it continues, may amount to a serious violation of international law.<sup>30</sup> The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.<sup>31</sup> The Working Group has alluded to this possibility in its past cases concerning Egypt.

### Disposition

108. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Safwan Ahmed Hassan Thabet and Seif Eldin Safwan Ahmed Thabet, being in contravention of articles 3, 6, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 9, 14 and 16 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I and III.

109. The Working Group requests the Government of Egypt to take the steps necessary to remedy the situation of Mr. Safwan Thabet and Mr. Seif Thabet without delay and to bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

110. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to unconditionally release Mr. Safwan Thabet and Mr. Seif Thabet immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global coronavirus disease (COVID-19) pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure the immediate unconditional release of Mr. Safwan Thabet and Mr. Seif Thabet.

111. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Safwan Thabet and Mr. Seif Thabet and to take appropriate measures against those responsible for the violation of their rights.

<sup>29</sup> See, for example, opinions No. 6/2016, No. 7/2016, No. 41/2016, No. 42/2016, No. 54/2016, No. 60/2016, No. 30/2017, No. 78/2017, No. 83/2017, No. 26/2018, No. 27/2018, No. 47/2018, No. 63/2018, No. 82/2018, No. 87/2018, No. 21/2019, No. 29/2019, No. 41/2019, No. 42/2019, No. 65/2019, No. 77/2019, No. 6/2020, 14/2020; No. 80/2020, No. 45/2021, No. 79/2021, No. 83/2021, No. 23/2022, No. 34/2022 and No. 60/2022.

<sup>30</sup> Opinion No. 47/2018, para. 85, and opinion No. 14/2020, para. 74.

<sup>31</sup> [A/HRC/13/42](#), para. 30; see also, for example, opinions No. 1/2011, para. 21; No. 51/2017, para. 57; and No. 56/2017, para. 72.



112. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for appropriate action.

113. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

#### **Follow-up procedure**

114. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Mr. Safwan Thabet and Mr. Seif Thabet have been released unconditionally and, if so, on what date;

(b) Whether compensation or other reparations have been made to Mr. Safwan Thabet and Mr. Seif Thabet;

(c) Whether an investigation has been conducted into the violation of the rights of Mr. Safwan Thabet and Mr. Seif Thabet and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Egypt with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

115. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

116. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

117. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken.<sup>32</sup>

*[Adopted on 29 March 2023]*

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<sup>32</sup> See Human Rights Council resolution 51/8, paras. 6 and 9.