

22 March 2016

SERIOUS CONCERNS ABOUT FAIRNESS OF BELADY FOUNDATION TRIAL

The Bar Human Rights Committee (BHRC) and EuroMed Rights express serious concern at the ongoing detention in Egypt of Aya Hegazy and the other six co-defendants, including her husband Mohammed Hassenein, in connection with the Belady Foundation for Street Children.

Ms Hegazy was arrested in May 2014. Applications for conditional release made by her Defence counsel have been refused several times. The next hearing should take place this Wednesday 23 March. Pre-trial detention has lasted 22 months already, a delay caused and contributed to by court-ordered adjournments that have been unexplained and which impinge upon the defendants' right to liberty, as guaranteed by international law and pursuant to the Egyptian Constitution.

International law requires that deprivation of liberty is not arbitrary: Article 9 International Covenant on Civil and Political Rights (ICCPR) requires that pre-trial detention should not be the general rule. It should be the exception, used only as a last resort and for the shortest possible time period; bail should be granted except when required to meet the needs of justice, or to conduct investigation of the alleged offence or in order to protect society and the victim.

Ms Hegazy and her co-defendants were detained for over 10 months for investigations, before being referred to the Criminal Court on 14 March 2015. At the next hearing in May 2015, although witnesses and exhibits were available, the court decided to adjourn to November 2015 without explanation. In November, the judge again adjourned the hearing until 13th February 2016. The defendants were present in court throughout the five-hour session, held in cages, before being returned to prison, without the judge having permitted any legal representations from their lawyers. Indeed the judge did not enter the courtroom, address the defendants or their lawyers. None of the prosecution witnesses were present. The confiscated material (computer hard drive) appeared in court but no viewing facilities were visibly present. International observers attended that hearing, including from BHRC as mandated by EuroMed Rights. Four days later, on 17th February, the trial was adjourned for the fifth time, until 23 March 2016, citing an inability to turn on the confiscated laptop.

International law requires that remand in custody pursuant to lawful arrest must not only be "lawful" but also "reasonable" and "necessary". No due or proper consideration appears to have been given to the presumption of bail in Ms Hegazy's case. Article 14 ICCPR sets out minimum procedural safeguards for those brought before a court. In particular, Article 14(1) requires that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Article 14(3) provides for minimum procedural safeguards, including the right to be tried without undue delay.

The sequence of adjournments, delay and evidential irregularities detailed above raises *prima facie* questions about the fairness and competence of the court hearing Ms Hegazy's case, and about the lawfulness of her detention.

Egypt must promote respect for fair trial guarantees as a signatory to the ICCPR, but also by virtue of Article 7 of the African Charter of Human and People's Rights and its own Constitution. The BHRC and EuroMed Rights call upon the Egyptian authorities to ensure that Ms Hegazy's case and that of her co-defendants meets all the fundamental guarantees of the right to a fair trial, as guaranteed under international law. This requires an urgent review of her continuing detention, in circumstances where her two-year long detention is now in violation of Article 9 ICCPR. The court is urged to order the conditional release on bail of Ms Hegazy, as well as the remaining defendants and to proceed speedily towards a swift and robust evaluation of the prosecution evidence.

NOTES FOR EDITORS:

1. For an interview with the Bar Human Rights Committee spokesperson, please contact Céline Grey, Coordinator, on +44 (0)7854 197862
2. For more information on the Bar Human Rights Committee (BHRC), visit our website at www.barhumanrights.org.uk
3. The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. The BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.

Background

Together with her husband, Aya Hegazy founded the Belady Foundation in 2013, working with a number of other volunteers. The Foundation aims at rehabilitating and reintegrating street children back into society and reuniting them with their families.

On 1 May 2014, security forces entered the Belady premises. Aya, Mohamed, Sherif Talaat, Amira Farag and a group of resident children were arrested. The police presence arrived allegedly in response to an earlier act of trespass by a man who had claimed that his son was being kept against his will in the Belady premises. Yet the man's son was not found on the premises. The remaining four defendants were arrested at different times, in what is alleged to have been an entrapment by police. Material, including computers, was seized both from the Foundation premises and later from Aya and Mohammed's home.

Four months later, on 8 September 2014, the Referral Order charged Aya Hegazy, her husband, and six others with seven counts. The charges relate to organizing a group for the purposes of human trafficking, holding children for the purposes of sexual exploitation, sexually exploiting the children, using them to disturb the peace in protests against security forces and operating an unregistered civil society organisation. The defendants, their families and numerous other organisations fervently deny these charges.