

**Rapporteur:**

**31<sup>st</sup> Session: Commissioner El Hassan**

**32<sup>nd</sup> Session: Commissioner El Hassan**

**33<sup>rd</sup> Session: Commissioner El Hassan**

**Summary of Facts**

1. The complaint is filed by the Arab Organisation for Human Rights (AOHR), Egypt on behalf of Professor Saadeddin Mohammed Ibrahim (male, 61), Nadia Mohammed Ahmed Abdel Nour (female, 49), Khaled Ahmed Mohammed Al-Fayyad (male, 29), Usama Hashem Hammad ‘Ali (male, 28), Mohammed Hassanein Hassanein ‘Amara (male, 49), Magda Ibrahim Ibrahim Al-Bey (female, 41), and Marwa Ibrahim Zaki Ahmed Al Sayyid Gouda (female).
2. This complaint follows the trial and conviction by the Supreme Security Court of the Respondent State in May 2001 of professor Saadeddin Ibrahim, Director and Chair of the Board of Directors of the Ibn Khaldun Center for Development Studies, who was also treasurer of *Hay’at Da’am al-Nakhibat* (Association for the Support of Women Voters, known in Egypt as ‘Hoda Association’), together with twenty-seven other persons, including the six other individuals mentioned above. They were all working either as permanent employees or project associates of the two organisations and ten of them were tried *in absentia*.
3. The Complainant alleges that the accused were charged with deliberately disseminating information abroad about the internal situation in the Respondent State damaging its stature contrary to Article 80(d) of the Penal Code, conspiring to bribe public officials to undermine the performance of their duties contrary to Articles 40(2), 40(3), and 48 of the Penal Code, receiving donations from the European Union (EU) without prior permission from the competent authorities contrary to Articles 1(6) and 2(1) of Military Order No. 4 of 1992, using deceptive methods to defraud the EU of funds made available to the two organisations contrary to Article 336 (1) of the Penal Code, and accepting and offering bribes and of forgery of official documents contrary to Articles 103, 104, 107bis, 207, 211, and 214 of the Penal Code. They were convicted and sentenced to several terms of imprisonment ranging from seven years with hard labour to one year suspended terms.
4. In the process of apprehending, trying and convicting the accused, the Complainant alleges that the Respondent State violated their pre-trial and trial rights, freedom of expression, rights to appeal, and rights to effective domestic remedies. Regarding pre-trial violations, the Complainant alleges that Professor Ibrahim, Usama Hamad Ali, and Nadia Abdel Nour were first arrested by officers of the *Mabahith Amn al-*

*Dawla al-Ulya* (State Security Intelligence) on 30<sup>th</sup> June 2000. Professor Ibrahim and Nadia Abdel Nour were held in administrative detention without access to judicial supervision or other remedies until 10<sup>th</sup> August 2000 when they were released on bail. During this period, no formal charges were brought against them. Usama Hamad ‘Ali was initially released on 1<sup>st</sup> July 2000 but was later re-arrested and similarly held in administrative detention until granted bail in August 2000. No charges were brought against all the accused until 24<sup>th</sup> September 2000. They were held in sub-human condition and interrogated for unduly long hours. Having been arrested without warrants, Nadia Abdel Nour and Usama Hammad ‘Ali were neither informed of the reasons for their arrest nor were they afforded access to their lawyers during interrogation. The former was allowed access to her lawyer only after over three weeks since she first requested for it.

5. Regarding violations during the trial, the Complainant alleges that the accused were denied adequate time and facilities for the conduct of their defence, their defence councils were denied access to the prosecution’s evidence. Although the trial began on 18<sup>th</sup> November 2000, the defence lawyers were granted access to examine the prosecution’s evidence on 19<sup>th</sup> March 2001, by which time they had called most of their witnesses. They were permitted to examine these documents only for three hours and were not allowed to make any copies thereof. In addition, defence lawyers were required to conduct the examination in the presence and under the supervision of staff of the Supreme State Security Prosecution.
6. In May 2001, the prosecution concluded its closing statement to be followed by the introduction of hundreds of pages of additional written evidence by the defence, which the court accepted. On the same day, however, and after adjourning at about 14:00 hours local time for one and half hours, the judges of the Supreme Security Court returned guilty verdicts and announced the sentence. The considered judgement of the Court was out only on 19 June 2001, nearly one month after the conclusion of the trial, thereby denying the accused of their right to appeal against the decision promptly.
7. The Complainant, moreover, alleges that these trials sought to punish the accused for opinions lawfully held and disseminated by them, that there were no domestic remedies for the pre-trial and trial rights violations as Law No. 105 of 1980 setting up the Supreme State Security Courts denies the accused of full rights of appeal, that they could only appeal on procedural points to the Court of Cassation and not on substantive issues, that the Court of Cassation can not acquit the accused in such an appeal, that the said Court of Cassation can only order a re-trial which would effectively subject the accused to second jeopardy, and that an acquittal in an appeal by Cassation can only be ordered should a second appeal against a re-trial is successful.

## **Complaint**

8. The Complainant alleges violation of Articles 5, 6, 7(1)(a-d) and 9(2) of the African Charter on Human and peoples Rights.

9. The Complainant prays for the African Commission to request the Respondent State to:
  - Take steps to vacate the conviction of the accused and take all other steps necessary to ensure adequate redress to the latter due to the violations of Articles 7 and 9(2) of the Charter; and
  - Adequately compensate the accused for violation of their rights under Articles 5 and 6 of the Charter;

### **Procedure**

10. The Complaint was dated 24<sup>th</sup> December 2001 and received at the Secretariat on 26<sup>th</sup> December 2001 by fax and on 2<sup>nd</sup> January 2002 by mail.
11. After registering the complaint, the Secretariat learnt that the matter was pending before the Court of Cassation of the Respondent State. On 24<sup>th</sup> January 2002, the Secretariat wrote to the Complainant acknowledging receipt of the complaint and requesting the latter further clarification on the status of the appeal before the said Court.
12. At its 31<sup>st</sup> Ordinary Session held from 2<sup>nd</sup> to 16<sup>th</sup> May 2002 in Pretoria, South Africa, the African Commission considered the complaint and decided to be seized thereof.
13. On 28<sup>th</sup> May 2002, the Secretariat wrote to the Complainant and the Respondent State of this decision and requested them to forward their submissions on admissibility before the 32<sup>nd</sup> Ordinary Session of the African Commission.
14. At its 32<sup>nd</sup> Ordinary Session held from 17<sup>th</sup> to 23<sup>rd</sup> October 2002 in Banjul, The Gambia, the African Commission examined the complaint and decided to defer its consideration on admissibility to the 33<sup>rd</sup> Ordinary Session.
15. On 7<sup>th</sup> November 2002, the Secretariat wrote to the Complainants and Respondent State to inform them of this decision.
16. The two parties forwarded their submissions on admissibility to the Secretariat each party was given copies of submissions from the other party.
17. On 9<sup>th</sup> April 2003, the Complainant wrote to the Secretariat informing it that the Court of Cassation in Egypt had acquitted Professor Saadeddin Ibrahim. The Complainant also requested the withdrawal of its Communication concerning Dr Saadeddin Ibrahim.
18. By fax dated 17<sup>th</sup> April 2003, the Complainant confirmed that its request for withdrawal was made on behalf of all the alleged victims in the Communication.

**For the abovementioned reason, the African Commission,**

**Takes note** of the withdrawal of the communication by the Complainant and decides to close the file.

*Done at the 33<sup>rd</sup> Ordinary Session held in Niamey, Niger,  
from 15<sup>th</sup> to 29<sup>th</sup> May 2003.*