



Inter-Parliamentary Union

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Egypt

Decision adopted by consensus by the IPU Governing Council at its 207th session (Virtual session, 25 May 2021) ¹



Mostafa al-Nagar © Photo courtesy/Belady U.S. An Island for Humanity

EGY-07 – Mostafa al-Nagar

Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Mr. Mostafa al-Nagar allegedly disappeared in the southern governorate of Aswan on 27 September 2018. His family and lawyers have been unable to contact him or obtain information on his whereabouts. They fear that he might have been arbitrarily arrested and held incommunicado.

The complainants allege that Mr. al-Nagar was a symbol of the 2011 revolution and a vocal critic of the Egyptian Government during his parliamentary term, which lasted from 23 January to 14 July 2012, when the Egyptian Parliament was dissolved. In December 2017, he was fined and sentenced to three years in prison for "insulting the judiciary" in a speech he reportedly delivered during a parliamentary sitting in 2012. In its ruling of 30 December 2017, the Cairo Criminal Court found that Mr. al-Nagar's statements at a parliamentary sitting in 2012 had been intended to defame and harm the judiciary and judges, and disregarded his parliamentary

Case EGY-07

Egypt: Parliament affiliated to the IPU

Victim: male independent member of the House of Representatives

Qualified complainant(s): Section I.1(a) and (d) of the Committee Procedure (Annex I)

Submission of complaint: February 2020

Recent IPU decision: October 2020

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: November 2020
- Communication from the complainants: April 2021
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (April 2021)
- Communication addressed to the complainants: April 2021

¹ The delegation of Egypt expressed its reservations regarding the decision.

immunity. Mr. al-Nagar has not served his time in prison as he has remained in hiding, although it was clear to his family members where he was. He disappeared a few days before his appeal trial, which took place on 15 October 2018.

The complainants reported that, on 10 October 2018, Mr. al-Nagar's family received an anonymous telephone call informing it that he was in police custody at Aswan's Central Security Forces Al-Shallal camp. Despite Mr. al-Nagar's lawyer's request to the Egyptian authorities for an official response concerning his client's alleged detention in the Al-Shallal camp, no information was provided in this regard. Egypt's State Information Service denied playing a role in Mr. al-Nagar's disappearance and said in an official statement issued on 18 October 2018 that he had wilfully disappeared to avoid serving his prison sentence, accusing him of being a fugitive.

The Egyptian Court of Cassation adopted a decision on 15 October 2018, in which the court allegedly declared Mr. al-Nagar's appeal inadmissible and upheld the sentence against him *in absentia* because he had not been present at the proceedings and had not complied with a 2017 imprisonment order. In its decision, the Court of Cassation also found that it was not competent to examine the appeal, given that the appealed decision was not final as it had not been handed down by a "last degree" court. According to the Court of Cassation, it was still possible to challenge the 2017 decision before the Court of Appeal.

On 29 July 2019, the complainants filed a complaint at the Cairo Court of Administrative Justice against the Egyptian Ministry of the Interior for failing to disclose Mr. al-Nagar's whereabouts and to make serious efforts to locate him. In its decision handed down on 18 January 2020, the Cairo Court of Administrative Justice recalled the State's responsibility and indicated that the State Information Service statement was insufficient. The Court noted that the State had a duty to locate disappeared individuals, especially when a complaint had been filed about their disappearance. The complainants indicated that the Egyptian authorities had not yet responded to the ruling of 18 January 2020. At the same time, the complainant stated that several rumours had surfaced, echoed by local media articles and former acquaintances of Mr. al-Nagar, according to which he had died while allegedly attempting to cross the Egyptian border illegally into Sudan. The complainants stated that they had not received any evidence supporting such rumours.

During its virtual session held in October 2020, the Committee on the Human Rights of Parliamentarians invited the Egyptian authorities to a hearing. The parliamentary authorities had initially accepted the Committee's invitation. However, due to the parliamentary elections, the authorities were unable to meet with the Committee. In a letter dated 2 November 2020, the Egyptian parliamentary authorities stated that work was under way to provide the required information on the case of Mr. al-Nagar. The parliamentary authorities also pointed out that they required sufficient time to gather the documents requested by the Committee, suggesting that the latter had reached its conclusions on the case of Mr. al-Nagar expeditiously.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Deeply regrets* that the Egyptian House of Representatives has repeatedly failed to respond to requests for information on this case and to an invitation to a hearing during the most recent session of the Committee on the Human Rights of Parliamentarians; *recalls* in this regard that the first invitation to a hearing in October 2020 did not materialize as it coincided with elections in Egypt; *underlines* that the Committee's procedure is based on ongoing and constructive dialogue with the authorities, first and foremost parliament;
2. *Further points out* that Mr. al-Nagar did not serve his prison sentence because he was allegedly afraid of what might happen to him while in detention, as he considered his prosecution and conviction in 2017 unfair and in violation of his parliamentary immunity; *stresses once again* that, while the State of Egypt considers Mr. al-Nagar to be a fugitive, it remains duty-bound to do everything possible to find him and that, by not taking any measures to locate him, the authorities are wilfully denying justice to his relatives, who have the legitimate right to know about his fate, thereby giving weight to the complainants' allegations that the authorities are partly or wholly responsible for his disappearance;

3. *Reiterates its deep concern* about the alleged disappearance of Mr. al-Nagar since 2018 and the absence of any measures taken by the authorities to investigate his disappearance, despite the complainants' repeated requests; *stresses* that the authorities have yet to provide convincing evidence to refute the allegation that Mr. al-Nagar is being held incommunicado or to support claims that he died while attempting to illegally exit Egypt; *questions* why the Egyptian Government is unwilling to open an investigation into Mr. al-Nagar's disappearance despite the order from the Cairo Court of Administrative Justice of January 2020;
4. *Urges once more* the authorities, in particular the Ministry of the Interior, to take Mr. al-Nagar's alleged disappearance seriously, regardless of his conviction and the fact that he did not serve his prison sentence, by opening a genuine and effective investigation into his disappearance and taking appropriate measures to locate him in accordance with the decision of the Administrative Court of Justice; *wishes* to be kept informed as a matter of urgency about steps taken in this regard;
5. *Reiterates its wish* to receive copies of the decisions of the Cairo Criminal Court and the Court of Cassation issued against Mr. al-Nagar in 2017 and 2018 respectively;
6. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants, the Minister of Justice, the Minister of the Interior and any third party likely to be in a position to supply relevant information on the whereabouts of Mr. al-Nagar;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.