U.G. LAW®
المجموعة المتحدة للقانون، المحامى بالنقض نجـاد البـرعي
NEGAD EL-BORAI, ATTORNEY AT-LAW

State Security Emergency Tribunals

(Legal overview)

Summary

Disclaimer

This is an unofficial translation, from Arabic, to the summery of a research by U.G. LAW entitled with "State Security Emergency Tribunals". U.G. LAW is not responsible for this translation and we are only responsible of the contents of our Arabic version of this research. Any person can translate this paper into any language he/she prefer, provided mention the Copyrights of U.G. LAW - Negad Elborai, Attorney-at-Law.

Introduction:-

On December 5, 2017 U.G. LAW has published a paper entitled with "State Security Emergency Tribunals – Legal Overview" on the presidential decree declaring a state of emergency all over Egypt and establishing a state security tribunal pursuant to prime ministerial decision with its implications.
The paper has been released in Arabic version of 18 pages and it is among a series of legal publication published by U.G LAW as a contribution to spread the legal culture.

The Arabic version of the paper is available on: - http://www.ug-law.com/downloads/state-security-en.pdf

The paper is divided to 13 headlines, some of most important:-

1- Types of State Security Emergency Tribunals.

2- Formation of State Security Emergency Tribunals.

3- Jurisdiction of State Security Emergency Tribunals.

4- Referral the cases to the State Security Emergency Tribunals.

5- The legal situation of the cases once the state of emergency is over.

6- Appeal against the judgments of State Security Emergency Tribunals.

7- The presidential authorities on State Security Emergency Tribunals.

8- Constitutional Challenge of State Security Emergency Tribunals.

Paper basic Extracts :-

• Offences that will be transferred to the State Security Tribunals are: the offences listed in the Public Gathering Act, the felonies detrimental to the security of the government from abroad, the felonies and misdemeanors detrimental to the government from the inside, explosives offences, disrupting transportation, communication offences, offences that involve terror and intimidation, and disturbance of the peace, hooliganism, the offences listed in the Supply Act that deal with compulsory pricing and determining profits, arms and ammunition offences, the offences listed in the Act of preserving the sanctity of places of worship, the offences listed in

the Act of organizing the right to hold publish meetings, offences that involve destruction of facilities, and terrorism offences, as a result the Public Prosecution automatically referral the cases with these crimes to the tribunal.

• In accordance with the second Article in the Prime Ministerial Decision No.2198 of 2017 Cases that have already been transferred to ordinary courts before the declaration of a state of emergency shall not be transferred to the State Security Tribunals.

• After the state of an emergency is over, the State Security Tribunals will remain and continue to look into the cases transferred to it even after the emergency state is over until it finishes them all.

• The Act of Emergency does not permit the initiation of civil prosecution before State Security Tribunals .

• Rulings by the Higher State Security Tribunals are not subject to appeal.

• There is nothing in the Act of Emergency to stop the convicted from submitting a request to reconsider the sentence.

• Rulings by State Security Tribunals are not final without the promulgation by the President of the State.

• The President of the State is empowered with judicial authorities against the criminal proceedings before being referred to courts including case dismissal before being submitted to the court, and has the authority to grant a provisional release for the arrested defendants.

• Also, the President of the State has judicial authorities after the judgment is issued by the State Security Tribunals; he has the authority to approve and mitigate sentences, or commutate them with lesser sentences, or cancel the whole sentence or part of it; be that sentence original, complementary, or dependent. He also has the authority to partially or fully suspend a penalty, cancel the sentence, and close the proceedings, or cancel the sentence and order a retrial before another district and all this shall happen before the approval of a sentence. He also has the same authorities after the approval of a sentence unless the offence, for which the sentence is issued, is a (participation in a) murder.

• Rulings issued by the State Security Tribunals are enforceable, once passed, no matter how late the President of the State approves them. Since Law does not state a maximum temporal limit for the Presidential approval.