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Lawyers at the High Court of Appeal and the State Council

Dear Mr. Vice President of the State Council and Mr. President of the Administrative Judiciary Court,

This lawsuit is hereby filed by [redacted] who resides at [redacted] and whose chosen place of residence [redacted] against Mr. President of the Senate (in his capacity)

Facts

On 18 October 2020, the Egyptian Senate held its inaugural session of the first legislative term for 2020-2025, following elections held nationwide to elect its members so it carries out its assigned role, as the 2014 constitution - amended in 2019 - assigns the legislative authority to enact laws in accordance with its provisions. Article 248 (added) of the constitution stipulates that "the Senate is concerned with studying and proposing what it sees as a tool to consolidate democracy, support national unity, social peace, the basic values of society, supreme values, rights, freedoms and public duties, and deepen and expand the democratic system".

Article 249 (added) of the constitution states: "The Senate's opinion shall be taken in the following:

- Proposals for the amendment of one or more articles of the constitution
- Projects concerning the general plan for social and economic development
- Treaties of reconciliation and alliance and all treaties relating to the rights of sovereignty
- Draft laws supplementing the constitution and others referred to the Senate by the President of the Republic or the House of Representatives
- What the President of the Republic refers to the Senate concerning the general policy of the state or its policy in Arab or foreign affairs

The Senate shall communicate its opinion on these matters to the President of the Republic and the House of Representatives."

Article 8 of Law No. 2 of 2021 on the bylaws of the Senate stipulates that "the president of the Senate is the one who represents it and speaks on its behalf in accordance with its will, maintains its security, order, dignity and the dignity of its members, and generally supervises all the Senate's business. In this regard, the president of the Senate may seek the assistance of the Senate's office, the general committee, the ethics committee, or one of the other committees, or whoever he chooses from among the members".

The Senate stems its importance from the principle of separation of powers. The constitution defines the state's powers and the competence of each authority. The legislative authority's tasks are specified in the constitution and the law. It takes over legislation and oversight of the executive authority, which are two important tasks. The first task requires members of the legislative authority to be aware of the social, political and economic conditions in the country, as well as the legislative policy that shows how the law should be. The second task requires those in charge of the legislative authority and its members to be fully aware of the tools of oversight of the executive authority and to have a deep understanding of the political reality in order for the oversight to be effective. This

requires discussing everything that concerns citizens, their social, economic and health interests, their rights and freedoms, and all the purposes required by the public interest regarding the issue in question.

Article 3 of the Senate's bylaws stipulates that "the Senate shall have the power to study and propose what it deems appropriate for the following:

- Consolidating and strengthening the foundations of democracy, especially elections, political parties and civil society organizations
- Upholding the values of political competitiveness and common acceptance
- Empowering women and youth
- Enhancing social peace in various fields, especially upholding the principle of citizenship, social justice, freedom of expression, anti-discrimination, and combating major organized crimes such as terrorism, tribal and sectarian conflicts and feuds
- Supporting the top values of society, especially those stipulated in the first chapter of the constitution
- Supporting the social, economic and cultural foundations of society, especially those stipulated in the second chapter of the constitution
- Supporting public rights, freedoms and duties, especially those stipulated in the third chapter of the constitution
- Deepening the democratic system and expanding its scope in local administration, trade and student unions, and other fields, in accordance with these bylaws"

Article 4 of the Senate's bylaws also stipulates that "the Senate's opinion shall be taken in the following:

- Proposals for the amendment of one or more articles of the constitution
- Projects concerning the general plan for social and economic development
- Treaties of reconciliation and alliance and all treaties relating to the rights of sovereignty
- Draft laws supplementing the constitution and others referred to the Senate by the President of the Republic or the House of Representatives
- What the President of the Republic refers to the Senate concerning the general policy of the state or its policy in Arab or foreign affairs

The Senate shall communicate its opinion on these matters to the President of the Republic and the House of Representatives".

Despite the great importance of the Senate's sessions as mentioned above, we were surprised by the suspension of television and digital broadcast of the sessions of the Senate's first legislative term for 2020-2025. This suspension violates the constitution and law, and contradicts the principle of publicity of the Senate's sessions, especially as the sessions are not archived and are not available in a video or written form on the official website of the Senate, and the Senate's minutes are not archived or published, whether on the Senate's website or any other website. This leads to the absence of popular oversight over members of the legislative authority, and makes us isolated from the information, data, and statistics discussed in the sessions, which are basically owned by the people so they can access them transparently and easily.

The defendant's negative decision to ban the broadcasting of the sessions of the Senate's first legislative term for 2020-2025, ban the archiving of its sessions, refuse to make them visually available on the Senate's official website, refuse to archive the Senate's minutes or publish them,

whether in the Official Gazette or on its official website, and prevent everyone from accessing them without discrimination has violated the constitution and law and deviated from the principle of equality. Thus, the element of reason is negated, as the decision was issued without justification, and was marred by abuse of power, which prompted the plaintiff to file this lawsuit, based on the following reasons:

First: In terms of form and the fact that the appealed decision is subject to the administrative judiciary's jurisdiction

Article 10 of the State Council Law No. 47 of 1972 states: "The State Council courts shall exclusively be competent to adjudicate the following matters:…. Fifth: Requests submitted by individuals or organizations to cancel final administrative decisions… Fourteenth: All administrative disputes."

The Administrative Judiciary Court ruled that "the parliamentary actions that do not fall under the mandate or oversight of the judiciary include the issuance of legislation and laws other than regulatory decisions, which makes the appealed decision – being a decision that regulates the holding of sessions – one of the disputes that fall within the jurisdiction of the State Council courts".

The Administrative Judiciary Court also ruled that "the dispute in question is not one of the legislative duties undertaken by the House of Representatives, whose primary competence and authority is to enact laws in accordance with Article 101 of the constitution. It is not also related to any of the actions or procedures taken by the House of Representatives towards its members or its internal activity. Rather, the appealed decision has an administrative nature that is undertaken by the House of Representatives as a public authority that regulates the procedures of the radio and television broadcast of the House's public sessions".

(Case No. 16534 of Judicial Year 70 - Administrative Judiciary Court - 6/3/2018)

This makes the appealed decision one of the administrative acts of the Senate, which are subject to judicial oversight and fall within the jurisdiction of the administrative judiciary.

Second: Capacity and interest proven

One of the well-established principles in law is that "where there is no interest, there is no case", which is stipulated in Article 3 of the Procedure Code and the first paragraph of Article 12 of the State Council Law. However, the scope and meaning of interest in private jurisprudence are different from those in public jurisprudence. Rather, the scope of interest might differ from one legal field to another within the same jurisprudence. The Procedure Code stipulates that the interest that justifies the acceptance of a lawsuit must be based on a right that has been violated or threatened with violation. It is the same rule that applies to a claim for compensation before the administrative judiciary, where the plaintiff must have a right that has been violated by an administrative body through its wrong decision, thus causing damage that is intended to be remedied and compensated for. In both cases, there is a link between interest and personal rights.

As for the annulment lawsuits filed before the administrative judiciary, interest is completely separated from rights. The interest here is linked to the legal position, as the interest that justifies the acceptance of a lawsuit does not necessarily have to be based on a claimant's right that has been violated by the public authorities or threatened to be violated. Rather, it is enough for the plaintiff to have a personal and direct interest in the annulment request. The personal interest here means that the claimant has a special legal position or is in a special legal situation in relation to the contested decision that would make it - as long as it exists - directly affect the claimant's interest.

The administrative judiciary has widely applied the condition of interest in annulment lawsuits. In some cases, it accepted lawsuits based on the proven capacity of the plaintiff. So, it is enough for the plaintiff to have a direct personal interest in appealing the decision in question. On 1 April 1980, the Administrative Judiciary Court ruled in Case No. 6927 of Judicial Year 32: "It is established that the capacity of a citizen is sufficient in some cases to file an annulment lawsuit in an appeal against administrative decisions that affect all citizens residing in the country and threaten their interests, health or future."

Defining the meaning of personal interest, the Administrative Judiciary Court ruled: "The acceptance of an annulment lawsuit that aims to appeal the decision itself and reveal its flaws and defects does not necessarily have to be based on a right of the plaintiff. Rather, it is enough for the plaintiff to have a personal interest that has been directly affected by the decision in question."

(Set of legal principles decided by the Administrative Judiciary Court, fifth year, p. 657, referred to in the administrative judiciary - by Dr. Fouad Al-Attar - published by Dar Al-Nahda Al-Arabiya, edition 1966-67, p. 614)

Determining the direct interest, the Administrative Judiciary Court ruled: "For the condition of interest to be proven in an annulment lawsuit appealing an administrative decision, it is enough for the plaintiff to have a legal interest which has directly been affected by the appealed decision."

(Set of legal principles decided by the Administrative Judiciary Court, fifth year, ibid. p. 614)

Based on both rulings, we find that the two elements of interest are proven if the appellant has a personal benefit from the appeal against the decision, and the decision had a direct impact on one of his legal rights.

By applying this to the dispute in question, we find that the appellant is an Egyptian citizen, and that the appealed decision directly affects her legal position related to an issue that affects the essence of personal rights and freedoms, which have been guaranteed by the successive Egyptian constitutions, including the current one. Therefore, the appellant has a direct personal interest and capacity in filing this lawsuit, considering that the interest and capacity in the annulment lawsuit are so integrated.

Third: Aspects of appeal

1. The appealed decision violates the constitution and law and contradicts the principle of publicity of the Senate sessions:

Article 254 of the 2014 constitution, added in 2019, states that "the provisions of the constitution shall apply to the Senate in articles 103, 104, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121 (paragraphs 1, 2), 132, 133, 136 and 137, in a manner not inconsistent with the provisions of this section, provided that the specializations in the said articles shall be exercised by the Senate and its President.

Article 120 of the constitution stipulates: "The sessions of the House of Representatives are held in public. The House may hold a closed session based on a request by the President of the Republic, the Prime Minister, the Speaker of the House, or at least 20 of its members. The House will decide by majority whether the debate in question takes place in a public or a closed session."

Article 160 of Law No. 2 of 2021 on the bylaws of the Senate stipulates: "The Senate's sessions shall be held in public. The President of the Senate shall announce the opening and end of the session, as well as the date and time of the next session. The session may not be postponed beyond the time

set for it. With the approval of the Senate, the session may be postponed to an unspecified day. In this case, the President of the Senate shall set the date of the next session and notify the members of the Senate. The President of the Senate may call the Senate to convene before the specified session if there is a reason for that, or at the request of the President of the Republic."

Article 282 of the same law stipulates: "The President of the Senate shall regulate the procedures for following up the publication and broadcasting of what takes place in the public sessions of the Senate and its committees through various media outlets, in order to facilitate the task of the representatives of these outlets in publishing or broadcasting."

Article 216 of the same law states: "It is not permissible to request any correction in the minutes after they have been ratified. It is sufficient for the President of the Senate to ratify the minutes of the last sessions of the legislative term that have not been ratified by the Senate. The minutes shall be signed by the President of the Senate and the Secretary General after the Senate ratifies it. The minutes shall be kept in the Senate's archive and published in a special appendix to the Official Gazette."

So, the constitution attached great importance to the principle of publicity of the Senate sessions and surrounded it with guarantees. It stipulated the principle explicitly as stated above, although an exception was made regarding the possibility of holding one of the Senate's sessions for certain considerations and necessity. Then, Law No. 2 of 2021 on the bylaws of the Senate came to stress the importance of the publicity of the Senate sessions, for the following:

- <u>The principle of people's sovereignty:</u>

It is juristically agreed that the principle of legality means to resort to the law, as it basically monitors practices and ensures that they are carried out within the limits of the announced legal rules. This is the starting point for public participation and oversight, as oversight presupposes knowledge, and the principle of publicity relates to all stages of public activity.

(The judicial policy of the Supreme Constitutional Court - Counsellor Gaber Mohamed Heggy – the Vice President of the State Council – Dar Al-Nahda Al-Arabiya, 2012 edition - p. 50)

The right of the public to know the truth in all fields is not a favour made by the state, but rather it is a duty and an obligation upon it. It is in fact the actual application of the principle of people's sovereignty. The failure of the authorities to be committed to this right means keeping the people away from the circle of decision-making and keeping acts, especially influential ones, away from the circle of accountability, which leads the oversight role to decline and distorts its will due to the information blackout.

- <u>Public oversight assigned to senators:</u>

The efficiency of legislative performance and the ability to exercise legislative competence in a manner that satisfies and fulfils the aspirations of citizens depend on the competence of the people in charge of that, the skills they have, and the values they hold. This means that the efficiency of legislative performance is based primarily on how the legislative council is elected and formed and how it works, which in the end would achieve the interests of individuals and society.

(Dr. Gaber Gad Nassar - the legislative performance of the People's Assembly and oversight of the constitutionality of laws - Journal of Law and Economy - Issue 69, p. 205)

Undoubtedly, blocking some or all of what goes on inside the Senate and its sessions makes the senators feel that there is no public oversight over them. This creates a legislative council that does

not care about the concerns, hopes, and interests of the public, which would lead to poor performance and efficiency of the senators. The absence of public oversight leads to:

1. The absence of a large number of senators during sessions, which would limit the efficiency of legislative performance in Egypt
2. Amendment of laws after a short period of their issuance due to the hasty approval of laws without adequate discussion
3. The absence of holding ministers accountable or submitting motions of no confidence

Therefore, it is important to make the Senate sessions public via television and digital broadcasts. It is also important to archive the Senate sessions, make them available visually and in writing on the Senate's website, and allow everyone to access them without discrimination, as this has impact on the performance of the legislative authority. This is why the constitution guaranteed the publicity of sessions as an inherent right of every citizen. Article 120 of the constitution stipulates the publicity of the House of Representatives' sessions, while the exception mentioned in the article spoke of the possibility of holding a session for certain considerations and necessity. The appealed decision bans the broadcasting of all the Senate's sessions on television and online. It also refuses to make the sessions available visually and in writing on the Senate's website without clarifying the necessity or the reason for that. Thus, the decision violates the constitution and breaches the principle of the publicity of sessions. It also contains abuse of power, as it prevents public oversight over lawmakers who were elected to represent the public, so their will should not prevail over the people. Television broadcasting is the easiest public means for citizens to follow up what is going on in the Senate sessions. The sessions should be broadcast online and posted visually and in writing on the Senate's website and social media accounts. Moreover, the sessions and their minutes should be archived and published in full in the Official Gazette.

Broadcasting is also the safest way in light of the spread of Covid-19, which requires the application of strict preventive measures, especially social distancing, thus preventing the attendance of representatives of all newspapers and news websites or the public without discrimination. It should be noted here that the attendance of representatives of newspapers and news websites is meant to allow them to practice their constitutional and legal right to carry out their work only.

Thus, the principle of publicity will not apply in this case, for the following reasons:

1. It is impossible for the representatives of all newspapers, news websites and TV channels to attend the Senate sessions.
2. Each newspaper, website and TV channel has its own editorial policy, which could shrink the space allocated for publishing news about the Senate's activities, as a media outlet might ignore legislative developments that it deems unimportant, thus obscuring what is going on in the Senate and contradicting the principle of publicity.

The media controls what is published but it is not competent to do so. Parliaments in many countries, such as Germany, the United Kingdom, the United States and France, make their sessions and activities available on their websites in a way that enables citizens to access them directly without having to wait for the media to publish them.

- <u>What the publicity of the Senate sessions means:</u>

The publicity of the Senate sessions was stipulated in the constitution so that all citizens without discrimination would be aware of all the discussions that take place in the sessions as well as the consequent decisions that concern every citizen, which is a constitutional right.

It is jurisprudentially established that the element of knowledge is legally and effectively based on publicity, which is achieved by broadcasting the Senate sessions whether via television or online, or archiving those sessions and their minutes to be published in full in the Official Gazette or online. Any other means of publicity, such as the issuance of statements from the Senate, or merely publishing news and decisions of the Senate through print or electronic newspapers, or displaying the Senate's agenda on its website, should not be alternative to broadcasting.

In this regard, the Supreme Constitutional Court ruled that "informing the addressees of a legal rule is a condition for informing them of its content, and the enforcement of a legal rule shall be made public through publication and the advent of the date set for its enforcement. The publication of a legal rule guarantees its publicity as well as the publicity of its provisions so that those concerned would be aware of it. The legal rule that is not published does not include sufficient notice of its content, is not required to be applied, and its components are not integrated."

(Judgment of the Supreme Constitutional Court in Case No. 36 of Judicial Year 18 - 3/1/1998)

The Administrative Judiciary Court ruled that "the mere publication of a law in the Official Gazette is not sufficient without other specific rules to make sure the addressees are really or judgmentally aware of it. For this knowledge to be real and legal, the Official Gazette in which the law is published should be distributed so that all concerned addressees can access it as a means of knowledge about the law and its content. If the law was published in the Official Gazette but the Gazette editions were not distributed nationwide or did not reach a certain part of the country due to force majeure, then the purpose of publication in the Official Gazette has not been achieved, and there is no way in this case to say that judgmental publicity has been achieved."

(Judgment No. 63089 of Judicial Year 66 - Administrative Judiciary - First Circuit - 24/6/2014)

The Court of Appeal also ruled: "There is no obligation for those addressed by the law to submit to its provisions that they did not have access to. The presumption of knowledge of the law by all is contingent upon reasons that inevitably prevent this assumption. Knowledge of the law is not contingent upon the date when the Official Gazette is printed, but rather the date when it is distributed.

(The Court of Appeal's ruling in Appeal No. 256 of Judicial Year 24, 24/6/1958)

Therefore, citizens' knowledge of all what is going on in the Senate sessions based on the principle of publicity is not achieved by simply publishing news on the Senate's decisions via means of publicity. Rather, citizens should be aware of all the discussions and the decisions taken during the public sessions. Thus, the Senate sessions should be broadcast on television and online so all citizens can access them. The purpose of publicity is achieved by archiving the sessions and their minutes and publishing them in the Official Gazette, as well as on a special website or on the official website of the Senate.

2. <u>Violating the constitution with regard to the right to access information and freedom of scientific research</u>

Article 68 of the constitution states: "Information, data, statistics and official documents are owned by the people. Disclosure thereof from various sources is a right guaranteed by the state to all citizens. The state shall provide and make them available to citizens with transparency. The law shall organize rules for obtaining such, rules of availability and confidentiality, rules for depositing and preserving such, and lodging complaints against refusals to grant access thereto. The law shall specify penalties for withholding information or deliberately providing false information. State

institutions shall deposit official documents with the National Library and Archives once they are no longer in use. They shall also protect them, secure them from loss or damage, and restore and digitize them using all modern means and instruments, as per the law."

Article 66 of the constitution states: "Freedom of scientific research is guaranteed. The state shall sponsor researchers and inventors and protect and work to apply their innovations."

The appealed decision bans the television and digital broadcasting of the Senate sessions and refuses to archive those sessions and their minutes and publish them visually or in writing on the Senate's website or in the Official Gazette to make them available to all citizens without discrimination. The non-availability of the sessions affects the right to access information, data and statistics that are discussed during the Senate sessions. This information is owned by the people and guaranteed by the constitution under Article 68.

Egyptian laws have developed to cope with the political system in Egypt in light of constitutional development, through the creation of the Senate as part of the legislative authority to oversight the government's performance in implementing the state's plans for sustainable development and upgrading the public services. This is meant to provide very important information and data that can help researchers in light of the state's support for scientific research. The appealed decision represents an obstacle for researchers in performing their work, especially in the field of public policies and development.

The Supreme Constitutional Court ruled that "the constitution was keen to impose restrictions on the legislative and executive authorities to guarantee the preservation of public rights and freedoms of all kinds, so that none of them would invade the area protected by rights and freedoms, or intersect with them in a way that prevents their exercise in an effective manner. The development of these rights and freedoms through continuous efforts that seek to establish their international concepts among civilized nations was a basic demand to confirm their social value and appreciate their role in satisfying the vital interests associated with them, in order to deter every attempt to attack them. In this context, interest in public affairs has increased in various fields. Opinions related to public affairs and criticism of the performance of those in charge of them are protected by the constitution. Public affairs, the rules regulating them, the method of managing them, and the means of advancing them are closely related to the direct interests of citizens."

(Case No. 37 of Judicial Year 11, 6/2/1993)

3. <u>The appealed decision violates the Press and Media Regulation Law</u>

Article 10 of the Press and Media Regulation Law No. 180 of 2018 stipulates: "It is prohibited to impose any restrictions that impede the provision or availability of information, or prevent equal opportunities between the various print and electronic newspapers and the audio-visual media, or their right to access information, all without violating the requirements of national security and defense of the homeland."

Article 260 of Law No. 2 of 2021 on the bylaws of the Senate stipulates: "Places shall be allocated for representatives of newspapers and various media outlets and for the public in the areas specified by the President of the Senate to watch the Senate's sessions. The President of the Senate shall set the rules and procedures for approving entry to these places."

The decision that bans the television and digital broadcasting of the Senate sessions and refuses to publish them visually and in writing, without specifying a legal reason, is in fact an unfair decision that violates the constitution and law. It is not enough to issue statements on the Senate's decisions,

as these statements do not include everything discussed in the sessions. The Senate allows certain newspapers to cover its sessions, which affects equal opportunities for all media outlets. So, broadcasting the sessions on television and online, and making their minutes available will enable all media outlets to publish and access relevant information.

4. The negative impact of the appealed decision represented in the inability of voters to follow up on their representatives at the Senate:

Article 87 of the 2014 constitution, amended in 2019, stipulates: "The participation of citizens in public life is a national duty. Every citizen has the right to vote, run in elections, and express their opinion in referendums. The law shall regulate the exercise of these rights. Performance of these duties may be exempted in cases specified by the law. The state shall enter the name of every citizen in the voter registration database without request from the citizen himself, once the citizen meets voting requirements. The state shall also purge this database periodically in accordance with the law. The state guarantees the safety, neutrality and fairness of referendum and election procedures. The use of public funds, government agencies, public facilities, places of worship, business sector establishments and non-governmental organizations and institutions for political purposes and electioneering is forbidden."

Article 88 of the constitution stipulates: "The state shall protect the interests of Egyptians living abroad, protect them, guarantee their rights and freedoms, enable them to perform their public duties towards the state and society, and engage them in the nation's development. The law shall regulate their participation in elections and referendums in a way consistent with their particular circumstances, without being restricted by the provisions on voting, counting of ballots and announcing of results set forth in this constitution. This shall be done with the granting of guarantees that ensure the fairness and neutrality of the election or referendum process."

So, the constitution stipulated the right of citizens to participate in public life, and even considered it a patriotic duty. The aforementioned texts also indicate that participation in public life is not limited to participation in referendums or parliamentary elections, but also includes the citizens' follow-up of their representatives in parliament to make sure they are working on solving their problems.

The problem is that it is difficult for citizens to meet their representatives, especially the closed-list MPs due to the wide geographical scope of each list. Article 3 of Law No. 141 of 2020 regarding the Senate stipulates: "The Arab Republic of Egypt is divided into 27 constituencies allocated for the individual system, and 4 constituencies allocated for the list system, two of them are allocated 15 seats each, and the other two are allocated 35 seats each. The scope and components of each of them are determined as shown in the two tables attached to this law. Each constituency shall elect a number of candidates commensurate with the number of its residents and voters, taking into account the fair representation of the population and governorates."

The table related to the list system divides Egypt into four very wide constituencies, which confirms that the appealed decision prevents citizens from exercising their right to monitor the performance of their representatives, especially in light of the difficulty of communication between both sides due to the wide geographical scope of the constituencies, which may lead to a growing reluctance of citizens to participate in public life in the future, especially the citizens residing abroad, as it is impossible to follow up the Senate sessions except through television, online broadcast, or by publishing the minutes of sessions in the Official Gazette.

5. The appealed decision lacks reason

“Reason is one of the pillars of the administrative decision, and its absence invalidates the decision. It is the factual or legal situation that takes place away from the administration man, so it inspires him to take his decision in a specific way. So, if he takes the decision without relying on reality or the law, then it becomes null and void, which necessitates its cancellation.”

Reason, as defined by the Supreme Administrative Court in its ruling in Case No. 1656, is “one of the pillars of the decision and one of the conditions of its legality, and the decision cannot be established without its reason. Therefore, the administration is obligated to base its decision on a valid reason, deriving justifiably from valid material or legal assets, so that the decision complies with the law.”

The Supreme Administrative Court ruled: “The administration is not obligated to establish its decision, and it is assumed that the unreasoned decision is based on its own valid reason, and whoever claims the opposite must provide evidence for that. However, if the administration mentions reasons on its own or if the law obliges it to justify its decision, then the reasons it reveals shall be subject to the oversight of the administrative judiciary, which shall examine these reasons to verify the extent of their conformity or non-conformity with the law and the impact of that on the result reached by the decision... Otherwise, the decision is devoid of reason and violates the law.”

(See the Supreme Administrative Court’s ruling in Appeal No. 5193 of Judicial Year 41, 25/12/1999)

Accordingly, the decision to ban the broadcasting of the Senate sessions on television and online and also ban the archiving and publishing of the sessions on the Senate’s website or in the Official Gazette is a negative administrative decision that lacks reason, as the administration did not reveal its reasons for that.

6. Abuse of power from the source of the decision

The Administrative Judiciary Court ruled: “The abuse of power – as a defect in the administrative decision that is distinguished by its nature from other defects – does not occur only when the decision is issued for personal purposes aiming at taking revenge or achieving a personal benefit or for political or partisan purposes or the like. It also happens when the decision is issued in violation of the spirit of law, as the law in many administration actions dos not only aim to achieve the public interest in its broad scope, but it sets a specific goal as a scope for a specific administrative action. In this case, the administrative decision should not only target the public interest, but also the special goal that the law has set for this decision, pursuant to the rule of setting goals that restrict the administrative decision to its specific purpose. If the decision deviates from that purpose, even if it aims to achieve the public interest, then it will be marred by deviation and will be deemed invalid.”

(The Administrative Judiciary Court - Case No. 6386 of Judicial Year 8 - 22/4/1956 - 10/310/299)

The Supreme Administrative Court ruled: "The lack of a reasonable justification for the administrative decision and the administration’s behavior that discriminates in favour of some people against others without a convincing justification and a basis for the public interest are forms of deviation in the administrative decision."

(The Supreme Administrative Court - Appeal No. 10/1362 - 26/11/1966)

There is no doubt that the appealed decision does not aim to achieve the public interest, as this requires the Senate sessions to be public in order to raise the Senate’s efficiency and legislative role as mentioned above. It also violates the right to access information, which is a constitutional right that may not be infringed upon.

Therefore, the administration's reasons for issuing its decisions must be convincing and logical and target the public interest. During its 2015-2020 legislative term, the House of Representatives issued a similar decision banning the broadcast of the parliament's sessions without a convincing reason and without targeting the public interest. It based its decision on the fact that the publicity of the parliament's sessions affects its prestige and image as a representative of the nation, with regard to the behavior of its members. It is clear that the decision did not target the public interest, especially as it is assumed that whoever runs for the parliamentary elections should be aware of the conditions that must be met. The newness of some MPs should not be a reason for violating the principle of the publicity of the sessions.

In this regard, the Supreme Constitutional Court ruled that "a candidate for the membership of the House of Representatives must be an Egyptian citizen, enjoying civil and political rights, a holder of at least a certificate of basic education… Other requirements for candidacy are set out by law."

Accordingly, citizens have the right to vote, to run, and to express their views in elections in accordance with the law. Participation in public life is a national duty. The two abovementioned legal texts oblige the legislator to establish a system based on objective foundations to provide equal opportunities for candidates and select the best of them in order to guarantee the citizens' right to choose their representatives in parliament, given that the legitimate authority is only granted by the voters. These two rights (candidacy and vote) are absolutely necessary to achieve the democracy stipulated in the constitution and to ensure that the parliament will express the public will.

Therefore, it is not permissible to entrust this representation to anyone other than those who perform it well. MPs should not be a burden on parliament, but rather should enrich its work through creative efforts that interact with the responsibilities entrusted to them. This requires those who take the honour of representing the Egyptian people to have moral, psychological, mental, scientific and practical characteristics, which means the necessity of making a comparison between competing candidates and elect the best from among them to carry out the task of legislation in light of their competence, integrity, hard work, and their scientific and practical ability to bear the burdens related to public affairs. The tasks of public affairs must always be undertaken by the best elements of society.

(The Supreme Constitutional Court's ruling No. 15 of Judicial Year 37 - 1/3/2015)

Fourth: Suspending the implementation of the appealed decision

In order to suspend the implementation of the appealed decision, pursuant to Article 49 of the State Council Law No. 47 of 1972, there should be two interrelated elements. The first is related to the principle of legality, which is the element of seriousness. It means that the request to suspend the implementation of the appealed decision should be apparently based on serious reasons with which it is likely to annul the decision when examining the case. The other element has to do with urgency, which means that the continued implementation of the appealed decision will result in consequences that cannot be remedied in the event of annulling the decision.

It was apparent from the papers that they were devoid of the reason for banning the broadcast of the Senate sessions on television and online, as well as preventing the archiving of the sessions and their minutes and publishing them visually and in writing on the Senate's website and in the Official Gazette, and making them available to all citizens without discrimination. So, the appealed decision was devoid of a reason, thus violating the constitution and law. In this case, the element of seriousness has been proven.

The element of urgency has also been proven, as the consequences of the implementation of the appealed decision cannot be remedied. These consequences include the restriction of the right to access information, which is a constitutional right, as well as the principle of publicity.

Therefore, the appellant requests your honour to set the nearest possible session to look into the case and make a judgement to:

First: Accept the case in form.

Second: Urgently stop the implementation of the defendant's negative decision to ban – first – the broadcasting of the Senate sessions for the legislative term 2020-2025 on television and on the Senate's website and social media accounts, and – second – the archiving of the sessions and their minutes and publishing them visually and in writing on the Senate's website and in the Official Gazette, taking the consequences of that into account, and executing the judgement with its draft.

Third: Cancel the defendant's negative decision to ban – first – the broadcasting of the Senate sessions for the legislative term 2020-2025 on television and on the Senate's website and social media accounts, and – second – the archiving of the sessions and their minutes and publishing them visually and in writing on the Senate's website and in the Official Gazette, taking the consequences of that into account, and obligating the administration to bear the expenses and attorney fees.

Yours sincerely,

Lawyer……..