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The Federal Council
Palais fédéral ouest
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27 November 2017

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Open letter to the Federal Council

Don't release Egypt's Frozen Assets in Switzerland

Your Excellencies,
Distinguished Members of the Swiss Federal Council,

On 11th of February 2011, the Swiss authorities decided to issue a decree following the Egyptian Revolution pertaining to the freezing of assets of some individuals who were part of the entourage of former Egyptian President Hosni Mubarak, including Mubarak himself. This freezing order has been extended on various occasions since then. It is still valid today and expires on 10th of February 2018. The Swiss Federal Council will have to decide before said date, whether the freezing order will be maintained.

In September 2017, the General Attorney's Office of Switzerland announced that the criminal proceedings against members of the former Egyptian regime and their entourage were still open in Switzerland, but that the mutual legal assistance procedures with Egypt had been terminated without producing any material results. The use of the Federal Act on the Freezing and the Restitution of Illicit Assets held by Foreign Politically Exposed Persons (2010) has been excluded. Therefore, it is likely that the criminal proceedings opened in Switzerland are now closed or will be soon, although nothing to this effect has been communicated as far as we know.

Under such circumstances, it is crucial that the freezing order issued by your authority is extended and that a specific legal mechanism is developed to allow the seizure of those assets, unless it can be proven to be of licit origin. The procedures opened by Swiss authorities did not fail because the money was licit, but because the cooperation with Egyptian judicial authorities failed.

More than ten years ago, Swiss authorities acknowledged that some specific circumstances can make it impossible to seize illegal assets held by heads of States in Swiss bank accounts on the basis of mutual legal assistance demands. At that time, freezing orders related to money belonging to the entourage of former Haitian President Duvalier and former Congolese President Mobutu were issued and a new legal mandate was created in 2010 to allow seizures on the basis of Swiss law, when the cooperation with foreign judicial authorities turns out to be impossible.

We know from official documents that a significant part of the money still frozen (about CHF 400 million) is currently held by the family of Mubarak himself, where his two sons (who face other charges of manipulating the Egyptian stock market and money laundering) share a joint account with more than CHF 300 million. In that respect, we urge Swiss authorities to take appropriate measures to ensure that money that was the proceeds of corrupt and questionable dealings, which is currently being held by the family of a long-serving dictator who committed grave human rights violations, is not released just because of the failure of the Mutual Legal Assistance between the authorities of Switzerland and Egypt.

There needs to be undisputed evidence that the origin of these funds is from perfectly licit sources. With the balance of probability clearly pointing to the illicit nature of these funds, it will be legally problematic for the money to be given back just because the judicial authorities are failing to cooperate. But perhaps most importantly it will make many Egyptians and observers worldwide lose faith in the ability of the current legal and judicial mechanisms to bring about justice to victims of corruption and dictatorial rule even after huge prices and sacrifices were made to strip them of their powers.

Thank you for your time and consideration.

Sincerely,

Susan Hawley, Corruption Watch, London, UK
Jackson Oldfield, Cifar, Berlin, Germany
Fatima Kanji and Kristian Lasslett, International State Crime Initiative, Queen Mary University, London, UK
James Goldston, Executive Director, Open Society Justice Initiative, New-York, USA
Dominik Gross, Alliance Sud, Bern, Switzerland
Lukas Straumann, executive Director, Bruno Manser Fund, Basel, Switzerland
Eric Martin, President, Transparency International (Swiss chapter), Berne, Switzerland
Osama Diab, Egyptian Initiative for Personal Rights, Cairo, Egypt
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Copies:

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- Office of the Attorney General of Switzerland, Taubenstrasse 16, 3003 Bern