

DETERMINATION PURSUANT TO SECTION 7041(a)(3)(B) OF THE  
DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED  
PROGRAMS APPROPRIATIONS ACT, 2018 (Div. K, P.L. 115-141)

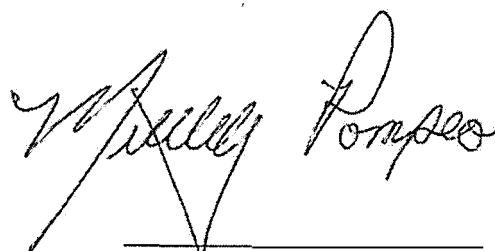
By virtue of the authority vested in me as Secretary of State pursuant to section 7041(a)(3)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (Div. K, P.L. 115-141) (the "Act"), I hereby determine that it is important to the national security interest of the United States to waive the certification requirement under section 7041(a)(3)(A) of the Act. I hereby waive that requirement.

This determination shall be published in the *Federal Register* and shall be reported to Congress, along with the accompanying Memorandum of Justification.

AUG - 8 2019

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Date



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Michael R. Pompeo  
Secretary of State

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**MEMORANDUM OF JUSTIFICATION FOR THE WAIVER UNDER SECTION 7041(a)(3)(B) OF THE DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2018 (Div. K, P.L. 115-141)**

The Secretary of State has determined that it is important to the national security interest of the United States to waive the certification requirement in section 7041(a)(3)(A) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (Div. K, P.L. 115-141) (FY 2018 SFOAA) with respect to \$300 million in FY 2018 Foreign Military Financing (FMF) for Egypt.

The United States seeks a stable and prosperous Egypt that contributes to regional peace, stability, and efforts to counter terrorism. Egypt has geostrategic influence on regional political, economic, and military affairs: it governs the Suez Canal, through which more than eight percent of global maritime trade transits; hosts the headquarters of the Arab League; and, in February 2019, became the chair of the African Union for the year. Egypt continues to meet its obligations under the 1979 Egypt-Israel Treaty of Peace, which is a model for regional cooperation and stability. Egypt provides overflight approvals for the U.S. military and is eager to improve bilateral relations and cooperation in counterterrorism. Egypt is a member of the Global Coalition to Defeat ISIS, and Egypt's counterterrorism campaign continues in the northern Sinai Peninsula against one of the most capable ISIS affiliates. Egypt also combats ISIS and al-Qa'ida in the Egyptian mainland, western desert, and along its borders with Libya and Sudan. In combatting terrorism and promoting regional stability, Egyptian President al-Sisi frequently acknowledges the importance of U.S. partnership. Through these roles and responsibilities, Egypt is important to the national security interests of the United States.

At the same time, the overall human rights climate in Egypt continues to restrict the right of peaceful assembly, freedom of association, freedom of expression, and fair trial guarantees.

Consistent with section 7041(a)(3)(B) of the FY 2018 SFOAA, this memorandum of justification sets forth the reasons why any of the requirements of section 7041(a)(3)(A) of the FY 2018 SFOAA cannot be met and includes an assessment of the compliance of the Government of Egypt with United Nations Security Council resolution 2270 and other such resolutions regarding North Korea.

**(i) Taking sustained and effective steps to advance democracy and human rights in Egypt, including to govern democratically and protect religious minorities and the rights of women, which are in addition to steps taken during the previous calendar year for such purposes;**

The Egyptian government has continued to restrict unduly the right of peaceful assembly and freedoms of association and expression. President al-Sisi was reelected in May 2018 after nearly all other candidates were arrested or withdrew, citing pressure from authorities. Following a referendum, the Egyptian government adopted in April 2019 a set of constitutional amendments that extend President al-Sisi's term in office until 2030, increase his control over the judiciary, and strengthen the role of the military as the "guardian of the state." There were media reports that authorities and pro-government parties provided financial incentives to encourage voter

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turnout. There are continuing reports of authorities arresting members of political opposition parties.

The government has taken some steps to protect and advance the rights of women, but religious and cultural barriers continue to limit women's political participation. Violence against women, sexual harassment, and female genital mutilation remain serious problems.

The government has taken some significant steps to protect and advance the rights of members of Egypt's Christian minority population. The provision of the church construction law that allows unlicensed churches to be legalized is being implemented. Some perpetrators convicted of killing Christians are being held accountable. The government has directed that 17 new communities around Cairo include churches and said that the government will pay for their construction. Al-Sisi also has frequently emphasized the equality of Christians and Muslims in Egypt. Authorities often fail to hold perpetrators of violence against Christians and their churches accountable, however, and local authorities have reportedly colluded with perpetrators in coercing Copts to agree to the continued closure of their churches. In addition, local and international rights groups reported several cases of authorities charging and convicting individuals, both Christians and Muslims, with under Egypt's blasphemy law.

**(ii) Taking sustained and effective steps to implement reforms that protect freedoms of expression, association, and peaceful assembly, including the ability of civil society organizations, human rights defenders, and the media to function without interference;**

Restrictions on freedom of expression, freedom of association, and the right of peaceful assembly continue to increase, including restrictions on the ability of civil society organizations and the media to function without undue interference.

Authorities continue to implement a 2013 law governing public demonstrations that includes an expansive list of prohibited activities, including the prohibition against public meetings of more than 10 individuals to discuss an issue of a public nature without first notifying the Ministry of Interior. Human rights organizations estimate that thousands of individuals have been charged and convicted under the law. The government preemptively restricts peaceful public assembly by arresting activists in advance of planned protests.

The government continues to investigate and prosecute peaceful critics, ranging from entertainers and media figures to ordinary citizens, for allegedly inciting violence or insulting religion, the judiciary, the military, and other public institutions and figures. The Committee to Protect Journalists' 2018 Annual Report stated that Egypt had imprisoned more journalists on charges of "false news" than any other country. The state also controls nearly all press outlets and continues to block or censor internet web content. In the run-up to the April referendum on constitutional amendments, the government reportedly blocked access to thousands of websites. Since May 2017, Egyptian authorities have blocked more than 500 online outlets, including news and aggregator sites.

There have been reports of arrests and harassment of LGBTI individuals. Rights groups and activists have reported harassment by police, including physical assault and forced payment of bribes to provide information concerning LGBTI individuals or to avoid arrest.

The environment for civil society remains severely constrained. On July 15, however, the Egyptian parliament approved a new NGO law that will replace a draconian 2017 law. Though still not up to international standards, the new draft law removes jail and tax penalties and eliminates the creation of a security-dominated NGO oversight body. Civil society organizations asserted that the new draft law remains restrictive and includes large monetary penalties and onerous regulatory and monitoring requirements. Many Egyptian human rights organizations face ongoing criminal investigations, and their staff face asset freezes and travel bans. State-controlled and affiliated media continues to vilify NGOs receiving foreign assistance, including NGOs receiving assistance from the U.S. government.

**(iii) Taking sustained and effective steps to release political prisoners and provide detainees with due process of law;**

Human rights groups and international observers assert the government has detained or imprisoned as many as several thousand persons solely or chiefly because of their political beliefs or opposition to the government, although verifiable estimates are not available. The government claims there are no political prisoners and that all persons in detention have been or are in the process of being charged with a crime unrelated to the exercise of their fundamental freedoms. Peaceful activists have been jailed on national security grounds for expressing anything that could be interpreted as criticism of government policy.

Egypt remains deficient in providing fair trial guarantees. Arrests often occur without warrants or judicial orders, and the government frequently uses detention without bail and prolonged preventative detention during trials for nonviolent offenses. Some individuals have been held for over five years in pretrial detention. Military courts are sometimes used to try civilians, and there have been mass trials involving hundreds of defendants in which no evidence was presented for specific individuals on trial. Egyptian courts have continued to issue mass death sentences in proceedings that failed to meet Egypt's international human rights obligations.

Conditions in prisons and detention centers are harsh due to overcrowding, physical abuse, inadequate medical care, and poor ventilation. Former Egyptian President Mohamed Morsi died after collapsing in a courtroom during a June 17 criminal trial hearing for espionage, and human rights groups assert he suffered from inadequate healthcare during his six years in prison, contributing to his death.

**(iv) Taking sustained and effective steps to hold Egyptian security forces accountable, including officers credibly alleged to have violated human rights;**

Impunity of police and security forces remains a serious problem. The government has not comprehensively investigated most allegations of human rights violations or abuses by security forces.

In some instances, lower-level officers were held accountable for violations and abuses; but in some cases, sentences for existing convictions were reduced on appeal. In February 2019, a court convicted three police officers of torturing an individual to death in Sohag in 2016, and the police officers were sentenced to three years in prison.

**(v) Taking sustained and effective steps to investigate and prosecute cases of extrajudicial killings and forced disappearances;**

Credible international and local human rights organizations have reportedly documented in excess of 1,500 enforced disappearances since 2013, with disappearances ranging in length from days to months. In 2018, the UN Human Rights Council's Working Group on Enforced or Involuntary Disappearances stated that hundreds of disappearance cases in Egypt were being reviewed by the working group. Egyptian authorities held detainees incommunicado in police stations or other facilities and denied their requests to contact family members and lawyers.

There have been numerous reports that the government or its agents committed arbitrary or unlawful killings while making arrests or holding persons in custody, including allegations of persons tortured to death and of killings in prisons and detention centers.

A May 2019 international NGO report stated the organization had documented 14 alleged incidences of extrajudicial killings of detainees in the Sinai. There have been reports of groups of suspected terrorists and other suspected criminals killed during security raids conducted by security forces. According to an April 2019 press report, more than 400 individuals have been killed in such circumstances since 2015. Rights groups argued that these shootings might have amounted to extrajudicial killings, while the interior ministry said police officers fired at suspects only after the suspects fired first. In some cases, human rights organizations and media reported there was evidence that police detained suspects before killing them. We are not aware of any steps taken by Egyptian authorities to investigate these incidents or previous allegations of extrajudicial killings.

**(vi) Taking sustained and effective steps to provide regular access for United States officials to monitor such assistance in areas where the assistance is used;**

The government continues to limit access to the conflict area in northern Sinai, including areas where U.S. assistance is used, apart from official travel to multinational force and observers facilities. The Egyptian military has allowed limited access to U.S. officials, accompanied by Egyptian military officials, so they could tour development projects and meet with government officials in the Sinai.

**Assessment of the compliance of the Government of Egypt with United Nations Security Council resolution 2270 and other such resolutions regarding North Korea**

The Egyptian government has taken steps in the past two years to show that it is scaling back its relations with North Korea, most notably with regard to staffing at the North Korean embassy in Cairo and the Egyptian embassy in Pyongyang. The Department of State can provide more detailed information on the relationship in a classified briefing.