



London, 23 July 2007

TO WHOM IT MAY CONCERN

Re: Nassim Saadi – D.O.B. 30.11.1974

Amnesty International is concerned that Nassim Saadi would be at risk of torture and other grave human rights violations should he be removed to Tunisia by the Italian authorities. This concern is based upon our continuous monitoring of human rights violations in Tunisia, including violations committed against Tunisian nationals returned from abroad after having been suspected of alleged involvement in terrorism or links with terrorist organizations, over many years and up to the present day.

Nassim Saadi was tried, convicted and sentenced *in absentia* by the Permanent Military Court in Tunis to a total of 20 years' imprisonment and an additional five years of administrative control after being convicted on charges of belonging to a terrorist organization operating abroad at a time of peace, and incitement to terrorism. If he is returned to Tunisia, he will be entitled to a retrial before the same military court if he lodges an appeal against the sentence passed *in absentia*. However, military courts in Tunisia violate a number of guarantees for a fair trial. The military court is composed of a presiding judge and four counsellors. Only the president is a civilian judge; the others are serving military officers. There are restrictions on the right to a public hearing. The location of the court in a military compound severely limits public access to the court. Individuals convicted before a military court can seek review only before the military court of cassation. Civilian defendants often lack information on the proceedings, and have frequently reported that they have not realised they were being questioned by an examining judge during pre-trial detention because he was wearing a military uniform. Defence lawyers have restrictions placed on access to their clients' files and are obstructed by not being given information about the proceedings such as the dates of hearings. Unlike the ordinary criminal courts, military courts do not allow lawyers access to a register of pending cases. (For more information see Amnesty International report *Tunisia: the Cycle of Injustice*, AI Index MDE30/001/2003)

The Tunisian authorities have continued to use the 2003 anti-terrorism law (Law No. 2003-75 concerning support for international efforts to combat terrorism and prevent money-laundering) to arrest, detain and try alleged terrorist suspects. Those tried and convicted have been sentenced to long prison terms. The anti-terrorism law and provisions of the Military Justice Code have also been used against Tunisian nationals who were returned to Tunisia against their will by the authorities of other countries, including Bosnia and Herzegovina, Bulgaria and Italy. While in the custody of the Tunisian authorities, many were charged with links to terrorist organizations operating outside the country. Some were referred to the military justice system.

People who have been recently returned to Tunisia from abroad have been held in incommunicado detention for several weeks. Subsequently, they have alleged that they were subjected to torture or other ill-treatment while they were being held incommunicado. In some cases, they were detained without charge beyond the maximum period permitted by Tunisian law but without access to effective remedy against such abuse. Those who have been tried have

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been sentenced to long prison sentences following unfair trials. In this connection, we provide the following case information for illustration:

- **Houssine Tarkhani** was forcibly returned from France to Tunisia on 3 June 2007, and detained on arrival. He was kept in secret detention in the State Security Department of the Ministry of Interior in Tunis for 9 days (three days beyond the legal period permitted under *garde-à-vue*), during which he was reportedly beaten, and threatened with death. He was charged under the 2003 anti-terrorism law and is currently held in Mornaguia Prison awaiting trial before the Tunis Court of First Instance. Houssine Tarkhani left Tunisia in 1999, and subsequently lived in Germany and, between 2000 and 2006, in Italy. He was arrested at the French-German border on 5 May 2007, as an irregular migrant, and held in a detention centre in the French city of Metz, pending the execution of an expulsion order. On 6 May he was brought before a judge, who authorized his detention for a further 15 days, and told him that he was being investigated by the French police on suspicion of "providing logistical support" to a network which assists individuals to travel to Iraq to take part in the armed conflict with the US-led coalition forces there – an allegation which he denies. However, no charges were ever brought against him in France. His application for asylum in France was assessed under an accelerated procedure (*procédure prioritaire*), and rejected on 25 May.
- **Fouad Cherif Ben Fitouri** was expelled from Italy to Tunisia on 4 January 2007 because his association with Islamic groups planning terrorist acts. He was arrested and detained upon arrival to Tunisia. He was held in incommunicado detention for 12 days, twice the maximum legal period of *garde-à-vue*, during which he was tortured, including by being beaten and suspended upside down. His Tunisian lawyer noticed wounds on his head during the first visits. Fouad Cherif Ben Fitouri's police report stated that he was arrested on 14 January 2007, apparently in an attempt to hide the fact that he was kept incommunicado detention for 12 days. He appeared before an examining magistrate on 16 January 2007 and was charged under the 2003 anti-terrorism law. He is currently detained in Mornaguia Prison awaiting trial before the Tunis Court of First Instance. No date yet has been set for trial. The request of the lawyer to have his client undergo a medical examination as required by Tunisian law was ignored by the examining magistrate. A formal complaint about torture was filed before the *procureur de la république* in February 2007 but has so far received no response.
- In May 2004, Tunisian national **Tarek Belkhirat** was forcibly returned to Tunisia from France after his request for asylum was rejected. Previously, he was sentenced to three years' imprisonment in France in connection to the case widely known as the "Tunisian Islamist Front" in 1998. Upon his return to Tunisia, he was arrested, detained and charged under the 2003 anti-terrorism law. In March 2005, He was sentenced after an unfair trial to ten years' imprisonment, reduced to five years on appeal in October 2005. He remains in prison in Tunisia. In February 2005, the Council of State (*Conseil d'État*), the highest administrative court in France, quashed the order to deport Tarek Belkhirat to Tunisia.
- Tunisian national **Adil Rahali** was deported to Tunisia from Ireland in April 2004 after his application for asylum was refused. He was arrested on arrival in Tunisia and taken to the State Security Department of the Ministry of the Interior, where he was held in secret detention for several days and reportedly beaten, suspended from the ceiling and threatened with death. Adil Rahali, who had worked in Europe for more than a decade, was charged under the 2003 "anti-terrorism" law with belonging to a "terrorist" organization operating abroad. The organization was not named and no details were provided about the exact nature of its activities. No investigation is known to have been conducted into Adil Rahali's alleged torture despite the fact that his lawyer filed a complaint. In March 2005, Adil Rahali was sentenced under "anti-terrorism" legislation to 10 years' imprisonment after an unfair trial. This sentence was reduced to five years on appeal in September 2005.
- In April 2004, seven young men were convicted, following an unfair trial, of membership of a "terrorist" organization, possessing or manufacturing explosives, theft, using banned websites and holding unauthorized meetings. Two others were convicted *in absentia*. They were

among dozens of people arrested in Zarzis, southern Tunisia, in February 2003, most of whom were released later the same month. The trial failed to respect international fair trial standards. According to defence lawyers, the majority of the arrest dates in the police reports were falsified, and in one case the place of arrest was falsified. There were no investigations into allegations that the defendants were beaten, suspended from the ceiling and threatened with rape. The convictions rested almost entirely on confessions extracted under duress. The defendants denied all charges brought against them in court. In July 2004 the Tunis Appeal Court reduced the sentences of six defendants from 19 years and three months to 13 years' imprisonment. Their further appeal was rejected by the Court of Cassation in December. Another defendant, who was a minor at the time of the arrest, had his sentence reduced to 24 months in prison. They were all released in March 2006 following a presidential pardon.

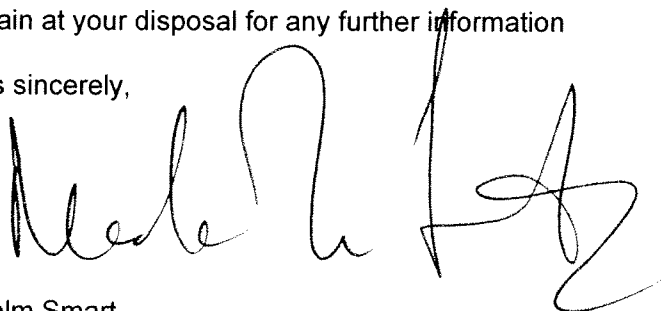
- Mohammed Amine Jaziri was arrested on 24 December 2006 on his way to Sidi Bouzid Hospital, in Sidi Bouzid, 260 km south of Tunis. He had been responding to a text message sent from a friend's mobile phone, asking him to visit him there. His family later learnt that the friend had already been in police custody at the time the message was sent. His father inquired with the police in Sidi Bouzid and the Ministry of Interior about his son, but was repeatedly told that there was no record of his name. On 27 December, Mohammed Amine Jaziri's house was searched by a group of men believed to be police officers in plain clothes using Mohammed Amine Jaziri's own keys to open the door. He was one of scores of people who were arrested by police between late December 2006 and January 2007, following an exchange of gun fire between the security forces and alleged members of an al Qaeda-aligned armed group. They were all held in incommunicado detention for several weeks at the detention facilities of the State Security Department of the Ministry of Interior in Tunis. They subsequently alleged that they were tortured or otherwise ill-treated while held there. They are all standing trial before the Tunis Court of First Instance on terrorism charges. (For more information, see Amnesty International Urgent Action, *Tunisia: Incommunicado detention/fear of torture* AI Index: MDE 30/001/2007)

The human rights violations that were perpetrated in the cases above testify to a well established pattern of abuse whereby returnees and others have been arrested and detained incommunicado for longer than the legal limit and have alleged torture and other ill-treatment during such detention. These violations remain widely practiced in Tunisia and affect people arrested inside the country as well as those returned from abroad in connection with alleged security or political offences. The Tunisian authorities have consistently failed to ensure any independent investigations into their allegations and to produce any adequate safeguards.

In light of the above, Amnesty International consider, therefore, that Nassim Saadi would be at serious risk of torture and violations of his right to a fair trial if he were to be transferred to the custody of the Tunisian authorities.

I remain at your disposal for any further information

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Malcolm Smart', written in a cursive style.

Malcolm Smart
Director
Middle East and North Africa Programme