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Slovakia: Extradition to Algeria would put Mustapha Labsi at risk of torture or other ill-treatment

The Bratislava Regional Court is holding a hearing today, Wednesday 28 November 2007, on a request to extradite Mustapha Labsi to Algeria.

Based on its research on the human rights situation in Algeria, Amnesty International considers that, if extradited to Algeria, Mustapha Labsi would be at risk of being detained incommunicado in a secret location, and as such being subjected to torture or other ill-treatment. He would also face the risk of an unfair trial. Therefore, his extradition to Algeria would violate both Slovakian law and Slovakia's obligations under the European Convention on Human Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Amnesty International has documented cases in which the rights of persons, like Mustapha Labsi, who are suspected of being linked to "terrorism" were violated while they were in the custody of Algeria's Department for Information and Security (*Département du renseignement et de la sécurité*, DRS, also known as Military Security), and during the course of their trial proceedings.

Under Article 51 of the Algerian Criminal Procedures Code, detainees suspected of "terrorist or subversive acts" may be held without charge or legal counsel for a maximum of 12 days. The arresting authorities must immediately give them the opportunity to communicate with their families and to receive visits from them.

However, Algerian law is routinely violated in cases of people suspected of "terrorism" who are arrested or detained by the DRS, which specializes in interrogating those thought to have information about terrorist activities.

Those arrested are systematically held incommunicado for up to 12 days, and sometimes longer, before they are either brought before the judicial authorities or released without charge. It is while they are in secret detention in barracks operated by the DRS that detainees are most at risk of torture and other ill-treatment. Amnesty International has received information on several cases where detainees were held by the DRS for months without contact with the outside world in violation of Algerian and international law, during which time they were reportedly subjected to torture and other ill-treatment. In practice, Algeria's civilian authorities do not exercise effective control over the activities of the DRS.

It should be noted that the UN Human Rights Committee recently voiced similar concerns. On 1 November 2007, after reviewing Algeria's implementation of its obligations under the International Covenant on Civil and Political Rights, the UN Human Rights Committee raised concerns about reports of cases of torture or inhuman and degrading treatment carried out in Algeria, which appeared to be attributable to the DRS. It also stated that the length of *garde à vue* (police custody) detention permitted by the Algerian law is incompatible with international human rights standards. The Committee also raised concern about the fact that, under Algerian law, detainees are not guaranteed access to legal counsel during the period of *garde à vue* detention or the right to remain

silent. It noted that in practice the rights to examination by a doctor, to access to families or to be brought before a court within a reasonable time are not respected.

Moreover, the UN Human Rights Committee expressed concern that the use in courts of “confessions” extracted under torture was not prohibited in Algerian law.

Amnesty International considers that in view of the real risk that Mustapha Labsi would face serious human rights violations if forcibly returned to Algeria, his extradition to Algeria would violate Slovakia’s obligations under international human rights law.

In the light of Amnesty International’s research and the observations of the Human Rights Committee about violations of Algeria’s legally binding multilateral human rights obligations, it is clear that the Slovakian authorities should not base a decision to extradite Mustapha Labsi on any informal, unenforceable promises to ensure respect for Mustapha Labsi’s rights given by Algerian diplomats, outside the framework of international law. Such “assurances” do not mitigate the government’s obligation not to send a person to a place where they face a real risk of human rights violations.

Background

Mustapha Labsi has been held in custody in Slovakia since 3 May 2007, on the basis of an extradition request by Algeria. On 24 September 2007 the Migration Office of Slovakia refused Mustapha Labsi’s request for asylum and for subsidiary protection.

Slovakia is obliged under international law to respect the fundamental principle of *non-refoulement*: the absolute and unconditional obligation for States not to expel, return or extradite any person to a country where they risk serious human rights abuses, including torture or other ill-treatment. This principle is enshrined in Article 3 of the European Convention on the Protection of Human Rights and Fundamental Freedoms (‘ECHR’), Article 3(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Article 7 of the International Covenant on Civil and Political Rights, to which Slovakia is a state party.

In addition, Article 403(2)(a) of the Slovak Act on the Criminal Judicial Procedure states that extradition may not be granted when “there is reasonable ground to believe that the criminal proceedings in the requesting State did not or would not comply with the principles of Articles 3 and 6 of the [ECHR] that the prison sentence imposed or anticipated in the requesting State would not be executed in accordance with the requirements of Article 3 of the said Convention.” The Slovak Constitution also establishes in its Article 11 that “international treaties on human rights and basic liberties... take precedence over its own laws, provided that they secure a greater extent of constitutional rights and liberties.”

Amnesty International has received dozens of reports of detainees whose rights have been violated, among them people who had returned to Algeria from overseas, either voluntarily or at the hands of foreign governments. These cases are documented in a briefing on Algeria submitted by Amnesty International to the Human Rights Committee (*Algeria: Briefing to the Human Rights Committee*, AI Index: MDE 28/017/2007), and a recent Amnesty International report, *Unrestrained powers: Torture by Algeria’s Military Security* (AI Index: MDE 28/004/2006) which are available at the following links: <http://web.amnesty.org/library/Index/ENGMDE280172007?open&of=ENG-DZA>
<http://web.amnesty.org/library/Index/ENGMDE280042006?open&of=ENG-DZA>

Other documents which illustrate Amnesty International’s concerns in similar cases can be also found at:

<http://web.amnesty.org/library/Index/ENGMDE280012007?open&of=ENG-DZA>
<http://web.amnesty.org/library/Index/ENGMDE280022007?open&of=ENG-DZA>
<http://web.amnesty.org/library/Index/ENGMDE280112007?open&of=ENG-DZA>
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