

# AMNESTY INTERNATIONAL

## Public Statement

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### **United Kingdom – Amnesty International’s reaction to the judgment by the Court of Appeal in key cases in the global fight against torture**

On 30 July 2007 the Court of Appeal of England and Wales gave judgment in an important test case concerning the appeals of three Algerian men against their deportation to Algeria on “national security” grounds. The judgment is in two parts: an open judgment, and a closed, i.e. secret, judgment not disclosed to the appellants, their lawyers of choice or the public.

In each of the three cases the Court of Appeal ruled that the Special Immigration Appeals Commission (SIAC) should reconsider them. In two of the three, the Court of Appeal reached this conclusion on grounds that are secret. Amnesty International considers that it is doubly disturbing that these two men not only were not told the UK authorities' case against them, but will not now be told the grounds on which the SIAC is to reconsider that very case. The principle that justice should not only be done but be seen to be done seems to have been turned on its head.

In addition, the Court of Appeal upheld the SIAC’s finding that it was appropriate to exclude those challenging their deportation and their lawyers of choice from the court even when it was considering the question of whether there were substantial grounds for believing that the individuals concerned would face a real risk of torture or other ill-treatment upon return. Amnesty International is deeply disappointed at the Court of Appeal's endorsement of such a fundamentally unfair procedure, particularly when people's life and limbs are at stake. It is a grave abdication of the court's duty to uphold the fundamental rights of the individual.

SIAC had concluded that each man's deportation could take place safely and lawfully since it had found that, in the circumstances, none of them would be exposed to a real risk of torture or other ill-treatment or other grave human rights violations. These findings -- and in particular, the SIAC's conclusions about the effectiveness of diplomatic assurances obtained by the UK authorities from their Algerian counterparts in sufficiently reducing the risk of torture or other ill-treatment these men would face if deported -- were left unchallenged by the Court of Appeal in its open judgment.

Despite the glaring flaws of the SIAC's conclusions in respect of the risks that each of these individuals would indeed face if deported to Algeria, the Court of Appeal accepted those conclusions without questioning. Amnesty International considers that the fact that the Court of Appeal did not see fit to question these SIAC's findings raises a real question as to whether an effective route to challenge the UK authorities' reliance on diplomatic assurances to secure the deportations of these three men exists at all.

Nonetheless, in the case of Mustapha Taleb, the Court of Appeal found that the SIAC had been wrong in concluding that he would benefit from a particular interpretation of Algerian law without having heard any evidence in support of that conclusion. Indeed, the UK authorities were later told that that very interpretation was not one that had been or was likely to be adopted in Algeria. However, it took over a year and a lengthy appeal process for this error to be recognized by the UK courts.

While the Court of Appeal upheld the SIAC's finding in the cases of BB and U that it was safe to return them to Algeria on the basis of the assurances received by the UK authorities from their Algerian counterparts, it decided that their cases should nonetheless be remitted to the SIAC on grounds that are secret. This means that neither U nor BB, nor their lawyers of choice are privy to the Court of Appeal's reasons for sending their cases back to the SIAC.

#### **Background**

In three previous separate rulings the SIAC endorsed the view of the UK Home Secretary and dismissed

the appeal of Mustapha Taleb, an Algerian man formerly known as Y for legal reasons, and of two other Algerian men, known only as U and BB for legal reasons. The SIAC found that it was reasonable to deport each man to Algeria on the grounds that they were a threat to the UK national security and that they would not face a real risk of torture or other ill-treatment if deported to Algeria.

Amnesty International observed most of the open hearings before the SIAC and the Court of Appeal in these cases. The organization considers that forcibly returning these men would expose them to a real risk of serious human rights violations, including torture or other ill-treatment; that the purported assurances given by the Algerian authorities that the human rights of the three men will be protected are intrinsically unreliable; and that the judicial process has so far denied these men an effective opportunity to challenge the UK authorities' assertion that they are a risk to the UK's national security.

Extensive evidence, including reports by Amnesty International, documenting the risk of torture faced by individuals who are arrested by the DRS, was presented before SIAC during each man's initial appeal against deportation. SIAC disregarded this material.

Amnesty International has consistently expressed concern that the Algerian military intelligence service routinely detains and abuses people suspected of any involvement in terrorism. Even the UK government now recognizes that, if deported to Algeria, it is almost certain that these men would be held in incommunicado detention by Algeria's intelligence agency, known as the Department for Information and Security (*Département du renseignement et de la sécurité*, DRS). The DRS specializes in interrogating people thought to possess information about terrorist activities. It is widely known to practise torture and other ill-treatment.

Mustapha Taleb survived torture in Algeria and came to the UK, where he was recognized as a refugee. He was among those who, in 2005, in the UK, were charged, tried and eventually acquitted of all charges in connection with an alleged conspiracy to produce poisons and/or explosives. After his acquittal, in April 2005, he was released from custody where he had been since January 2003. He was later re-arrested and held pending deportation to Algeria on "national security" grounds.

Along with others Mustapha Taleb appealed to SIAC against being deported to Algeria, contesting that he was a risk to the UK's "national security", and arguing that he would face a real risk of torture if returned to Algeria. Amnesty International monitored the open hearings before SIAC in his case. Despite his previous acquittal, the case against him in the open hearings consisted mostly of the same allegations made at the criminal trial, which the jury in that trial had clearly disbelieved.

In reaching its decision in Mustapha Taleb's case, SIAC relied on secret intelligence provided by the UK authorities that was withheld from him, his lawyers of choice and the public. The SIAC proceedings were profoundly unfair, denying Mustapha Taleb the right to a fair hearing and making it impossible for him to effectively refute the UK authorities' case that he was a "national security" risk.

Three of the jurors who acquitted Mustapha Taleb in the criminal proceedings expressed their shock that, despite that acquittal, the same evidence was being used in the open hearings before SIAC to "justify his deportation". The jurors wrote to Amnesty International:

*As three ordinary members of the public we have had our eyes opened to such an unfair and unjust sequence of events orchestrated by the authorities that we feel compelled to speak out. This is contrary to anything we thought could be possible in a democratic, free society. Since January 2003, "Y" [Mustapha Taleb] has been persecuted by our government beyond all realms of imagination. We were three jurors on "Y"'s criminal trial (the 'no-ricin trial') and after seven months listening carefully to the evidence and arguments from the prosecution and defence, we, as a jury, acquitted him of all charges and expected that, on his release, he could begin to rebuild his life in this country.*

BB has been found by the SIAC to be a "risk to national security", almost entirely on the basis of evidence presented in secret hearings, which he has been unable to know or challenge. U has also been found by the SIAC to be a "risk to national security". Although he does not accept this finding, he has, in earlier hearings, waived his right to challenge it, since he lacks confidence in the SIAC's ability to give him a fair hearing.

For more information on Amnesty International's concerns about the UK authorities' deportation attempts to Algeria, see *United Kingdom: Court of Appeal hears key case in the global fight against torture*, AI Index: EUR 45/009/2007 published on 18 June 2007 and available here

<http://web.amnesty.org/library/print/ENGEUR450092007>, and  
*United Kingdom: Deportations to Algeria at all costs*, published on 26 February 2007, AI Index: EUR  
45/001/2007,  
<http://web.amnesty.org/library/Index/ENGEUR450012007>