

EXTERNAL

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Fear of refoulement

9 May 1997

MALTA

Najib al-Hashemi al-Harari, aged 27

Najib al-Hashemi al-Harari, a Libyan political refugee, is feared to be at imminent risk of forcible return to Libya where he would face serious human rights violations.

Najib al-Harari was arrested in Malta on 19 August 1996 and detained for over eight months reportedly on charges that he had entered the country on a forged passport. On 2 May 1997 he was brought before a criminal court and sentenced to seven months' imprisonment. Since he had already spent more than eight months in prison he was released.

While in prison he had been granted refugee status by the United Nations High Commissioner for Refugees (UNHCR), the procedures for his resettlement to a third country had been finalized, and Sweden had reportedly offered to resettle him. However when he went to the airport to fly to Sweden, he was arrested by the Maltese police, allegedly one hour before the scheduled flight. He was told that the Libyan Government had officially requested his extradition to Libya. He was said to have threatened to commit suicide and was taken to hospital before he was transferred back to prison.

On 7 and 8 May he appeared in court with his lawyer. The court examined the proceedings for his extradition to Libya and will announce its verdict on 12 May. The Libyan request for his extradition reportedly states that Najib al-Harari was sentenced *in absentia* to seven years' imprisonment for drug and arms trafficking. The request is backed up by a Libyan police report based on statements made during interrogation by someone who knew Najib al-Harari in Libya. This person is said to still be in prison in Libya.

However, according to reports received by Amnesty International, the real reason behind the extradition request is Najib al-Harari's Islamist opposition activities in Libya before he fled the country. In March 1996 members of the security forces went to his family's house in Tripoli looking to arrest him. Several relatives and friends of his were arrested allegedly because of their Islamist opposition activities. Najib al-Harari's wife was allegedly arrested and detained for several months in an attempt to pressurize Najib to give himself up. However, he had already left the country, and she was released. According to reports, the Libyan Government has since August 1996 been putting pressure on the Maltese Government to extradite Najib al-Harari.

Amnesty International has written to the Maltese Government on two occasions, 20 August 1996 and 1 April 1997, seeking information regarding Najib al-Harari's legal situation, including the reasons behind his arrest and continuing detention, the reasons for the delay in his resettlement, and urging that he be not forcibly returned against his will to Libya where he would be at risk of serious human rights violations. The organization has received no response from the Maltese authorities.

Amnesty International opposes the forcible return of people to countries where they risk imprisonment as prisoners of conscience, torture, "disappearance", or execution. The organization's work is based on the internationally-recognized principle of non-refoulement which, as expressed

in the 1951 Convention relating to the Status of Refugees, prohibits the forcible return of any person to a country where she or he risks serious human rights violations. Malta is bound by this fundamental principle which is a norm of customary international law, regardless of the fact of Malta's geographical limitation to the Convention (Malta is a party to the 1951 Convention, but has limited itself to refugees from European countries).

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English, French or your own language:

- reminding the Maltese Government that it is bound by customary international law to abide by the principle of non-*refoulement*;
- calling on the Maltese Government not to forcibly return Najib al-Hashemi al-Harari to Libya where he would face serious human rights violations;
- expressing concern that he has been prevented from leaving the country to be resettled in Sweden as a political refugee.

APPEALS TO:

Prime Minister Alfred Sant
 Ministry for Home Affairs
 House of Four Winds
 Hastings Gardens
 Valletta CMR 02
 Malta

Fax: + 356 220 685

Telegrams: Prime Minister, Valletta, Malta

Salutation: Dear Prime Minister

The Honourable Charles Mangion
 Minister of Justice and Local Councils
 House of Catalunya
 Marsamxet Road
 Valletta CMR 02
 MALTA

Telegrams: Justice Minister, Valletta, Malta

Fax: + 356 24 30 25

Salutation: Dear Minister

The Honourable George Vella
 Deputy Prime Minister and Minister of Foreign Affairs and the Environment
 Palazzo Parisio
 Merchants Street
 Valletta CMR 02
 MALTA

Fax: + 356 23 78 22

Telegrams: Deputy Prime Minister, Valletta, Malta

Salutation: Dear Prime Minister

COPIES TO: diplomatic representatives of Malta accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 10 June 1997.