

PUBLIC

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Further information on UA 49/09 (AMR 51/026/2009, 19 February 2009) and update (AMR 51/040/2009, 20 March 2009) – Legal concern/ill-treatment

USA Mohammed el Gharani (m), Chadian national, aged 22

Mohammed el Gharani was transferred from Guantánamo Bay to Chad on 11 June, almost five months after a US federal judge ordered that he be released. Detained when he was 14 years old, he had been in US custody for more than seven years.

Amnesty International has no further details of Mohammed el Gharani's transfer or his current condition.

The US Justice Department's announcement of the transfer did not explain why it had taken so long since the judicial order to release Mohammed el Gharani. The announcement noted the federal judge's ruling, but also said that the transfer was the result of the executive review of Guantánamo cases ordered by President Barack Obama on 22 January 2009 (see: The promise of real change. *President Obama's executive orders on detentions and interrogations*, 30 January 2009, <http://www.amnesty.org/en/library/info/AMR51/015/2009/en>).

District Court Judge Richard Leon had ruled on 14 January that Mohammed el Gharani's detention was unlawful and that he should be released immediately. El Gharani, a Chadian national who was born and brought up in Saudi Arabia, had been held at Guantánamo since February 2002. He was taken into custody by Pakistani forces in Pakistan in late 2001, at the age of 14, handed over to the US authorities and taken to Kandahar air base in Afghanistan, before being transferred to Guantánamo. He was ill-treated in US custody (see *USA: Judge orders release of detainee held in Guantánamo as child 'enemy combatant'*, 15 January 2009, <http://www.amnesty.org/en/library/info/AMR51/006/2009/en>).

Under international law and standards, detention and imprisonment of a child must be used only as a measure of last resort and for the shortest appropriate period of time. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. Under international law, states must adhere to the principle that the best interests of the child are to be a primary consideration in all actions concerning children who come into conflict with the law. However, the USA's treatment of children labelled under the Bush administration as "enemy combatants" has been conducted in accordance with its own perceived national security interests rather than the best interests of the child. The USA has apparently never taken into account the fact that Mohammed el Gharani was taken into custody as a child.

Six other detainees have recently been released from indefinite military detention in Guantánamo. On 11 June, four Uighur detainees were transferred to Bermuda, and an Iraqi national was transferred to Iraq. On 9 June, Tanzanian national Ahmed Khalfan Ghailani was transferred to New York to face trial in federal court there. He had previously been facing trial by military commission in Guantánamo. Earlier, two other detainees were released from the base: Ethiopian national and former UK resident Binyam Mohammed was transferred to the UK in February and Algerian national Lakhdar Boumediene was transferred to France in mid-May.

There are reported to be 232 detainees still held in Guantánamo. Amnesty International remains concerned by the slow pace at which the detainees' cases are being resolved.

Today marks one year since the US Supreme Court ruled in *Boumediene v. Bush* that the Guantánamo detainees have the constitutional right to challenge the lawfulness of their detention in US federal court. To date, only a handful of detainees have had hearings on the merits of their challenges. A number of those who have made successful challenges, obtaining rulings that their detentions are unlawful, have remained in indefinite detention for months. For example, 13 Uighur men remain in indefinite detention at Guantánamo more than eight months after a US federal judge ruled that their detention was unlawful and ordered their immediate release into the USA. The US authorities appealed successfully, and the case is now pending before the Supreme Court. The administration has continued to hold the Uighur detainees, arguing that it is a matter for the political branches of government to decide who should be allowed into the USA. For further information, see *USA: Detainees continue to bear costs of delay and lack of remedy*, April 2009, <http://www.amnesty.org/en/library/info/AMR51/050/2009/en>.

No further action by the UA Network is requested. Many thanks to all who sent appeals.