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Michèle Alliot-Marie
Keeper of the Seals, Minister of Justice
Ministry of Justice
France

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**AMNESTY
INTERNATIONAL**



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Dear Minister of Justice,

OPEN LETTER REGARDING THE CASE OF ABOU BAKARI TANDIA

24 January 2010 marks the anniversary of the death of Abou Bakari Tandia, who died after falling into a coma while he was held in police custody in December 2004 at the national police station in Courbevoie, a suburb of Paris.

Five years later, there has been no adequate investigation and his family still has not been informed of the precise circumstances leading to his death.

Abou Bakari Tandia, an irregular migrant from Mali, lived in France for 13 years. Police officers stopped him at about 8pm on 5 December 2004, took him to the Courbevoie police station for an identity check, and then placed him in police custody. He fell into a coma in unknown circumstances and was transferred to a hospital in Paris, and subsequently another hospital in Colombes. He remained in hospital without regaining consciousness until his death on 24 January 2005. He was 38 years old.

His family was not notified of his arrest and admission to hospital until 9 December 2004, and when they saw him at the hospital he was already brain dead. The police claimed that he had deliberately banged his head against the wall of his cell. Neither the autopsy report nor the medical reports mention any head injuries.

The Nanterre public prosecutor opened an investigation immediately, but closed the investigation in March 2005 without further action.

In April 2005 Abou Bakari Tandia's family made a complaint of "torture and ill-treatment resulting in death"; the file was re-opened but there has been little progress on the case.

In late 2008 a new IGS¹ investigation revealed that the CCTV camera in Abou Bakari Tandia's cell, which according to police had been vandalized by a detainee, was "out of reach and could not have been destroyed given its location". The family's lawyer subsequently made a complaint of "false testimony", but this complaint was rejected by the public prosecutor's office in September 2009.

Following the threat of legal action by the family's lawyer against the hospital for "destruction of evidence", in August 2008 the prosecutor gave the investigative judge some medical notes from Abou

¹ Inspection Générale des Services (IGS, the internal inspectorate for law enforcement forces based in Paris).

Bakari Tandia's file, which had been "accidentally" misplaced since 2005. The hospital only produced its medical file in January 2009, as it had been archived "by mistake".

An expert forensic report from the Medico-Legal Institute in July 2009 concluded that Abou Bakari Tandia's brain injury "was caused by a violent jolt and shaking of the brain within the skull" and found the police version of events to be "scarcely compatible", further justifying calls to question the police officers for suspected violence, something which has not occurred to date despite persistent requests from the family's lawyer since September 2009.

Since that time, neither Abou Bakari Tandia's lawyer nor his family have been informed of any progress on his case.

France has an obligation to respect and protect the right to life and to ensure the absolute prohibition of torture and other ill-treatment. A crucial component of this obligation is the requirement to conduct prompt, thorough, impartial and independent investigations in accordance with the jurisprudence of the European Court of Human Rights. On 1 June 2006 the European Court found that France had violated Article 2 of the Convention (right to life), in the case of a death in police custody for which, 10 years after the facts, the state had offered no plausible explanation.²

Amnesty International urges you to ensure that the investigation in progress—into the circumstances of the death of Abou Bakari Tandia and the actions and ill-treatment which could have caused his death, into the charges of false testimony made against some of the police officers involved, and against any individual suspected of deliberately destroying or withholding evidence—is pursued without delay.

Yours sincerely

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² European Court of Human Rights Chamber Judgement, *Taïs v France*, para. 106: "a prompt response by the authorities when investigating the death of a person in detention could generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts".