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Slovakia: Expulsion of Mustapha Labsi Violated International Law

Amnesty International has condemned the actions of the Slovak authorities for forcibly returning Mustapha Labsi on 19 April from Slovakia to Algeria, in clear violation of Slovakia's international obligations. The government of Slovakia expelled Mustapha Labsi despite an order from the European Court of Human Rights prohibiting his forcible return to Algeria until all his appeals in Slovakia were completed. The government also ignored a June 2008 ruling of the Constitutional Court of Slovakia halting an extradition attempt on human rights grounds, in particular, the risk of torture. At the time of his expulsion, Mustapha Labsi was legally protected against return to Algeria by two very influential judicial bodies. Amnesty International is concerned about the Slovak's government disregard for international law.

In June 2008, the Constitutional Court of Slovakia concluded that a previous Supreme Court decision allowing the extradition of Mustapha Labsi, an Algerian asylum-seeker accused by the Slovak authorities of posing a threat to national security, would violate his human rights. The Constitutional Court reaffirmed the absolute duty of the Slovak authorities not to return people to countries where they face a real risk of torture or other ill-treatment. The Supreme Court subsequently reconsidered Mustapha Labsi's case and ruled in August 2008 that he could not be extradited to Algeria because he faced the risk of torture and other ill-treatment, despite diplomatic assurances against such abuse from the Algerian authorities. The case of Mustapha Labsi was featured in an April 2010 Amnesty International report entitled, *Dangerous Deals: Europe's Reliance on 'Diplomatic Assurances' Against Torture* (AI Index: EUR 01/012/2010).

The European Court of Human Rights issued an order for interim measures on 13 August 2008 requiring that the Slovak authorities refrain from extraditing Mustapha Labsi until the appeals on his new asylum claim had been completed. He was released from detention but immediately detained again on the basis of a deportation order dating from 2006. Mustapha Labsi's new asylum claim was rejected in October 2008 and again in October 2009 on appeal to the regional court in Bratislava. He fled from a refugee camp to Austria in December 2009 and was returned to Slovakia on 11 March 2010.

The Supreme Court rejected the final appeal on Mustapha Labsi's asylum claim on 30 March 2010. His lawyer was preparing to file a claim with the Constitutional Court of Slovakia seeking clarification of Mustapha Labsi's status, pending receipt of the Supreme Court ruling in writing. On 16 April, the European Court of Human Rights notified Mustapha Labsi's legal representative that its order for interim measures issued in August 2008 would remain in effect until Mustapha Labsi had the opportunity to file a claim with the Constitutional Court and that claim was ruled upon. Mustapha Labsi's lawyer received the Supreme Court ruling in writing on Friday 16 April and Mustapha Labsi was forcibly returned on Monday 19 April. His lawyers and family members were not notified of the expulsion and Mustapha Labsi had no opportunity to challenge the decision of the Ministry of Interior to return him to Algeria. The Slovak Minister of Interior was reported to have justified the breach of the European Court's order by invoking national security and claiming that the penalty for such a violation was only a "couple of thousand euros".

Maria Kolikova, Mustapha Labsi's legal representative in Slovakia, commented, "This justification amounts to incitement to a violation of a court decision". In further defiance of the authority of the European

Court, the Slovak authorities failed to inform the European Court of Mustapha Labsi's expulsion, never mind its intention to do so. The Court was notified of the illegal expulsion by Mustapha Labsi's legal representatives.

Since Mustafa Labsi's expulsion, there has been no information about his fate and whereabouts. Amnesty International fears that upon his arrival in Algeria, Mustafa Labsi may have been arrested by the Department for Information and Security (*Département du renseignement et de la sécurité*, DRS), which specializes in interrogating those suspected of involvement in terrorism-related activities or thought to possess information about terrorist activities in Algeria or abroad. Under Article 51 of the Algerian Code of Criminal Procedure, detainees suspected of "terrorist or subversive acts" may be held in *garde à vue* (pre-arraignment) detention 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. In practice, however, these safeguards have been routinely flouted by the DRS.

In recent years, Amnesty International documented cases where suspects detained by the DRS have been held in unrecognized places of detention, usually military barracks, and denied any contact with the outside world, often for prolonged periods in violation of Algeria's international obligations as well as the Algerian Criminal Procedure Code. Detainees are most at risk of torture and ill-treatment when held incommunicado. Amnesty International is further concerned that Algerian courts continue to accept "confessions" extracted under torture or duress. For instance, two individuals were sentenced to death in March 2010 for terrorism-related offences based on statements allegedly extracted under torture or duress.

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