

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# SAHRAWI HUMAN RIGHTS DEFENDER MOHAMED DIHANI IN ITALY TO SEEK INTERNATIONAL PROTECTION

After a long-running legal battle, on 22 July 2022, Mohamed Dihani, human rights defender and activist in defence of the rights of the Sahrawi people, was eventually able to enter the Italian territory to apply for international protection.

Mohamed Dihani has long been a victim of serious human rights violations, ranging from arbitrary detention, torture, legal and administrative harassment, and surveillance, purely due to his peaceful activism.

### ENFORCED DISAPPEARANCE AND ARBITRARY DETENTION

In 2010, Mohamed Dihani was a victim of enforced disappearance. He was held incommunicado for six months in the Temara detention center, without his family being informed about his whereabouts, until 27 October 2011, when a court in Rabat sentenced him. The Salé annex of the Rabat Court of Appeals, which specializes in terrorism cases, convicted Mohamed Dihani on the basis of his “confessions”, which he recanted in court. The court sentenced him to 10 years in prison, reduced to six on appeal and to five after a further appeal after cassation.<sup>1</sup> Subsequently, he continued to be arbitrarily detained in several Moroccan prisons until 2015.

Amnesty International documented the serious violations of procedural rights during his trial - in particular the detention and sentencing based solely on confessions obtained under torture, which cannot be used as evidence in court - as well as the physical and psychological torture he suffered in prison.<sup>2</sup>

The UN Working Group on Arbitrary Detention concluded that his detention was arbitrary and urged the Moroccan government to release him immediately, to carry out an independent and impartial investigation into the alleged acts of torture and, if appropriate, to grant full compensation for the physical and psychological damage caused by the inhuman and degrading treatment.<sup>3</sup>

Since he was released from prison in Morocco in 2015, Mohamed Dihani has continued his activism both offline and online, exposing human rights violations committed by the Moroccan authorities in Western Sahara, also coordinating with various national and international organisations. He continued to be under close surveillance at his house and faced administrative restrictions, receiving his passport a year and a half after his initial application.<sup>4</sup>

### UNLAWFUL “SCHENGEN BLACKLISTING”

In 2018, Amnesty International supported his application for a medical visa to Italy, aimed to allow him to undergo several treatments in a safe environment to heal from the physical and psychological consequences of the torture he suffered in jail.

Mohamed Dihani had already lived in Italy with a residence permit when he was a child, before his unlawful arrest, and speaks fluent Italian.

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<sup>1</sup> Amnesty International, “Shadow of Impunity”, May 2015, AI Index: MDE 29/001/2015, <https://www.amnesty.org/en/documents/mde29/001/2015/en/>

<sup>2</sup> Amnesty International, “Morocco - Western Sahara: Exclude “confessions” obtained under torture in trial of Sahrawi activist”, 15 April 2013, AI index: MDE 29/003/2013, <https://www.amnesty.org/en/wp-content/uploads/2021/06/mde290032013en.pdf>

<sup>3</sup> WGAD, Opinion No. 19/2013 (Morocco), UN Doc. A/HRC/WGAD/2013/19 (2014).

<sup>4</sup> Amnesty International, Morocco/Western Sahara: UN must monitor human rights in Western Sahara and Sahrawi refugee camps, 10 October 2018, AI Index: MDE 29/9225/2018, <https://www.amnesty.org/en/documents/mde29/9225/2018/en/>

However, the Italian consulate in Casablanca refused Mohamed Dihani a visa due to an illegitimate alert within the European database for border management (SIS, Schengen Information System). The Italian authorities would reiterate several times in the following years that the reasons for the alert against the activist could not be disclosed because it was based on a confidential and secret file.<sup>5</sup>

## TEMPORARY RELOCATION TO TUNISIA

Through Amnesty International's support programme for human rights defenders at risk, Mohamed Dihani had temporarily relocated in Tunisia in 2019 to seek protection from the Moroccan authorities' continuous harassment, while waiting for the deletion of the Schengen blacklist's alert that had hindered his entry into Italy and his subsequent asylum claim.

During his stay in Tunisia, Mohamed Dihani continued his political activism, which caused him serious security problems, including harassment by the Tunisian authorities, due to the pressure from the Moroccan authorities, as well as threats of refoulement to Morocco, where he would have risked being subjected to torture and inhuman and degrading treatment.

The day of his arrival at the Tunis airport, on 16 July 2019, the Tunisian border police threatened to deport him back to Morocco. He was eventually permitted to enter after prolonged pressures by Amnesty International, OHCHR, and other Tunisian and international human rights organizations.

In May 2020, Mohamed Dihani released a series of public videos on his Facebook page, identifying his torturers in Moroccan prisons. In the aftermath of these videos, he told Amnesty International that plainclothes police officers took him from his house in Tunis for around one hour in a car and warned him that he will be extradited to Morocco.<sup>6</sup> One week later, the Tunisian police summoned him and forced him to sign an agreement to halt his political activism online or offline while in Tunisia.

Since his relocation to Tunisia, he submitted a request for a residency card, but he has not received any response to his application. Due to the risks he was facing and his irregular residency status in Tunisia, in June 2021 Dihani applied for asylum through the UNHCR office in Tunis. He received an asylum seeker card in September 2021, and his refugee status determination was still ongoing when he left the country.

## THE COURT OF ROME ORDERED ITALY TO ISSUE AN ENTRY VISA

In May 2022, an important ruling of the Court of Rome finally recognised Mohamed Dihani's right to enter the country to apply for international protection and ordered the Italian authorities to immediately issue an entry visa.

The order upheld the appeal lodged by Mohamed Dihani against the Ministry of Foreign Affairs, pointing out that he had been 'prevented from entering Italian territory for reasons beyond his control', due to an unlawful SIS alert filed by the Italian authorities on the basis of information linked to the unlawful use of the anti-terrorism law by the Moroccan authorities. The judge also underlined the existence of a concrete risk of refoulement from Tunisia to Morocco, that would have put his safety at risk.

Following a request by the Ministry of Foreign Affairs to involve in the judgement the Ministry of Interior - which had hindered the compliance with the first above-mentioned order - the Court of Rome issued a second ruling in July 2022, this time against both ministries, ordering the Italian authorities to issue an entry visa within seven days.

In the second order, the court recognised the right to issue a visa for the Sahrawi activist despite the SIS alert, as "the use [by the Italian authorities] of such information [based on the unlawful use of the anti-terrorism law by the Moroccan

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<sup>5</sup> In 2018, Amnesty International sought information from the Italian authorities on the reasons behind the SIS alert, but the organisation has not received any response (Letter of Amnesty International Italy to the Minister of Foreign Affairs, dated 10 September 2018 - Ref: TG 95/2018). In 2018 and 2020, Mohamed Dihani submitted two requests to the Italian Minister of Interior to access the SIS filing, but both requests were denied. During the legal proceedings at the Tribunal in Rome, the Minister of Interior reiterated that the file was secret (see details in the paragraph "The court of Rome ordered Italy to issue an entry visa").

<sup>6</sup> Few Tunisian and Moroccan media outlets also reported the event: <https://kapitalis.com/tunisie/2020/05/16/arrestation-dun-activiste-sahraoui-en-tunisie-il-risque-detre-extrade-vers-le-maroc/>; <https://www.bladi.net/activiste-sahraoui-extradition-maroc,69007.html>

authorities] to maintain the SIS alert [was] completely unlawful". The court also pointed out that the note submitted by the Ministry of Interior to justify the filing within the Schengen blacklist was 'entirely generic and did not allow the right of the defence to be fulfilled'.

On 18 July 2022, the Italian consulate in Tunis issued Mohamed Dihani an entry visa that granted him access to the country on the following 22 July. He then submitted his asylum application upon arrival at Rome Fiumicino airport and the procedures for the refugee status determination are currently ongoing.

Amnesty International Italy expressed satisfaction for the entry of the human rights defender Mohamed Dihani into Italian territory and urges the Italian government to ensure that he is protected from the real risk of serious human rights violations should he be returned to Morocco. Human rights defenders must be able to operate safely and not be exposed to reprisals for their work.

Amnesty International Italy underlines, however, that Dihani's entry into Italy took place through a tourist visa issued by the Italian consulate in Tunis, even though the two rulings of the Court of Rome mentioned the possibility to use the humanitarian visa to facilitate the transfer of those who want to seek asylum in a country before they have had access to its territory.

The humanitarian visa is a mechanism provided by the European Visa Code that should ensure third-country nationals in need of international protection can legally enter the territory of the Union in order to apply for asylum. However, this tool is still not uniformly regulated at the national and European level and Member States have so far given limited and discretionary application to it.

Expanding and regulating access to humanitarian visas for persons in need of international protection in the Schengen area, in a safe and legal manner, is an urgent necessity. Facilitated access to humanitarian visas is also one of the available measures to ensure the protection of human rights defenders from third countries at risk of persecution and serious human rights violations.