

PUBLIC

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UA 337/08 Forcible return/ fear of torture or other ill-treatment

ITALY Mourad Trabelsi (m), aged 38, Tunisian national

Mourad Trabelsi is at imminent risk of being forcibly returned to Tunisia, where he could be held in incommunicado detention, tortured and otherwise ill-treated.

On 3 December, the Italian Minister of Interior told the Lower Chamber of the Italian parliament (*Camera dei Deputati*) that he had signed an expulsion decree for national security reasons authorizing the forcible return of Mourad Trabelsi. Neither Mourad Trabelsi nor his lawyer was officially informed of this decision in clear contravention of Italian legal procedure, but found out he was to be expelled through the press. So far, the date of the expulsion has not been communicated to Mourad Trabelsi, his family or his lawyer.

On 18 November, the European Court of Human Rights (ECtHR) issued an interim measure asking the Italian government to stay Mourad Trabelsi's expulsion until further notice, considering the risk of torture and other ill-treatment he would face in Tunisia.

Mourad Trabelsi was released from prison in the town of Pavia, northern Italy, on 21 November. He had served six and a half years' imprisonment on charges related to international terrorism. In 2005, he was convicted in his absence of similar offences by the Tunis military court and sentenced to 20 years in prison. Amnesty International believes that trials before military courts in Tunisia violate international fair trial standards.

Soon after his release from prison in Italy, Mourad Trabelsi applied for refugee status at the Milan Territorial Commission. His application was rejected on 26 November. However, the Territorial Commission asked the Milan Police Office (*Questura*) to allow Mourad Trabelsi to remain in Italy on humanitarian grounds. So far the Police Office has not replied to the request of the Territorial Commission, neither granting nor refusing the leave to remain in Italy.

In June, the Italian government forcibly returned another Tunisian national, Sami Ben Khemais Essid, despite an interim measure of the ECtHR against the expulsion. In February, the ECtHR ruled against the 2006 attempt by the Minister of Interior to deport Tunisian national Nassim Saadi following his conviction for criminal conspiracy. The ECtHR decided that, despite diplomatic assurances from the Tunisian government regarding his safety, he would have been at risk of human rights violations had he been returned to Tunisia.

BACKGROUND INFORMATION

Italy is a state party to the Refugee Convention and the UN Convention against Torture, which prohibit the return of anyone to a situation where they would be at risk of torture.

Over the years, Amnesty International has received numerous reports of torture and other ill-treatment by the Tunisian security forces of Tunisian nationals forcibly returned from abroad. In virtually all cases, allegations of torture are not investigated and the perpetrators are not brought to justice. The most commonly reported methods of torture are beatings on the body, especially the soles of the feet; suspension by the ankles or in contorted positions; electric shocks; and burning with cigarettes. There are also reports of mock executions, sexual abuse, including rape with bottles and sticks, and threats of sexual abuse of female relatives.

Trials before military courts in Tunisia violate a number of fair trial guarantees. The military court is composed of a presiding judge and four counsellors. Only the president is a civilian judge; the others are serving military officers. There are restrictions on the rights to a public hearing. The location of the court in a military compound severely limits the public access to the court. Defence lawyers have restrictions placed on access to their clients' files and are obstructed by not being given information about the proceedings, such as dates of hearings.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Italian or your own language:

- expressing concern that Mourad Trabelsi is at serious risk of torture and other ill-treatment if returned to Tunisia;
- urging the Italian authorities to withdraw the expulsion order and grant Mourad Trabelsi leave to stay in Italy on humanitarian grounds;
- calling on the Italian authorities to fulfil their obligations under the Refugee Convention and the UN Convention against Torture, both of which prohibit the return of a person to a situation where they would be at risk of torture or other serious human rights violations.
- insisting that the Italian authorities comply with the European Court of Human Rights' request to suspend any transfer to Tunisia.

APPEALS TO:

Minister of the Interior

Roberto Maroni
Ministro dell'Interno
Ministero dell'Interno
Palazzo Viminale
Via Agostino Depretis, 7
00184 Roma, ITALY

Fax: +39-06-46549815
E-mail: segreteriaparticolare.ministro@interno.it
Salutation: Onorevole

Minister of Justice

Angelino Alfano
Ministro della Giustizia
Ministero della Giustizia
Palazzo Piacentini
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00186 Roma, ITALY

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

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 14 January 2009.