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Tunisia: Release arbitrarily detained TV producer without further delay

The Tunisian authorities must immediately release TV producer Sami Fehri, who has remained arbitrarily held in detention in spite of a court decision ordering his release.

Sami Fehri, the director of the TV channel Attounoussia, is accused of misappropriating public funds and has been in detention since 28 August 2012. On 28 November the Cassation Court, Tunisia's highest court, quashed the initial decision of the Accusations Chamber of Tunis' Court of Appeal to indict and detain Sami Fehri. That same day the General Prosecutor's office ordered his release but later rescinded the order. He remains in detention without any legal basis since 28 November, over two months ago, and as such his detention is arbitrary.

Amnesty International believes that Sami Fehri's detention is in breach of Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which Tunisia has ratified. The Tunisian authorities should immediately release Sami Fehri and ensure he receives compensation for his arbitrary detention.

The fate of Sami Fehri underscores shortcomings in Tunisia's justice system, including the independence of the judiciary. Amnesty International has previously highlighted the urgent need for a body in charge of supervising the judiciary which is independent in its composition, functions and funding, the guarantee of the principle of security of tenure of judges, and the strict respect of the independence of the judiciary from the government. In this regard, the Association of Tunisian Magistrates (AMT) has condemned what it considers to be an interference by the General Prosecutor's office, and therefore the Minister of Justice, in determining the contents of rulings and stated that such interference weakens the public's trust in the judiciary.

Sami Fehri told the press he was being detained for political reasons in relation to a show broadcast on Attounoussia TV called "the Political Logic", which was critical of the government, and which Sami Fehri decided to stop broadcasting days before he was detained. The satirical show featured puppets representing Tunisian politicians including President Moncef Marzouqi and Prime Minister Hammadi Jebali. If that were the case, Sami Fehri's detention would constitute a serious violation of his right to freedom of expression under Article 19 of the ICCPR, in addition to his right to liberty.

Amnesty International urges the Tunisian authorities to release Sami Fehri without further delay. It also urges the Tunisian authorities to reform the justice system to ensure that the independence of the judiciary is guaranteed, as required by the UN Basic Principles on the Independence of the Judiciary, and that there is no inappropriate or unwarranted interference by the executive.

Background

Sami Fehri was indicted on 24 August by the Accusations Chamber of the Tunis Court of Appeal on charges of misappropriation of public funds, punished under Article 96 of the Tunisian Penal Code by up to ten years' imprisonment. Sami Fehri is accused of using the national television to obtain advantages for a private TV production company, Cactus Productions, which before the ousting of former President Ben Ali he co-owned with Belhassen Trabelsi, Ben Ali's brother-in-law. Five former directors of the national television were charged

as the authors of the offense, though they remained free until their detention was ordered on 3 January 2013. Sami Fehri was charged as an accomplice.

On 24 August 2012 the Accusations Chamber of the Court of Appeal ordered Sami Fehri's detention and he was detained on 28 August 2012 at the prison of Mornaguia near Tunis.

Sami Fehri's lawyers challenged the decision by the Accusations Chamber before the Cassation Court which on 28 November 2012 quashed that decision and referred the case back to the Court of Appeal's Accusations Chamber to be reconsidered by a differently composed panel of judges.

At around 5pm on 28 November Sami Fehri's family and lawyers went to Mornaguia prison, expecting him to be released, but he did not leave the prison. At 11pm the Public Prosecutor's office at the Cassation Court reportedly instructed the prison Director not to release Sami Fehri, apparently on the grounds that the Cassation Court had quashed the indictment but not the detention order.

At the request of Sami Fehri's lawyers, on 5 December 2012 the Cassation Court issued an explanatory decision to clarify its decision of 28 November. The Cassation Court confirmed its decision to quash the Court of Appeal's decision, including the detention order, and to refer the case back to that court.

On 3 January 2013 the Accusations Chamber issued a new decision in which it ordered the detention of five former directors of the national television. Sami Fehri's lawyers told Amnesty International that they had boycotted the proceedings before the Accusations chamber because they do not believe it is independent. They have challenged the decision of 3 January and the case is now pending before the Cassation Court.