

Public

amnesty international

Appeal Case 3rd Update – Syria/Germany/USA

Unfair trial and sentencing of Muhammad Haydar Zammar



Entrance to SSSC, January 2006. © private

(3rd Update of *Syrian-born German held three years without charge in rat-infested Syrian “tomb”*, 08/10/2004, AI Index: MDE 24/066/2004; 1st Update *“Disappearance” of Muhammad Haydar Zammar*, 6/04/2005, MDE 24/016/2005; and 2nd Update 08/12/2005, MDE 24/105/2005)

22 March 2007

AI INDEX: MDE 24/020/2007

Almost five years after his arrest in Morocco and secret transfer to Syria, Muhammad Haydar Zammar appeared before the Syrian Supreme State Security Court (SSSC) on 8 October 2006. On 11 February 2007 he was convicted, after an unfair trial, on four charges. He was given a 12-year sentence in accordance with the usual penalty for membership of the outlawed Syrian Muslim Brotherhood (MB) organization. Muhammad Zammar stated during the trial that he had never been a member of the MB, no evidence of such membership was presented during the trial, and the Muslim

Brotherhood itself subsequently issued a statement denying that Muhammad Zammar had ever been a member or had any active links with it or any of its members.

The sentencing was based on Law 49 of July 1980 which makes affiliation to the MB punishable by death, although in recent years, as in Muhammad Zammar's case, the sentence is immediately commuted to 12 years' imprisonment. He was also found guilty on three charges carrying lesser sentences, namely belonging to an "organization formed with the purpose of changing the economic or social status of the state" (Article 306 of the Syrian Penal Code); "carrying out activities that threaten the state or damage Syria's relationship with a foreign country" (Article 278); and "weakening national sentiments and inciting sectarian strife" (Article 285). In Syria, political prisoners including prisoners of conscience are often charged with these offences.

Hearings before the SSSC fall far short of international standards for fair trial. The SSSC lacks independence and impartiality, defendants do not have a right of appeal and have restricted access to their lawyers. The SSSC has systematically failed over the years to investigate numerous allegations of torture and extraction of "confessions" under duress brought to its attention by prisoners of conscience and political detainees. The UN Human Rights Committee has deemed the procedures of the SSSC to be incompatible with the International Covenant on Civil and Political Rights (ICCPR).

Holding Muhammad Zammar in prolonged incommunicado detention and solitary confinement, and subjecting him to torture and ill-treatment is a violation of Syria's obligations under the ICCPR and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to both of which Syria is a state party. The ICCPR and CAT impose obligations on Syria to prohibit torture and not to use torture in any circumstances. It also prohibits the use of statements extracted under torture or ill-treatment as evidence in any proceedings against an individual who has been subjected to that abuse.

Amnesty International is also concerned that Muhammad Zammar's rights were violated by the German and US authorities. Information about his travel plans, apparently supplied by Germany's BKA (the *Bundeskriminalamt*, or Federal Investigation Office), was reportedly instrumental in his arrest in Morocco. US officials were reportedly involved in his interrogation in Morocco and his forcible removal from Morocco to Syria in December 2001 was apparently carried out under the US-led renditions programme. While US officials said they had no direct access to Muhammad Zammar in Syria, they reportedly provided written questions to his interrogators. A delegation of German intelligence and law enforcement officials questioned him in Syria for three days in November 2002. According to *Der Spiegel* of 27 November 2006, prior to this interrogation the German authorities had supplied information about Muhammad Zammar to Syrian officials.

The German authorities may have contravened their obligations under international law, including the ICCPR and the CAT, including by interrogating him at a time when it was known that he was being held in incommunicado detention in a detention centre notorious for torture and ill-treatment and while he was being denied the right to due legal process. There is concern too that the German authorities might seek in the future to use statements extracted under torture and ill-treatment as evidence against Muhammad Zammar in proceedings against him in Germany, which would be a

further violation of Germany's obligations under both the ICCPR and CAT. Germany also has an obligation to ensure that Syria does not use any information extracted under torture against Muhammad Zammar. The case is now on the agenda of the German parliamentary committee of inquiry (*Untersuchungsausschuss*) which started its work in May 2006 to investigate Germany's secret co-operation with the USA and other states in the "war on terror" and the Iraq war.

The US authorities have violated Muhammad Zammar's rights in apparently rendering or transferring him to the custody of another state without judicial supervision and without full observance of due legal process; and to a country where it was known that he would be at serious risk of torture and other ill-treatment. In doing so, the US government has contravened its obligations as a state party to both the ICCPR and CAT.

Although he had brief access to his lawyer and reportedly to members of his family during his court sessions between October 2006 and February 2007, by the end of February 2007 Muhammad Zammar had not received any visits by relatives in prison. According to *Der Spiegel* of 27 November 2006, it was not until 7 November 2006, one month after his first appearance before the SSSC, that Muhammad Zammar received his first visit from a German diplomat. He is now held in Sednaya prison on the outskirts of Damascus.

One former detainee, who wished to remain anonymous, was held in an adjacent underground cell to Muhammad Zammar at the notorious Palestine Branch of Military Intelligence (*Far' Falastin*). Following the February 2007 sentencing, he told Amnesty International that he recalled Muhammad Zammar "arguing relentlessly and exposing himself to more torture, in the hope of improving the conditions and the treatment for all of us...He used to stand up for the others in his section, ...he pushed to get the washrooms cleaned, ... to have more time in the washroom for all the cells, ...to get the guards to tone down their verbal abuse of us...I think everyone who went through that dark corner of the world, in the 19 solitary confinement cells of *Far' Falastin*, owe Mr. Zammar for making his situation, directly or indirectly, relatively better, which helped most detainees at that time to survive the 'grave'."

Background

In December 2001 Muhammad Zammar was arrested in Morocco to where he had travelled from his home in Germany. He was arrested on suspicion of involvement with the "Hamburg Cell" – a group that included the presumed leaders of the 11 September 2001 attacks in the US – and had been under surveillance in Germany for some years. Muhammad Zammar had been questioned by German police after the September 2001 attacks and was brought before a court in Hamburg several days later. Although the German authorities concluded that there was insufficient evidence to hold him, the Federal Public Prosecutor initiated an investigation into allegations that he had "supported a terrorist organization". Information about his travel plans, apparently supplied by Germany's BKA, was instrumental in his arrest in Morocco.

Around the end of December 2001, he was forcibly removed from Morocco to Syria, apparently under the US-led renditions programme. While US officials said they had no direct access to Muhammad Zammar in Syria, they reportedly provided written questions to his interrogators.

For much of his secret detention he was held in a solitary confinement cell in cruel, inhuman and degrading conditions in the Palestine Branch (*Far' Falastin*) of Military Intelligence, Damascus, where he was also reportedly tortured. Reports received by Amnesty International indicated that he was in a "skeletal" state by mid-2003 as a result of detention in one of the small, filthy, underground cells referred to as "tombs" or "graves".

Until his October 2006 appearance before the SSSC, Muhammad Zammar appears not to have seen anyone other than interrogators. According to information received in October 2005, the first communication with his family in Germany was an International Committee of the Red Cross (ICRC)-facilitated exchange of letters during 2004 and 2005.

According to reports, the delegation of German intelligence and law enforcement officials who questioned him in Syria for three days from 20 November 2002 said that he provided them with information about the activities of Islamist militants in Hamburg, but no transcripts of these interrogations have been released or apparently used in other investigations. During his trial in Syria he denied any role in the 2001 attacks on the US although he acknowledges that he knew one of the perpetrators, Muhammad Atta, in Hamburg. Reportedly, German diplomatic officials were not able to visit Muhammad Zammar but did make several requests for clarification of the reasons for and location of his detention and sought to obtain a lawyer for him.

What can you do?

You can write to the Syrian President, Bashar al-Assad, in English, Arabic, French, or your own language:

- expressing concern at Muhammad Haydar Zammar's sentence for belonging to the MB despite no evidence provided to that effect during the trial, his denial of the charge and noting that the MB themselves publicly refuted his links with the organisation;
- expressing concern that Muhammad Zammar received an unfair hearing before the SSSC, whose procedures the UN Human Rights Committee has stated are in contravention of the International Covenant on Civil and Political Rights (ICCPR), to which Syria is a state party;
- repeating grave concern that Muhammad Haydar Zammar was held without charge for nearly five years and that his fate and whereabouts remained unknown to his family until 2004;
- repeating grave concern over the reports of Muhammad Zammar's torture and ill-treatment during his interrogation; and reiterating the request to establish a thorough, independent investigation into these reports of torture and ill-treatment in line with Syria's obligations under the UN Convention Against Torture (CAT), to which Syria acceded in 2004, and requesting that anyone found responsible be brought to account;
- expressing concern that the Syrian judicial authorities may have accepted information obtained under torture or duress as "evidence" against Muhammad Zammar's in his trial, in contravention of Syria's obligations under the UN Convention Against Torture (CAT);
- urging that all measures be taken to ensure that Muhammad Haydar Zammar is being treated humanely, and urging that he be given immediate access to German consular officials, and to his lawyers and relatives and to any needed medical

treatment;

- urging that Muhammad Haydar Zammar be re-tried before a court whose procedures meet international standards for fair trial and without possible resort to the death penalty, or that he be released.

You can write to the German Foreign Minister, Frank-Walter Steinmeier, in German, English, French, or your own language:

- expressing grave concern that German national Muhammad Zammar was held without charge in Syria for nearly five years, that his fate and whereabouts remained unknown to his family until 2004;

- expressing concern at reports that Germany's Federal Investigation Office (BKA, Bundeskriminalamt) supplied information about Muhammad Zammar's travel itineraries to the US authorities which may have been instrumental for his arrest in Morocco, and the Syrian authorities with information which they may have used in interrogations of Muhammad Zammar;

- expressing grave concern over the reports of Muhammad Zammar's torture and ill-treatment during his detention, to which information supplied by Germany may have contributed;

- expressing grave concern that German intelligence and law enforcement officials interrogated him at a time when it was known that he was being held in incommunicado detention in a detention centre notorious for torture and other ill-treatment and while being denied the right to due legal process;

- reminding the German authorities that no information obtained under torture or duress should be admitted as "evidence" against him by the German or Syrian authorities in line with Article 15 of the UN Convention Against Torture, to which both countries are a state party;

- calling upon the German authorities to establish the extent to which German officials may have contributed to human rights violations suffered by Muhammad Zammar and to bring to justice anyone found responsible, directly or indirectly, for any such violations suffered by him;

- urging that the German authorities make representations to the Syrian government expressing concern that he received an unfair trial and requesting that that he be re-tried before a court whose procedures meet international standards for fair trial and without possible resort to the death penalty, or that he be released.

You can write to the US Secretary of State, Condoleezza Rice, in English, Arabic, French, or your own language:

- expressing grave concern that German national Muhammad Haydar Zammar was held without charge in Syria for nearly five years and that his fate and whereabouts remained unknown to his family until 2004;

- expressing concern at the alleged role played by the US authorities in his interrogation in Morocco and in his "rendition" from Morocco to Syria, without judicial supervision and without full observance of due legal process; and to a country where it was known that he would be at serious risk of torture and other ill-treatment. In doing so, the US government has contravened its obligations as a state party to both the ICCPR and CAT;

- urging that the US authorities make representations to the Syrian government that Muhammad Zammar be treated humanely and given immediate access to German consular officials, lawyers, relatives and adequate medical treatment;

- seeking assurances that no information obtained under torture or duress will be admitted as "evidence" against Muhammad Zammar;
- urging that the US authorities make representations to the Syrian government expressing concern that he received an unfair trial and requesting that that he be re-tried before a court whose procedures meet international standards for fair trial and without possible resort to the death penalty;
- requesting information regarding who authorised his rendition, on what legal basis it was carried out and what steps will be taken to hold those responsible to account.

To the Syrian authorities:

His Excellency President Bashar al-Assad
President of the Republic
Presidential Palace
Abu Rummaneh, Al-Rashid Street
Damascus, Syrian Arab Republic
Fax: + 963 11 332 3410
Salutation: Your Excellency

To the German authorities:

Frank-Walter Steinmeier
The Federal Minister of Foreign Affairs
Auswärtiges Amt
11013 Berlin
Germany
Fax: +49 30 5000 3402
Salutation: Dear Minister

To the US authorities:

The Honorable Condoleezza Rice
Secretary of State
US Department of State
2201 C Street NW
Washington
DC 205 520 USA
Fax: +1 202 261 8577
Email: <http://contact-us.state.gov/cgi-bin/state.cfg/php/enduser/home.php>
Salutation: Dear Secretary of State