

PUBLIC

AI Index: MDE 30/004/2007

8 June 2007

UA 141/07 Secret detention/fear of torture

TUNISIA Houssine Tarkhani (m), aged 39, Tunisian national

Tunisian asylum-seeker Houssine Tarkhani was forcibly returned from France on 3 June, and reportedly detained on arrival. He is now in secret detention: the authorities have provided no information to his lawyer and family when they have made enquiries. Amnesty International fears he may be held at the State Security Department of the Ministry of Interior in Tunis, where he would be at risk of torture and other ill-treatment.

Houssine Tarkhani's application for asylum had been assessed under an accelerated procedure (*procédure prioritaire*), and was rejected on 25 May. Although he appealed before the *Commission des Recours des Réfugiés* (CRR), Refugees Appeals Board, decisions taken under the accelerated procedure are not delayed while appeals to the CRR are considered, and people who have appealed may be forcibly returned before their appeal has been ruled on. Houssine Tarkhani also made appeals against the decision to the administrative court, but these have failed.

In May 2004, another Tunisian national Tarek Belkhirat was forcibly returned to Tunisia from France in similar circumstances after his request for asylum was rejected. He was arrested on arrival and charged under Tunisia's 2003 anti-terrorism law. In February 2005, nine months after he had been returned, France's highest administrative court, the *Conseil d'État* (Council of State), quashed the order to deport him. In March 2005, a court in Tunis sentenced him to 10 years' imprisonment, reduced to five years on appeal in October 2005. He remains in prison in Tunisia.

Houssine Tarkhani left Tunisia in 1999, and subsequently lived in Germany and, between 2000 and 2006, in Italy. He was arrested at the French-German border on 5 May, as an irregular migrant, and held in a detention centre in the French city of Metz, pending the execution of an expulsion order.

On 6 May he was brought before a judge, who authorized his detention for a further 15 days, and told him that he was being investigated by the French police on suspicion of "providing logistical support" to a network which assists individuals to travel to Iraq to take part in the armed conflict with the US-led coalition forces there – an allegation which he denies. No charges were ever brought against him in France. On the same day, he made a claim for asylum and on 7 May was taken to the detention centre at Mesnil-Amelot to be detained while his asylum claim was processed.

BACKGROUND INFORMATION

Under Tunisia's Code of Criminal Procedure, detainees may be held without charge (*garde à vue*) for up to three days, extendable for a further three days by order of the general prosecutor. After these six days the detainee must be either brought before the examining judge or released. If a person is held in *garde à vue*, their family must be informed and they have the right to a medical examination.

In practice, the security forces routinely ignore these requirements. Amnesty International has received numerous reports of torture and ill-treatment by the security forces, including agents of the State Security Department at the Ministry of Interior in Tunis. In most cases, allegations of torture are not investigated and the perpetrators are not brought to justice. Confessions obtained under torture as used as evidence in unfair trials.

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

- expressing concern that Houssine Tarkhani has been held in secret detention since 3 June, when he was arrested on his return from France;
- urging the authorities to disclose his whereabouts to his family and lawyer and, after the end of the *garde à vue* period, give him immediate access to his families and to any medical care they may require;
- insisting that the authorities release him immediately or else charge him with a recognizably criminal offence;
- if he is to be charged, calling for him to be brought immediately before the judicial authorities to challenge the legality of his detention and given access to legal counsel of his choice, in compliance with Tunisian law and international human rights treaties which Tunisia has ratified.

APPEALS TO:

Minister of the Interior

Rafik Haj Kacem
Ministère de l'Intérieur
Avenue Habib Bourguiba
1000 Tunis
Tunisia

Fax: + 216 71 340 888
E-mail: mint@ministeres.tn
Salutation: Monsieur le Ministre/Your Excellency

Minister of Justice and Human Rights

M. Béchir Tekkari
Ministère de la Justice et des Droits de l'Homme
31 Boulevard Bab Benat
1006 Tunis - La Kasbah
Tunisie

Fax: + 216 71 568 106
E-mail: mju@ministeres.tn
Salutation: Your Excellency/Excellence

COPIES TO:

Official human rights body reporting to the President

M. Zakaria Ben Mustapha (Président)
Comité supérieur des droits de l'homme et des libertés fondamentales
85 avenue de la Liberté
1002 Tunis-Belvédère
Tunisie

Fax: + 216 71 796 593
+ 216 71 784 038

and to diplomatic representatives of Tunisia accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 20 July 2007.