



Palestinian Centre for Human Rights

المركز الفلسطيني لحقوق الانسان

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Affiliate, Fédération Internationale des Ligues des
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PRESS RELEASE

TORTURE VICTIM SEEKS PROSECUTION OF FORMER HEAD OF ISRAELI GENERAL SECURITY SERVICES

Amsterdam, 6 October 2008

Court Order sought for investigation of torture by Ami Ayalon

The Dutch prosecution authorities failed to arrest Ami Ayalon, currently Minister without Portfolio in the Israeli Government, while he was visiting the Netherlands from 16 to 20 May 2008. An application for his arrest was submitted to the Dutch authorities by Khalid Al-Shami, who alleged that he was a victim of torture in 1999/2000, when Ami Ayalon was the Director of Shin Bet (the Israeli General Security Services - GSS), which investigates individuals suspected of committing crimes against Israel's security. Ami Ayalon was the director of the GSS from 18 February 1996 to 14 May 2000.

Mr Al-Shami's evidence file was collected by his lawyers in Gaza City, the Palestinian Centre for Human Rights (PCHR) and he only sought justice abroad after the Israeli authorities failed to act on his allegations, in part because torture is routinely sanctioned in Israel.

The Dutch authorities failed to arrest Mr Ayalon, even though there was a *prima facie* case and they concluded he was not immune from prosecution – that failure will now be the subject of a legal challenge in the Court of Appeal in The Hague, and an Order will be sought requiring a criminal investigation supported by an extradition request or an international arrest warrant.

Background

On 31 December 1999, Mr Al Shami was arrested by Israeli soldiers and taken to Ashkelon prison, where he was interrogated for 20 days, in sessions ranging between 20 to 40 hours, with an interval of 2 to 3 hours in the seclusion of a 2 x 2 m. cell. In addition, he alleges that he was subjected to low temperatures, stretching and being bound to a small chair by his hands and feet for long periods. After 20 days he was brought before a military court, without legal representation, where his arrest was extended by thirty more days. He spent a week in solitary confinement and alleges further ill-treatment, this time at the hand of collaborators, who forced him to make a written confession. Mr Al-Shami has been left permanently seriously injured by this alleged torture.

In May 2008, Mr Al-Shami instructed Prof. Dr. Liesbeth Zegveld of Dutch law firm Böhler Franken Koppe Wijngaarden (BFKW) to submit a complaint to the prosecutors' office on his behalf asking for Mr Ayalon to be arrested and prosecuted in the Netherlands.

Mr Al-Shami's complaint to the Dutch prosecution authorities comes after years of failed efforts to pursue the suspect through the Israeli judicial system on behalf of the victims. PCHR has built files of evidence with Hickman & Rose solicitors (London, UK), including that of Mr Al-Shami, to bring war crimes suspects to justice outside Israel in accordance with the legal principle of universal jurisdiction.

On 16 May 2008, law firm BFKW filed a torture complaint with the Dutch Prosecution authorities on behalf of Mr Al Shami. Under Article 6 and Article 7 of the United Nations Convention Against Torture (UNCAT) any State Party in whose territory a person alleged to have committed torture is present should arrest the suspect and prosecute him or her (or extradite the suspect for trial elsewhere).

Mr Ayalon's visit to the Netherlands provided an exceptional opportunity and engaged a duty to arrest him and establish jurisdiction. The initial torture complaint included a request for urgency, since Mr Ayalon was thought to be due to leave the Netherlands on 20 May 2008. The failure of the Public Prosecutor to initiate an investigation occurred because of a delayed decision by the College of Procurators-General ('the College') that Ami Ayalon lacked immunity. Accordingly, Mr Ayalon could indeed be prosecuted in the Netherlands, but by the time the decision of the College was made, on 21 May 2008, he had just left Dutch territory.

The application to the Court of Appeal

Mr Al-Shami has today, 6 October 2008, applied to the Court of Appeal in The Hague for an Order requiring the Prosecutor to start a criminal investigation into Mr Ayalon and to issue an extradition order or an international arrest warrant to secure his presence in the Netherlands during any trial. Alternatively, Mr Al-Shami at least seeks an Order for an 'anticipatory investigation', so that a criminal investigation file is opened.

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