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Rapporteur on Follow-Up
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Dear Felice Gaer

AMNESTY INTERNATIONAL SUBMISSION IN RESPONSE TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE AGAINST TORTURE (EXTRACTS FOR FOLLOW-UP OF CAT/C/FRA/CO/4-6): FRANCE

I write to you in your capacity as Rapporteur on follow-up to the concluding observations of the Committee against Torture (the Committee), in the understanding that the follow-up report from France is now due.

Amnesty International welcomed the concluding observations made to France in May 2010 (CAT/C/FRA/CO/4-6) and would like to submit this letter for the Committee's consideration, to highlight ongoing areas of concern contained within the extracts for follow-up. We are focusing our attention in particular on paragraphs 14 and 21 of the concluding observations and hope that this information is of use to the Committee.

NON-REFOULEMENT

With regard to the Committee's recommendation under concluding observation 14, Amnesty International remains concerned that all asylum-seekers in France lack access to a full and fair individualized determination of their claim, including the right of appeal by an independent body with suspensive effect. Given the Committee's specific attention to the "accelerated" asylum procedure (*procédure prioritaire*), Amnesty International's view is that applicants for protection whose claims are considered under this procedure, like all other applicants for protection, do not receive a full and fair individualized determination of their claim. Unlike individuals whose applications for protection are examined through the regular refugee status determination procedures, individuals subject to the "accelerated" procedure do not have the right of appeal to an independent body, and appeals in such cases do not have suspensive effect. Furthermore, Amnesty International believes that some applicants for international protection are not provided with adequate time and facilities in the course of the asylum determination procedures. Individuals subject to an "accelerated" procedure fall within this category.

Amnesty International remains particularly concerned about the compatibility of this practice with Article 3 of the Convention in light of the Constitutional Council's April 2011 decision which found the asylum procedure and use of administrative detention, including in "accelerated" cases, to be in accordance with the French constitution.¹ Amnesty International is also concerned that the reasons for considering an individual's application for international protection under the "accelerated" procedure

¹ Decision No. 2011-120 QPC, 8 April 2011, <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2011/2011-120-qpc/decision-n-2011-120-qpc-du-08-avril-2011-95704.html> (Decision text in French - Décision n° 2011-120 QPC du 8 avril 2011)

pre-judges the well-foundedness of the claim on the basis of considerations external to the intrinsic particulars of the specific claim for protection.

USE OF DANGEROUS RESTRAINT TECHNIQUES BY LAW-ENFORCEMENT OFFICIALS

With regard to the Committee's recommendation under concluding observation 21, Amnesty International remains concerned that specific control and restraint techniques used by law enforcement officials in France represent a serious danger to detainees and have resulted in unlawful killings. Amnesty International continues to receive allegations of ill-treatment by law enforcement officials as a result of excessive or prolonged restraint techniques applied to individuals during arrest, and has continued to raise serious cases with the French authorities. Between five and ten credible allegations of severe ill-treatment by police or deaths in custody are reported to Amnesty International each year.

In July 2010, Amnesty International wrote to the French Ministers of the Interior and Justice raising in detail the issue of the non-provision of a booklet on legitimate use of force and permissible restraint techniques (and the lack of related information regarding the dissemination of the booklet within the law enforcement agencies), outlining three case examples, including that of Ali Ziri, a 69-year-old Algerian man who died following his arrest on 9 June 2009 in Argenteuil. An independent autopsy report into Ali Ziri's death concluded that the cause of death was probably "mechanical asphyxiation" (*asphyxie mécanique*). According to witness testimony and a May 2010 report from the French independent police oversight body, the National Commission on Ethics and Security (*Commission Nationale de Déontologie de la Sécurité*, CNDS), Ali Ziri, and Arezki Kerfali, a 60-year-old man arrested at the same time, were reportedly handcuffed behind their backs and placed face-down on the floor for up to an hour, with their faces in their vomit, after having been beaten by police during a traffic stop. An investigation is underway.

In January 2011, Amnesty International wrote to the French Ministers of the Interior and Justice, raising the case of Mohamed Boukrourou, who died following his arrest on the afternoon of 12 November 2009. Witness reports indicate that the police officers carrying out the arrest handcuffed Mohamed Boukrourou and placed him in a police van where he was reportedly beaten and kicked. He was declared dead less than two hours later. Two medical reports indicated that the cause of death was probably heart failure. An investigation is underway. In the same letter, Amnesty International once again raised the issue of what guidelines and/or instructions are issued to police officers on the use of force, and in particular dangerous restraint techniques, during arrest, and what procedures are in place to offer police officers appropriate training in this regard.

Amnesty International has repeatedly sought information regarding the October 2008 note issued by the Inspectorate General of National Police (*Inspection Générale de la Police Nationale*, IGPN)², reportedly circulated to police, and a related booklet issued to police officers, for example by letters to the French Ministry of the Interior and the French Ministry of Justice, on 12 July 2010 and 18 January 2011. The organization also asked the ministry to provide further detail on the circulation of the instructions on dangerous restraint techniques and relevant training for police officers. In each of these letters, Amnesty International also raised concerns about individuals who had died during or following arrests during which dangerous restraint techniques were reportedly used by police officers.

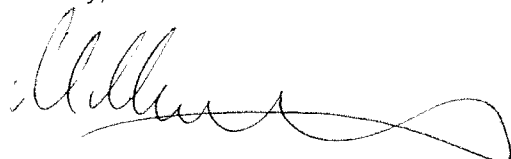
However, despite these repeated requests to the Ministries of the Interior and Justice and promises by officials from the Ministry of the Interior on several occasions to send Amnesty International a copy of the instruction booklet, the organization to date has not received a copy of this document nor a response related to the distribution of the instructions and/or booklet or training provided to police officers.

² Each of the law enforcement agencies in France has its own internal inspectorate responsible for investigating possible misconduct by law enforcement officials within their force, ranging from minor disciplinary matters to incidents of suspected torture or unlawful killing. The National Gendarmerie inspectorate is known as the *Inspection de la Gendarmerie Nationale* (IGN). The National Police force has one inspectorate for forces based in Paris – the *Inspection Générale des Services* (IGS) – and one for the rest of France – the *Inspection Générale de la Police Nationale* (IGPN).

Amnesty International is therefore currently unable to assess whether the above mentioned guidelines are compliant with Articles 10 and 11 of the Convention against Torture, Article 7 of the International Covenant on Civil and Political Rights (ICCPR), Article 3 of the ECHR, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials³ and welcomed the Committee's initiative to seek information about the October 2008 note from the Inspectorate General of National Police.

We hope that this information is of use to the Committee. Should you or the Committee seek any clarification related to the information contained within this briefing, please do not hesitate to contact us.

Yours sincerely,



PP Michael Bochenek
Law and Policy Programme Director
Amnesty International

³ For an investigation into allegations of torture or other ill-treatment to be effective and adequate, it is essential for prosecutorial authorities to be able to determine clearly whether the force used in specific incidents is necessary and proportionate and therefore lawful. However, in the absence of detailed and specific regulations on the use of force and particular restraint techniques it can be difficult for prosecutors and judges to make such decisions. Amnesty International has noted in the cases which it has examined that where the necessity or appropriateness of force used by law enforcement officials is disputed, the prosecutor's interpretation of these criteria often gives the benefit of the doubt to the law enforcement officials.