



PRESS RELEASE

Human Rights Court criticizes use of alleged torture evidence in Belgium

27 September 2012, London and Berlin - On 25 September, the European Court of Human Rights upheld the prohibition of the use of evidence allegedly obtained under torture in criminal proceedings in a case against Belgium. REDRESS and the European Center for Constitutional and Human Rights (ECCHR), which have both intervened as *amicus curiae*, welcome the ruling of the Court.

The Human Rights Court had to decide on the application of Lahoucine El Haski, a Moroccan national who was convicted on terrorism related charges by a Belgian Court based on evidence that included statements taken in Morocco, allegedly obtained under inhuman or degrading treatment by Moroccan authorities. The Belgian courts required the applicant to prove his inhuman or degrading treatment “beyond reasonable doubt” and found that he had failed to do so.

The Human Rights Court thus found a violation of fair trial principles (Article 6) and upheld its previous jurisprudence, stating that a defendant only has to prove that there is a “real risk” that evidence had been gathered under torture or inhuman or degrading treatment. Belgium, supported by the United Kingdom, had argued that a defendant would have to prove without reasonable doubt that torture or inhuman treatment had been used in gathering evidence.

REDRESS and the ECCHR argued that international jurisprudence and human rights treaties prohibit the use of evidence obtained under torture in criminal proceedings and that the burden of proof that no torture or inhuman treatment has been used in gathering evidence must be shifted to the government authorities.

Wolfgang Kaleck, ECCHR General Secretary, described the ruling as “a strong decision against cooperation arrangements between European states and third states in countering terrorism that violate fundamental international human rights standards such as the prohibition of torture.”

Carla Ferstman, director of REDRESS, said: “While we are fully aware of the challenges of combating terrorism this can never justify the use of evidence tainted with serious allegations of torture in a criminal trial. Moreover, the prohibition of torture or other ill-treatment of detainees can only be effective if the judiciary responds promptly and effectively when any allegations concerning such human rights violations are brought to their attention.”

For further information, please contact:

ECCHR (Berlin), Wolfgang Kaleck, info@ecchr.eu, +49 30 40048590

REDRESS (London), Eva Sanchis, Communications Officer, eva@redress.org or +44 (0) 20 7793 1777