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Iraq

Concerns relating to the screening of members and supporters of the People's Mojahedin Organization of Iran (PMOI) and members of their families in Camp Ashraf

Amnesty International received information indicating that members and supporters of the People's Mojahedin Organization of Iran (PMOI) and members of their families in Camp Ashraf in Iraq are undergoing a screening process by the US Federal Bureau of Investigation (FBI). It is our understanding that the movement of this group of individuals is restricted, there are however several issues that remain unclear:

- Are the members and supporters of the PMOI and members of their families in Camp Ashraf being assigned residency or interned in accordance with the terms of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)?
- How is the assigned residency or internment referred to above being enforced? Are members and supporters of the PMOI and members of their families who are found outside of Camp Ashraf arrested?
- Was the decision to assign residency or intern this group decided according to a regular procedure prescribed by the occupying power? Is such procedure, if any, open to appeal, in accordance with article 78 of the Fourth Geneva Convention?
- Is the decision for the assigned residency or internment of this group being periodically reviewed?

Amnesty International has received information indicating that the screening process would be for the purpose of identifying individuals who would be entitled to "conditional release" and that a permanent solution would be sought for these individuals. Amnesty International has also received information indicating that a second phase of screening will be conducted by the US Department of State. Amnesty International would like to seek clarification as to the following:

- What is the aim of this screening?
- What is meant by "conditional release"?
- Regarding individuals who will not be released, will they be charged or tried in any way? If this is a possibility, which authority will prosecute those charged, under what law(s), and before what tribunal or court, and where?
- If those released are resettled to third countries, what will their legal status in those countries be?

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Amnesty International

UNITED STATES DEPARTMENT OF STATE
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- For those who would be locally integrated in Iraq, what will their legal status be?

As regards the screening process, we would like to seek clarification on the procedural guarantees provided for all individuals undergoing the screening process. In particular, we would like to seek assurances that:

- Each individual will be fully informed of the nature and purpose of the process, as well as of the possible consequences and outcomes;
- Each individual is informed that s/he has the right to independent legal counsel;
- Each individual is given adequate time to consult and receive advice from his/her counsel, if any;
- There is a guarantee of confidentiality of meetings between interviewees and their counsel;
- Adequate and independent interpretation is available;
- Each individual has the choice to have an interviewer and interpreter of the same sex, as is standard in protection-related procedures;¹
- Interviews are conducted in a culturally sensitive manner including, for example, that female interviewees are not interviewed by a male without the presence of another female in the same room;
- Individuals undergoing the screening process are not compelled in any manner whatsoever, including being given incentives or threats, to provide answers to questions;
- Individuals undergoing the screening process are not compelled in any manner whatsoever, including being given incentives or threats, to give a particular testimony;
- All information received from each individual during the screening process will be treated as confidential. Each individual should have access to all transcripts and other records made of the screening interviews;
- All individuals who undergo the screening process and who wish to challenge the decision made in their case will have an effective opportunity to have their decision substantively and independently reviewed.

Amnesty International also believes that individual members and supporters of the PMOI and members of their families should be offered access to consular representatives of the state(s) of which they hold citizenship. However, as such access may prejudice the security of

¹ As per the standards of the United Nations High Commissioner for Refugees (UNHCR), found in *inter-alia*, UNHCR Guidelines on International Protection (including the guidelines on Gender-Related Persecution); and UNHCR Executive Committee conclusion # 64.

the individuals concerned, it should only be given at the request of, or with the free consent of each individual.

With regards to the three solutions proposed by the U.S. authorities to those "conditionally released" (voluntary return to countries where citizenship or residency can be documented; voluntary relocation to third countries; and possible integration into Iraqi society), Amnesty International would like to seek assurances that vulnerable individuals such as unaccompanied elders, single mothers, unaccompanied children, the disabled, and those in need of urgent or continuous medical attention have their cases processed promptly. Particular consideration should also be given to those who face security risks in their current situation. The solutions should in all cases be adequate, sustainable and accepted by the individuals and should include respect for the right to family unity. Amnesty International believes that the Office of the United Nations High Commissioner for Refugees should be consulted as solutions are sought given that it possesses the necessary expertise in protection in the context of durable solutions. Also any individual with refugee status in another country should be allowed to seek to be readmitted into this country.

Amnesty International would also like to seek clarification as to whether the International Committee for the Red Cross has access to Camp Ashraf and to those interned or assigned residency in it.

Amnesty International also stresses that other relevant guarantees should also be respected such as relevant guarantees found in the Fourth Geneva Convention and in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Members and supporters of the PMOI and members of their families are protected persons under the Geneva Conventions and as such they should be guaranteed the protection accorded by the Fourth Geneva Convention. While they are not "detained persons" in the traditional sense, their deprivation of liberty means that they should be treated in accordance with international standards for the treatment of detained persons, as applicable. Relevant guidelines of the Executive Committee of the United Nations High Commissioner for Refugees, especially those relating to durable solutions, including resettlement, as well as standards relating to registration and the right to family unity should inform decisions regarding the solutions being proposed to the individuals in Camp Ashraf.

Above all, we would also like to stress that the principle of *non-refoulement*, a customary norm of international law, would prohibit the forcible return of the members and supporters of the PMOI and members of their families in Iraq to any country where there is a risk that they would face grave human rights abuses such as unlawful or arbitrary imprisonment, unfair trial, or torture. Specifically, Amnesty International believes that these individuals should not be returned to Iran unless they have been finally determined not to be in need of international protection through a fair and impartial process. In this respect, and in view of the expected transition of power in Iraq to an interim Iraqi government at the end of June 2004, we would like to seek clarification on what steps are being undertaken to ensure that the status of members and supporters of the PMOI and members of their families in Iraq

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is regularized at the earliest possible time, while taking full account of their rights under both international human rights and refugee law.