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Algeria: Social justice activist facing trial in El Oued

On 7 March, Yahia Ben Ammar, an Algerian social justice activist, will come before a court in El Oued, southern Algeria, on charges in relation to his exercise of his right to freedom of expression and peaceful assembly during peaceful protests in late 2016, as well as on charges of insulting and assaulting police following his arrest in January 2017 in a separate case. He reported that police officers ill-treated him in custody at the time. Amnesty International fears that the “insult” charges may have been trumped up in order to silence him.

Ben Ammar, 31, is the coordinator for the National Committee for the Defence of the Rights of the Unemployed (CNDDC) in the province of El Oued, and lives in the town of Debila, about 20 kilometers north of the province’s capital, El Oued. On 7 March, he will face proceedings following appeals by the prosecution in four separate cases scheduled during the same hearing before the El Oued Court of Appeals.

In the three first cases, he will face charges of “unarmed gathering” and incitement to “unarmed gathering” for three protests in Debila in late 2016. He had been acquitted in first instance in these three cases on 23 January, but the prosecution appealed. He will also face charges of “assaulting” and “insulting” police officers who arrested him in January 2017 in a fourth case. He had been acquitted of the assault charges and sentenced to six months’ imprisonment and a fine for “insulting” the officers in first instance on 18 January, but the prosecution appealed.

Amnesty International calls on Algeria’s authorities to drop the charges of “unarmed gathering” and incitement to “unarmed gathering” which had been brought in relation to unauthorized peaceful protests in 2016, and to amend legislation that unduly restricts the right to freedom of expression and assembly.

On 16 January 2017, police officers arrested Yahia Ben Ammar as he arrived on the site of a planned protest in Debila. The protest was planned to coincide with the Minister of Interior and Local Government passing through the town, to demand that the Algerian authorities engage with the protesters’ demands for jobs and recognize their traditional land titles. At the same time, police also arrested three other individuals, whom they released shortly after, while keeping Ben Ammar in detention. Police detained him in Debila on the first day, and in El Oued on the second day.

Following his arrest, officers who questioned him asked about his relationships with high-profile activists in the unemployed movement, such as Tahar Belabes and Rachid Aouine, he said. The following day, police officers searched Yahia Ben Ammar’s home, confiscating a mobile phone, a SIM card and a CD.

He told Amnesty International that the two officers who arrested him beat and insulted him while transferring him to the police station in Debila, at the police station in the town, and threatened him with being sentenced to prison. He added that the beatings left him in pain but without visible injuries. He reported the police ill-treatment to the judge at the Court of First Instance in Debila but the court did not appear to give due weight to his complaint.

He was kept in custody for two days until his trial on 18 January at the Debila Court of First Instance. In court, he was informed that the two police officers who arrested him filed a formal complaint against him accusing him of violently resisting arrest and insulting them, and faced charges of “assaulting” and “insulting” public officers on that basis. The police officers testified against him,

alleging that that he attempted to assault them during a body search at the police station. He denied the charges, and his lawyer highlighted the lack of material evidence to establish his guilt. The court cleared him of the assault charge but convicted him of insulting the officers, and sentenced him to six months in prison and a fine of 100,000 Algerian dinars (about 900 US dollars), in addition to 50,000 Algerian dinars (about 450 US dollars) in compensation to the public treasury. The prosecution appealed the judgment, including the acquittal on the assault charge.

He was also tried by Debila Court of First Instance on 23 January in three other cases on charges of participation in an “unarmed gathering” and incitement to an “unarmed gathering” for unauthorized peaceful protests in the town in late 2016. These were a protest in front of the local job centre on 13 November demanding jobs, a protest on 28 November against an eviction order, and a protest on 3 December outside a centre for disabled persons. The last of these, which was organised to coincide with a visit to the town by the governor of El Oued province, demanded that the Governor investigate local corruption, and recognize locals’ traditional land titles in the official land registry. On 23 January, the court cleared him of the charges in all three cases but the prosecution appealed the judgments.

The hearing for the prosecution’s appeals in the four cases were first scheduled for 28 February, but the court agreed to postpone it until the defendant instructed a lawyer, and it is now due to begin on Tuesday 7 March.

Under Algerian law, unauthorized peaceful protest is a criminal offence. Law 89-28 on public meetings and demonstrations, as amended in 1991 by Law 91-19, requires protesters to obtain prior authorization for public demonstrations (Articles 15 and 17) and deems all unauthorized gatherings to be unlawful. Article 97 of the Penal Code criminalises any incitement or participation in such gatherings, professing that they “disturb public order”.

The criminalisation of participation in unauthorised peaceful protest breaches international human rights law and standards, and in particular Algeria’s obligation under the International Covenant on Civil and Political Rights (ICCPR) to respect, protect and fulfil the right to freedom of peaceful assembly.

Under Article 21 of the ICCPR, states may not impose limitations on the exercise of this right other than those which are demonstrably necessary to protect specified public interests or the rights of others. Such limitations could include a requirement for advance notification but not for prior authorization, as the UN Special Rapporteur on the rights to freedom of peaceful assembly and association has emphasized. Any such requirements should also allow exceptions for spontaneous protests, while non-compliance with notification requirements should not lead to fines or imprisonment.

The Penal Code, under Article 144, also provides for up to two years’ imprisonment and fines up to 500,000 Algerian dinars (over 5,000 US dollars) for insulting public officials on duty. Under international law and standards on freedom of expression, public officials should tolerate more criticism than private individuals. The UN Human Rights Committee, the body of independent experts established under the ICCPR to monitor states’ compliance with their obligations under that treaty, has raised concerns about states’ laws on disrespect for authority and underlined that states should not prohibit criticism of public institutions, and has expressly stated that imprisonment is never an appropriate penalty. Amnesty International considers that laws which criminalise insult or defamation violate the right to freedom of expression and that such matters should be treated as a matter for civil litigation.

These proceedings take place in a context of [increasing restrictions](#) on peaceful protest and criticism of government figures and policy in Algeria, including prosecutions against activists for peaceful dissent both online and offline. [Constitutional amendments](#) adopted in 2016 fell short of protecting freedom of assembly and expression.

Public document

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