

EXTERNAL (for general distribution)

AI Index: MDE 28/14/93

Distr: UA/SC

PLEASE DRAW TO THE ATTENTION OF THE REFUGEE COORDINATOR IN YOUR SECTION

UA 303/93 Fear of Expulsion

3 September 1993

ALGERIA: Ameer LEGRAIDI - Tunisian national
 Fathi OUERGHI - Tunisian national

Amnesty International is concerned that Ameer Legraidi and Fathi Ouerghi, Tunisian nationals seeking asylum in Algeria, are at risk of expulsion to Tunisia and that they have been held in incommunicado detention in Algeria since their arrest on 13 June 1993. If returned to Tunisia, Ameer Legraidi and Fathi Ouerghi would be at risk of torture and ill-treatment in pre-trial detention.

Ameer Legraidi and Fathi Ouerghi left Tunisia in 1992 fearing persecution because of their membership of the unauthorized Islamist movement *Al-Nahda*. Ameer Legraidi had been condemned *in absentia* in August 1992 to 11 years' imprisonment in a collective trial which Amnesty International observers condemned as falling far short of international standards.

The two were both registered as refugees by the Office of the United Nations High Commissioner for Refugees (UNHCR) in Algiers in October 1992, and were given leave to stay by the *Bureau des Apatrides et des Réfugiés* [Office for Stateless Persons and Refugees] of the Algerian Foreign Affairs Ministry.

Ameer Legraidi and Fathi Ouerghi were arrested after being asked to report to the *Bureau des Apatrides et des Réfugiés* and have not been seen since. Amnesty International has recently learned that on 4 July Fathi Ouerghi was given a suspended sentence of two months' imprisonment in Algiers, but has been unable to obtain any further information about the whereabouts and legal status of Fathi Ouerghi and Ameer Legraidi, despite repeated inquiries to the Algerian authorities. UNHCR and the family of Ameer Legraidi have equally been unable to obtain any further information despite repeated approaches to the authorities.

Amnesty International is concerned that Ameer Legraidi and Fathi Ouerghi are at risk of forcible return to Tunisia or of expulsion to a third country where they may not be granted effective and durable protection. The organization is also concerned that they have been held in incommunicado detention for 12 weeks which is beyond the maximum 12 days allowed under Algerian emergency law, and that during this period UNHCR have had no access to them.

BACKGROUND INFORMATION

There have been several cases over the last two years of forcible return (*refoulement*) of Tunisian nationals seeking asylum in Algeria. Most recently, Amnesty International expressed its serious concern at the forcible return in January 1993 of seven Tunisians who were reportedly subsequently arrested and tortured in detention by the Tunisian authorities. The organization has repeatedly called on the Algerian authorities not to forcibly return Tunisian asylum-seekers to Tunisia, where many are at risk of imprisonment as prisoners of conscience, unfair trial, torture or even death in custody.

Amnesty International has also documented cases of Tunisian refugees in Algeria expelled to third countries such as Libya, where they were in further danger of being expelled to Tunisia. Against a background of political turmoil in countries of the Middle East where Islamist opposition groups and movements are increasingly active and in some cases engaged in armed opposition, there are indications that several countries including Algeria are establishing mutual security agreements and increasingly cooperating with each other in their bid to restrict the freedom of people they consider to be members or sympathizers of insurgent groups. Some of these agreements apparently allow for the exchange of suspected security offenders. Amnesty International is concerned that in some cases this may lead to expulsions of refugees in violation of the international principle of *non-refoulement*.

This principle of *non-refoulement* is set out in Article 33 of the 1951 United Nations Convention relating to the Status of Refugees and reflected in several subsequent Human Rights instruments such as Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to which Algeria is a state party. Under this principle, governments are obliged not to return any person to a country where he or she would be at risk of serious human rights violations.

Article 66 of the Algerian Constitution specifically states: "Under no circumstances shall a political refugee, entitled by law to the right of asylum, be handed over or extradited" ("En aucun cas, un réfugié politique, bénéficiant légalement du droit d'asile, ne peut être livré ou extradé").

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express and airmail letters either in French, Arabic or English or in your own language:

- reminding the Algerian authorities of their obligation under international and Algerian law not to forcibly return anyone to a country where he or she would risk serious human rights violations, including torture;
- urging the Algerian authorities not to forcibly return to Tunisia Ameur Legraidi and Fathi Ouerghi, who have been recognized by the Office of the United Nations High Commissioner for Refugees (UNHCR) in Algiers as being in need of protection;
- calling on the Algerian authorities to allow UNHCR access to the individuals concerned;
- expressing your concern that Ameur Legraidi and Fathi Ouerghi have been held in incommunicado detention for 12 weeks, beyond the maximum of 12 days allowed under Algerian emergency law.

APPEALS TO

1) President

Président M. Ali KEFI
Président de la République
Présidence de la République
El-Mouradia
Alger, Algérie

Telegrams: President Kefi, Alger, Algérie

Faxes: + 213 2 609618

Telexes: 66044/66088

Salutation: Excellence/Your Excellency

2) Prime Minister

M. Redha MALEK
Chef du Gouvernement
Palais du Gouvernement
Alger, Algérie

Telegrams: Ministre Malek, Alger, Algérie

Telexes: 66217/66221

Salutation: Excellence/Your Excellency

3) High Council of State Member

M. Ali HAROUN

Membre du Haut Comité d'Etat

Palais du Gouvernement

Alger, Algérie

Telegrams: M. Haroun, Palais de Gouvernement, Alger, Algeria

Telexes: 66217/66221/66044/66088

Salutation: Excellence/Your Excellency

PLEASE ALSO SEND COPIES OF YOUR APPEALS to the following Human Rights Organizations:

Observatoire national des droits de l'homme

Palais du Peuple

Avenue F. Roosevelt

Alger, Algérie

Faxes: +213 2 60 10 42

and to diplomatic representatives of Algeria accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 15 October 1993.