

EXTERNAL

AI Index: MDE 28/15/97

21 July 1997

Further information on UA 193/96 (MDE 28/08/96, 2 August 1996) and follow-up (MDE 28/09/96, 12 August 1996; MDE 28/20/96, 13 August 1996) - "Disappearance" / Fear for safety; New concern: Unfair trial/ Prisoner of conscience.

ALGERIA Rachid MESLI, human rights lawyer

Human rights lawyer Rachid Mesli was sentenced on 16 July 1997 to three years' imprisonment on charges of having "encouraged terrorism" (Article 87 *bis* 4 of the Algerian Penal Code) in a trial which clearly violated international standards for fair trials.

His trial took place at the court of Tizi-Ouzou (100 kilometres east of Algiers). Amnesty International delegates were refused visas to go to observe the trial. Two lawyers mandated by the *Fédération Internationale des Droits de l'Homme*, (FIDH, International Federation of Human Rights) to observe the trial were informed upon their arrival in Algeria by the authorities that their presence at the trial would not be welcome.

The trial took place *in camera*, and even family members were not allowed to enter the court. The prosecution and the defence based their case on charges of belonging to a "terrorist" group (Articles 86 and 87 *bis* 3 of the Penal Code), as stated in the charge sheet. His lawyers complained that the court did not call the witnesses requested by the defence.

When the court announced the verdict, Rachid Mesli was found not guilty of the two charges for which he was being tried. He was, however, found guilty of having "encouraged terrorism", (under Article 87 *bis* 4 of the Penal Code), even though this charge had not been brought against him in the charge sheet or during the trial. He was therefore convicted on the basis of a charge which had not been brought against him, and was not given the opportunity to defend himself. This is clearly in violation of international standards for fair trial. Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Algeria is a state party, stipulates that a defendant is entitled to be informed of the charge against him, to have adequate time and facilities for the preparation of his defence, and to examine, or have examined, the witnesses against him. Article 305 of the Algerian Penal Code also stipulates that if the court wishes to add a charge to those on which it is deliberating, the hearing must be reopened, and the opportunity given to both the prosecution and the defence to present their case.

The court also failed to look into the illegal abduction and secret detention of Rachid Mesli at the time of his arrest and into his allegations of ill-treatment during incommunicado detention. Rachid Mesli had been abducted on 31 July 1996 by a group of unidentified armed men who stopped his car while he was driving with his five-year-old son and a relative, and took him away at gun-point, reportedly after making his son and relative face the other way (see original UA). For more than one week after his arrest the security forces and the authorities refused to acknowledge his arrest and detention. During secret detention he was reportedly beaten, ill-treated and threatened with death. He was subsequently held in pre-trial detention for nearly a year.

Rachid Mesli and his lawyers can seek a review of the case through the "cassation" procedure at the Supreme Court. "Cassation" looks at blatant errors of law only, but does not re-examine the facts of the case.

Amnesty International believes that Rachid Mesli was imprisoned on account of his conscientiously held beliefs, without using or advocating violence, and on account of his activities as a human rights lawyer, and considers him a prisoner of conscience.

FURTHER RECOMMENDED ACTION: Please send faxes/express/airmail letters in French, Arabic, English or in your own language:

- calling for the release of Rachid Mesli, convicted in a trial which did not comply with internationally recognized standards for fair trial, pointing out that if he is accused of a clearly recognizable criminal offence he should be tried in full accordance with international standards;
- reiterating calls for a full and impartial investigation to be promptly carried out into his abduction, secret detention and ill-treatment.

APPEALS TO:

M. Liamine ZEROUAL
Président de la République
Présidence de la République
El Mouradia
Alger
Algérie

Fax: + 213 2 60 96 18

Salutation: Monsieur le Président/Dear President

M. Mohamed ADAMI
Ministre de la Justice
Ministère de la Justice
8 Place Bir Hakem
El-Biar, Alger
Algérie

Fax: +213 2 922 560

Salutation: Monsieur le Ministre/Dear Minister

M. Mustafa BENMANSOUR
Ministre de l'Intérieur
Ministère de l'Intérieur
18 rue Docteur Saâdane
Alger
Algérie

Fax: +213 2 736 106

Salutation: Monsieur le Ministre/Dear Minister

COPIES TO:

M. Kamel REZZAG-BARA
Président
Observatoire National des Droits de l'Homme (ONDH)
Palais du Peuple
1 Av. Franklin Roosevelt
Alger
Algérie
Fax.: +213 2 239 005 / 239 037

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 1 September 1997.