

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest of Mr. Rachid Mesli and the imminent risk that he may be extradited to Algeria.

Mr. Rachid Mesli is a lawyer, human rights defender and the co-founder and legal director of Alkarama. He is of Algerian and French nationalities.

Alkarama is a Geneva-based, independent human rights organisation established in 2004 to assist all those in the Arab World subjected to or at risk of extra-judicial executions, disappearances, torture and arbitrary detention.

According to the information received:

On 31 July 1996, Mr. Mesli was abducted from his car by members of the security forces in Algeria. He was detained incommunicado for over a week and was allegedly beaten and received death threats while in detention. Mr. Mesli was subsequently charged with belonging to a terrorist group. In 1997, he was acquitted of this charge and instead convicted of having "encouraged terrorism". Mr. Mesli was tried again in June 1999 and found guilty of belonging to a

“terrorist” group and sentenced to three years in prison. In July 1999, Mr. Mesli was released after a presidential pardon. Upon his release, due to fears for his life any safety and that of his family, Mr. Mesli fled to Switzerland where he obtained refugee status in 2000.

In 2002, Mr. Mesli was charged with "providing telephone information on terrorist groups' movements," as well as "attempting to supply terrorist groups with cameras and phones" by the Algerian authorities. These charges allegedly relate to his correspondence with victims of human rights violations in Algeria. On 17 March 2004, Mr. Mesli was sentenced in absentia to 20 years in prison by the Criminal Court of the Judicial Council of Algiers, under Articles 87bis and 87bis.a of the Algerian Criminal Code for “belonging to a terrorist group acting abroad.”

On 6 April 2002, an international arrest warrant (n° 192/02) was issued against him by the Examining Magistrate (juge d’instruction) of Sidi M’hamed Tribunal. This warrant was based on the charges of “belonging to a terrorist group acting abroad” and of being “in contact with terrorists in Algeria.” However, it is alleged that the Federal Police Office of Switzerland had not received a warrant for his arrest from Interpol.

On 19 August 2015, while travelling to Italy on vacation with his family, Mr. Mesli was arrested at the Swiss-Italian border post of the Great Saint-Bernard tunnel in the Aosta Valley. The Italian police allegedly checked their identities and thoroughly searched the car before contacting the French and Swiss police for a background check, which allegedly did not reveal any irregularities. The police also allegedly contacted Interpol and subsequently escorted Mr. Mesli to the police station of Aosta. The same evening, Mr. Mesli was arrested on the basis of the international arrest warrant from 2002. He was informed by the Commissioner of Aosta that the Tribunal of Turin would examine his case and he was subsequently detained in Aosta prison. On 22 August 2015, Mr. Mesli was released pending appearance before the Turin Court of Appeal.

On 25 August 2015, during his hearing, the judge informed Mr. Mesli that due to the international arrest warrant against him, the Algerian authorities would have 10 days to formally request his extradition. Allegedly, if the Algerian authorities do not make a formal request before Monday 31 August 2015, Mr. Mesli shall allegedly be released.

Grave concerns are expressed regarding the arrest of Mr. Mesli, the travel ban imposed on him and the risk that he may be extradited to Algeria and that this may be due to his peaceful and legitimate activities in promoting human rights in Algeria, exercising his legitimate rights to freedom of expression and freedom of association. Concerns are

also expressed regarding Mr. Mesli's physical safety and psychological well-being in the case that he would be extradited and detained in Algeria.

In connection with the above alleged facts and concerns, we would like to refer to your Excellency's Government to articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which Italy ratified on 15 September 1978 and which guarantees the rights to freedom of expression and association respectively.

We would furthermore like to draw the attention of your Excellency's Government to article 3 of the CAT, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. We would also like to refer to paragraph 9 of the General Comment No. 20 of the Human Rights Committee.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please indicate the grounds for the arrest of Mr. Mesli and the travel ban imposed on him and how these measures are compatible with international norms and standards as stated, inter alia, in the ICCPR.
3. Please provide information on any risk assessment carried out in relation to Mr. Mesli's situation in the case that he would be extradited and detained in Algeria, and how it is compatible with the aforementioned international human rights standards.

4. Please indicate which concrete measures are being taken by your Excellency's Government to fulfil its obligations under the principle of non-refoulement.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Michel Forst
Special Rapporteur on the situation of human rights defenders