

**BY (PRIORITY) AIRMAIL**

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Amsterdam, 9 November 2021

**Subject: ongoing pre-trial detention of Mr. Abderraouf Arslane**

Your Excellency,

The undersigned organisations are concerned about the ongoing pre-trial detention of Mr. Abderraouf Arslane on baseless charges that appear to be laid for the purpose of unlawfully criminalizing his legitimate activities as a lawyer. On 9 July 2021, we raised concern about his case in a [joint statement](#).

Mr. Arslane is a prominent lawyer at the Tébessa Bar and a representative of the Collective for the Defence of Hirak Detainees.<sup>1</sup> As part of his work, he defended peaceful activists and demonstrators and participated in online debates and discussions on human rights and political developments in Algeria.

According to our information, Mr. Arslane was arrested on 26 May 2021 while he was in court representing Hirak activist Aziz Bekakria. Mr. Arslane is at risk of a life sentence on charges of alleged “participation in a terrorist organisation” (Articles 87bis 2 and 87bis 3 of the Penal Code) and for “spreading false news that may undermine security and public order” (Article 196bis as amended in April 2020).

Mr. Arslane is currently in pre-trial detention, prosecuted in the same case as Mr. Bekakria and two other co-defendants, all of whom are Hirak activists. On 3 August 2021, the indictment chamber of the Court of Tébessa rejected his demand for provisional release. We have been informed that during his hearing in front of the investigative judge on 26 May 2021, Mr. Arslane was questioned about his relationship with Mr. Bekakria, about online videos in which he spoke on the Hirak movement and the repression by the authorities, and about an alleged affiliation to the Rachad movement, which he denied. The lack of credible evidence of terrorism activity leads us to believe that the prosecution is

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<sup>1</sup> The Collective for the Defence of Hirak Detainees was formed in July 2019 after the first wave of arrests of peaceful Hirak protesters and voluntarily defends those arbitrarily prosecuted. Several lawyer members of the Collective for the Defence of Hirak Detainees have faced judicial harassment and intimidation. In June 2021, the Collective for the Defence of Hirak Detainees was shortlisted for the 2021 Lawyers for Lawyers Award.

motivated by his work as a human rights lawyer, his long-time defence of Hirak activists, notably Mr. Bekakria, and the exercise of his right to freedom of expression. We are concerned that authorities are abusing these vague and overbroad articles of the Penal Code, especially Article 87bis defining terrorist acts, as amended on 8 June 2021, to curb the lawful exercise of the rights to freedom of expression, association, and peaceful assembly.

The undersigned organisations are deeply concerned that the ongoing arbitrary pre-trial detention and judicial harassment of Mr. Arslane is connected to, and serves to unlawfully curb his legitimate activities as an attorney.

We are also concerned that Mr. Arslane is being held in pre-trial detention illegally, without clear and reasonable motive. His detention appears to be in violation of the presumption of innocence, which requires that, defendants should normally be granted release pending trial. Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR) provides that: "It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial." In interpreting this provision, the U.N. Human Rights Committee has ruled that detention before trial should be used only to the extent it is lawful, reasonable, and necessary. Necessity is defined narrowly: "to prevent flight, interference with evidence or the recurrence of crime" or "where the person concerned constitutes a clear and serious threat to society which cannot be contained in any other manner."<sup>2</sup>

We draw your attention to the United Nations Basic Principles on the Role of Lawyers<sup>3</sup>, particularly Article 16 and 23, which state:

*16. Governments shall ensure that lawyers ( a ) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (...) and ( c ) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*

*23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.*

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<sup>2</sup> Hugo van Alphen v. the Netherlands (No. 305/1988) (July 23, 1990), Official Records of the General Assembly, Forty-fifth session, Supplement No. 40 (A/45/40), vol. II., annex IX, sect. M., para. 5.8.

<sup>3</sup> The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly "welcomed" the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly.

In view of the above, the undersigned organisations respectfully urge you to immediately:

- Release Abderraouf Arslane and drop all charges against him unless credible evidence is presented in proceedings that respect fair trial guarantees, and put an end to all acts of harassment against Abderraouf Arslane, including at the judicial level;
- Guarantee in all circumstances that all lawyers in Algeria are able to carry out their legitimate professional activities without fear of reprisals and free of all restrictions.

We thank you for your attention and consideration to this very important matter. We hope that the government of Algeria will give this case the attention it deserves. We will continue to monitor this case closely.

Yours sincerely,

- Algerian League for the Defence of Human Rights (LADDH)
- Cairo Institute for Human Rights Studies (CIHRS)
- International Bar Association's Human Rights Institute (IBAHRI)
- Justitia Center for Legal Protection of Human Rights in Algeria
- Lawyers for Lawyers
- Lawyers' Rights Watch Canada
- The Law Society of England and Wales
- UIA-IROL (the Institute for the Rule of Law of the International Association of Lawyers)

CC

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