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Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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M. Francois Fillon
Premier Ministre
Htel de Matignon
57, rue de Varenne
75700 Paris
FRANCE

Monsieur le Premier ministre,

Human Rights Watch is writing with respect to Mr. Mourad Dhina, an Algerian citizen whom French authorities have detained since January 16, 2012 while a court determines the legality of extraditing him to Algeria pursuant to an international arrest warrant issued by Algeria in 2003.

Under French law, an extradition of this nature requires the signature of the prime minister. We urge you not to sign such an order because by doing so, you would be sending Mr. Dhina to a country where he would be at risk of torture or of conviction on the basis of evidence obtained through torture. This would violate Frances legal obligations under articles 3 and 6 of the European Convention on Human Rights and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the Convention against Torture).

Mr. Dhina has resided since the early 1990s in Switzerland, where he and his wife have raised six children, five of whom are Swiss citizens and the sixth is a US citizen. He holds a doctorate in physics from the Massachusetts Institute of Technology (MIT) and has worked as a physicist at the European Center for Nuclear Research (CERN) in Geneva. Since a military-backed junta in Algeria halted elections and banned the Islamic Salvation Front (FIS) in 1992, Mr. Dhina has been active in opposition politics abroad, for part of the time as a senior FIS member. He applied for asylum in Switzerland in 1994 and has continued to live there legally while Swiss authorities examined his asylum demand.

Mr. Dhina is presently the executive director of the Alkarama Foundation, a Geneva-based rights organization with which Human Rights Watch sometimes collaborates on human rights initiatives in the Middle East and North Africa. Mr. Dhina is also a co-founder of Rachad, an opposition political organization whose stated purpose, according to its website, is to bring about in Algeria, through peaceful means, the rule of law regulated by democratic principles and good governance.

We are concerned that the real motive behind Algerias prosecution and attempted extradition of Mr. Dhina may be his human rights and opposition political activities conducted while living abroad, rather than Algerias possession of credible evidence that he committed any acts that would be recognized as crimes in a rights-respecting country.

In 1996 according to our information, an Algerian court convicted Mr. Dhina *in absentia* for serving in a terrorist organization operating abroad and sentenced him to twenty years in prison. The extradition materials submitted by Algeria also reportedly include a second *in absentia* conviction, from 2005. If returned to Algeria, Mr. Dhina would be subject to a new trial for any *in absentia* convictions, in addition to possibly facing new charges.

The Paris Court of Appeals order to detain Mr. Dhina specifies that the international arrest warrant issued by Algeria seeks his extradition for his supposed membership abroad in a terrorist group between 1997 and 1999 in Switzerland, pursuant to article 87b of Algerias penal code.

It is worth noting in this regard that Swiss authorities never prosecuted Mr. Dhina for anything, and in 2002 rejected a request that Algeria had submitted in 2001 for Mr. Dhinas extradition.

"We cannot accede to this demand for the simple reason that the alleged offenses are not punishable under Swiss law," a spokesperson for the Federal Justice Office, Folco Galli, was quoted as saying in *La Tribune de Genve* of October 11, 2002.

French authorities arrested Mr. Dhina as he was boarding a plane in Paris for Geneva on January 16. He has been held since that date in detention pending extradition and is currently in La Sant prison in Paris. Appearing before the investigating judge on February 15, Mr. Dhina stated that he would not return voluntarily to Algeria. The Cour dAppel de Paris has scheduled a hearing on the extradition request on March 21.

There is ample evidence of the practice of torture by Algerian security agencies, particularly of persons under interrogation who are suspected of committing security offenses, whether in Algeria or while living abroad. Amnesty Internationals report, Algeria: Unrestrained Powers: Torture by Algerias Military Security, published on July 9, 2006, states:

Torture and other ill-treatment in Algeria continue to be perpetrated with impunity in cases of arrests and detentions of individuals who are suspected of terrorist activities. This report is based on dozens of cases of torture or other ill-treatment by the DRS (Department for Information and Security, Dpartement du renseignement et de la securit), about which Amnesty International has received information in recent years. Those arrested come from a wide range of backgrounds. Some have been detained for alleged involvement with armed groups in Algeria, others were resident abroad and arrested on suspicion of involvement in international terrorist networks.

The UN Committee against Torture (CAT), in its concluding observations, dated May 26, 2008, on Algerias report to the committee, voiced concern about continuing reports of secret detention centers outside the control of the courts.

There also is a risk that information obtained under torture might be used against Mr. Dhina in Algerian courts. The CAT in 2008 voiced concern that the Algerian Code of Criminal Procedure does not explicitly prohibit the use of torture evidence in proceedings, as required under the Convention against Torture, and gives judges the discretion to evaluate confessions as with any evidence. The Committee noted it had received information that confessions obtained as a result of torture have been admitted in legal proceedings.

The CAT urged Algeria to grant permission for a visit by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, something that Algeria has refused to do since that special rapporteur first made such a request in 1997. We have learned that the special rapporteur has sent to France an Urgent Action about the possible extradition of Mr. Dhina to Algeria; we urge you to weigh it in your deliberations.

The Collectif des familles de disparu(e)s en Algrie (CFDA), a nongovernmental organization, submitted in April 2008 to the Committee against Torture an alternative report on torture in Algeria. The CFDA report contains interviews with several Algerians who describe being tortured while under interrogation between 2006 and 2008. The methods most frequently described are beatings and waterboarding (le chiffon).

The Supreme Court of the United Kingdom, in a ruling issued on March 7, 2012, in a case involving Algerians appealing a decision to deport them to Algeria, stated it has been common ground before [the Special Immigration Appeals Commission] in a number of cases that Algeria is a country where torture is systematically practised by the DRS (Information and Security Department) and that no DRS officer has ever been prosecuted for it. (*W (Algeria) (FC) and others v Secretary of State for the Home Department*, [2012] UKSC 8, paragraph 4.

In our view, the evidence supports our contention that if France were to send Mr. Dhina to Algeria, it would be violating the Convention against Torture, which states in article 3:

Human Rights Watch intends to observe the hearing of the Cour dAppel on March 21. It is our hope that the court will rule unfavorably on the extradition request. We also hope it will order Mr. Dhinas prompt release unless there is credible evidence that he may have committed acts that would be recognized as crimes in France.

Whatever the courts findings may be, we urge you to abide by Frances commitments under the Convention against Torture and the European Convention on Human Rights by refusing to sign any order to extradite him to Algeria.

We thank you for your consideration and remain at your disposal if you require further information.

Sincerely yours,

Jean-Marie Fardeau

France Director

Hugh Williamson

Executive Director

Europe and Central Asia Division

Sarah Leah Whitson

Executive Director

Middle East and North Africa Division

Bahrain Death Sentences Follow Torture, Sham Trials

Suspicious Killings and Extrajudicial Executions by Egyptian Security Forces

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