

Opinion No. 33/2008 (Algeria)

Communication addressed to the Government on 10 July 2008

Concerning Mr. Mohamed Rahmouni

The State is a party to the International Covenant on Civil and Political Rights.

1. (Same text as paragraph 1 of Opinion No. 17/2008.)
2. The Government has not provided the requested information on the case, although it was given the opportunity to comment.
3. (Same text as paragraph 3 of Opinion No. 17/2008.)
4. Mr. Mohamed Rahmouni, Algerian citizen, born on 12 November 1980, resident of Bourouba, Algiers, was arrested in Bourouba on 18 July 2007 at 7.30 a.m., while waiting for the bus on his way to work, by three law enforcement officers, in the presence of numerous witnesses. The three officers arresting him called him by his nickname, Samir, showed their official identification documents but not any arrest warrant and ordered him to follow them.
5. Six days later, on 24 July 2007, four agents, in civilian clothes and armed, proceeded with a search of the residence of the Rahmounis. On 29 July, 11 days after the arrest, the same agents showed up again at the residence and demanded of Mr. Rahmouni's brother and cousin, Ali and Fatah, to write a statement asserting that, during the search, the agents had found the keys to a Mercedes and to a JAC truck. However, the family owns no such vehicles.

6. Mr. Rahmouni was held for more than six months in solitary confinement and without any contact with the outside. His family had no information on the grounds for his arrest or his place of detention.
7. Mr. Rahmouni's mother decided to file a complaint with the Principal Prosecutor of the Court of Hussein Dey. He advised her to address herself to the Police Station of Bourouba, where the senior police officer refused to enter the complaint, stating that Mr. Rahmouni was in hiding. Mr. Rahmouni's family then lodged a complaint with the Principal Prosecutor of El Harrach and has since never ceased to seek remedies and make representations to institutional bodies, always in vain.
8. In November 2007, the Prosecutor of the Court of Hussein Dey reportedly assured the family that Mr. Rahmouni was held in the prison of Serkadji. They went there accompanied by their lawyer but it turned out that Mr. Rahmouni was not at that place.
9. Eventually, on 26 January 2008, the Blida military prison guards acknowledged that in fact Mr. Rahmouni was in that military facility. His mother was told that she would be able to exercise the right of access and visit him only after the end of the investigation but could bring food and clothes for him.
10. On 19 February 2008, Mr. Rahmouni's mother submitted complaints to the Minister of Defence, the Minister of Justice, the Commander of the First Military Region of Blida, and the Prosecutor of the military court of Blida in order to have her right of access respected. She was finally able to exercise that right on 20 May 2008. The military authorities then informed her that she could come back only one month later, although a sign at the entrance indicated that visits to the prisoners took place every 15 days. According to the source, this unjustified restriction of the right of access seriously affected the emotional condition of the prisoner and his mother.
11. In January 2008, during a conversation, an officer of the police station of Bourouba alleged to Mr. Rahmouni's mother that her son was involved in a case of acting against State security. Under the Military Justice Code, military courts have jurisdiction to judge civilians accused of such crimes.
12. A letter addressed on 4 May 2008 by the Ministry of Defence to Mr. Rahmouni's mother authorized Mr. Rahmouni's lawyer to visit his client. Despite that official letter, Rahmouni's counsel was refused access to the prison and has yet to be granted access even to Mr. Rahmouni's file, being thereby prevented from preparing his client's defence.
13. The source adds that, on her visit of 20 June 2008, Mr. Rahmouni's mother found him in a lamentable state: A number of wounds on his hand and face suggested that, while in prison, the detainee had been subjected to cruel, inhuman or degrading treatment.
14. Mr. Rahmouni has not been informed of the charges brought against him. Although a civilian, he will be judged by a military court lacking independence and answering directly to the executive.
15. Mr. Rahmouni has at no time been able to exercise his right to have a lawyer. According to the source, Mr. Rahmouni, in the eyes of the authorities and in violation of the principle of presumption of innocence, is already guilty.
16. The source concludes that Mr. Rahmouni must be held in a civilian prison and be judged by a civilian court in order to safeguard respect for his rights and the impartiality of the proceedings. Moreover, it has not been possible to judge Mr. Rahmouni after 11 months of detention, a period which is excessive under article 14 (3) (c) of the International Covenant on Civil and Political Rights.
17. According to the source, the situation of forced disappearance of this person for more than six months and the violation of his fundamental rights are sufficiently serious

and established to consider his detention as arbitrary and contrary to articles 7, 9 and 14 of the International Covenant on Civil and Political Rights.

18. By note verbale dated 14 July 2008, the Government acknowledged receipt of the communication and stated that it had been transmitted to the competent Algerian authorities, without taking further action. The Working Group transmitted a follow-up request for information by note verbale dated 3 November 2008 but has not yet received any response.

19. Consequently, pursuant to paragraph 16 of its methods of work, the Working Group may render an opinion, given that the time limit within which the Government should present its comments and observations has elapsed, and especially since the Government did not request any additional time or any postponement.

20. Moreover, the attitude in question suggests that the allegations made by the source are well founded. That means that Mr. Rahmouni was arrested on 18 July 2007 without a mandate; and was kept in solitary confinement for more than six months without any specific charges which would offer him an opportunity to defend himself, without the possibility to contest his detention, without a lawyer to ensure his defence and without being brought before a court.

21. Furthermore, despite his civilian status, Mr. Rahmouni is held in a military camp and will be judged by a military court.

22. All these elements, which moreover have been confirmed through information from other organizations and newspapers, must be regarded as reliable.

23. In light of the foregoing, the Working Group renders the following Opinion:

The detention of Mr. Mohamed Rahmouni is arbitrary, violating the provisions of articles 9, 10 and 11 of the Universal Declaration of Human Rights and of articles 9 and 14 of the International Covenant on Civil and Political Rights, and falls into categories I and III of the criteria used in considering cases submitted to the Working Group.

24. Consequent upon the Opinion rendered, the Working Group requests the Government of Algeria to take the necessary steps to remedy the situation of the person in question, in conformity with the standards and principles set forth in the International Covenant on Civil and Political Rights.

Adopted on 20 November 2008