

*(Translated from Arabic)*

## **Introduction**

The Algerian Government has received the communication dated 31 January 2017 from the following six special procedures mechanisms of the Human Rights Council:

- The Working Group on Arbitrary Detention;
- The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;
- The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
- The Special Rapporteur on the situation of human rights defenders;
- The Special Rapporteur on torture and other cruel inhuman and degrading treatment or punishment;

concerning the prosecution and conditions of detention of Kamal Eddine Fekhar.

In this regard, it should be noted that the Algerian Government is cooperating with the special procedures mechanisms of the Human Rights Council to clarify the facts and put events in their proper context far removed from any false and misleading allegations.

This is the course of action that the Algerian Government has consistently followed, as illustrated by its previous reply dated 11 January 2012 concerning the same person.

This time, however, Kamal Eddine Fekhar has resorted to consecutive and prolonged hunger strikes as a means to put pressure on the judicial authorities and attract national and international public attention, as a result of which his state of health has deteriorated to the extent that he has deliberately put his life in danger.

The allegations made and the questions asked are answered as follows:

### **1. The charges on which he is being prosecuted:**

In the course of the judicial investigations conducted in the wake of the disturbances that occurred in the town of Ghardaïa in July 2015, consisting in acts of violence, assault against persons, damage to property and terrorization of residents, several of whom lost their lives, a number of persons were arrested, including Kamal Eddine Fekhar who was found to be one of the principal organizers and instigators of those criminal acts. He was charged by the public prosecutor of Ghardaïa court on 15 July 2015 pursuant to a request to conduct a preliminary investigation into a criminal conspiracy involving the planning of assaults against persons and property, abetment in the commission of acts prejudicial to State security and national unity, disturbance of public order and incitement to bear arms, all of which constitute punishable acts under the Penal Code.

### **2. The judicial investigation and remand procedures:**

On 15 July 2015, after hearing the statements of the suspect, the investigating judge ordered his remand in custody, together with other suspects, in accordance with the Code of Criminal Procedure under which a suspect remanded in custody has the right to file an appeal against the remand order before the Indictments Chamber and petition for his release in accordance with the law.

On 14 February 2017, after the judicial investigation was concluded, the Indictments Chamber of Ghardaïa Judicial Council referred the case to the Criminal Court in compliance with the legally prescribed time limits for remand in custody.

On 22 February 2017, the accused filed an appeal in cassation through his lawyer, [REDACTED], in accordance with his legal right of appeal, and the case file is now being considered by a higher court.



**3. The accused person's situation inside the penal facility:**

Since his admission to the re-education and rehabilitation facility, the accused, like other inmates, has enjoyed the rights provided for in the Prisons and Social Reintegration of Prisoners Act including, in particular, the right to be treated in a manner that safeguards his human dignity, and he has not been subjected to any form of ill-treatment, physical violence or verbal abuse.

**4. The accused person's state of health:**

By law, all categories of detainees have a guaranteed right to health care and medical services within the penal or any other hospitalization facility and the accused has therefore benefited from appropriate health care since his remand in custody.

After beginning his hunger strike on 3 January 2017, he has been under medical surveillance and, on 15 January 2017, he was transferred to Al-Manee'a Hospital and, subsequently, to Laghouat University Hospital for further health care. His medical condition is currently stable.

**Conclusion:**

In the light of the above, it is evident that the legal procedures for prosecution, as specified in domestic legislation in a manner consistent with the binding international instruments that have been ratified by Algeria, were respected and observed at all stages of the proceedings during which they were overseen by the Public Prosecution and monitored by the National Defence Commission.

This is most clearly illustrated by the right of appeal in cassation, which was exercised by the accused and will lead to the adjournment of his trial by the criminal court until a decision on the appeal has been taken by a higher court.

Moreover, the accused receives periodic visits from his lawyers, his family members and his medical team.

Finally, we wish to reassure the Special Rapporteurs and members of the Working Group from whom this communication was received that the Algerian Government is always ready to cooperate with the Human Rights Council in a spirit of strict respect for domestic legislation and Algeria's international commitments in regard to the human rights to which they referred.

---