

NEZZAR CASE: VICTIMS APPEAL CASE DISMISSAL

The case against Khaled Nezzar was opened by the Office of the Attorney General (MPC) of Switzerland in 2011 for alleged war crimes. Five years later, however, the MPC concluded against all expectations that the alleged acts by the former Minister of Defense could not be considered as war crimes on the grounds that there was no war in Algeria when the facts occurred. TRIAL International, the NGO that filed a criminal complaint with Swiss authorities against Khaled Nezzar, believes this ruling is incomprehensible and supports the civil parties in their appeal before the Swiss Federal Criminal Court.

It took the arrest of the accused, several years of proceedings and numerous hearings of witnesses and victims for the MPC to consider that the classification of the crime did not, in the end, justify holding a judgment. A decision by the Federal Criminal Court (TPF) could, however, reset the case in motion.

"We have filed an appeal before the Federal Criminal Court in Bellinzona. It is indeed incomprehensible that the MPC has investigated for five years, questioned some fifteen witnesses and even went so far as to send an International Letter Rogatory to Algeria without ever questioning the existence of an armed conflict, before abruptly concluding that that was not the case", says **Pierre Bayenet**, one of the civil parties' attorney-at-law contacted by TRIAL International.

According to the NGO, ample evidence indicates that the numerous acts of torture reported by the victims were indeed committed by the army as part of a particularly deadly armed conflict. *"The "Black Decade" has resulted in 200,000 casualties and many sources illustrate the intensity of the combats between armed groups and the Algerian army after the coup d'état. In spite of that, there is a quasi-total impunity for these facts. It is high time this changes",* says **Philip Grant**, Director of TRIAL International.

Civil parties agree with this view: *"The reason why the case was dismissed is an insult to victims who were tortured during the dirty war. They have experienced that war in their flesh and denying its existence is a new form of violence towards them",* says **Damien Chervaz**, another attorney-at-law for the civil parties.

TRIAL International supports their appeal and hopes that the TPF confirms the existence of an armed conflict in Algeria at the time of the events. It will then be incumbent upon the MPC to rule on the charges against Khaled Nezzar for numerous acts of torture.

THE NEZZAR CASE AT A GLANCE

Khaled Nezzar was Minister of Defense and President of the High Council of State in Algeria from 1992 to 1994. In October 2011, following a criminal complaint filed by TRIAL International, he was taken into custody in Switzerland for having authorized or incited his subordinates to commit acts of torture, murder, extrajudicial executions, enforced disappearances and other acts constituting war crimes. He was released in exchange for promising to participate in subsequent proceedings.

BACKGROUND INFORMATION

The "Black Decade" in Algeria (1992-2000) caused between 60,000 and 200,000 deaths or disappearances. Human rights violations were widespread in the country and the use of torture was systematic. As head of the army and Number 1 in the regime, Khaled Nezzar could not have been unaware of his troops' actions. The impunity for these events is total. Nobody has ever been prosecuted, let alone sentenced, for these crimes in Algeria.

FACTS AND EVIDENCE

The evidence against the accused includes testimonies of victims and witnesses, among whom former members of the security forces calling him directly into question; reports from NGOs, the United Nations and the United States Department of State, stating the systematic practice of torture and other crimes committed by the regime.

CHRONOLOGY OF THE CASE

19 October 2011: Khaled Nezzar is reported to be present in Switzerland. In accordance with its mandate, TRIAL International files a criminal complaint with the Swiss Office of the Attorney General (MPC), which opens an investigation.

20 October 2011: Khaled Nezzar is taken into custody and questioned by the MPC until 21 October, before being released in exchange for promising to participate in subsequent proceedings.

January 2012: Khaled Nezzar files an appeal against the prosecution of his case, arguing that his position as Minister of Defense at the time protected him from criminal prosecution in Switzerland.

July 2012: The Swiss Federal Criminal Court makes a historical decision following the appeal and rejects Khaled Nezzar's claim, considering that immunity could not be invoked for international crimes (war crimes, crimes against humanity or genocide).

13 August 2014: The MPC sends a draft of an International Letter Rogatory to the Federal Office of Justice, but it was not forwarded to the Algerian authorities until 7 April 2015.

2011 to 2016: Five victims file a complaint and sixteen persons are heard in the proceedings.

November 2016: The MPC hears Khaled Nezzar once again.

January 2017: The MPC dismisses the case.

18 January 2017: The civil parties announce they will appeal the decision before the Federal Criminal Court.