



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Fourth periodic reports of States parties due in 2011**

**Algeria\***

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## Introduction

1. On 16 December 1966, the General Assembly adopted the International Covenant on Civil and Political Rights, which entered into force on 23 March 1976.
2. Algeria signed the Covenant on 10 December 1968 and ratified it on 12 September 1989. Algeria is also a party to the First Optional Protocol to the Covenant, which it ratified on 12 September 1989.
3. Algeria presented its initial report on 25 and 27 March 1992 and its third periodic report on 23 and 24 October 2007 at the ninety-first session of the Human Rights Committee.
4. When presenting its most recent report, the delegation of Algeria highlighted the progress that it had made, since submitting its second report, in strengthening democracy and building the rule of law through the reform of State institutions and education and the consolidation of democratic freedoms with reforms to the justice system.
5. Despite facing certain constraints related to the legacy of terrorism, Algeria has managed to achieve the reforms needed to ensure respect for human rights and fundamental freedoms.
6. Likewise, the state of emergency was lifted in February 2011, paving the way for a far-reaching programme of institutional, political and socioeconomic reforms fuelled by a genuine desire to extend democracy. This process culminated in a constitutional review that took place on 7 February 2016.
7. Four new laws relating to the electoral system, political parties, information and women's representation in elected assemblies have been adopted as part of the reform process and have already entered into force, as have new laws on associations, the incompatibility of mandates, the Wilaya (governorate) Code and the Commune Code.
8. The present report, submitted under article 40 of the Covenant, is in three parts:
  - The first part, entitled "general information", describes the country's current political structure and the framework for the promotion and protection of human rights
  - The second part contains responses to the recommendations made by the Human Rights Committee
  - The third part contains information on the substantive provisions of the Covenant in relation to which changes have occurred and also addresses some of the concerns expressed by the members of the Committee during the presentation of the previous periodic report

## Part I General information

9. Algeria has always worked to promote and protect human rights, which are enshrined in the various Constitutions of the State and given practical expression through a proactive policy on implementing the universal principles of human rights that takes into account the need for authenticity, modernity and the development of Algerian society.

### I. Land, people and indicators

10. Surface area: 2,381,741 km<sup>2</sup>; population: 40.2 million (2016); official languages: Arabic and Amazigh, as stipulated by the constitutional amendment of 7 February 2016; religion: Islam; currency: the Algerian dinar (DA); gross domestic product (GDP): US\$ 287.8 billion (2014); per capita income: US\$ 5,460 (2014); gross external debt: US\$ 4,872 billion (2014); unemployment rate: 9.9 per cent (2016); life expectancy (2015):

77.2 years on average (75.29 years for women and 77.9 years for men); infant mortality rate (2015): 20.98 per 1,000 live births on average (22.7 per 1,000 for boys and 19.18 per 1,000 for girls); maternal mortality rate: 63.9 maternal deaths per 100,000 births (2014); economic growth rate: 4.1 per cent (2014); inflation: 3.9 per cent (2014); school enrolment rate: 98 per cent (2014); age structure, per cent (General Population and Housing Census, 2008): under 5 years, 11.6 per cent; under 15 years, 16.8 per cent; between 15 and 59 years, 63.1 per cent; 60 years and above, 8.5 per cent.

## **II. General political structure**

11. Algeria is implementing a national plan intended to consolidate respect for the human rights guaranteed under the Constitution. The plan sets out a balanced policy in that regard and reaffirms the State's determination to consolidate individual freedoms and duties.

12. In that spirit, the State authorities are pressing ahead with plans for reform: the reform of the justice system is complete and an evaluation of the success of measures adopted in the areas of education, health and social protection is under way. Lastly, the status of women has improved, particularly since 2008, in that, as a result of increased institutional representation, women have become more involved in public life and society.

13. The human rights policy adopted by the Government has resulted in steady improvements to both the institutional and the judicial framework.

### **A. Institutional framework**

14. The institutional framework for the exercise of human rights in Algeria consists of both constitutional and non-constitutional mechanisms.

#### **Constitutional and advisory mechanisms**

15. Constitutional mechanisms are assured by political bodies and judicial and advisory institutions.

16. The 1989 Constitution, as amended in 1996, 2002, 2008 and 2016, enshrines the principle of the separation of powers between the executive, legislative and judicial branches.

17. The legislative branch is structured around the parliament, which is the State forum for democratic and pluralist expression. It holds the Government accountable for its actions and enacts legislation. Human rights issues are addressed by standing committees established by the parliament for that purpose.

18. Following the constitutional review of 28 November 1996, which created a bicameral parliament, the National People's Assembly became the first chamber of the parliament. The Assembly's 462 members, who represent a range of political views, are elected by direct universal suffrage in legislative elections.

19. The Council of the Nation is the second chamber of the parliament. It has 144 members. Two thirds of its members are indirectly elected by a college of the members of the people's communal and departmental assemblies, while the remaining third (48 members) are appointed by the President of the Republic.

20. An organic act on increasing the representation of women in local and national elected assemblies was promulgated in January 2012. The act enshrines a gradual transition by establishing quotas of between 20 and 50 per cent for the proportion of female candidates. The law also establishes that any electoral list that does not meet the legally established quota for female representation must be disallowed. This proactive policy for the advancement of women helped to raise the proportion of female parliamentarians to 31.6 per cent following the legislative elections of May 2012. As a result, Algeria has the highest representation of women in elected bodies of any country in North Africa and the Middle East.

21. Under the Constitution, the President of the Republic and the Prime Minister form the executive branch of the Algerian political system. The President of the Republic, as head of State, personifies the unity of the nation. He is elected by direct and secret universal suffrage for a five-year term that can be renewed only once. The Prime Minister, whose action plan is submitted to the National People's Assembly for approval, coordinates the work of the Government.

22. The executive branch has adopted various measures to realize its human rights policy, chief among which are the ratification of international human rights instruments and the strengthening of cooperation with regional and global human rights mechanisms.

23. The independence of the judiciary is enshrined in article 156 of the Constitution, which provides that: "The judiciary shall be independent. It shall operate within the framework of the law. The President of the Republic shall be the guarantor of the independence of the judiciary."

24. The Government of Algeria has established judicial mechanisms to guarantee citizens' rights and ensure the independence of the judiciary. The judicial system in Algeria consists of two levels of adjudication: courts of first instance and courts of appeal. The highest judicial authority is the Supreme Court, which is responsible, under the Constitution, for supervising the activities of the regular courts of law. The Supreme Court is also responsible for unifying jurisprudence throughout the country and ensuring compliance with the law.

25. The judicial system also includes the administrative judiciary, composed of the administrative courts and the Council of State, which is the body responsible for regulating the activities of the administrative courts.

26. The Court of Conflicts resolves conflicts of jurisdiction between the ordinary courts and the administrative courts.

27. Established pursuant to articles 182 to 191 of the Constitution, the Constitutional Council is an independent institution responsible for ensuring that the Constitution is upheld. The Council, which has 12 members, ensures that laws are consistent with the Constitution and, in particular, that constitutional rights and freedoms are respected. It also ensures that the will of the people, as expressed in referendums and presidential and parliamentary elections, is taken into account. Issues may be referred to the Council by the President of the Republic, the President of the Council of the Nation, the President of the National People's Assembly or the Prime Minister. Issues may also be referred to it by 50 members of the parliament or 30 members of the Council of the Nation.

28. The National Human Rights Council, which is provided for under articles 198 and 199 of the Constitution and was established by Act No. 16-13 of 3 November 2016, is an independent agency attached to the Office of the President of the Republic and is responsible for safeguarding the Constitution.

29. It has a legal personality and financial and administrative autonomy. It works to promote and protect human rights and is responsible for carrying out monitoring activities, issuing early warnings and making human rights assessments.

30. The Council has 38 members and its Chair is elected by his or her peers for a four-year term that can be renewed only once. The Council was established to replace the National Advisory Commission for the Promotion and Protection of Human Rights, taking into account the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). In this capacity, the Council examines all violations of human rights and takes any action that is appropriate. It also carries out awareness-raising, information-sharing and public relations activities to promote human rights and provides advice on how national legislation can be improved. The Council produces an annual report on the state of human rights for submission to the President of the Republic, the parliament and the Prime Minister. This report is made public.

**Non-constitutional mechanisms**

31. Non-constitutional mechanisms, which are provided for under subconstitutional legislation, promote the exercise of human rights.

32. The freedoms of opinion and expression are essential for monitoring and protecting human rights and provide a counterbalance (Constitution, arts. 42 and 48). These freedoms are guaranteed by the Information Act No. 12-05.

33. The Constitution of Algeria accords an important place to freedom of association in the defence of human rights. Freedom of association, which is protected under article 48, includes the protection of specific rights such as the rights of women, children, the sick, persons with disabilities, older persons, consumers and users of public services. The Associations Act No. 12-06 of 12 January 2012 establishes the legal framework guaranteeing the right of association.

34. Lastly, the modalities for exercising trade union rights are set out in Act No. 90-14 of 2 June 1990, as amended and supplemented by Act No. 91-30 of 21 December 1991 and Ordinance No. 96-12 of 10 June 1996. There are 66 trade union organizations for salaried employees and 35 employers' associations, including 4 confederations, that protect sector-specific or professional rights.

**B. Legal framework and practical measures**

35. The legal framework for the exercise of human rights in Algeria is provided by the Constitution, international treaties, acts and legislation.

36. Chapter IV of the 1996 Constitution, as amended in 2008 and 2016, is devoted to rights and freedoms.

37. The rights and freedoms set out in this chapter are accorded the status of constitutional principles. These principles also form part of the international human rights treaties to which Algeria is a party.

38. Under the terms of a Constitutional Council decision dated 20 August 1989, the country's international commitments prevail over domestic law. This decision upholds the constitutional principle that duly ratified international treaties take precedence over domestic law. Article 150 of the Constitution stipulates that: "Treaties ratified by the President of the Republic, in the circumstances provided for by the Constitution, shall take precedence over the law."

39. Algeria has acceded to the majority of human rights treaties. It reports regularly to the bodies of the United Nations, the African Union and the League of Arab States created under international human rights instruments on its progress in meeting its international human rights obligations. It maintains cooperative relations with organizations of the United Nations system, the international humanitarian movement and the community of non-governmental organizations (NGOs).

40. The annual celebration of Human Rights Day, International Women's Day, the International Day of the Child, the International Day of Families, the International Day of Older Persons, the Day of the African Child and the International Day of Persons with Disabilities provides a fresh opportunity to inform the public, through organized events, about the different international human rights instruments to which Algeria is a party. It also provides an opportunity to gauge the effect of measures taken by the State authorities and to learn how they can be implemented more effectively.

41. As regards human rights education, primary schools ensure that pupils are introduced to human rights treaties through the curricula and the textbooks provided for several subjects, including civics, Islamic education, languages, history and geography. Human rights are taught on the basis of universal texts — the Universal Declaration of Human Rights and other international treaties — and posters or articles of particular conventions, which are distributed for use as teaching aids to all schools throughout the country.

42. Human rights modules are also an integral part of the curricula used by the Judicial Training School, the Police Training School, the National Prison Administration Training School and gendarmerie training schools.

43. The texts of the international and regional human rights treaties ratified by Algeria can be consulted on the website of the Ministry of Justice ([www.mjustice.dz](http://www.mjustice.dz)). A compendium of the principal international legal instruments is available free of charge to judges, who also receive training in civil liberties and human rights in Algeria and abroad.

44. In addition to the Constitution, a number of other laws now in place, including organic laws, promote the democratization of public life in Algeria.

45. The Political Parties Act No. 12-04 of 12 January 2012 is designed to reinforce democratic pluralism, strengthen the provisions governing the creation of political parties and their relations with the Government and encourage transparency in the management of political party finances and disputes or conflicts between the Government and approved political parties.

46. The Associations Act No. 12-06 of 12 January 2012, is designed to strengthen freedom of association, regulate the activities of associations in a more precise manner and rectify any legal loopholes in existing provisions relating, in particular, to foundations, mutual societies and foreign associations established in Algeria. To further consolidate the right of association, the Act requires the Government to decide on requests for approval within a specific time frame.

47. The Information Act No. 12-05 of 12 January 2012 addresses the new needs of citizens and society that are evolving in this new environment. The Act strengthens the citizen's right to information and freedom of expression, with due respect for diversity of opinions.

48. Significant attention is paid to the promotion and protection of human rights. Thus, many laws have been adopted to strengthen and clarify the legal framework for human rights. These laws address the situation of women, children, persons with disabilities and other protected groups.

## **Part II**

### **Replies to the recommendations contained in the Committee's concluding observations**

#### **Recommendation contained in paragraph 6**

49. In ratifying all the international human rights instruments, Algeria has committed itself to implementing their provisions with a view to ensuring that they are fully effective.

50. The legal basis for this statement is article 150 of the Constitution of 7 February 2016 and Decision No. 1-DL-CC-89 on electoral matters issued by the Constitutional Council on 20 August 1989.

51. Algeria embraced pluralism in the areas of politics, trade unionism and the media in 1989. On the basis of ratifications carried out since that time, it has reviewed national laws on the establishment and functioning of political parties, associations, media organizations, trade unions and all bodies that promote the freedom of opinion and expression, peaceful protest and the right to strike.

52. Algerian courts have invoked international treaties on many occasions in reaching their decisions.

53. On 11 June 2011, an Algerian judge of the Court of Constantine, the capital of eastern Algeria, based his decision on article 7 of the African Charter on Human and People's Rights in a case of false accusation.

54. To take another example, Act No. 08-09 of 25 February 2008 on the Code of Civil and Administrative Procedure, which entered into force in 2009, repealed the provisions

relating to enforcement by committal. Algerian legislation is thus in full compliance with the provisions of article 11 of the Covenant.

### **Recommendations contained in paragraphs 7, 8 and 13**

55. The question of the implementation of the Charter for Peace and National Reconciliation was discussed at length during the interactive dialogue with the Algerian delegation during the consideration of the most recent report.

56. The delegation stressed that, under Algerian law, it was not lawful to pardon, commute the sentence of or terminate the prosecution of persons guilty of rape, torture, bomb attacks in public places, premeditated murder or abduction.

57. The Charter states that, except in the case of law enforcement officials and all persons engaged in counter-terrorism operations acting in the performance of their duties, the courts can try cases involving criminal acts or address any allegations of human rights violations and deal with them appropriately.

58. Individuals therefore have the right of appeal if the alleged acts took place not in connection with public order and security or counter-terrorism operations.

59. The Charter for Peace and National Reconciliation was adopted by the parliament and submitted to referendum. Therefore, it could be amended only through the same procedure. This is a democratic decision that cannot be amended either by the Government or by any other national or international body.

60. The Government is unaware of any cases involving the possible prosecution, under article 46 of the Charter, of a citizen or citizens resident in Algeria or abroad and the Committee has not provided the names of any individuals in that connection.

### **Recommendation contained in paragraph 9**

61. The Government has cooperated with the Committee in good faith in relation to communications submitted under the Optional Protocol. The Government considers that it has provided the relevant information on the cases concerned.

62. The Government submitted comprehensive notes on all the allegations made under the Optional Protocol, in which it highlighted the context of terrorist crime in which the alleged cases of enforced disappearance took place.

### **Recommendation contained in paragraph 10**

63. The National Advisory Commission for the Promotion and Protection of Human Rights prepares, publishes and disseminates widely all its annual reports and reports on specific issues.

64. During the Commission's 2007-2015 term of office, eight annual reports were published. These reports are posted on the Commission's website and are available to anyone on request. Copies are sent to the National Institutions, Regional Mechanisms and Civil Society Section of the Office of the United Nations High Commissioner for Human Rights, the Global Alliance of National Human Rights Institutions and the African Commission on Human and Peoples' Rights.

65. The Commission also contributes to the follow-up to recommendations addressed by the treaty bodies to the Government of Algeria.

66. Three follow-up committees were established between 2010 and 2014. These committees monitor the implementation of the following conventions:

- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities
- Convention on the Elimination of All Forms of Discrimination against Women



67. In its 2012 report, the Commission published the recommendations addressed to the Government of Algeria following the consideration of its second report during the second cycle of the universal periodic review of the Human Rights Council.

68. As part of its social advocacy and communication activities, the Commission has also organized several training sessions, symposiums and events relating to the freedoms set out in the Covenant. These include the following:

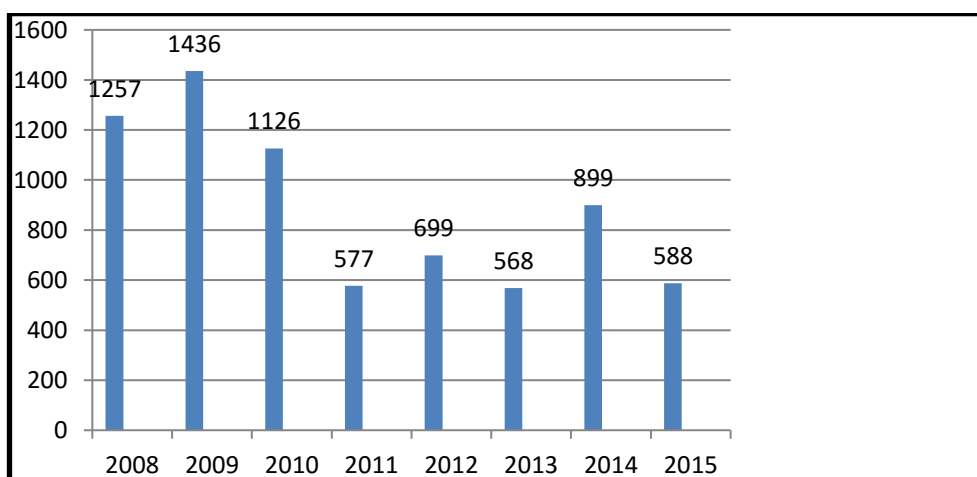
- A training session on persons deprived of liberty
- A workshop on the death penalty
- A workshop on raising awareness of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- An international conference on the protection of migrants
- Training sessions on mechanisms for the protection of human rights

69. The Commission hosted the seventh meeting of the Arab-European Human Rights Dialogue from 9 to 11 October 2012 and the fourth meeting of the Arab Network of National Human Rights Institutions.

70. Under its mandate to act as a national mediator, the Commission receives requests from citizens to petition various services and bodies, as shown in the following table (2008-2015):

<i>Year</i>	<i>Number of requests registered and processed</i>
2008	1 257
2009	1 436
2010	1 126
2011	577
2012	699
2013	568
2014	899
2015	588

**Number of requests per year**



71. These figures and events demonstrate the Commission's commitment to protecting the civil and political rights of all persons, irrespective of the circumstances. The Commission also prohibits any form of discrimination between citizens and promotes the principle of equality for all.

**Recommendation contained in paragraph 11**

72. It should be stressed that there are no places of detention that lie outside the reach of the law. All places of detention, whether they are police custody facilities or prisons, are identified and listed. Prisons are under the direct authority of the Directorate General for Prisons and Rehabilitation, which reports to the Ministry of Justice.

73. These places are subject to the control of the competent civil or military public prosecutors and are regularly inspected by those bodies.

74. The National Security Service and the National Gendarmerie both make use of custody facilities. They are run by authorized officials to whom the law has granted the status of judicial police officers, with all the consequences that this may entail for them in terms of disciplinary and criminal liability in the event of violations of the law or prosecution.

**Recommendation contained in paragraph 12**

75. The implementation of the Charter for Peace and National Reconciliation has made it possible to find solutions to the painful problem of the alleged cases of disappearance that occurred during the national tragedy. The implementation in question came about as a result of the voluntary participation of families of alleged missing persons, who have received appropriate compensation and social care.

76. For some years now, Algeria has engaged in a constructive dialogue with the Working Group on Enforced or Involuntary Disappearances in order to definitively clear up alleged cases of disappearance. In this connection, the Government issued an invitation to the Working Group in December 2013. The practical arrangements for the Working Group's visit are under consideration.

**Recommendation contained in paragraph 13****Summary of processing of cases of alleged disappearances raised by the Human Rights Council Working Group on Enforced or Involuntary Disappearances, as of 30 June 2016**

<i>Category</i>	<i>Stage of processing</i>	<i>Total</i>
Deceased: armed members of terrorist groups neutralized in the course of counter-terrorist operations	• Compensated	182
	• Lack of legal entitlement to compensation	9
	• Already compensated for another deceased family member	9
	• Pending claims	1
	• Incomplete compensation claims, pending	8
	• Compensation claims not yet filed by the persons entitled	60
	<b>• Total</b>	<b>269</b>
Disappeared	• Declared deceased by persons entitled who have been compensated	1 854
	• No one legally entitled to claim compensation	38
	• Pending claims	4
	• Incomplete compensation claims, pending	11
	• Compensation claims not yet filed by the persons entitled	86
	<b>• Total</b>	<b>1 993</b>
Unidentified persons	• Lack of specific details required for identification and processing	121
	• Unsuccessful searches	180
	<b>• Total</b>	<b>301</b>

<i>Category</i>	<i>Stage of processing</i>	<i>Total</i>
Not linked to the national tragedy	• Disappearances not linked to the national tragedy	42
Victim of terrorism	• Victims of terrorism	20
	• In their homes	9
Alive	• Alive	8
	• Wanted terrorists	131
	• <b>Total</b>	<b>148</b>
<b>Total</b>		<b>2 773</b>

NB: There are 110 cases in which work was duplicated or even triplicated.

#### **Recommendation contained in paragraph 14**

77. On 23 February 2011, Algeria lifted the state of emergency as part of an extensive process of political reforms that started at the beginning of that year. The lifting of the state of emergency was formalized by Ordinance No. 11-01 of 23 February 2011 on the lifting of the state of emergency.

#### **Recommendation contained in paragraph 15**

78. A small number of cases of ill-treatment have been reported to the public prosecutor and investigated and the perpetrators of the acts concerned have been prosecuted.

79. Furthermore, there are no grounds for having such situations investigated by an independent authority, as requested by the Committee, since that would be to call into question the integrity and impartiality of the public prosecutors responsible for monitoring conditions of police custody.

80. The public prosecution service is the guarantor of the fundamental rights of the citizen under article 157 of the Constitution and there are no grounds for replacing it with another authority that would carry out its duties in its place.

81. In that connection, and to underline once again the authority of the prosecutor's office over the judicial police, three ministerial directives have been issued by the Ministry of Justice to the chief prosecutors:

- The first, issued on 19 April 2008, requested them to investigate any misconduct of which they became aware during a preliminary investigation
- The second, issued on 7 December 2009, asked them to ensure that medical certificates drawn up by doctors for persons in police custody were validated and sent to the public prosecutor in a confidential manner
- The third, issued on 21 August 2014, illustrates the hierarchical relations between the judicial authority and the judicial police. The directive requested that chief prosecutors ensure, with all due rigour, that judicial police officers comply with their obligations and duties under the law, including those relating to conditions of custody. To this end, chief prosecutors were requested to prosecute judicial police officers suspected of misconduct in the areas of police custody or violation of citizens' privacy by monitoring their correspondence, telephone conversations or electronic data or restricting their freedom of movement

#### **Inspections of custody facilities**

<i>Authority</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Public prosecutors	9 331	9 679	9 766

**Inspections of prisons**

<i>Authority</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Public prosecutors	2 018	147	219
Inspector General		10 355	6 156
International Committee of the Red Cross	16	13	12
NGOs	331	1 757	2 395

82. Under a memorandum of understanding signed with the Ministry of Justice, the International Committee of the Red Cross has carried out over 260 visits to 85 prisons since 2001. Records of these visits have been compiled in the form of reports accompanied by recommendations, some of which have been integrated into the framework of the reform of the judicial system.

83. Closed prisons are accessible to civil society. Regular visits are conducted by the National Advisory Commission for the Promotion and Protection of Human Rights, Algerian and foreign NGOs, ambassadors accredited in Algeria, experts from the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) and representatives of the prison administrations of a number of countries, including Belgium, France, Italy and the United Kingdom.

**Recommendation contained in paragraph 16**

84. Under Algerian law, the offences punishable by death are:

- The crimes of treason and espionage (Criminal Code, art. 61 et seq.)
- Attacks or plots against the authority of the State and the integrity of the national territory (Criminal Code, art. 77 et seq.)
- Terrorist crimes (Criminal Code, art. 87 bis et seq.)
- The organization of an insurrectionist movement (Criminal Code, art. 90)
- Premeditated murder (Criminal Code, art. 261)
- The murder of a child by his or her parents or by any other person having authority or custody over him or her (Criminal Code, art. 274)
- Arson resulting in death (Criminal Code, art. 399)
- The destruction by the use of mines or explosive devices of built public infrastructure, such as bridges or dams (Criminal Code, art. 401)

85. It should be noted that Algeria has observed a moratorium on the death penalty since 1993 and is a sponsor of the resolution annually adopted on the subject by the General Assembly of the United Nations.

**Recommendation contained in paragraph 17**

86. In the absence of a universally accepted definition, the Algerian parliament has adopted a definition based on the laws of several other countries.

87. The law criminalizes any act directed against State security, territorial integrity and the stability and normal functioning of institutions by means of an attack on the right to life, the fundamental freedoms of citizens or the security of public and private property.

88. Thus, for an act to be classified as a terrorist offence, the perpetrator must have committed a particular act (for example, premeditated murder) for a particular purpose (for example, to undermine institutional stability). The objective of the perpetrator and the means that he or she uses to achieve that objective are therefore taken into consideration.

89. It should be noted that Algeria has long advocated that the international community should establish a universal, consensual definition of terrorism.

### **Recommendation contained in paragraph 18**

90. If there is reliable and consistent evidence against a person sufficient to justify bringing charges, the judicial police may hold that person for 48 hours before he or she is brought before a judge. This period may, subject to the written authorization of the public prosecutor, be extended under article 51 of the Code of Criminal Procedure.

91. This exceptional extension is dependent on the nature of the offences concerned. Since, in many cases, they are organized, and even transnational, time is needed to trace and dismantle organized networks that are sometimes highly complex.

92. In 2015, several measures to strengthen the rights of persons in police custody were taken by the Algerian parliament. These measures include the following:

- Improvements introduced through the Code of Criminal Procedure (Ordinance No. 15-02 of 23 July 2015)
- Interpreter services are available for foreign (or even Algerian) nationals in police custody
- Persons in police custody have the right to make immediate contact with a person chosen from among their parents, grandparents, descendants, brothers, sisters or spouse
- Persons in police custody may contact their lawyers by telephone and receive visits from them in a secure place where the interview can be held in secrecy in the presence of a judicial police officer
- Foreign persons in custody have the right to contact their employer and/or the diplomatic or consular representatives of the State of which they are nationals
- Changes introduced by the Child Protection Act No. 15-12 of 15 July 2015
- A psychologist may be present at hearings involving children
- Children under 13 years of age who are suspected of having committed or attempting to commit an offence may not be placed in police custody
- Children may not be held in police custody for more than 24 hours
- Children placed in police custody must, at the start and end of their custody period, be examined by a physician approved by the court who is appointed by their legal representative or, if necessary, by a judicial police officer
- Medical certificates must be placed in the case file, failing which the proceedings are declared invalid
- Premises used for police custody must be appropriate and consistent with human dignity and the particular characteristics and needs of the child concerned. Such premises must also be separate from facilities intended for adults.
- The public prosecutor and the juvenile judge who have territorial jurisdiction must visit designated places of police custody on a regular basis and not less than once a month

93. In all circumstances, the rights and dignity of persons in police custody are fully guaranteed.

94. Such persons are, moreover, given a medical examination conducted by a physician of their choice or, failing that, by a court-appointed physician.

### **Recommendation contained in paragraph 19**

95. The use of torture to extract a confession is a serious offence punishable by 10 to 20 years' imprisonment. Once torture has been proved and the perpetrator identified, it goes without saying that a confession obtained by violence cannot be admitted in the victim's trial.

96. At the same time, it should be noted that the records of the preliminary investigation drawn up by judicial police officers have no probative value and serve only as information for the trial of the accused. This means that judges are bound neither by the contents of the record nor by the confession of the accused. Irrespective of whether a confession was made voluntarily or under duress, judges are not obliged to admit it and the accused may retract it at any time.

97. With the scientific and technological resources now available to the security services, less and less use is made of confessions as evidence.

#### **Recommendation contained in paragraph 20**

98. Since it was reviewed in 2005, the Family Code has strengthened the rights of women through the following new provisions:

- Marriage is entered into as a consensual contract requiring the consent of both parties. Article 19 of the Family Code provides that either spouse may introduce any clause into that contract that he or she deems appropriate, including references to such issues as polygamy or the wife's employment. The marriage is declared void if the consent of one of the spouses is invalidated
- The legal age of marriage is 19 years for both women and men
- A woman enters into marriage in the presence of her guardian (*wali*). The *wali* may be any person of her choice. Obviously, he cannot force a woman into a marriage or oppose her choice
- The spouses have the same rights and the same obligations, as set out in the Family Code
- The spouses must consult each other with regard to the management of family affairs and the spacing of their children's births
- Strict conditions have been imposed on polygamy. Article 8 of the Family Code stipulates that polygamy is possible only with the authorization of a judge, who must establish that the prior consent of the previous and future wives has been given, that the husband's motives are justified, that the conditions for the wives are equitable and that the conditions necessary for married life are met
- The grounds on which a wife may sue for divorce have been broadened to include, inter alia, the violation of the clauses contained in the marriage contract
- While a husband can separate from his wife unilaterally, she may also do so without having to submit any kind of claim, using the procedure known as *khula*
- In the event of divorce, the right of guardianship of the children in the mother's care is granted to the mother
- In the event of divorce, the husband is obliged to provide decent housing or, failing that, rental payments for the children whose custody is granted to the mother

99. To strengthen the legislative framework in the area of women's rights and to complement the laws enacted to combat all forms of discrimination, a series of amendments to the Criminal Code provide for the specific protection of women against any physical, verbal, sexual and economic violence to which they may be subject because of their social, family or occupational status. The amendments in question mainly concern domestic violence in its various forms and sexual violence in public or private environments, including the home.

100. Since the submission of its third periodic report, constitutional, legislative and practical measures have been taken by the Government of Algeria to further promote and protect women. These measures include:

- The amendment of the Family Code
- The criminalization of sexual harassment
- The transmission of the mother's nationality

- The establishment of a maintenance fund for divorced women in distress
- The introduction of a new article (31 bis) in the Constitution during the constitutional review that took place in 2008, according to which the State undertook to “seek to promote the political rights of women by increasing their opportunities for access to representation in elected assemblies”
- The promulgation of Organic Act No. 12-03 of 12 January 2012 establishing the procedures for increasing women’s opportunities for access to representation in elected assemblies, in accordance with the provisions of the new article 31 bis of the Constitution
- The introduction of new provisions in two new organic laws — the Electoral System Act No. 12-01 of 12 January 2012 and the Political Parties Act No. 12-04 of 12 January 2012 — in order to further promote the presence and visibility of women in political parties

101. The above-mentioned measures were implemented in the two elections that have been held, namely the legislative elections of 10 May 2012 and the local elections of 29 November 2012, following which the number of women in elected assemblies (the National People’s Assembly, the wilaya people’s assemblies and the communal people’s assemblies) and within political parties increased appreciably.

102. Lastly, article 36 of the revised Constitution of 7 February 2016 stipulates: “The State shall work to promote parity between men and women in the labour market.” The State encourages the promotion of women to positions of responsibility in public institutions and authorities and in private companies.

#### **Recommendation contained in paragraph 21**

103. The law defines and punishes the following types of abuse against women as acts of a violent nature:

- Physical abuse classed as striking and wounding, actions causing mutilation or disability, murder, manslaughter, premeditated murder, poisoning, incest and acts of violence that are not solely gender-related; sexual abuse classed as rape, indecent assault or pimping
- Verbal and emotional abuse classed as blackmail, insults and sexual harassment

104. These types of violence can be classified according to where they are committed: in the home, in the workplace or in the social environment.

105. In addition to the provisions already set out in the Criminal Code, and with a view to harmonizing Algerian legislation with international legal instruments, Algeria has ratified the following four international instruments: the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) and the African Charter on the Rights and Welfare of the Child.

106. Moreover, pursuant to the United Nations Convention against Transnational Organized Crime, particularly its first two additional protocols, the offences of trafficking in persons and smuggling of migrants are now punishable under the Criminal Code. The Government of Algeria is also addressing all other matters concerning women and children, including forced marriage and forced labour.

#### **Recommendation contained in paragraph 22**

107. Algeria ratified the Convention relating to the Status of Refugees of 28 July 1951 through Decree No. 63-274 of 25 July 1963, which laid down the procedures for the implementation of the Convention.

108. With regard to the expulsion of refugees, it should be noted that refugees who are lawfully established in the national territory can be expelled only on grounds of public order or national security.

109. Similarly, expulsion decisions can be implemented against refugees only in accordance with the conditions and procedures prescribed in the Convention. A bill on asylum is in the process of being drafted.

### **Recommendation contained in paragraph 23**

110. Freedom of worship is guaranteed by article 36 of the Constitution, the international legal instruments ratified by Algeria, Ordinance No. 06-02 bis of 28 February 2006, concerning the conditions and rules governing the practice of religions other than Islam, which is a legislative text, and the Criminal Code.

111. The Criminal Code prohibits and imposes prison terms and fines for “any act of defamation committed against one or more members of an ethnic group or adherents of a specific philosophy or specific religion that is intended to stir up hatred between citizens or inhabitants” (art. 298).

112. It also prohibits and establishes prison terms and fines for “any insult levelled against one or more members of an ethnic group or adherents of a specific philosophy or specific religion that is intended to stir up hatred between citizens or inhabitants” (art. 298 bis).

113. The Algerian State, whose religion is Islam, guarantees freedom of worship consistent with respect for the Constitution and the laws and regulations in force that are applicable to all religions.

114. For Muslims, these are the provisions of Executive Decree No. 91-81 of 23 March 1991 on the construction, organization and functioning of mosques and Decree No. 94-432 of 10 December 1994, setting out the conditions for the establishment, organization and operation of Koranic schools.

115. For non-Muslims, they are the provisions of Ordinance No. 06-02 bis of 28 February 2006, establishing the conditions and rules governing the practice of religions other than Islam, and those of Decree No. 07-135 of 19 May 2007 and Decree No. 07-158 of 27 May 2007, which establish, respectively, the conditions and requirements for the holding of religious ceremonies of religions other than Islam and the composition and functioning of the National Commission on Non-Muslim Religions.

116. In addition, a number of rights and guarantees related to freedom of religion are enshrined in national law, including the recognition of religious festivals, the status of ministers of religion, protection under criminal law, civil status, personal status, the right of detainees to fulfil their religious obligations and to be visited by a minister representing their religion and, lastly, the protection of the administrative courts.

117. Ordinance No. 06-02 bis on the conditions governing the practice of religions other than Islam is an instrument that is suited to modern requirements, respecting individual rights and preserving social cohesion.

118. The Ordinance, which reinforces the constitutional principle described above, reflects the genuine will of the public authorities to recognize all religions, demonstrating tolerance and respect towards them.

119. Ordinance thus guarantees “freedom of religious practice consistent with respect for the provisions of the Constitution, the present Ordinance, the laws and regulations currently in force, public order, good morals and the fundamental rights and freedoms of third parties” and also “tolerance and respect between the different religions” and “State protection” for associations of religions other than Islam (arts. 2 and 3).

120. Furthermore, it “prohibits the use of religious affiliation as a justification for discrimination against any individual or group of individuals” (art. 4). The Ordinance is equally applicable to nationals and foreigners, irrespective of their religion. They must comply with it or risk incurring the sanctions prescribed by law.



**Recommendation contained in paragraph 24**

121. The Information Act No. 12-05 is in line with international standards, in that it provides for:

- Right to information (art. 1)
- Freedom of the press (art. 1)
- Freedom to practise journalism (art. 2)
- Right of access to sources of information (arts. 83-84)
- Professional secrecy (art. 85)
- Establishment of the Higher Council of Ethics and Standards of Conduct (art. 94)
- Decriminalization of press offences
- Requirement for the training and professional development of journalists
- Social protection for media professionals
- Establishment of a regulatory authority for the print media (art. 40)
- Establishment of a regulatory authority for audiovisual activities (art. 64)
- Creation of a special status for journalists

(for details, see article 19)

**Recommendation contained in paragraph 25**

122. In terms of legislation, the work of human rights defenders in Algeria is mainly governed by article 39 of the Constitution, which states that “the individual or collective defence of fundamental human rights and individual and collective freedoms is guaranteed”.

123. Specific organic and ordinary laws also exist, a non-exhaustive list of which is below:

- Political Parties Act No. 12-04 of 12 January 2012
- Associations Act No. 12-06 of 12 January 2012, which allows an authorized association to litigate and undertake any proceedings before the competent courts in respect of acts related to its purpose that have harmed the interests of the association and the individual and collective interests of its members
- Public Meetings and Demonstrations Act
- Legal Profession Act, which provides guarantees for lawyers as regards the inviolability of the lawyer’s office, absolute protection for client confidentiality, a guarantee of the confidentiality of correspondence and records, and protection from any charge of contempt, which is similar to the offence of contempt of court punishable under article 144 of the Criminal Code

124. Human rights defenders who engage in legitimate activities, whether acting alone or as part of an association or organization, enjoy the protection of the law when facing legal proceedings or prosecution.

125. The law gives them the opportunity to claim civil damages and/or resort to the criminal justice system if they are the victims of false accusations or defamation. They can seek legal remedies just as any other citizen can.

**Recommendation contained in paragraph 26**

126. Algeria, sexual relations between persons of the same sex are a criminal offence. Cases of this kind are very rare.

127. This provision is based on sociological considerations, since Algerian society disapproves of relationships of this nature.

128. The provision, which dates from 1966, has been maintained to date as a reflection of the moral, religious and social values to which Algerian society is firmly committed and which all its members share.

129. The Government of Algeria does not intend to repeal the legislation criminalizing such practices.

### **Part III**

## **Implementation of the provisions of the Covenant**

### **Article 1**

#### **Right of all peoples to self-determination and to the use of their natural wealth and resources**

130. The Government's commitment to helping peoples under occupation to regain their freedom is rooted in the history of its own people, who suffered greatly as a result of colonization. As soon as it had re-established its independence, Algeria threw its weight behind the efforts of the international community to help all occupied territories to cast off the yoke of colonialism and all that it entails, namely denial of human rights, cultural dispossession and exploitation.

131. Algeria has repeatedly called for the effective implementation of General Assembly resolution 1514 (XV) of 14 December 1960. Implementing this resolution should put an end to colonialism, which is a dark chapter in the history of humanity, and ensure that peoples still under occupation are free to decide their own future.

132. To that end, article 29 of the Constitution provides that the country's leaders must refrain from "resorting to war to violate the legitimate sovereignty or liberty of other peoples" and must establish the principle of solidarity as applicable to colonial territories and peoples only, pursuant to the clear terms of General Assembly resolution 1514 (XV) of 14 December 1960.

133. Algeria fully supports the efforts of the international community to ensure recognition of the right of peoples to self-determination and to complete sovereignty over their natural wealth, in line with the Declaration on the Right to Development, the Charter of the United Nations and the two core international human rights treaties, which provide for full enjoyment of the right to development.

134. Algeria considers that all independent States are entitled to exploit their natural wealth and to dispose of it freely, in accordance with the rules of international law. The State must fulfil its responsibilities throughout the territory within its jurisdiction, including its land, subsoil, airspace, territorial waters and continental shelf.

### **Article 2**

#### **Implementation of the Covenant**

135. In ratifying the Covenant, Algeria not only made it a supranational standard with which it undertakes to comply, *de jure* and *de facto*, under the supervision of the Constitutional Council and the Council of State, but also adopted all the provisions of the Covenant, which serve as an essential reference point in the drafting of any legal text, whether an organic act or simply an administrative order.

136. Algeria has worked hard to bring its legislation into line with the international and regional instruments that it has ratified. Its entire body of law has been and continues to be amended in the light of those instruments.

### Article 3

#### Equal rights of men and women

137. After the submission of its third periodic report, Algeria continued its efforts to ensure the equal right of men and women to the enjoyment of all the civil and political rights set forth in the Covenant.

138. First and foremost, it sought to promote and secure the rights of women, particularly their political rights, through a range of constitutional, legislative and practical measures.

139. In 2008, the Constitution was amended to support the right of women to participate in public and political life, through the addition of article 31 bis, which reads: “The State shall seek to promote the political rights of women by increasing their opportunities for access to representation in elected assemblies. The means of implementing this article shall be defined in an organic act.”

140. Practical measures for the implementation of this new constitutional provision were set forth in Organic Act No. 12-03 of 12 January 2012 establishing the procedures for increasing women’s access to representation in elected assemblies and the Political Parties Act No. 12-04 of 12 January 2012 as part of the political reform process launched in Algeria in early 2011.

141. These measures included the introduction of quotas for the representation of women in elected assemblies, ranging from 20 to 50 per cent of the total number of seats.

142. Article 5 of Organic Act No. 12-03 of 12 January 2012 clearly states that: “Any list of candidates that violates the provisions of the Act by not taking into account the number of seats that must be allocated to women under article 2 shall be rejected.”

143. Meanwhile, the Political Parties Act charges political parties with the task of promoting the political rights of women and introduces new provisions and measures to increase the active participation of women in political parties.

144. One such provision requires that women represent a certain proportion of founding members of new political parties (art. 17).

145. Another provision requires that women represent a certain proportion of the delegates at the inaugural congress of a political party (art. 24).

146. Another provision states that the governing bodies of political parties should include a certain proportion of women and that this requirement should be stipulated in the party statutes (arts. 35 and 41).

147. The Political Parties Act No. 12-04 also provides for incentives for parties to further promote the political participation of women, such as additional subsidies from the State budget based on the number of women representing the party in elected assemblies.

148. The implementation of all these measures during the first elections held after the political reforms, namely the legislative elections of 10 May 2012, resulted in the election of 146 women to the National People’s Assembly, accounting for 31.6 per cent of 462 seats, compared with the figure of just 31 women, representing 8 per cent of 389 seats, in the legislative elections of 2007.

149. Algeria has risen 92 places, from 121st to 29th, in the world rankings for the representation of women in the lower houses of national parliaments.

150. It ranks ninth among African countries and first among Arab countries.

151. The local elections on 29 November 2012 resulted in:

- The election of 592 women to wilaya people’s assemblies, out of a total of 2,004 elected members
- The election of 4,105 women to communal people’s assemblies, out of a total of 24,891 elected members.

152. These figures illustrate the progress made by Algeria in promoting the participation of women in political and public life; it has become one of 30 countries to have achieved the target of the Beijing Declaration and Platform for Action and the Convention on the Elimination of All Forms of Discrimination against Women and, thereby, recognition of the principle of equality of all before the law.

153. The constitutional amendment of 7 February 2016 further consolidates this progress: under article 36, the State is required to promote gender parity in the labour market and to encourage the promotion of women to managerial positions in public institutions, government departments and companies.

### **Articles 4 and 5**

#### **Measures derogating from the Covenant**

154. Algeria is no longer taking any measures that derogate from the Covenant, because the state of emergency was lifted in February 2011. The Ministry of the Interior had previously been able to requisition the forces of the Ministry of Defence to conduct law enforcement or public security operations.

### **Article 6**

#### **Right to life and the death penalty**

155. No executions have been carried out since September 1993. Under Algerian law, sentences handed down in the absence of the accused are not final and a person convicted in absentia is entitled to a retrial.

156. It is also worth noting that no minors have been sentenced to death and no women have been executed. Moreover, those sentenced to death in a final judgment have had their sentences commuted to life imprisonment.

157. In addition to the moratorium, there has been a gradual shift in public opinion as people have begun to question whether there is any need for the death penalty. This trend is reflected both by the successive revisions of the Criminal Code since 2001, which repeal the death penalty for more than a dozen offences, and by the special laws enacted, as part of the reform of the justice system, to combat money laundering, the financing of terrorism, drug trafficking, corruption and smuggling, none of which provide for the death penalty.

### **Article 7**

#### **Torture and cruel, inhuman or degrading treatment or punishment**

158. The Constitution establishes the principle of protection for the physical and mental integrity of all persons, guarantees the inviolability of the person and prohibits all forms of physical or psychological violence and affronts to human dignity (arts. 40 and 41).

159. Algeria has taken practical measures to progressively implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since its ratification in 1989. Under Act No. 04-15 of 10 November 2004, the Criminal Code was amended to include provisions that expressly punish torture and other cruel, inhuman or degrading treatment.

160. These provisions are contained in articles 263 bis, 263 ter and 263 quater, which prescribe very severe penalties for acts of torture (5 to 10 years' imprisonment and a fine); these penalties are increased if the perpetrators are public officials (10 to 20 years' imprisonment and a fine) or if the acts of torture are preceded, accompanied or followed by a serious offence other than murder (10 to 20 years' imprisonment or life imprisonment).

161. Moreover, the third paragraph of article 263 quater of the Criminal Code provides that public officials who fail to report acts of torture are liable to 5 to 10 years' imprisonment and a fine.

162. Under article 293 of the Criminal Code, the subjection of an abducted, arrested, detained or falsely imprisoned person to physical torture is punishable by life imprisonment. A new section on the smuggling of migrants was added to the Criminal Code by Act No. 09-01 of 25 February 2009, amending and supplementing Ordinance No. 66-156 of 8 June 1966 on the Criminal Code.

163. Under the new provisions contained in article 303 bis 30-41 of the Criminal Code, the smuggling of migrants is punishable by imprisonment and a fine; the penalty is increased if the migrants were minors, if their life or personal safety was or was likely to be at risk or if they were subjected to inhuman or degrading treatment.

164. As a preventive measure, new rules have been added to the Code of Criminal Procedure, specifically regarding preliminary inquiries conducted by judicial police officers; they provide for mechanisms to ensure the humane treatment of persons in police custody and to monitor the use of this measure, including medical examinations of persons in custody on the decision of the public prosecutor or at the request of a member of the person's family or the person's legal counsel, and oversight of police custody conditions. Under the second paragraph of article 51 bis 1 of the Code of Criminal Procedure, a medical examination is mandatory at the end of the period of police custody.

165. In order to prevent and punish all forms of trading in human organs, a new section on organ trafficking was added to the chapter of the Criminal Code on indictable offences against private individuals, by Act No. 09-01 of 25 February 2009, amending and supplementing Ordinance No. 66-156 of 8 June 1966 on the Criminal Code. This section provides for the punishment of:

- Anyone who obtains from a person one of his or her organs in exchange for a financial or any other benefit and any intermediary who encourages or promotes the act of obtaining a human organ (art. 303 bis 16)
- Anyone who removes an organ from a living person without obtaining his or her consent in accordance with the conditions established by law or from a deceased person (art. 303 bis 17)
- Anyone who takes samples of human tissues, cells or bodily products in exchange for money or any other benefit (art. 303 bis 18)
- Anyone who removes tissues, cells or bodily products from a living person without obtaining his or her consent in accordance with the law or from a deceased person (art. 303 bis 19)

166. The range of penalties provided for in this section includes imprisonment for a term of 1 to 15 years and a fine of DA 300,000 to 1,500,000.

167. These penalties may be increased where the victim is a minor or has a mental disability; where the offence was committed with the use of firearms or the threat of their use; where the perpetrator's profession or position made it easier for him or her to commit the offence; where the offence was committed by an organized criminal group or was of a transnational nature; or where the offence was committed by more than one person.

168. Act No. 09-02 of 25 February 2009, amending and supplementing Ordinance No. 71-57 of 5 August 1971, introduced a substantive change to article 28 of the Ordinance to ensure that legal assistance would be automatically extended to victims of organ trafficking and victims of migrant smuggling, so that they could assert their rights before the courts.

169. These punitive measures, which serve to protect all victims residing in national territory, are applicable without exception or reservation and without distinction of any kind, such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic situation, property, marital status, birth or other status.

## **Article 8**

### **Prohibition of slavery**

170. The various versions of the Constitution that have been adopted since independence have prohibited “relationships based on exploitation and dependence” and “feudal, regionalist and nepotistic practices” (art. 10).

171. In the context of broader efforts to bring the national legal system into line with the international instruments that have been ratified by Algeria, some legislation has been strengthened:

- Two new sections, on trafficking in persons and smuggling of migrants, were added to the Criminal Code by Act No. 09-01 of 25 February 2009, amending and supplementing Ordinance No. 66-156 of 8 June 1966 on the Criminal Code
- Under the new provisions contained in article 303 bis 4-15 of the Criminal Code, the offence of trafficking in persons is defined in accordance with the Trafficking in Persons Protocol. The offence is punishable by non-rigorous imprisonment and a fine; a longer term of imprisonment is imposed if the victim was vulnerable on account of his or her age, illness or a physical or mental disability of which the perpetrator was aware

172. Trafficking in persons is punishable by rigorous imprisonment in any of the following circumstances:

- The perpetrator was the victim’s spouse, older relative or guardian or had authority over the victim or was a public official whose position facilitated the commission of the offence
- The offence was committed by more than one person
- The offence was committed with the use of firearms or the threat of their use
- The offence was committed by an organized criminal group or was transnational in nature (art. 303 bis 5)

173. Persons convicted of human trafficking do not benefit from the mitigating circumstances provided for in the Criminal Code and may receive one or several additional sentences. Similarly, a foreign national convicted of a human trafficking offence is banned from the national territory, permanently or for a maximum of 10 years.

174. No punishment is imposed on a person who reports a human trafficking offence to the administrative or judicial authorities before the offence is committed or attempted. The sentence is halved if the reporting occurs after the offence has been committed or attempted and enables the arrest of those who perpetrated or were complicit in the offence (art. 303 bis 9).

175. A person, including a person bound by professional secrecy, who is aware that a human trafficking offence has been committed and who fails to inform the competent authorities immediately is liable to 1 to 5 years’ imprisonment and a fine of DA 100,000 to DA 500,000. This provision does not apply to the perpetrator’s direct or collateral relatives or relatives by marriage up to and including the fourth degree, except in the case of offences against children under 13 years old (art. 303 bis 10).

## **Article 9**

### **Liberty and security of person**

176. Acts Nos. 06-23 of 20 December 2009 and 14-01 of 4 February 2014 amended section IV, chapter I, title II of the third book of the Criminal Code on violations of the freedom of the person and the inviolability of the home, and abduction, in such a way as to increase the penalties for those offences by defining them as serious offences and by extending the periods of unconditional imprisonment, pursuant to the new provisions of articles 291, 293, 293 bis and 295 bis.

177. Decree No. 92-44 of 9 February 1992 declaring a state of emergency was repealed by Ordinance No. 11-01 of 23 February 2001. All measures that could be taken under that Decree to restrict liberty for the purposes of combating terrorism and restoring public order, such as procedures limiting freedom of movement, restricted residence and any other measure affecting personal freedom, have therefore been repealed.

178. Preventive measures such as bans on leaving the national territory and restricted residence now fall solely within the competence of the judicial authorities.

179. Two regulatory texts have been issued to better protect the rights of persons held in police custody in facilities belonging to the National Gendarmerie or the National Security Service:

- Note issued by the Commander of the National Gendarmerie on 23 May 2011, establishing the practical arrangements for the provision of food and hygiene facilities for persons taken into police custody by local units of the National Gendarmerie
- Interministerial Order signed by the Minister of the Interior and Local Government and the Minister of Finance, dated 12 June 2011, establishing the arrangements for covering the food and hygiene expenses of persons placed in police custody in facilities belonging to the National Security Service

180. Article 59 of the revised Constitution of 7 February 2016 provides that “pretrial detention is an exceptional measure and the grounds for its use, its duration and the conditions for its extension shall be defined by law”.

181. A new provision on pretrial detention has been added to the Code of Criminal Procedure to prevent examining judges from imposing pretrial detention on a person who has committed an offence that is punishable by no more than 3 years’ imprisonment, unless the person has a criminal record.

## **Article 10**

### **Right to security of person, prohibition of arbitrary arrest and detention, and prison policy**

182. Under article 59 of the Constitution of 7 February 2016, “any pursuit, arrest or detention of a person must be conducted in accordance with the conditions and procedures established by law”.

183. The rules added to the Code of Criminal Procedure regarding preliminary inquiries conducted by judicial police officers provide for mechanisms to ensure the humane treatment of persons in police custody and to monitor the use of this measure by conducting medical examinations of persons in custody, on the decision of the public prosecutor or at the request of a member of the family or the legal counsel of the person concerned, and by supervising police custody conditions. Under the second paragraph of article 51 bis 1 and the sixth paragraph of article 52 of the Code of Criminal Procedure, a medical examination is mandatory at the end of a period of police custody.

184. Persons who are imprisoned by virtue of a court order or decision handed down by a court are entitled to receive visits, pursuant to articles 71 and 75 of the Code on the organization of prisons and the social reintegration of detainees.

185. The rules on police custody established in the sixth paragraph of article 16 of the Code of Criminal Procedure are strictly observed, whether the detainee is an Algerian or a foreign national. These rules protect the rights of persons in police custody as follows:

- A period of custody cannot exceed 48 hours unless the public prosecutor with territorial jurisdiction gives written authorization, except in certain cases where longer periods are permitted; a judicial police officer who violates the provisions regarding periods of custody is liable to the penalties that are applicable for arbitrary detention

- Persons in police custody are entitled to contact a member of their family, their legal counsel or, in the case of foreign nationals, a diplomatic or consular representative, and to receive visits
- They are also entitled to a mandatory medical examination, at their request or that of their legal counsel or family, by a doctor of their choice at the end of the period of custody

186. The Code of Criminal Procedure also governs police custody conditions, through provisions that introduce the notion of human dignity. The fourth paragraph of article 52 thus stipulates: “Persons in police custody must be held in conditions consistent with human dignity and at a facility designated for that purpose.”

187. In the prison system, detainees are treated in such a manner as to preserve their dignity as human beings and constantly to raise their intellectual and moral levels without distinction as to race, gender, language, religion or opinions.

188. This general principle, which applies to all detainees, both Algerian nationals and foreigners, whether they are at the pretrial stage or have been convicted, is enshrined in article 2 of Act No. 05-04 of 6 February 2005 establishing the Code on the organization of prisons and the social reintegration of detainees.

## **Article 11**

### **Imprisonment for inability to fulfil a contractual obligation**

189. Pursuant to the new Code of Civil and Administrative Procedure, established by Act No. 08-09 of 25 February 2008, the provisions on civil imprisonment for failure to fulfil a contractual obligation have been repealed.

190. This Act has brought Algerian legislation into line with article 11 of the Covenant.

## **Article 12**

### **Right to liberty of movement and freedom to leave and return to one’s country**

191. The first paragraph of article 55 of the Constitution guarantees the right of all Algerian citizens to move and choose their residence freely in the national territory: “All citizens in possession of their civil and political rights are entitled to choose their residence freely and to travel within the national territory.”

192. Under the second paragraph of that article, the right to enter and leave the national territory is also guaranteed.

193. The exercise of those rights can be restricted only by the decision of a judicial authority and for a specific period of time.

194. Algeria has undertaken a large-scale operation to modernize the procedures for issuing travel documents by introducing electronic biometric passports, in order to make it easier for citizens to exercise their right to enter and leave the national territory.

## **Article 13**

### **Movement of foreign nationals**

195. The guarantees relating to the entry of foreign nationals to Algeria and their movement and residence in the country are set out in articles 81, 82 and 83 of the Constitution, which read as follows:

- Article 81: “All foreign nationals lawfully present in the national territory shall enjoy the protection of the law with respect to their person and property”
- Article 82: “No one may be extradited, except by virtue of and pursuant to the law on extradition”



- Article 83: “A political refugee who has been granted asylum may not, under any circumstances, be returned or extradited”

196. In 2008, these constitutional guarantees concerning foreign nationals were enshrined in a new law on the conditions for the entry of foreign nationals to Algeria and their movement and stay in the country.

197. The law in question, Act No. 08-11 of 25 June 2008, repealed and replaced Ordinance No. 66-211 of 21 July 1966, which was no longer appropriate in view of our country’s situation and the legislative changes that had taken place worldwide in this regard.

198. The aim of this revision was to establish an appropriate legal framework to deal with migration flows, which will continue to grow as a result of glaring economic inequalities between countries and the globalization of the economy.

199. The right to enter and leave the national territory may be restricted only by decision of the competent judicial authority.

## **Article 14**

### **Right to justice**

200. This issue is addressed in the revised Constitution of 7 February 2016 as follows:

- Article 56 provides that: “All persons shall be presumed innocent until proved guilty by a regularly constituted court following a fair trial in which all the safeguards necessary for their defence are provided”
- Article 57 provides that: “Poor persons are entitled to legal aid. The conditions for the implementation of this provision shall be established by law”

201. Act No. 09-02 of 25 February 2009, amending and supplementing Ordinance No. 71-57 of 5 August 1971 on legal aid, introduced new provisions granting legal aid before ordinary and administrative courts and for discretionary and conservatory acts to the following persons:

- Individuals and non-profit legal entities without sufficient resources
- Foreign nationals in an irregular situation without sufficient resources
- In exceptional circumstances, other persons, who do not meet the requirements of this Act

202. Under this Act, a lawyer is appointed by the court to represent the following persons:

- Minors brought before criminal courts
- Defendants brought before criminal courts
- Defendants with a disability

203. Legal aid is also automatically granted to the following persons:

- Widows
- Single daughters of the war dead
- Persons disabled during military service
- Minors subject to legal proceedings
- Mothers in child custody cases
- Workers in occupational accident cases
- Victims of human trafficking and organ trafficking
- Victims of migrant smuggling
- Victims of terrorism and persons with disabilities

204. It should be noted that considerable efforts have been made to modernize the justice sector and facilitate access to judicial services by computerizing all such services and setting up an automated system for the management of judicial affairs, a one-stop service for each court, an intranet connection between all courts and an online platform through which the public can access various judicial services, obtain information and contact the Ministry of Justice and the courts.

### **Article 15**

#### **Non-retroactivity of criminal law**

205. This principle is reaffirmed by article 58 of the Constitution of 7 February 2016, which provides that “no one may be found guilty except by virtue of a law that was duly promulgated prior to the commission of the offence”.

### **Article 16**

#### **Recognition as a person before the law**

206. Recognition of legal personality is guaranteed by the Civil Code. It is defined as a person’s capacity or ability to acquire rights and to fulfil obligations.

207. Legal personality is acquired at birth, pursuant to the first paragraph of article 25 of Ordinance No. 75-58 of 26 September 1975, establishing the Civil Code, as amended and supplemented, which provides that “legal personality begins upon the birth of the living child and ends upon his or her death”.

208. The Civil Code sets forth the defining characteristics of legal personality. Article 28 stipulates that: “All persons must have a family name and one or several first names. The family name of a man is taken by his children”.

209. Possession of a family name and a first name is considered a right, along with the right to be registered by the civil registry (art. 26) and the right to nationality (art. 30), among others.

210. Article 40 of the Civil Code provides that all adults who are in possession of their mental faculties and have not been deprived of legal capacity are fully capable of exercising their civil rights. (The age of majority is 19 years.)

211. Persons who lack understanding because of their youth or because of mental weakness or dementia do not have the capacity to exercise their civil rights.

212. Persons without capacity or with partial capacity are subject, as appropriate, to the system of legal administration, guardianship or supervision, in accordance with the conditions and rules established by law (art. 44).

213. The Family Code contains provisions governing the capacity of minors, persons subject to judicial or statutory interdiction and others without capacity (art. 79). Pursuant to article 81 of the Code, any person who is wholly or partially deprived of capacity owing to his or her youth, dementia, mental weakness or improvidence is legally represented by a statutory, testamentary or dative guardian.

### **Article 17**

#### **Right to privacy**

214. Article 46 of the revised Constitution of 2016 provides that:

- “A person’s privacy and honour are inviolable and shall be protected by law
- “The confidentiality of all forms of private correspondence and communication shall be guaranteed
- “No violation of these rights shall be tolerated, except at the reasoned request of the judicial authorities. Any breach of this provision shall be punishable by law

- “The law shall guarantee the fundamental right of individuals to protection of personal data and shall punish violations of this right”

215. Moreover, article 77 of the Constitution provides that: “All personal freedoms shall be exercised with due regard for the rights of others as recognized by the Constitution, especially the right to honour, privacy and the protection of the family, young people and children.”

216. In addition, it is worth noting the following:

- Under the Criminal Code, violations of personal freedom, the inviolability of the home, honour, reputation, privacy and confidentiality are punishable by various terms of imprisonment and fines. Article 135 provides for the punishment of breaches of the inviolability of the home by any judicial or administrative official, any police officer, or any commander or member of the security forces. Article 295 provides for the punishment of “any person who enters a private home by deception or fraud”, with a heavier penalty imposed if the offence is committed with the use of threats or violence. Violations of privacy and of the confidentiality of correspondence and communications are punishable under articles 303 to 303 bis 2 and article 137
- Pursuant to article 40 of the Constitution, the Code of Criminal Procedure sets forth various rules and procedures that protect and guarantee the inviolability of the home in the context of house searches. Searches and inquiries are conducted in accordance with the procedures and conditions laid down in the Code (arts. 44-47, 64, 79 and others)

## **Article 18**

### **Freedom of thought, conscience and religion**

217. In Algeria, where the official religion is Islam, freedom of worship is guaranteed, provided that due regard is shown for the Constitution, current legislation and regulations, public order, morality and the fundamental rights and freedoms of others.

218. Freedom of conscience and religion is guaranteed by article 42 of the Constitution, which provides that:

- “Freedom of conscience and freedom of opinion shall be inviolable
- “Freedom of worship shall be guaranteed, subject to the law”

219. The conditions and rules for the practice of religions other than Islam are established by Ordinance No. 06-02 bis of 28 February 2006 (a legislative text) and the Criminal Code.

220. Article 298 of the Criminal Code prohibits and punishes, by prison terms and fines, “any act of defamation committed against one or more members of an ethnic group or adherents of a specific philosophy or specific religion that is intended to stir up hatred between citizens or inhabitants”.

221. Article 298 bis of the Code prohibits and punishes, by prison terms and fines, “any insult levelled against one or more members of an ethnic group or adherents of a specific philosophy or specific religion that is intended to stir up hatred between citizens or inhabitants”.

- Article 160: “Any person who deliberately and publicly destroys, defaces, damages or desecrates the Holy Book shall be liable to 5 to 10 years’ imprisonment”
- Article 160 ter: “Any person who deliberately damages, destroys or desecrates a place of worship shall be liable to 1 to 5 years’ imprisonment and a fine of DA 1,000 to DA 10,000”

222. Lastly, article 77 of Information Act No. 90-07 of 3 April 1990 provides for the punishment of anyone who insults the revealed religions in any way. The article reads as follows: “Any person who, through writing, sounds, images or drawings or by any other

direct or indirect means, insults Islam and the other revealed religions shall be liable to imprisonment for a term of 6 months to 3 years and/or a fine of DA 10,000 to DA 50,000.”

223. Algerian legislation guarantees non-Muslim detainees the right to freedom of worship.

224. In that regard, article 66 of Act No. 05-04 of 6 February 2005, establishing the Code on the organization of prisons and the social reintegration of detainees, provides that “detainees are entitled to fulfil their religious obligations and to be visited by a minister representing their religion”.

225. Moreover, Ordinance No. 06-02 bis, establishing the conditions for the practice of religions other than Islam, is an instrument that meets the demands of the modern world and respects the rights of the individual, while preserving social cohesion.

226. The Ordinance reflects a strong will on the part of the public authorities to welcome all religions that display tolerance and respect for other religions.

227. It guarantees “freedom of worship, provided that due regard is shown for the Constitution, the present Ordinance, current legislation and regulations, public order, morality and the fundamental rights and freedoms of others”, as well as “tolerance and respect among different religions” and “State protection” for associations of religions other than Islam (arts. 2 and 3).

228. Discrimination against any person or group on religious grounds is also prohibited (art. 4).

229. This legislation applies to both Algerian and foreign nationals, irrespective of faith. Those who fail to comply with it are liable to the penalties for which it provides.

230. A number of other rights and guarantees relating to religious freedom are enshrined in domestic legislation; these concern, for example, recognition of religious festivals, the status of ministers of religion, protection under criminal law, civil status, personal status, the right of detainees to fulfil their religious obligations and to be visited by a minister representing their religion, and the protection of the administrative courts.

## **Article 19**

### **Freedom of opinion and expression, and access to information**

231. Articles 44, 48, 50 and 51 of the Constitution safeguard freedom of opinion, expression and the press, and also freedom of intellectual and artistic creation. Academic freedom, freedom of scientific research and copyright are also protected and are exercised in keeping with the law.

232. Following on from the reforms undertaken by Algeria since 2011, key changes have been made in the field of information and communications.

233. The Information Act No. 12-05, which was promulgated in January 2012, embodies the notion that these freedoms are vital to the consolidation of the rule of law and democracy. The Act safeguards the following:

- The right to information and freedom of the press: article 1 states that information and freedom of the press are a right, while article 2 stipulates that this right must be exercised freely, in keeping with the laws in force
- The protection of journalists and the improvement of their socioprofessional situation by strengthening their rights in the context of their work: in order to enable journalists to practise their profession and to protect them from outside pressure, the law guarantees their right to professional confidentiality (art. 85). It also allows them to work under the best possible conditions by requiring employers to draw up a work contract, to provide life insurance for missions to hazardous locations and to provide in-service training
- New advances complementing the law, including the right to hold a national press pass and the upcoming plans to establish a special status for journalists

- The right to access to sources (arts. 83-84): the authorities, institutions and establishments are required to facilitate journalists' access to information; this provision was reinforced by the Constitution of 7 February 2016
- The simplification of the procedure for founding a publication: the founding of publications, hitherto subject to judicial authorization following inquiries by the competent authorities, is now authorized by the independent press regulator provided for under the Act
- The opening up of the audiovisual industry to Algerian private investors: this is the Act's main contribution, given that opening up to the private sector will strengthen the public's right to diverse information and ensure public access to varied and high-quality programming

#### *Regulation of information activities*

234. With the expected end of the monopoly on the audiovisual sector, ushered in by the Act (art. 61), and with the aim of ensuring greater fairness and transparency in the allocation of radio signals and the awarding of audiovisual operating permits, the Act provides for an independent regulatory body for the audiovisual sector (arts. 64-65), which was established on 20 June 2016.

235. The print media (including online media) are under the authority of the independent press regulator, which is responsible for ensuring the diversity of the press and the transparency of economic rules on the operations of publishing companies (art. 40).

- The establishment of the High Council of Ethics and Integrity: with a view to introducing a code of ethics and integrity in the field of information, the Act provides for the establishment of a high council of ethics and integrity whose members are elected by journalists themselves and whose organization and operation are defined by the Council's constituent assembly
- Operational freedom of electronic media: taking into account trends in information and communications technologies, the Act protects freedom of information via electronic media (art. 66)
- The decriminalization of violations of press laws: a significant step forward was made in the Constitution of 2016 and the Act with the decriminalization of violations of press laws (arts. 116-126) and the abolition of imprisonment for such offences. Journalists who break a rule will receive only a fine ranging from DA 25,000 to DA 500,000. It should be noted that the statute of limitations on violations of press laws expires six months after the date of the violation
- The promotion of press distribution: under article 36 of the Act, the State must promote the distribution of the press throughout the country in order to give people access to information, regardless of their location. In order to give effect to this right, the State has taken practical steps, in particular in the south of the country, with the establishment of regional printing companies. Thus, in addition to the print shop in Ouargla, which has been operational since 3 May 2008 and is responsible for supplying seven southern wilayas with newspapers, other printing facilities are being set up in Bechar, Tamanrasset, El Oued and Illizi

#### *State contribution to the emergence of an independent private press*

236. Freedom of the press and freedom of expression are considered the bellwether of a society's level of democratization.

237. Information Act No. 12-05 guarantees freedom of the press and of expression and reaffirms the public's right to information (art. 2). The Government has made substantial investments aimed at consolidating this right, as illustrated by the information below.

*Audiovisual media*

## Television

238. Algeria has expanded television coverage to almost the entire country, except for a few underserved areas that it has begun to target through a large number of installation programmes. National Algerian television consists of the following five channels:

- A terrestrial channel called “National Programme”
- Four satellite channels: Canal Algérie, Algerian Third Channel (A3), TV4 in Amazigh and TV5

## Radio

239. Algeria has a vast network of radio stations countrywide, including many national, local and thematic stations, including:

- Three thematic stations: Radio culture, Radio Coran and Radio Jil FM
- Three national stations: Channel 1, Channel 2 and Channel 3
- One international station: Radio Algérie Internationale
- Forty-eight local stations

240. Local stations are very popular because they not only make community-level communication possible and address the population’s concerns but also play a part in local socioeconomic development.

## The press

241. There are 154 daily newspapers, only 6 of which are State-run, with an average print run of 2,257,300 copies per day.

242. There are 36 weeklies, with a combined average print run of more than 698,280 copies, and 140 other monthly or bimonthly periodicals with a print run of 428,000.

243. It should be noted that in the 1990s, following the opening up of the press, ushered in by the previous Information Act (No. 90-07), many private press outlets received State help to start up their publications, in the form of:

- Tax exemptions
- The introduction of one-off mechanisms for setting up publications, enabling cooperatives of former journalists to become proprietors of publications overnight
- Paper subsidies
- Availability at minimal cost of the facilities at the Tahar Djaout Maison de la Presse

244. These decisions were helpful for the future of the country’s then fledgling private print media and enabled the emergence of privately owned newspapers that are now recognized as influential actors on the media scene.

245. Pursuant to the 2012 Finance Act, the Government expanded the scope of the special media support fund by adjusting and reallocating the fund’s resources.

246. Henceforth, in addition to supporting the press and electronic and audiovisual media, the fund can finance basic and in-service training for journalists and communications professionals.

247. It should be noted that the Information Act will make it possible to draft specific laws and regulations on, inter alia, advertising, surveys and the status of journalists.

248. An executive decree that sets the base and rate of contributions to the social security system and the benefits to which journalists and contractual media professionals, along with academics and experts performing journalistic piecemeal work, are entitled, as belonging to special categories of social insurance beneficiary, has already been published. It requires

employers to contribute to the social insurance of journalists, media professionals and experts doing piecework.

249. In addition, the decree provides that, after three years, persons belonging to these professional categories become full beneficiaries of the social security scheme applying to salaried employees.

Internet access

250. In an effort to propel new information technologies to the heart of the Algerian media landscape and to establish a true information society in Algeria, several significant projects have been launched with the purpose of training large numbers of people in information and communications technologies.

251. Indeed, given the country's ambition of joining the ranks of developed nations, the quality of human resources has become a major strategic issue and a critical factor in the fulfilment of the country's sustainable development needs.

252. The purpose of the mass training project in information and communications technologies is to provide the population with the essential skills to be able to use computers in their daily lives.

253. In this connection, a pilot project was run to train an initial cluster of trainers (3,600 individuals certified as International Computer Driving Licence (ICDL) instructors), who then went on to train members of the public.

254. The project consists of training 500,000 members of the public each year, divided among three types of training programme:

- Sixty per cent of the target group, or 300,000 people, to be trained in ICDL Profile per year with a view to providing candidates with the knowledge and tools needed to become a digital citizen; this training consists of two modules (Computer Essentials and Online Essentials)
- Twenty per cent of the target group, or 100,000 people, to be trained in ICDL Base modules per year. This training, which is designed to provide candidates with solid basic skills and knowledge in order to reach the level required in a digital culture, consists of four modules (Computer Essentials, Online Essentials, Word Processing and Spreadsheets)
- Twenty per cent of the target group, or 100,000 people, to be trained per year in ICDL Standard, whose purpose is to provide candidates with a specific level of recommended skills and knowledge that will make them computer literate; this training consists of seven modules (the four ICDL Base modules and three ICDL Standard modules)

255. In addition, in order to make Algeria truly an information society free from discrimination, particular attention is being paid to the most isolated regions of the country.

256. Operation Cyber-Rif consists in dispatching a cyber-bus equipped with 10 or so microcomputers and a satellite Internet connection and staffed by experts in information and communications technologies to the country's rural regions. The vehicle will travel to the different towns in the wilaya to give the population of these rural areas exposure to the Internet as a means of improving their daily lives.

257. The ultimate purpose of the Operation is to open up rural regions to technology. Over 3,000 people have been introduced to the Internet in this way.

## **Article 20**

### **Prohibition of propaganda for war and the advocacy of hatred**

258. Algeria took measures against the enlistment of its nationals in foreign armed groups and the units of foreign powers by criminalizing these acts, as early as 1982, in article 76 of the Criminal Code (Act No. 82-04 of 13 February 1982), which stipulates that: "A person

who, in peacetime, recruits volunteers or mercenaries in Algerian territory on behalf of a foreign power shall be liable to imprisonment for 2 to 10 years and a fine of DA 10,000 to DA 100,000.”

259. Algeria subsequently stiffened the law with the amendment in February 1995 of article 87 bis 6 of the Criminal Code, which reads: “Any Algerian abroad who works for or joins a terrorist or subversive association, group or organization of any kind or description, even if its activities are not directed against Algeria, shall be liable to imprisonment for between 10 and 20 years and a fine of between DA 500,000 and DA 1,000,000. If the said activities are directed against Algerian interests, the sentence shall be life imprisonment.”

260. In line with this approach, another amendment of the Criminal Code contained in Act No. 16-02 of 16 June 2016 increased the penalties laid down in article 87 bis 11, which states: “Any Algerian or foreign national living in Algeria, whether legally or illegally, who travels or attempts to travel to another State with the aim of committing, organizing, preparing or participating in acts of terrorism or of providing or receiving training in order to commit such acts shall be liable to imprisonment for 5 to 10 years and a fine of DA 100,000 to DA 500,000.”

261. “The same penalty shall apply to a person who:

- “By any means, directly or indirectly, wilfully provides or collects funds with the intention that they should be used or in the knowledge that they are to be used to finance the travel of persons to another State for the purpose of committing the acts listed in the first paragraph of this article
- “Wilfully finances or organizes the journeys of persons travelling to another State for the purpose of committing, organizing, preparing or participating in acts of terrorism, of providing or receiving training in order to commit such acts or of facilitating such journeys
- “Uses information and communications technologies to commit the acts enumerated in this article”

262. In addition, article 87 bis 12 stipulates that: “A person who, using information and communications technologies, recruits people on behalf of a terrorist or an association, force, group or organization whose objectives or activities fall under the provisions in this section, or who takes charge of its organization, supports its actions or activities or spreads its ideas directly or indirectly shall be liable to imprisonment for 5 to 10 years and a fine of DA 100,000 to DA 500,000.”

263. Furthermore, new legal provisions on criminal sanctions were adopted through Act No. 01-09 of 26 July 2001, article 87 bis 10 of which states: “A person who preaches or attempts to preach in a mosque or any other public place of worship without being appointed, accredited or authorized to do so by the competent authorities shall be liable to imprisonment for 1 to 3 years and a fine of DA 10,000 to DA 100,000. A person who, through preaching or any other act, engages in an activity that is contrary to the noble purpose of a mosque or likely to undermine social cohesion or to justify or advocate the acts listed in this section, shall be liable to imprisonment for 3 to 5 years and a fine of between DA 50,000 and DA 200,000.”

## **Article 21**

### **Right of peaceful assembly**

264. The right of peaceful assembly is enshrined in articles 48 and 49 of the amended Constitution. The modalities for exercising this freedom are set forth in the Public Meetings and Demonstrations Act No. 89-28 of 31 December 1989, as amended and supplemented.

265. Pursuant to articles 2-20 of the Act, the exercise of this right is subject to a flexible procedure requiring notification of the authorities three days before a meeting and five days before a demonstration.



266. Act No. 91-19 of 2 December 1991 increased the notification period to eight days for public meetings, which are also subject to approval by the *wali*.

267. Any demonstration that goes ahead without permission or after being banned is regarded as an unlawful assembly, which the Minister of the Interior or the *wali* with territorial jurisdiction is authorized to disperse.

## **Article 22**

### **Freedom of association**

268. In Algeria, everyone has the right to freedom of association. It is enshrined in article 48 of the Constitution, which guarantees the freedom of expression, association and assembly, and in article 54, which states: “The right to establish an association shall be guaranteed”.

269. “The State shall encourage the development of associations. The Organic Act shall lay down the conditions and modalities for their establishment.”

270. It should be noted that, since 2011, Algeria has been engaged in an extensive process of political reform that includes the updating of the legislation on associations. The Associations Act No. 12-06 of 12 January 2012 is one of the pillars of these reforms.

271. In addition to codifying and consolidating the advances achieved under the former law on associations, the Act strengthens freedom of association, regulates more precisely the activities of associations and closes certain legal loopholes, in particular, those relating to foreign foundations, clubs and associations established in Algeria. It contains a series of measures designed to manage modern requirements more efficiently and to make it easier for civil society organizations to operate by:

- Further strengthening the right to establish associations by requiring the authorities to decide on requests for approval within a specific time, while stipulating that silence on the part of the authorities constitutes approval (art. 11). If a request is denied, those concerned have the right to appeal before the administrative courts
- Further relaxing the procedure for establishing an association by decentralizing the procedure and transferring to the communal people’s assemblies the powers to make such decisions
- Requiring associations to satisfy a number of general obligations, in particular with regard to the integrity of their leaders, the transparency of their management, especially of funds, adherence to their statutes, including those relating to their own area of activity, and observance of the Constitution, the laws in force and public order

272. Associations may be granted the status of being associations of public interest when their area of work constitutes a priority for the community. In addition, they may, under certain terms and conditions, receive public subsidies to support the implementation of their programmes.

273. It should be noted that associations in Algeria are now among the most vibrant features of social, trade union, cultural and scientific life.

274. The public authorities attach great importance to their partnership with associations and work with them on the design and implementation of national policies and strategies.

275. The Government’s efforts to foster their development have led to an increased number of associations and the diversification of their fields of activity.

276. The number of accredited associations in Algeria has risen to more than 110,223.

277. Trade union activities, meanwhile, are regulated by Act No. 90-14 of 2 June 1990, as amended and supplemented, which sets the terms for establishing trade unions based on the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).

278. Workers and employers have the right to establish unions without prior authorization with a view to defending their material and moral interests and the right to join or found the trade union of their choosing.

279. Trade unions are registered under the following conditions:

- After the submission of a declaration of establishment to the relevant public authority
- After the issuance of a notice of registration of the declaration of establishment no later than 30 days after the submission of the application
- After the publication, at the trade union's expense, of the requisite advertisement in at least one daily newspaper

280. In some situations, a request for further information may be made following the consideration of an application. For example, this may occur when an organization's application is incomplete (Act No. 90-14, arts. 9 and 21).

281. The implementation of the Act transformed the trade union landscape in Algeria, which, prior to 1990, had consisted of a single body representing workers. The Act paved the way for a multiplicity of trade unions whose establishment and membership depend solely on the will of workers or employers.

282. The trade union landscape currently consists of:

- 66 trade unions representing over 2.5 million salaried employees and several professions and areas of activity
- 35 employers' associations spanning several areas of activity

283. Tripartite meetings are held regularly between representatives of the Government, employers and trade unions. They constitute a forum for consultations and social dialogue on the full range of economic and social issues.

284. This consultation forum led to the signing of the National Economic and Social Covenant in 2006 and its extension in 2014.

## **Article 23**

### **Family law**

285. The protection of women, children, persons with reduced mobility and older persons is a main focus of the country's family policy. Article 72 of the Constitution of 6 March states:

- "The family shall enjoy the protection of the State and society"
- "The State shall strive to enable categories of vulnerable persons with specific needs to exercise the rights established for all citizens and to be integrated into social life"
- "The family and the State shall protect older persons"
- "The terms and conditions of the application of these provisions shall be determined by law"

286. In November 2011, the Government adopted the National Family Strategy, which reflected the goal of article 72 of the Constitution and promoted the creation of a favourable social, cultural and economic environment and the achievement of the Millennium Development Goals.

287. A strategy on family that has been rolled out jointly by the various areas of activity, national institutions and civil society has led to the adoption of national action plans on the family, older persons, children, rural women and violence. The roll-out of this strategy has also led to the adoption of new legal provisions, including:

- The Act on the establishment of a maintenance fund, adopted by the parliament, which provides that, in cases where a father and/or ex-husband fails to pay

maintenance for his children and/or ex-wife, owing to his refusal or inability to pay or his place of residence is unknown, maintenance will be paid by the fund. In other words, the Treasury will cover maintenance for children and/or ex-wives before any action is taken against the men concerned

- The Violence against Women Act
- The introduction of the Family Affairs Service, pursuant to the amended Code of Civil and Administrative Procedure
- The Protection of Older Persons Act No. 10-12 of 29 December 2010
- Laws on social insurance, social welfare and retirement

288. At the institutional level, the National Council for the Family and the National Council for Persons with Reduced Mobility have been established.

289. As evidence of the Government's efforts to promote family harmony and development, it should be noted that, under the various public investment plans for the period 2010-2014, the Government allocated nearly 40 per cent of its resources to improving the population's living conditions, developing basic infrastructure and boosting performance in public sector establishments by:

- Earmarking approximately 13 per cent of GDP for social development
- Increasing the minimum monthly wage to DA 18,000
- Extending direct and indirect social insurance coverage to 85 per cent of the population
- Building over 2.5 million housing units between 2000 and 2015 and eradicating informal settlements

## **Article 24**

### **Children's rights**

290. Article 72 of the new Constitution states that:

- "The family, society and the State shall protect the rights of the child
- "The State shall assume responsibility for abandoned children and those without a family
- "The law shall punish violence against children"

291. Pursuant to Act No. 09-02 of 25 February 2009 on legal aid for the defence of minors, a new law has been adopted (Executive Decree No. 11-375 of 12 November 2011) that increases the remuneration of legal-aid and court-appointed lawyers.

292. This measure is designed to provide greater motivation for lawyers appointed by the courts to represent this category of defendant.

293. Act No. 14-01 of 4 February 2014 amending and supplementing the Criminal Code introduced an important measure, ensuring that children cannot be held criminally liable for offences committed before they have reached the age of 10 years (Criminal Code, art. 49).

294. The parliament adopted a framework law on the protection of children in July 2015. This text, which contains 149 articles, provides, inter alia, for the following:

- The establishment of a national authority responsible for children's affairs, known as the "Special Representative", attached to the Office of the Prime Minister
- The audiovisual recording of interviews with child victims of sexual abuse
- A ban on holding children under 13 years in police custody
- The mandatory presence of a lawyer at interviews with a minor

**Article 25****Right to participate in public affairs and to have access to public services**

295. The participation of the public in the conduct of public affairs is guaranteed under the Constitution, of which several provisions, in particular articles 34, 35, 36, 62 and 63, lay down related principles and modalities.

296. The practical modalities and mechanisms of the public's participation in the conduct of public affairs are set forth in various laws and regulations and have been further strengthened through political reforms initiated in 2011, including the promulgation of the Electoral System Act and the Political Parties Act and of new regulations on towns and wilayas.

297. In this connection, the Electoral System Act stipulates that government elections must be overseen by the judiciary and monitored by the representatives of the political parties and the independent candidates taking part in the election. It also provides for the establishment of:

- A national electoral supervision committee made up of judges whose mission is to supervise the vote at the central and wilaya levels, from the beginning of the electoral process to the announcement of the results and their definitive confirmation
- A national electoral oversight committee made up of representatives of the parties and the independent candidates taking part in the election. The chair of the committee is elected by the members. The committee dispatches teams to wilayas and towns and has its own budget out of public funds to carry out its mandate. In addition, the public authorities will, at the committee's request, place public servants with expertise in electoral matters at the committee's disposal

298. The Act also provides for the use of transparent ballot boxes and indelible ink and for the obligation of the authorities to justify any rejected candidacy. In addition, it guarantees the right of candidates to receive without delay copies of election reports, i.e. the report of the vote count at the polling offices and the two reports on the results validation carried out by judges at the town and wilaya levels.

299. The Act lowers the age of eligibility to stand for the Council of the Nation (Senate) and reduces the number of electors' signatures required in support of a presidential candidate. It also provides for penalties for any breach of the transparency, integrity and lawfulness of an election.

300. Two elections have already been held since the adoption of the Act, namely the legislative elections of 10 May 2012 and the local elections of members of communal and wilaya people's assemblies held on 29 November 2012.

301. The Act has since been repealed and replaced with Organic Act No. 16-10 of 25 August 2016, which aims to preserve and strengthen the gains made with the Electoral System Act. In addition to consolidating the oversight mechanisms for use at all stages of polling operations, the Organic Act ensures total transparency in the regulation of polling stations and the arrangements for making electoral lists available to candidates and political parties. This will allow them to enter challenges in the ballot paper accounts at the level of each polling station, to receive authentic copies of the results and to lodge appeals with the competent authorities.

302. The new Electoral Code streamlines the procedures involved in standing for election at the local and legislative levels by authorizing the acceptance of a sworn statement, thereby giving young people ample opportunity to take part in elections.

303. In addition, it has simplified procedures for declaring a candidacy, reduced the number of signatures required and increased candidates' expenditure limits.

304. The Electoral Oversight Board (Constitution, art. 194) was established pursuant to the constitutional amendment of 7 February 2016 and was given financial autonomy under Organic Act No. 16-11 of 25 August 2016.

305. Its purview covers all election-related activities before, during and after the vote, from the drawing up of electoral rolls to the ballot count and the submission of reports to the political party representatives taking part in the elections.

306. The Board is chaired by a national figure and consists of 410 members of equal status appointed by the President of the Republic, judges put forward by the Supreme Council of Justice and independent experts from civil society for a five-year term.

307. During every election, the Board opens temporary offices at the local level and, where necessary, abroad. It is managed by a standing committee of 10 members.

308. The purpose of the Political Parties Act No. 12-04 of 12 January 2012 is to strengthen democratic pluralism and develop the provisions on the establishment of political parties and their interaction with the Government, on the transparency of political parties' financial management and on potential disputes and conflicts between the Government and accredited political parties. In addition, the Act safeguards the rights of the national community through provisions designed to prevent the recurrence of the national tragedy, prohibit any infringement of fundamental freedoms, protect the democratic and republican nature of the State and preserve national unity, territorial integrity, national independence and the components of national identity.

309. The Act states that silence on the part of the Government beyond the set time frame would constitute approval for the establishment of a political party (art. 34) and guarantees the right of persons wishing to establish a political party to appeal against a rejection before the Council of State at any stage of the process.

310. The Government does not interfere in the internal organization of political parties, in line with the Political Parties Act, which merely requires that parties should include in their statutes the democratic rules on the functioning of political parties, promote the involvement of women in their leadership and ensure the transparency of their financial management in order to fight all forms of corruption.

311. Furthermore, the Act considers political parties to be a mechanism for the promotion and protection of human rights, as illustrated by article 11, which stipulates that political parties "shall strive for the promotion of human rights and the values of tolerance".

312. The Algerian political landscape consists of 71 accredited political parties, as at 30 December 2015, representing various political currents. Over half of these parties were accredited pursuant to the new Political Parties Act No. 12-04 of 12 January 2012.

313. The role and status of political parties were further strengthened through the constitutional amendment promulgated on 7 February 2016.

314. The amendment introduced a provision giving political parties new constitutional rights. Thus, article 53 reads: "In accordance with the provisions of article 52 above, accredited political parties shall be entitled to the following rights without discrimination:

- "Freedom of opinion, of expression and of assembly
- "Airtime on public media proportionate to their size at the national level
- "Where appropriate, public funding, as determined by law, in proportion to their representation in parliament
- "The exercise of power at the local and national levels through the democratic rotation of power and in accordance with the provisions of the present Constitution

"The law shall set the terms of application of the present provision."

## **Article 26**

### **Equality before the law and non-discrimination**

315. Universal equality before the law is a constitutional principle that is also addressed in various organic laws and other basic legislation, namely the Civil Code, the Criminal Code, the Code of Civil and Administrative Procedure and the Code of Criminal Procedure.

316. Access to justice is guaranteed by various legal texts and mechanisms designed to make justice simpler and more accessible, including:

- The administration of justice on the basis of two-tier proceedings: the judicial system is composed of lower courts (213, of which 195 are operational), appeal courts (48, of which 37 are operational), criminal courts (37) and the Supreme Court, while the administrative system comprises administrative courts (37) and the Council of State. A jurisdiction court has been established to settle jurisdictional disputes between the two sets of courts
- The setting of judicial district boundaries based on the principle of proximity to the public through the establishment of a sufficient number of courts, or even divisions of courts, taking into account their caseload and the challenges inherent in the considerable distances between towns in the southern regions of the country
- A revised legal aid system giving all citizens access to the justice system, irrespective of their economic or social status. The following have access to legal aid as a matter of law: minors, parties applying for maintenance, mothers in child custody cases and workers in cases pertaining to occupational accidents or illness

317. Furthermore, the following are entitled to the assistance of a legal representative free of charge: all minors before a juvenile judge or court or any other criminal court; on request, accused persons appearing before an investigating judge or a court ruling on ordinary offences; on request, persons filing an appeal to be heard by the Criminal Division of the Supreme Court when the sentence exceeds a 5-year term of imprisonment; defendants with a disability that may adversely affect their defence; on request, accused persons appearing before a criminal court; and victims of trafficking in persons, migrant smuggling and organ harvesting.

318. Fair trial standards in Algeria are, in theory and in practice, consistent with those laid down in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

319. The following constitutional principles should be mentioned in this connection:

- Equality before the law without any form of discrimination
- The presumption that all persons are innocent until proved guilty by a duly constituted court and by due process of law
- All offences and penalties are to be defined by law; no law can have retroactive effect unless such effect is favourable to the person being prosecuted, the legislation having become more lenient
- The lawfulness of prosecution, arrest and detention
- The independence and impartiality of the judiciary
- The accountability of judges to the Supreme Council of Justice
- Judges are subject only to the law
- Court decisions must be reasoned and delivered in public
- The protection of society and civil liberties and the safeguarding of fundamental rights by the judiciary
- The protection of defendants against all forms of judicial abuse or irregularities
- The recognition of the right to present a defence, which is guaranteed in criminal proceedings

320. These principles are applied under the terms of the Code of Civil Procedure and the Code of Criminal Procedure.

321. The principle of a fair trial in civil cases is subject to specific rules that are binding on the national courts, which are required to issue reasoned decisions based on the facts and the law and to ensure that the parties and the various persons involved in a case respect these rules throughout the trial by communicating and exchanging findings and evidence

through the case judge, holding discussions in public hearings, rendering decisions in public and in the presence of both parties and ensuring the availability of judicial remedies against decisions rendered in the presence of both parties or in the absence of one of the parties.

322. These principles apply to trials before the administrative courts or the appeal courts and to actions brought directly before the Council of State.

323. Decisions of the lower courts that may violate constitutional principles or procedural rules can be overturned by the Supreme Court or the Council of State as the highest jurisdictions responsible for ensuring the correct application of the law.

324. Moreover, the right to a fair trial, in both civil and criminal cases, is a right subject to fundamental principles and specific rules laid down in the Constitution and the law.

325. These principles and rules relate to the rights of the parties to a civil or criminal trial and lay down the procedures that they are expected to follow, which will be assessed impartially by an ordinary, legally established court.

## **Article 27**

### **Protection of minorities**

326. As indicated in the initial report, population censuses are not conducted on the basis of ethnic, religious or linguistic criteria.

327. However, this policy does not stem from a reductionist vision of Algerian identity, which is recognized for the richness and diversity of its origins, traditions and distinctive features.

328. In addition to its Arab and Muslim culture, Algeria also embraces its Amazigh heritage and its kinship with Africa and the Mediterranean.

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